



The Pro-Life Movement And The Equal Protection Iceberg

by Neal J. Conway

"No amount of stirring rhetoric arguing that the states have a duty to do something to trigger reconsideration of Roe changes the hard fact that such an effort is presently doomed to expensive failure. Both passion for the pro-life cause and wisdom about the means to achieve it must be maintained if the pro-life movement is to ultimately succeed."

-- James Bopp, Robert E. Coleson, *Pro-Life Strategy*, 2007

(Oct. 1, 2013)

As of the date of this posting, the nine-justice U.S. Supreme Court includes four liberal justices who would like to uproot the right to abortion from a construed Right of Privacy and replant it in Equal Protection. These four were recently joined in *U.S. v. Windsor* (The Defense of Marriage Act case) by the "senior" swing member, Justice Anthony Kennedy, in perpetrating liberal judicial activism at its most brazen. In striking down the DOMA, a case which the court should not have heard because there was no disagreement between the parties, the majority looked at motive rather than simply constitutionality. They accused the enactors of DOMA of "a bare desire to harm a politically unpopular group." Although they paid lip service to states' rights, Justices Ginsburg crafted the opinion to be applicable to state gay marriage bans when those laws are challenged.

As for the conservative justices, there is not among them a unanimity to reverse *Roe v. Wade*. Chief Justice John Roberts, the "junior" swing justice, would not concur with overturning it in *Gonzales v. Carhart*, a 2007 case which pro-lifers seem to think offers hope of a near-term SCOTUS reversal.

In joining the majority allowing Obamacare to go forward (*N.F.I.B. v. Sebelius*), Roberts found a wonky reason to uphold the individual mandate -- forcing people to buy something -- by calling its enforcement a tax. This was a line of reasoning that four conservative justices thought to be a stretch.

Only a human life amendment to the U.S. Constitution and legislation enforcing it can end abortion in this country. In the meantime, only confirmed presidential nominations of more Scalias and Thomases can compose a Supreme Court that is willing to rule that *Roe v. Wade* has no basis in the Constitution. But how soon will those nominations happen? Will there, in the near future, be a president and senate willing to seat such justices? Despite Republican hopes that Obamacare will be a "train wreck" that will give them the Senate in 2014 and the White House in 2016, the Affordable Care Act may be no more a train wreck than the sequester and other predicted "train wrecks" have been.

A charismatic, confidence-inspiring, populist candidate who makes middle-class survival top issue and who is a committed pro-lifer

should be the Republican 2016 presidential nominee. That candidate cannot be a Romney 2.0 because a Romney 2.0 will not be able to defeat an Obama 3.2 in Hillary Clinton, Martin O'Malley or Andrew Cuomo.

Even with a Republican White House and Senate, liberal Democrat senators can still make trouble for Republican presidents' Supreme Court nominees who are suspected of having designs on *Roe v. Wade*. Said presidents may not wish to engage in protracted knock-down-drag-outs over court picks, especially against a backdrop of economic or other crises.

Also a stage-left chorus screaming about a "war on women" is certain to show up outside confirmation hearings. However the American people feel about abortion, they also believe that it is a non-issue politically. When they turn on MSNBC and see congresspeople squabbling about sexual matters, especially when economic times are uncertain, they get angry and contact the Capitol. That's why, after the "Sandra Fluke Affair," legislators ran from freedom-of-conscience legislation that might have passed had it been managed quietly.

Given all the above, given that that there is a risk of the Supreme Court becoming more liberal and bent further toward using the cases it hears to harden abortion rights, why would anyone risk bringing challenges to *Roe v. Wade* to that highest court in this decade?

Yet that is what is happening. Among the hundreds of pieces of state-level pro-life legislation introduced in the past five years, several types, specifically those which codify the humanity and personhood of the unborn child, have been introduced with the deliberate intention of triggering legal challenges to *Roe v. Wade*. These

challenges, initiated by suits brought by pro-abortionists, will, their advocates hope, rise to The Supreme Court. There the pro-life side, armed with legal definitions of personhood and scientific proof that human life begins at conception, will convince a majority of justices to overturn *Roe*.

This is assuming that justices will even care about personhood and the beginning of human life. We are living in an age when elite and powerful liberals are closed-minded, impervious to reason, out of touch with reality. The pro-life movement, now unbeknownst to many of its adherents, may have entered an era where it will find itself being driven back across legal ground that it has gained.

Interest, Impatience and Imprudence

Over the past 40 years, the pro-life movement has been remarkably successful in maintaining and even broadening interest in abortion. Pro-abortionists themselves have come to regret the *Roe v. Wade* decision because it has drawn unwanted attention to the expansion of the abortion right. Without *Roe*, that right would have been planted and nurtured quietly and invisibly in the states.

However a large number of people having sustained interest means a number of people who are impatient, a number of people who don't understand that ending abortion is a long haul, a number of people who have an emotional need for their hopes to be bolstered by signs of progress. A large number of people having sustained interest means the involvement of people who don't understand government, law and their players. The excitement of such people is difficult to manage. It makes them manipulable. They are prone to falling for quick-fix but risky personhood gimmicks,

such as fetal pain and fetal heartbeat legislation, that are billed as levers for overturning *Roe*.

However prominent knowledgeable and seasoned pro-lifers have warned that personhood legislation is imprudent. Two were National Right To Life Committee attorney, James Bopp and Richard E. Coleson. In a 2007 memorandum, *Pro-life Strategy Issues* [The Bopp-Coleson Memorandum](1), Bopp and Coleson warned that "if the Supreme Court were to actually accept a case challenging the declared constitutional right to abortion, there is a potential danger that the Court might make things worse than they presently are."

Bopp and Coleson's warning was repeated three years later by Catholic Family & Human Rights Institute head, Austin Ruse. He wrote that personhood provocations could, "put the pro-life movement back a quarter century or more."(2)

Movement / Business / Racket

The pro-life movement is not only being bent by the gravitational pull of pro-lifers' emotional needs, but also by the vote and fundraising demands of politicians and non-profits.

For a politician or for an entrepreneurial grassroots non-profit that has to scratch for funds, temptation is strong to keep supporters riled up and writing checks by pushing magical abortion solutions, by rolling out one urgency after another.

Efforts that began with volunteers are now run by salaried staff, meaning that self-preservation has been mixed into their missions. According to Eric Hoffer's dynamic, some of the personhood personalities would turn the pro-life movement into a business and then into a

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racket. The first thing that one sees on the home page of one organization that pushes state personhood legislation is merchandise for sale. Undisclosed to site visitors is that the director of the organization has a business that is capable of producing such merchandise. Another organization was established by a monied Catholic megalomaniac who is notorious for breathing financial life into ill-conceived, amateurish and cockamamy projects.

Some personhood proponents, in addition to being young, are not Catholic and do not have the benefit of the expertise, mainly resident in Washington, DC, drawn on by the Catholic bishops. The bishops have taken some heat from Catholics for not supporting and even actively opposing state personhood initiatives. For the good reasons that will be set out below, the bishops have advocated an *incrementalist* approach.

Like many others, personhood people harbor animosity toward anything Washington and have an outdated understanding of the way things are. Washington DC is where a lot of the best talent, including a lot of *the best pro-life talent*, go. While it is true that the Catholic bishops were slow to address legalized abortion, it is no longer 1983 at the USCCB.

Two Camps

The impatient push for quick solutions has divided the pro-life movement into two camps. The older, or incrementalist camp, believes in fighting abortion by passing laws that are likely to withstand court challenges under *Roe v. Wade*, the current law of the land. These laws are aimed, on their face, at protecting the health of women. They include laws, such as those recently covered in the news, that mandate that abortion

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facilities meet the same standards as medical facilities. Requirement of a 24-hour waiting period and listening to the unborn child's heartbeat (not to be confused with heartbeat legislation that declares a fetus to be viable) may cause some women to change their minds and carry to term. Abortion is reduced incrementally. Health-of-the-mother regulation has been forcing abortion facilities to close. Forty-four have shuttered in 2013 as of October 1st.

The personhood camp advocates passing laws that declare the personhood and viability of unborn children and that lead to granting them rights equal to postnatal human beings. The personhood people expect that, because these laws flout the *Roe v. Wade* right to abortion, they will be challenged in court and possibly lead to the overturning of *Roe*.

A little history. The first personhood amendment was ratified in Missouri in 1991. It has no effect because constitutional amendments require additional legislation defining violations, imposing penalties etc. and such legislation has never been enacted.

The momentum for personhood and viability legislation increased in the early 2000s, during the George W. Bush Administration. It was hoped that the president would have the opportunity to appoint more justices like Antonin Scalia and Clarence Thomas. Such justices would either vote to overturn *Roe* for having no

basis in the Constitution or they would be open to allowing Natural Law and Science to have a voice in Constitutional interpretation.

Bush made only two appointments: John G. Roberts and Samuel Alito. More coal was shoveled into the personhood/viability engine when Barack Obama was elected president in 2008. The hope was to challenge *Roe* before Obama could fill any SCOTUS vacancies with anti-life jurists.

The *Gonzales v. Carhart* decision of 2007, which I will discuss below, also heartened pro-lifers, some of whom believed that because Justice Anthony Kennedy joined the majority in that decision, he could be persuaded to join a majority in overturning *Roe*.

Since 2008, the composition of the Court has remained unchanged. Obama has until 2017 to make appointments. In this writer's opinion, the Republicans, unless they nominate an exciting and credible populist candidate described above, will not win the White House in 2016. The liberal Democrat who is elected will have four to eight years to inflict decades of major damage to life and liberties with her or his appointments to the Supreme and lower courts. Hoping to challenge *Roe v. Wade* in the Supreme Court in the next few years is foolish. It is steaming ahead full toward an iceberg.

The Problem of Pizzazz

Unfortunately the incremental-approach people have never made much of a case for their strategy. A recent check shows that old established organizations have signed on to supporting fetal pain legislation. Perhaps they have forgotten the warnings of Bopp-Coleson and Austin Ruse.

The incremental strategy is based on an understanding of Constitutional Law, of the

political process and of current trends. None of these things have the A's and Z's that spell pizzazz for the grass roots. Personhood and viability laws have pizzazz. They're simple and magical. We pass law X; we save babies. If law X is challenged, we go to court with briefs quoting Bio and Medical Science, testifying that the fetus has a heartbeat at six weeks and that it feels pain at 22 weeks.

I will tell you below what happened recently when that was attempted in North Dakota.

In a 2009 Ave Maria University hosted a half-hour debate between Clarke Forsythe of the Thomas More Law Center, representing personhood, and Rob Muike of Americans United For Life, speaking for incrementalism. Forsythe recited a typical personhood script, accusing National Right to Life and the Catholic bishops of being "our biggest opponents."

Mr. Muike spent most of his fifteen minutes talking, not about the Right of Privacy and Equal Protection, but about prudence and cooperation.(3) Surely there were some law students in the audience who would have understood a few words about the specific Con-Law threat. Muike did say that personhood is a dead letter in The Supreme Court. He also reminded that: "Zeal alone is not sufficient. Good intentions alone are not sufficient."

Current Abortion Law

The constitutional law of abortion is not that complicated. The opinions of *Roe v. Wade*, *Planned Parenthood of SEPA v. Casey* and *Gonzales v. Carhart* are fairly easy to read. In cases of the 1960s mainly involving birth control, an activist Supreme Court concluded that there was an unwritten "Right of Privacy" implied by specific rights enumerated in the Bill of Rights. Like the



written rights, this imagined Right of Privacy is not absolute. The state, for example, can, in the interest of public health, mandate that one's body be invaded by vaccination needles.

Originally, the Bill of Rights limited only federal government power, but The U.S. Constitution's Fourteenth Amendment empowers judges to apply national rights -- such as the imagined Right of Privacy -- to state law as well.

The Right of Privacy is also considered in American Law to be a "substantive right," which means that a state may impinge upon it only with justifiable reasons -- judges decide what is justifiable -- and in a manner that is fair and lawful. The justification for this "Substantive Due Process" are the Due Process clauses of the Fifth and Fourteenth Amendments.

Currently, the right to an abortion is based on the imagined Right of Privacy and upon the Substantive Due Process Doctrine. While the 1973 case *Roe v. Wade*(4) nullified all state laws denying the abortion right to women in the first trimester, it also recognized that the state may impinge on that right in later trimesters through an interest in protecting the health of the mother and also in protecting "potential

life."

In the 1992 case, *Planned Parenthood of Southeastern Pennsylvania v. Casey* (*Casey*)(5), the court reaffirmed the abortion right and its balance with state interest by upholding four of five Pennsylvania state laws that required informed consent, parental consent and a waiting period. The *Casey* decision a) admitted that the Court had undervalued the state's interest in potential life and b) replaced the rigid term "first trimester" with the flexible "viability" as the stage at which state interest in protecting life may be allowed.

The *Casey* Court ruled that a state may act on its interest in protecting fetal life if its regulation does not "present a substantial obstacle to a woman seeking an abortion ["undue burden"]." If a restriction serves "a valid purpose," protecting the health of the mother, the fact that it has the "incidental effect of making it more difficult or more expensive to procure an abortion" is not enough reason to invalidate it.

In the 2007 case, *Gonzales v. Carhart* (*Gonzales*)(6), in which the Supreme Court upheld a federal law banning partial birth abortions conducted by the Intact Dilation & Evacuation method, the Court seemed to strengthen the state's ability to regulate abortion by allowing that it could ban certain procedures. In the text of the majority opinion, the Court dwelt on the reasons Congress banned Intact D&E. One of these was to uphold the medical profession's reputation as a preserver of life rather than a destroyer.

The *Gonzales* case was the first in which the gruesome details of an abortion procedure were described. Another reason the majority upheld the ban was because it

accepted the argument that doctors may be reluctant to describe to their patients how they pierce an infant's skull and suck out its brains. If the patients discovered such details afterward, the Court said, that knowledge could cause post-abortive women to experience increased emotional distress. In admitting that "Respect for human life finds an ultimate expression in the bond of love the mother has for her child," the *Gonzales* Court noted that "some women come to regret their choice to abort the infant life they once created and sustained."

The *Gonzales* Court's willingness to uphold a ban on a particular method of killing a child and the remark about a "bond of love" led pro-life Law Professor Helen M. Alvaré to call *Gonzales v. Carhart* "a distinct break from the Supreme Court's prior abortion jurisprudence." Alvaré opined that the decision looks more like Family Law, which attempts to preserve the bond between parent and child, than Abortion Law.(7)

Pro-Lifers look upon *Roe* as the beginning of a travesty, which it was, but the grounding of it and its succeeding cases in Privacy/Due Process has made it possible for states to pass laws requiring informed consent, waiting periods and the pre-abortion hearing of the fetal heartbeat (again, not to be confused with fetal heartbeat legislation that declares the fetus to be viable at six weeks). *Roe*'s recognition of the states' interest in protecting the health of the mother is the reason Texas and North Carolina recently enacted stricter standards for abortion facilities requiring them to become more like ambulatory clinics. Rather than spend the money to upgrade, the abortuaries have closed down and fewer abortions are being performed.

These kinds of regulations are more likely to withstand judicial review in any court challenges because they do not directly prohibit abortion. Their purpose, on face, is to protect the health of the mother as *Roe* allows even if they make procuring abortions more difficult as *Casey* allows. So *Roe* jurisprudence has enabled pro-life forces to reduce abortions incrementally while they await the day of a culture change and unassailable legislation, such as a Human Life Amendment to the U.S. Constitution, that cannot be overturned by any court.

Less likely to withstand court review is legislation that declares viability and personhood of the unborn, such as fetal heartbeat laws and fetal pain legislation that was entertained in the 113th Congress. Bills such as these are often introduced with the hope that they will be challenged in the courts and enable their defenders to persuade the Supreme Court to overturn *Roe v. Wade*.

However instead of overturning *Roe*, the Supreme Court may take the opportunity of a court challenge to harden the abortion right by making it a matter of the Fourteenth Amendment's Equal Protection clause. Grounding abortion in Equal Protection would make it an absolute right. This is what Bopp-Coleson warned about in 2007.

And recently in North Dakota, Bopp-Coleson's warnings were vindicated. North Dakota has lately been a hotbed of pro-life legislation. The state passed laws banning a certain drug used in abortions and requiring abortion doctors to have hospital privileges. Also enacted was a fetal heartbeat law. A personhood amendment has been submitted for a popular vote in November,

2013.

A federal judge has blocked the heartbeat law declaring it to be a violation of *Roe*. Similar laws in three of twenty other states have also been enjoined. A North Dakota state judge struck down the abortion medication prohibition and the hospital-privileges requirement.(8)

Judge Wickham Corwin's reasoning was "Autonomy and self-determination become unachievable if women are deprived of the right to terminate an unwanted pregnancy."

This is classic Equal Protection jurisprudence. This is the rationale that liberal judges and justices will use, if given the opportunity, to strike down all abortion regulation. This is what Yale and Harvard Law School grads, likely future judges and justices, have been learning.

The Equal Protection Iceberg

The Equal Protection justification for the abortion right actually made an appearance in *Gonzales v. Carhart*. In explaining the minority's vote against the upholding of a federal law prohibiting the gruesome partial birth abortion procedure, Justice Ruth Bader Ginsburg wrote "Legal challenges to undue restrictions on abortion procedures do not seek to vindicate some generalized notion of privacy; rather they center on a woman's autonomy to determine her life's course, and thus to enjoy equal citizenship stature." Three other justices on the *Gonzales* Court agreed with Ginsburg. The appointment of another liberal justice between now and 2017 would make that foursome a five-justice majority.

Being Groomed By Obama

That next liberal justice could be Cornelia T.L. "Nina" Pillard, an Obama appointee to the D.C. Circuit Court of Appeals. Not only is the D.C. Circuit the second most powerful court in the U.S. it is, for its judges, a stepping-stone to the Supreme bench.

Pillard is clearly being groomed by Obama. A(nother) Yale and Harvard graduate, she was Faculty Director of the formerly Catholic Georgetown Law School's Supreme Court Institute. In 2012, she served with Ruth Bader Ginsburg on a panel discussion about equal protection and women's rights.(9). She is the author of a law review article entitled *Against The New Maternalism* (10) in which she laments the persistent "cultural practice of romanticizing of the mother," "the mother's unequal burden in the home."

Pillard's disappointment with what goes on in "the culture" (beyond that which Law concerns itself) and the sexual stereotypes that originate among families suggests that she would, in the name of equality, force the law's proboscis into every little crevice of life. The traditional family, and probably nature itself, would have no worse enemy.

"Conscription to Maternity:" Equal Protection Feminism

Pro-life attorney Erika Bachiochi wrote an excellent analysis of the Equal Protection rationale (11).

It is, Bachiochi argues, based on a school of feminism, the predominant school, that holds that women must be like men to be equal to men. Odd that something called feminism would consider maleness to be the ideal, but that is what it does. However women have the "burden of motherhood," as Cornelia Pillard says,"the mother's unequal burden in the home." This burden

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limits their "autonomy and self-determination" which, in the North Dakota state judge's words "become unachievable if women are deprived of the right to terminate an unwanted pregnancy."

Again Cornelia Pillard as quoted by LifeNews: "[r]eproductive rights, including the rights to contraception and abortion, play a central role in freeing women from historically routine conscription into maternity" (12)

In this regime of the imperial autonomous self, sonograms, the personhood of the unborn child, when that child first feels pain and has a heartbeat *do not matter*.

Bachiochi informs that as early as 1971 a pro-choice feminist, Judith Jarvis Thompson "granted the personhood of the fetus and then analogized this nascent and dependent human being to a famous unconscious violinist who is kept alive only by being attached, for nine months, to an innocent, unwilling bystander's circulatory system."

Scientific proof that the fetus is human from conception doesn't matter to Equal Protection feminists. "Science," by the way, cannot be relied on to provide a consensus on fetal heartbeats and pain being signs of human life. For one thing, which "science"? Biology teaches that mammalian life begins when an egg is fertilized (conception), however Medical Science holds that pregnancy begins when menstruation ends, not at conception or fertilization. Like Environmental and many other sciences, Medical Science is shot with ideology and

interest. The American Congress of Obstetricians and Gynecologists opposes fetal-pain legislation and probably anything else that would kill business for some of its members.

In the *Gonzales* case, some briefs cited doctors' opinions that Intact D&E was never a necessary procedure. Others cited doctors' opinions that it was.

Likewise, that Abortion Law may be evolving toward Family Law will not matter if the right is relocated to Equal Protection. Cornelia Pillard certainly doesn't care for the "maternal bond of love." The cleanliness of abortuaries doesn't matter. The "safety" of a procedure doesn't matter. The side effects of abortion pills don't matter. The mother's emotional well-being doesn't matter. This kind of feminism is gnostic and satanic. It may entail positive hatred of the unborn. It certainly hates the traditional, the natural family.

I sometimes think that religious, pro-life people don't understand how closed-minded and irrational many on the left are, especially the "highly educated" ones. I also think that religious, pro-life people don't understand how unbudgeably selfish and incapable of motherly feelings some women, particularly women infected with feminism, can be.

Among jurists, the Equal Protection iceberg grows in size. As I wrote at the outset, in light of the Supreme Court majority's overreaching logic in the DOMA case, it is entirely possible that all restrictions on abortion, even those *Roe*-permitted mother's health regulations, are now in danger of being nullified. If the Court could overturn a law while accusing its enactors of a desire to harm a politically unpopular

group, it could just as easily rule that legislation to make abortion clinics safer is motivated by a desire to reinforce sexual stereotypes.

The Long Haul

It is going to take a long time and a lot of prayer, patience and political savvy to end abortion in the United States. It is also going to require a daunting amount of evangelization and cultural transformation to get even practicing Catholics to think rightly about marriage, religious freedom and life issues. As Pope Francis I and other proponents of The New Evangelization have noted, these matters cannot be fully understood and appreciated unless they are part of a context in which Christ is at the center.

If the powerful elites are set against the Culture of Life, as they may be so for decades, there is cultural change favoring the unborn. As Betsy Woodruff wrote on NRO On-line in September, 2013(13), abortion providers are becoming scarcer. To younger doctors, abortion is a less attractive and less accessible "practice."

Because there are fewer providers, the pro-abortion side is pushing webcam or telemedicine abortions in which an abortionist interacts with a client from a distance *via* the internet. Another strategy that proliferates can expect Planned Parenthood to pursue is getting states to allow non-physicians, nurses, midwives and physician assistants who have gotten "the skills to pay the bills" (from diploma mills), to perform abortions. California has recently enacted such permissive legislation. Other coastal states, wherein affluent liberals, sealed in their ideological cocoons, are insouciant to butchery, may likely do the same.

Another thing that is slowly working in favor of the pro-life movement and other righteous causes is that people of faith who worship regularly and who are inclined to be pro-life are the ones who are having kids. This has been called "Survival of The Godliest" (13).

Go to Mass at the affluent Catholic parishes in my Washington D.C. suburbs, and you will see many families with two, three or more children. These children are being raised in a renewing Catholic church inspired by Pope John Paul II. They are less likely than Baby Boomers to drop out of Catholicism. Many are going to Catholic schools and are otherwise being prepped to be the elites of the future. This surely will have an impact on public policy, including abortion law, in twenty or thirty years.

Unfortunately in those years there will be many more abortions. Let us pray that they are not caused or their numbers increased by the missteps of pro-lifers.

(1) James Bopp, Jr. & Richard E. Coleson, [Memorandum: To Whom It May Concern, Pro-life Strategy Issues, August 7, 2007](#). Bopp, Coleson & Bostrum, Attorneys at Law, Terra Haute, Ind. (pdf)

(2) Austin Ruse, [The Personhood Movement Right and Wrong](#), The Catholic Thing, Feb. 4, 2010.

(3) Debate: [Clarke Forsythe and Rob Muike debate Personhood\(Mp3 audio\)](#), Personhood.net

(4) *Roe v. Wade*, 410 U. S. 113 (1973). This citation means Volume 410 of *United States Reports*, page 113.

(5) *Parenthood of Southeastern Pa. v. Casey*, 505 U. S. 833 (1992)

(6) *Gonzales v. Carhart*, 550 U.S. 124 (2007),

(7) Helen M. Alvaré, [Gonzales v. Carhart](#);

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[Abortion Law that Looks Like Family Law](#), University Faculty for Life, Life & Learning, Vol. 17, pp 129-170 (pdf)

(8) *MKB Management Corp d/b/a Red River Women's Clinic, Kathryn Eggleston, M.D., v. Birch Burdick and Terry Dwelle, M.D.*

(9) Cornelia T. Pillard, Nina Totenberg, Justice Ruth Bader Ginsburg, Emily Martin, Earl Maltz & Jacqueline A. Berrien, Panel: *Reed v. Reed* at 40: Equal Protection and Women's Rights, 20 Am. U.J. Gender Soc. Pol'y & L. 315-344 (2012).

(10) Mezey, Naomi and Pillard, Cornelia T., "Against the New Maternalism," 18 Mich. J. Gender & L. 229-296 (2012) (abstract quoted).

(11) Erika Bachiochi, [Embodied Equality: Debunking Equal Protection Arguments For Abortion Rights](#), Harvard Journal of Law & Public Policy, Vol. 34, No. 3, Summer 2011.

(12) William Saunders & Mary Harned, [Obama Nominee for Judge Says Abortion Frees Women From "Conscription Into Maternity,"](#) LifeNews.com, Sept. 16, 2013.

(13) Betsy Woodruff, [Pro-Choicers Have a Problem](#), National Review On-Line, Set. 17, 2013

(14) "Survival of the Godliest" is Philip Longman's term.



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