

# Handbook on *Roe v. Wade's* Moral and Constitutional Bankruptcy

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# I. Why God hates abortion

We stand before a holy God Who hates sin and the willful justification of it by suppressing truth:

***The wrath of God is revealed from heaven against all ungodliness and unrighteousness of men, who suppress the truth in unrighteousness. (Romans 1:18)***

***He who justifies the wicked and he who condemns the righteous are both alike an abomination to the LORD. (Proverbs 17:15)***

How does this apply to abortion?

## 1. God hates murder

Noah and his three sons had hardly stepped off the ark after the Flood to repopulate the world when God commanded them:

***Whoever sheds man's blood, by man shall their blood be shed; for in the image of God He made them. (Genesis 9:6)***

God abominates murder because man bears God's image. There is no distinction regarding age, sex, marital status, perceived "value" to society or inconvenience to parents, or whether the person is born or unborn.

God repeated this command under Moses in the context of embedding capital punishment in the Law:

***Do not pollute the land where you are. Bloodshed pollutes the land, and atonement cannot be made for the land on which blood has been shed, except by the blood. (Numbers 35:33)***

## 2. God hates mistreating the weak

***Do not take advantage of the widow or the fatherless. If you do and they cry out to me, I will certainly hear their cry. My anger will be aroused, and I will kill you with the sword; your wives will become widows and your children fatherless. (Exodus 22:22-24)***

God has already demanded capital punishment for murder. Here, He threatens to kill those who mistreat the weak short of killing them.

Culpability goes one step further. Our wicked governmental bodies have robbed fathers of their primary duty to protect their unborn children's lives by giving the mother sole discretionary power over whether to kill it or let it live. They thereby render unborn children *ipso facto* fatherless, legally unentitled to the protection from the one God gave chief protective responsibility.

Those who abort deserve death twice. Governing officials, abortion practitioners, the mothers, and those who advise her to do it and those who pay for it make themselves God's enemies worthy of death:

***Let God arise and scatter his enemies! Let those who hate him flee before him!***

***Father of the fatherless and protector of widows is God in his holy habitation. (Psalm 68:1, 5)***

### **3. God's requirements of rulers**

There was a King Lemuel whose mother gave him some wise advice:

***Speak up for those who cannot speak for themselves, for the rights of all who are destitute. Speak up and judge fairly; defend the rights of the poor and needy. (Proverbs 31:8-9)***

Our rulers *don't* speak for unborn children who can't speak for themselves to render them justice. Instead, they acquiesce in the murder of the fatherless by unjust court decisions and laws.

Murdering the fatherless has severe consequences for the entire nation:

***Learn to do right; seek justice.***

***Defend the oppressed.***

***Take up the cause of the fatherless;***

***plead the case of the widow...***

***If you are willing and obedient,***

***you will eat the good things of the land;***

***but if you resist and rebel,***

***you will be devoured by the sword."***

***For the mouth of the LORD has spoken. (Isaiah 1:17, 19-20)***

***"Hear now, O heads of Jacob,***

***And you rulers of the house of Israel:***

***Is it not for you to know justice?  
You who hate good and love evil;  
Who strip the skin from My people,  
And the flesh from their bones...  
Therefore because of you  
Zion shall be plowed as a field;  
Jerusalem shall become a heap of ruins,  
and the mountain of the house a wooded height.  
(Micah 3:1-2, 12, emphasis added)***

***“Moreover, say to the royal house of Judah, ‘Hear the word of the LORD. This is what the LORD says to you, house of David:***

***“Administer justice every morning;  
rescue from the hand of the oppressor  
the one who has been robbed,  
or my wrath will break out and burn like fire  
because of the evil you have done—  
burn with no one to quench it. (Jeremiah 21:11-12)***

## **II. Why Christians are complicit and need to repent**

### **1. God holds ordinary citizens responsible for their rulers’ colossal sins**

A private citizen might say “But I am not responsible. I didn't decide *Roe* and don't hold government office enforcing court decisions.” We are like the Jerusalem residents who witnessed the crucifixion of Jesus, heard the centurion who obeyed orders and carried out the execution declare His innocence, and returned home beating their breasts (Luke 23:47-48).

But what did Peter tell those breast beaters and others in Jerusalem fifty days later in his Pentecost sermon?

***Fellow Israelites, listen to this: Jesus of Nazareth was a man accredited by God to you by miracles, wonders and signs, which God did among you through him, as you yourselves know. This man was handed over to you by God’s deliberate plan and foreknowledge; and***

***you, with the help of wicked men, put him to death by nailing him to the cross...***

***Therefore let all Israel be assured of this: God has made this Jesus, whom you crucified, both Lord and Messiah.”***

***When the people heard this, they were cut to the heart and said to Peter and the other apostles, “Brothers, what shall we do?”***

***Peter replied, “Repent and be baptized, every one of you, in the name of Jesus Christ for the forgiveness of your sins. And you will receive the gift of the Holy Spirit.***

***(Acts 2:22-23, 36-38, emphasis added)***

A few days later, Peter spoke similarly to the crowd who assembled when he healed the man lame from birth:

***The God of Abraham, Isaac and Jacob, the God of our fathers, has glorified his servant Jesus. You handed him over to be killed, and you disowned him before Pilate, though he had decided to let him go. You disowned the Holy and Righteous One and asked that a murderer be released to you. You killed the author of life, but God raised him from the dead. We are witnesses of this...***

***Repent, then, and turn to God, so that your sins may be wiped out. (Acts 3:13-15, 19, emphasis added)***

Every listener in both crowds had particular sins. Peter however charged them *all* with complicity in the specific acts that led to Jesus’ murder: the act of crucifixion itself (2:23, 36), handing Him over to Pilate and denying Him (3:13), and asking Pilate to release a murderer instead (3:14), and commanded them *all* to repent of these specific sins (2:38, 3:19).

**2. The context of the great command “Love your neighbor as yourself”**

***“Do not go around spreading slander among your people, but also don’t stand idly by when your neighbor’s life is at stake; I am ADONAI.***

***“Do not hate your brother in your heart, but rebuke your neighbor frankly, so that you won’t carry sin because of him. Don’t take vengeance on or bear a grudge against any of your people; rather, love your neighbor as yourself; I am ADONAI. (Leviticus 19:16-18, Complete Jewish Bible, emphasis added)***

a) Don’t misrepresent (slander) your neighbors, your fellow image-bearers in the womb, by calling them “a globs of human tissue”. If you deny their humanity, remember what happened to the South for denying Negro slaves’ humanity, or Nazi Germany for doing the same to the Jews.

b) Don’t “stand idly by your neighbor’s blood” by sitting on your “blessed assurances” while a holocaust of unborn children continues daily

c) “Rebuke your neighbor frankly” for murdering and supporting murder.

d) Don’t “take vengeance on or bear a grudge” against your adversaries who murder unborn children.

If we don’t obey these commands, are we *really* loving our neighbors?

### **3. What shall we do?**

Peter’s audience asked him this question. Peter commanded them to repent from identifying with Christ’s murderers and instead identify with the Christ they had rejected by being baptized into Him. For repentance is a change of mind that results in doing the opposite of the sin committed heretofore.

Like Peter, John the Baptist had some hard words:

***You brood of vipers! Who warned you to flee from the coming wrath? Produce fruit in keeping with repentance...The ax is already at the root of the trees, and every tree that does not produce good fruit will be cut down and thrown into the fire.***

John’s listeners asked the same question: “What should we do then?” (Luke 3:10)

John the Baptist’s answers were specific and costly:

***Anyone who has two shirts should share with the one who has none, and anyone who has food should do the same.” (Luke 3:11)***

Notice the command is to share with “the one who has none”. Not just your friends and relations. We may not know the women walking into the abortion mill, but we are commanded to care for her child.

Luke continues:

***Even tax collectors came to be baptized. “Teacher,” they asked, “what should we do?” “Don’t collect any more than you are required to,” he told them.***

***Then some soldiers asked him, “And what should we do? He replied, “Don’t extort money and don’t accuse people falsely—be content with your pay.” (Luke 3:12-14)***

Not only were those in these groups commanded to forego wealth, but they were also to risk disapproval from their peers.

### **III. How Christians must work out repentance**

We are all part of the body of Christ, and the members do not all have the same function. Some of us are called to labor to stop human trafficking, others to help the hungry and homeless get back on their feet, others the sick and dying. When it comes to this holocaust, or any other great undertaking, we are pieces on a chessboard, and each piece has a different capability. This is also a long-term task. The pawn that never moves in one game may be the pawn that captures the enemy Queen in the next. Just as our Lord commanded all his people to “Watch”, not knowing when He would return, we should be alert for opportunities to make a difference, even if God has called us to be pawns in this cause.

***So what shall we do?***

#### **1. Pray**

***Elijah was a man with like passions as we, and he prayed fervently that it might not rain, and for three years and six months it did not rain on the earth. Then he prayed again, and heaven gave rain, and the earth bore its fruit. (James 5:17-18)***

We do not know when God called Elijah to be a prophet. God had threatened Israel with drought if she disobeyed (Deuteronomy 11:16-17, 28:23-24, 2 Chronicles 7:13). Elijah did not need a direct word from God to pray for a drought. Anyone “of like passions as Elijah” could have read the Scriptures and asked that God send a drought or some other plague that God had promised a disobedient people.

## **2. Always be prepared to give an answer (1 Peter 3:15)**

If we are to love God by always being ready to explain why we believe in Christ, we are to love our neighbor by being similarly alert to explain why it is wrong to murder him.

A careful reading of this verse will show that it is bracketed by references to hostile interlocutors and persecutors. We need to be ready to be dragged out of our comfort zones for the sake of the truth.

One way to be prepared is to marshal one’s own set of Scriptures like the ones I have referenced above.

Another way is to become familiar with the reasons *Roe v. Wade* is not only an abomination before God, but that *it is a violation of the Constitution and therefore has no place in our law*. The rest of this paper will elaborate.

## **IV. How Christians can argue to invalidate *Roe v. Wade***

### **1. *Roe v. Wade* was an unconstitutional theft of State power**

**a) Only Congress (not courts) makes Federal law (Article 1, Section 1)**

**b) Congress’s powers are limited (Article 1, Section 8 and the Tenth Amendment, plus any additional specific powers delegated in the Constitution and Constitutional Amendments.)**

**c) Courts decide cases and exercise judicial review; they do not legislate**

*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.” – Justice Byron White’s dissent in Roe v. Wade*

Was he justified in saying so?



**d) Judicial review is not found in the Constitution but in Marbury v. Madison (1803), 15 years after the Constitution was ratified in 1788.**

*Marbury* is well worth reading:

*The question, whether an act, repugnant to the constitution, can become the law of the land, is a question deeply interesting to the United States; but, happily, not of an intricacy proportioned to its interest. It seems only necessary to recognise certain principles, supposed to have been long and well established, to decide it...*

*(A)n act of the legislature repugnant to the constitution is void...*

Are judicial opinions “repugnant to the Constitution” no less “void”? For *Marbury*’s phraseology begs two questions:

1) ...whether an act [**or judicial opinion??**], repugnant to the constitution, can become the law of the land, is a question deeply interesting to the United States”

2): “(A)n act of the legislature [**or judicial opinion??**] repugnant to the constitution is void...”

For *Marbury* continues:

*It is a proposition too plain to be contested, that the constitution controls any legislative act [**judicial act?**] repugnant to it; or, that the legislature [**courts?**] may alter the constitution by an ordinary act.*

*Between these alternatives there is no middle ground. The constitution is either a superior, paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts [**court opinions?**], and like other acts [**opinions?**], is alterable when the legislature [**courts?**] shall please to alter it...<sup>1</sup>*

**2. State legislatures have claimed stolen power back from the Supreme Court.**

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<sup>1</sup> <https://www.law.cornell.edu/supremecourt/text/5/137>

a) The Maine Legislature nullified the *Dred Scott* decision nine months after it was handed down March 6, 1857.<sup>2</sup>

b) The Massachusetts Legislature nullified it four months later.<sup>3</sup>

### **3. What about the Supremacy Clause?**

*“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof...shall be the supreme Law of the Land;”*

- Article 6, Clause 2, emphasis added

Federal law trumps State law only when it is consistent with the Constitution (“in Pursuance thereof”)

### **4. Does Roe v. Wade contradict the Constitution?**

#### **a) A juxtaposition of the 14<sup>th</sup> Amendment and Roe v. Wade**

**14<sup>th</sup> Amendment:** *“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside...”*

*“nor shall any State deprive any person of life, liberty, or property, without due process of law; (emphasis added)*

**Roe v. Wade** 410 U.S. 113 (1973): *“The appellee and certain amici argue that the fetus is a ‘person’ within the language and meaning of the Fourteenth Amendment...**If this suggestion of personhood is established, the appellant’s case, of course, collapses, for the fetus’ right to life would then be guaranteed specifically by the Amendment...**On the other hand...the appellee conceded on reargument that no case could be cited that holds that a fetus is a person within the meaning of the Fourteenth Amendment. (emphases added)*

**Roe v. Wade admits its entire case stands or falls on the definition of “person” according to the 14<sup>th</sup> Amendment of 1868.** Judges who honestly interpret a statute (or Constitutional amendment) use dictionaries

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<sup>2</sup> <http://blackfreedom.proquest.com/wp-content/uploads/2020/09/dredscott3.pdf>

<sup>3</sup> <http://blackfreedom.proquest.com/wp-content/uploads/2020/09/dredscott4.pdf>

current when the statute or amendment was ratified. How do dictionaries current in 1868 define “person”?

## **b) Dictionaries current in 1868**

### **Bouvier’s 1856 Law Dictionary**

*CHILD, CHILDREN, domestic relations. A child is the son or daughter in relation to the father or mother.*

*2. We will here consider the law, in general terms, as it relates to the condition, duties, and rights of children; and, afterwards, the extent which has been given to the word child or children by dispositions in wills and testaments. (emphasis added)*

*FOETUS, med. jur.<sup>1</sup> The unborn child. The name of embryo is sometimes given to it; but, although the terms are occasionally used indiscriminately, the latter is more frequently employed to designate the state of an unborn child during the first three months after conception, and by some until quickening. (emphasis added)*

*PERSON. This word is applied to men, women and children, who are called natural persons. In law, man and person are not exactly-synonymous terms. Any human being is a man, whether he be a member of society or not, whatever may be the rank he holds, or whatever may be his age, sex, &c. A person is a man considered according to the rank he holds in society, with all the rights to which the place he holds entitles him, and the duties which it imposes. 1 Bouv. Inst. n. 137. (emphasis added)<sup>4</sup>*

Comment: A foetus is by defined as an “unborn child”, hence included in Bouvier’s definition of “person”, hence *necessarily* included, where applicable, to the 14<sup>th</sup> Amendment (life, but not liberty or property)

### **Noah Webster’s 1828 Dictionary**

#### **PERSON**

*1. An individual human being, consisting of body and soul. We apply the word to living beings only, possessed of a rational nature; the body when*

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<sup>4</sup> [https://constitution.org/1-Constitution/bouv/bouvier\\_c.htm](https://constitution.org/1-Constitution/bouv/bouvier_c.htm)

*dead is not called a person...*<sup>5</sup>

Disclaimer: Dissenters Byron White and William Rehnquist, and the long time *Roe v. Wade* foe Antonin Scalia, all did not believe that “person” in the 14<sup>th</sup> Amendment refers to the unborn. I still think, however, that we need to look at the dictionary definitions.

### **5. What about precedent? (*stare decisis*, *stand by things decided*)**

The full common law maxim is *Stare decisis et quieta non movere*, which means “Stand by things decided and do not disturb settled points”. It is said that a decision does not merit *stare decisis* status until it succeeds in *quieta non movere* (has not disturbed settled points). *Roe v. Wade* has certainly “disturbed settled points”. It’s a matter that ought never to have removed from the State political process, and it is high time to return the stolen power to the States.

### **6. Post-Roe Aftermath**

*Dobbs v. Jackson* reversed *Roe* on June 24, 2022. Is the battle over? Hardly. The Court failed to declare that the Constitution forbade abortion because a foetus was a “person” as defined by the dictionaries current when the 14<sup>th</sup> Amendment was ratified. Instead, it threw the matter back to the states.

The slaughter continues.

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<sup>5</sup> <http://webstersdictionary1828.com/Dictionary/person>