

ABORTION RIGHTS IN THE BALANCE

SO IT'S going to be this kind of a year, is it?

Anyone who thought we'd get through just one election cycle without having the personal matter of abortion turned into a political matter can abandon all hope. Stay tuned to your mailbox for fundraising letters saying that the



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Court of Appeals just upheld the laws of Illinois and Wisconsin banning the procedure known colloquially and incorrectly as "partial-birth" abortion. The ruling, with its narrow 5-4 majority, was announced exactly one year and one day after the murder of Buffalo's Dr. Barnett Slepian. Talk about chilling effects.

With a legal sleight of hand, the 7th Circuit upheld laws almost identical to those the 8th Circuit struck down. And since it isn't exactly kosher for women of Nebraska, Arkansas and Iowa to have different constitutional rights from the women of Illinois and Wisconsin, it appears that

we are headed — take it again from the top — back to the U.S. Supreme Court.

It's been nine years since the Court last ruled on abortion, when a shaky majority tried to put the issue to rest. I wish the current justices good health, but this case is a reminder that the next president will surely get to choose at least two justices. The choice of president will, in short, dictate reproductive choices.

As for the Capitol dwellers? The Senate, you may recall, just approved a partial-birth abortion ban for the third time in three years. It is sure to be vetoed by this President.

But just to give you an idea of how slim the pro-choice majority is in the Senate, when Sen. Tom Harkin, D-Iowa, called for a "sense-of-the-Senate" vote, 47 members said they were opposed to the entire *Roe v. Wade* decision.

Frankly, I preferred the old days when the right-to-life strategy was at least principled. Pro-lifers lobbied for a flat-out ban on abortions. They were out front about their goals.

But having lost this argument with the public, the strategy

shifted from trying to make abortion illegal to trying to make it impossible. One radical arm of the movement now attacks clinics, another arm creates legislative hurdles to place in front of women and doctors.

In the last five years or so, the stealth strategy has been to limit abortion, one procedure at a time, beginning with the rare surgical technique known as dilation and extraction. This is almost entirely reserved for pregnancies that have gone

tragically awry, often threatening the pregnant woman. But pro-life propaganda effectively marketed an image of healthy women arbitrarily, willfully, perhaps

whimsically, aborting healthy fetuses in the birth canal just before their due date.

They pinpointed the abortion of a fetus in the birth canal, "partially born," as morally and legally different from the abortion of the fetus in a womb. One ban at a time.

So far, 30 states have voted to impose these bans. In Missouri, the legislature went so far as to pass an "Infant's Protec-

tion Act" that defined this procedure for the first time as infanticide. The Missouri law, which is stayed until a court hearing, is written in such a way that a doctor conceivably could be legally murdered by someone stopping a "murder."

It's no wonder that until now, most courts have blocked or limited these bans. The state laws are so vague they could apply to many kinds of abortion, even early term abortions. *Roe* does permit restrictions or bans on third-trimester abortions unless the woman's health or life is at risk. But the spate of new laws allows states to practice, or malpractice, a kind of gynecology that specifically ignores the woman's health.

I never thought I would be quoting the words of the conservative Reagan-appointed Judge Richard Posner of the 7th Circuit. But in his searing dissent from the tortured reasoning of the majority, Posner got to the heart of the matter.

These statutes, he wrote, are only concerned with one thing, "making a statement in an ongoing war for public opinion. The statement is that fetal life is more valuable than women's health."

That's a line to take into any voting booth. Once again, ready or not, like it or not, the right to choose will hang on the right vote.

A federal appeals judge says a recent ruling holds "that fetal life is more valuable than women's health."