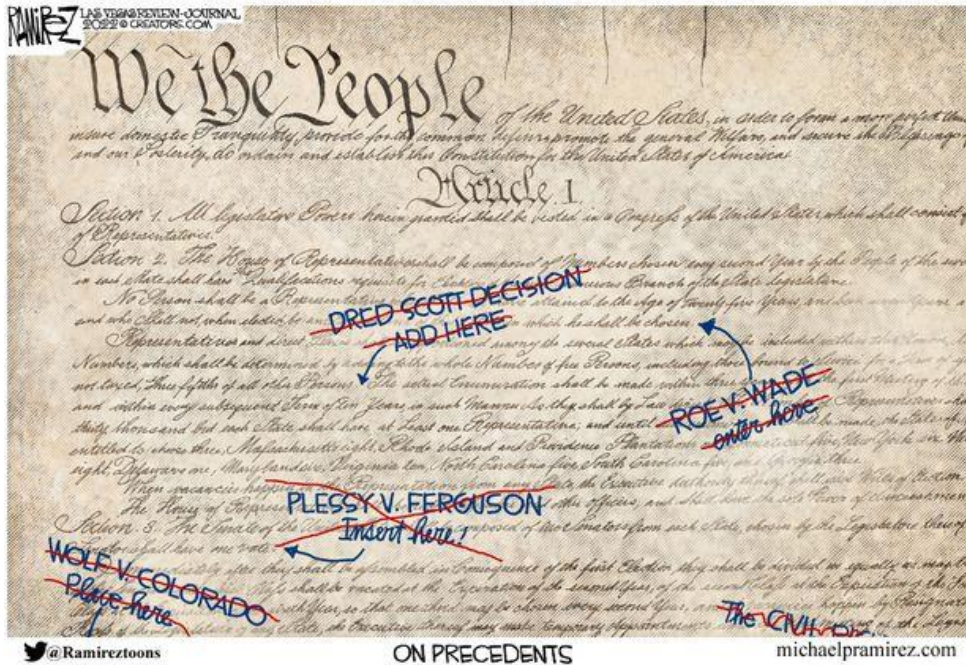


If you don't regularly receive my reports, request a free subscription at steve_bakke@comcast.net !
Follow me on Twitter at <http://twitter.com/@BakkeSteve> and receive links to my posts and more!
Visit my website at <http://www.myslantonthings.com> !

🇺🇸 Roe is dead: reminders and cautions

Steve Bakke 🇺🇸 July 12, 2022



The 10th Amendment states: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. The Dobbs ruling delivered on that provision. Abortion wasn’t addressed in the Constitution, nor was “the right to privacy,” which was the basis for the Roe decision.

As I’ve expressed many times, there was a compromise solution available, but ideologues from both extremes made that impossible. Ultimately, abortion issue adversaries must come to understand each other’s opinion, or the abortion battle will never end.

Following are several of my comments and reminders.

Under the Roe “regime,” several states passed laws allowing full-term abortions. While Roe permitted states to deny late term abortions, Roe didn’t prevent states from permitting even full-term abortions. I wonder if the general public understood that fact.

James Wilson was one of only six men to sign both the Declaration of Independence and the Constitution. He was also a member of the first Supreme Court. He wrote: “Of the Natural Rights of Individuals, in the contemplation of law, life begins when the infant is first able to stir in the womb. By the law, life is protected not only from immediate destruction, but from.....every degree of danger.” The argument that fetal rights were never contemplated by our Founders, is without merit.

Contrary to statements by many pro-choice advocates, leaving Roe unscathed was not a requirement of “stare decisis,” a concept that weighs heavily in favor of following existing, particularly long-standing laws. If it were a requirement, Plessy v. Ferguson would still be allowing segregation on the basis of “separate but equal.” That 1896 decision was reversed in the 1954 Brown v. Board of Education ruling.

An argument coming from pro-abortion activists is that the demise of Roe affects tens of millions of people, while the Dobbs decision was made by just a few. Didn't the original Roe decision suffer from that same characteristic? Dobbs isn't a movement away from our representative democracy – quite the opposite. “We the people” and our elected state legislatures will now be making abortion rules.

The Court is accused of using Dobbs as a power grab. I disagree. The Court actually relinquished the power it had grabbed following Roe. Through Dobbs, the Court admitted a mistake, and left it up to the states to determine the right answer. The Court left the ultimate decision in the hands of the states, and of “we the people.”

My concluding observation is that Roe “out-grew” its intended parameters. The papers of Roe's author, Justice Harry Blackmun, were evaluated in a 2005 Los Angeles Times article. Quoting: “Blackmun proposed to issue a news release to accompany the decision, issued January 22, 1973. ‘I fear what the headlines may be,’ he wrote in a memo. His statement, never issued, emphasized that the court was not giving women ‘an absolute right to abortion,’ nor was it saying that the ‘Constitution compels abortion on demand.’” Who knew?

Our Founders' intentions align reasonably well with recent rulings by the current Supreme Court, i.e. the most contentious, hot-button issues are best left to the states. That's where the abortion battle will now be fought. However, with this victory under their belt, abortion opponents must avoid following the adage, “to the victor go the spoils.”

I've seen hints of those arrogant intentions in some states where the ideological extreme is trying to flex its muscles by removing any possibility of abortion under any conditions. Another bit of wisdom applies here, “pigs get fat, but hogs get slaughtered.” Likewise, on the other side of the issue, pro-abortion states are “girding for war,” and politicians in Washington, led by the President, want to codify the essence of Roe into law. Both sides should now “back-off.”

Most pro-lifers would have supported a federal compromise rather than a reversal of Roe. Nevertheless, I'm confident that the Founders' and Justice Ginsberg's preferred solution of pursuing the process at the state level will also end up in a reasonable place. Hopefully, radical efforts will result in compromise.

Quoting philosopher economist Thomas Sowell: “There are no perfect solutions, only tradeoffs.....you have to be able to tolerate certain things.”