

In Memoriam: Charles E. Rice (1931-2015)

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Dr. Charles E. Rice, the eminent Catholic constitutional and legal scholar, passed away on February 25, 2015, after an illness. A member of the Society of Catholic Social Scientists since its inception in 1992, he served on its Board of Advisors and Board of Directors in its early years and for the last several years was on the Editorial Advisory Board of *The Catholic Social Science Review*. He was one of four people to have received both the SCSS's Pope Pius XI Award for Contributions toward the Building Up of a True Catholic Social Science and the Blessed Fred-eric Ozanam Award for Catholic Social Action. Rice's accomplishments were voluminous. He was one of the leading American Catholic scholars of the last fifty years, but as his receiving the Ozanam Award indicated, he was consistently also working in other arenas outside of the academy to promote the cause of Catholic orthodoxy. For many years, he was one of America's most prominent faithful Catholic lay leaders.

Born in New York, Rice earned his B.A. degree from the College of the Holy Cross and J.D. from Boston College Law School. He was educated at Jesuit institutions of higher learning when they were still shining examples of orthodoxy and traditional Catholic education. He received his LL.M. and J.S.D. from New York University. He served in the United States Marine Corps and was a retired lieutenant colonel in the Marine Corps Reserve. He practiced law in New York City and taught at New York University Law School and Fordham Law School. During the 1960s, he was a founder of the New York State Conservative Party and served as its vice chairman for seven years. He was also one of the founders of the first right-to-life organization in New York State, which was also one of the first in the country. As the abortion struggle was heating up, he published one of the first scholarly books defending the cause of life, *The Vanishing Right to Live* (1969).

He joined the faculty at Notre Dame Law School in 1969 and served for over forty-five years—as *emeritus* for the last fifteen years—until his death. He helped found Ave Maria School of Law, served on its board, and taught there as a visiting professor when it was based in Michigan. In addition to his teaching, he served as co-editor of the *American Journal of Jurisprudence* (formerly called the *Natural Law Forum*) at Notre Dame Law School. He was one of the leading scholarly proponents of natural-law-based jurisprudence in the Western world. Later on, he served

for twelve years on the Board of Trustees at Franciscan University of Steubenville and on the boards of the Eternal Word Television Network and the Thomas More Law Center. He was also chairman of the board of the Center for Law and Justice International in New Hope, Kentucky and the Bellarmine Forum (formerly the Wanderer Forum Foundation). He also served as a consultant to the U.S. Commission on Civil Rights and to various Congressional committees on constitutional issues. In a different vein, for many years he was also a coach of the Notre Dame Boxing Club.

Charlie, as he always preferred to be called, was a prolific author of both scholarly books and articles and of those for an educated, non-legal, non-scholarly audience. A number of his books were aimed to provide scholarly backing for the pro-life cause. In addition to the above mentioned book, these included *Beyond Abortion: The Theory and Practice of the Secular State* (1978), *50 Questions on Abortion, Euthanasia and Related Issues* (1986), *No Exception: A Pro-Life Imperative* (1990), *The Winning Side: Questions on Living the Culture of Life* (1999), and a follow-up volume, *The Winning Side: Why the Culture of Death is Dying* (2006). His best known other books were probably *50 Questions on the Natural Law: What It Is and Why We Need It* (1999), which I have found to be a good undergraduate classroom text, and the one which first introduced me to Rice's work, *The Supreme Court and Public Prayer: The Need for Restraint* (1964), written as a scholarly critique of the Court's public school prayer decisions. In 2009, he published *What Happened to Notre Dame?* It chronicled the secularizing influences at the University of Notre Dame and drift away from its Catholic roots in the post-Vatican II period. His last book (published in 2013), which was reviewed in this journal last year, also concerned Notre Dame. Entitled *Right or Wrong? 40 Years inside Notre Dame*, it reprinted a variety of Rice's columns from Notre Dame's student newspaper, *The Observer*, over the decades that essentially presented the Church's teaching—that was not necessarily getting into the classroom—to the university's students, often on sexual-related matters. In a genuine way, then, Rice was not just a legal scholar at Notre Dame, but a catechist as well. He published numerous scholarly articles in law reviews such as the *Wake Forest Law Review*, *Harvard Journal of Law and Public Policy*, *Ave Maria Law Review*, and *Brigham Young University Law Review*. He also published many articles over the years in popular publications, especially Catholic ones, and drafted many *amicus curiae* briefs on constitutional issues in cases before the Supreme Court and other federal courts, including in *Roe v. Wade* in 1973.

Rice was known for his strong, tough, and (sometimes) unpopular stands on public issues and also within the movements, institutions, and

organizations with which he was connected. His unwavering devotion to principle, in a very unprincipled age, was always evident. He was also consistently upbeat, never the pessimist. As reflected in the titles of a couple of his pro-life books above—and contrary to the usual rhetoric of the secular left that it was riding the tide of history—he believed that we were on the winning side. I think he meant that not just in the Kingdom, but also as events would unfold in the world. This attitude paralleled that of another eminent scholar who served on the SCSS’s Board of Advisors in our first years until his death, Russell Kirk.

I suspect that for all of his accomplishments, Rice would have said the greatest without question was the ten children he and his wife Mary had and their forty-one grandchildren.

My first contact with Dr. Rice was when I was in the final stages of my Ph.D. studies in 1981. I was working on my doctoral dissertation on *Roe v. Wade* and *Doe v. Bolton*, which was to later become my first book. An unexpected vacancy on the Supreme Court had occurred because of Justice Potter Stewart’s retirement. President Reagan had the chance for his first Supreme Court appointment. I wanted to try to interest some of the major pro-life leaders—who, to be sure, had never heard of this obscure graduate student—to promote Rice for the appointment to the Court. I don’t think I was being unrealistic or overly optimistic, but I was perhaps a slightly idealistic young graduate student. I called Rice at Notre Dame and told him of my idea to urge the pro-life community to get behind a solid choice. He thought the effort a good idea and immediately suggested the other great Catholic constitutional law authority of that period, William Bentley Ball (who years later, along with Rice, also honored the SCSS with his membership). I immediately told Charlie that it was him that I had in mind. He said, “They won’t take someone controversial,” but told me to go ahead. I wrote and called different pro-life people in Washington, D.C., and urged them to promote both Rice and Ball to the Reagan administration. As I remember, a couple of them did so. Of course, Sandra Day O’Connor got the appointment. She was disappointing, but her performance was foreseeable and some prominent pro-lifers at the time tried to warn Reagan about her. I persist in thinking that the glaring failure of the Reagan presidency was his inability to change the course of the Supreme Court, especially on human life issues, because of troublesome appointments. I recall someone writing, I think in the 1980s, that the ideal Supreme Court would be one with nine Charles Rices.

May Dr. Charles E. Rice, who certainly “fought the good fight,” rest in peace.