

How Catholic Pupils Have Actually Been Victims of Blaine Amendment

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There must be few New York State voters who are still unaware that the "Blaine Amendment" will be one of the liveliest issues in the November election. For the newly devised State constitution, among other things, eliminates a provision bearing that identification tag which was written into our constitution in 1894.

Citizens have been thronging to register, some because they want to liquidate "Blaine" others because they want to keep him, even at the expense of rejecting the whole constitution.

Catholics have a particular interest in seeing the amendment annihilated, dissipated, liquidated. For since its enactment in a strongly anti-Catholic decade, it has again and again been invoked to prevent Catholic children from attending parochial schools from participating in even some of the basic welfare provisions authorized by the State.

I have thought that it would be of interest to point out how the Blaine amendment has had particular repercussions within the twelve counties of the Diocese of Rochester.

But first let us refresh our memories. How did this constitutional article acquire the moniker "Blaine."

The name comes from Senator James Gillespie Blaine (1830-1893).

We present another in the series of articles on Rochester Diocesan History by Father McNamara, whose book, The Diocese of Rochester, 1868-1968 is to appear early next year.

Blaine was a Maine congressman in the last years of the presidency of Ulysses S. Grant. In late 1875, President Grant recommended to Congress the passage of an amendment to the federal constitution which would make it mandatory for the States to establish and maintain public schools. So far, so good. But Grant further recommended, in terms which implied an anti-Catholic animus, that the amendment should also forbid the payment of public funds to any institution supported by "any religious sect and denomination." All church property, too, with the possible exception of church buildings and graveyards, should be subject to taxation.

Proposals like these were bound to arouse controversy. In the early days of 1876, Congressman Blaine, who was likewise a member of the Republican Party, brought forward in the House a text for the proposed amendment. It read: "No state shall make any law respecting an establishment of religion or prohibiting the free exercise thereof; and no money raised by taxation in any state for the support of public schools or derived from any fund therefor, nor any public lands devoted thereto, shall ever be under the control of any religious sect, nor shall any money so raised be divided between religious sects or denominations."

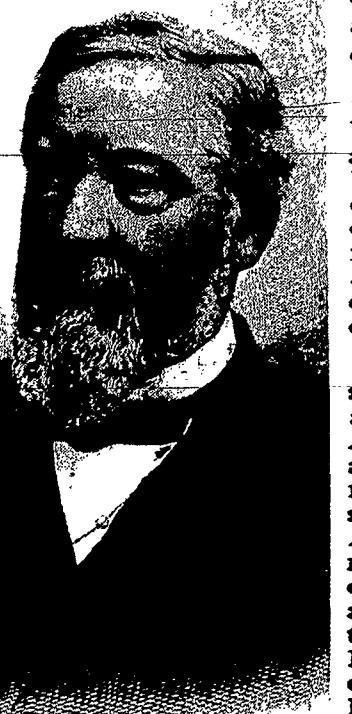
Blaine never denied that his mother was a Catholic. All he said was that he had grown up a Presbyterian, following in the footsteps of his Protestant father. He never dared to add that

This proposal pretended to be merely a spelling out of the first amendment, whose words it began with. Actually, it was an attempt to impose a detailed extension of the first amendment on all the States. It certainly was antagonistic to Catholics, at least by implication; it was also antagonistic to devotees of State rights.

There was no real reason in those days to enact such an amendment. But it was believed by the Republican Party that it would serve as a good issue in the election of 1876. Furthermore, Mr. Blaine apparently sought in it a means to promote his own bid for the presidency.

Blaine was an able and intelligent man, with a good chance for the Republican nomination. But there was one skeleton in his political cupboard: his connection with the Catholic Church. In those days no Catholic could hope to become president; and even a notable friendliness with Catholics lowered a candidate's political stock. There was an explosive rumor current in the 1870's that his mother was a Catholic and that he himself was suspect.

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SENATOR BLAINE

he himself had been baptized a Catholic, or that his father had died a Catholic. This would have meant political death. So in promoting the "Blaine Amendment," which would have had several reasons, one of which was to convince dubious Protestant voters of his firm Protestant affiliation. (Actually, he probably lost the bitter election of 1894 because of this anti-Catholic stance.)

The amendment was defeated in the Senate, so it was never presented to the States for ratification. But those who favored it plotted for one reason or another to work it through, throughout the remaining years of the century to have the gist of it enacted in the constitutions of the various States.

One of these States was New York. In the early 1890's there was a new upsurge of anti-Catholicism, spurred on especially by the American Protective Society (A.P.S.), a secret organization dedicated to opposing Catholic schools and, in general, Catholics in public life. However, it was not the A.P.S. but the National League for the Protection of American Institutions that backed an amendment of the Blaine type at the New York State constitutional convention of 1894. The N.L.P.A.I. was broader than the A.P.S. in its membership and non-secret; but it doubtless comprised, in addition to some prominent names, a generous percentage of anti-Catholics and secularists.

The amendment which was passed as Article IX, section 1, read as follows: "Neither the state nor any subdivision thereof shall use its property or credit or any public money, or maintenance, other than for education or inspection of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught."

(This Article of the N.Y. Constitution has since been twice re-numbered, and is now Article XI, section 3.)

The New York Blaine amendment was so thorough about anticipating and plugging possible loopholes, as to excite a reluctant admiration. The words "directly or indirectly" are especially effective, since they cover almost every contingency, or can be made to do so.

But this ingenious paragraph was not put through without a political compromise. Article VII, section 14 (now VII, section 1), declared that public funds could be paid even to religious institutions engaged in the care and instruction of orphans and dependent and delinquent children.

There was a curious inconsistency here. Article VII used the word "orphan" and Article IX ignored the child and focused only on the denominational background of the person who supervised him. Thus Article VII permitted the payment of money to teach Catholic orphans at St. Mary's Orphanage, Rochester, while Article IX was interpreted as forbidding money to teach in their halls in St. Rose's School, Yonkers. If they expected still to be paid by the public board of education — a local arrangement that had been in effect for some years.

Political compromise is a part of the game, but in this case the compromise was anything but sweetly reasonable. At least one of the delegates to the constitutional convention of 1894 got a laugh out of the absurdities involved in these new regulations.

Mr. Owen Cassidy, who hailed from Schuyler County and whose name suggests he was a Catholic, even though he was a Republican, proposed, tongue-in-cheek, the addition of the following to the agreed text of Article IX:

"No local board of education shall employ any school teacher who espouses any religious sect, nor shall any teacher who is employed appear in the garb of a man, the cassock of a priest, the cassock-buttoned coat of an Episcopal rector, the white mitre of a Methodist minister, the stern countenance of a Presbyterian, or the rank figure of a Baptist, nor in the severe simplicity of a Shaker, or the drab uniform of a Society of Friends. To avoid all appearance of favoritism or partiality on the part of public school teachers, the following uniform is prescribed: For male teachers, the blue dress adopted by Colonel Billy Wilson's noble regiment in the War for the Union. For female teachers, the latest bicycle costume imported from Paris."

But the implications of the Blaine amendment were not at all funny. It could be invoked and from time to time it was invoked, again and again, to curtail public expenditures in cases which had the most negligible connection with denominational institutions.

HERE ARE A few of the several instances which had a special bearing on the Rochester Diocesan area.

First, Released Time. From 1917 on, an increasing number of interfaith groups in communities in New York State reached an agreement with the

public school authorities to have children released a few minutes early on a certain school day so that they might attend religious instruction. Rochester was one of the first communities in the State to undertake this arrangement. Mount Vernon, New York and White Plains, were two others.

But in 1925, a suit was brought against the practice in Mount Vernon, alleging that Released Time there was unconstitutional, offending the Blaine provision. The decision of the Supreme Court of the State concurred in the argument of the complainant. It agreed that even though Released Time cards cost only \$2.87 to print, which was furthermore paid by the interfaith committee, the printing had nevertheless taken place on school property. So Blaine was infringed.

Hopeful that he might use this decision as a lever to prevent the practice throughout the State, Mr. Joseph Lewis, on behalf of the Free Thinkers Society of America, sued to enjoin a similar plan at White Plains. He carried the case up through the highest State court, the Court of Appeals. Fortunately, all the courts showed a better sense of values. They ruled that the amount of time spent in facilitating the Released Time arrangement was too inconsequential to bother about.

Some communities were still dubious, nevertheless, about the constitutionality of the practice, so they did not give their approval to it. Auburn was one community in the Diocese which followed this course. When the third Bishop of Rochester, John Francis O'Hern, gave an address in Auburn in September, 1930, he adverted to the fact that Released Time was not permitted there. He expressed the hope that the Board of Education would soon reverse its policy, for he felt it was doing an injustice to the public school children to deprive them of this opportunity for religious instruction.

To clarify the issue, the State Legislature, after consulting the Board of Regents, enacted legislation effective April 10, 1940, permitting Released Time throughout the State. On July 1, 1940, the State Commission of Education issued ground rules to be observed. They are still in effect.

But there remained some question about whether the practice was in compliance with the State constitution. This question was raised once again in 1948, when the U.S. Supreme Court, in the McCollum Case, outlawed a somewhat similar plan functioning in Champaign, Illinois. The redoubtable Joseph Lewis raised the issue in New York in the same year at the McCollum decision. But the State Supreme Court overruled him, stating that the methods used in New York State were not open to the same objections as those used in Champaign. The federal Supreme Court settled this definitely in 1952, when the justices in the Zorach case, ruled in favor of the New York State Released Time agreement with the methods.

Thus after thirty-seven years of a wrangling which sprang in very large part from the rigidity of the New York Blaine amendment, public school students, Jewish, Protestant, Orthodox or Catholic, could be excused, if their parents requested it, for one period a week of religious instruction. Law will always be complex, but it need not be silly.

Bus transportation, thanks to the Blaine law, gave rise to even greater legal intricacies. In 1936, the New York Legislature voted unanimously for a bill allowing public expenditure for the bus transportation of all school children, irrespective of the school they attended. Soon afterward, a Mr. Judd brought a case against the school board of Hempstead, N.Y., to test the constitutionality of such a law, regarding the children at Our Lady of Loreto parochial school in Hempstead, L.I.

In the first court, the justice decided, on November 9, 1937, that bus transportation was a service to the child not to the "aid and maintenance" of the religious institution he attended. But the complainants carried the case up to the Court of Appeals; and here the justices, in a 4-3 decision, reversed the earlier judgment. With Blaine in mind, they reasoned, rather tortuously: "Free transportation of pupils induces attendance at the school. The purpose of the transportation is to promote the interests of the private school or religious institution that controls and directs it."

Fortunately, the state legislators took another view of the issues involved. In 1938, the constitutional convention voted to get around this tortuous interpretation of Blaine by writing a detour into the constitution itself. To the Blaine paragraph, they added the words: "but the Legislature may provide for the transportation of children to and from any school or institution of learning."

After the ratification of the constitution, the Legislature proceeded to make a law authorizing bus transportation for children in every school district. The Everson judgment issued in 1947 by the federal Supreme Court served to counteract the action of the New York constitutional convention of 1938, for it approved of the spending of public funds for bus transportation as a public service to the children.

Even so, a number of local school boards were unwilling to undertake this added expense, so appeals were voiced from many school districts by the parents of parochial and private school children, whose petition for transportation for their little ones had been denied. At least two of these appeals came from within the Rochester Diocese. In 1960, Governor Rockefeller signed a new law which made the transportation of all students mandatory, instead of discretionary, as the previous law had directed.

Lawmakers across the nation were clearly showing themselves more aware that educational laws should take the need of the child as their basic consideration. This had been evidenced in another annex to the New York constitution of 1938, which declared: "Subject to the limits of indebtedness and taxation, nothing in this constitution shall prevent the Legislature from providing for health and welfare services for all children, either directly or through subdivisions of the state, including school districts." (Art. VII, section 1; now re-numbered section 8.)

But even the foregoing article was impeded in its execution by the Blaine Amendment.

HERE ARE SOME of the disabilities under which students in New York religiously-maintained schools labor under today:

• A Catholic school cannot rent public school stadiums (although it seems a professional athletic team can).

• Students of Catholic schools, as such, cannot use public school pools or gymnasiums.

• They cannot take remedial reading or speech therapy given under public school auspices.

• They cannot avail themselves of the services of psychologists who are paid from public sources. (Thus, for example, the Catholic School of the Holy Childhood, which does such notable work in Rochester for retarded children, must engage and recompense its own psychologists. Despite the public service that it performs, Blaine says no to its use of public psychiatrists!)

• They cannot use public school buses for field trips, although public school children can.

A New York State Law allowing free secular textbooks to all children was declared unconstitutional according to the Blaine amendment in August, 1946. Fortunately, a higher court reversed the decision. But the matter is still not crystal clear.

What is to be done? Are Catholics and other interested parties to content themselves with battling interminably over minor issues, seeking by favorable court judgments or new amendments to "get around" the wording of the Blaine amendment? Or should they not seek to abolish the amendment, by securing the acceptance of the State constitution of 1967?

It is not a question of destroying the American ideal of church-state separation. Federal constitutional law will still protect the American principle; and if it seems at any time threatened by Catholics or others, the courts of the nation can decide the matter.

It is a question rather of buying a technically bad piece of law, the unreasonable inheritance of a less liberal and a regrettable era.

It is a question of disposing of the last curious relic of the presidential campaign of an "also-ran" — James Gillespie Blaine.

A New Apostolate

'Open Door' to Lonesome

Hamburg — (RNS) — From the outside, "Open Door" in Hamburg looks like an exhibition hall of modern art. From the inside, it could be a library.

It is in fact an attempt by the Roman Catholic Church here to listen to people's problems and try to solve them.

Open Door is not unique internationally. In fact, it is part of an all-denominational social movement which is scheduled to hold a world conference in Brussels, September 11 through 13.

But the approach by the Catholic Church in Germany to the lonesome, unhappy, helpless, lonely and disturbed is, to say the least, unusual.

The mini-skirted girl who walked into the spacious modern reception room could have been a drug addict, her marriage might have been on the rocks, or she might have come in search of a spiritual goal in life.

The middle-aged man leaning through a book locker like another patient in a psychiatrist's front office, but he may have committed a murder and come to ask for free legal aid without betraying his ugly secret.

Between 40 and 60 people each day come to Open Door in Hamburg's downtown district, street 15 in search of spiritual aid or comfort. Some of them never return. At least half of them come again and again, in the hope that remedy to their problem is within reach.

They all first meet Dr. Bertrand Kauffmann, who runs the seven-room organization. He is 39, handsome, dressed in a neatly cut black jacket with charcoal gray trousers, quietly self-confident, making it easy for his visitors to relax.

Few would suspect that the chain-smoking Dr. Kauffmann is a Dominican Father who celebrates Mass in a cellar chapel several times a day, seeking guidance and direction "in the service of others."

Hardly any of his "patients" ever find out there is a chapel downstairs. For the Catholic Church does not ask the Open Door guests about their faith or attitude. It treats them as anonymous human beings who can expect understanding, secrecy and, hopefully, help.

Many of them call by telephone. Most come for a face-to-face talk. They represent all social layers, all walks of life and all ages. Most are in the 20 to 45 year bracket. Women are fewer than men.

Marital problems predominate. The conflict of generations, reflected in parental and confrontations, comes next. Professional troubles, fear of old age, neurosis from social and physical inhibitions and questions of conscience and religion follow.

Dr. Kauffmann, after listening to a visitor, determines whether expert aid is required and available cost-free. On his staff he has a physician, a psychotherapist, a woman social worker and three lawyers. They are available to the public from 11 a.m. to 9 p.m.

Association of Laymen — South Hamilton, N.Y. — (RNS) — The Long Island Association of Laymen, a lay group from the Rockville Centre diocese — will meet here for a diocesan-wide conference at which they will adopt a constitution and elect officers.

"Some of the people leave with a feeling of accomplishment, although we may have doubt about the courses of their actions. Others expect us to patch up their broken marriage when we in all conscience must advise them to give up on it," said Dr. Kauffmann.

The greatest danger to the three-year-old Open Door experiment is the people's attitudes that a cost-free service may not be worth much. "There are, of course many solutions which we clearly see and recommend, but cannot pay for. Then we try cut-rate arrangements with professional friends. Sometimes we send such people to an agency run by the Protestant Church here," he said.

His goal is to join forces with the Protestants, but he implies that first there is considerable opposition to negotiate within the Catholic Church itself.

But Dr. Kauffmann stresses that his own order has fully accepted the non-denominational character of Open Door. He feels that the Church is like a furnace — its purpose is not to keep the fire for its own sake but to provide warmth for those around it.

"We have no religious aim here. On the contrary, we are trying to get away from the feeling that Open Door is just another outfit to spread the faith. Ours is pure aid in spiritual needs of others," he says convincingly.

Various other Catholic religious orders run similar Open Door offices in Berlin, Frankfurt, Stuttgart, Essen and Munich. They usually depend for contributions on the Church and various non-profit organizations. Dr. Kauffmann's annual budget is about \$25,000, of which a sizeable portion is spent on rent. He feels it's worth it because half of the people who come to see him now in the super-modern, cheerful surroundings would probably not venture into an old building on the outskirts of town.

The attractive paintings are on loan from artists who don't mind making a sale through Open Door.

Even a back-door entrance has been thought of. When a visitor decides to give himself up, Dr. Kauffmann calls the police and the man leaves without anyone else at Open Door knowing about it and thus feeling discouraged about Dr. Kauffmann's "connections."

Dr. Kauffmann hopes that his organization, and its counterparts abroad, will eventually receive more understanding and fuller cooperation from the State authorities. He strongly feels that in the field of "Christian need" his organization can do more than the State.

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FIFTH

Scipio Mark

Parishioners of Church, Scipio mark their parish a jubilee Mass, Sun 15, at 8 p.m.

The anniversary be held at Mt. School auditorium Mass.

Celebrant of the will be Rev. Dan who was appointed Bernard's Church

St. Bernard's is the larger parish; ester Diocese — 250 members — name and its t long and justly p

The village, not Auburn, is named the other of two general — a father the second centur

The spiritual ha began at the Scipio ish church one h ago.

The Auburn Di er of October 9, 1 ed the event as fo

"The new Ro church at Scipio ced next Sand inst., at 11 o'clock Reverend William ministrator of S. Some other Reve men will also see red sermons. The Michael Creighton, this city, will pre cation sermon." T a part of the di falo. There was diocese at the tim

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In 1856, Rev. Cool, purchased 3 acres of land for church and in 18 by 45 feet wood ture was begun. pleted that fall. I resided in Union time, and was a of southern Ca even though the ch in the Spring and Auro new Scipio church

Later on, F bought a lot east of the church fr of the church fr from the same Rachel Smith. date was April 1

The cemetery some time, th 1870's, but later quired some 100 the church on a a larger site. Th graves in the in the rear of th blessed each ye the newer ceme

A two story was built for the quarters on lan east of the wo church.

Father McCool St. Michael's Ch Springs, St. Agn Aurora (later a would be built of and called St. I also the "station ships of Aurelii Genoa, until Oc The new church now termed a "n than a station. term represented no church, but s by a priest; the meant a church dent pastor.

Father McCool build churches i which closely i Scipio church in of architecture, bought the lan ch in the Spring Aurora, and whi ferred to Seneca a parochial sch dence. This build d in Seneca 1879.

Father McCool by Father Schme in Union Strin

IT'S FUN GO HALLOWEEN - WHEN YOU CALL CHILDREN ALL WORLD

AND WHAT WO YOU DO IF I D GIVE YOU AN TREAT?