

# CHRONICLE

October 30, 1992

Roe v. Wade Remembered

## Sarah Weddington's Choice



Judy Smith provides birth control and abortion counseling from the pay phone outside the *Rag* office.

PHOTOS BY ALAN POGUE



Weddington (center) at a 1975 ERA rally.

**It was in the offices of *The Rag*, an underground newspaper in Austin in the late 1960s, that the events leading to *Roe v. Wade* began to unfold.**

Of *Roe*'s allies on the Court, two of them are among the oldest judges on the bench. "And if they retire," Weddington says, "the next president will appoint their successors."

Supreme Court Justice Harry Blackmun, who wrote the Court's opinion in *Roe*, will be 84 next month.

It could happen here, and it did. Down on the Drag.

For it was up there above the old Rexall Drug store, across from UT's West Mall, in the offices of *The Rag*, an underground newspaper in Austin in the late 1960s, that the events leading to *Roe* began to unfold.

In her book, Weddington explains that the roots of *Roe* are linked with the hotbed of liberal activity in Austin in the late 1960s, and the newspaper that covered the scene. *The Rag*, which chronicled the city's emerging counterculture, advised its readers on what to do if arrested during a protest and printed what Weddington calls in her book "a series

of public service articles on safe and unsafe abortion methods." *The Rag* printed stories on birth control and contraceptive devices—information not as readily available back

then. "The paper became in effect" wrote Weddington, "a health class for women." Other stories warned of the dangers of inserting solids or fluids into the uterus.

When a group of women—some of the same women who wrote the women's health stories for *The Rag*—started an abortion referral project, it was located in a closet in the paper's office. For awhile, the project and the paper shared the same phone line.

Weddington—in her early twenties and barely out of law school—entered the picture when Judy Smith and Bea Durden and others working on *The Rag* and doing the problem pregnancy counseling began wondering if they might be prosecuted for directing women to places known to do safe abortions. *Rag* staffers and others associated with the referral project already suspected that they were under surveillance because of their antiwar protest activities.

"Could they be prosecuted and/or convicted as accomplices to the crime of abortion simply for referring women?" wrote Weddington. "I didn't know the answers. Abortion had never been a topic in any of my law classes."

In the course of trying to find the answers, Weddington and her colleague, Linda Coffee—and a contingent of other volunteers (mostly women) including physicians,

### Another Question of Choice

On the surface, it seems out of character; Sarah Weddington, the attorney famous for securing women the right to a legal abortion and who is in general a champion of most liberal causes, is representing a nuclear power plant in Maine that wants to dump its low-level nuclear leftovers in Hudspeith County (just outside of El Paso).

To environmentalists who feel tempted to charge her with selling out and promoting Hudspeith County as a nuclear dump for other states, Weddington says that representing Maine Yankee in its efforts to dump low-level waste in is not something she is necessarily for—it is just a better solution than what might happen otherwise.

"Federal legislation says that if a state enters into a contract with one other state to dispose of waste then no other state can put waste in that facility," says Weddington.

"I believe this law will be enforced and that what it means is that we have to be in partnership with somebody and Maine is a good choice.

"Maine has much less material than other states, it is a more environmentally-conscious state than any other, and given its peculiar geography, there isn't a place in Maine nearly as suitable as there is in Hudspeith County. It is my understanding that most of the people elected in that area believe the site will bring in a lot of money, money for roads, sewage and development of all kinds.

"There are some people opposed to the state having any facility that deals with low-level waste. But we have waste. We have to deal with it. We can not wish away waste and we have to try to be sure Texas is as safe as we can make it."

by Debi Martin-Morris

The events that led to the U.S. Supreme Court's ruling in *Roe v. Wade*, which made abortion legal in 1973, were set in motion right here in the River City, in the collegiate nexus for liberals that Austin was in the late 1960s.

"Although *Roe v. Wade* was originally filed in Dallas, in terms of how the case really started, the events that led up to it and the people who were involved, it started here, in Austin; I will always think of this as an Austin case," says Sarah Weddington.

The Austin attorney who argued *Roe* retraces the route that led her from Austin to the U.S. Supreme Court in her book, *A Question of Choice*.

The book could have been released in a couple of months to coincide with the 20th anniversary this January of *Roe*. Instead, it was published last month, to educate voters on the history of the struggle to garner women the right to choose and to emphasize that *Roe* will be affected by the outcome of the presidential election.



# CHRONICLE

October 30, 1992

ministers and law students — built a case to challenge the Texas anti-abortion statutes.

"It was a time when lots of people were all pitching in to do what they could. Back then, there were so many women in this town who had been told they couldn't get jobs because they were women. These were bright women, women with doctorate degrees, women like me who had law degrees but couldn't get hired by law firms, women who didn't have an outlet for their energy. So they poured it into women's issues. Today, these women would be funneled directly into jobs, working 60 hours a week, and some would also have families to take care of. Back then, nobody else wanted us. It made a lot of energy available for this kind of volunteer work."

During a brainstorming session among the volunteers, *The Rag's* Judy Smith brought up the paper's victorious experience with a federal court in a 1968 case against UT. She wondered if what had happened in that case might apply to the abortion issue. Turns out, she was right, says Weddington.

"The university regents had said, 'You can't distribute *The Rag* on campus if you sell advertising.' The only way *The Rag* had to support itself was advertising, so it was almost the same as closing it down. They got David Richards (Governor Ann Richards' former husband) to file a lawsuit saying that this was interfering with free speech. He got a three-judge-panel to uphold what he said. What came out of that was the idea that a federal court (as opposed to working through the legislatures in every state) was a route for change."

Although the federal court in Dallas did side with Weddington by declaring that the Texas anti-abortion statutes violated a fundamental individual right to privacy secured by the First, Fourth, Fifth, Eighth, Ninth and Fourteenth amendments, the next day, Henry Wade (the district attorney of Dallas County) said he was going to appeal the case and that he would continue to prosecute doctors for performing abortions.

"Wade's statement that he would prosecute regardless of what the federal court had said helped us reach the Supreme Court in record time."

Weddington learned on Jan. 22, 1973 that the high court had ruled in her favor. Overnight, abortion became legal in America. At the time, Weddington was so sure that the matter was settled that she disposed of a box

*continued on p.22*



Weddington debating against Phyllis Schlafly at UT.

## Weddington, from p.20

of clippings on and photographs of women who had died because of an illegal abortion.

She didn't think she'd ever need those materials again.

Weddington certainly did not plan to spend the next 20 years lecturing and writing and being interviewed on *Roe*. As she explained in her book, after the case, she turned her attention to furthering women's choices beyond the reproductive realm.

She became in 1972 the first Austin woman to be elected to the Texas House of Repre-

sentatives, where she served three terms — Ann Richards helped her to get elected and worked as her administrative assistant. Weddington helped reform the Texas rape statutes, passed an equal credit bill for women, a pregnancy leave bill for teachers and led successful efforts to prevent any passage of anti-abortion legislation.

From 1978-1981, she was assistant to President Jimmy Carter, a position that allowed her to be involved with the selection of women to federal judiciary and other top federal appointments.

Since leaving the Carter administration, she has made her living practicing law in Austin, teaching at the University of Texas and giving speeches on abortion rights. About a year ago, she testified against Clarence Thomas before the Senate Judiciary Committee.

In *Choice*, Weddington admits for the first time that she had an abortion, a few years before she argued *Roe*. She has up until now neglected to mention it because she has always wanted to keep emotionalism and her own circumstances out of the debate. Weddington says *Roe* should stand on the principle of the right to choose, regardless of whether a woman has been raped, or incested, is rich or poor, or whether the woman who argued the case had an abortion herself.

"In the past, I was afraid that if I talked about it, that's all people would talk about. I was in a unique position to talk in terms of the Supreme Court's considerations, and that's where I wanted to keep the focus. To me, the case is not tied to any one particular

situation, including mine."

After serving in the Carter administration, Weddington expected her career would take yet another upward turn. It didn't.

An article in last month's *Vanity Fair* suggests that Weddington's lack of career opportunities after the Carter administration are due to her association with *Roe*.

Weddington says she's been heckled when giving speeches, that she's been called a "baby-killer," that she has received letters saying, "I wish your mother had aborted you," and that because she has been targeted by pro-life extremists, she's checked into hotels using a different name when on the lecture circuit. Last month, while being interviewed on a KLBJ-AM talk show, a caller during the phone-in segment told Weddington that she'll go "down in history like Hitler."

Has she become a martyr for *Roe*?

"It's true and it's not true. The problem is that it's unnatural to reach the peak of your career in your twenties — you assume you'll go on from there. The one thing that happened that was more determinative of my path than anything else is that Carter lost. I had planned on Carter being elected again and on moving right up in politics. But there were many dreams that floundered when Reagan came in.

"Also, the women who had come to work in the Carter administration had generally made a real big leap from where they had been before to where they were in the

administration. The men in the administration had been part of law firms, and when it was all over, they moved back into those big firms. The women had no place to move back to, it wasn't just me, it was a whole bunch of us.

"Yes, my situation was complicated because when I talked to some firms, they were concerned about whether I'd be controversial. Most firms, even in the early 1980s, were concerned about bringing in business. They wanted a rainmaker. I couldn't guarantee I'd

**"I had planned on Carter being elected again and on moving right up in politics. But there were many dreams that floundered when Reagan came in."**

bring in the big dollars, and when they asked if I would still be involved in the abortion issue, and I said I would be, well, although there was a combination of factors, in the end, I wasn't hired.

"There have been pluses and minuses, but there have always been more pluses. I'm happy with what I'm doing, with what I've done. I've never felt like a victim. It's true that people call me a 'murderer.' But I meet a lot more people who tell me heartwarming stories about what happened to them and that what I did really made a difference in their lives."

Weddington can not be *Roe's* tireless watchdog forever. As she points out in the book, "Basic social change... is often created by those who can stay up until midnight. I used to be able to, but it's harder now." Perhaps she's saying that it's time for the women who were born with the right to choose (and the men who love them) and all the others who care to burn some midnight oil. ■

