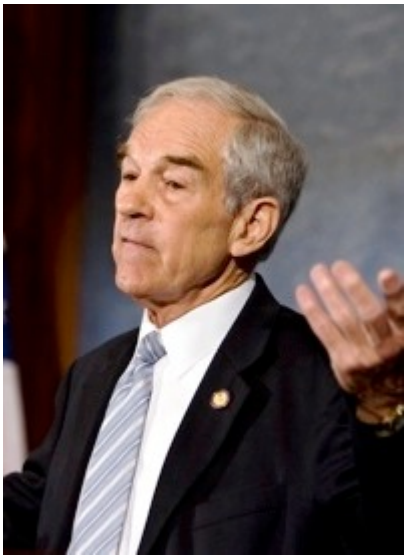
National Right to Life Misses Key Strategic Point



In the January issue of the National Right to Life News, National Right to Life Committee President Wanda Franz noted in her From the President column, "January 22: Why We Must Be Pro-Life": "There are only two ways to undo the Supreme Court's miscarriage of justice: either amend the Constitution or have the Supreme Court see the light and reverse Roe v. Wade and its progeny." (Emphasis added.)

Dr. Franz continued:

> A constitutional amendment is a very difficult process. Realistically, there is currently little chance that pro-lifers could overcome the very high hurdles that any amendment attempt faces in the foreseeable future.
>
> It is more promising to pursue the route of the Court reversing itself on abortion. The progress made under President George W. Bush in reshaping the Court in a pro-life direction has temporarily been halted with the election of President Barack Obama, the most pro-abortion president yet. Progress will resume when we elect a pro-life president and a filibuster-proof pro-life Senate in order to put Constitution-oriented justices on the Court.

The politically naïve observer might take Dr. Franz's statement at face value, unless he or she is made aware of a *third* option to cancel the effects of Roe v Wade — an option that is far more feasible politically that the two cited. To understand how this option works also requires an understanding of an important part of the Constitution, Article III, Section 2:

> Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States.…
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> In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, *with such Exceptions, and under such Regulations as the Congress shall make*. [Emphasis added.]

In other words, Congress has the power to except (remove) jurisdiction from the Supreme Court to hear appeals brought to it from lower courts.

Moreover, far from being a theoretical point of discussion in a constitutional law class, a proposal to remove the Supreme Court's ability to hear cases pertaining to abortion is already embodied in legislation that has been introduced in the House of Representatives.

On January 14, 2009, U.S. Representative (and M.D.) Ron Paul (R-Texas) introduced H. R. 539, "To limit the jurisdiction of the Federal courts, and for other purposes") in the House. Dr. Paul was joined by Representatives Walter B. Jones, Jr. (R-N.C.), and Ted Poe (R-Texas) as cosponsors. After summarizing

the provisions in the Constitution giving Congress the power to limit the jurisdiction of the federal courts, H.R. 539 proposes:

> The Supreme Court of the United States and each Federal court —
> (1) shall not adjudicate —
> (A) any claim involving the laws, regulations, or policies of any State or unit of local government relating to the free exercise or establishment of religion;
> *(B) any claim based upon the right of privacy, including any such claim related to any issue of sexual practices, orientation, or reproduction; or*
> *(C) any claim based upon equal protection of the laws to the extent such claim is based upon the right to marry without regard to sex or sexual orientation;* and
> (2) shall not rely on any judicial decision involving any issue referred to in paragraph (1).
> [Emphasis added.]

If passed, the above legislation would negate *Roe v. Wade*, which decision included the following majority opinion:

> The principal thrust of appellant's attack on the Texas statutes is that they improperly invade a right, said to be possessed by the pregnant woman, to choose to terminate her pregnancy. Appellant would discover this right in the concept of personal "liberty" embodied in the Fourteenth Amendment's Due Process Clause; or in personal, marital, familial, and *sexual privacy* said to be protected by the Bill of Rights or its penumbras … or among those rights reserved to the people by the Ninth Amendment. [Emphasis added.]

With such a politically viable alternative available to the pro-life movement, one wonders why pro-life leaders would continue to waste their members' time and their valuable resources — acquired though the relentless sacrifices of their hundreds of thousands of grass-roots members — to place all their bets on sending Republicans to the White House.

As for our most recent "pro-life" Republican President, where was George W. Bush every time the Right to Life Marchers were in Washington? Up on the platform with the bishops, priests, Christian pastors, Jewish rabbis, Members of Congress, and other dignitaries? No, he was hiding out at Camp David, where his telephone call was piped through to the marchers standing out in the cold.

Dr. Franz's statement that "there are only two ways to undo the Supreme Court's miscarriage of justice" is rendered all the more significant by the fact that the Washington, D.C.-based National Right to Life Committee is the largest pro-life organization in the United States, with over 3,000 local chapters in all 50 states. It was founded in 1973 in response to *Roe v. Wade*. But in comparison with other national pro-life organizations, NRLC is much more closely engaged with legislative issues in our nation's capitol, and has been known to take a more pragmatic approach to getting less-than-perfect pro-life legislation passed, sometimes to the consternation of other pro-life leaders.

Among the other pro-life leaders who have voiced criticism of NRLC is Judie Brown, president and co-founder of the American Life League. Brown's dissatisfaction with NRLC's willingness to compromise at times was apparent in her answer to a question posed by a visitor to the EWTN website's Question and Answers forum on October 25, 2002. The questioner asked, in part:

> I just received the October issue of the *National Right To Life News*, in which just about the entire issue is devoted to the important upcoming Congressional Election. Here is my dilemma: I live in Connecticut's 4th district, where my Republican candidate is Christopher Shays. He only scored

> 6% on the “score-card” included in the NRL News. I cannot in good conscience vote for a candidate that is as pro-abortion as he is. I read Dr. Franz’s article about the preference of voting for viable candidates that are mostly pro-life, rather than 100% pro-life third-party candidates that don’t have a chance of being elected.

Mrs. Brown noted, in part:

> Your question is very difficult because it is based on an assumption that if the Republicans retain control of the House and gain control of the Senate, more pro-life legislation will have a chance of being passed. But what if the majority of those who are Republicans are either pro-abortion, somewhat pro-abortion or only against certain types of abortion? How much progress will the babies make in such an atmosphere?
>
> I wonder: What is the good of maintaining a certain party’s control when its members have no problem with supporting the gruesome act of aborting children?
>
> Could it be that some in the pro-life movement have become so political that the goal is no longer personhood but rather Republican Party control?

One finds it difficult to believe that an individual with a doctorate degree and 37 years’ experience in leading a pro-life organization could be unaware of the legislative strategy proposed by Dr. Ron Paul. In view of Dr. Franz’s glaring oversight in ignoring the political strategy with the best chance of removing the effects of *Roe v. Wade*, one wonders if such oversight is not inadvertent, but also part of NRLC’s agenda to help the Republican Party maintain control in Washington — at the expense of the success that pro-lifers have worked for for almost four decades.

Any pro-life organization worth its salt should make encouraging their members to put pressure on their congressional representatives to cosponsor H.R. 539 part of their agenda. Those who do not do so should be strongly suspected of pulling their punches, for reasons that remain unclear.

Photo of Rep. Ron Paul: AP Images

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