

Zobrest decision important to future of school aid

William Bentley Ball, former League board member and the attorney who represented Jim Zobrest and his family, has alerted the Catholic League to a significant analysis of last summer's *Zobrest* decision by Professor Jesse Choper, a noted constitutional scholar at the University of California at Berkeley.

As you may remember, Jim Zobrest is the profoundly deaf high school student who was denied the services of a federally-mandated sign language interpreter because he attended a Catholic school. The Supreme Court ruled in favor of the Zobrest family in a decision announced in June. Professor Choper's comments on *Zobrest* were made at a constitutional law conference held in Washington, D.C. and were printed in the Nov. 2 issue of *The United States Law Week*.

Choper noted that with *Zobrest*, the Court returned for the first time in seven years to the issue of public aid in the context of parochial schools. Choper said that even though caselaw in this area is confusing, decisions can be predicted depending on the form of the aid given. He observed that an Establishment Clause violation was almost always found by the Court when aid was given directly to parochial schools or to their employees. However, aid given to parents or their children in the form of tax relief, scholarships or vouchers will usually pass constitutional muster. Choper indicated that more difficult cases to predict involved aid given to non-parochial personnel who provided services at parochial schools, which is the category *Zobrest* was in.

The Court's 5-4 decision in *Zobrest* pointed out that provision of a sign language interpreter was part of a general program of aid for all students, no money reached the parochial

schools which benefited the interpreter neither taught nor counseled students, but merely interpreted what was being said in class. Looking to the future, Choper stated that the five justices in the *Zobrest* majority (Rehnquist, Scalia, Kennedy, Thomas and White) would uphold all forms of aid to parochial schools in the future, regardless of the recipients, as long as the aid is used for secular purposes. Justices Stevens (the Court's "strictest separationist") and Blackmun would oppose parochial aid in any form, said Choper, and Justice Souter would probably join them.

Although Justice Ginsberg is more of a separationist than Justice White and can be expected to vote with Stevens and Blackmun, said Choper, Justice O'Connor could still provide the fifth vote to uphold "most – though not all – forms of parochial aid". It is essential to draft future legislation for aid to parochial schools in the appropriate form, Choper suggested.

New organization will push for school choice at state level

League members figure prominently

Proposition 174 may have been defeated in California, but the curtain has been raised on a new group vowing to keep the issue of school choice before the voters. According to Catholic News Service, Americans for School Choice plans to organize successful school choice ballot initiatives in at least five states in 1994, with eight more states to be added in 1995.

Many of the supporters of Americans for School Choice are old friends of the Catholic League. Among those listed as Americans for School Choice board members are former Secretary of Education William Bennett, former Vatican ambassador Thomas Melady, noted constitutional attorney William Bentley Ball and retired Minnesota Court of Appeals Chief Judge D.D. Wozniak (see photo, story, pg. 15). Melady and Ball are former members of the League's national board of directors and Judge Wozniak currently serves on the Board of the League's Minnesota Chapter. Mr. Bennett was a recipient of the League's prestigious John Paul II Award.

Board members include prominent Democrats and Republicans, sending the clear signal that school choice is not a partisan issue.

Among the board members are State Rep. Polly Williams, a Democrat from Milwaukee, Wisconsin who created the nation's first working school choice plan and Republican governor Tommy Thompson of Wisconsin who signed her bill into law.

Financial decisions for the new organization will be made by a board of trustees, each of whom will have contributed at least \$25,000 to the organization.

Joanne Orlowski, national coordinator of Citizens for Educational Freedom welcomed the creation of Americans for School Choice.

Conference hopping...

By Karen Lynn Krugh

We kept our Catholic League national office special assistant

busy this month. She attended two conferences of interest to Catholic League members. Here's her report.

October was conference month. In an attempt to keep up on current Catholic issues, including the new Catechism and current perspectives on Catholic philosophy, I spent several days at two very different conferences.

On October 15, the Wethersfield Institute of the Homeland Foundation sponsored a conference with the theme: "Christianity and Western Civilization – Christopher Dawson's Insight: Can A Culture Survive the Loss of its Religious Roots?" Dawson, a Catholic, was an early twentieth-century English philosopher.

Each of the speakers analyzed aspects of Dawson's philosophy under the titles "Religion as the Root of Culture," "Nature and Grace in the Character of Western Man," "Technology and The Demise of Liberalism in our Culture," and "Secularization and Sacralization," and "The Perduring Subversions of Western Culture and Christianity's Reaction." I learned a great deal about Dawson's philosophy and its application and relevance in present-day society.

In late October, I traveled to the Apostolate for Family Consecration's "Totus Tuus: Consecrate Them in Truth" Conference held in Pittsburgh, October 22-24. The featured speaker of the conference was Frances Cardinal Arinze of the Roman Curia. A native of Nigeria, Cardinal Arinze was a delightful speaker whose wit rivals that of the Holy Father. A Marian conference with approximately 4,000 in attendance, the focus was on total consecration to Mary as advocated in the writings of St. Louis de Montfort and the "Be Not Afraid Holy Hours," videos produced by the Apostolate. The conference also celebrated the 15th anniversary of the solemn inauguration of Pope John Paul II, October 22, 1993. The Pope's motto, *Totus Tuus*, or Totally Yours, was taken as the theme for the conference to emphasize total devotion to the Blessed Mother.

The impressive list of speakers included the Apostolic Pro-Nuncio Archbishop Agostino Cacciavillan, Papal ambassador to the United States, who spoke and celebrated Mass; two area Bishops – Bishop Donald W. Wuerl, Diocese of Pittsburgh, and Bishop Gilbert Sheldon, Diocese of Steubenville; several Monsignors, including our neighbor Msgr. Woolsey, Director of Family Life/Respect Life office of the Archdiocese of New York, Msgr. Luciano Guerra, Rector of our Lady of Fatima Shrine, Portugal, and Msgr. Roger Fays, Vicar General of the Diocese of Steubenville. Other speakers included Scott Hahn, a convert to Catholicism and professor of theology at Franciscan University of Steubenville; Dr. Mark Miravalle, professor of theology and Mariology at Franciscan; and Apostolate co-founders

Jerry and Owen Coniker. Mass was celebrated every day, with Sunday's Mass concelebrated by the Archbishop Cacciavillan, Cardinal Arinze, and other Monsignors and Fathers. Talk about a High Mass!

Though the English version of the new Catechism had not yet been approved by the Vatican, several of those present had read the original French version. Naturally, as this is the first new Catechism since that which followed the 16th century's Council of Trent, much of the weekend's discussion centered around its content. In this area, Cardinal Arinze was the expert. During a lunch-and dinner-time panel discussion, questions regarding the need for a new catechism, the changes between the old and the new, and the ease of use of the new catechism were answered. Other talks dealt with imitating, not just admiring, Pope John Paul; the unifying power of the new catechism; the need for an all out evangelization; and evangelizing through the media.

The weekend conference left me with a much greater understanding of the church's teachings on the Blessed Mother and an increased enthusiasm for the new Catechism. In fact, I've been so impressed by the speakers at these and other

recent conferences that I've begun looking into graduate theology programs for myself.

One closing thought – You know that old joke about Catholics rushing to exit the church parking lot after Mass? Well, the same thing happens when you announce to several thousand Catholics that *Veritatis Splendor* has just arrived and copies are limited ... Of course, I did manage to secure myself a copy!

League newsletter editor chairs lay ministry board

John Pantuso, Catholic League Newsletter editor since December 1986, has been elected chair of the Lay Salvatorian National Board.

Lay Salvatorians share in the mission and charism of the Society of the Divine Savior (Salvatorian Fathers and Brothers) and the Congregation of the Divine Savior (Salvatorian Sisters). John and his wife Joanne, who will celebrate their 25th anniversary this month, have been Lay Salvatorians for twenty years.

In addition to chairing the Lay Salvatorian board, John represents the lay affiliates on the three member Joint Leadership Executive Committee. He also chairs the Joint Communications Committee.

Chapter protests high school presentation on 'date rape'

The Catholic League's Massachusetts Chapter has vehemently protested a presentation on "date rape" at Newton North High School which included a series of graphic rape jokes intended to "loosen up the audience." One joke reportedly involved a nun being raped repeatedly on a subway train and begging for more.

The program, "Calling It Rape," was performed by the Harvard/Radcliffe Drama Group at the invitation of a member of the Newton Sex Education Task Force.

Chapter Executive Director C. Joseph Doyle blasted the program for its "callous contempt for the religious sensibilities of Catholics."

The play, which made liberal use of four-letter words and profanity, was one more in a continuing series of outrageous speakers and presentations brought to the community by members of the Sex Education Task Force. A citizens group, Newton Citizens for Public Education, has been organized and has asked for the resignations of all task force members.

RFRA signed

On November 16, President Clinton signed into law the Religious Freedom Restoration Act, legislation which requires a "compelling government interest" to justify the imposition of restrictions on religious practices. This legislation was proposed in the wake of the Supreme Court's 1990 decision,

Employment Division v. Smith, in which the Court abandoned the long standing “compelling interest” test for determining whether government actions violated religious freedom.

The Court in *Smith* ruled that the sacramental use of peyote by Native Americans was not protected from criminal prosecution by the free exercise clause of the First Amendment. The *Smith* decision was a startling departure from prior cases and was harshly criticized by those fearing it would be used by the courts to hasten the erosion of religious freedom rights. According to the *New York Times*, proponents of the law charge that 50 to 60 cases of government infringement on religious practices have been justified in the courts based on the *Smith* ruling.

The *Times* reported that the new law was supported by a diverse coalition of conservative, liberal and religious groups which included the National Conference of Catholic Bishops, the National Association of Evangelicals, the Southern Baptist Convention, the National Council of Churches, the American Jewish Congress, the Mormon Church, the Traditional Values Coalition and the American Civil Liberties Union.

The Catholic bishops initially expressed concern that the new legislation might provide a statutory basis for claiming abortion rights, but they approved the bill after it was modified .

Prison officials and attorneys general of some states also voiced objections that the bill would serve as the source of lawsuits initiated by prisoners demanding special diets or other privileges. Supporters of the bill maintained that prison officials could address these issues under the “compelling state interest” standard.

League president has busy month

In addition to his many media contacts during October and November, Catholic League president Bill Donohue had a few other engagements worthy of note:

On October 17, he received an Outstanding Citizenship Award from the National Traditionalist Caucus for his work on the ACLU.

On October 25, he was elected to serve on the board of directors of the New York State chapter of the National Association of Scholars. He serves on the national board as well.

On October 26, he attended the *Crisis* awards dinner in Washington, DC.

On November 1, he spoke on "The Root Causes of American Social Problems" at Nassau Community College.

On November 8, he addressed the Chaminade and Sacred Heart high school chapters at Charninade High School in Mineola, NY.

League consulted on family bill

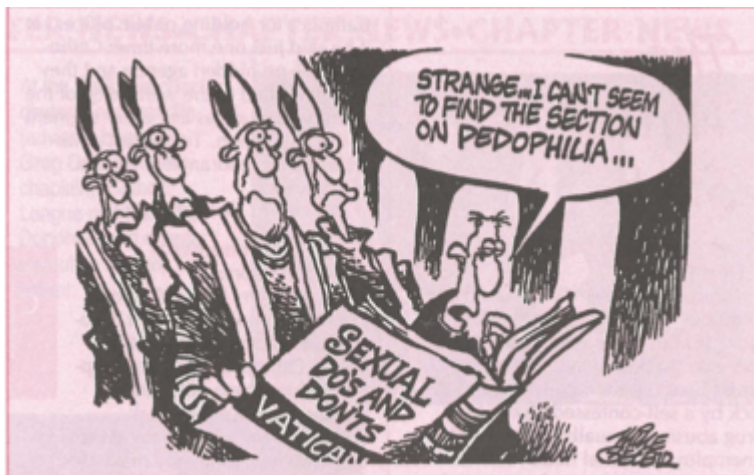
On October 25, Catholic League president William A. Donohue met in Washington with Senator Dan Coats of Indiana to discuss the senators "Families First" bill.

The Family, Investment, Retirement, Savings and Tax Fairness Act of 1993 – to use its full name – represents a major reform of the Federal budget and the tax code. It would provide tax relief to families with children, put a two percent cap on the growth of federal spending, provide incentives for businesses to create jobs, and repeal the retirement earnings test on older Americans. A new commission modeled after the military base closure commission would oversee the two percent spending cap requirement.

Co-sponsors of the measure are Senators Kay Bailey Hutchison, Trent Lott, Larry Craig, Connie Mack, and Don Nickles.

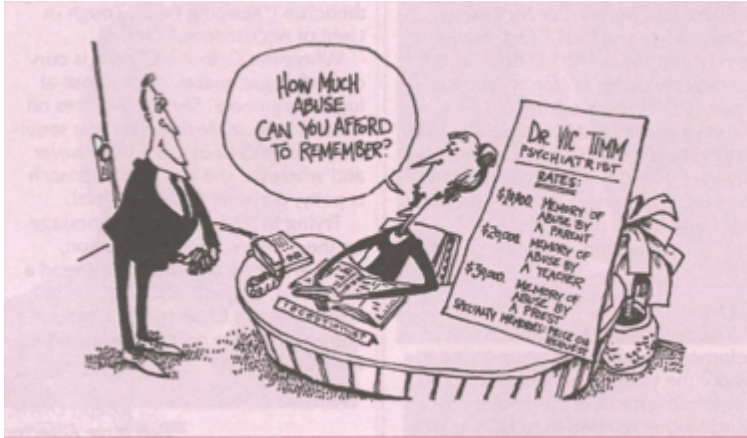
In thanking Dr. Donohue for his input, Senator Coats characterized the proposed legislation as “pro-family ... pro-growth ... and pro-deficit reduction.”

Cartoons



Students at Ball State University in Muncie, Indiana were treated to this tasteless cartoon in their daily paper. It originated with the *Dayton Daily News* and cartoonist Mike Peters. A tip of the hat to Mrs. George L. Mihad of Muncie for

passing this gem along to us.



Signe Wilkinson of the *Philadelphia Daily News* was close to the mark with this tongue-in-cheek cartoon inspired by Stephen Cook's bizarre "recollection" of abuse.

Abortion protesters sentenced to Planned Parenthood seminar

In what must surely rank as a textbook case of cruel and unusual punishment, an Indiana judge has sentenced fourteen members of Collegiates Activated to Liberate Life (CALL) to attend an eight-hour Planned Parenthood educational seminar. They must also pay \$7,100 in restitution to the two clinics at which their pro-life demonstrations took place.

A Planned Parenthood official praised the decision, but a defense lawyer is considering an appeal. Catholic League officials have been asked to examine the case and offer advice.