

Tolland High Loves Controversy

By Catherine Brennan

This fall's lecture series at Tolland High School wasn't just another government class. The Center For First Amendment Rights (CFAR) brought three speakers to Tolland High School to discuss some controversial issues with students - issues that were not just hot topics in the news, but in schools.

Martin Margulies, the Quinnipiac School of Law Professor of First Amendment and Constitutional Studies, addressed the Tolland students on the topic of "Dress Codes and Speech in School."

Unique Middle School Day Planned

CFAR and the Hartford Magnet Middle School (HMMS) in the Learning Corridor are jointly sponsoring the Middle School First Amendment Day on Thursday, April 29, 2004, at the Learning Corridor Theater. All Connecticut Middle School students and teachers are invited, but registration is required (860-541-3339). Featured on the program are best selling and award winning author Katherine Patterson, on the freedom to read and write; Professor John Brittain, of Sheff v. O'Neill fame, on education as a pillar of the First Amendment; and Professor Martin Margulies, from Quinnipiac Law School on student rights. The program runs from 8:30 to 11:30AM.

IN THIS ISSUE

- Congress Blocks Media — 3
- Superb Symposium Set — 3
- Police Deny Passes to Reporters — 4

Former Assistant Attorney General Paul Shapiro gave a lecture on "Posters, Controversial Speech & The Pledge in School." Using the landmark cases *Tinker v. Des Moines School District* and *Bethel School District v. Fraser* as a background, Attorney Shapiro discussed their application to recent topics, including the upcoming Ninth Circuit school pledge of allegiance case. With him was Dartmouth College senior Stratos Pahis discussing the student perspective.

Finally, Professor Loftus Becker of the University of Connecticut School of Law spoke on the topic of "Internet and the First Amendment in Schools & Public Libraries." After outlining the basics of constitutional analysis for the students, Professor Becker encouraged the students to apply these new modes of thought to the recent debate about censoring the internet in public libraries. While no easy answers were found, the students

found some new ways to think about the issues. CFAR sincerely thanks each speaker for providing an interesting and exciting forum and thanks the students for participating in this debate. The event was sponsored by a generous gift of nerac.com to CFAR's Town-Corporate Program. CFAR is interested in sponsoring similar programs at other schools. If your business is interested in sponsoring a program in your community, please contact Steve Kaplan (860-880-8234), chair of CFAR's Town-Corporate Educational Program.

Interview:

Denise Merrill

State Representative Discusses the importance of Civics Education

State Representative Denise W. Merrill represents the 54th District (Mansfield, Chaplin) and is the Deputy Majority Leader of the State House. She has worked with numerous state agencies and private organizations to establish statewide citizenship and law education programs. In 2000, she sponsored legislation making civics a requirement for high school graduation.

Q How did you become interested and involved in politics?

A I think that I was always involved in politics, but like many women, I didn't come to it formally until much later in life when I had children in schools and starting caring about that. I progressively became President of the PTA, and then on the School Board, and then pretty quickly after that, ran for office.

But I was involved in political campaigns way back in high school. Of course, I grew up during the Vietnam War when there was a lot of student activism.

Q How did you first become interested in civics education?

A I was a lawyer, and I had been a teacher, so when they were looking for a position to fill at the Connecticut Department of Education doing law-related education programming, I applied for the job and I got it. And that's where we started doing programs on civic education.

continued on page 2

Interview: Denise Merrill

continued

Q In 2000, you sponsored legislation adding civics as a requirement for high school graduation. What was the motivation behind that?

A For ten years I worked on civic education programs and projects with students when I was at the Connecticut Department of Education, and we formed the Consortium for Law and Civic education. I had worked with a number of state agencies, Attorneys General, Secretaries of the State, and really anyone we could get interested in all this. We did surveys at that time about how many students were taking any courses that related to the U.S. Constitution or the Bill of Rights. It was 1987, the bicentennial of the U.S. Constitution and people started looking at how much people really knew about the Constitution. Our survey showed that 75% of the students in Connecticut at that time did not take any course or have any information about the U.S. Constitution except for about two weeks in U.S. History. That got our attention.

So when I got into the legislature, and it came back to my attention (because I stayed involved with the consortium), I decided that maybe the best thing to do was to require civics as a course. I had served on the General Administration and Elections (GAE) committee which has cognizance over issues like voter participation, and I had been active in promoting things like the direct primary law, and other things that would promote civic engagement.

So I was already interested in those issues. It wasn't much of a leap. I was also vice-chair of the Education Committee working on education issues, so it seemed to me that maybe the best thing to do was to mandate that every student take civics in order to graduate from high school.

It was surprisingly easy. There was no debate at all. In fact, the only comment I

ever got from anyone on that piece of legislation was "Oh, you mean it isn't required?!" That was the shocker for everybody. There was virtually no debate over whether it should be required, which is unusual. So there appeared to be a broad mandate, which has become a real touchpoint nationally. I was surprised at how big of a deal that was nationally. We got a lot of attention for being one of the first states to require civics.

Q Do you think that the lack of civic education is a part of the problem with young voters not voting?

A I wouldn't be so simplistic as to say that is the only problem. But I think it is a problem. I think that the World War II generation was much more schooled in the need for participation. And even today, those people vote in much higher numbers than even my generation. I think that there really was an inculcation of responsibility.

But the civics requirement can't hurt, and every time I've ever gotten involved in teaching these things, it has been so rewarding. Students just resonate to it because it's empowerment, it's about how you access the system, it's about things that they fundamentally think are fair anyway. So it's not a hard sell, and it's just teaching them how to get there in productive ways.

To me, education is fundamentally about creating concerned, involved people who know how to think and speak and reason and be a part of a larger society. It's not just for teaching reading. It's what you read makes a difference and what you do with the information that you get from reading that makes a difference.

Q Was the legislation a success?

A I think that it has been and mostly because of the renewed attention to civic education. I think that what it did was make people realize

that it had been neglected, and that there were new and creative ways to do it. I know that a lot of teachers are paying attention to it and it's more in the curriculum than it has been in the past.

Q What are some other ways to get students involved and interested in civics and politics?

A I like to think that elections come along and galvanize people. It only happens when there's a serious election. This presidential election is probably a good opportunity to engage young people because there's a contest and two points of view, and there's a war that could potentially involve them because they're the ones that would get sent to fight and they better know what they're fighting about or whether they

care about that. I think those are the kinds of events that get people involved.

Q What role should the First Amendment play in the schools? Do you think it impacts student's daily lives?

A Oh, absolutely. I think the most powerful way that is shown is when you pick up a newspaper. I could teach a whole course on the First Amendment just using the daily newspaper because it comes up all the time. I think that right now more than ever, the First Amendment is the one we need to be looking at. Even if you look at the current controversy (with Governor Rowland)-- if it weren't for a free press, none of this would have ever come out. And of course, all the issues surrounding the Iraq War, the 9/11 attacks- it's a time more than ever that people need to understand the importance of the First Amendment. In fact, to me, that's the core of what ought to be taught. All kinds of detainment issues, immigration issues- it's pretty amazing really. I've seen changes in those laws more quickly than ever- things that I didn't think I'd see happen in my lifetime.



MERRILL

Congress May Have Attempted to Block Media Concentration Less to Protect Public than Itself

By Chris Powell

Managing Editor,

Manchester Journal Inquirer

(Reprinted with permission of the Journal Inquirer)

In November, Congress and the White House reached a compromise on the consolidation of the television industry. But the congressional motives for taking a hard line during the negotiations may not be quite what they seem.

Last June, the FCC attempted to relax a number of media ownership regulations, including one which would allow television networks to buy more stations, expanding a network's potential national audience from 35 percent of all viewers to 45 percent.

Eventually, congressional negotiators agreed to a 39 percent cap.

However, the compromise came after Congress had threatened to repeal most of and possibly all of the new regulations, thereby blocking the concentration of ownership of the news media. Why did Congress consider such drastic measures?

Most observers credit an outburst of citizen activism and a rare coalition of liberal and conservative interest groups. But there is probably much more to it.

For Congress may have realized that the FCC's removing what were only modest restraints on media companies would create a private interest bigger and more powerful than the government itself.

Most members of Congress spend as much time raising campaign money as they spend making public policy, and almost all this money is quickly turned over to big media companies in the purchase of television and radio advertising time. As American politics is now organized, the federal government gives lucrative grants of monopoly on the public airwaves to a few big corporations for free and in perpetuity, and then those corporations charge the country for the right to have a democracy.

Of course most members of Congress have favored this system because it is overwhelmingly skewed in favor of incumbents. Few people outside special interests are motivated to contribute to political campaigns, and incumbents easily can extort enormous contributions out of special interests, which are only too happy to buy favor. Politicians can survive by building coalitions of special interests, and, in a few districts, the balance of special interests even produces a competitive election occasionally.

If the media companies are allowed to get bigger and have more overlapping properties, the diversity of special interests will remain but the diversity of ownership in the news media, already rapidly declining, may almost vanish in many places, and politicians will have to pass through an ever-tightening bottleneck of media ownership to get access to interest groups and constituents.

Connecticut may present the most threatening example of the FCC's monopolistic policy. While Connecticut is a small state, the FCC's proposed regulations would have allowed the only statewide newspaper, two other daily papers, and the state's largest weekly newspaper chain to combine with two of the state's five commercial television stations. In its influence on public discourse and on politics, the owner of those media outlets, Tribune Co., probably would outweigh all other media outlets in Connecticut put together. And this would be allowed to

no purpose except monopolization, since Tribune easily could continue to own just as many media properties if only they were distributed more widely.

While they couldn't bring themselves to comment while the FCC was scheming largely in secret to hasten concentration of media ownership, six of Connecticut's seven members of Congress later endorsed legislation to reinstate the limits on concentration.

The eventual 39 percent compromise will allow the Tribune Co. to continue to own The Courant, WTIC-TV, Channel 61 in Hartford and WTXN-TV, Channel 20 in Waterbury.

For a growing number of congressmen, it was enough that the system of campaign finance serves mainly to feed big media companies while entrenching the status quo in politics. It would have been too much if these companies became so big and powerful, by holding so many federal broadcast licenses generally and so many licenses that overlap newspaper properties, that they would more or less control the access of politicians to the public.

The concern of congressmen here may have been, as usual, less for the public interest than for their own political survival. But doing the right thing for the wrong reason is always good enough. After all, it has been the way on these shores since the despot of France sent his army and navy over to defeat his nemesis, the despot of Britain, during the Revolution and Americans agreed to pretend that it was all about the Rights of Man.

Superb Symposium Set

CFAR and the University of Connecticut School of Law will jointly sponsor the 11th Annual Milton Sorokin Symposium on Monday, May 3, 2004 at 7:00 PM.

The topic is a hot one: "The Establishment Clause, Separation of Church & State and the First Amendment." Participating in the discussion will be Barry Lynn, executive director of Americans United for the Separation of Church and State, and Douglas W. Kniec, constitutional law professor at Pepperdine Law School and former Dean of Catholic University Law School. The Moderator is Heidi Hadsell, president of Hartford Seminary. SAVE THE DATE, May 3, 2004.



Ethel S. Sorokin, Esq.
President, Director

Bruce H. Spatz
Secretary, Director

Steven J. Kaplan, CPA
Treasurer, Director

Matthew T. Wax-Krell
Newsletter Editor

BOARD OF DIRECTORS

Eugene S. Baten, PhD

Judith A. Blank, Esq.

Peter F. Culver, Esq.

Elizabeth M. Devine, MA

Hon. Antoinette L. Dupont

George C. Hastings, Esq.

Steven J. Kaplan, CPA

Prof. Martin D. Margulies

F. Timothy McNamara, Esq.

Hon. David B. Pudlin

Richard C. Robinson

Maria Santos, Esq.

James D. Scrimgeour, Esq.

Daniel A. Silver, Esq.

Prof. Jonathan L.F. Silver

John J. Simon

Ethel S. Sorokin, Esq.

Leo T. Sorokin, Esq.

Bruce Spatz

Hon. Richard D. Tulisano

Jeffrey J. White

ADVISORY BOARD

Hon. Father Robert F.

Drinan

Elizabeth S. Ellis

Prof. Frederick M.

Lawrence

Prof. Hugh Macgill

Jacob D. Zeldes, Esq.



Massachusetts Police Deny Press Passes To College Reporters

By: Matt Wax-Krell, Editor.

A recent decision by the Massachusetts state police could place many reporters in danger of being arrested for simply attempting to cover a story.

In November, the police announced that it would not issue press passes to journalists at the Boston College official newspaper, *The Heights*, because the students are not members of the "professional" media.

Although the police have a valid concern in not allowing just anybody access to restricted areas, it is clear that journalists from a college newspaper must be allowed to cover events such as protests (which are common on college campuses) without the fear of being arrested as a protester themselves because they lack a press pass.

The state police, defended its actions by stating that, it "denied the students News Reporter Identification Cards because [The Heights] did not meet the qualifications as set forth in the governing rules and regulations. It is important to note that these cards allow people access to restricted areas and it is therefore necessary for us to place some limitations on how and to whom they are distributed."

The official state police policy states

that reporters must be "regularly employed" by a recognized news source. The policy then defines employed as working "full time as a reporter ..."

The students from *The Heights*, later appealed the decisions and were again turned down. They are now considering legal action.

Several organizations have jumped to the aid of the newspaper. The Student Press Law Center, The Society of Professional Journalists, and the Reporters Committee for Freedom of the Press have all offered advice and assistance to students.

The decision by the state police also sets a dangerous precedent. Giving preferential treatment to certain media organizations over others would allow the government to influence which public events receive media coverage, and which media outlets are allowed to cover such events.

It is not difficult to imagine where this slippery slope may lead. If government officials can place restrictions on which reporters may cover an event, one can imagine an elected official only allowing favorable press to cover a story, for example. Or the official could deny a press pass to a reporter as a form of punishment following an unfavorable article by that reporter.

There is legal precedent on this issue as well. In *Sherrill v. Knight*, the United States Court of Appeals for the D.C. Circuit held that media access "cannot be denied arbitrarily or for less than compelling reasons." 569 F.2d 124 (D.C. Cir. 1977).

Courts in Massachusetts have also addressed the issue, holding that "the opportunities to cover official news sources must be the same for all accredited news gatherers... all representatives of news organizations must not only be given equal access, but within reasonable limits, access with equal convenience to official news sources. This right is not absolute, but it may not be infringed upon by state officials in the absence of a compelling government interest to the contrary." *Westinghouse Broadcasting Co., Inc. v. Dukakis*, 409 F. Supp. 495 (D.C. Mass 1976).

If the students elect to pursue legal action, cases such as these suggest that the state police may have a difficult time justifying their decision. They will have to establish that *The Heights* is not an "accredited news gatherer" and that they have a compelling interest to deny these press passes.



**The Center for
First Amendment
Rights, Inc.**

90 State House Square
Hartford, CT 06103-3708

Address Service Requested