



CATHOLIC LEAGUE

*For Religious
and
Civil Rights*

September 7, 2017

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Hon. Richard Durbin
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Durbin:

On September 6, as a member of the Senate Judiciary Committee, you questioned University of Notre Dame Law School professor Amy Comey Barrett about her suitability to sit on the 7th Circuit Court of Appeals. You are entitled, and indeed expected, to thoroughly grill all prospective members of the federal bench. But you crossed the line when you drilled down on her Catholicity.

"Do you consider yourself an orthodox Catholic?" You confessed that though you are "a product of 19 years of Catholic education," you had "never seen [that term] before." Then you asked, "What's an orthodox Catholic?"

Let me help you with this: the term means a Catholic who accepts the teachings of the Catholic Church. That would not include those who reject the Church's teachings on abortion, for example, because the Church regards the intentional killing of innocent human beings to be "intrinsicly evil."

What you were really getting at is more important, and more disturbing, than this.

"It is never appropriate for a judge to apply their personal convictions," Professor Barrett said at the hearing, "whether it derives from faith or personal conviction." She could not be more clear—she said it was *never* appropriate to impose her religious convictions on cases before her.

So why did you probe her about the orthodoxy of her Catholicity? Do you similarly probe prospective federal judges who are not Catholic about the orthodoxy of their religious beliefs?


I hasten to add that the term "orthodox" is not confined to Catholics. Indeed, there is actually a branch of Christianity called Orthodox.

This is not the first time you have gone down this road. In 2005, when considering the qualifications of John Roberts for the Supreme Court, you told a CNN correspondent that you need to "look at everything, including the nominee's faith."

Have you ever probed the faith of a non-Catholic for the federal bench? If so, please share the information with me. If not, try treating Catholics—especially orthodox ones—as equals.

I would appreciate a response to the serious issues I have raised. What you did comes perilously close to applying a religious test to professor Comey, and that is explicitly unconstitutional.

Sincerely,

A handwritten signature in cursive script, appearing to read "William A. Donohue". The signature is written in dark ink and is positioned above the printed name.

William A. Donohue, Ph.D.
President