New York Politicos Snub Irish Parade

A number of New York politicians – most notably Governor Mario Cuomo, Manhattan Borough President Ruth Messinger, Comptroller Alan Hevesi, and Public Advocate Mark Green – chose to snub the St. Patrick's Day Parade because it excluded an openly gay and lesbian organization.

The Catholic League immediately challenged their decision since all four had participated in last year's Salute to Israel Parade which had also excluded a gay and lesbian contingent.

Catholic League president William A. Donohue called their boycott "an incredible show of unadulterated bigotry, favoritism and hypocrisy." He went on to note that the sponsors of both parades – the Ancient Order of Hibernians and the American Zionist Youth Foundation – have "consistently rejected on moral and religious grounds, the appeals of gays and lesbians to march as a separate group in their parades."

Donohue labeled the politicians' decision as showing "preferential treatment of Jews over Catholics." He called it a "a new low in New York politics" and a "rank display of favoritism."

The New York *Daily News* reported that 31 elected officials had signed pledges not to march in the parade. This represented an increase of about a dozen since last year's parade. Dozens more refused to sign pledges but nevertheless found it convenient to be elsewhere on St. Patrick's Day.

In his St. Patrick's Day homily earlier in the day, Cardinal 0 ' Connor strongly defended the parade and its sponsors. "Do not accuse us of hatred or bigotry or violence or exclusiveness because we may be politically incorrect," he

said. He rejected allegations that the Church is “divisive or bigoted,” and to a standing ovation concluded, “If it is a disgrace to be Irish, or a disgrace to be Catholic, I am proud to stand before you in disgrace.”

-JP

Choice in Education May Come to Jersey City

By William A. Donohue

On March 25th, at a meeting called by Mayor Bret Schundler of Jersey City, New Jersey, local activists interested in education reform gathered at City Hall to learn first-hand about an exciting plan to restructure elementary and secondary education. Entitled the “Children First” Education Act, the driving concept behind this piece of legislation is more competition among schools and more choices for parents. If it succeeds, the repercussions will be felt all the way to the West coast.

Mayor Schundler is no ordinary mayor. He is young, honest, Republican and energetic, four qualities not normally associated with urban politics these days. His staff is equally talented and committed. What Mayor Schundler proposes is nothing less than an overhaul of the educational system. “Children First” is novel and exciting and deserves a fair hearing.

“Children First” would give parents three options: they could elect to send their children to any public school in the city, including the creation of alternative public schools; they

could decide to enroll their children in a charter public school; or they could opt for a grant school.

Alternative schools would be public schools that would allow administrators and teachers considerable autonomy, places where truly innovative learning can take place. Freed from bureaucratic control, these schools could design programs that meet the needs of local students.

Charter schools represent the second option. These schools differ from magnet schools in that they are schools that can be created by businesses, colleges and universities, museums or even by a group of parents. They are different, then, in both their establishment and oversight. Applications for a charter school would be made to the normal administrative state agencies. The grant schools would be any non-governmental school that charges tuition or fees for its services. The base grant would be $500 for students in the elementary grades and $1,000 for high school students.

As with the other options, grant schools would be held to conventional state requirements. Special needs grants would also be available to students who qualify.

“Children First,” then, is not just a catchy phrase: it accurately states the priorities of Mayor Schundler. What we have at the moment is an educational system that subordinates the interests of students to the interests of the educational funding monopoly. Under “Children First,” this hierarchy would be reversed, granting more authority and autonomy to parents and community leaders, the ultimate beneficiaries of which would be students. This hardly sounds revolutionary, but given the preponderance of authority vested in the bureaucracy, it is. Think of it: a school system that allows money to be spent where parents think it should be spent.

The implications for parochial schools are obvious. Many parents who are presently forced through economic necessity to

send their children to public schools could elect to send their children to the local Catholic school. Public schools would benefit as well because competition within the public school system would bring about needed reform. Teachers would benefit because they would be empowered in a way they presently are not. With parents, students and teachers winning, the only losers would be those school officials who are obstinate enough to buck change.

This country's economic success is due to healthy competition, and not to statist monopolistic entities. One area that still penalizes competition is education. Under "ChildrenFirst" students in Jersey City would reap the rewards of competition that the rest of the economy has benefitted from all along. And when the folks outside of Jersey City see the results, it'll be just a matter of time before "Children First" is cloned throughout the nation.

But Boston Just Gets Condoms

Over the objections of parents and religious leaders, the Boston School Committee voted on March 16 to distribute condoms at school based health clinics in Boston Public Schools. The School Committee, which is appointed by the mayor, voted six to one in favor of the proposal which was prepared on the personal initiative of Boston mayor Thomas Menino, an outspoken proponent of condoms. Among the School Committee members voting to support the plan was Dr. Elizabeth Reilinger, President of Crittendon Hastings House, one of the city's major abortuaries.

The condom proposal was endorsed by the Menino administration,

the National Organization for Women, the AIDS Action Committee, ACT-UP, Massachusetts Governor William Weld, and pro- abortion Boston City Councillor Maura Hennigan.

Numerous Protestant ministers from Boston's black community, along with Father Richard Clancy and Catholic League Operations Director C. Joseph Doyle testified in opposition to the plan. Doyle was quoted in the local and national media calling the measure "a policy of despair and a taxpayer funded assault on traditional values…. It is not the lack of condoms, but the absence of values that threatens teenagers today," Doyle said. *-CJD*

The parade that turned into a hotel…

By Andrew J. McCauley

Mr. McCauley is currently servmg as Catholic League General Counsel. He practices law in New York City, and filed the League's amicus brief in the Boston St. Patrick's Day Parade case.

The ongoing movement to relegate public Catholic presence in America to the closet, took a major step forward Friday, March 11, 1994. On that date, the Supreme Judicial Court of Massachusetts upheld a lower court ruling that the annual Boston St. Patrick's Day Parade had to include a homosexual group with their banner. This group, according to their own testimony, wished to march in order to express their pride in their homosexual identity, and to show their support for a homosexual group seeking to enter the New York St. Patrick's Day Parade.

The five member court upheld the lower court decision of Judge Harold Flannery by a majority vote.

The Catholic League submitted a friend of the court brief on behalf of the parade sponsors, the South Boston Allied War Veterans Council. The Catholic League was the only organization that so assisted the Veterans, who were represented by attorney Chester Darling, a sole practitioner. The homosexual organization (GLIB), on the other hand, was represented by many law firms, including one of Boston's largest and most prestigious.

Although the Supreme Judicial Court has yet to come down with a written opinion, it obviously has to follow the reasoning of Judge Flannery's decision in the lower court, if indeed such tortuous rationalizations can be called "reasoning."

The argument of GLIB was that parades, including private parades, fall under the anti-discrimination provisions of the Massachusetts public accommodation statute, which, among other things, forbids discrimination based on "sexual orientation" in places of public accommodation. The attorneys for GLIB, however, could cite no case in any jurisdiction where a parade was deemed to be a place of "public accommodation." In fact, every case involving a parade has held that parades are an exercise of free speech. The latest such determination was in New York City where the Federal District Court ruled that the New York City St. Patrick's Day Parade was, like all parades, "a pristine form of speech" and that "every parade is designed to convey a message."

How did Judge Flannery circumvent these unanimous rulings? He indicated that the Boston St. Patrick's Day Parade is not a parade at all. He said the parade "is more akin to a social association," comparing it to a dance hall for teenagers that charged admission.

To argue that a parade is not really a parade, but is “more akin to a social organization,” evokes a passage from “Alice in Wonderland”: “When I use a word, it means just what I choose it to mean . . . neither more nor less. “

Judge Flannery also ruled that the Boston parade – or non-parade as Judge Flannery views i t – is “an open recreational event.” Obviously, it is not open to the public. The testimony was that all applications to march had to be approved by the Veterans. If the parade was open to the public, then the Police Department would have no right to keep the public 0n the sidewalk, and out of the parade, which it does.

Judge Flannery also argued that the parade sponsors did not exercise sufficient selectivity in choosing participants and excluding applicants. He said that only two groups had been excluded since 1947. Actually, six groups have been either excluded or forced to change the content of their message as a condition for marching. We were unaware, until Judge Flannery educated us, that one had to exclude a certain number of applicants before a parade’s sponsor could exclude undesirable messages from a parade.

Judge Flannery also argued that the Boston parade was not focused enough to receive First Amendment protection. He ignored all prior case law that a parade is “a pristine form of speech.” He sidestepped the free speech issue by treating the parade as an expressive association, such as a club, stating that “an assertion of a right of expressive association requires focus on a specific message, theme, or group – perhaps a temple or parish congregation.”

The implication of this is that a parade that does not limit participants to marching groups whose identities specifically reflect the theme of the parade itself, will thereby lose the right to exclude unwanted themes and messages. Thus parades that include diverse groups from the community, such as political clubs, business organization, church groups, bands,

unions, etc. would be stripped of their First Amendment right to exclude groups showcasing unwanted themes and messages. Only “focused” groups such as the Ku Klux Klan or the Gay Parade could exclude unwanted themes from their parades under this bizarre ruling.

This decision, if upheld by the U.S . Supreme Court, could turn nearly every major parade in this country into a sexual carnival. This is not just hyperbole. Judge Flannery stated in his decision the following: “Excluding all sexual themes not only contravenes the First Amendment’s prohibition on content-based restrictions, but is a form of discrimination itself.” This mind-boggling assertion that private parties cannot exclude sexual themes from their expressive activities if other parties wish to interject them, illustrates where Judge Flannery is coming from.

Another issue fudged over by Judge Flannery was whether there was discrimination based on “sexual orientation.” The uncontroverted testimony at trial was that no one had ever been excluded from the parade because of their sexual orientation. How did Judge Flannery deal with this problem? Simple. He said that the message and values of GLIB were the same thing as the sexual orientation of its members: “The defendants’ final position was that GLIB would be excluded because of its values and its message, i.e. its members’ sexual orientation.”

It apparently hasn’t occurred to Judge Flannery that some heterosexuals may have the same values and messages as GLIB, while some homosexuals may disagree with GLIB’s “values and messages.” In any event, a person’s values, and his or her sexual orientation, are two different things.

The court’s decision also side-stepped the fact that the Veterans had a city permit to operate the parade at a certain time and place. The permit specifically reserved the parade route for the use of the parade’s sponsors, and under such a

reserved permit, the public cannot intrude.

Further, the Supreme Judicial Court, which upheld Judge Flannery's decision, had ruled some years earlier that the Massachusetts anti-discrimination statute applied only to permanent physical plants, facilities, or buildings such as stores, stadiums, etc. As the parade is an event, and not a physical facility, it will be interesting to see what legal sophistry is employed by the Supreme Judicial Court to skirt the limitations of its prior decision.

Further, even if the Veterans' own speech and expressive activities were not involved here, as Judge Flannery maintained, their First Amendment rights would still be at stake. As the U.S. Supreme Court held in *Wooley v. Maynard:* "the right to speak and the right to refrain from speaking are complementary components of the broader concept of 'individual freedom of mind'." As the U.S. Supreme Court held in *West Virginia v. Barnette,* the state has no "power to force an American citizen to publicly profess any statement of belief."

Such is no longer the situation in Massachusetts. The stated purpose of this parade was to honor St. Patrick and to express the Veterans' support for "traditional values." In Massachusetts, however, virtue must pay tribute to vice before publicly expressing itself. The strained analogies, inapposite case citations, and tortuous rationales of the Court indicate that neither the U.S. Constitution nor Supreme Court precedents, were going to deter the Court from arriving at its decision. Pestilence has been given a place in the sun over the prostrate corpse of the First Amendment. In Massachusetts, legal anarchy now poses as the law, and vice presents itself as if it were virtue.

Thomas Jefferson once said "that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sin- ful and tyrannical." In Massachusetts, tyranny is alive and well. So is sin.

The Veterans intend to appeal this decision to the U.S. Supreme Court. I f they do, the Catholic League will again submit an amicus brief on their behalf. It is no exaggeration to say that if Massachusetts prevails at the Supreme Court level, the First Amendment will become all but meaningless, and our moral climate, under duress from the state, will undergo an unnatural inversion.

League Defends Boston Teacher Under Attack

The Catholic League has come to the defense of a Boston Latin School teacher, Owen O'Malley, after calls for disciplining and firing him because he wrote a letter critical of homosexuality which was published in the school paper.

O'Malley, a member of the Catholic League, has been the object of controversy in the Boston media since March 25, when the *Boston Herald* first published reports of homosexual anger over his views.

As part of a debate on Governor Weld's recently enacted homosexual student law, O'Malley contributed a letter to *Argo,* the school paper, in which he objected to the law as "homosexual propaganda," and described adults who engage in homosexual acts as "perverse, wicked, and extremely dangerous to society."

Catholic League Operations Director C. Joseph Doyle characterized the effort as an attempt "to punish, censor, and intimidate into silence an opponent of the homosexual agenda." O'Malley, Doyle said, is being punished for having the temerity to express views held by millions of other Americans

regarding homosexual behavior.

One of those openly calling for O'Malley's punishment is David LaFontaine, chair of the Governor's Commission on Gay and Lesbian Youth and a long-time associate of the radical hate group ACT-UP.

At the time of its proposal, Doyle warned that passage of the homosexual student law would result in both limitations on free speech and discrimination against Catholics and others who found homosexual behavior immoral.

The League has warned school officials that any action taken against O'Malley, whose position is based on stated moral convictions consistent with his religious beliefs, would be seen as an unlawful act of discrimination and a violation of the Massachusetts Civil Rights Law. *-JP*

League Protests Human Embryo Experiments

Catholic League president William A. Donohue has written the chair of the National Institutes of Health Human Embryo Research Panel to voice the League's strong objections to proposed research.

He compared the present proposals to risky medical procedures performed decades ago on African-Americans and to current concerns being voiced over the suffering of *animals* involved in medical research.

"Those who are undecided on the status of the human embryo," Dr. Donohue said, "ought to have learned by now that doubt is

sufficient grounds for saying no to another round of questionable medical research."

"Discrimination" Case is Religious Freedom Fight

The Commonwealth of Massachusetts has sued Rick and Paul Desilets, owners of an apartment building in Turners Falls, for daring to live up to the demands of their conscience. Because the Desilets are devout Catholics who believe that sex outside of marriage is sinful, they refused to rent one of their apartments to an unmarried couple.

The Massachusetts attorney general's office sued the Desilets, claiming they violated a state law prohibiting housing discrimination based on marital status. The Desilets argue that forcing them to rent to an unmar- ried couple would infringe their constitutional right to the free exercise of religion.

The plight of the Desilets was the subject of a March 15 *Chicago Sun Times* column by George Will as well as a March 22 editorial in the *Wall Street Journal.* As Will made clear, the Desilets are not trying to force their religious beliefs on anyone; the state is trying to force contemporary sexual values on them. "The state," wrote Will, "suggests that this case concerns mere commercial behavior, and that the 'free exercise of religion' extends only to rituals and services." The Desilets, on the other hand, "believe the exercise of their religion must involve striving to be obedient to God in every aspect of their lives."

The *Journal* editorial pointed out the double standard which

exists in this country. Atheists, the *Journal* noted, have been tenacious and successful in their pursuit of a public square which is devoid of religion, while religious people are exposed to anti-religious secular humanist views in many contexts, for example, the classroom.

"It will be interesting to see if the Massachusetts court recognizes that allowing a non-Christian to view a creche on Main Street is far less intrusive than forcing a Catholic to take into his own building a couple whose behavior is deeply offensive to him," the Journal said. The Catholic League has joined a coalition in filing a friend of the court brief in support of the Desilets. – *NJG*

YELLOW PAGES

Minneapolis, St. Cloud – US West, in response to numerous complaints from advertisers and customers alike, has changed its policy regarding religious references in housing-related advertisements in its Yellow Pages. The new policy will allow religiously affiliated providers of permanent housing, (i.e.- nursing homes, retirement homes, etc.) to include religious symbols and references in their advertising.

In the most recent edition of the US West Yellow Pages, Catholic Charities of the St. Cloud Diocese, St. Benedict's Center and the Good Shepherd Lutheran Nursing Home were all forced to alter their ads, deleting symbols and changing phrases which included religious terminology.

Though advertisers were hoping for a change in policy by next year's edition, they were shocked at how quickly the change came about. The quick reaction by US West was brought about largely by the tremendous response of the St. Cloud community

as well as coverage in national and local Catholic newspapers.

-KLK

APPEAL IN VERMONT

The ACLU has filed Notice of Appeal to the Vermont Supreme Court in *Paquette v. Regal Art Supplies.* On February 18, 1994, Judge Linda Lavitt of the Franklin Superior Court entered an order dismissing the case against Chuck and Susan Baker, Catholic owners of a printing company who had been sued for discrimination when they refused to print materials for the pro-abortion front group "Catholics for Free Choice."

Judge Lavitt ruled that Vermont's anti-discrimination statute is unconstitutional and unenforceable as applied to the facts of this case. The State of Vermont's interest in eliminating discrimination does not override a person's rights to free speech and freedom of religion, said the judge. Stating that the operation of a printing press is a form of speech because it involves putting together and publishing information in a written format, Judge Lavitt found that forcing the Bakers to print the objectionable advertisements would violate their freedom of speech as well as their freedom to practice their religion.

"There is no doubt," wrote Judge Lavitt, "that…compelling defendant (Bakers) to print plaintiff's materials would place a burden on its ability to freely exercise its religious beliefs by forcing the owners to assist in disseminating a message which is contrary to their religious beliefs."

-NJG