

Catholic Coalition

Against Religious Tests For Office

Hon. Tina Smith
United States Senate
Washington, D.C.

June 15th

Dear Senator Smith,

As Catholic leaders, we write to you because of the unique opportunity you have this year to influence the national Democratic Party and especially its convention platform on an issue that is important not only to your own Catholic constituents, but to all Americans who value our nation's long and honored tradition of rejecting religious prejudice and bigotry. That issue is the preservation of the U.S. Constitution's protection of religious liberty and the assurance that no American will ever face a religious test in order to hold public office.

The American Founders' firsthand experience with religious intolerance made them determined that our democracy would be free of such bigotry and for that reason they enshrined in Article VI of the Constitution a provision against any religious test for office. Since that time, the courts have strongly protected this provision and for more than 250 years every generation of Americans has endorsed its aim and lived by its spirit.

Now, however, we believe this historic provision and America's long tradition of rejecting religious bigotry is in grave danger – a danger, we regret to say, generated by powerful members of the national Democratic Party leadership.

Thus, we are writing to you, Senator Smith, because as a Democratic incumbent who faces an intense fight for reelection, your party's leaders will, we believe, pay close attention to what you have to say on this issue since they are anxious to help you in your reelection effort.

You are fully aware – as are 4 other sitting Senators to whom we are writing because of their “endangered” electoral status (Peters, Shaheen, Warner, and Jones) that your own Senate leaders have questioned judicial candidates about their Catholic faith and their membership in Catholic charity organizations. Their leaders were, as noted in the media articles below, Senator Chuck Schumer, the majority leader; Senator Richard Durbin, the deputy majority leader; Senator Diane Feinstein, ranking member on the Senate Judiciary Committee; and two of your most prominent presidential candidates this year – Senator Kamala Harris and Senator Cory

Booker. So too a relative newcomer to the US Senate, Mazie Hirono, has been particularly confrontational towards Catholic nominees.

One glaring incident that recently set off expressions of alarm was the questioning of judicial nominee Amy Barrett. Those expressions of alarm came from sources that can hardly be called partisan, such as the President of the Anti-Defamation League, the President of Princeton University, the President of Notre Dame University, and the Harvard Law Review.

Here are important excerpts from published accounts of their concerns (full articles below) :

Jonathan Greenblatt of the Anti-Defamation League of B'nai B'rith

It is one thing for an individual to volunteer comments about the influence of religion on their life, presidential candidates do it all the time. It is quite another for someone being grilled at a Senate committee by senators who clearly are unhappy with her nomination to be forced to speak about her religiosity.

This is a moment to reiterate that there can be no religious litmus test for public officials seeking office and that surely includes judicial nominees whose fitness to serve should be based on the individual's merit: intellect, ethics, experience and achievements.

The founders of this country took the no-religious-test-for-office theme so seriously that it was in the original Constitution. Feinstein and Durbin, in their language, seemed perilously close to violating that clause

* * *

President Eisgruber of Princeton wrote in a letter to the Senate Judiciary Committee that cited his own background as constitutional law scholar and extensive writing on Article VI. (*President Eisgruber Asks Senate Committee To Avoid 'Religious Test' In Judicial Appointments, Said The Hill headline.*)

"I am deeply concerned by the harsh and often unfair criticisms that are now routinely levelled from both sides of the political spectrum against distinguished judicial nominees who would serve this country honorably and well. On the basis of her accomplishments and scholarly writing, I believe that Professor Barrett is in that category. She and other nominees ought in any event to be evaluated on the basis of their professional ability and jurisprudential philosophy, not their religion: every Senator and every American should cherish and safeguard vigorously the freedom guaranteed by the inspiring principle set forth in Article VI of the United States Constitution.

* * *

Rev. John Jenkins, the President of Notre Dame, sent a letter to the Senate Judiciary Committee and particularly Senator Feinstein whose content Politico described with this headline: *Senators take fire over questions for Catholic judicial nominee.* Rev. Jenkins wrote:

"Your concern, as you expressed it, is that 'dogma lives loudly in [Professor Barrett], and that is a concern when you come to big issues that large numbers of people have fought for years in this country... I am one in whose heart 'dogma lives loudly,' as it has for centuries in the lives of many Americans, some of whom have given their lives in service to this nation. Indeed, it lived loudly in the hearts of those who founded our nation as one where citizens could practice their faith freely and without apology."

"It is chilling to hear from a United States Senator that this might now disqualify someone from service as a federal judge. I ask you and your colleagues to respect those in whom 'dogma lives loudly'—which is a condition we call faith."

* * *

About the controversy, *The Hill* newspaper also noted:

"All of this comes to mind as the latest controversy about the role of religion in America bubbled to the surface with [the line of questioning](#) by Senators [Dianne Feinstein](#) (D-Calif.) and [Dick Durbin](#) (D-Ill.) of Federal Appeals Court nominee Amy Coney Barrett. Both raised Barrett's religious beliefs in a way that set off alarm bells.

* * *

One reason for those alarm bells was an earlier instance involving Senators Harris and Hirono in questioning nominee Brian Buescher. Here is one media account:

"In December 2018, for example, Sens. Mazie Hirono, D-Hawaii, and Kamala Harris, D-Calif., suggested attorney Brian Buescher is unfit to serve as a federal judge on account of his membership in an "extreme" Catholic organization: the Knights of Columbus.

"The Knights of Columbus has taken a number of extreme positions," Hirono claimed of the 137-year-old charitable group.

"Harris, for her part, asked of the Catholic attorney: "Were you aware that the Knights of Columbus opposed a woman's right to choose when you joined the organization?" and, "Have you ever, in any way, assisted with or contributed to advocacy against women's reproductive rights?" and, "Were you aware that the Knights of Columbus opposed marriage equality when you joined the organization? Just so we are all on the same page: [The Knights do not profess anything that is not already Church doctrine.](#) They're in probably every parish in the U.S. They're not some crazy sect. The Knights are pro-life and pro-traditional marriage. This is not al Qaeda we are talking about.

This account also noted a prior incident involved Senators Durbin and Schumer.

“Feinstein, Sen. Dick Durbin, D-Ill., and Senate Minority Leader Chuck Schumer, D-N.Y., have been using anti-Catholic insinuations and innuendo since at least the early 2000s, back when Judge William Pryor was first being considered for the 11th U.S. Circuit Court of Appeals.

Senate Democrats are no strangers to suggesting Catholics are unfit to serve on the courts. It was only a matter of time before some of the higher profile Catholic judges voiced their dissent.
- Washington Examiner.

A still more recent example is the questioning of Neomi Rao. Here is a media account:

At her Feb. 5 confirmation hearing for the U.S. Court of Appeals for the District of Columbia Circuit — to fill a vacancy resulting from Brett M. Kavanaugh’s elevation to the Supreme Court — Neomi Rao faced [tough questioning](#) from Democrats on the Senate Judiciary Committee. Sen. Cory Booker (N.J.) interrogated her about her personal views on same-sex marriage.

“Do you believe [same-sex marriages] are a sin?” he asked. Rao avoided the question by insisting that she would put her personal views to the side when deciding cases. Booker persisted: “So you’re not saying here whether you believe it is sinful for two men to be married?”

Finally, we would like to point out that this sort of questioning has been going for some time – here is a note from the *Harvard Law Review*:

[Harvard Law Review note](#) on Article VI in 2007 concludes: “The drafters and proponents of the No Religious Test Clause would be astonished to learn that members of the Senate Judiciary Committee have questioned judicial nominees under oath about their religious beliefs and the extent of those beliefs. ... Requiring a nominee under oath to profess a religious belief runs afoul of the clause [in Article VI].”

Senator, during all these controversies you have never spoken out against these attacks on religious liberty. We ask you to do so now on behalf of your Catholic constituents and, indeed, for all Americans who value our national tradition of religious freedom.

We ask that you to do this by using your influence with the national Democratic leadership and place a plank in the party 2020 Platform at your convention this July in Milwaukee specifically endorsing Article VI and condemning any attempts to establish a religious test for public office or engage in anti-Catholic attacks.

Senator, as you know, the Democratic Party now stands for abortion-on-demand paid for by taxpayers. Indeed, one prominent Democrat – Governor Northam of Virginia – has justified

infanticide of babies that are survivors of an abortion as long as the physician discusses the matter with the mother. He has done this virtually without condemnation by other Democrats.

At the same time, no less than 22 State Attorneys General of your party continue to persecute the Little Sisters of the Poor. You can imagine how this appears to the Catholic communities where the Little Sisters of the Poor are deeply respected and loved: Here is a group of ambitious political lawyers seeking to rise to higher office by appealing to extremist fringe groups that deeply hate Catholicism by engaging in a squalid and reprehensible harassment of remarkable women who give up their lives to help the poor, the elderly, and the indigent.

Obviously, the Democratic Party has a Catholic problem. Therefore, Senator Smith, we implore you to take a step toward alleviating it by using your influence with party leaders to get a plank in the party platform stating unqualified support for Article VI and the right of Catholics to hold public office. Please call on Democratic party officeholders to cease any further attacks on Catholics and Catholicism and those of our religion who seek public office.

Sincerely,

A handwritten signature in blue ink that reads "Ed Martin" with a horizontal line extending from the end of the name.

Ed Martin
Founder
Catholic Coalition Against Religious Tests For Office

Attachments