Chapter 7: Religion as Source of Conflict

It was after the Civil War and the post-war focus on reconstruction – both of the devastated South and also of disrupted lives and families in the North – that what has usually been called 'Church and State' controversies developed in the United States. The Protestant majority, so recently at war over slavery and secession, united to keep the Bible and prayer in public schools despite Catholic objections, and to insulate from the ordinary democratic process any efforts to obtain public funds for Catholic schools.

Before considering the details of these conflicts in the 1870s, it is necessary to consider why these questions had such resonance for the American public, both Protestant and Catholic.

The Perceived Catholic Menace

The social and political history of the United States in the nineteenth century is frequently written without reference to developments in Europe, but on this issue of Catholic schooling this would miss a connection of which contemporaries were very much aware. The 1870s and 1880s were, in Austria, Belgium, France, Germany, Italy, The Netherlands, and Spain a period of intense political conflict between the Catholic Church and the respective governments, with schooling more often than not the central issue. The Dutch *schoolstrijd* was the cause of the first mass political mobilizations in that country, as was the case in Belgium; the French Third Republic made banishing Catholic influence from popular schooling a central goal.

After some fifteen years of self-absorption in run-up to and aftermath of the Civil War, Americans began to take notice of the conflicts that arose as European governments sought to use popular schooling to solidify their control and the Catholic Church sought to maintain its traditional role in schooling children it had baptized.[1] Catholic leaders in the United States were inevitably drawn into echoing the positions taken by the Papacy in these conflicts. They did so with confidence because the anti-immigrant hostility of the 1850s had been greatly reduced by the shared experience of war; indeed, many northern cities elected Irish mayors in the 1870s and 1880s.

While American observers were aware of these developments in Europe, and especially of the increasing insistence of the Catholic Church – in the United States as in Europe – upon providing schooling under its auspices or supervision, they were especially interested in the measures taken by the government of Germany against the influence of the Catholic hierarchy. In the 1870s, having defeated France and established the German Empire through voluntary unification of German states, Chancellor Bismarck began to challenge the influence of the Catholic Church, especially in education, as a threat to that national project;[2] this *Kulturkampf* seemed to many in the United States an exemplary case of self-protection by a progressive government.

American Protestant leaders, as well as those indifferent to religion but concerned to promote the national unity for which a costly war had recently been fought, were keenly aware of the conflicts in Europe. James Garfield, the future president, told a gubernatorial campaign audience in 1875 that there was a common battle in both Europe and America against Catholic political demands: “Our fight in Ohio . . . is only a small portion of the battlefield,” he told the voters.[3]

For American Protestants, as for French anti-clerical Republicans, the Catholic Church, a large and ramifying organization and also a source of transcendent claims, seemed a menacing limitation upon national unity and progress; its opponents “hammered away at the idea that schools operated by the religious communities taught a perverted doctrine inimical to modem ideas and a hatred for laic society that must eventually prove fatal for the Republic.”[4]

One result of the French defeat by Germany in 1870 was to strengthen the confrontation between the Papacy and many aspects of contemporary European culture and political life. With the withdrawal of French troops, Rome fell to the Italian army; this came to symbolize, for liberals and for many Protestants worldwide, “the victory of the progressive secular spirit, or indeed of free thought, in confrontation with the papal power considered as the very model of clerical obscurantism.”[5] For the Catholic Church, by contrast, it was an almost unparalleled humiliation that led to a compensating assertion of its spiritual authority. A papal encyclical in 1864 had condemned the pretension of governments to provide secular schooling to Catholic children. In the *Syllabus of Errors* attached to the 1864 encyclical, Pius IX condemned the assertion of the exclusive authority of the state over public schools, and the contention that

> the best theory of civil society requires that popular schools open to children of every class of the people, and, generally, all public institutes intended for instruction in letters and philosophical sciences and for carrying on the education of youth, should be freed from all ecclesiastical authority, control and interference, and should be fully subjected to the civil and political power at the pleasure of the rulers, and according to the standard of the prevalent opinions of the age.[6]

By also denouncing freedom of conscience and worship, Pius confirmed all the worst suspicions of liberals and Protestants in the United States as well as in Europe. In the political controversies in 1875-76, the *Syllabus* would often be cited, along with the claim of papal infallibility that followed in 1870, as occurred in Congress when the ‘Blaine Amendment’ was debated.[7]

It was widely believed, among the Protestant majority in the United States, that the very nature of Catholic schooling was contrary to fundamental principles of American life, aiming to produce adults unable to think for themselves and totally subordinate mentally and spiritually to their church. As we have seen in chapter 5, influential Protestant Horace Bushnell warned against the influence of Catholic schools, as a menace to society, their religious justification in fact no justification at all. In such schools, the children of immigrants “will be instructed mainly into the foreign prejudices and superstitions of their fathers, and the state, which proposes to be

clear of all sectarian affinities in religion, will pay the bills!"[8]

While concerns in the 1840s (and again at the end of the nineteenth century) focused on the floods of immigrants and how their children could be made into real Americans, that in the 1870s, echoing the contemporary European conflicts, focused more on the authority of the Catholic hierarchy over the minds of these new citizens who had begun to exercise considerable political influence. "Even more than the Church's secular power, its assertions of theological authority seemed incompatible with freedom – especially with the individual independence and personal authority that were increasingly felt to be at the core of Protestant and American identity."[9]

This fear of the effects of Catholic schooling would continue for many decades. The National Education Association, in 1891, warned that parochial schools initiated the children of immigrants into foreign traditions that threatened "distinctive Americanism," and thirty years later a Methodist bishop in Detroit warned that "the parochial school is the most un-American institution in America, and must be closed."[10] It was this continuing and deeply-rooted perception that Catholic schooling was a problem that led to the Oregon legislation struck down by *Pierce v. Society of Sisters* in 1925.

Nor has this theme been altogether abandoned, despite much solid research on the benefits of Catholic schooling for good citizenship. A contemporary professor of legal studies does not hesitate to assert (with no evidence) that religious schools harm children in all sorts of ways, producing not only intolerance but also "diminished self-esteem, extreme anxiety, and pronounced and sometimes life-long anger and resentment." Girls who attend Catholic school "find themselves unable as adults to act on desires, to take control of their sexual/reproductive lives, or to leave abusive marriages." Thus even if children themselves express preference for a religious school, the State would be justified in concluding that their long-range religious liberty would be better served by a temporary violation of their short-term religious liberty to attend such a school. "Even students who are not presently inclined to question the religious beliefs they have been taught," Dwyer writes, "would have a greater total liberty if given the freedom to change their minds about religion." Public authorities would be fully justified in ignoring "a child's expressed preference for a kind of schooling that includes the practices" of indoctrination and crippling of personality which the author claims characterize religious schools. Overriding the child's decision (not to mention that of her parents) "would be appropriate and even morally requisite."[11]

As with this contemporary example, nineteenth century objections to public funding of parochial schools were not generally based upon abstract concerns about "separation of Church and State," but upon the presumed nefarious effect of Catholic schooling. Josiah Strong, in his widely-read survey of the perils facing *Our Country* (1886, revised 1891), warned that

> the Roman Catholic is not at liberty to weigh the Pope's judgment, to try his commands

> by his own conscience and the Word of God – to do this would be to become a Protestant. [To make matters worse,] he stands not alone, but with many millions more, who are bound by the most dreadful penalties to act as one man in obedience to the will of a foreign potentate and in disregard of the laws of the land. *This*, I claim, *is a very possible menace to the peace of society*.[12]

Not only was Catholic schooling considered dangerous in its effects, but Republican leaders claimed to be concerned to avoid the conflict that would be likely to arise over efforts by Catholics to obtain a share of the public funds for education through the political process. After all, such conflicts were reported regularly in Europe. Typical of this attitude was a long unsigned lead article reprinted from a Congregationalist publication in Horace Mann's *Common School Journal,* extending over three issues in 1848, titled "Sectarian or 'Parochial' Schools." The author warned that, with the proliferation of denominational schools, "the number of sects would increase instead of diminishing . . . until they isolated every house from every other house; until they ran through houses, indeed, separating man and wife." The effect of this on educational provision would not be a healthy competition but would instead "destroy, if not the existence, certainly the prosperity of the public schools, taking away from them a considerable portion, and probably the better portion of the pupils of the place, those best trained, by example, precept and authority, at home, and with them the pecuniary support and earnest interest of their parents." It would be particularly unwise, by extending public funding to denominational schools, to stimulate "the sectarian spirit . . . Better than this, it might be (are we not justified in saying *would* be) to cast all the school funds to the bottom of the sea." Forgetting that almost all popular schooling for the past two hundred years had been provided by schools with a distinct denominational character, the author asserted that only the non-denominational common school was "in accordance with the nature and necessities of our free institutions," and that the "influence of the church school system . . . will be sectarian, divisive, narrow, clannish, anti-republican." Their effect would be "to subvert our common schools, so beneficent for purposes of unity and harmony, on the ground that they are not sufficiently sectarian."[13]

The conviction that schooling with a religious character was profoundly dangerous to national unity and to social peace persisted over the course of the nineteenth and twentieth centuries, and led to bitter struggles with parents – especially immigrants – who wanted the education of their children to be within the framework of their Catholic or Lutheran or Reformed faith. What Cavanaugh has called "the myth of religious violence"[14] continues to be influential, as we see, for example, in Justice Stevens's dissent to the Supreme Court's approval of school vouchers in Cleveland:

> I am convinced that the Court's decision is profoundly misguided. Admittedly, in reaching that conclusion I have been influenced by my understanding of the impact of religious strife on the decisions of our forbears to migrate to this continent, and on the decisions of neighbors in the Balkans, Northern Ireland, and the Middle East to mistrust one another. Whenever we remove a brick from the wall that was designed to

> separate religion and government, we increase the risk of religious strife and weaken the foundation of our democracy.[15]

His colleague Justice Souter's dissent made similar reference to "sectarian religion's capacity for discord," while that of Justice Breyer stressed the urgency of "avoiding religiously based social conflict." None of the dissenting justices cited any examples of such conflict in the United States more recent than the mid-nineteenth century. The point is not, however, the cogency of their arguments, but the evidence they provide of the persistent conviction that there is something very dangerous about allowing schools to present to children different ways of understanding the nature of the Good Life and the purposes of education.

In fact, as I have shown in *Conflicting Models of State and School*, it was when Belgium and the Netherlands adopted laws giving parents equal access to public and private (mostly faith-based) schools through funding the latter based on the choices made by parents that social and political conflict based on religion subsided in those countries.[16]

What agitated voters in the 1870s was the fear that the Catholic Church was gaining political influence and advancing demands upon an educational system that rested in large part upon successful compromises among Protestants. It was a period when politics were followed closely by the public – more than 80 percent of the eligible voters outside of the South participated in presidential elections from 1876 to 1900 – and elections were often closely decided.[17] Anti-Catholicism was invoked often, and successfully, in these elections.

Faced with rapid social changes propelled by immigration and industrialization, and with an economic slump, the Protestant majority in the North was easily persuaded to transfer its concern from the situation of freed slaves in the South to the closer-at-hand 'menace' of growing Catholic self-assertion. "By the early 1870s, the Republican Party officially adopted religion in public schools as a pet project." Nor was this an issue for only one election cycle; in Massachusetts, for example, religious conflict about schools dominated elections in 1888 and 1889. For several decades "the question of religion in the public schools . . . captured the imagination of rabid anti-Catholics, who warned of popish plots to take over American schools."[18]

As national politics became competitive again, Senator Henry Wilson of Massachusetts, Chairman of the Republican National Committee, in a January 1871 article in the *Atlantic Monthly*, "outlined the new Republican strategy which called on the public school to become the centerpiece of a new Reconstruction of all of American society." The goals of preserving the Union and freeing the slaves had been met; now the party required a new mission.

> Concurrent with the miserable condition of the freedmen, he wrote, ignorant and illiterate immigrants from Europe were entering the country also to become voters. As never before, an unwanted cultural diversity characterized the voting class. . . . A genuine national unification through a national public school system was needed. . . . He held up

> the model of Prussian public education, organized from the center. . . . As Otto von Bismarck was centralizing a new German federation, the Republican Party was centralizing the American Union. As Prussia had invested heavily in primary education, the United States should do likewise. France had lagged behind in mass education, and it had suffered the ultimate consequence of its public-policy error on the battlefields of the Franco-Prussian War, just then concluding. The French people, he wrote, "ignorant, priest-ridden, and emasculated of their manhood, lies beaten on every field and helpless at the conqueror's feet. The lesson should not be lost on the American people."[19]

The Bible in Public Schools

As we have seen in chapters 3 and 4, the strong localism of schooling in the United States made it a simple matter in most cases to accommodate the religious loyalties of parents – in most communities Protestant, but in some Catholic – in daily practices and classroom instruction. This was a more difficult matter in cities where both Catholics and Protestants were strongly represented, and conflict frequently broke out over whether the Bible should be read devotionally or used as part of instruction . . . and, if so, which version of the Bible should be chosen.

Removing the Bible from public schools, Protestant leaders argued, would cripple their ability to train citizens, especially children from families which did not provide adequate moral instruction. While compromises were usually worked out at the local level, the issue of the use of the Bible in public schools could become a major political flashpoint, as it did in Philadelphia and in Boston, lacking New York City's system of decision-making by generally-homogeneous local districts (see chapter 3). In Cincinnati, a conflict over this issue in 1869 attracted national attention and did much to define the political agenda of the Republican Party in the 1870s. Opposition to the Bible in public schools was reinterpreted as opposition to public schools as such, not because of a logical connection between the two but because Catholic spokesmen were identified with both.

> Public school advocates charged that support of their movement was the best litmus-paper test of true American nationalism. In the South, Ku Kluk Klan terrorists were then burning public schools. Accordingly, these midnight criminals demonstrated their disloyalty to American nationalism. In the North, Roman Catholics sought to remove the Bible from the public schools. Therefore, these dissenters also revealed their contempt for the nation. . . . The powerful emotions of religion and patriotism mixed in the cauldron of Reconstruction politics around the symbol of the public school.[20]

The Cincinnati Board of Education had been negotiating with the Catholic Archbishop for an arrangement under which the Catholic schools would become part of the public system, as occurred in a number of cities in New York State. The deal under consideration involved

abandonment by the public schools of the common practice of starting each school day with a reading from the Bible and the singing of a hymn, while the Catholic teachers (if certified by the state) would be retained as public school teachers. The Church would be able to use the buildings for religious instruction on weekends.

When word of these terms leaked out, there was a strong reaction from Protestants, and the Archbishop promptly withdrew from the negotiations. "Angered over the Protestant reaction that had killed their negotiations, [the Board] voted to bar the Bible and hymn singing from Cincinnati's public schools independent of any deal." Within weeks, this was a national issue; "the logic of the anti-Catholic crusade portrayed the school board action as part of an international Jesuit conspiracy being played out not only in the United States but also in Germany, England, Italy, and Spain."[21]

Defending the use of the Bible in public schools was a basis for mobilization among a Protestant majority that was feeling beleaguered by the political gains of Catholics in cities across the North. Typical was an interdenominational rally in 1875 in the Broadway Tabernacle in New York City, at which the lead speaker told the crowd that "[t]he expulsion of the Bible is only the starting point. . . . it means ultimately the elimination from public instruction of all that tends to the promulgation of the doctrines of true religion, or morality, and of the rights of free human worship. . .. It is time for the people of America to arouse, and, if there is no law or statute in the Constitution to specify what principle of religion or of faith shall be sustained, then it is necessary for the people to speak and amend the Constitution."[22] A leading Presbyterian publication insisted that all Protestants were concerned "that the Bible, the Lord's Prayer, the recognition and assertion of fundamental moral and religious truth shall not be prohibited in our public schools on any pretext whatsoever."[23]

As historian Robert Handy has pointed out, "at no point did the evangelical consensus which bridged denominational and theological gulfs show itself more clearly in action than in the common effort to maintain the public schools as part of the strategy for a Christian America."[24]

One of the puzzling features of this episode in American history is that Protestant political leaders and the voters who supported them seemed to find no conflict between insisting that God and the Bible should continue to play a vital role in public schools while being equally adamant that "sectarian" schooling was unAmerican and to be opposed. For example, the new Colorado Constitution, adopted in 1876 in a successful bid to gain statehood, included a provision that "[n]o sectarian tenets or doctrines shall ever be taught in the public school" (article IX, section 9). The convention delegates were assured by Judge J. B. Belford that "fears that the cause of Protestantism will suffer from the exclusion of the Bible from the schools was chimerical. Ninety-nine percent of the teachers are Protestant; the books employed and the literature used have no smack of Catholicism about them. The associations of the children are largely in the same direction. The papers and magazines most read by them are anti-sectarian." In other words, the Protestant character of the public schools made them, by

definition, non-sectarian. The following day a letter appeared in the *Rocky Mountain News*, signed "A Catholic," pointing out that Belford had shown "that the common schools were Protestant."[25] This made them, from the Catholic perspective, profoundly sectarian and unacceptable for Catholic children.

Public Funding for Catholic Schools

As we have seen, it was not uncommon in the eighteenth and early nineteenth centuries for public funding to be provided to schools that we would now consider "private" and that had a religious character, in the great majority of cases Protestant but sometimes Catholic. (Throughout the nineteenth century, in addition, federal funds were used to support denominational schools serving various Indian peoples.) These arrangements continued even as one state after another discontinued public funding support for their formerly-established churches. In California, in 1870, the state legislature provided funding to schools operated by a Catholic teaching order, though this aroused considerable opposition.[26]

In the 1850s, however, the anti-immigrant American (or "Know-Nothing") Party swept the state elections in Massachusetts and promptly amended the state constitution to require that public funds could be "expended in no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended; and such moneys shall never be appropriated to any religious sect for the maintenance exclusively of its own schools."

> As one member of the Constitutional Convention of 1853 bluntly put it, the Know-Nothings feared that "some new sect may outvote the Protestants, and claim the school fund." The Anti-Aid Amendment put the issue of who would provide elementary and secondary education in Massachusetts into the state's Constitution, its "organic law, something that cannot easily be changed."[27]

It is worth emphasizing that this anti-immigrant political movement thought it necessary to remove the question of funding of Catholic schools from the ordinary arena of politics in a democratic society, even though they obviously had the votes to block efforts to appropriate funds for that purpose. The message was that this was a matter of fundamental principle that could not be left subject to the vagaries of elections or entrusted to the wisdom of future voters. Massachusetts would make this even clearer in 1917, when another convention was called remove the anti-religious clause of the constitution and simply prohibit public funds to any institution "not publicly owned and under the exclusive control, order and superintendence" of the state or federal government. The same convention established a typical Progressive-era initiative process by which citizens could propose laws to be placed on a statewide ballot for approval by popular vote without legislative action, but included a prohibition against this process being used in the future "to repeal either the Anti-Aid Amendment, or the provision barring its use to repeal the Anti-Aid Amendment"![28]

We will see that the this unwillingness to trust the judgment of citizens in the normal process of democratic deliberation on the issue of funding Catholic schools was evident at the constitutional convention held in Colorado in 1876.

It was in the mid-1870s that such funding became a major political issue nationwide, for three reasons: the growing political strength of Irish and German Catholic voters in some highly-visible cities, the conflicts in Europe between the Catholic Church and a number of national governments, and the need of the Republican Party for a new issue to mobilize voters and make them forget the financial scandals of the Grant Administration. Popular support for the "reconstruction" of the South and for schooling of freed slaves and their children had ebbed,[29] and in 1874 Republicans lost control of the House of Representatives and experienced serious losses in the Senate as well; "waving the bloody shirt" of the Civil War no longer ensured their political dominance. President Grant became concerned that the resurgent Democrats were monopolizing the issue of reform which the public was demanding. "'Realizing that the Republican Party had inherited a devotion to public education while the Democratic Party, thanks to its Southern conservative wing and its Catholic following in the North, had never been regarded as favoring free public schools, Grant sought to realign the party in favor of education.' Being in favor of free education made the Republicans appear moral and once again the party of reform."[30] Since in fact the federal government had no responsibility for schools, there were no practical measures that Grant could take, but in the context of the 1870s the surest way to be perceived as a friend of the traditional common public school, strongly marked by non-denominational Protestantism, was to warn against the Catholic menace. This perhaps came all the more naturally to President Grant because he had been a member of the Know-Nothing party in his younger years.[31]

In the 1870s, given the strong identification of urban immigrant Catholics as Democrats, Republican leaders found it easy to play upon the fear of many voters about the growing political power of the Catholic Church to seek to maintain their hold on the White House. In July 1875 the *New York Tribune* reported that both political parties were planning to use the issue of funding of Catholic schools to strengthen their positions. "Even the *St. Louis Republican* recently said: 'The signs of the times all indicate an intention on the part of the managers of the Republican party to institute a general war against the Catholic Church. .. Some new crusading cry thus becomes a necessity of existence, and it seems to be decided that the cry of "No popery" is likely to prove most available.'"[32] Similarly, *Harper's Weekly* announced that the Republicans had discovered a winning issue.[33]

As the opening move in this campaign, in a speech to Union veterans gathered in Des Moines, President Grant struck a chord that had immediate resonance in the press nationwide:

> Let us all labor to add all needful guarantees for the security of free thought, free speech, a free press, pure morals, unfettered religious sentiments, and of equal rights and privileges to all men irrespective of nationality, color, or religion. Encourage free schools, and resolve that not one dollar, appropriated for their support, shall be

> appropriated to the support of any sectarian schools. Resolve that neither the State nor Nation, nor both combined shall support institutions of learning other than those sufficient to afford to every child growing up in the land the opportunity of a good common school education, unmixed with sectarian, pagan, or atheistical dogmas. Leave the matter of religion to the family altar, the Church, and the private school, supported entirely by private contributions. Keep the Church and State forever separate. With these safeguards, I believe the battles which created the Army of the Tennessee will not have been fought in vain.[34]

While commentary in the "mainstream" press was generally highly favorable, Catholics saw Grant's summons as a politically-motivated attack on their growing influence in many urban areas. While that was certainly the case, it was also basically inconsistent; Grant's own administration had greatly increased the role of religious (that is, "sectarian") organizations in carrying out federal responsibilities toward many Indian peoples. The government relied heavily upon denominational (including Catholic) organizations which it funded to provide schooling. The regular congressional appropriations in support of the 'civilizing' work of religious organizations, which had begun with $10,000 in 1817, reached $100,000 by 1870, and in 1876 there were 54,473 Indians in publicly-funded agencies supervised by Methodists, 40,800 supervised by Baptists, 38,069 by Presbyterians, 26,929 by Episcopalians, 24,322 by Quakers, 17,856 by Catholics, 14,476 by Congregationalists, and 21,974 by other denominations. The Commissioner of Indian Affairs expressed support for public funding of religious schools for Indians as late as 1882, writing in his annual report: "I am decidedly of the opinion that a liberal encouragement by the government to all religious denominations to extend their educational and missionary operations among the Indians would be of immense benefit. . . . No money spent for the civilization of the Indian will return a better dividend than that spent this way."[81]

In response to the growing opposition to Catholic schooling, however, policy-makers subsequently turned against Catholic schools for Indians. Hostility toward Catholic schooling was so strong in the late nineteenth century that leaders of Protestant denominations that had been accepting public funding for many decades for their own Indian schools decided to reject that funding in order to be consistent with their opposition to public funds for Catholic parochial as well as Indian schools.[82] In 1889, a Methodist minister and prominent anti-Catholic, Daniel Dorchester, was appointed Superintendent of Indian Education; he had been active in the public school controversy in Boston in 1888 and in that year published a book called *Romanism versus the Public School System*, attacking Catholic schooling. "Its crying defect," he wrote, 'is that its teaching is not only un-American but anti-American, and will remove every one of its pupils, in their ideals, far from a proper mental condition for American citizenship, and enhance the already too difficult task of making them good citizens of a republic."[83]

The 'Blaine Amendments'

No doubt encouraged by the wide attention paid to his speech to the veterans, President Grant included in his annual message to Congress, in December 1875, a call for an amendment to the national Constitution, already amended three times in the previous decade,

> making it the duty of each of the several States to establish and forever maintain free public schools adequate to the education of all the children in the rudimentary branches within their respective limits, irrespective of sex, color, birthplace, or religions; forbidding the teaching in said schools of religious, atheistic, or pagan tenets; and prohibiting the granting of any school funds or taxes, or any part thereof, either by the legislative, municipal, or other authority, for the benefit or in aid, directly or indirectly, of any religious sect or denomination, or in aid or for the benefit of any other object of any nature or kind whatever.[84]

Such an amendment, if enacted and ratified, would have revived an element that had been dropped from the 1875 Civil Rights Act, adopted as a last gasp of Republican dominance of Congress: the prohibition of discrimination in school admission. In addition to carrying forward this element of the Reconstruction agenda, however, the proposal added a crowd-pleasing new theme, a prohibition against public funding for Catholic schools. This was picked up immediately by an ambitious congressman from Maine, James G. Blaine, who introduced a bill calling for an amendment that dropped the racial provision, for which opposition had grown in the North as well as the South, and picked up only on that aimed against Catholic schooling, disguised within an extension of the first clause of the First Amendment to the states:

> 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 the public schools or derived from any public fund therefor, shall ever be under the control of any religious sect, nor shall any money so raised ever be divided between religious sects or denominations.[85]

It was no secret that this measure was directed against Catholic schooling; no one was concerned that a Quaker private school in Philadelphia or an Episcopalian private school in New York City might seek public funds. Behind the opposition to Catholic schooling was a conviction that Catholics sought to undermine the public school, as the long-serving Denver public school superintendent charged in 1878.[86] Senator Henry Blair (R-N.H.) told the Senate in 1888 that “Jesuits . . . have come to our borders and they are among us to-day, and they understand that they are to secure the control of this continent by destroying the public-school system. They are engaged in that nefarious and wicked work.[87]

The proposed amendment passed in both the House and Senate, but fell short of the required two-thirds in the Senate. The real action, in fact, would be in the states, as one after another adopted similar language in their state constitutions over the next decades. In Colorado, a Constitutional Convention was at work for the aspirant state even as Congress considered Blaine’s proposed amendment, and anti-aid language was debated and adopted in August 1876, with similar intent:

> Neither the general assembly, nor any county, city, town, township, school district or

> other public corporation, shall ever make any appropriation, or pay from any public fund or moneys whatever, anything in aid of any church or sectarian society, or for any sectarian purpose, or to help support or sustain any school, academy, seminary, college, university or other literary or scientific institution, controlled by any church or sectarian denomination whatsoever; nor shall any grant or donation of land, money or other personal property, ever be made by the state, or any such public corporation to any church, or for any sectarian purpose (Article IX, section 7).

And, in another section of the Colorado Constitution, "No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association" (Article V, section 34).

Colorado is an interesting example; unlike Boston, New York, or Philadelphia, it did not have the experience over decades of tension and even rioting between Catholics and Protestants, as in the Orange riots in New York City in 1870 and 1871 when more than sixty were killed in fighting between Irish Catholics and Irish Protestant marchers celebrating the anniversary of the Battle of the Boyne. Colorado had its own tensions, however, between Mexicans in the southern part of the territory and "Americans" which led to the so-called "Trinidad war" of 1867-8. Although about one in four of the residents of the territory were Catholic, including Irish railroad laborers, they were either not represented or minimally represented (historical sources differ) among the 39 delegates elected to the constitutional convention in October 1875, when Grant's speech to the veterans was still the subject of lively discussion in Colorado.

That prejudice existed among the Protestant majority there can be no doubt; the day before the convention began its deliberations, the *Rocky Mountain News* featured an article on the "thieving reputation" of Mexicans.[88] One of the debates in the convention was whether to tax church property, and the *Denver Daily Times* suggested that this was in retaliation against the Catholic position on the school questions. A former territorial governor who was lobbying for eleven Protestant churches seeking tax immunity wrote in a private letter that the Protestant ministers wanted to tax the Catholics while being exempted themselves. "It seems much like the Know Nothing movement – the Republicans are going into secret societies against the Catholics . . . But I keep my hand covered while I stir them up."[89]

A scholarly study of the religious controversies surrounding this convention concludes that they "exemplified on a smaller scale the religious, social, and political currents of the United States as a whole," and review of debates and opinions reflected in the local press confirm that participants were very much aware of what was going on across the country and thought of themselves as participants in the same struggles. For example, the *Denver Daily Times* (September 5, 1875) gave detailed coverage to a controversy in New Jersey over public funding for Catholic schools.[90]

The newly-formed Colorado Teachers' Association, meeting in December 1875, urged that the new constitution exclude "sectarianism" and prohibit the diversion of public funds for education to non-public schools.[91] In this respect, again, Colorado reflected closely what was occurring at the national level as well as the position of the National Educational Association, meeting that year in Minneapolis.[92]

Judge Belford addressed the convention at the end of December, warning that allowing public funding for religious schools would be a "denial of the right of the nation to provide a uniform system of education for its youth, and to compel its support."[93] As the convention debated the anti-aid ("Blaine") provision of the proposed Constitution, petitions came in on both sides of the question, though more supporting it than opposed. Meanwhile, a vigorous discussion occurred in the press. A correspondent signing himself "A. Freeman" warned that the "antagonism of a certain church towards our American public school system, has been so bold, so defiant and so general as to leave no doubt its object…which, if achieved, would within a couple of generations, lay our vigorous young republic, bound with the iron fetters of superstition at the feet of a foreign despot, the declared foe of intellectual liberty and human progress."[94]

Two days later, an editorial and a letter to the *Rocky Mountain News* urged that, as a matter of prudence rather than of principle, the convention refrain from including a "Blaine" provision, lest that lead to Catholic opposition that might imperil the ratification of the Constitution by popular vote, and on January 29 the paper reiterated this position, while insisting that it would oppose any legislative attempt to fund sectarian schools. On February 2 this argument was made again:

> Were the passage of the constitution a foregone conclusion, it is perhaps unnecessary to say that this paper would hardly propose to, if only ostensibly, gainsay the Blaine amendment to the federal constitution, or to even in appearance controvert the doctrines enumerated in the Des Moines speech of the president. Under the circumstances, however, The News regards it clearly the better part of wisdom for the constitutional convention to insert no clause in the constitution calculated to excite the opposition of any class in the community, even if such clause conspicuously contains sentiments of which the republican party particularly is the exponent…the legislature is fully competent to deal with the question, and the danger is far from conceivable of a majority in that body being in favor of any measure that would detract from the stability of the public school system as presently constituted. . . . there is every probability of an amendment to the constitution of the United States being passed, in no long time, which will put the matter to rest here in Colorado, without any local lifting of hands to bring about this consummation devoutly wished for by so many.[95]

On the other hand, an editorial in the *Boulder County News* asked rhetorically, "is it not enough that Rome dominates in Mexico and all of South America?" though a few days later the paper was also urging caution about offending Catholic voters.[96]

The Catholic position was asserted unmistakably by Bishop Machebeuf, who insisted on the loyalty of Catholics to Colorado and lamented the absence of a Catholic voice in the deliberations of the convention. In a speech in his cathedral in late January, he argued that "sectarian, pagan and atheistic doctrines" were being taught in public schools, and that their "pervading air, their tone, and all these subtle and impalpable traits…are anti-Catholic." He accused some Protestant leaders of holding the hope of "grinding" Catholicism out of America's Catholic youth through the public schools.[97] On February 18, Machebeuf sent a message to the convention delegates, urging (as was occurring also in the press) that the question of funding of denominational schools be left to the judgment of future legislators rather than locked into the Constitution, which would make it much more difficult for consideration through the ordinary process of deliberation. Machebeuf argued eloquently that

> the question itself has never been fully and dispassionately discussed in this country, and can not be said to have been discussed at all in Colorado. We have had, so far as I am informed, nothing said on our side of the question in your honorable body. . . . So far, both in this country at large and in Colorado, the language of passion has been more often uttered than that of reason. . . . The present is no time for the exposition of the arguments in favor of denominational schools. But we look forward hopefully to the future. A day shall at last dawn – surely it shall – when the passions of this hour will have subsided; when the exigencies of partisan politics will no longer stand in the way of right and justice, and political and religious equality shall again seem the heritage of the American citizen.[98]

Despite Machebeuf's earlier threat that Catholics might be compelled to oppose the Constitution, the 'Blaine" language was included and the voter went on to ratify the Constitution overwhelmingly. Anticipating this result, the *Rocky Mountain News* concluded that "in taking the bull by the horns and grappling with the school fund question as it did, the convention showed the wisdom of the serpent, if not the harmlessness of the dove, for far more protestants can be got to vote for the constitution on account of this very clause than catholics for the same reason to vote against it, and many, no doubt, will vote for it for the sake of this clause alone…no doubt, but that the president's Des Moines speech and Mr. Blaine's amendment to the national constitution struck a chord in the average American breast that has not yet ceased vibrating. What at first seemed the weakest link in the constitutional chain, no doubt will prove a source of strength to all the others."[99] It seems there can be no question that the editorial was correct in assessing the public mood, for which opposition to Catholic schooling was an issue of paramount concern.

Were he alive today, Bishop Machebeuf would no doubt be surprised and disappointed to learn that (unlike every other Western democracy) the United States still maintains barriers against reasoned deliberation about the merits of schooling that responds to the choices of parents. It is striking how, whether in Massachusetts, or Colorado, or in federal court litigation, opponents of making faith-based schooling available to parents without financial penalty seek to remove this issue from the sphere of democratic decision-making.

Unfortunately, across the United States, the adamant refusal to permit public funding for Catholic schools led to Catholic opposition to increased tax support for the public schools in those cities where that opposition had serious consequences. Political scientist Paul Peterson comments that "the public schools might have gained more in fiscal terms at an earlier date had they been more willing to work cooperatively with their fellow educators within the Catholic church."[100] But that would have required an openness rare in the nineteenth century, when so much anxiety was directed against the Catholic influence in public and even in private life, and when the common public schools was expected to fulfill a spiritually-unifying role.

1 Glenn (2011a), x-y; Glenn (1988), y-z..

2 See Glenn (2011a), y-z.

3 in McAfee (1988), 179.

4 Partin (19xx), 39.

5 Pécout (19xx), 188.

6 Pius IX 1864.

7 4 *Congressional Record* 5577-8 (1876).

8 Bushnell (1880), 299-303.

9 Hamburger (), 194.

10 Ross 1994, 24, 68.

11 Dwyer 1998, 15, 23, 164-5.

12 Strong (1963), 65, emphasis in original.

13 Anonymous (1848), 147, 149, 151, 168-69.

14 Cavanaugh (2009).

15 *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002), Stevens, J., dissenting.

16 Glenn 2011.

17 Justice (2005), 2.

18 Justice (2005), 3-4.

19 McAfee (1988), 23-4.

20 McAfee (1988), 41.

21 McAfee (1988), 27-9.

22 Green (1992), 51-2.

23 In Green (1992), 52n.

24 Handy (1984), 87.

25 *Rocky Mountain News*, December 30-31, 1875.

26 Peterson (1985), 43.

27 Chapman (2009), 5-6.

28 Chapman (2009), 7, 11.

29 See Glenn (2011b), x-y.

30 Green (1992), 49, quoting William Hesseltine.

31 Hamburger (2004), 322.

32 Green (1992), 44.

33 McAfee (1988), 192.

34 Green (1992), 47-8.

81 Mitchell and Skelton (1966), 42.

82 See Glenn (2011c), a-b.

83 Prucha (1976), 307.

84 Green (1992), 52.

85 In Green (1992), 50.

86 Noel (1989), 35-6.

87 In Green (1992), 58n, from 19 *Congressional Record* 1218 (1888).

88 *Rocky Mountain News*, December 19, 1875.

89 In Hensel (1961), 352.

90 Parker (1992), 46, 112.

91 Hensel (1961), 354.

92 Wesley (1957), *passim*.

93 *Rocky Mountain News*, December 30, 1875.

94 *Rocky Mountain News*, January 11, 1876.

95 *Rocky Mountain News*, January 13, 29, February 2, 1876.

96 Hensel (1961), 354.

97 *Rocky Mountain News*, January 24, 1876.

98 *Proceedings* (1907), 330-1.

99 *Rocky Mountain News*, March 17, 1876.

100 Peterson (1985), 44.