

BRIEF BEFORE SUPREME COURT CONFRONTS ACTIVISTS WHO SEEK TO JUSTIFY BIGOTRY

A brief of amici curiae has been filed before the U.S. Supreme Court by the Becket Fund for Religious Liberty and the Catholic League for Religious and Civil Rights in the case of Locke v. Davey. The brief argues that it is unconstitutional for the state of Washington to disqualify a student “from an otherwise available government benefit, only because the student would use the benefit for a religious purpose.”

At issue is the right of a student who won a partial scholarship to attend a college affiliated with the Assemblies of God; he was denied use of the scholarship because of the religious nature of the college. The law reflects the thinking of the Blaine Amendment, a 19th century piece of federal legislation that expressed nativist sentiments against Catholics; though that law never passed, many states incorporated Blaine amendments into their constitutions and 37 still have them.

Richard W. Garnett of Notre Dame Law School is responsible for the Catholic League’s contribution to this brief. The brief not only seeks to demonstrate the bigoted historical basis for the Blaine Amendment and its progeny, it seeks to challenge amici for the petitioner who even now seek to obfuscate the historical record. Perhaps most important, the brief takes aim at those who seek to legitimate religious discrimination; we specifically go after the American Jewish Congress.

“It is nothing short of amazing,” we said in a news release, “that the American Jewish Congress would file a brief in the year 2003 that argues that some of the fears expressed by 19th century anti-Catholic bigots were real.” Believe it or not,

the brief by the American Jewish Congress says that anti-Catholic laws “were undertaken in response to positions of the Catholic Church as authoritatively enunciated by consecutive Popes in well publicized encyclicals” prompting “a legitimate fear” of Catholic domination.

Our brief, not surprisingly, shows how impoverished this conception of history is. But the real travesty is that it has to be argued at all. “Shame on the American Jewish Congress and its ilk,” we said, “for seeking to resurrect discredited and pernicious ideas about the Catholic Church.”