

# **Unfair to Roman Catholics ... and others**

**By Bishop Paul V. Marshall**

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(622 words)

*[This is Bishop Paul Marshall's April column for secular newspapers, usually different from his column in Diocesan Life. The column is sent to newspapers throughout our 14 counties. It is published by The Morning Call, Allentown, on the first Saturday of every month. The combined circulation of papers that publish the column regularly is about 400,000. Some 120 columns have been published over the past eleven years.]*

I found myself discussing with my new son-in-law, a Roman Catholic, how historians generally describe the successful mainstreaming of Roman Catholicism in late twentieth-century American life and how the anti-Roman hysteria of the late 1800s is mostly dead, seemingly buried with the inauguration of Jack Kennedy.

Hours later I read in the New York Times that one Goeff Stone, who teaches at the University of Chicago Law School, blames the recent 5-4 Supreme Court decision banning "partial-birth abortion" on the adherence of five justices to the Roman Catholic branch of Christianity. ([http://uchicagolaw.typepad.com/faculty/2007/04/our\\_faithbased\\_.html](http://uchicagolaw.typepad.com/faculty/2007/04/our_faithbased_.html))

Stone is aggrieved by the majority opinion's recourse to the language of morality and by the fact that the law being challenged makes no provision for preserving the life of the mother should the medical choice actually be between a woman and the life she carries.

While Stone is entitled to his disappointment, laying the burden of his anger on Roman Catholics is unfair to them as well as to the remaining justices, who are either Protestant or Jewish. Can he possibly believe that all Protestants and all Jews think alike on this or any other issue? Would he have said this if the deciding justices were all women or all Jewish?

Are Catholics and evangelicals, after all, the last groups safe to hate? Would Stone be comfortable tracing the Dred Scott decision (bad) or Brown v. Board of Education (good) to the religion of the justices then sitting?

Given Stone's line of attack, I might point out that his long connection with the ACLU, which has strained at gnats in matters of religion while American children lack basic health care and prisoners are tortured, could be said to indicate an anti-religious bias on his part. This is simply a game we ought not to play.

Stone is concerned about the use of moral language. Is there a way for a society to express its moral boundaries other than through laws? Even the utilitarian language sometimes employed to escape the question of moral values relies on values as simple as fair play and what is good for the largest number. The language of "compelling state interest" assumes that a government has functions it ought to fulfill. "Ought" introduces values.

Stone's argument about the Court's monolithic Catholic front further pales when we recall that Clarence Thomas agreed with the conclusion but not the reasoning of the majority. It pales even more when we read that the decision reflects the fact that the Court was not disposed to challenge Congress's fact-finding about what most medical schools teach.

Stone argues that the five justices suddenly altered the overall pattern of their thought because the abortion question sent them running to their catechisms. Reading the opinion and the concurrence does not suggest this conclusion to me.

It is safer to say that many sitting justices have been conservatives appointed by very conservative (Protestant) presidents, and that the results are not inconsistent with their track records.

I suspect I am not alone in finding Stone's rhetoric frightening. Religion has been blamed – sometimes rightly, sometimes wrongly – for a lot.

For a man of Stone's background and credentials, however, to say that five justices ceased being legal scholars because of their religion is a serious defamation.

The profession of law, like medicine and religion, is notoriously unable to police itself; Stone will face no consequences. The rest of us, however, have two things to insist on, loudly and publicly.

The first is that religious faith does not destroy the ability to think and function in public office. The second is that something vital about America is lost whenever we tolerate stereotyping. Attempting to humiliate people or dismiss their thinking because of their religious beliefs is never acceptable.

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