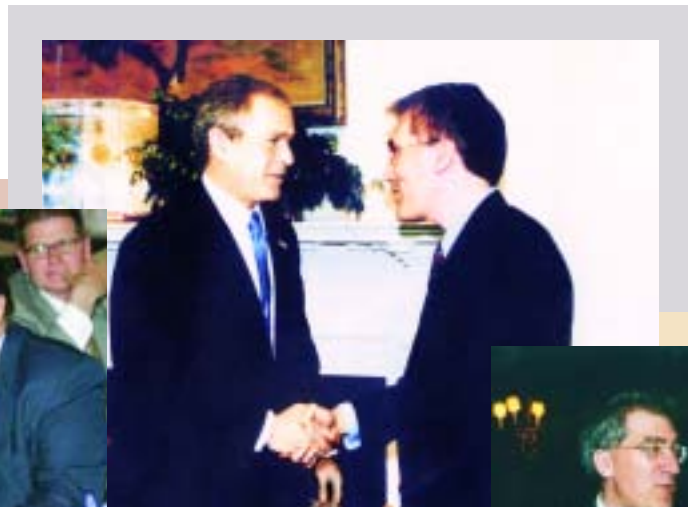


# ROBERT GEORGE

## NO TIME TO LOSE IN THE FIGHT FOR LIFE

By Anita Crane



Robert P. George, Princeton's McCormick professor of jurisprudence, has devoted much of his career to legally securing the right to life for all innocent persons in the United States. Some 35 years ago, George joined the pro-life movement as a teenager. Now that the Supreme Court is changing personnel and the Right to Life Act is before Congress, his pursuit is more urgent than ever.

*Photos (left) Justice Antonin Scalia admires an icon of Elijah presented to Robert George when he joined Touchstone magazine as a senior editor. (center) Meeting with President George W. Bush. (right) Chatting with former Secretary of State George Schultz.*

George so highly regards the U.S. Constitution; he thinks we would be noble to live by it. "However," he acknowledged, "we have sometimes failed, historically, to live up to our constitutional ideals. There is much that is noble in our history, but we also have sin and shame; we had slavery and segregation, and now we have abortion. Much of our history has been the history of striving to overcome injustices and to live in line with what the Constitution and Declaration of Independence call us to; that's what we in the pro-life movement are trying to do with respect to abortion and other crimes against life.

"Constitutional interpreters, including the members of the Supreme Court, have made two different kinds of mistakes and they've made them frequently," George explained. "One is to read

out of the Constitution principles that are actually in it; like the principle of the limited national government. Sometimes the mistake has been the opposite one; to read into the Constitution what isn't there, like a right to abortion."

### Cause for joy

"I think we in the pro-life movement often beat ourselves up," said George. "Of course I'm always for challenging ourselves to do more and do better. But in our sorrow, 33 years after *Roe v. Wade*, we still have not reformed the law and in our horror, there are one and a half million abortions per year, so sometimes we fail to reflect on what we've been able to accomplish. Thousands of lives have been saved by the pro-life witness—by prayer, by our efforts with women in pro-life clinics—including our

witness in the political sphere.

"It's also worth remembering that there's no place in the world where the pro-life movement is as vibrant and active as it is in the United States. We set the standard for other countries when it comes to pro-life work. Only in America would the whole Congress move to save one person such as Terri Schiavo. But, sadly, we lost her in the courts.

"Now here's an irony," said George. "Although we have the most influential pro-life movement, when it comes to abortion, we have one of the worst schemes of law in the democratic world. Our laws are more careless of human life than the laws of most countries. Even in European nations, the conditions under which abortions can be performed are usually more limited. For example, some European

countries prohibit abortion after 18 or 22 weeks. But under the conditions of *Roe*, abortion is effectively permitted until birth. So we have a more radical law, even though we have a more vibrant pro-life movement."

### Cause for grief

"The problem is the courts," said George. "There's a real division between elite and popular opinion. Elite opinion is exemplified in the journalistic establishment, the professoriate and the major professional associations. The American Bar Association and the American Medical Association are pro-abortion and few people would be surprised if these organizations eventually embraced assisted sui-

cide. But public opinion remains far more strongly pro-life. The trouble is that while legislatures by and large tend to reflect popular opinion, the courts reflect elite opinion. The courts frequently grab power to impose elite ideology on a public that by and large rejects it.

"I'm completely opposed to judicial supremacy," George said. "My own view of the Constitution is very much in line with President Lincoln's view. Lincoln refused to treat the Supreme Court's decision on *Dred Scott* as a binding rule on the executive and legislative branches of government and he was right to refuse. I wish that modern presidents would follow Lincoln's example and stand up to the Supreme Court when it

usurps the power of our elected representatives and violates the Constitution in whose name the justices purport to speak."

### Reason for hope

George favors the Right to Life Act (H.R. 552). This federal bill would "implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and preborn human person." It further states: "The terms 'human person' and 'human being' include each and every member of the species homo sapiens at all stages of life, including, but not limited to, the moment of fertilization, cloning, or other moment at which an individual member of the human species comes into being." In other words, it would answer Justice Harry Blackmun's *Roe* provision on personhood and provide the premise to outlaw abortion and other life-threatening abuses to vulnerable human persons.

Yet if the bill passes and is signed into law, it certainly will be challenged in the courts. "Are there five members of the Supreme Court who would vote to overturn *Roe v. Wade*, based on that act?" asked George. "I suspect the answer is no. I do think we have five to uphold the partial-birth abortion ban without a phony 'health of the mother' exception—but not five to overturn *Roe*. We need the retirement of one more pro-abortion justice. Pray—not for anybody's death, but for a retirement or even better, a change of heart, a conversion of conscience."

We live at a crucial time in American history. Given the age and health conditions of some Supreme Court justices, it's possible that prior to leaving office in

2009, President George W. Bush will have the opportunity to nominate three or four justices.

Furthermore, the Right to Life Act is gaining momentum with 70 co-sponsors in the House; and perhaps by the time it passes, the Supreme Court will have a majority to uphold it. If the act becomes law, it's possible that the Supreme Court could overturn *Roe* in the context of a challenge to that law. Of course, even apart from a formal overturning of *Roe*, a dedicated president following the example of Lincoln could treat the law as constitutionally valid and act on it. In defiance of the Supreme Court's pro-slavery ruling on the *Dred Scott* case, which George calls "the *Roe v. Wade* of slavery," Lincoln treated free blacks as U.S. citizens and even acted against slavery in U.S. territories.

All things considered, George believes pro-lifers should continue working for justice despite current legal obstacles and, in the meantime, prepare for all possible developments—good and evil.

### Tactical wisdom

"One lesson we have to learn is to be forward looking—to anticipate challenges. We need to strike preemptively at assaults on human life and dignity coming down the line," George warned. "We don't want to put ourselves in a reactive position. We don't want to wait for bad things to happen, then try and undo the damage."

"In my own work on the President's Council on Bioethics, we're trying to look ahead—even past cloning and embryo-destructive research, which are terrible things that need to be dealt with legislatively and otherwise. We're looking beyond those to future



Robert George with Mrs. Lynne Cheney.

evils so that we can put barriers into place. I've been trying to ring the alarm and *The Weekly Standard* printed my article, 'Fetal Attraction,' about the possibility of fetal farming.

"Now that we at least have the possibility of overturning *Roe* on the horizon, we should be thinking about a unified strategy," he advised. "A lot of harm has come to the pro-life movement, because we've spent so much time fighting amongst ourselves over the years. That has been the most painful thing for me, in my 35 years or so in the movement, how often there have been internal disputes, not only differences of opinion about strategy and tactics—in a way that's healthy—but turf battles and disputes that have gotten personal and created hostility within the movement."

"Some people think that if *Roe's* overturned, we'd have to then work on legislation in the states" said George. "But we should also be working at the national level for national legislation. Consistent with my view of the national government as one of limited jurisdiction, there remains room for

national regulation of abortion—probably not preempting the entire field—but at least setting some minimal standards for the protection of human life that the states are required to meet.

"Delays I cannot accept," stressed George. "We might get our basic message on strategy from the Gospel. We need to be really, really smart about how we proceed. We need to think very, very carefully and astutely in our strategy. And then we have to carry it out in a spirit of honesty, civility and love—even for our enemies—praying for our enemies, trying to convert hearts. Hearts have already been converted. There are famous conversions such as Dr. Bernard Nathanson, the former abortionist and co-founder of NARAL, and others who have been in the abortion industry. So be gentle as doves, but also cunning as serpents—smart, clever, intelligent."

Anita Crane is editor of *Celebrate Life*.

### Youthful discretion

"I became interested in the relationship between law and morality when I was in high school," George said. "Growing up in Morgantown, West Virginia, my mother Catherine and I both became involved in the pro-life movement, which, at that point, was mostly on the West Virginia University campus. In those days, Wanda Franz was a professor there and she led the local pro-life group. She later became a national figure in the movement."

Young Robby George also befriended some philosophy graduate students at the university's Catholic chaplaincy in Newman Hall and they helped develop his concentration. "So I went off to Swarthmore College with morality and law interests already awakened and I began to do work in political theory and ethics. In political science classes we would touch on questions regarding constitutional law and that led me to think that this was the kind of thing I'd be interested in doing professionally."

After graduating from Swarthmore, George went to Harvard Law School. "When I finished law school," he said, "I went off to Oxford for my doctorate in philosophy of law under John Finnis, whose work revitalized natural law theory. He wrote a book called *Natural Law and Natural Rights* and that had a big impact on my thinking. I wanted to work with him, so I had that opportunity and went over and did it and my career followed from that. I was doing scholarly work in natural law theory, more generally in the area of philosophy of law, with a focus on the relationship between law and morality; and when Princeton hired me 20 years ago, it was to do that."

