



Registry Matters Podcast

Episode 225

Recorded 5-14-22

Registry Matters is an independent production. The opinions and ideas here are that of the hosts and do not reflect the opinions of any other organization. If you have problems with these thoughts, fyp.

Andy 00:17

Recording live from FYP Studios, east and west. Transmitting across the internet. This is episode... What are we at? 2225 of Registry Matters. Good evening, fine sir. How are you?

Larry 00:28

Awesome. Welcome back.

Andy 00:31

Welcome back. Thank you for having me. Anything exciting to report this week?

Larry 00:36

No, nothing exciting happens around in this boring state.

Andy 00:42

Nothing exciting. Wait, how close are you- Isn't your state on fire?

Larry 00:48

It is. It is. It's very tragic what's going on here. And I don't know how people feel about a moment of silence. But there are 1000s of people who've been displaced. Some have been displaced more than once because where they've been evacuated to has been evacuated. Homes have been lost. It's just a tragedy. And one of the tragedies could have been avoided, because as we don't look backwards to look forward, we had the tragic Los Alamos fire in 2000 where a significant number of homes in Los Alamos were destroyed. And that was the result of a controlled burn that jumped the fire lines. And part of what we have going on right now is another controlled burn that was started that jumped the containment lines with the weather service predicting 25 mile per hour gust of wind the day that they went ahead decided to proceed with the controlled burn. And, you know, you have a lot of personnel on scene for a controlled burn, and someone has to give the order to call it off. And there's a lot of pressure economically to "Let's get this thing done."

Andy 02:00

How far are you away from the burns? Or from the fire? Excuse me.

Larry 02:04

We are quite a distance. They're more off to the north and east. So we're not even getting a lot of smoke, yet. The wind patterns have been favorable. So the smoke is blown to the east and to the north of here. So there are times that we get a tremendous amount of smoke from fires. But so far, it hasn't been too bad. A couple of days, but mostly it's been blowing the other directions.

Andy 02:25

And I mean, honestly, I know that New Mexico is a state and it's very vast. And I have no idea where you are in relation to the fires. But you just said they're in the north. You said northeast?

Larry 02:36

Yeah, they're about 150 plus miles northeast of here. So we're not in a danger zone at this moment. But what people don't understand is that with the fuel being so low in moisture right now that that the city of Albuquerque has a forest that runs right down the center of the city along the banks of the Rio Grande. And all of that fuel is very tender because of the drought, the multi-year drought. So, if a fire were to start on what is known as the Bosque, there would be a lot of damage in Albuquerque. A lot of damage.

Andy 03:14

But just generally, this is by no means anything remotely fact, but wind generally follows from west to east, generally. So I would think that it would move more towards that direction than towards you, just generally speaking.

Larry 03:31

Yes. And for this particular season, there's been a lot of south wind flow blowing to the north and east, so that's kept the smoke from settling over the Rio Grande Valley. It's blown it off to the Kansas and Nebraska and some places out there.

Andy 03:49

That's crazy. All right, then. Well, let's dive right in. First, make sure that you have pressed all of your Like and Subscribe buttons so that you are in tune with when this gets released on YouTube and all that stuff. And that's your favorite place to keep track of the podcast stats. I'll just share that. So if you want to make Larry happy, make sure that you are checking in on YouTube. For me, download the podcast in a podcast app so then you can listen to it in your car. But tell us what we got going on tonight Larry.

Larry 04:17

We're gonna be all over the map. You have created this wonderful program tonight where we're going to be talking about public policy and the Supreme Court and how it relates to PFRs. And you've thrown it all into one, and hopefully people will understand where we're going with it. It's gonna be challenging, because it's going to seem like we're talking about an issue that's unrelated. (Andy: Correct.) And we've got some feedback from last week's interview, some comments made on YouTube, my favorite platform. And we've had some debate about West Virginia in terms of a person traveling, and the trouble they're in So we're going to talk about the 21-day advance notice. And I think I have a letter that someone submitted if I remember right. We've got some clips of from years back where there were people being confirmed to serve US Supreme Court. And now, some of these clips are going to be interesting to play.

Andy 05:22

Very cool. All right, well then let's dive right into this To be Read part of the program. Do you want me to just read what you highlighted?

Larry 05:30

No, that was a particularly interesting segment. But yes, if you don't mind reading the letter.

Andy 05:35

And so this starts off with "Dear NARSOL allies, I was wrongfully convicted of a PFR offense that I did not commit. In 2012, I took my case to trial and ultimately failed and was convicted and given a 25. With an 85%." I'm assuming that's 25 years with 85% to serve.

Larry 05:54

That is my assumption, yes.

Andy 05:56

Cool. "And I have a codefendant who's charged practically mirrored mine. He is an ex-police officer who worked in the same county that we went to trial in. Our trial was very highly publicized, but we were denied a change of venue. Then, our lawyers decided not to put in for a severance. They stated that we would have been denied anyways. Then a day before our trial was to begin, my paid lawyer tragically passed away." Larry, I've heard of this. Like, this happens more frequently than I think people realize is that your attorney, like the stress of your case offs your attorney or something along those lines. I hear this more frequently than I would think. "Then I was only given two weeks to find another attorney. In turn, I ended up with a public defender. We can talk more into that at a later time. **My main charge was a video in which I was the ex-girlfriend in a bondage situation. They are stating that the female that I was interacting with at the time was 15 years old. The digital camera used had a date imprinted that state she would have been 18 years of age at the time of the alleged offense.** The main alleged victim that started this whole mess was being molested by her stepfather. I told him I was going to report it. And then all of this happened. All charges concerning her have been dropped except for endangering the welfare of a child. She ended up getting pregnant with him right before our trial and I really don't know what to say. The other charges concerning other alleged victims contradict each other. I had four alleged victims in total. There was a lot of coercion and deal making with said alleged victims. There was prosecutorial misconduct, illegal search and seizure warrants on my codefendants end, the detectives perjured themselves on the stand, there were off the record meetings with the judge in his chambers." Keep going, Larry? Or we are we good?

Larry 07:44

We're good. The highlighted [bolded] part of the main charge, I focused in on the part of the digital camera ahead of date imprint that stated she would have been 18 years old at the time of the alleged offense. Can you explain what she means by that? Because I have no idea what she means.

Andy 08:03

Well, so, simply, you have a digital camera and you would like to have- there's something called metadata that you would have. It's like information outside of the picture, just extra stuff that would tell you how big the picture is, the resolution. Potentially, like with a cell phone, you'll end up with GPS coordinates on the photo. So now you know exactly where the photo was taken. But ultimately, then you may have date and time information in there too. Your phone constantly gets time & date updates from the cell phone towers. So those are always accurate. But if you just have one that you bought from the store, and it's called a point and shoot, you could make any time on that that you want to, Larry.

Larry 08:44

That's what I was getting at, because I don't have any experience and practice where this has been raised as a defense. So, I would not have been able to have been helpful. First of all, Heather, we feel you and we're hoping that what she's looking for is someone to help her. And in New Jersey, I know we have a vast listening audience in New Jersey, maybe there's an attorney that'll listen and reach out to us and say, "How can I help?" But she did raise some issues that, if true, would give her some grounds for appeal. She mentioned about severance being denied, severing the defendants. Because sometimes that can be very prejudicial. She mentioned about a change of venue, and depending on the publicity, in which you have to spend some money to do a jury survey to figure out- you know, you have to go out and talk to potential jurors. And it's a... I don't know if I'd say it's an exact science, but you come in with evidence showing how much publicity there's been and you try to convince the judge that you can't seat an impartial panel of jurors. And the biggest one is the attorney dying. I can tell you what happened. The attorney died, and the fee was absorbed. So whatever work that had been done on the case, if any, it didn't matter how little or how much. The work product was very difficult for her to gain access to for the new attorney. Any fee recovery would have been unlikely because their attorney is dead, so t the disciplinary Council of New Jersey would not be able to require that there be a refund of those funds. You see what I'm saying? Andy: I do.) So she would have had a very difficult time getting the money back, which would have hindered her in her search for new counsel. And then the judge turned around and didn't give her enough time. And we're assuming everything people write to us is true. If the judge says, "I've given you two weeks," that's really not reasonable. This sounds like a fairly complicated case. So the first motion that the new attorney would make would be for more time to be prepared. So Heather seems like she has some very worthwhile issues to pursue with this. Unfortunately, in our system, when you've been convicted, it diminishes your... I mean, you're presumed guilty as a matter of law, at that point. The burden is on you. And she's got to do the best she can to find counsel, and to hopefully have some preservation on these issues. If they didn't raise the issue, then it's going to be difficult to say that there was preservation, so she's going to have to argue ineffective assistance of counsel. You see what I'm saying? Because if you don't make a motion for severance, the trial judge could not have made his or her own motion, I don't believe. So, therefore, there's no preservation. The trial judge didn't get a chance to make the ruling on severance. So she has got to argue and allege that she informed her trial counsel that she wanted severance, and the trial counsel didn't do it. And then she's got to put forth a compelling case that had that motion being granted, that the outcome could have been different. So she's got to really show that there's a likely difference in outcome. Because remember Strickland versus Washington, which we talked about last week, the two prong test? You've got to show that the attorney's performance fell below a standard of reasonableness. And that standard is a very low one, because they always argue that there was a strategy in play. I mean, this was part of a strategy. And therefore, it had broad latitude in strategy. So with that in mind, she's got to show that what they didn't do was unreasonable, a reasonable attorney would have done those things. And that's tough to show. But she's got to make that argument. Hopefully, she's got preservation that she asked for

more than two weeks to get up to speed, that the attorney asked for additional time. Because if the attorney didn't ask for additional time, they're gonna say, "Well, I mean, there was no objection. I mean, the judge didn't get a chance to give any additional time." So this is potentially a bad outcome with good underlying facts as I'm reading them from this letter.

Andy 13:24

Two questions. So, severability? Was that the term? Is that to make them two separate cases instead of codefendants? (Larry: Yes.) And then, wouldn't any public defender just be able to whip out a quick motion to delay to be able to prepare better?

Larry 13:43

Absolutely, they would have. That would be one of their stock motions, but the problem they would have is the overwhelming workload that they have. Generally, in public defender's office... And I don't know about New Jersey. I don't know what particular jurisdiction, but it would be the rarest jurisdiction that has extremely lavish resources for their public defender system. Within the state of New Jersey, I don't know which county this case originated in. But they have to also run the risk of alienating the trial judge they have to practice before day in, day out, day in, and day out. This is a high-profile case by her own admission, highly publicized. So you've got all these media people and you've got victims demanding their day in court. And the judge is having to balance that against a fair trial. And of course, I would think I'd like to err on the side of giving the person a fair trial because they're the ones that's going to be in the cage. But you don't know what pressures the judge is feeling and what pressure the public defender was feeling about pushing the issue of not being ready. Now, you could fall on the sword. If you absolutely weren't prepared when the judge says state your appearances, and each Attorney for the state and the defense announces their appearances, then, at the end of announcing their appearance, they can say, "And Your Honor, I am not prepared. I have not had adequate time to prepare. I want to state for the record that I cannot do a good job on behalf of my client, and my client will not receive a fair trial." That would not go over very well. But an attorney could do that. And that would derail the trial. I will absolutely guarantee you it will derail the trial. Maybe your career as well, but certainly the trial.

Andy 15:33

Wow, okay. That's interesting. All right.

Larry 15:37

All of our attorneys listening out there in New Jersey, contact us and we will pass this on to you.

Andy 15:44

Very good. All right. Well, then I wanted to throw in a question and a comment that I came across on the YouTube channel based on our conversation with Miss Hambrick last week. So one person wrote and says, "Andy, I agree with you. Larry's idea of entrapment is confusing, because I think it is entrapment. What would entrapment look like, if this isn't? FYP."

Larry 16:09

Well, is that a rhetorical question? Or is that a question?

Andy 16:13

I'm raising it as a question. So in your mind, with the thing that Kathleen was describing last week that it feels like it is entrapment. But you, you seem to be in disagreement of that. So then what would entrapment- I guess, well, what would entrapment not look like, if it wasn't entrapment?

Larry 16:33

I would clarify that I said a reasonable jury could find guilt or not guilty with the facts that we have available to us. But what entrapment would look like, would be where a person has... Clearly the first part was met in that case where the idea was implanted, but the person never does agree to it. And they arrested him anyway. When this case goes to trial, depending on the amount of time he traveled to being 70 years old, the prosecution was going to have a field day with that in terms of he had ample time to think about what he had agreed to do at their instigation. So they have a compelling case that they're gonna make that he had renunciation opportunity, and he truly was predisposed, because he did not back out. And the defense attorney is going to argue that he never would have thought of it, but for their instigation, and it's all going to come down to what type of jury is seated on that particular trial when the state retries him, which they will.

Andy 17:41

I can totally get on board with what you're saying that as soon as the individual ends up to be in that risk category, that you should back out, which I totally get. But he would never have been- they weren't doing the thing that they got accused of to begin with. They weren't out there soliciting to have sex with children, with young-uns. That got switched up after the fact.

Larry 18:11

True, that is true. But remember, the standard is that... the prosecution is gonna argue that he he truly was predisposed to do it. They have a less compelling case if I were a juror, than what his case would be. But that's what they're going to argue. And that travel distance is going to be very, very crucial in my estimation. If I were a consult on this case, I would really be telling the attorney, "We've got to come up with something to cover his travel time." If he traveled three minutes, that's one thing. If he traveled for 100 plus miles, and he had well over an hour to think about it, and you're a seasoned life veteran at 70 years old, that is going to weigh in favor the prosecution.

Andy 18:53

Certainly. And then another comment, and this one's kind of funny. He says, "Wait a minute, her son that served his time, won his appeal, and now they're going to recharge him? How is this even possible? He's done. This is fuc-dollar-sign-up? I don't know what that F word was, Larry, if you want to fill me in?"

Larry 19:15

I don't either. But I think it's probably not good for a family broadcast. What happened was that there were errors made according to the both the Court of Appeals and the state Supreme Court. The appellate level courts both agreed that he should have, in view of the evidence, gotten an entrapment instruction, and he didn't. But that's a reversible error. Some errors are not reversible, but this is one that would be totally reversible but with a brand-

new jury. So therefore, the state is likely going to want to retry him. That could be changed if the state cannot... The state has for sure the opportunity to regain a conviction. But say, for example, Washington law does not allow them to impose any more time than what he's already served, then the conviction is all they have available to them. That's not enough to stop them. But it removes the burning desire, and it brings it down maybe one, one and a half notches. Prosecutors do not like to let go of convictions. So therefore, they're going to want to restore him to a convicted status which will keep him on the registry even if he has served all his time, probation and all. And I'm not even clear if he served everything, but if he's totally free and clear, and if the law does not open up to a new sentence that what could have been imposed as what the judge had available originally- And I don't know that law. That's something that only the Washington people can explain- But if he has the ability to get more time, you have to admit that this is a roll of the dice if that opportunity exists for him to go back to prison.

Andy 21:05

It does seem like it. Does seem like it's a big roll of the dice.

Larry 21:09

So I would be hesitant if they are not constrained by the previous sentence to advise him to go to trial, but that's always... Remember, there's two things the person gets to decide: if they go to trial, and if they testify. This is clearly the accused's decision here if he wants a trial.

Andy 21:28

Okie dokie. And then we'll hit this thing from West Virginia for a few minutes? That sound good to you?

Larry 21:36

Sure. This came in on the affiliates list, I think.

Andy 21:40

Okay. Sounds good to me. Alright. So titled, "News: A convicted West Virginia PFR pled guilty today for failing to register and provide information related to foreign travel as required by the PFR registry, SORNA, the sex offender notification and Registration Act. According to court documents and statements made in court, an individual Peterstown, Monroe County, admitted that he traveled to South Africa in November 2021 without providing the required advanced notification. Smith was required to register as a PFR under SORNA after he was convicted of three counts," blah, blah, blah. "Smith admitted that when he registered as a PFR with the West Virginia State Police, he signed written forms acknowledging his requirement to report any international travel at least 21 days in advance. Smith is scheduled to be sentenced on August 2 of 2022, and faces up to 10 years in prison, supervised release of five years up to life, and a \$250,000 fine." And as you people responded, there was a legal term known scienter. Do I have that right, Larry? (Larry: You do.) Good. Okay, good. Scienter, which means 'knowledge.' When the West Virginia State Police sent letters to all registrants apprising them of the federal statute requiring the notice, the element of scienter has been met. If a person in West Virginia had simply not returned the signed notice, the next question would be could the state of West Virginia have prosecuted them for refusal to do something not in West Virginia law? We will probably never know the answer to that, because I'm

confident that everyone signed. In addition, there may be a catch-all provision in West Virginia law that says the offender shall provide additional information as consent with the purpose of registration. West Virginia is not AWA compliant. Does this still apply to him? And do you believe that he is screwed?

Larry 23:42

So one word was consistent with the purposes of registration. So do I believe he's screwed? Yes, I do believe he's in bad position on this. And the AWA-compliant really has nothing to do with it, because the non-compliant states cannot supersede the federal law where there's clear federal jurisdiction over a person. And that's the reason why the Federal authorities can prosecute those who travel in interstate commerce, and who fail to register in another jurisdiction, regardless of whether that jurisdiction has been deemed substantially compliant. So you must, when you leave one state, and even if that state's not AWA compliant, you must submit yourself for registration in the next state you're going to be required to register in. If you don't do that, you have engaged in interstate commerce according to the AWA. And the feds will prosecute you by that jurisdictional hook of interstate travel. So it's indisputable that international travel falls within the purview of the government to regulate, which means that he's probably screwed. I'm confident that his attorney told him that his chances in the federal trial were virtually nil. Now that could have been different had he not signed acknowledgement of his duty to provide the advance notice to travel when the West Virginia State Police sent those out to everybody. Without that acknowledgement, the federal prosecutors might not have been able to prove scienter, and therefore, he might would have gotten an acquittal. But see, then it bounces back to what I said in the previous paragraph you read. If he had refused to sign would he have been prosecuted under state law? Do they have a catch-all provision that says that you're required to provide all the listed information and such other information as consistent with the Registration Act? Many states have that catch all provision, and I don't know if West Virginia does. But if they do, he could have been prosecuted under state law when he told him to take that form and that letter and put it where the sun doesn't shine. See, these are all things that we'll never know the answer to. So at this point, he's practically screwed. And that's why he likely pled guilty.

Andy 26:06

Somebody says, "Might it be enough to argue that it wasn't his signature?"

Larry 26:12

They're usually done in presence of the people, I would think, but I don't know...

Andy 26:17

So it's not just sign and return? And, "My friend got my mail that day and signed it and sent it back because it looked important?"

Larry 26:23

Well, I suppose they could compare it against other known signatures, but...

Andy 26:29

Um, alright, so this seems sort of related to Cobb County in the most obscure of ways, Larry, that they have sent out notification

that they're going to do something. And suppose you just don't comply? I mean, I know what you were just saying about West Virginia that maybe there's a catch-all phrase, but they would have to then send something to you again. They're not just going to come up and put the shackles on you, are they?

Larry 26:53

Well, that's what we don't know. But there's a small distinction in the things where the law enforcement invents a requirement where there's no federal jurisdiction like in Cobb County, Georgia, where they're telling them that they have to provide their work schedules, that they have to provide a list of medications they're taking, and so forth and so on. Well, that is not a federal jurisdictional hook. So the worst thing that could happen would be that if you didn't provide that information, you might be prosecuted if Georgia has a catch-all provision. Last time I went through Georgia's statute, there is no such catch-all provision. So therefore, Georgia, you could tell them- and this is not legal advice, because we're not authorized- But in Georgia, theoretically, a person, after consulting with a practitioner in Georgia, could tell them to FYP.

Andy 27:43

Laughs Sorry, I thought FYP was something family friendly?

Larry 27:47

Well, it can be interpreted in other ways.

Andy 27:52

Just three letters. There's a lot of choices there with those three letters, haha. Wow, okay, that gets super interesting then to that they can... like, hypothetically, this individual could also have not been on the registry, have done his crime and time and all that stuff, and then get sucked into the registry after the fact.

Larry 28:10

That does happen.

Andy 28:12

I know, that's really effed up. As someone else said, Fuc-dollar-sign, whatever that was. And this is all really going to tie into what we're going to talk about at the end. I think it does.

Larry 28:26

Well, I hope you're right.

Andy 28:29

You hope that it ties together? I don't know. I'm going to end up going over my own head, Larry.

Larry 28:35

So, well, we'll see about that.

Andy 28:37

Okay, let's, uh, let's dive into this little sort of, like, preemptive thing about what we're going to talk about with the Susan Collins clips and others as well. Shall we go there?

Larry 28:47

Sure. We're gonna set this up with the confirmation process, which is very politicized in terms of the justices for the Supreme

Court. And we're going to be probably, maybe taking different opinions about whether the process should be politicized to the extent that it has. And these are clips related to previous confirmations to the court were had the votes been slightly different, the confirmations would not have occurred, and then we would not be having the discussion that ties into tonight. So this is the prelude to beginning to tie it together in terms of politics and who you elect. Your choices are very, very important. And you have to take it seriously who you vote for, and you have to listen to what they say. And sometimes when they tell you stuff, as these clips will demonstrate, they may not be telling you the truth.

Andy 29:48

All right, well, then this first one's pretty short. But here we go. Hopefully these all work, man got a whole new configuration.

Brett Kavanaugh 29:57

It is an important precedent of the Supreme Court. By it, I mean Roe v. Wade and Planned Parenthood versus Casey, then reaffirmed many times. Casey is precedent on precedent, which itself is an important factor.

Neil Gorsuch 30:12

Senator, as the book explains, the Supreme Court of the United States has held in Roe versus Wade, that a fetus is not a person for purposes of the 14th amendment. And the book explains that. (Unknown Speaker: Do you accept that?) That's the law of the land. I accept the law of the land Senator, yes.

Larry 30:36

Okay. Well, that was premature, anyway. I meant to stop it right before where you did. But before we go to the next clip, so folks listening, those were nominees to the Supreme Court. The first one was Brett Kavanaugh. And the second one was Neil Gorsuch. And they were both saying that they respect the precedent the law of the land. And so therefore, we move to the next segment where I'm not so sure that they were being truthful in their answers.

Andy 31:07

Alright, number two. Well, oh, hang on Crazy Ivan says, "Funny. All they did was make factual statements. Neither of themselves said how they would vote." Wasn't that them asking the question of what their belief system was, like judicial philosophy?

Larry 31:22

Well, no one has ever asked specifically how they're going to vote, because that is improper. But they were asked hypotheticals about precedent and how they felt about it. That's what the answers were to those. I mean, we'll make the whole eight-minute clip available in the show notes. But yes, that's the context. But you don't ask- I mean, it would be a scary day if you ask a nominee how they're going to rule on something. It shouldn't be done. It should never be done. And a president who was a candidate in 2016 said that that was prerequisite to who he would nominate with how they would vote on one issue. That was a terrible thing. That was a terrible, terrible thing, to extract a concession of how you will vote on an issue. How would you people like it if a future presidential nominee extracted concessions to do away with our basic rights? I mean, it's just so over the top that anybody would

even expect that you would get out a commitment of how you're going to vote on litigation that might come before the court.

Andy 32:27
Clip number two.

Unknown Speaker 32:30
Don't you think, just as an academic manner, Neil Gorsuch, for whom you voted, don't you think he's probably going to vote to overturn Roe vs. Wade, if given the chance?

Senator Susan Collins 32:39
I actually don't. I had a very long discussion with Justice Gorsuch in my office. And he pointed out to me that he is the coauthor of the whole book on precedent.

Andy 32:55
Alright, so precedent means what was would carry forward?

Larry 33:01
Yes, that's the stare decisis. Without precedence, if the court had to reinvent what can be done on each case, could you imagine how slow the system would work? So precedents are usually honored unless they're just plainly wrong, and we've played Justice Scalia explaining. And I think that you can overturn precedent, sometimes they are wrong. So I'm not saying it should never be done. But they were making the commitment as it was understood by the senator. This is not my words. Those were her words. That was Senator Susan Collins of Maine saying what she said. This is not Larry and Andy.

Andy 33:44
And then clip number three. This one is not quite a minute long.

Susan Collins 33:51
He noted that Roe had been reaffirmed 19 years later by Planned Parenthood versus Casey, and that it was precedent on precedent. He said it should be extremely rare that it be overturned, and it should be... (Unknown Speaker: And you obviously have full confidence?) I do.

Unknown Speaker 34:10
Today Senator Collins reacted to the news with a brief statement saying in part quote, If this leaked draft opinion is the final decision and this reporting is accurate, it would be completely inconsistent with what Justice Gorsuch and justice Kavanaugh said in their hearings and in our meetings in my office, unquote. Senator Murkowski today too also suggested that Gorsuch and Kavanaugh, perhaps, had not been fully honest about their position, saying in a statement, quote, the comment that I made earlier was, if in fact this draft is where the court ends up being, the words that I used is it is rocked my confidence in the court.

Andy 34:46
All right. So this is super complicated, Larry. I mean, this is like, seventh dimension, 25 dimensional chess about you asking them do they adhere to precedent? They definitely do, until they don't. Right? (Larry: Correct.) So well, then, I just have to ask you this question. Do you think that they are being truthful though? Is that what you think?

Larry 35:28
So, do I think they were being truthful? I think that anybody who would believe, after the confirmation process of Robert Bork when he was nominated by Ronald Reagan, and he specifically and concisely answered the question about abortion, and he was voted down I think 58 to 42. Both of these senators are old enough, 164 and 169, they both lived through that. If you actually think that someone is going to give you some kind of advance indication of where they're going to be on something like Roe versus Wade, then either you're being very naive or you are being very disingenuous.

Are you a first-time listener of Registry Matters? Well, then make us a part of your daily routine and subscribe today. Just search for Registry Matters through your favorite podcast app. Hit the subscribe button and you're off to the races. You can now enjoy hours of sarcasm and snark from Andy and Larry on a weekly basis. Oh, and there's some excellent information thrown in there too. Subscribing also encourages others of you people to get on the bandwagon and become regular Registry Matters listeners. So, what are you waiting for? Subscribe to Registry Matters right now. Help us keep fighting and continue to say FYP.

Andy 37:05
Alright. Well, then, sir, I want to move over to this thing that I worked on for like seven hours today. And it totally piggybacks on these clips that we were just playing, and I want to talk to you about how Roe, Griswold, Packingham, the 19th and the 14th amendments, stare decisis, Scalia, textualism and enumerated and unenumerated rights, I want to talk to you about how they all coalesce and work together and whatnot. So yeah, that's what I want to talk about.

Larry 37:42
Well, that's a very strange list of things to put into one question.

Andy 37:46
I know. So I'm following this news leak. And we were just talking about the Supreme Court leak that came out. And I assume even you people have heard of this thing, right?

Larry 37:56
You'd have to be living under a rock or a bridge or in a cave or something not to have heard about it.

Andy 38:01
Yeah, no kidding. So from this leak, though, every legal scholar under the sun is throwing their hat into the mix giving us all of their opinions. And through the four years or so- oh, my gosh, somebody's putting up pictures because they're drinking because we keep saying 'you people'- And I'm trying to see where these issues cross paths. Perhaps my little pea brain can come up with a unique way to look at something that maybe I can present it to you, Larry, and you'll be like, Wow, that's a really neat idea. But let's move on. For those under the aforementioned rock, can you briefly explain what has happened?

Larry 38:36
Well, the leak you're referring to is the leak to draft Supreme Court opinion that could overturn Roe vs. Wade. And before I get too far into my opinion about the leak itself, which might have

been done for other purposes I haven't heard mentioned yet.... Nonetheless, the leak very well may transform the political landscape. Every major politician with power in the country and those seeking office are facing sudden questions over abortion head of the supreme court's final ruling, which I think will come out in late June. It's created quite a stir for sure. Democratic governors are vowing to stand firm for abortion rights against Republican legislatures seeking to ban the procedure even without exceptions for rape and incest in some instances. National Republican leaders are navigating a new test that could complicate what was expected to be a favorable midterm election environment for them. Remember, I told you that the Republicans were going to sweep these elections. And I said, but there's always something that could lurk and change that. This could change it slightly. I don't think it's going to be a landslide, but this could alter some close races.

Andy 39:46

I'm wondering if this doesn't completely mobilize the opposition to stop anything from really becoming Handmaiden's Tale type situation. I'm wondering. I don't know, I certainly don't know. But if this is the issue that has motivated the right for 40 years to go out and vote, then perhaps this is the evidence that like... they're pulling sh*t back from like the 1200s and 1400s of common law, Larry, that... nevermind. Alright, anyway. So if the leak was, for reasons not yet discussed, what was the reason in your opinion?

Larry 40:24

Well, of course, you know, I don't know, either. But my suspicion on that is that it may have been a trial balloon to gauge public reaction. This would provide authorities the opportunity to plan for any civil unrest that might ensue when a final decision is released. Do you remember the protests and violence that followed the Rodney King not guilty verdict in 1990? (Andy: I was young, but I remember.) Well, burning and looting, as well as the savage beating of truck driver, Reginald Denny. President Bush had to call in federal troops to quell the violence. Can you imagine the criticisms the Supreme Court would face if they simply released the opinion in June and violence had erupted? They would be called stupid. And it would be said that anyone could have anticipated this result. So I think there may have been a little bit more to it than what we're being told.

Andy 41:12

All right. But can't this be resolved through a political process? I see polls that show more than 60% of Americans support keeping some form of Roe vs. Wade in place. In fact, Senate Majority Leader Chuck Schumer vowed that every American is going to see where every senator stands. As I understand it, the proposal would have codified a woman's right to an abortion. And they did have that vote, and what was the outcome?

Larry 41:36

Well, it failed. The vote was 49 to 51. All Republicans and Democratic Senator Joe Manchin from West Virginia voted no.

Andy 41:45

And they couldn't even get one or two Republicans like Susan Collins or Murkowski to vote in on that one? (Larry: Apparently not.) So why did Manchin vote no?

Larry 41:53

Well, because the people of West Virginia, if you take a poll, that was a state that was carried by Trump by I think 30 points, and he does represent West Virginia. And that's just not consistent with the average West Virginian. So what is he supposed to do? Hang his middle finger in his home state?

Andy 42:11

He could say FYP to them. (Larry: He could.) The practical impact of a Supreme Court decision to tear down Roe versus Wade would be to return the issue to state legislatures. So to take Pennsylvania, for instance, which currently has a Republican controlled state House and Senate and a term limited Democratic Governor, Tom Wolf, if the Republicans win full control in Harrisburg, they could seek to ban abortion in Pennsylvania. There are many states already enacting trigger laws- and I want you to explain that in a second- or are debating abortions, are they not?

Larry 42:48

They are indeed. And Michigan, you've got a Democratic governor named Gretchen Whitmer who's running for reelection. And she's fighting to block implementation of a 1931 law that would come back into force if the Supreme Court overturns Roe, which would make Michigan one of the most restrictive anti-abortion states. So in other words, she needs to get that law off the books, which is what we did in our last session here, because we anticipated that this might come about. Now, folks, this is actually leading to something in terms of public policy, because this is not an abortion debate. I do not have an opinion about abortion. I don't know if Andy does. But we're educating about the process, and how this is resolving and the significance for our issue. So I know people are saying we're 30 minutes into this, and we see no relationship. So it's coming.

Andy 43:43

Yep, yep, yep. And so for that, I want to build a framework around where I'm trying to go. And really, my intent is like, I'm writing a term paper for my teacher, which is you. And I want you to grade me. So do you mind if I set up a framework for my thoughts? (Larry: Sure.) So Roe was ruled nearly 50 years ago, I think it was '73. And one of my questions to you is, unless I'm mistaking, which did happen once, is that in your opinion, is that Roe was an invented right. That case hinged on the notion of a right to privacy, and you've said it's an invented right. And my question to you about the Griswold case that the Supreme Court ruled is that there is a right to privacy. And I think this would then be an unenumerated right, a right that is not explicitly written into the Constitution. Are you with me so far?

Larry 44:31

So far, so good.

Andy 44:33

Okay. And since you were around when the Bill of Rights was drafted, can you tell me what it says verbatim?

Larry 44:40

Verbatim? Well, I'll try. The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Andy 44:50

And that is the Ninth Amendment to the Constitution. Can you rephrase that please, to be something that the rest of us can digest?

Larry 45:00

Well, I'll try. But remember, I'm not a constitutional expert. The framers very clearly stated what was enumerated in the Constitution, and particular rights was not meant to be exhaustive, meaning that you could provide more rights. It is simply meant to be an example. These are things that are thought to be important at the time. These were those things, but were not exhaustive: Freedom of speech and assembly and others. However, as Justice Scalia is so adamant, they could have said, this is a right or that is a right, but they didn't. However, the framers left it open to prevent rights that aren't enumerated.

Andy 45:37

So can you provide me an example or two of something that would be an unenumerated right?

Larry 45:44

I think, and I'm going out on a limb here, but I think some of the rights that we take for granted have actually not been in the Constitution or the Bill of Rights, but they've been interpreted, the right to travel across state lines and the right to the vote. I don't think the right to vote was in the Constitution. Otherwise, we wouldn't have had the amendment that allowed women to vote or the amendment that allowed 18-year-olds to vote. And then we wouldn't have had Loving versus West Virginia if there was a clear right to marry, because people were denied the right to marry. We wouldn't have had the same sex marriage debate. So I think that these would be some examples of unenumerated rights.

Andy 46:22

Can you imagine a world Larry, where you live in a state level, Just say, Montana, and you, I don't know, you put in a travel request, or as you were exiting the border, there's a military there that says that no, you can't leave and go to Nevada. Can you imagine that world? (Larry: I cannot.) That sounds almost like some East-West Berlin or Germany kinds of things. And so that would be an example of an unenumerated right is the right to travel, which I think is something that our people may run into from time to time is that they have issues with moving about from state to state. So that was one of my first hooks of something that may impact PFRs. I know that this is all different when they're under supervision, right?

Larry 47:06

Correct.

Andy 47:09

So tell me about from like the Supreme Court's point of view, something about Penumbra law. I know about this from like an astronomy point of view, but penumbra?

Larry 47:21

Well, I'm barely familiar with it. So I went to Wikipedia, because that is the most reliable source of information known to mankind. You agree with that, right?

Andy 47:33

Well, I'm a big fan. I donate money to Wikipedia every month, because I think they are amazing. But no, not the most. It's not like the authority, but it's a good place.

Larry 47:43

So penumbra rights include a group of rights derived by implication from other rights explicitly protected in the Bill of Rights. So it's implied from "the Bill of Rights says this," so it's presumed. These rights have been identified through a process of reasoning and are specific principles that are recognized from general ideas. They're explicitly expressed in their constitutional provisions. Although researchers have traced the origin of the term to the 19th century, the term first gained significant popular attention in 1965 when my favorite Justice William O' Douglas in majority opinion in Griswold versus Connecticut identified the right to privacy in the penumbra of the Constitution, if I could pronounce it.

Andy 48:30

I mean, that seems to me that it's like piggybacking on top of the Fourth Amendment that you have a right for the search and seizure side of things. But that, I mean, that sort of is like a precursor to having privacy, I think.

Larry 48:44

I think, yes.

Andy 48:46

And so this was Griswold versus Connecticut, and tell me what that was about.

Larry 48:51

Well, it was a landmark decision of the US Supreme Court at the time, and It ruled the Constitution protects the liberty of married couples to buy and use contraceptives without government restriction. Can you imagine that there was a time when those things were banned in many, many states?

Andy 49:12

I can't. I mean, that's kind of before my time that this would happen. But I just don't understand a world like that, really. But the question that would come to my mind immediately then is why would that be restricted only to married couples? And perhaps that's something that we should talk about at a different time. Because I mean, non-married people do horizontal Mambo things also.

Larry 49:38

Yeah, I think we should delay that, cuz that's not for family program to talk about horizontal things.

Andy 49:44

Probably. Probably. Um, so on multiple episodes Larry, we've talked about Scalia and the concept that you shouldn't interpret things outside of the text, or textualism. My intent, my initial thought is that the Ninth Amendment shoots that down like a game of battleship, doesn't it?

Larry 50:03

Well, I think I'm following you. But let's see where you're going.

Andy 50:07

All right. But I guess I'm wondering how to get to a place of unenumerated rights, rights that aren't explicitly written in the text. I'm thinking of the terms Constitution and unconstitutional. A woman has a constitutional right, or to hit home for PFRville, it is unconstitutional for a state to tell you that you can't be on social media. That would bring us to Packingham.

Larry 50:31

Right, Packingham was that landmark case for North Carolina where a PFR was accused of using Facebook against the law. He made a religious message saying something like praise God or praise Jesus after having a traffic ticket thrown out in court. The law enforcement apparatus recognized his picture, and a decade later, the Supreme Court ruled that the state cannot restrict this. It is for another conversation to say whether or not Facebook can restrict a person. But however, in this situation the state cannot, according to the US Supreme Court. Well, that would not have been something that anybody would have thought about in the founding days.

Andy 51:11

That's right. Awesome. Okay. So then, if an old Supreme Court can rule something, and then a new Supreme Court can unrule something, what's to stop there from being another challenge that says a state can restrict PFRs from social media?

Larry 51:26

There really wouldn't be anything. The states could continue to pass restrictions. If you look at the trajectory of Roe versus Wade, there have been continuous challenges, because people genuinely believe that the ruling is as wrong as it can be. And they have been challenging throughout the years. They have not been saying, Well, we have to accept this. Nothing would stop the same thing from happening. There could be massive public outcry to restrict PFRs from being on social media. And the state of Alabama could say, well, we're going to do it again. That was the Supreme Court then. Let's see what the Supreme Court now says. And I wonder if our conservative leaning PFRs who are so fond of what they see happening right now, I wonder if they would be just as fond of that law. And would they be just as fond if a different court overturned previous precedent?

Andy 52:24

And you took most of the words out of my mouth for the next thought. And so most of our people are sitting here going, "Man, Packingham. Now I can be on social media. At least the state can't stop me." But in reality, it isn't safe at all. This court or the next court could reverse its opinion, just as they are poised to reverse their previous decision in Roe.

Larry 52:46

Yeah, and I didn't mean to jump ahead of you, but I get worked up over that because people don't understand. People don't understand when you think you're for something, oftentimes you have not thought of the ramifications of what you think you're for. And this is an example of that.

Andy 53:05

My next thought is that you would need to enshrine these in laws in our respective legislatures, both at the state and the federal level. But this has the same problem as it does with the Supreme Court. I think it's harder to have the Supreme Court reverse a decision. I mean, Roe, it took them 50 years, potentially. Obviously, we don't know if they're going to undo this draft decision. But they could. They are poised to do that. But this is the same as a law, the same law that can be written can be unwritten or amended or overturned, etc.

Larry 53:32

Absolutely. Again, you people think that once a thing is in place... I don't know how many people I've had call and say, "Well, when I got convicted, the law said 10 years." I said, "Well, that's nice. That's what it said then." "Well, they can't change my sentence." "Yep. They can't change your sentence. But they can change the regulatory scheme, which registration is. And they've changed it, it's now lifetime. And even though you may not have been required to register at the time you got convicted, they can change that law to apply civil regulatory scheme to you." So even a statute can be changed. The Supreme Court precedents are more difficult. They've been working on this for 49 years. So you can see it's been a long, difficult process that has taken- and I think that probably, I have been so in denial that they're going to completely gut Roe, because it's been a 50-year precedent. I have held on to hope, even after seeing this draft, that the compromise will ensue and they will end up upholding Mississippi's law, which is not nearly as draconian as Texas' and Oklahoma's and some other states, and even states that have those trigger laws were talking about earlier, like Michigan would potentially have and states that are priding themselves on having the most restrictive abortion. I'm hoping that if they do modify Roe, that the liberal-state-of-Mississippi-standard is as far as they'll go, which is 15 weeks.

Andy 55:04

Wow, you just put liberal and Mississippi in the same sentence?

Larry 55:08

Well, when you compare with the heartbeat laws and some of the stuff, that would be very liberal, wouldn't you say?

Andy 55:20

Again, this isn't what we're talking about. We're not talking about Roe. I'm just using this as a framework, because obviously it's on every news channel, 24 hours a day, of what is potentially going to happen.

Larry 55:36

So well, let me back up and clarify. Now, I just said that I hope that they don't go any further than that. That's still not my position on abortion. My position is still unknown. My position is the precedent of 50 years that should be somewhat preserved, because we're going to have a dramatic change if they completely go down this path. I mean, it's going to alter the status quo in ways that we can't even visualize right now. And I'm not sure that that's good for society. So how people have become... it's kind of like trying to dismantle Medicare after it's been on the books since 1965. Can you imagine with senior citizens, what kind of disruption to their healthcare we would have if you tried to repeal Medicare? You're basically telling women that they no longer have a choice in

terms of their life after 50 years. What is that? Two+ generations. That's what I'm worried about.

Andy 56:36

Yeah, yeah. And then this falls on to a term, I think you said it earlier, stare decisis. And such a hoity-toity sounding phrase. And what is stare decisis?

Larry 56:45

It's a precedent or a principle of rule of law that's been established in a previous legal case that is generally binding without being totally binding. It's certainly very persuasive. And courts tend to not want to have to reinvent the wheel. They look at this to guide them. As Scalia said, we'd have to go back and say, Well, do we have the authority to do this? Do we have the authority to do that? So it's respect for previous precedent.

Andy 57:13

I wonder. So a Supreme Court, that particular term would honor that a decision was made in the past, up to the point that it's just gross, and it can't follow some sort of new set of standards. Is that what we're sort of saying?

Larry 57:33

That is correct.

Andy 57:35

All right. Well, in what you just described, you kind of went over my head. And so here's my idiot level of understanding. It says that if it was ruled before, that ruling carries forward, but doesn't this come with its own issues, also?

Larry 57:50

Well, it isn't perfect. At one point in our history, really not that far back, there was a notion that if you weren't white, you weren't equal. Dred Scott versus Sanford in 1857. And that was just before I took office in the Lincoln administration. I recall this case.

Andy 58:12

Of course. You were sitting in the courtroom. Haha.

Larry 58:16

The Scotts claimed that they should be granted their freedom because Dred had lived in Illinois and the Wisconsin territory for four years, where slavery was illegal. And the laws in these jurisdictions said that slave owners gave up their rights to slaves if they stayed an extended period of time. And in a landmark case, the United States Supreme Court decided 7-2 against Scott. Yeah, 7-2 against. They found that neither he nor any person of African ancestry could claim citizenship in the United States. And therefore, Scott could not bring suit in federal court under any diversity of citizenship rules, because he wasn't a citizen.

Andy 58:55

So what else did they say in that ruling?

Larry 59:00

Well, Chief Justice Taney, who was actually my mentor in law school, the court ruled that people of African descent are, quote, not included, and were not intended to be included under the word citizens in the United States Constitution, and therefore

could claim none of the rights or privileges, which that instrument provides for and secures to citizens of the United States.

Andy 59:31

And is this ruling, it is then superseded by the reconstruction amendments?

Larry 59:40

Yes, spot on. After the Civil War, those amendments 13,14, 15. I think that all of them, but anyway, they abolished slavery, and the 14th granted citizenship. And what did the 15th do? Boy, you're going so back. So far back.

Andy 59:55

Yeah, I don't even, that didn't seem to come up much in the research, but the 14th Amendment is something about life and liberty is what I keep hearing about in how this gets applied to so many things these days.

Larry 1:00:08

Yes, it's deeper and broader in scope. It nullifies and makes void all state legislation, and state action of every kind which impairs the privileges or immunities of citizens of the United States- because some of the southern states weren't fond of that- or which injures them in life, liberty, or property without due process of law, or which denies any of them equal protection of laws. So that's the Equal Protection clauses there. But yeah, you're getting way over my head, too, with this constitutional stuff.

Andy 1:00:38

All right, well, then, but before we get too far out in the wilderness, I want to figure out how we can sort of apply this to what we are talking about here. And so, I have one other one area that I want to dig into Larry, and it is the case called Casey, which was like the second abortion case, I guess it was. Anyway, that was a 1992. And it's not the ruling itself, Larry, but I noticed it has something similar that you refer to a lot called Kennedy-Martinez-Mendoza. There's like a set of tests that you can perform to see in that particular case, if a civil regulatory scheme is actually punitive. And this one also had some sort of test, so to speak. Can you talk about that for a minute?

Larry 1:01:20

Well, there's a test for precedent. You're very astute. Have you been to law school?

Andy 1:01:26

No, I've just been listening to a lot of crap about this.

Larry 1:01:30

Yeah, well, it's a set of four factors to weigh when thinking about whether a precedent should not be followed. And the first is whether or not the rule of the prior decision has proven to be simply unworkable, like the lower courts cannot make sense of it. That's just one of the four.

Andy 1:01:46

All right, and so like, just on that first one, the courts often seem to struggle there with various PFR laws in each state. In my brain, I'm thinking of when one of the circuit courts- if I have that word right- when they are hearing a case from this state, they could

then be overruling something from the neighboring state, because the two sets of laws are not compatible with each other. And so to me, this flies directly into this territory of being unworkable.

Larry 1:02:19
So far, so good.

Andy 1:02:22
All right. And so then we would have like the second test where there has been a reliance on precedent, where, as far as most of our people have been concerned, like, this hasn't been a thing for that long, the registry rules. So the precedent would be this doesn't exist. This hasn't been in existence for 100 years, or 200 years, or in the case of like... what is the guy that wrote this draft opinion? (Larry: Samuel Alito.) Yeah. Alito is like going back 500 years. PFRs haven't been interested... we haven't been living under these conditions for there to be quote, unquote, precedent of what PFR laws are.

Larry 1:03:10
We haven't?

Andy 1:03:12
It doesn't seem to be that way. So anyway, this is something entirely new. The entire population hasn't had registry rules around their whole lives.

Larry 1:03:22
Yes, you're correct. I see where you're going now. The second question has to do with has there been reliance on the precedent? There has been reliance on Roe versus Wade since 1973. So I see where you're headed. So the people have gotten familiar with a standard that was articulated in Roe, and they've come to rely on that. So yes. Is that where you were trying to go?

Andy 1:03:48
Pretty much. And ultimately, then, with this ruling, that seems so very obvious that abortion is one element of the pie. It seems like anything ruled in the last 100 years could be on the chopping block, be it same sex marriage. Could be sodomy laws, right?

Larry 1:04:04
Yes. And that's what the people on the left are saying. They're sounding the alarm. And the Conservatives are saying no. If you read the opinion, the proposed opinion, it says it clearly only applies to this. But it doesn't only apply to this. This case only applies to this. But the reasoning could be expanded on other things. And I've even talked about that in terms of the Affordable Care Act ruling where the Supreme Court said that the Affordable Care Act was constitutional, but they could not withhold funds from the states who failed to expand health care. They could not withhold previously existing funding. And I said, Well, that could be argued in cases, like on the expansion of the requirements of your registry. The states are forfeiting 10% of their Byrne grants, I said this could be used as an argument that the Supreme Court has laid down as a precedent. Now, no state's going to do that, because can you imagine if your attorney general says, "Well, you know, you ain't gonna take my 10%. Cause I tell you one thing, I'm looking at this ruling on this Affordable Care Act, and it says you can't withhold our funding because we didn't expand our healthcare. That means you can't withhold our funding if we don't

expand our registry coverage laws." Can you imagine an elected Attorney General making that argument? They could do it. And that's what I'm making the point about. Things are on the chopping block in this decision that people are in denial about. They would be if the ruling goes the way that some are expecting. And again, I'm holding out hope, but go ahead.

Andy 1:05:54
All right, well, so in this leaked document, as I understand it, the population as a whole supports some level of right to an abortion. I'm not trying to have that debate. I'm just talking about the comparison of public opinion versus this ruling that is coming down. Therefore, we should strike down the ruling of the court. That's what the opinion would suggest. But can you think of a comparison to the PFR land that might apply to PFRs Larry?

Larry 1:06:19
Okay, now, I'm a little confused by that question. You're saying that the polls show a majority of people support the right to abortion. So are you saying that the court should rule consistent with the majority opinion? Can you clarify?

Andy 1:06:34
I'm just using that as a framework to just by comparison, if we are to use public opinion to overturn a precedent, then could we think of another scenario? I'm not picking sides. I'm just out a scenario of being consistent across both landscapes.

Larry 1:06:54
Okay, I get your question. Well, if you want the courts to rule based on public opinion, then I would ask you, as I did previously, be careful what you ask for. The registry is very popular in public opinion. And if you're willing to say that the right should be stricken simply because of public opinion, or it should be upheld strictly because of public opinion, then I hope you're okay with taking a public opinion poll on registration. Because I would dare say that if you polled the citizens in most any of our states, and you can pick your state, that they would be wildly in support of registration. And therefore, if you want the courts to rule based on public opinion, I hope you would be happy that they would rule in favor of public opinion in that scenario as well.

Andy 1:07:42
And I do not find that funny at all.

Larry 1:07:47
But you never find anything funny.

Andy 1:07:51
So Larry, I know that this was long and meandering, and all that. And I hope I laid out some kind of coherent train of thought across these seemingly unrelated ideas. And ultimately, my idea is that the Constitution of what is written in stone is pretty much garbage. And those, including Scalia, have just reasoned things this way as a crutch or a cheat. And well, if Jefferson wanted there to be no executions, he would have said so. But that's just BS. We evolved as a society and rulings that have happened in the past absolutely move the ball. Starre decisis makes what was a ruling yesterday something that people rely on for there to be some level of consistency from year to year. As Scalia said in one clip, what keeps us from evolving backwards? And that answer is us,

We the People. But what is backwards to some is forwards to others.

Larry 1:08:42

That is awesome. You've done a fine job. And I would say just to give Scalia just a tad bit of credit here, he does allow for, I think he calls it how the Constitution would evolve over time. And he didn't use that exact word, but we'll have to dig out the clip. But he says, I think he used the word trajectory. He said, what would the trajectory of rights have been? Because we didn't have the technology we have now then. So he posed the question, what would the trajectory of rights have been? And I think I would agree with him. What would the trajectory of rights have been in the founders' minds. I don't think the founders would have said, "Well, we've pretty well thought up about everything we could have in the way of a decent country right here in 1789. And we got it all in here and, and there won't be any evolvement or any trajectory of improvement. We're just about as smart as we'll ever..." I just can't think that they would have thought that. They were very brilliant. And they were men, so I'm not being sexist. They were very brilliant, wise men. They would have known that things would have evolved and issues that would arise in future generations would cause a rethinking, and a change of what they were thinking about. They weren't thinking about abortions in 1789. I can guarantee you that. No one thought of an abortion. I don't know how they did abortions at those time. I mean, that was a little bit before my time, about 100 years. But that wasn't on anyone's mind. I can just about guarantee you that. But what would they have thought the trajectory would have been in terms of health decisions? What would those wise men have thought that would have been proper as society evolved for the trajectory of rights to have been? I don't know the answer to that. But I don't think it would be for the government to make the decision from the moment of sexual foreplay forward. Now, at some point, there might be- and there not only might be- there is a credible argument there's a life there. But I'm not qualified to tell you when that point arises. I don't know when it becomes a viable life. But I know it's not at the point of foreplay. I can almost guarantee you that.

Andy 1:11:15

Very good, sir. We are running very short on time. So very quickly. Last week for Who's that Speaker, I played this.

Rick Perry, 1:11:23

It's three agencies of government when I get there that are gone. Commerce, education, and the, uh, what's the third one there? Let's see.

Andy 1:11:33

You probably didn't hear it because of all the reconfiguration stuff that I played, is that correct?

Larry 1:11:37

That's correct. But that's all right.

Andy 1:11:41

Okay. And so the clip was a man named Rick Perry, and I believe that you're familiar with Rick Perry. The clip that I played was him. Couldn't remember naming the three different institutions.

Larry 1:11:51

Yes, he was going to abolish Cabinet departments, but he forgot what they were.

Andy 1:11:59

And that was, in the clip that I had, he was standing next to Ron Paul. I'm thinking that was 2016 that he was running? Is that the year that that happened?

Larry 1:12:07

I think it was way before that. I think he was running against George W. Bush.

Andy 1:12:18

Oh, very good. All right, then. And then. So Carl had sent that in and says Congressman Rick Perry when he was running for president. This one, Larry, no one is going to get it. But it is very clear sounding. And it's very contemporary. But no one is going to get this one. If you get it, then you have all my hugs and accolades and whatnot. This is this week's. And, boy, Larry you will hear this one. I will make it so that you will hear it, Larry.

Who's that Speaker? 1:12:42

Who was it, Ben Franklin, that said we gave you a republic if you can keep it? And I think that you have a court and I hope you can keep it

Andy 1:12:51

There. If you know who that is, then you can send me an email message to registrymatterscast@gmail.com. And otherwise, Larry, we are going to close out the show unless you have anything that you would like to say before we go.

Larry 1:13:03

I do. I have an announcement of my engagement to be married in Septeember. And I want everyone to see the picture of my lovely bride to be.

Andy 1:13:15

I have put it up on screen. So if you're watching on YouTube, it's about one hour, or not watching on YouTubes. That go out to like one hour and 30 minutes for you to hear and see this picture of this individual.

Larry 1:13:27

So, and she is very beautiful. So that's it. (Andy: And who is that?) That is my future bride.

Andy 1:13:37

You don't want to name this person?

Larry 1:13:39

No, I'm gonna see if anybody can figure out who she is. She's prominent.

Andy 1:13:42

Okay, so there's the second question for the night. So that's a prominent person. If you know who that is, then send me another email at registrymatterscast@gmail.com. Find all the show notes at registrymatters.co. and phone number is 747-227-4477. I already said email, registrymatterscast@gmail.com. And then of

course, thank you for all the people that support us over on Patreon that makes it possible for us to keep doing this program. And that is patreon.com/registrymatters. Larry, I hope you have a fantastic weekend and if any of those fires get close to you, then break out some marshmallows and toast them up.

Larry 1:14:19
Awesome. Well, I appreciate you having me back. You did a great job. Thank you.

Andy 1:14:23
Thank you very much. Have a great night everybody. Bye.

You've been listening to Registry Matters Podcast.
Registry Matters Podcast is a production of FYP Education.

More show transcripts are available at fypeducation.org.

In prison and can't get the podcast? Have a loved one "subscribe" at <https://patreon.com/registrymatters> at the **\$15 level**, and include your prison address information. Or send a check to cover at least 3 months.

Glossary:

PFR – Person Forced to Register
NARSOL – Nasional Association for Rational Sexual Offense Laws
AWA – Adam Walsh Act
BCC – Bureau of Community Corrections
CCC – Community Corrections Center
CCF – Community Corrections Facility
ICAOS - Interstate Compact for Adult Offender Supervision
PC – Protective Custody
PREA - Prison Rape Elimination Act
DOC – Department of Corrections
CSL - Community Supervision for Life
DCS – Department of Community Supervision
IML – International Megan’s Law
SOMP – Sex Offender Management Program
BOP – Bureau of Prisons
STARC - Secure Treatment and Rehabilitation Center



CAGE – Citizens Against Government Entrapment
PV – Parole / Probation Violation
SMART Office - Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking
MSR – Mandatory Supervised Release
ICAC - Internet Crimes Against Children
ACLU - American Civil Liberties Union
ACSOL - Alliance for Constitutional Sexual Offense Laws
ALI - American Law Institute
NCIC – National Crime information Center

REGISTRY MATTERS
MAIL-IN SUBSCRIPTION FORM

Sign me up for _____ months X \$6 = \$ _____
(Minimum 3 months) * **We do accept books or sheets of stamps. No singles please.**

First Name Last Name

Name of Institution ID Number

Address

City State Zip Code

**Make check payable to FYP Education and send to RM Podcast,
Post Office Box 36123, Albuquerque, NM 87176**

FYP Education is designated a 501(c)(3) for tax purposes. Donations made to FYP Education are tax deductible.