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LD 335

As a new resident of Maine (2025), I am in OPPOSITION to LD 335 (An Act to Safeguard Reproductive Rights). On June 24, 2022, by the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* the majority of the Court concluded that *Roe* was "egregiously wrong from the start." Their reasoning for nullifying it focused on several key legal and historical arguments:

1. Lack of Textual Basis

The Court argued that the U.S. Constitution makes no mention of abortion. In *Roe*, the right was found in the "right to privacy" via the 14th Amendment's Due Process Clause. The *Dobbs* majority argued that this was a "judicial creation" rather than a right actually written or implied by the founders.

2. The "History and Tradition" Test

For a right to be protected by the Constitution even if it isn't explicitly written (an "unenumerated right"), the Court ruled it must be "deeply rooted in the Nation's history and tradition." The majority surveyed 19th-century laws and found that at the time the 14th Amendment was ratified (1868), three-quarters of the states made abortion a crime at all stages of pregnancy. Since abortion was widely criminalized historically, the Court argued it could not be considered a fundamental right "deeply rooted" in American tradition.

3. Abortion is "Critically Different"

The Court distinguished abortion from other privacy-related rights (like the right to use contraception or same-sex marriage). They argued that abortion is unique because it involves the destruction of "potential life" (or what the Mississippi law called an "unborn human being"). Because of this moral and biological component, they felt it should not be categorized with other personal liberties.

4. Workability and "Stare Decisis"

The legal doctrine of *stare decisis* usually encourages judges to follow past precedents. However, the Court decided that *Roe* and the subsequent *Planned Parenthood v. Casey* decision were "unworkable." They argued the "viability line" (the point where a fetus can survive outside the womb) was arbitrary and had no scientific or legal justification in the Constitution. They claimed the "undue burden" standard created in 1992 was too vague and had led to decades of constant, confusing litigation.

5. Returning Power to the People

The ultimate conclusion of the Court was that the issue of abortion is a profound moral question that the Constitution does not solve. Therefore, the authority to regulate or prohibit abortion should be "returned to the people and their elected representatives" at the state level.

As one of "the people" of the State of Maine, I respectfully express my dissent to this matter of state funding for "reproductive rights" of women outlined in LD 335, specifically the guarantee of funding to such entities that recommend and promote the intentional interruption of a pregnancy by the application of external agents, whether chemical or physical, or the ingestion of chemical agents with an intention other than to produce a live birth or to remove a dead fetus.