

# Abortion Right Is Outlined

## Challengers File Briefs

Quoting Justice Louis Brandeis' statement that the right to be let alone is "the most comprehensive of rights," attorneys challenging Georgia's abortion statute contended in briefs Wednesday that they are arguing a "substantial" constitutional question.

The state will have five days to reply to the brief that asserts the three-judge federal panel's jurisdiction in the case. The court promised a prompt decision on the suit once both sides have filed their briefs.

The plaintiffs contend that the "fundamental right to be free from unnecessary state interference in deciding whether or not to bear children is embodied in the concept of liberty and protected by the 1st, 14th and 9th amendments.

### DECISION CITED

The brief cites a federal court decision on the Washington, D.C., abortion statute, in which the law was declared unconstitutional. But the judge added that a woman's liberty and right of privacy "may well include the right to remove an unwanted child.

A three-judge court in Texas ruled on June 17, the brief adds, that the Texas abortion statute was overbroad because it infringed on the "fundamental right to choose whether to have children."

A state supreme court, two three-judge federal panels, the U.S. Seventh Circuit Court of Appeals and four trial courts have based decisions on the assumption of such a fundamental right, the plaintiffs contend.

### ARGUMENT

Arguing that the federal court should not use its discretion to abstain from a ruling until state courts have interpreted the law, the brief states, "In this case there is no amount of construing that the state courts could do to meet the facial attack of overbreadth."

The plaintiffs include a woman who was denied an abortion at Grady Hospital plus a number of physicians, ministers and social workers who contend they are "daily prevented from performing their professional responsibilities to the highest standards of their respective professions by the fear of prosecution under the Georgia abortion statute."

Atty. Gen. Arthur Bolton has contended that the professionals had no real controversy in the case since no doctor has ever been prosecuted under the 1968 abortion statute for performing an abortion in a hospital, as the doctors involved desire to do.