

RELIGIOUS TEST APPLIED TO BILL PRYOR

On June 11, the Senate Judiciary Committee held hearings on the nomination of Alabama Attorney General Bill Pryor to the 11th Circuit Court of Appeals. The Catholic League's central concern was the likelihood that a quasi-religious test would be applied to Pryor. This explains why we acted with such vigor.

"Bill Pryor's personal moral beliefs, rooted in Roman Catholicism, should play no role whatsoever in deciding his qualifications for the circuit court of appeals," we said. "Unfortunately," we added, "there is evidence that he is being subjected to a veiled religious test."

It is the position of the Catholic League that those opposed to the nomination of Bill Pryor are not guilty of applying a *de jure* religious test to his nomination; this means that technically speaking, no religious test was being applied. But that doesn't settle the issue. We are contending, along with some prominent constitutional scholars, that Pryor's leading critics are guilty of applying a *de facto* religious test; in other words, the effect of what they are doing is the application of a religious test.

To illustrate this point, take the subject of abortion. It is no secret that Pryor's personal convictions are also the convictions of Catholicism. Indeed, he has spoken of abortion in the most plain language, branding it "the worst abomination of constitutional law in our history." But he also understands that civil law must be guided by precedent. So when a broadly written Alabama law surfaced that banned partial-birth abortions, Pryor noted the statute's unconstitutionality and advised state officials not to enforce it. In short, he is utterly capable of making critical distinctions between civil

and ecclesiastical law.

But this is of no consequence to his opponents: they still object to him because of his personal animus to abortion. Thus have they created a quasi-religious test. As we said to the media, "They may as well post a sign saying, 'No Catholics Need Apply' (save, of course, for dissident Catholics)."

In the halls outside the room where Pryor was being grilled, advocates for and against the nominee came armed with their news releases. Representing the Catholic League was Kenneth Whitehead. Readers of *Catalyst*, as well as other Catholic publications, know Ken as a distinguished author, former official in the Department of Education and board member of the Catholic League. He was there to counter the ACLU, People for the American Way, Americans United for Separation of Church and State, Planned Parenthood and their ilk.

Following the hearing, William Donohue wrote to every Catholic member of the House and Senate requesting that they be on "high alert" over the possibility that a religious test will be applied to Pryor. "The U.S. Constitution specifically prohibits a religious test for public office," he said, "but this stricture does not empty the issue. There are still ways to screen for religion that do not technically violate the law, and that is what is happening to Bill Pryor. To be frank, he is the subject of religious profiling by abortion-rights Democrats."

The next step was supposed to be a vote in the Senate Judiciary Committee on June 26. But the Democrats fired off 250 questions to Pryor, demanding that he answer them before a vote would be taken. This, of course, was just one more way of trying to derail the process.

The Pryor controversy is not over and neither is our resolve. What we have is an intolerable condition. To apply a judicial filter that screens for practicing Catholics is to institute

a *de facto* religious test that is every bit as unconstitutional as a *de jure* application. Indeed, its veiled nature makes it all the more invidious.

What is needed is for the Senate Judiciary Committee to condemn all religious tests for public office, no matter how they are executed.