



Written by [Steve Byas](#) on June 15, 2023

Pence Calls for National Ban on Abortion

Former Vice President Mike Pence, a declared 2024 presidential candidate, reiterated this week his call for a national law banning abortion. This time, however, he took a political shot at former President Donald Trump — also an announced candidate for president in the 2024 election — who has opposed a national law.

On the other side of the spectrum, President Biden has urged Congress to enact a federal statute legalizing abortion in all 50 states.

“After leading the most pro-life administration in American history, Donald Trump and others in this race are retreating from the cause of the unborn,” Pence said during a campaign event in Iowa on Wednesday. “This sanctity of life has been our party’s calling for half a century — long before Donald Trump was a part of it.” That much is true. Ronald Reagan was the first president to make opposition to legalized abortion part of his platform, even writing a book on the subject, *Abortion and the Conscience of a Nation*. Every Republican president since Reagan has also denounced abortion on demand, at least publicly.

“Now,” Pence added, “he [Trump] treats it [pro-life] as an inconvenience, even blaming our election losses in 2022 on overturning *Roe v. Wade*.”

Pence praised the Supreme Court’s reversal of the 1973 *Roe v. Wade* decision with the *Dobbs* decision of last year, saying “a new arena in the cause of life has emerged and it is incumbent on all who cherish the sanctity of life to resolve that we will take the defense of the unborn and support for women in crisis pregnancies to every state capitol in America.”

But the Supreme Court did not, in its *Dobbs* ruling, say that *Congress* could ban abortion nationally. Pence appeared to recognize this last year, when he hailed the Supreme Court ruling, when he said that it allowed the “American people to govern themselves at the state level in a manner consistent with their values and aspirations.” Pence, however, further argued last year that Americans would “welcome” a *national* ban on abortion after 15 weeks.

Biden and others on the Left have likewise argued that Congress can pass laws on the issue of abortion, binding on the states as well as the federal government. Of course, Biden and other pro-abortion politicians want a federal law that allows abortion, not restricts it.



AP Images
Mike Pence



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Exactly where Pence and Biden think the U.S. Constitution delegates the power to Congress to make laws for states on the issue of abortion, they do not say. They are strangely silent on citing constitutional authority to take such an action.

Perhaps this is because there is no such constitutional authority.

When the Constitution was adopted by the Constitutional Convention of 1787, the “Anti-Federalists” opposed its ratification. Patrick Henry of Virginia and others had various objections, but their chief one was that the Constitution lacked a bill of rights, something the states had included in their own constitutions. James Madison, the “father of the Constitution,” argued that there was no need for a federal bill of rights because the federal government would only have the power to enact laws on those things that the Constitution authorized it to take action on.

But when it became obvious that the Constitution would not be ratified without a national bill of rights, Madison conceded and promised to push for adding a series of amendments to the Constitution that specifically denied to Congress the authority to make certain laws. One can read the First Amendment and see that the intent of the Bill of Rights was to restrict the federal government. “Congress shall make no law,” the First Amendment reads on the subject of abridging freedom of speech, or of the press, or religious practice.

Then, there is the 10th Amendment, which bluntly states that all powers not enumerated and delegated to the federal government are reserved to the states. Clearly, there is no constitutional authority for Congress to enact a law either banning abortion or legalizing abortion in any of the states.

Some will argue that abortion should be an exception, since it is an important issue. Certainly it is, but so are rape, murder, and robbery. Those crimes are handled at the state level, with exceptions for crimes within federal districts and territories.

If Congress can set a national abortion law for every one of the states, then they can dictate the entire criminal code of every state, and America would no longer have a federal system of government.

Perhaps George Washington said it best in his Farewell Address, printed in newspapers across the land in the last months of his presidency. Washington offered advice to the American people, designed to preserve the republican and federal form of government that had been established.

“If in the opinion of the People,” Washington wrote, “the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed.”

Both Pence and Biden took oaths to support the very Constitution they are proposing to usurp. Sadly, they are not alone in doing this on this issue and just about every other issue. In fact, if one were to poll Americans, it is likely that the vast majority would have no idea why Congress cannot pass laws on most of the things that they pass laws about.

And that is the principal reason that we risk the destruction of our “free government.”



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