

Framers envisioned separation

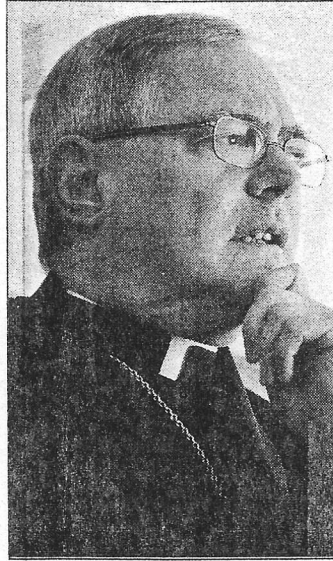
By William C. Kashatus

Rep. Patrick Kennedy's support for legal abortion has earned him the wrath of the Catholic bishop of Providence, R.I., Thomas Tobin, who has threatened to deny the lawmaker Communion. The imbroglio raises some important questions about the constitutional relationship between religion and government.

The framers of the Constitution would have supported Kennedy's decision to separate his Catholic faith from his duties as a lawmaker. The delegates who met in Philadelphia in 1787 were largely devout Protestants whose ancestors left England in bitter opposition to the Anglican Church, the rights the state gave it, and the oaths that tested fidelity to it.

To prevent this kind of "establishment," the framers adopted a ban on religious tests for federal office and, in 1791, added the establishment clause of the First Amendment. The clause directs that Congress do nothing to favor, promote, or endow a particular denomination — nor impede, obstruct, or penalize one. In other words, public officials were expected simply to leave religion alone.

When Kennedy criticized the nation's Catholic bishops for threatening to oppose health-care reform unless it restricts government funding of abortion, he was acting on behalf of his constituents, not the church. The framers would have defended his separation of his faith from matters of public policy, arguing that making the distinction is nothing less than Kennedy's duty as a member of Congress.



JOSH REYNOLDS/Associated Press
Bishop Tobin says Catholics must embrace church values.

It's more difficult to determine how the framers might have regarded the abortion debate. They would have had difficulty abandoning the Christian principles upon which the nation was founded, including the sanctity of human life. "Disestablishment" did not mean that the framers were opposed to Christianity or its public recognition. In fact, they believed Christian values were crucial to a just political order.

They also realized that a democracy must protect an individual's right to life. That inalienable right, articulated in the Declaration of Independence and guaranteed by the Bill of Rights, has made the United States a model for other democracies and a refuge for those fleeing political or religious persecution.

Kennedy's pro-choice stance would seem to contradict that, but it is in accordance with the Supreme Court's legalization of abortion in *Roe v. Wade*. The 1973 decision was based on a right to privacy emanating from the due process clause of the 14th Amendment. That amendment was adopted in



STEVEN SENNE/Associated Press
Rep. Kennedy has maintained that his pro-choice stance doesn't make him "any less of a Catholic."

1868, more than three-quarters of a century after the ratification of the Constitution.

So Kennedy's position is consistent with the framers' crafting of a Constitution that can adapt to changing moral conventions. They realized their Constitution was imperfect, and they made it an amendable document that could meet the needs of future generations.

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