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Federal vs State Abortion

On December 20, 1860, South Carolina seceded from the United States of America and within the following months, so did the majority of other southern states of the United States (Cavendish, 2010). What ultimately caused all of these states to leave the United States? The root problem that ultimately led to this session has been one of the most important problems in the United States: state and federal disagreements. Southern states wanted to support their platform of slavery and expand it. To do this, they needed to elect a southern democratic during the 1860 election. However, Abraham Lincoln, a Republican, won the election of 1860 without even appearing “on the ballot in any other state which eventually joined the Confederacy” (Bryan, 2013). No southern state had electoral votes go to Lincoln and they felt like they did not have any power in the federal government and they knew Lincoln would work against slavery’s expansion. This deep disagreement between the southern states’ intentions of slavery and the federal government’s intentions of slavery due to the election is one example of the division between states and the federal government. This division even led to a civil war. However, slavery has since faded out as an issue throughout the western world but another large modern political problem has reintroduced this problem in disagreements between states and the federal government: abortion.

In 1860, the same year South Carolina seceded from the United States due to the heated conflict over slavery and the 1860 election, “twenty states [had] laws limiting abortion” (“Legal History,” 2019). Over the next century, a majority of states in the United States began to create some types of laws limiting abortion (“Legal History,” 2019). States in the United States freely chose how they wanted to regulate abortion with almost no interference from the federal government. However, in 1973, this all changed. The supreme court decision in *Roe vs. Wade* extended a woman’s right to privacy under the 14th amendment to their right to abortions during the first trimester of a pregnancy: “In the first trimester of pregnancy, the state may not regulate the abortion decision; only the pregnant woman and her attending physician can make that decision” (“Roe v. Wade”). This decision essentially overruled all current state laws against abortion in the first trimester (which was quite ubiquitous at the time). With abortion being legal during the first trimester due to *Roe vs. Wade*, abortion rates rose dramatically. In 2015, for every 1,000 births, there were 188 abortions (“Abortion,” 2018). But should this have been an issue that was legislated by the federal level or should it have just been legislated individually by all the states? Abortion should be legislated per-state and should not be legislated on the federal level because of the heated controversial abortion brings amongst the vast population and because of past federal and state disagreements leading to exponential crises.

In 2009, a nationwide poll found that “51% of Americans [call] themselves ‘pro-life’ on the issue of abortion and 42% ‘pro-choice’” (Saad, 2009). With the number of people on either side of the abortion argument being close in number, it is one of the most controversial topics in the nation. This was also true about the topic of slavery throughout the 1800s. In the South, this controversy even led to physical assault in the government. On the 22nd of May, 1856, Charles

Sumner was hit with a cane by Andrew Butler whilst arguing in the government over the issue of slavery (“The Caning of”, 2019). This conflict, seen explicitly in the government, rippled across the United States with the extreme opinions of slavery amongst the population. Although we do not currently see the controversy around abortion today going to the point of physical assault in the government, it is important to see what road we could be heading on. The north and south in the 1800s very similarly argued over slavery as much as Democrats and Republicans do now over the issue of abortion. People are protesting about abortion across the nation (“US Abortion Debate,” 2015) and with those who are pro-life and pro-choice being very close in number, abortion is only becoming more and more a political hot center of controversy. In 1860 when Lincoln won the presidency (a president who wanted to limit the expansion of slavery which was unfavorable to those for slavery), secession and a civil war ensued since those for slavery felt like they were not represented in the government over a federal election. Today, if we persist to federally legalize or illegalize all abortions, a tremendous conflicting result could happen such as what happened with the civil war. Although pro-life and pro-choice advocates are not as geographically oriented as slavery was in the 1800s, there is a good reason to believe that there would be a large amount of conflict that could heat up over decades, just like slavery. To prevent this from escalating to an uncontrollable level, it would be best to leave the issue of abortion up to states and not the federal government.

The federal government making a decision, such as in a supreme court, means that whatever the court decides, whether that be pro-life or pro-choice, it would apply to all states in the United States. If states were to decide the legalization of abortion on their own, pro-life and pro-choice states would be able to have their own atmosphere of legislation and prevent

controversy that would have occurred if it were decided federally. The direct reason South Carolina seceded was because that they felt a lack of representation in the government over the topic of slavery (Bryan, 2013). Many states could easily feel the same way if abortion were legalized or illegalized across the United States due to one supreme court case.

Because the topic of abortion is so politically heated and based on historical evidence of what happens when this is the case between states and the federal government, the legislation of abortion needs to be handled on the state level and not the federal level. Not only would be having a federal solution to this issue create accelerating controversy that could lead to a civil war like in 1860, but it would take away the control of states which was the direct reason the south seceded from the Union (Bryan, 2013). How the United States government decides how the legislation of abortion plays out should, however, most definitely look at the past with the issue of slavery and learn from its mistakes that led to a civil war.

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