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Abortion Politics Still Boiling

by Michael Sean Winters

Distinctly Catholic

The progressive group Catholics United held a press call to discuss the implications of an Ohio Elections Board ruling which held there was probable cause for an injunction against an ad campaign sponsored by the Susan B. Anthony List. The ads claimed the health care reform law permits federal funding of abortion and Congressman Steve Driehaus, running for re-election in Ohio's First District, sought an injunction on the grounds that the ads violated an Ohio law that prohibits ads that are factually inaccurate.

But, the fireworks on the call came when Douglas Johnson of the National Right to Life Committee joined the call and, instead of asking questions, argued his case that the law does entail abortion funding. Mr. Johnson, of course, is entitled to his views. He is also entitled to have his own press call to explain those views. But, it is rude and wrong to crash somebody else's press call to advocate for your own cause.

The call featured two speakers from Pennsylvania's Third Congressional District where Congresswoman Kathy Dahlkemper, like Driehaus, is facing attacks from the Susan B. Anthony List for her voter in favor of the health care reform law. One of the speakers, Benedictine Sister Marlene Bertke said she had seen one billboard from the Susan B. Anthony List chastising Dahlkemper for supporting federal funding of abortion. According to Catholics United's Chris Korzen, the billboard company in Ohio declined to put up the ads in light of the Ohio Elections Board's ruling.

Sister Marlene Bertke said that the "false advertising taking place is morally wrong." She pointed to the \$250 million for vulnerable pregnant women in the new health care bill and cited the conclusions of the Catholic Health Association that the new law does not entail federal funding of abortion.

Korzen said that his group strongly supports free speech, but added, "I believe there should be restrictions on lies."

A federal district court is expected to rule today on whether or not the Ohio law can withstand constitutional scrutiny. As I have written previously, while I think Driehaus and Dahlkemper are right that the health care bill does not permit federal funding of abortion, I have problems with the Ohio law. Others whom I respect deeply have reached different conclusions about the abortion restrictions in the bill, including the United States Conference of Catholic Bishops. A law banning false political advertising such as the one in Ohio should at least have to clear the hurdle found in libel law, that the wording of an ad must betray "actual malice," that is, a reckless disregard for the truth, if it is to fall beyond the protections of the First Amendment. Indeed, the standard should be even harder to get across for political speech. The Ohio Board may be non-partisan but it is an appointed Board, and the idea of such a Board being able to decide what does and does not constitute a factually inaccurate claim is troubling at best. Perhaps, if the law required a unanimous verdict by the Board, I would feel differently. In the event, the Republican member of the Board dissented from the majority finding that there was probable cause to find the ads were false and Driehaus's claim could proceed.

Political campaigns are filled with claims that have only a slender connection with the truth. Sometimes, the claims are large, but vague, for instance, claims made about the future effects of federal spending and tax policies. When someone claims they will reduce the budget deficit by ferreting out "fraud, waste and abuse," they are making a false claim. Ferret all you want, the numbers don't add up. Ditto for claims that tax cuts always pay for themselves. But, I can't really prove that is wrong the same way I can prove that 1+1=2. Sometimes the claims are small. I worked on a campaign in which we were attacked because our candidate had "failed to pay his taxes on time." In fact, he had missed a payment for trash collection because the bill got lost, but this became, not paying his taxes on time. What is the difference between trash collection and taxes? A lot to most of us, but you can see how our opponent could twist that into something seemingly nefarious.

It would be nice if we all lived in a country where political debates were honest, differences were respected, and campaigns did not stretch the truth to achieve their objective. But, that is not the world in which we live. In the meantime, no matter how mean it gets, I think there is no better solution than letting the voters decide the truth or falsity of the claims made by candidates. The Susan B. Anthony List and the National Right to Life Committee may be wrong "and Mr. Johnson was very wrong to interrupt today's call" but they have a right to be wrong.

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