SUPREME COURT AFFIRMS SCHOOL CHOICE

Catholic League president Bill Donohue comments on a high court decision today on school choice:

The U.S. Supreme Court, in a 5-4 decision written by Chief Justice John Roberts, ruled that a Montana school choice initiative that allows a tax-credit scholarship program to benefit religious schools is constitutional. The state program is voluntary and is funded through private donations. It allows a dollar-for-dollar tax credit to those who participate.

Chief Justice Roberts concluded that although no state is required to subsidize private schools, once it does "it cannot disqualify some private schools solely because they are religious."

The Montana law was challenged because it violated its Blaine Amendment; it denies state funding of religious schools. The original Blaine Amendment, named after Rep. James Blaine of Maine, was proposed in 1876, but was never passed at the federal level. It did, however, prevail in the states. Montana is one of 37 states that has this amendment in its constitution.

The Blaine Amendment was rooted in anti-Catholic bigotry. It was designed to force Catholic students to attend public schools, which at the time required students to embrace Protestant teachings and practices.

This decision does not resolve all school choice issues, but it finally breaks the lock that the public school monopoly has had on education. It will be denounced by the public school establishment and its unions: they reject all competition, including charter public schools.

The Democratic Party, and its new allies, Black Lives Matter, are strongly opposed to giving minority children from poor families the same options for school choice afforded rich white folks. So is the Ku Klux Klan.

In 1922, the Klan succeeded in pushing for an Oregon law that forced every child to attend a public school. Three years later, in *Pierce v. Society of Sisters*, it lost, in a unanimous decision, in the Supreme Court.

This may be a bad day for the Democrats, Black Lives Matter, and the Ku Klux Klan, but it is a good day for Catholics, and indeed people of every faith. It is a particularly good day for the Catholic League. Fr. Virgil Blum made school choice his number one issue when he founded the organization in 1973.

MAHER PROMOTES BIGOTRY WHILE CONDEMNING IT

Catholic League president Bill Donohue comments on the latest example of Bill Maher's hypocrisy:

On his June 26 show on HBO, Bill Maher made his case against racial bigotry by invoking his liberal credentials. "Liberalism should be about lifting people up," he commented. But he didn't mean it. He said this after he joked about priests giving ice cream to kids who have another agenda.

One reason why millions of Americans are unimpressed with all the breast-beating over racial injustice is because many of those who are voicing it cannot be taken seriously. Maher proved that Friday night. His liberalism does not allow him to lift up priests. No, his liberalism permits him to promote

anti-Catholicism.

It should be noted that Maher made his remark on the same day we learned that the number of substantiated allegations of abuse made against the clergy are now near zero. But evidence means nothing to bigots.

Contact Keith Cocozza, Exec. VP Marketing and Communications: Keith.Cocozza@warnermediagroup.com

---

DE BLASIO AND CUOMO GET CREAMED IN COURT

Catholic League president Bill Donohue comments on a judicial decision just handed down that is of utmost importance to people of faith:

Protesters can take to the streets, some violently, and that is okay by Mayor Bill de Blasio and Gov. Andrew Cuomo—the mob does not have to abide by social distancing rules—but religious New Yorkers cannot congregate in their houses of worship lest they imperil the public health.

Well, the jig is up.

U.S. District Court Judge Gary Sharpe issued a preliminary injunction on June 26 saying that de Blasio and Cuomo (as well as Attorney General Letitia James) exceeded their authority by putting restrictions on people of faith while simultaneously condoning the protests.

By allowing the protests, they were "encouraging what they knew was a flagrant disregard of the outdoor limits and social distancing rules." In doing so, de Blasio and Cuomo "sent a

clear message that mass protests are deserving of preferential treatment."

Two Catholic priests and three Orthodox Jews sued and won. They were represented by the Thomas More Society.

The Catholic League encourages people of faith to ignore all future restrictions placed on them by de Blasio and Cuomo. They exposed themselves as frauds when they gave the green light to thousands of protesters who took to the streets, night after night, while imposing draconian restrictions on the faithful. And they did nothing about those who totally ignored their responsibility to *peaceably* assemble.

De Blasio and Cuomo have lost the respect of practicing Catholics, Protestants, Jews, Mormons, Muslims, and those of every other religion. They got creamed in court, which is exactly what they deserve.

CLERGY SEXUAL ABUSE NEAR ZERO PERCENT

Catholic League president Bill Donohue comments on the latest data on clergy sexual abuse:

The United States Conference of Catholic Bishop' Secretariat of Child and Youth Protection has released its audit on clergy sexual abuse that covers the period July 1, 2018 – June 30, 2019.

During this time, there were 37 allegations made by current minors. Eight were substantiated, 7 were unsubstantiated, 6 were unable to be proven, 12 are still being investigated, 3

were referred to religious orders, and 1 was referred to another diocese.

Of the 49,972 members of the clergy (33,628 priests and 16,344 deacons), .07% (37) had an accusation made against them for abusing a minor. However, since only .016% (8) could be substantiated, that means that 99.98% of priests did not have a substantiated accusation made against them.

In other words, clergy sexual abuse is near 0%.

It is hardly surprising that the media are ignoring this story. The only stories about the Catholic Church that they see fit to print or air are those that put the Church in a negative light. That they wallow in dirt cannot be denied.

HUMAN RIGHTS BEGIN WITH RELIGIOUS RIGHTS

Catholic League president Bill Donohue comments on reaction to a State Department report on human rights that will soon be released:

Early next month, an important State Department report on human rights is expected to be released that will anger left-wing secularists and gay rights advocates. The Commission on Unalienable Rights, which was established by Secretary of State Mike Pompeo, is expected to give prominence to religious rights. That explains the backlash.

In a *New York Times* article by journalist Pranshu Verma, he cited several critics of the panel, some of whom served in previous administrations. They take aim at the commission for

not accepting the notion that “all rights are created equal,” and its insistence on recognizing our “God-given rights.” Harvard Law professor Mary Ann Glendon is singled out for saying, “if everything is a right, then nothing is.”

All rights can never be equal in application, otherwise it would be impossible to resolve instances when they conflict.

For instance, there is a conflict between our First Amendment right to free speech and our Sixth Amendment right to a fair trial. If we allow unrestricted rights for the media to cover a trial, that would impinge on the rights of those who are party to the proceedings. In England, they resolve this matter by denying media coverage; in the U.S., we allow media coverage, but it is restricted. The point is that if rights can conflict, their application can never be equal.

Solzhenitsyn, the great Russian freedom fighter, understood that conscience rights are the most important. It is one thing that eludes dictators—the right to believe what we want—and that right is inextricably tied to religious rights. Religious liberty, he reasoned, was the paramount right.

In this country, we honor the same line of thinking. In 2015, Justice Antonin Scalia, writing for the majority, said that “Title VII [of the 1964 Civil Rights Act] does not demand mere neutrality with regard to religious practice—that they be treated no worse than other practices. Rather, it gives them favored treatment….”

To say that we possess “God-given rights” is simply a restatement of the Declaration of Independence. It contains four references to God. It speaks of the “laws of nature and nature’s God”; of the “Creator”; of the “supreme judge of the world”; and of “the protection of divine providence.”

To maintain that “if everything is a right, then nothing is” is not debatable. The promiscuous distribution of anything of value—from money to rights—dilutes their worth. In the case of

rights, it ineluctably diminishes our interest in accepting our concomitant responsibilities. Indeed, we see this being played out right now by nihilists in the street.

We look forward to the report by this human rights panel. Its critics will get a much needed history lesson, and a tutorial on the Constitution, as well.

PROTESTERS TOPPLE STATUES OF ST. SERRA

Catholic League president Bill Donohue comments on protesters who destroyed statues of Saint Junípero Serra:

Smashing statues of American icons is all the rage among urban barbarians. Ignorant of history, they are destroying statues of those who were among the most enlightened persons of their time. This includes Father Junípero Serra. The 18th century missionary fought hard for the rights of Indians, and was rightfully canonized by Pope Francis in 2015.

A statue of Saint Serra was toppled in San Francisco's Golden Gate Park on June 19, and the next day another statue of the legendary priest was torn down at Placita Olvera in Los Angeles. Archbishop José Gomez of Los Angeles, who is also president of the United States Conference of Catholic Bishops, singled out Saint Serra for his compassion and his effort to establish rights for Indians and women.

In 2015, I published a booklet, "The Noble Legacy of Father Serra," that detailed his many accomplishments. In light of the attacks on him, it is worth recalling some of his heroics.

Serra got along well with the Indians. His goal, and that of the Franciscan missionaries whom he led, was not to conquer the Indians—it was to make them good Christians. The missionaries granted the Indians rights and respected their human dignity, quite unlike the condition of black slaves. The Indians appreciated their efforts, drawing a distinction between the missionaries and the Spanish crown: the former treated the natives with justice; the latter did not. The civil authorities were the problem, not the priests.

Contrary to the conventional wisdom, the missionaries did not eradicate Indian culture. Indeed, they learned the native language of the Indians and employed Indians as teachers. Some cultural modification was inevitable, given that the missionaries taught the Indians how to be masons, carpenters, blacksmiths, and painters. The Indians were also taught how to sell and buy animals, and were allowed to keep their bounty. Women were taught spinning, knitting, and sewing.

Archbishop Gomez is right to point out that Serra fought for the rights of women, as well. It was the missionaries who sought to protect Indian women from the Spanish colonizers. The Friars segregated the population on the basis of sex and age, hoping to safeguard the young girls and women from being sexually exploited. When such offenses occurred, Serra and his fellow priests quickly condemned them.

A total of 21 missions were established by the Franciscans, nine of them under the tenure of Serra; he personally founded six missions. He baptized more than 6,000 Indians, and confirmed over 5,000; some 100,000 were baptized overall during the mission period.

If the truth were told about Saint Serra, he would be heralded as a friend of the Indians, not as their enemy. But truth matters little to those whose hearts are full of hatred and whose minds are closed to reality.

CONGRESS MUST ACT ON RELIGIOUS INSTITUTIONS

Catholic League president Bill Donohue comments on why Congress needs to step up its game:

In response to the coronavirus pandemic, houses of worship have been closed down in most states for months, and in some cases they still are. Even those that are open are under strict restrictions that limit the number of people who can attend services. With few exceptions, the clergy of all religions have cooperated with the shutdown.

The churches, synagogues, mosques and temples have been hit hard, losing most of their expected revenue during this period. Religious schools have also taken a hit. Catholic diocesan schools, for example, are dependent on funding from their parish and diocese for support. Most are now in a precarious situation.

It is commonly said that with rights come responsibilities. The obverse is also true. Houses of worship were held responsible to the president, governors, and mayors in shutting down. The losses that they incurred cannot now be put aside.

The Small Business Administration, under the Trump administration, came through with the Payroll Protection Program, as incorporated in the Coronavirus Aid, Relief and Economic Security (CARES) Act, and it fortunately covered religious institutions. Whether there should be another bill, similar in nature, deserves serious discussion. In the meantime, Congress needs to up its game by helping Catholic schools.

Los Angeles Archbishop José Gomez is president of the United States Conference of Catholic Bishops, and what he recently said about Catholic schools would no doubt be supported by all his fellow bishops. He addressed the situation they are facing given the restrictions mandated by government.

“Parishes, shut down for three months, have lost millions in collection monies,” Gomez said. “Across the country, we see drop-offs in enrollments for next year, as families fear they will no longer be able to afford tuition.” He rightly stated that so many of the Catholic students who are served come from “minority and low-income families.” That they succeed in school is not debatable.

Archbishop Gomez notes that the U.S. Supreme Court will soon rule on the constitutionality of the so-called Blaine Amendments, legislation that bans public support for religious institutions. These laws were born in anti-Catholic bigotry, and are still operative in 37 states: they were designed to hurt Catholic schools.

Gomez maintains that “Congress and the White House cannot afford to wait” until the high court rules. “They should act now to provide immediate relief to help families handle their education expenses and also to expand nationwide school-choice opportunities for poor and middle-class families.”

Everything that Archbishop Gomez says is true. Catholic churches and schools accepted their government-mandated responsibilities and yielded on their First Amendment religious liberties. It is now time for the government to assist these institutions, in the form of grants, to compensate for their compliance with government edicts that hurt them financially.

GORSUCH'S FLAWED ANTHROPOLOGY

Catholic League president Bill Donohue comments on the majority opinion rendered this week by the U.S. Supreme Court on sexual orientation and gender identity:

There are many problems with the majority opinion written by Justice Neil Gorsuch on workplace discrimination, sexual orientation and gender identity, but none is more important than the flawed anthropology upon which the ruling rests. In fact, it is pivotal.

"An individual's homosexuality or transgender status is not relevant to employment decisions." This sweeping statement, which will be cited in every lawsuit on this subject, is manifestly false.

If a man volunteers to be a Big Brother, working with fatherless boys, and decides to "transition" to a woman, he cannot reasonably be expected to do the job he was hired to do. He deliberately changed the required profile. This should clearly be grounds for termination.

The next sentence written by Gorsuch explains his anthropological flaw. "That's because it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex." He is wrong again.

Take the case just cited. The employee should be terminated not because of his assigned sex—indeed he was hired precisely because he was a man—but because he is no longer capable of offering the kind of paternal counseling that only a man can provide.

In other words, it is entirely possible to discriminate against a transgender person without discriminating against his sex, as assigned at birth.

Gorsuch concedes, as he must, that sex, sexual orientation, and gender identity are not the same. “We agree that homosexuality and transgender status are distinct concepts from sex.” But he no sooner states the obvious when he falls back on his remarkable claim that to discriminate against a person based on his sexual orientation or gender identity is to discriminate against him on the basis of his sex. As Justice Samuel Alito aptly put it, “repetition of an assertion does not make it so, and the Court’s repeated assertion is demonstrably untrue.”

Gorsuch tries hard to persuade by offering several hypothetical examples, all of which Alito seizes upon to great effect. For example, he says that if a female staffer, who was rated a “model employee,” were to bring her same-sex partner to a holiday party, and was subsequently fired because she is a homosexual, it would mean she was treated that way because of her sex, not just her sexual orientation.

Alito devastates Gorsuch’s scenario. “This example disproves the Court’s argument because it is perfectly clear that the employer’s motivation in firing the female employee had nothing to do with that employee’s sex. The employer presumably knew that this employee was a woman before she was invited to the fateful party. Yet the employer, far from holding her biological sex against her, rated her a ‘model employee.’ At the party, the employer learned something new, her sexual orientation, and it was this new information that motivated her discharge.”

Here is where Gorsuch’s problem lies. Sex is a biological attribute that is not identical to sexual orientation or gender identity. Let’s start with sexual orientation.

The sex of a child can be known before he is born. But his sexual orientation cannot. The former requires no volition; the latter does. They are therefore not identical.

Being a male or a female is similar to being black or white: sex and race have no inherent normative content. That's because they are fixed properties and do not speak to behavior, which has moral consequences.

The key to understanding the difference between sex and sexual orientation is made plain by the word "orientation." Sex, or being male or female, is behaviorally neutral; it is not oriented toward anything. Sexual orientation is: it is oriented behaviorally towards either heterosexuality or homosexuality.

Notice that Gorsuch does not speak about homosexual persons, but about *homosexuality*, as being a distinct concept from sex. He is right about that. Homosexuality is a behavioral attribute: it speaks to men having sex with men or women having sex with women. It is therefore not behaviorally neutral. It is normative.

Indeed, it is precisely because homosexuality is not identical to sex that virtually all of the world's great religions, in western and eastern civilization, have passed judgment on its practice, without passing judgment on the sex of the participant. The two concepts are distinct and do not ineluctably bleed into each other, despite what Gorsuch claims.

Similarly, gender identity is a behavioral concept that is quite independent of one's sex. Anatomical surgery and hormone therapy are chosen, unlike one's sex. They are undertaken because the person elects to change his sex (which he cannot do in any real sense—no one can change his chromosomal makeup). It is done because the person does not like what nature has ordained, therefore making it erroneous to conflate sex with gender identity.

Consider the language chosen by Alito and Gorsuch to refer to a newborn's sex. The terminology is not only different—it

explains why their legal reasoning differs.

At four different junctures, Alito speaks about an individual's "sex assigned at birth." Gorsuch, on six occasions, speaks about an individual "who was identified" as male or female at birth.

Gorsuch refuses to employ "assigned at birth" because it would undercut his conviction that sex is a fluid concept. He wants to advance the notion that our sex is a matter of identity, which is a psychological construct, and not a matter of human nature, which of course it is. He is the one conflating sex, sexual orientation, and gender identity. This represents his personal conviction and in no way should be treated as if it were a truism.

Trying to minimize, if not deny, the existence of human nature necessarily yields bad outcomes, both in terms of law and public policy. Most Americans want separate sports teams and restroom facilities for men and women. They understand basic differences based on sex and do not appreciate elites who say they are wrong. They also understand how unjust and indecent it is for men to compete in women's sports and shower in women's locker rooms simply because they believe they are female.

It is never helpful when the courts seek to solve problems that barely exist, especially those that touch on the moral order. To cite one example, there are no known cases where a Catholic school has fired a teacher because he happens to be a homosexual. But there are many cases where a homosexual teacher has been fired after it was publicly disclosed—often by the teacher—that he is married to his boyfriend. Activist lawyers will now test the limits of this Supreme Court decision.

Gorsuch's majority opinion, which is based on bad anthropology, makes for bad law and will now make for bad

public policy. Had it been a more narrow ruling, tailored to specific instances of workplace discrimination, there would be no tidal wave of lawsuits. But now that the moral order has been further diced and spliced by the courts—thanks to this classic case of judicial overreach—it is a sure bet there will be.

RELIGIOUS LIBERTY IS IN A PRECARIOUS STATE

Catholic League president Bill Donohue comments on the religious liberty implications of the U.S. Supreme Court ruling on sexual orientation and gender identity:

The U.S. Supreme Court decision on workplace discrimination against homosexuals and transgender persons leaves religious liberty matters in a precarious state. We stand with the president of the U.S. Conference of Catholic Bishops, Archbishop José Gomez of Los Angeles, who said that the Supreme Court "effectively redefined the legal meaning of 'sex' in our nation's civil rights laws." He also noted that this ruling "will have implications in many areas of life."

Among those areas is the fate of religious liberty. Writing for the majority opinion, Justice Neil Gorsuch said he was "deeply concerned with preserving the promise of the free exercise of religion." He then blithely indicated that such "worries" about how this ruling might negatively impact on religious liberty are "nothing new."

Gorsuch's response was not reassuring. This explains why Justice Samuel Alito, in his dissenting opinion (joined by Justice Clarence Thomas), raised a series of problems with it.

Alito noted that a “wide range of religious groups—Christian, Jewish, and Muslim—express deep concern that the position now adopted by the Court ‘will trigger open conflict with faith-based employment practices of numerous churches, synagogues, mosques, and other religious institutions.'”

Alito anticipates a realistic problem. What would happen if a religious school, one that teaches that “sex outside of marriage and sex reassignment procedures are immoral,” were to employ a teacher who is in a homosexual relationship, or no longer identifies with the sex he or she was assigned at birth?

To keep such teachers on staff would be to undercut the credibility of the religious school’s tenets, effectively neutering its doctrinal prerogatives. This is not a hypothetical.

Many Catholic schools have been targeted by homosexual activists to challenge the right of the school to discharge, or not renew the contract of, such teachers. How will matters play out in this new world where there is no legal difference between sex, sexual orientation, and gender identity?

What about religious hospitals? Will Catholic hospitals, for instance, be permitted to decline requests for sex reassignment surgery? Again, this is not a “maybe” issue—such lawsuits have already been filed.

Gorsuch opines that the high court will get to these issues when they are before it. This is unsatisfactory. His language is broad and his reach is wide. Surely he knows that the majority opinion is going to open the legal floodgates. Not to provide more assurance to religious institutions, as well as to other organizations touched by this decision (e.g., women’s sports), is to entice agenda-ridden activists and lawyers to mobilize.

When it comes to controversial moral issues being settled by

judges, prudence dictates that the rulings be narrowly focused. This is one of many areas where the majority opinion failed us.

BLUE AND RED STATES VARY ON COVID-19 POLICIES

Catholic League president Bill Donohue comments on how Republican and Democrat states differ in their coronavirus response:

Last month, New York Governor Andrew Cuomo spoke for many Blue state Democrats when he cautioned about reopening the economy too quickly, noting that to do so would jeopardize the public health. He was emphatic, insisting that "every life is priceless. Period."

Pro-life Americans weren't buying it. Cuomo is so radical in his defense of abortion—for any reason and at any time of gestation—that he even defends infanticide: the "former altar boy," as he likes to describe himself, says it is perfectly legal for medical personnel not to save the life of a baby struggling to stay alive as a result of a botched abortion. Ergo, not every life is priceless.

It is striking to note that of the three states that included specific abortion protections in their COVID-19 policies, two of them, New Jersey and Virginia, were among the last to end their stay-at-home restrictions; they did so on June 9 and June 10, respectively. The governors did not explain why their interest in public health, and their determination to prolong the shutdown, made an exception for their abortion clinics. But we all know why.

Twelve states attempted to block elective abortions as non-essential services in their COVID-19 policies. Ten of them have Red state Republican governors and Republican majorities in both chambers of the legislature. Two are mixed, having Republican legislative majorities and Democrat governors. None are Blue states; they are run by Democrats in the executive and legislative branches.

Of these 12 pro-life states, most were among the first to reopen. Three of them, Arkansas, Oklahoma and Iowa, never had a stay-at-home order. Six others—Alabama, Alaska, Texas, Tennessee, West Virginia and Mississippi—were among the earliest to reopen; they did so at the end of April and the beginning of May.

The pattern is obvious: Blue states, which made sure abortions could be performed during the shutdown, lagged behind the pro-life Red states in reopening.

Some might conclude that the Blue states, aside from not protecting the life of the unborn, still have a better record than the Red states when it comes to maximizing public health: their decision not to reopen too quickly showed how concerned they are about the need for social distancing during the pandemic.

This argument, however, is seriously undercut by the willingness of Blue state mayors and governors to throw their concern for social distancing to the wind when they allowed thousands of protesters to take to the streets in their locales. These executives were far more determined to stop a handful of the faithful from assembling in their houses of worship than they were to stop throngs of young people from protesting: social distancing norms were violated with impunity in one Blue state after another. Moreover, their passivity in reining in the most violent of the protesters makes ludicrous their concern for public health and safety.

Ideally, politics should play no role in a pandemic. That it has is glaringly obvious.