

**Associate Justices Byron R. White and William H. Rehnquist wrote emphatic dissenting opinions in this case.**

**Justice White wrote: “ I find nothing in the language or history of the Constitution to support the Court's judgment. The Court simply fashions and announces a new constitutional right for pregnant mothers and, with scarcely any reason or authority for its action, invests that right with sufficient substance to override most existing state abortion statutes. The upshot is that the people and the legislatures of the 50 States are constitutionally disentitled to weigh the relative importance of the continued existence and development of the fetus, on the one hand, against a spectrum of possible impacts on the mother, on the other hand. As an exercise of raw judicial power, the Court perhaps has authority to do what it does today; but, in my view, its judgment is an improvident and extravagant exercise of the power of judicial review that the Constitution extends to this Court.”**

**White asserted that the Court "values the convenience of the pregnant mother more than the continued existence and development of the life or potential life that she carries." Despite White suggesting he "might agree" with the Court's values and priorities, he wrote that he saw "no constitutional warrant for imposing such an order of priorities on the people and legislatures of the States." White criticized the Court for involving itself in this issue by creating "a constitutional barrier to state efforts to protect human life and by investing mothers and doctors with the constitutionally protected right to exterminate it." He would have left this issue, for the most part, "with the people and to the political processes the people have devised to govern their affairs."**

**Justice Rehnquist elaborated upon several of White's points, by asserting that the Court's historical analysis was flawed:**

**“ To reach its result, the Court necessarily has had to find within the scope of the Fourteenth Amendment a right that was apparently completely unknown to the drafters of the Amendment. As early as 1821, the first state law dealing directly with abortion was enacted by the Connecticut Legislature. By the time of the adoption of the Fourteenth Amendment in 1868, there were at least 36 laws enacted by state or territorial legislatures limiting abortion. While many States have amended or updated their laws, 21 of the laws on the books in 1868 remain in effect today. ” From this historical record, Rehnquist concluded that, "There apparently was no question concerning the validity of this provision or of any of the other state statutes when the Fourteenth Amendment was adopted." Therefore, in his view, "the drafters did not intend to have the Fourteenth Amendment withdraw from the States the power to legislate with respect to this matter."**