

BRADLEY FILES AMICUS BRIEF IN SCHOOL VOUCHER CASE

Gerard V. Bradley, professor at the University of Notre Dame School of Law, is filing an amicus brief for the Catholic League in an historic case concerning the constitutionality of school vouchers; Bradley is chairman of the Catholic League's legal advisory committee. A ruling by the high court is expected by June.

The Supreme Court will hear three related cases that deal with a program that provides tuition aid to parents in Cleveland who have opted out of failing public schools. The program offers vouchers of up to \$2,250 toward tuition at schools that choose to participate. Approximately 60 percent of the families in the program are from poverty-stricken homes and the vast majority has chosen to enroll their children in Catholic schools. That's what the court must decide: whether the program has the "impermissible effect of promoting sectarian schools."

Whatever the outcome, the decision will be a landmark in constitutional law. Not since the court struck down voucher programs for subsidizing religion in 1973 has there been a case like this. But things have changed since that time as more justices on the court have turned their eyes toward the historically discriminatory nature of anti-voucher campaigns. For example, in 2000, Clarence Thomas wrote the majority opinion in *Mitchell v. Helms* that allowed for public funding of computers in religious schools (the Catholic League filed a friend-of-the-court brief in that case as well). In his decision, Thomas said that programs that exclude aid to religious schools were "born of bigotry." A bigotry aimed squarely at Roman Catholics.

Professor Bradley's brief gets to the heart of the matter. For

some time now, it has been virtually impossible for any institution declared by the courts to be “pervasively sectarian” to receive public monies. Bradley will argue that Cleveland’s Catholic schools are not “pervasively sectarian.” Indeed, he will maintain that the term was invented three decades ago with the intention to discredit most public funds from ever reaching Catholic schools. The term is a pernicious one, insinuating ruthless indoctrination and regimentation. In short, it is just the kind of concept that Justice Thomas said was “born of bigotry.”