

Expelling God from the University

David French

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Emily Brooker is a recent honors graduate in social work from Missouri State University. A bright and attractive young woman, she has a ready smile, a heart for serving the poor, and an enduring stain on an otherwise sterling academic record.

University of Florida student Christine Miller is one of the most engaging people you will ever encounter. Compassionate, intelligent, and intellectually curious, she serves her classmates as an R.A., and by all accounts she is widely admired. She, too, is living with a stain on her record.

Scott Savage is a pacifist. He is gentle in speech, slow to anger, and almost painfully thoughtful in conversations. He is a librarian at The Ohio State University's Mansfield campus, and the dark cloud of a faculty-initiated harassment investigation hovers over him still.

From the threats of violence directed against Ruth Malhotra at Georgia Tech, to the attempted expulsion of Ed Swan at Washington State, and the actual expulsion of Scott McConnell at Le Moyne College, the stories go on and on—one of the great underreported scandals of higher education. It is as if the academic establishment has collectively decided a certain group of people is so reprehensible and abhorrent that they must change or be cast aside, relegated to the dustbin of history along with the racists of the Old South.

And who are Emily, Christine, Scott, and the others? They are certainly not violent or radicals of any stripe. In fact,

their political views vary widely—they have different views about the Iraq war, on economic programs, and even social issues. They do, however, share a single, defining characteristic: they are theologically conservative Christians, who believe the Bible is the inspired Word of God .

For Emily Brooker, it all started when one of her professors gave her class an assignment to draft a joint letter that was intended to express public support for same-sex adoption. While she has no problem exploring alternative views in class, she drew the line at drafting and signing a public document expressing a viewpoint that violated her deeply held beliefs. For her respectful moral stand, she was investigated by the socialwork department and charged with ethics violations.

Christine Miller made the mistake of expressing a Biblically orthodox view of sexual morality—that sex should be reserved for a man and woman within marriage. She was reprimanded by a university housing department who saw that view as incompatible with its own expressed “solidarity” with the university’s “GLBT community.”

Scott Savage’s case is even more bizarre. He volunteered to serve on a book selection committee for the “First Year Reading Experience”—suggesting book options for freshman students. After the other members of the committee suggested a series of books from a leftist perspective, Scott suggested the students read a series of conservative books, including one, *The Marketing of Evil*, by David Kupelian, that refers to homosexual sexual behavior as “sinful” or “evil.” Acting on complaints from homosexual faculty that the book recommendation made them feel “unsafe” on campus, the faculty assembly voted without dissent to accuse Scott of “sexual harassment.” Later, several professors—acting with the full knowledge and express approval of the faculty—filed formal charges against Scott.

And what of Ruth Malhotra, Ed Swan, and Scott McConnell? Ruth was threatened after challenging Georgia Tech's unconstitutional policies in court. Ed was almost denied a degree after he expressed opposition to same-sex adoption and affirmative action during classroom discussions. Scott was actually expelled after writing a paper in which he decried the multicultural orthodoxy of the school and noted that corporal punishment could be an appropriate method of school discipline.

While a few anecdotes do not necessarily describe a trend, or even a crisis, the anecdotes keep coming and coming. In the last six years, approximately 50 colleges and universities have either expelled or attempted to expel Christian student groups from campus. These actions have led to multiple lawsuits as Christians struggle to maintain ministries that have—in some cases—existed for decades. Student groups have sued Rutgers, the University of North Carolina at Chapel Hill, Ohio State University, Southern Illinois University, Penn State, the University of Minnesota, Washburn University, Arizona State, the University of California at Hastings, Cal State Long Beach, and San Diego State all in the effort to maintain a presence on campus.

Aside from the actual violation of their rights, Christian students widely report their faith being mocked by professors and fellow students alike. A January 2005, article in the *Christian Science Monitor* documented some of these stories. The article begins:

When Chris Gruener moved to the San Francisco Bay Area to begin graduate school, he looked forward to experiencing the region's renowned tolerance of all people and lifestyles.

Mr. Gruener was raised in a devout Christian family

near Seattle and attended a Baptist high school and a Christian college, where he studied business. His passion, however, was literature, and so he was excited to begin a master's program in English at Sonoma State University. But during his first semester, a classroom incident put a damper on Gruener's ardor.

While lecturing on James Joyce's rejection of the church, a professor drew two mountains with a valley between them on the chalkboard, explaining that Joyce's church believed one mountain was man and the other mountain was God.

Next he drew a cross in the valley, touching both peaks—a visual metaphor Gruener knew from childhood—and explained that this was Christ on the cross connecting man to God. Then the professor broke into peals of mocking laughter. The rest of the class joined in.

Stories like this are not uncommon. Spend any time at all with a Christian fellowship group at a secular university and you will hear similar tales. If the students are fortunate, their experience is limited to mere mockery. All too often, however, the mockery moves into actual action, and the students face the censorship, punishment, and threats outlined above.

Beyond the anecdotes are the statistics, which show that Christian faculty are profoundly underrepresented in higher education and that Christian students dramatically abandon faith practice as they progress through college. According to Stanley Rothman, Robert Lichter, and Neil Nevitte's recent analysis of the role of politics and ideology in faculty professional advancement, "religiously observant Christians are disadvantaged in their placement in the institutional hierarchy" even "after taking their professional achievements into account ... Republicans, women, and practicing Christians

fare significantly worse than their colleagues at similar levels of achievement.”

Clearly, when it comes to religion, the campus culture wars are building to a climax. Not content with cleansing our secular universities of an institutional religious presence, the academic left moves now to remove any meaningful individual religious voice. Why?

The answer lies in an important article by Maggie Gallagher in the 15 June 2006 issue of the *Weekly Standard*. In “Banned in Boston,” Gallagher outlined the next phase of the constitutional conflict: the assault on fundamental civil liberties in the name of civil rights for homosexuals.

Now, if same-sex marriage and gay rights” are the next great civil rights struggle, then campus administrators and faculty are cast in the role of Martin Luther King and those who defend traditional sexual morality take the role of Eugene “Bull” Connor. To the campus establishment, there is no functional or moral difference between an evangelical Christian proponent of traditional Judeo-Christian sexual morality and George Wallace standing in the schoolhouse door.

When viewed through this prism, each of the cases discussed above makes sense. Emily Brooker and Ed Swan opposed same-sex adoption; Christine Miller and Scott Savage think that homosexual sex is sinful. Ruth Malhotra opposed speech codes designed to protect homosexuals from “hate speech,” and even Scott McConnell’s opposition to “multiculturalism” can be read as a stand-in for moral opposition to the university’s agenda. And for each of the Christian fellowships booted from campus, the issue is their alleged “discrimination” when they choose to reserve membership and leadership of Christian organizations for practicing Christians. As cases at Tufts University, Hastings, Southern Illinois, Ohio State University, and elsewhere make clear, the real university concern is not whether groups like Muslims or Jews can join

Campus Crusade for Christ but instead whether practicing homosexuals have the opportunity to join (or even lead).

What is also crucial to note is that none of the Christians in any of the cases above had taken any action whatsoever to censor, silence, or deprive any homosexual student of their rights recognized by law. It is not as if Christian student groups are asking that they be permitted to organize while “gay rights” groups stand on the sidelines. Ruth Malhotra’s opposition to speech codes would have the practical effect of granting greater free-speech rights to everyone. Scott Savage was not asking that any member of the faculty be silenced. He simply made a book recommendation.

The campus culture wars will continue until one side triumphs. There is too much at stake for our side not to win.

David French is a senior legal counsel for the Alliance Defense Fund (ADF) and the former president of the Foundation for Individual Rights in Education. He served as counsel to the students mentioned. This is an excerpt of an article from the Spring 2006 edition of Academic Questions. It is reprinted here with the permission of Mr. French and the publisher.

Education Myths

by Jay P. Greene

(Catalyst, 9/2006)

The following article is an excerpt from a longer piece that appeared in the July/August edition of The American Enterprise (the flagship publication of the American

Enterprise Institute) titled, "Education Myths" (Greene has published a book by that name).

Greene, who runs the Department of Education Reform at the University of Arkansas, and who is a senior fellow at the Manhattan Institute, has written widely on the subject of school reform. Armed with persuasive evidence, Greene contends that there are many myths afloat about what ails education in the U.S. There is a "money myth," a "teacher pay myth," a "class size myth," a "certification myth," a "rich-school myth" and an "ineffective school voucher myth"; the latter two myths touch on Catholic schools and therefore were selected for publication in Catalyst.

Bill Donohue highly recommends Greene's book, Education Myths, and would like to thank both Jay Greene and The American Enterprise for giving us permission to reprint the following article.

The rich-school myth

A popular myth says that private schools do better than public schools only because they have more money, recruit high-performing students, and expel low-performing students. The conventional wisdom is captured in one Michigan newspaper's warning that "a voucher system would force penniless public schools to shut down while channeling more and more money into wealthy private schools."

There is no question that, on average, students in private schools demonstrate significantly greater achievement. For example, on the eighth-grade reading portion of the NAEP [National Assessment of Educational Progress] test, 53 percent of private school students perform at or above the level defined as "proficient," compared to only 30 percent of public school students. In eighth-grade math, only 27 percent of public-school students perform at the "proficient" level, compared to 43 percent of private-school students.

Interestingly, twice as many private-school eighth graders go on to earn a bachelor's degree as their public-school counterparts, in percentage terms.

However: it simply isn't true that public schools are penniless while private schools are wealthy. In fact, the opposite is closer to the truth. According to the U.S. Department of Education, the average private school charged \$4,689 per student in tuition for the 1999-2000 school year. That same year, the average public school spent \$8,032 per pupil. Among Catholic schools (which educate 49 percent of all private-school students), the average tuition was only \$3,236. The vast majority of private-school students actually have less than *half* as much funding behind them as public-school students.

Some point out that private schools don't always provide all the services that public schools do: transportation, special ed classes, lunch, counseling. But in an analysis comparing public-school and Catholic-school costs in New York, D.C., Dayton, and San Antonio, researchers found that excluding all of these services plus administration costs from the public-school ledger still left public schools with significantly more resources than Catholic schools. Besides, if public schools provide additional services, then those services should contribute to their students' educational outcomes. All spending is ultimately relevant to the question of a school's cost-effectiveness.

Just as lack of money cannot be blamed for poor outcomes in public schools, neither can differences in selectivity be held responsible. Surprising as it may be, most private schools are not very selective. A study of the nation's Catholic schools concluded that the typical institution accepted 88 percent of the students who applied. Other research in D.C., Dayton, and New York private schools found that only 1 percent of parents reported their children were denied admission because of a failed admissions test. Moreover, the academic and demographic

backgrounds of students who use vouchers to attend private school across the country are very similar to those who don't.

Private schools don't significantly alter their student populations by expelling low-achieving or troublesome students, either. One study found that "Catholic high schools dismiss fewer than two students per year" on average. While it is true that every student is officially entitled to a publicly funded education, students in public schools are regularly expelled. According to the U.S. Department of Education, roughly 1 percent of all public school students are expelled in a year, and an additional 0.6 percent are segregated into specialized academies. That's more than in Catholic and other private schools. Moreover, public schools actually contract out 1.3 percent of their disabled students to private schools.

In any case, numerous studies have compared what happens when students with identical backgrounds attend private versus public schools. And consistently, in study after study, the matched peers who remain in public schools do less well than children who shift to private schools. Higher student achievement is clearly attributable to some difference in the way private schools instruct—and not to more money, or simple exclusion of difficult students.

The myth of ineffective school vouchers

When reporting on school vouchers—programs that give parents money they can use to send their children to private schools—the media almost always describe research on vouchers' effects as inconclusive. The *New York Times*, for instance, responded to a Supreme Court decision approving vouchers by declaring: "All this is happening without a clear answer to the fundamental question of whether school choice has improved American education. The debate... remains heated, defined more by conflicting studies than by real conclusions."

In reality, though, the research on vouchers isn't mixed or inconclusive at all. High quality research shows consistently that vouchers have positive effects for students who receive them. The only place where results are mixed is in regard to the magnitude of vouchers' benefits.

There have been eight random-assignment studies of school voucher programs, and in seven of them, the benefits for voucher recipients were statistically significant. In Milwaukee, for example, a study I conducted with two researchers from Harvard found that students awarded vouchers to attend private schools outperformed a matched control group of students in Milwaukee public schools. After four years, the voucher students had reading scores six percentile points above the control group, and standardized math results 11 percentile points higher. All of the students in this study (which is mirrored by other research) were low-income and Hispanic or African American.

In a study of a different program based in Charlotte, North Carolina, I found that recipients of privately funded vouchers outperformed peers who did not receive a voucher by six percentile points after one year. All of the students studied were from low-income households. In New York City, a privately funded school choice program has been the subject of many careful studies. One found that African-American voucher recipients outperformed the control group by 9 percentile points after three years in the program. Another analysis found a difference of 5 percentile points in math. A similar program in Washington, D.C. resulted in African-American students outperforming peers without vouchers by 9 percentile points after two years.

Every one of the voucher programs studied resulted in enthusiastic support from parents as well. And all this was achieved in private schools that expend a mere fraction of the amount spent per student in public schools. The most generously funded of the five voucher programs studied, the

Milwaukee program, provides students with only 60 percent of the \$10,112 spent per pupil in that city's public schools. The privately funded voucher programs spend less than *half* what public schools spend per pupil. Better performances, happier parents, for about half the cost: if similar results were produced for a method of fighting cancer, academics and reporters would be elated.

Spread the truth

Over the past 30 years, many of our education policies have been based on beliefs that clear-eyed research has recently shown to be false. Virtually every area of school functioning has been distorted by entrenched myths. Disentangling popular misconceptions from our education system—and establishing fresh policies based on facts that are supported by hard evidence—will be the work of at least a generation.

That work will be especially difficult because powerful interest groups with reasons to protect and extend the prevailing mythology will oppose any rethinking. But with time, and diligent effort by truth-tellers, reality and reason have triumphed over mythology in many other fields. There is no reason they can't prevail in schoolhouses as well.

Jay P. Greene, *Education Myths: What Special-Interest Groups Want You to Believe About Our Schools and Why it Isn't So*. Lanham, MD: Rowman & Littlefield, 2005. 280 pages.

An Interview with Sol Stern

author of Breaking Free: Public School Lessons and the Imperative of School Choice by Louis J. Giovino

(Catalyst 9/2003)

Louis Giovino, director of communications, recently interviewed Sol Stern, author of Breaking Free: Public School Lessons and the Imperative of School Choice (Encounter Books). Here is an excerpt from their exchange:

Louis Giovino: Can you talk about your background?

Sol Stern: I grew up in the Bronx. I'm actually an immigrant. I came to the U.S. from Israel as a three year old actually before Israel was a state. My parents were originally German refugees to Palestine and then we came here.

I was working for city government, and all of a sudden my two kids are getting ready to go to the public schools because we were public school supporters. But what I saw...led me to begin to take on this public school system in terms of trying to understand what it is that produced these outrageous things that I saw happening in my kid's schools—everything from derelict teachers who couldn't be fired, to the kinds of issues in terms of the subtle, political indoctrination—the left wing tilt in the schools. That's how I got into this business.

Louis Giovino: How did you come to the conclusion that Catholic schools are better than public schools?

Sol Stern: First of all, I don't make the general conclusion that Catholic schools are better than public schools. In fact, a lot research indicates that at the upper levels... there is no indication that Catholic schools are outperforming.

It's in fact at the middle range or even lower than the middle range. It is difficult to educate kids in the inner city. Clearly there is tremendous evidence that Catholic schools are outperforming public schools. And certainly, if you do it on any kind of assessment that is, they're doing a better job, an even better job considering that they spend far less per pupil than the public schools. I came to that conclusion partly as a

result of doing research. But the reason I did some of the research and looked into the data was because it just occurred to me as I walked around my own neighborhood that there is a whole other school system there that almost no one in the mainstream media and even among the journals that I usually write for, was really writing about. As I became disillusioned with certain aspects of the public school system it just naturally occurred to me, well, lets take a look at this other system and see what I can learn and what conclusions we can draw about why the public schools aren't doing as well.

Louis Giovino: What did you discover specifically about Catholic schools?

Sol Stern: What amazed me was what you could do with very little money if you had the dedication, the sense of mission, if you had the structure...if you had the right to create a real sense of order in the school and hold students accountable for their behavior, and instill some very basic ideas, which we have lost in public schools—what is good character for young people growing up, what's acceptable and not acceptable.

Louis Giovino: What could you see in Catholic schools that could be adopted by public schools?

Sol Stern: [First] the absence of the kind of crippling work rules that now pervade the public school system. Second, the Catholic schools principals have a tremendous amount of autonomy. And the third most important—kids can't learn if there's no order, if there are no clear rules about what's permissible and not permissible in a school environment

Louis Giovino: Turning to the issue of vouchers. Vouchers and tuition tax credits, of the two, which one would you support?

Sol Stern: I would say whichever gets the job done. I don't have any ideological preference. I think tuition tax credits

now in Florida are working real well, on the other hand, vouchers are working pretty well in Milwaukee. In my view it is a civil right, and if that can be done by giving the parent after the fact the amount of money that covers either all or part of the tuition in any private or parochial school through the tax system, that's fine. If it's done directly through a voucher, that's fine. As long as kids are getting out and you are creating a dynamic of competition. We can get to that, but that's the other issue of why I favor vouchers, it's not just for the kids getting out of a terrible situation, but it's also the effect on the public school system itself.

Louis Giovino: Now from your experience dealing with all this, have you seen anything specifically anti-Catholic from the unions?

Sol Stern: Of course. Absolutely. I say that in the book. Look, we know historically that the very development of the current public school system starting in the mid-nineteenth century was aimed against the hated Catholic Church and the new immigrants. Horace Mann, who is credited with developing the very idea of the common school, said it openly. So did the person who is credited for creating the New York City public school system at the turn of the century, Professor Nicholas Murray Butler of Columbia. He represented a group of elite Protestant political leaders in New York that wanted to make sure that the public schools had one clear system for educating the immigrating kids in the values of a secular society.

Louis Giovino: We know historically there has been prejudice against Catholics. Do you have any examples today?

Sol Stern: I get comments like this all the time. Look, I live on the Upper West Side and for me coming out for vouchers was an act of betrayal for many, many so-called progressives. One of the reasons that they were very hostile about this issue was this idea that vouchers would undermine the public school

system. They were very committed, devoted to the public school system. I have no problem with that. But clearly, in comments that were made to me, there was also this suspicion and hostility to the Catholic school sector, to the values that are taught in the Catholic schools, on all of the social issues. These are people, liberals, on issues such as abortion and gay rights and multiculturalism. They view the Catholic schools as a kind of bastion of regressive social policies. I think they are wrong. I understand that they have their positions, the liberal positions on these social issues. But they're just wrong to want to deny the kids the right to a decent education because of their hostility to the Catholic Church on all these other questions.

Louis Giovino: Within the Christian community, especially the Evangelical Protestants, first they were against vouchers and now they are for them. Do have any comments on that?

Sol Stern: I think it's a phenomenon of disenchantment with the public school system and they realize that the public schools have, in their view—and to some extent I agree with them—have gone off the deep end in terms of some of the values we have just talked about. You can hardly mention God in the public schools, but of course you could have a curriculum that is quite friendly to gay rights and gay liberation. So the Protestants, the evangelicals as you referred to them, are also sensing that need for exit, to be able to basically vote with their feet, their kid's feet. To be able to say, "Look, this is not the kind of character training that I want for my child, and I want the right to have my child allowed into an educational institution which meets my needs as a parent for development of his or her character." And so, there is some support there, you are right, for the idea of vouchers.

Louis Giovino: What do you think about the prospect of Jews getting on board with vouchers?

Sol Stern: You do now have the Orthodox Jewish community

supporting vouchers or tax credits of some kind because, of course, they see an advantage for them and they run their own school systems. For the rest of the Jewish community, both religious and secular, for those who are affiliated even with conservative or reform, and those who are non-affiliated and not really religious Jews, there is, again, a traditional fear on the church and state issue. Jews define their assimilation and integration and acceptances as Americans in terms of the model of complete separation of church and state—of the whole idea of religion being a very private matter. And historically, that's been their position and one of the reasons why none of the major Jewish organizations support vouchers.

Louis Giovino: You see the irony that the same people who want to sanitize religion from the public square are the same people who are against school choice. Can you comment on that? Is there anti-Catholicism behind that?

Sol Stern: Yes. Again, this is a complicated question. I think there are people who have legitimate questions about vouchers and they are worthy of debate. So, you have to distinguish. On the other hand there are people...that are just hostile to the idea of religion absolutely. They see this as a way of strengthening what they regard as a kind of pernicious influence of religious institutions over the minds of kids. And so it's hostility, and in some cases bigotry against religion and particularly Catholic religion. They don't want kids under the influence of the local parish. They much prefer them under the influence of the local ACLU or the local gay rights movement which clearly these institutions have a kind of entrée in the public schools and many of their values.

Inside the Belly of the Beast: Catholic Studies at Public Colleges and Universities

by Joseph A. Varacalli

(Catalyst 9/2002)

Today, institutions of higher education are major generators of socially dominant ideas, images, and fashions. As sociologists might say, they are major “agents of socialization.” Empirically speaking, public higher education is almost exclusively—at least in the humanities and social sciences—an agent for the promotion of politically left-wing secular thought.

It should come as little surprise that any philosophy or worldview like Catholicism that qualifies or limits an uncontested understanding of individualism—that, in essence, concurs with John Paul II’s claim in *Veritatis Splendor* that any legitimate exercise of freedom must be oriented to objective truth and sound morality—is going to be subject to prejudice and discrimination within a public higher educational system characterized by a secular monopoly. That no other institution in contemporary American society is subject to the same degree of sustained hostility and rejection as is the case with the Catholic Church can actually be viewed as a sort of backhanded compliment.

Some of the anti-Catholic prejudice and discrimination encountered on the public college campus will be blatant and obvious and others will be less so. All students will be subject, from time to time, to some sort of anti-Catholic bigotry on a campus-wide basis, much of it of a crude and

shameless nature. Perusing through the annual *Reports on Anti-Catholicism* published by the Catholic League for Religious and Civil Rights makes this perfectly clear. The annual reports are replete with examples that, through various campus venues, blaspheme, mock, denigrate, and distort all aspects of the Catholic faith: plays (e.g. "Sister Mary Ignatius Explains It All For You," "Corpus Christi"); art exhibits; student newspaper editorials, stories, cartoons; radio programming; and college-wide lectures, forums, and conferences.

Regarding many humanities and social science classrooms, students may well encounter many outrageously false and slanderous historical claims made against the Church and the Catholic population. They may hear the claims that Pope Pius XII conspired with the Nazis to murder Jews; that Christopher Columbus was primarily responsible for the genocide of native American Indian groups; that ethnic working-class Catholic "hard-hats" are naturally bigots and racists; that the Bishops of Catholic America want to "impose their (male) morality" on women denying them their alleged "right" to abort children within the womb; and that "homophobic" orthodox Catholics are responsible for the deaths of those AIDS victims who contracted the disease engaging in homosexual activity.

Students may very well encounter the argument that a Catholic-inspired Western civilization is a generator of cultural death. There is also the likelihood of important Catholic (and Christian and other religious) thinkers being under-represented, not represented or distorted in much of the literature that students are expected to master. Reference here can be made to the important content analysis of school textbooks conducted by New York University psychologist Paul Vitz. Even when the official educational philosophy of a public college is supposedly inclusive "multiculturalism," there is an excellent chance that there will be no distinctively Catholic contribution to the curriculum due to, variously, the alleged implications of the "separation of

church and state," ignorance of the Catholic intellectual and moral contribution, or simply, outright bigotry. (In many Catholic colleges, the "new" Catholic studies programs intended to keep Catholicism alive on campus will very possibly be staffed by the same type of progressive Catholic scholars who were responsible for the internal secularization of the college in the first place).

There are many ways by which the Catholic tradition contributes to the legitimate calling of the academy. For one thing, the universal thrust of the Catholic sensibility breeds within its faithful adherents a sense of obligation to pursue the truth courageously in a non-politically correct manner and to be fair-minded and even-handed to the student body and others in one's dealing in the academic community, regardless of philosophical commitment. Secondly, Catholic scholarship serves as an important corrective to overly narrow and specialized research and teaching, advocating what might be termed a "realistic interdisciplinary" approach encouraging honest intellectual exchanges between and among the natural sciences, social sciences, humanities (including, prominently, philosophy), and theology.

Thirdly, this correction to over-specialization also entails a movement toward a hierarchal integration which restores philosophy to its proper "command post" position in the scholarly enterprise. Fourthly, in "spanning the ages," Catholicism's memory brings with it the insights of many cultures and historical ages and, as such, helps one to escape the "tyranny of the present" and, conversely, to appreciate the fact that tradition can be dynamic and relevant to the modern age. Fifthly and finally, Catholic social thought brings to the academic plate a host of important natural law concepts (e.g. subsidiarity, solidarity, personalism, the universal purpose of goods) and philosophical anthropological claims regarding the inherent nature, freedom, and responsibility of human beings as social creatures.

It is precisely because it is vitally important for American civilization that Catholics bring the insights of their intellectual and moral heritage to the public square, that I established a Center for Catholic Studies at Nassau Community College of the State University of New York system of higher education (NCC is the largest community college in the nation). Culturally, for one thing, the official educational philosophy of the College had been for some time that of multiculturalism. Structurally, this had led to the creation of academic programs, in varying degrees of comprehensiveness and complexity, in African-American studies, wo-men's studies, Jewish studies, Italian American studies, and Latino studies, to name the most prominent examples.

There were some college trustees who I believed (correctly) would be receptive to my proposal. I was also a tenured, full professor, with all the security and freedom that such a status entails, and also with a long list of publications and other accomplishments in the areas of Catholic studies and the sociology of religion. I believed that there would be some professors, non-Catholics included, in the college with the courage and integrity to support the idea and assist its implementation. Again, this was a useful assumption. I had at least one strong supporter on the State-wide S.U.N.Y. Board of Trustees. Another secular university, the University of Illinois at Chicago, was also starting up a Catholic studies program, making my proposal a tad less "startling."

Despite grumbling from some faculty and some initial ambivalence from key administrators (in fairness, understandable, given the radicalness of my proposal vis-à-vis the reigning norms of the secular academy), the NCC Center for Catholic Studies was established during the Fall, 2000 semester with myself appointed as Director. The previous summer was spent in fruitful meetings with the Academic Vice-President in which it was agreed that the purpose of the Center was academic and intellectual and concerned with

demonstrating how the tradition of Catholic social thought could contribute to the scholarly activities of the college, including debates concerning public and social policy. Conversely put, it was agreed that the Center was not intended to be an agent for evangelization and its focus was not to be catechetical in nature. Furthermore, it was agreed that, while the College would selectively subsidize the Center's activities, the intent was that the Center would come close to financial self-sufficiency.

Two years later and having withstood a challenge made by a "separation of Church and state" group to the Chancellor of the State University of New York, the NCC Center for Catholic Studies is doing better than most, including myself, could have reasonably expected. As of June, 2002, the Center had raised over \$22,000, spending approximately half that amount to pay for a host of academic activities open to all, and most of which are free of any charge, taking place on the campus. The Center has sponsored two major conferences, both attracting an audience in excess of two hundred participants.

Another major accomplishment was the sponsoring of a debate on school choice that attracted a group of well over one hundred and that has been frequently aired on the public access educational channel of the local Cable Vision television network. The Center has also offered a Friday afternoon seminar on "Aspects of Catholic Social Thought;" a "Club Hour" series of lectures geared specifically to the student body; a series of non-credit Continuing Education courses and lectures (the only Center activities requiring a fee, and a modest one at that); two rounds of interviews on a radio program that I host, "The Catholic Alternative" which is aired on the college radio station as well as a series of evening lectures.

I have no sure sense of what the future will hold for the NCC Center for Catholic Studies. So much depends on events and developments outside of my control—in the College, surrounding community, in the Church and society-at-large, and with my

family obligations and other personal issues and concerns. What I do know is that the Center's activities—humble as they surely have been to date—have served Nassau Community College, the student body, and the outside community well. Perhaps ultimately the greatest legacy will be that the very existence of the Center inspires other Catholic scholars in public colleges and universities to start their own Catholic studies centers and programs where, perhaps, they can do even more extensive good for academia and society.

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Anti-Catholicism and the History of Catholic School Funding

by Robert P. Lockwood

(2/2000)

The debate over the use of public funds to assist in the education of Catholic schoolchildren has a long – and sometimes violent – history in the United States. While Catholics themselves have been divided on the necessity of such assistance and where it might lead, the issue itself has been a flash point for public, legislative and judicial anti-Catholicism for over 150 years.

While many assume prohibition of aid to Catholic schools or voucher programs to Catholic school parents to be a question of constitutional interpretation of the First Amendment Establishment Clause, the history of Catholic school funding questions is essentially rooted in America's unhappy history of anti-Catholicism. Unfortunately, that anti-Catholic heritage has become entrenched in judicial interpretations and public policy. The point of this report is not to argue whether specific proposals for vouchers, tuition assistance, or direct aid to Catholic schools are good – or bad – public policy. However, it is the point that forbidding aid to Catholic school children or to the parents of Catholic school children is, no matter how such actions might be interpreted, a remnant of 19th century anti-Catholic and anti-immigrant prejudices.

Catholic schools began in the United States as a reaction against a growing publicly-funded school system that was essentially Protestant. In 1839, the American Bible Society announced its intention to make certain that the Bible was read in every classroom in America.¹ There was no disagreement in a country that was essentially Protestant. It was widely – virtually universally – held that education without a religious foundation in the Bible was no education at all. As Horace Mann of Massachusetts, the so-called “father” of the public school system wrote, “Our system earnestly inculcates all Christian morals. It welcomes the religion of the Bible; and in receiving the Bible, it allows it to do what is allowed by no other system – to speak for itself.”²

The Bible – specifically the King James Version – was seen in Protestant America as a universal document that stood above doctrinal divisions within Protestantism. Therefore, use of Scripture in public schools would be viewed as “non-sectarian,” meaning that interpretation of the Bible would not be prejudiced toward a specific Protestant denomination. The public schools would not be Presbyterian or Congregationalist.

However, use of the King James translation of the Bible accepted by all Protestants – and with underlying Protestant assumptions – would be the foundation of the public school system.

This became a key understanding in establishing very early in the history of American public schools the definition of “sectarian.” Today, when the word “sectarian” is used in a political or judicial environment, the connotation is religion in general. “Sectarian” would not have that meaning in the 19th century and in the development of the public school system and the laws – as well as the judicial interpretation – that derived from it. In that development, the word sectarian did not refer to a general Protestant outlook. It would mean, in the beginning, sects within Protestantism. Very quickly, however, sectarian would be narrowed to take on a more specific definition as the debate over public school funding began: Catholic.

The New York City Common Schools³

The evolution of the debate over school funding into an anti-Catholic movement was established in the battle over the “common schools” in New York City that began in 1840. The New York City schools at that time were funded by the state through the Public School Society. The Public School Society was “a benevolent association formed in 1805 to care for the instruction of children unable to attend religious or private schools.” A primary goal of the Society was “to inculcate the sublime truths of religion and morality contained in Holy Scriptures” and to assure that Bible exercises were included in the schools it controlled.⁴

By 1840, the Public School Society dominated the New York City schools by controlling the allocation of the common school fund allocated from the state of New York. Ascribing to its definition of “sectarian,” the Public School Society funded schools that were generically “Christian.” These were “common”

schools sharing in the “common” understanding of Protestant Christianity, rather than those operated by a specific Protestant congregation. The Public School Society would not fund schools sponsored by churches explaining, that “if religion be taught in a school, it strips it of one of the characteristics of a common school...no school can be common unless all the parents of all religious sects...can send their children to it...without doing violence to their religious beliefs.” Yet, the difficulty was that the schools they did fund were and had to be generically Protestant. It was accepted as a matter of fundamental pedagogy that a general Protestant understanding of Scripture and devotional life within the schools was central to the curriculum and to normal education. As such, the schools were subtle – and not very subtle – tools for evangelizing the growing Irish Catholic immigrant population to Protestantism.

Within the common schools in New York City – and elsewhere – daily scripture readings from the King James Version of the Bible were required. Prayers, songs and general religious instruction at odds with Catholic belief were the norm. Anti-Catholic sentiments extended throughout the curriculum with references to deceitful Catholics, murderous inquisitions, vile popery, Church corruption, conniving Jesuits and the pope as the anti-Christ of Revelation common place.⁵ In the face of such bigotry within the common schools, Catholic parishes had begun to develop their own Catholic schools in response. By 1840 in New York City, approximately 5,000 children attended eight Catholic schools. But at least 12,000 more Catholic children either attended no school, or were enrolled in the common schools where their faith was insulted daily.⁶

The firestorm began when William H. Seward, the newly elected governor of the state addressed the issue in a legislative message delivered in January, 1840. He recommended the “establishment of schools in which (immigrants) may be instructed by teachers speaking the same language with

themselves and professing the same faith.”⁷ In response, Catholic schools in New York City petitioned the common council for a share of the state school fund distributed through the Public School Society. The Society answered with a message that resonates with today’s rhetoric. It argued that by funding Catholic schools, money would be dissipated and that “sectarian” Catholic education would replace the common schools. The common council agreed and the Catholic petition was denied.

It was then that Bishop John Hughes of New York stepped into the picture. “Dagger John” as he was aptly called had been named coadjutor bishop under the ailing John DuBois in 1838 and he would formally succeed to the See in 1842. But by 1840, Bishop Hughes was in command and would take a far more confrontational approach to the question of school funding than his predecessor.⁸ Blasting the Public School Society for corrupting Catholic children, Hughes submitted a renewed petition demanding Catholics be given a portion of the state funds for schooling. “The petition was answered by both the Public School Society and the Methodist churches of New York, the trustees of the society insisting once more that their teachings were non-sectarian and the Methodist clergy using the excuse to attack the Catholic version of Scripture as upholding the murder of heretics and an unqualified submission to papal authority.”⁹ In response, the Common Council scheduled a debate on the issue for late October, 1840. At the debate, Hughes represented the Catholic schools and spoke for three hours. The Protestant response covered two days and dealt primarily in anti-Catholic vitriol rather than the issues at hand. “Catholics were represented as irreligious idol worshippers, bent on the murder of all Protestants and the subjugation of all democracies. ‘I do say,’ one minister told the sympathetic galleries, ‘that if the fearful dilemma were forced upon me of becoming an infidel or a Roman catholic, according to the entire system of popery, with all its idolatry, superstition, and violent opposition to the Holy

Bible, I would rather be an infidel than a papist.'"10

The parameters of the debate were set and would be adhered to virtually to our own day. On the one hand, Catholics had been forced to set up their own schools because of the overwhelmingly Protestant nature of the public school system. As a result, they wanted a share of the public funding set aside for the general education of children. On the other hand, the public school system viewed itself as the only educational instrument for the "common" culture of America, a culture in the 19th century that was decidedly Protestant. The tools of argument in either case would be to employ anti-Catholic rhetoric and to equate "sectarian" with the Catholic schools.

In January 1841, the Catholic position was rejected overwhelmingly by the common council. Catholics had been put into a difficult position. In the public mind, Catholics appeared to be opposed to reading the Bible, rather than reading the King James Version with its decidedly anti-Catholic slant. It was an incomprehensible position to the 19th century Protestant mind and reinforced two centuries of anti-Catholic prejudice. "They demand of Republicans to give them funds to train up their children to worship a ghostly monarch of vicars, bishops, archbishops, cardinals, and Popes! They demand of us to take away our children's funds and bestow them on subjects of Rome, the creatures of a foreign hierarchy!"11 This would echo the lament 150 years later in an Indiana daily newspaper over the voucher issue with an editor complaining that his taxes would be used "to teach papal infallibility."12

Bishop Hughes continued to press the issue and with the support of Governor Seward (after a demonstration of Catholic strength at the voting booth) a bill was passed in the state legislature in 1842 which effectively ended the Public School Society's monopoly on New York City public education. Riots ensued and the home of Bishop Hughes would be stoned. Yet it

was a pyrrhic victory for Bishop Hughes. Even under the new legislation, control of the public schools effectively remained in Protestant hands through the school boards. When protests were made that reading of the Bible be prohibited as "sectarian," a new board of education dominated by Protestants responded that the King James Bible was simply not a sectarian book. Reading of the King James Version of the Bible would continue in those schools where Catholics did not hold political power; and Catholic schools would continue to be denied funding as sectarian institutions.

While rocks were thrown, violence was minimal in New York. Such was not the case in Philadelphia. In 1843, Bishop Francis Patrick Kenrick of Philadelphia asked the local school committee to excuse Catholic students from reading the King James Version and from daily Protestant exercises. When the school committee allowed Catholic students in the common schools to be allowed to read their own translation of the Bible, nativists claimed that this was merely the first step to an outright ban on Bible reading in the schools. With a growing anti-Irish sentiment already strong in the city, the dispute erupted in a violent series of riots in 1844 that saw the bishop flee the city, 13 people killed and five Catholic churches burned to the ground.¹³

The Know Nothings and the Development of Blaine Amendments

"As the Catholic population in the United States grew, 'sectarian' took on an even more precise, and more pejorative, meaning. In response to the waves of Catholic immigration in the 19th century, Nativist groups such as the anti-immigrant Know Nothing Party grew in size and political power. These groups sought to insure the ascendancy of their view of the common religion of the United States in the common schools and keep out 'sectarian' competition, enacting measures such as requiring the reading of the King James Bible in public schools, and enacting measures barring any public funds to sectarian schools."¹⁴

The popular appeal of the Know Nothing Party prior to the Civil War was based on a growing anti-immigrant and anti-Catholic sentiment, fueled in no small part by the public school question. Catholics were considered illiterate and ignorant Irish immigrants. They were viewed as bible-burners eager to rob the public till to pass on their superstitious beliefs to a new generation. The Know Nothing Party combined nativism, anti-Catholicism, temperance and anti-slavery into a potent political force that would dominate in Northern state houses in the late 1850s. The remnant of the movement after the Civil War would coalesce in the Republican party and promote legislative attacks on Catholic schools that remained in force for a long time.¹⁵

As the Know Nothings gained power, they took particular aim at Catholic schools. In the 1854 elections in Massachusetts, they secured complete dominance in both houses and won the governor's office. "The Know Nothings adopted an amendment to the Massachusetts Constitution barring any part of the common school fund to be 'appropriated to any religious sect for the maintenance exclusively of its own school.' The amendment's proponents were open about their motives: 'Sir, I want all our children of our Catholic and Protestant population, to be educated together in our public schools. And if gentlemen say that the resolution has a strong leaning towards Catholics, and is intended to have special reference to them, I am not disposed to deny that it admits of such interpretation. I am ready to say to our fellow Catholic citizens: You may come here and meet us on the broad principles of civil and religious liberty, but if you cannot meet us upon this common ground, we do not ask you to come.'"¹⁶

"As one might expect with an organization created to decrease the political influence of immigrants and Catholics, Know Nothing office holders devoted the bulk of their energies to the implementation of their nativist agenda. And because Know Nothings believed that the surest method for guaranteeing the

supremacy of Protestant values in America lay in promoting Protestantism in the public schools, educational matters occupied a significant portion of their legislative agenda. Addressing Catholic attempts to end the use of the Protestant King James Bible in schools, Massachusetts Know Nothing lawmakers enacted a law requiring students to read that version of the Scripture every day. That legislature also approved an amendment to the state constitution that barred the use of state funds in sectarian schools. This, Know Nothings hoped, would make parochial schools financially unfeasible, forcing the children of Catholics to learn 'American' customs in the public schools."17 One curious aspect of the Know Nothing legislation in Massachusetts was that it prohibited racial discrimination. Though laudable, "blacks were Protestant and native-born and posed no threat to the predominant Protestant curriculum that Know Nothings found so important."18

In their anti-Catholic zeal, the Know Nothings of Massachusetts also passed a "nunnery inspection" law that included Catholic schools. Committees were to investigate certain unnamed "practices" allegedly taking place within these Catholic institutions, a common enough belief based on decades of popular anti-Catholic literature boldly proclaiming immoral activity and "white slavery" conditions in convents. "The so-called Nunnery Committee undertook three special investigations – one at Holy Cross College in Worcester, another in a school run by the Sisters of Notre Dame in Lowell, and a third at a school in Roxbury operated by nuns of the same order. The investigation at Roxbury was particularly offensive, as some two dozen men suddenly appeared at the school, announced they were on state business, and proceeded to tramp through the building. They poked into closets, searched cellars, intimidated nuns, frightened the children—and found nothing incriminating."19 When newspapers protested, the Committee responded that surprise visits were necessary because "priests imprisoned young nuns in convents

against their will.”²⁰

In the era after the Civil War, anti-Catholic fervor over the school question coalesced in the movement to legislate so-called Blaine amendments into state constitutions. It would be these amendments that codified the nativist identification of “sectarian” with Catholic. These amendments would not be applied to Protestant religious activities in public schools.

President Ulysses S. Grant (1868-1876) was well known for his Know Nothing sympathies and had belonged to the party prior to the Civil War. His vice presidents, Schulyer Colfax and Henry Wilson, had been leading members of the Know Nothings.²¹ In 1875, President Grant called for a Constitutional amendment that would mandate free public schools and prohibit the use of public money for sectarian schools. (An interesting proposal in that it assumed that the Constitution as written would not ban the use of public funds for sectarian schools.) It was clear that Grant’s concern was rooted in his anti-Catholicism, fearing a future with “patriotism and intelligence on one side and superstition, ambition and greed on the other” which he identified with the Catholic Church. Grant called for public schools “unmixed with atheistic, pagan or sectarian teaching.”²² The assumption would be that these free public schools would be Protestant in nature and that no public funds would be used for sectarian – Catholic – schools.

Senator James G. Blaine of Maine had proposed such an amendment to the Constitution in 1874. It read, in part: “No money raised by taxation in any State for the support of public schools, or derived from any public source, nor any public lands devoted thereto, shall ever be under the control of any religious sect, nor shall any money so raised or land so devoted be divided between religious sects or denominations.”²³

The amendment was defeated in 1875 but would be the model incorporated into 34 state constitutions over the next three

decades. They have come down to us today. "Thirty-one states presently have Blaine amendments, or amendments derived from the Blaine formula, in their constitutions forbidding state aid to Catholic schools."²⁴ These "Blaine amendments" are clearly illegal under the Federal constitution. Drafted on the basis of anti-Catholic prejudice, they are aimed at a single class of citizens. The "protestant paranoia fueled by waves of Catholic immigration to the U.S. beginning in the mid-nineteenth century, cannot form the basis of a stable constitutional principle. And the stability of the principle has been undermined by the amelioration of those concerns. From the advent of publicly supported, compulsory education until very recently, aid to sectarian schools primarily meant aid to Catholic schools as an enterprise to rival publicly supported, essentially Protestant schools."²⁵

Historian David O'Brien concluded that with the Blaine amendments to state constitutions, "the outcome of the great Bible war, then, was forecast in the New York fight four decades earlier: the secularization of public education and the ban on aid to church-sponsored schools."²⁶ But the reality in the 19th century and virtually the first half of the twentieth century was far different. As noted above, the New York battle did not end Bible reading or Protestant services in public schools in New York City. Long after states adopted Blaine Amendments – well into the 20th century – public schools routinely conducted such services and identified themselves by a generically Christian environment. They would only begin to become secularized, and then only in urban America, in the 1930s with the influx of the new professional public educators inculcated with the teaching philosophy of John Dewey. Even at that point, the impetus for such secularization came from the teaching community and not through judicial or legislative mandate.

Blaine Amendments themselves were squarely aimed at Catholic schools and never interpreted to apply to public schools that

were viewed as legitimately Protestant and reflecting that "Protestant hegemony." "Court decisions of the late 19th and early 20th century demonstrate well the targets of Blaine Amendments. They routinely held that the prohibition on funding 'sectarian' schools did not prohibit funding public schools that were religious, only schools with religions that conflicted with the common Protestant hegemony. As one court observed, 'It is said that the King James Bible is proscribed by Roman Catholic authority; but proscription cannot make that sectarian which is not actually so.'"²⁷ That ruling was by a Colorado court in 1927. In a 1903 Nebraska court ruling it was stated that state constitutional prohibition against sectarian instruction "cannot, under any canon of construction which we are acquainted, be held to mean that neither the Bible, nor any part of it, from Genesis to Revelation, may be read in the educational institutions fostered by the state."²⁸

In general, the Courts paid little attention to Catholic schools themselves. As long as the Church was not attempting to secure the use of public funds, the schools were left alone by the judiciary. However, in 1922 the state of Oregon, under Ku Klux Klan pressure, passed a law requiring that all children between the ages of eight and sixteen attend the public schools. The law was challenged by the nuns who operated Catholic schools in Oregon. The case ultimately made it to the Supreme Court. It declared the law unconstitutional. If nothing else, it guaranteed that at least Catholic schools were allowed to exist as it affirmed "the liberty of parents and guardians to direct the upbringing and education of children under their control."²⁹ In 1949, Father William McManus appeared before the House Committee on Education and argued that "every school to which parents may send their children in compliance with the compulsory education laws of the State is entitled to a fair share of the tax funds." He stated that in accordance with the 1925 decision in Oregon, parental rights of choice in education had to be both respected and protected.³⁰

After World War II Catholics had once again begun to seek public aid for schools while, concurrently, the public schools themselves began the movement from essentially Protestant entities to secular institutions. The secularization of public schools in the second half of the 20th century is not germane to this report except to note that this was not simply a result of mandates from the courts. For well over a century, courts had routinely ruled in favor of the generally Protestant nature of the free public school system and assumed that the meaning of “sectarian” referred specifically to Catholic schools. The secularization of public schools was far more a result of new educational theories and the judicial activism of later courts.

In the post-war years, the Supreme Court began to move aggressively to apply the Establishment Clause to issues of school funding and to base their findings on the “sectarian” nature of the entities involved. In Everson v. Board of Education in 1947, the Court upheld the constitutionality of a New Jersey law allowing free school bus transportation for parochial school students. Yet the Everson decision was critical. “For the first time, the Supreme Court read into the due process clause of the Fourteenth Amendment the First Amendment’s non-establishment clause.” While the busing statute was upheld because the primary beneficiary was the children, opinions “in the case set the direction for the future.”³¹ In applying the Establishment Clause, the Court moved quickly to complete the secularization of public schools so enamored by the new class of professional educators. At the same time, the “sectarian” – or Catholic – nature of a private institution was the determining factor in rejecting any public aid, even when such aid was directed to the children or the parents.

Following the Everson precedent in 1971, the Supreme Court addressed the issue of aid to Catholic schools – or Catholic educators, parents and children – as a violation of the

establishment clause. The Court used the notion of "sectarian" from legislation drafted in a period of virulent anti-Catholicism and applied it directly to the issue. In a series of rulings on the issue, the Supreme Court would go so far as to reference essentially nativist, anti-Catholic material in defining the pervasively sectarian nature of Catholic schools. In Lemon vs. Kurtzman, where the court struck down state legislation permitting supplementary salary payments to parochial school teachers, Justice William Douglas quoted Loraine Boettner's *Roman Catholicism*, a virulently anti-Catholic book. (Among quotes in Boettner's book: "The lesson of history is that Romanism means the loss of religious liberty and the arrest of national progress.") Justice Douglas' concurrence in Lemon vs. Kurtzman reads like a Know Nothing commentary: "In the parochial schools Roman Catholic indoctrination is included in every subject. History, literature, geography, civics and science are given a Roman Catholic slant. The whole education of the child is filled with propaganda. That, of course, is the very purpose of such schools...That purpose is not so much to educate, but to indoctrinate and train, *not to teach Scripture truths* (emphasis added) and Americanism, but to make loyal Roman Catholics."³¹ Justice Douglas was essentially making the same arguments as the Public School Society of New York in the 19th century.³²

Following these 1971 decisions, courts utilized the nearly farcical procedure of focusing questions of public aid through the prism of the visible sectarian nature of the Catholic institution in question. Crucifixes on walls, mission statements involving faith, even trophies from Catholic sports leagues publicly displayed became part of judicial evidence. In December, 1999, Judge Solomon Oliver, Jr. declared a four-year-old voucher test in Cleveland, Ohio unconstitutional. He called the program "government-supported religious indoctrination" because of the 56 schools involved in the program, many are Catholic. He cited in his ruling that a

mission statement in one Catholic school involved the objective to “communicate the gospel message of Jesus.” Another school asked students to “contribute a nominal amount for membership in the Society for the Propagation of the faith.”³³

As noted in the 1999 amicus curiae brief to the Supreme Court by the Becket Fund for Religious Liberty, the “origins of the inquiry into a school’s ‘sectarian’ character are found not in the history of the establishment clause, but in a dark period in our history when bigotry against immigrants – particularly Catholic immigrants – was a powerful force in state legislatures. To policy-makers in the mid-19th century, ‘sectarian’ did not mean the same thing as ‘religious.’ It was instead an epithet applied to those who did not share the ‘common’ religion taught in the publicly funded common schools.” “Sectarian” meant Catholic and, as the amicus curiae brief concludes, “It is an unhelpful analytical category and an epithet with a reprehensible past.”³⁴

SUMMARY POINTS

- The history of Catholic school funding questions is essentially rooted in America’s unhappy history of anti-Catholicism
- Catholic schools began in the United States as a reaction against a growing publicly-funded school system that was essentially Protestant
- The King James version of the Bible was viewed as a universal document that stood above doctrinal divisions within Protestantism and could not be considered “sectarian”
- The term “sectarian” referred initially to sects within Protestantism
- Sectarian would be narrowed to refer to Catholics
- “Common schools,” the forerunner of the public schools, were meant to provide a “common” understanding shared by

Protestant Christianity

- A general Protestant understanding of Scripture and devotional life within the schools was central to the curriculum in the “common schools”
- Anti-Catholic sentiments extended throughout the curriculum of the “common schools”
- Catholic schools were refused funding because they were defined as “sectarian”
- As Catholics had been forced to set up their own schools because of the overwhelmingly Protestant nature of the common school system, they requested a fair share of the public funding set aside for education
- The public school system viewed itself as the only educational institution for the “common culture” which was defined as Protestant
- Public funding of Catholic schools was attacked primarily through anti-Catholic rhetoric and by defining Catholic schools as “sectarian”
- The Know Nothing Party enacted legislation that would guarantee the supremacy of Protestant values in the public schools and deny funding to Catholic schools in order to make them financially unfeasible
- After the Civil War, anti-Catholic sentiment coalesced in the movement to legislate so-called Blaine amendments within the states. Within three decades, 34 states had passed Blaine amendments to their constitutions
- Blaine amendments codified the nativist identification of “sectarian” with Catholic
- Blaine amendments would not be applied to Protestant religious activities in public schools
- Blaine amendments are clearly illegal under the Federal constitution as they were drafted on the basis of anti-Catholic prejudice and aimed at a specific class of citizens
- Aid to sectarian schools primarily meant aid to Catholic schools as an enterprise to rival publicly-supported, essentially Protestant schools

- Court decisions of the late 19th and early 20th century clearly demonstrate that Catholic schools were the target of Blaine amendments and public schools were expected to be part of the Protestant hegemony
- When the Supreme Court began to apply the Establishment Clause to the issue of public aid to Catholic schools, it utilized the notion of sectarian derived from legislation drafted in a period of virulent anti-Catholicism
- The origins of the inquiry into a school's "sectarian" character are found not in the history of the Establishment Clause, but in a dark period in our history when bigotry against Catholic immigrants was a powerful force in state legislatures
- "Sectarian" is an unhelpful analytical category and an epithet with a reprehensible past

FOOTNOTES

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2David O'Brien, Public Catholicism (Macmillan Publishing Company, 1989). Cited on p. 44

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4 Billington, p. 143.

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7 William H. Seward, Works. Cited in Billington.

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30 James Hennesey, S.J., American Catholics, A History of the Roman Catholic Community in the United States (Oxford University Press, 1981) p. 297

31 Ibid, p. 299

31 Mark J. Hurley, The Unholy Ghost, Anti-Catholicism in the American Experience (Our Sunday Visitor, 1992) p 187.

32 For an excellent analysis of the current state of school voucher and funding questions see Joseph P. Viteritti, Choosing Equality, School Choice, the Constitution and Civil Society (Brookings Institute Press, Washington D.C.)

33 Columbus Enquirer, "Vouchers unconstitutional, judge rules," by Michael Hawthorne. December 21, 1999

34 Becket Fund, p. 23

Religious Liberty and the Public Schools

by Robert P. George

(Catalyst 10/1999)

The following is an edited version of a statement made by Robert P. George before he left his post on the U.S. Commission on Civil Rights last year. It is an important commentary on the state of religious liberty in our public schools and it is one that deserves a wide audience. Dr. George is McCormick Professor of Jurisprudence at Princeton University and is a member of the Catholic League's board of advisors.

On July 12, 1995, President William Jefferson Clinton publicly directed the Secretary of Education, Richard Riley, and the Attorney General, Janet Reno, to provide each school district in America with a copy of the "Guidelines on Religion in the Public Schools." The president emphasized that it was important for everyone, including school administrators, to realize that "the First Amendment does not convert our schools into religion-free zones."

The hearings which the U.S. Commission on Civil Rights has held on this issue

were designed to examine whether the religious liberty rights of students and teachers were, in fact, being protected. Sadly, we found that in many respects our public schools have, indeed, been converted into "religion-free zones."

The problem is not merely one of lack of information. The Guidelines have been sent, on two occasions, to every school district in America. The problem is one of commitment—a lack of commitment to respect the religious civil rights of

students and teachers as seriously as we respect other civil rights.

For instance, while I applaud the Secretary of Education for distributing the Guidelines, I must note that very little has been done to make sure the Guidelines actually reach teachers, students and their parents. The Department of Education (DOEd) has not gathered statistical or other information regarding even, the preliminary question whether the Guidelines have been distributed by the school superintendent, nor have they gathered information about the more important question whether the public schools are, or are not, complying with the Guidelines.

I have heard no credible excuse for this from the DOEd. Surely, such a massive bureaucracy, which reaches into public schools in numerous ways to protect other civil rights, could undertake this simple task without undue exertion or expense. Nor have I heard credible reasons why the DOEd does not undertake additional steps. Why does it fail to offer in-service training, or training videos, done by a balanced panel of experts, on the Guidelines?

Again, while both the president and Secretary Riley noted the importance of every school district using the Guidelines to develop its own district-wide policy regarding religious expression, what has been done, beyond mere exhortation, to encourage this? So far as I can tell, nothing has been done, except for the holding of three "summits" by Secretary Riley. I would say this hardly evidences a serious, sincere commitment to promote the distribution and usage of the Guidelines in developing district-wide policies in school districts across America.

This is all the more a shame because both the Secretary and the President note that using the Guidelines to develop a district-wide plan will also serve to build consensus and to identify common ground among members of the community before

rancorous disputes erupt. One of our witnesses, Charles Haynes of the First Amendment Project of the Freedom Forum, testified in detail about how this process can, and has, worked successfully, particularly in Utah and California, to bring communities together and to help the entire local community understand and respect one another and their First Amendment religious liberty rights.

Mr. Haynes and other witnesses also helped us identify one area in which there are still very serious problems, which go far beyond a lack of information. That area is the curriculum. As we learned, public school curricula across America do not, by and large, take religion seriously. Apart from brief treatment in the "history" portion of the curriculum, religion, and religious viewpoints, are simply ignored.

As one of experts, Warren Nord, told us, this is often the result of hostility to religion, not of mere ignorance. Indeed, as Mr. Haynes said, a truly "liberal" education would inform students about the full range of viewpoints and let them choose among them. In many schools, in the name of "neutrality," religious understandings of the world are simply excluded, while materialistic views are the norm. This simply must be changed, for if "neutrality" has any constitutional meaning, it surely means "fairness," and a fair presentation of religion and religious points of view in the curriculum is what is lacking.

Returning to the Guidelines, I must note strong disagreement with one portion of them. By saying only that, in light of the *City of Boerne v. Flores* case, students do not have a federal right to "opt out" of classes which students or their parents find objectionable for religious reasons, the Guidelines leave the misleading impression that no such right exists. However, such rights may, and probably do, exist under state law. And such a right is undoubtedly also protected under doctrines of parental rights, which were

conspicuously left unaffected in the area of education by the 1990 Supreme Court decision in *Employment Division v. Smith*.

The right to “opt-out” is highly important because, in my opinion, nothing plays a bigger role in driving students away from the public schools than a failure to recognize such a right. If the Secretary is correct that the right to “opt-out” is no longer protected by federal law, then I think it is imperative that Congress act to make it so.

As noted above, the Guidelines were issued by D0Ed in consultation with the Attorney General. As our nation’s highest law enforcement official, the Attorney General has, among many other things, the responsibility to enforce the law protecting religious freedom in the public schools. Yet, so far as we were able to determine during these hearings, there is NO ONE at the Justice Department (DOJ) who is charged with overseeing enforcement of the Equal Access Act. This Act, which is a prominent part of the Guidelines, guarantees that student “bible clubs” are given the same access to school facilities as are other non-curriculum clubs.

So far as we were able to determine, NO ONE in DOJ is responsible for apprising other federal agencies, including, significantly, D0Ed, about legal developments regarding equal access. Finally, in those places in which the federal government has the fundamental responsibility for education (for instance, on military bases), we have received no information that DOJ is ensuring that the Guidelines are being followed.

The point is sometimes made that the Equal Access Act provides for a private cause of action. But so do the federal securities laws; yet DOJ is active in ensuring that they are not violated. Why has DOJ failed to institute a single case against a school district where non-compliance with the Equal Access Act has been widespread? My point is this: other civil rights are not left solely to the resources of private

citizens to protect and defend. DOJ has the resources; it simply chooses to spend them otherwise.

One place where DOJ could start is the public school system in the state of New York. Problems, particularly concerning equal access, arise there regularly. Yet, so far as our witnesses told us, it does not appear that the school system has followed the recommendations of Secretary Riley and the President to make sure that the Guidelines are distributed beyond superintendents to teachers, students, and parents, and to encourage the development of district-wide plans based on the Guidelines.

Nor is in-service training provided. The New York State School Board Association, while filing briefs alleging establishment violations on several occasions, has not, so far as I could determine, even once filed a brief supporting a claim that religious free exercise is being denied.

I believe these hearings demonstrated that the Equal Access Act, where it has been observed, has been a success—all of our witnesses in Washington, for instance, agreed on this. Those witnesses were also unanimous, save one, in supporting the position that a religious club has the right to require that its officers espouse its beliefs. This is just plain common sense.

An organization which cannot insist that its officers espouse its constituting principles has ceased meaningfully to exist. I encourage Congress to make this right explicit in the statute. Also, given that all our witnesses agreed that the Act has worked well in high schools, Congress should consider making it explicit that it extends to “middle schools” and “junior high schools” as well.

The hearings did not, in my opinion, enable the Commission to examine in sufficient detail the problems faced by teachers regarding their own rights to religious freedom. We are not

speaking, obviously, of a teacher indoctrinating a student in the teacher's beliefs, but of a teacher having his own rights violated by the school system. In our Seattle hearing, we heard sufficient testimony to convince me that this is a significant problem, one which merits concern and examination.

In the years since the Guidelines were originally issued, it is clear to me that the federal government has failed to do enough to make sure that we move from rhetoric to implementation. In fact, so little has been done, that it encourages cynics who see the issuance of the Guidelines, far from being an attempt to ensure that religious rights are respected and religion is taken seriously, as a ploy to avoid a Constitutional amendment. One hopes the cynics are mistaken. However, the only way we will know is if the federal government takes serious steps to follow through on the statement of the President and Secretary Riley.

One thing our hearings surely demonstrated was that religious liberty currently is not sufficiently secured in our public schools, and that the public school culture has for too long regarded religion, contrary to the Constitution and to common sense, as an enemy. The opportunity to build common ground and to reach the mutual understanding has too often been squandered. I encourage public school officials to take the right to free exercise of religion as seriously as they take other civil rights, and to no longer treat it as a forgotten child of our Constitution.

Momentum Building for School

Choice

* *by Rick Hinshaw*

(Catalyst 9/1998)

"Courts no longer see religion as an allergen in the body politic." That's how Kevin Hasson, president of the Becket Fund for Religious Liberty, viewed the June 10 ruling by the Wisconsin Supreme Court upholding inclusion of religious schools in Milwaukee's school voucher program. Some might see such exuberance as a bit premature. The ruling will surely be appealed to the U.S. Supreme Court, and the powerful opponents of school choice—led by entrenched public school interest groups and self-appointed guardians of separation of church and state—are not going to give in without a fight.

Yet momentum is now clearly on the side of school choice. According to the Heritage Foundation, in 1997 "nearly 32 states considered a school choice program of some kind," and "at least 45 governors stated their support for different degrees of school choice or charter schools." Charter schools, public schools exempted from some of the regulations and union controls that can stifle innovation, offer parents a limited public school option. Vouchers offer a much wider latitude for parental choice, giving parents the right to designate which school—public or private—will receive the government funds allocated for their child's education. Four other states—Arizona, Maine, Vermont and Ohio—currently have voucher cases pending before their state Supreme Courts.

Some voucher plans, however, pointedly exclude religious schools, fearful of raising constitutional church-state issues. That's what makes the Wisconsin case so significant. "The robed justices in one of our more liberal states," wrote Maggie Gallagher in the *New York Post*, "solemnly declared: Religion doesn't have cooties, after all."

Government resistance to vouchers—or their exclusion of religious schools—have spawned an outpouring of private grants for school choice. By the end of 1997, Heritage notes, there were over 35 privately sponsored programs providing vouchers for nearly 20,000 low-income children—and over 40,000 parents had put their names on waiting lists for these scholarships. Sol Stern and Bruno Manno report in the Manhattan Institute's Summer 1998 *City Journal* that a group of philanthropists led by venture capitalist Ted Forstmann and Wal-Mart heir John Walton have "announced a \$200 million national fund" to provide education vouchers for 50,000 low income children. The success of many of these private initiatives has subsequently spurred more state and local governments to action.

Emblematic of the surge in support for school choice was the conversion of Long Island's *Newsday*, long an ardent foe of anything that even hinted at public support for religious education. In a June 21 editorial endorsing a trial for targeted vouchers in low-income communities, the paper embraced inclusion of religious schools. The editorial focused on some of the central issues cited by Heritage as fueling the drive for school choice: low test scores, level of safety, and lack of accountability among inner city public schools.

"Let's face it," *Newsday's* editors wrote. "City public school systems around the nation have shown they are not up to the challenge. If you examine the performance of public schools in most older urban centers, you will find decades of disaster and precious few success stories. From New York to Chicago to East St. Louis, Ill., urban schools have fallen smack on their faces when confronted with the poorest children."

In contrast, the paper cited St. Luke's (Catholic) Elementary School in a South Bronx area "where the median income is \$8,644 a year, where scores of children live in foster care and shelters, where upheaval and violence are a common feature of daily life." With a student body which is 77 percent Hispanic and 23 percent African American, "last year, 59

percent of St. Luke's third graders tested at or above the state minimum in reading, and the story gets better in later grades," *Newsday* noted. "Last year, 68 percent of its sixth graders were reading at or above the state minimum—compared with 40 percent at PS 65," the neighboring public school.

Clearly, the failures of inner city public schools account in great measure for the snowballing support for school choice among minority groups. A 1997 poll by Phi Delta Kappa, a professional education association, found that while 49 percent of the general population favor school choice, the figure is 62 percent among African Americans.

Yet a hunger for spiritual values is also evident—witness the outpouring of community support for the Bronx public school teacher fired for leading her class in a prayer. Profiled recently in the *Boston Globe*, theologian Thomas Groome, a foremost authority on Catholic education, cited such spiritual substance as the key to the popularity of Catholic schools among Catholics and non-Catholics alike.

"In general, as a system of education," Groome stated, "there is probably no more successful system in the history of humankind." While noting a wealth of empirical evidence that Catholic schools outperform public schools—particularly in educating children in low income communities—he says that the real strength of Catholic education is its emphasis on developing the student's soul and character, as well as intellect.

While academic and spiritual concerns have thus forged a strong school choice coalition, opponents remain adamant and formidable. It is "unconscionable," American Federation of Teachers president Sandra Feldman said of the Wisconsin ruling, "to give public funds to private religious schools for just a few students, when those same tax dollars could be put into proven, public school programs that would benefit every child in Milwaukee."

Newsday, agreeing "on principle" with that sentiment, nevertheless concluded that "something must be done to jolt failing schools from their complacency; vouchers for the poorest are worth a try." Rather than "destroy public education," a targeted voucher program "if it's done right...could force the public system to pull itself together." Milwaukee Mayor John Norquist recognized the value of competition in improving education, predicting that the city's voucher plan would improve the quality of its public schools because "the district won't be able to take kids for granted."

Ms. Feldman's suggestion that religious schools would serve "just a few students" hinted at the old canard that parochial schools are elitist. In fact, statistics consistently show that the demographics of most Catholic schools are consistent with those of the communities they serve—predominantly poor students in poor communities, middle income students in middle class areas, etc. And it is precisely the public school monopoly on tax dollars that prevents more poor families from choosing parochial schools. The Choice Scholarship program in New York City, columnist Cal Thomas noted, receives 22,000 applications each year for the 1,000 slots available, while there were 7,000 applicants last year for the 1,000 scholarships available through a similar program in the nation's capital.

The real private school elitists, then, are those who use their affluence to send their children to private school, while imposing government policies which deny poor parents the opportunity to make that choice.

Anti-Catholicism is an undeniable element of opposition to school choice. A glaring example was the June 20 letters page of the *Wisconsin State Journal*. Most of the letters attacking the pro-voucher court ruling were tinged with anti-Catholic bias. The most egregious, under the headline, "Turning state Capitol into Catholic Church," found it "ominous" that the majority of members on the state Supreme Court are Catholic,

and castigated "Wisconsin's Catholic governor, Tommy Thompson," for having "appointed so many Catholics to positions of power that the statehouse resembles a Catholic Club."

More subtle, but just as hostile to religious freedom in education, are those who invoke church-state separation. "Taxpayers shouldn't be forced to pay for religious schools," said Barry Lynn, executive director of Americans United for Separation of Church and State. "We are not throwing in the towel," he said. Phil Baum, executive director of the American Jewish Congress, saw a critical choice between preserving "the principle that the Constitution imposes stringent and special restrictions on government financing of religion," and "an uncharted course" which would "put at risk the religious liberty Americans enjoy."

Groome would differ. "When you look at the Constitution, at the Declaration of Independence, they presume great spiritual values" he told the *Boston Globe*. "The Founding Fathers presumed that the educational system would be grounded in great spiritual values."

It should be noted that American college students are already permitted to use government assistance for religious schools if they wish; and last time we checked, the Constitution was still intact. Beyond that, it is simply hard to fathom how allowing people to choose to educate their children according to their religious beliefs threatens their religious freedom. It would seem that the opposite is true: creating a public school monopoly on taxpayer funds for education deprives many people of modest means of the freedom to make religion an integral part of their children's formal education.

As the momentum for school choice grows, so do organizations working in each state to make it a reality. United New Yorkers for Choice in Education (PO Box 4096, Hempstead, NY 11551-4096; 516-292-1224) typifies such statewide efforts.

UNYCE works to pull together a diverse school choice coalition—Catholic school parents, other religious groups, inner city parents and community activists, and those who see competition as essential to academic excellence. While trying to promote school choice through various educational projects, UNYCE has also drafted a proposed voucher pilot program, similar to Milwaukee's, which would target several low-income communities.

A national organization of particular interest to Catholics is the Blum Center for Parental Freedom in Education (Marquette University, Brooks Hall, 209, PO Box 1881, Milwaukee, WI 53201-1881; 414-288-7040). The Blum Center is named for the late Father Virgil C. Blum, S.J., founder of the Catholic League, who was fervently devoted to the cause of parental choice in education.

Other national organizations who were instrumental in the Wisconsin victory were the Institute for Justice and the Landmark Legal Foundation.

Religious Expression in the Public Schools: Testimony before the U.S. Civil Rights Commission

by William A. Donohue

(5/20/1998)

Testimony of William A. Donohue, Ph.D., President, Catholic

League for Religious and Civil Rights before the United States Civil Rights Commission on May 20, 1998 during a Public Hearing on *Schools and Religion*.

I very much appreciate the opportunity to testify today on the subject of schools and religion. As president of the nation's largest Catholic civil rights organization, I am disturbed by the extent to which religious expression is treated as second-class speech in our schools. In addition, I am disturbed by the degree of tolerance for anti-Catholicism that too many school officials exhibit.

There is much talk these days about religious zealots who seek to ban books from school libraries. No doubt such persons exist. But no one seems to want to talk about the book banning that civil libertarians promote. For example, the ACLU has sued in the state of Wisconsin in an attempt to ban the book *Sex Respect*. Why? Because the book advocates abstinence and, as such, "promotes a religious perspective regarding the 'spiritual dimension' of sexuality." Books that promote condoms and abortion, however, are acceptable to the ACLU because they do not advance a religious perspective. This is what I mean by religious expression being treated as if it were second-class speech.

Something similar happened in California when the ACLU opposed a bill that promoted monogamy in the schools. The Union maintained that "teaching that monogamous, heterosexual intercourse within marriage is a traditional American value is an unconstitutional establishment of a religious doctrine in public schools." But the ACLU has no problem with schools that promote a radical homosexual agenda and that treat marriage as an alternative lifestyle. In short, sex education that advances a secular agenda is okay but it is not okay if world religions embrace a particular teaching regarding sexuality.

Just as bad are sex education seminars and workshops that disparage the Roman Catholic Church's teachings on sexual

ethics. It is one thing to address homophobia in society, quite another to single out Catholicism for derision; this is a problem that has increasingly come to the attention of the Catholic League.

When books such as *The Bible in Pictures* and the *Story of Jesus* are banned from school libraries, we hear nothing from either civil libertarians or those who profess an interest in separation of church and state. But when books that show disdain for Catholicism are assigned to students, for example, *The Old Gringo* and *Anastasia Krupnik*, we hear a chorus of free speech from the same quarters. Moreover, when courses on religion or the Bible are introduced, the guardians of liberty raise objections, as witnessed recently in Ohio and Florida.

Perhaps the most consistent complaints regarding religious expression in the public schools that come to the attention of the Catholic League revolve around Christmas celebrations. Not only is there widespread repression of religious speech every December, it is selective in nature: celebrations of Hanukkah are usually tolerated but celebrations of Christmas frequently are not.

Just last year, the Glen Cove School District on Long Island forbade the display of a crèche in the schools (it was donated by the Knights of Columbus) but allowed the display of a menorah. The year before, in Manhattan Beach, California, a public school removed a Christmas tree from school property after a rabbi objected that the tree was a religious symbol; however, the school allowed the display of a Star of David. In northern California, a school in Sacramento banned Christmas celebrations on the theory that Christianity "was not a world religion."

In 1996, the Catholic League threatened a lawsuit against the Millcreek Township School District in Erie, Pennsylvania when the school district prohibited students from creating artwork

that depicted a nativity scene for the annual "Holiday Card Contest." In the same year, candy canes were confiscated from students at a public school in Scarsdale, New York, even though no one has ever alleged that such treats were in any way religious. Indeed, the same school district even took the word "Christmas" off the spelling list; even green and red sprinkles on cookies, as well as cookies made in the shape of a bell or star, were considered taboo.

In 1997, in Mahopac, New York, Boy Scout students were barred from selling holiday wreaths at a fundraiser, even though a wreath is a secular symbol; Hanukkah gifts, however, were allowed to be sold at the school's own fundraiser.

In 1997, the Hillsborough Board of Education was more equitable in its bigotry: the New Jersey school board banned class parties for Halloween, Christmas, Hanukkah and Valentine's Day. In Albuquerque, New Mexico, Highland High School choir director Frank Rotolo tried to appease the politically correct police by agreeing to remove Christian songs from the Christmas Concert, and he even acceded to their demand that the concert's name be changed to "A Winter Concert," but that still didn't satisfy the appetite to sanitize the schools of religious expression: the choir director was suspended by the principal.

Last December, I confronted an attorney for New York City Schools Chancellor Rudy Crew regarding the practice of banning crèches in the schools while allowing menorahs. At first, she cited the 1989 *County of Allegheny v. ACLU* decision to buttress her case, but when I pointed out that that decision undermined her case—making the argument that the high court declared a menorah to be a religious symbol, not a secular one—she quickly retreated. Such ignorance strikes me as willful.

The Catholic League has even had to intervene in securing release time for students who were penalized for attending

religious instruction at night in lieu of participating in the school's concert.

The inequities cited are bad enough, but what is worse is the flagrant bigotry that Catholic students endure in some public schools. For example, in April, 1997, the art department at La Guardia High School in Manhattan authorized the distribution of fliers that depicted an image of the Sacred Heart of Jesus in a sexually explicit way. There was another artistic contribution that showed a sketch of a man with "HEBRO" written across his head and "EVIL JEW" scripted above the figure. An arrow was pointed at him by a man holding a large penis. The man comments "Jesus I got a present fo' yo' preachy ass!!" There were several other works of art that depicted Catholic schoolgirls in a vile way.

In 1997, Catholic students in Danville, California had to sit through the anti-Catholic movie, *The Last Temptation of Christ*; it was shown during Holy Week and when students complained about the explicit violence, sex scenes and bigotry, they were mocked by their teacher. The Catholic League has also encountered teachers and students in Middletown Township, New Jersey, who have had to endure anti-Catholic commentary in the school district's newsletter.

This spring, in Santa Fe, New Mexico, Catholic students were prohibited from wearing T-shirts with an image of Our Lady of Guadalupe on them. In a well-reported case, students in a Houston suburb were denied the right to wear rosaries to school. And who can fail to recall the abuse and heckling that Christian students endured at the hands of antireligious extremists in Kentucky, a situation that culminated in the deaths of three students at Heath High School in West Paducah?

In 1995, President Clinton released a memo on religious expression in the public schools that is commendable in its clarity. The problem is that his directive, like those of the courts, have been ignored with impunity.

Not until religious expression in the public schools is given the same respect and latitude that is accorded secular speech, will we resolve this problem. In the meantime, we need to end the discriminatory practice of barring the use of public monies to promote religion while allowing public monies to be spent bashing religion. Schools that are sued for allowing "Jesus Christ Superstar" but are told to back off when objections are raised to putting on "Oh! Calcutta!" need relief, and no one needs it more than the Catholic schoolchildren who suffer through these injustices.