

Gay City NEWS

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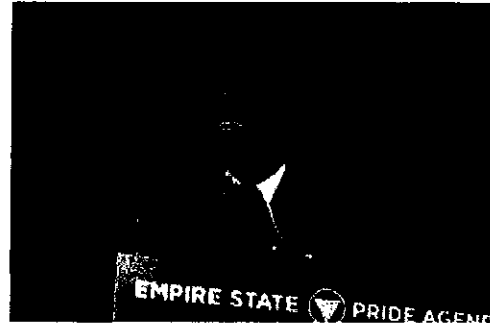
About-Face

By: PAUL SCHINDLER

Malcolm Smith Walks Back From Precipice

In a stunning reversal, Malcolm Smith, the Queens Democrat in line to become the leader of the State Senate should his party hold on to the fragile 32-30 majority it won in the November election, announced he was ending negotiations with the so-called Gang of Three, a trio of rebellious city Democrats who had threatened to withhold their support for him in next month's leadership contest.

Significantly, Smith repudiated a deal it was widely reported he had made with Senator Ruben Diaz, a Bronx Democrat and Pentecostal minister, who shortly after the election said he would not vote for any Senate leader who would bring a marriage equality bill up for a vote. A meeting that Smith held with Diaz and the other two dissident Democrats on December 4, briefly attended by Democratic Governor David A. Paterson as well, led to numerous press accounts reporting that Smith pledged to Diaz that the marriage bill, which the governor supports and the Assembly has already passed, would not get a vote. News stories differed as to whether that pledge encompassed only 2009, or the complete 2009-2010 legislative session.



Senator Malcolm Smith, at a 2007 Pride Agenda dinner, pledged prompt action on marriage equality when the Democrats gain the majority. DOUG MESZLER/COURTESY ESPA

"We are suspending negotiations, effective immediately, because to do so otherwise would reduce our moral standing and the long-term Senate Democratic commitment to reform and to change," Smith said, in a written release issued December 10. "Real reform cannot and should not ever include limiting the civil rights of any New Yorkers."

If any two of the three rebellious Democrats - including Senator Carl Kruger of Brooklyn and Senator-elect Pedro Espada, Jr. - choose to side instead with the Republicans in January's leadership race, Long Island GOP Senator Dean Skelos would retain the majority leader position (assuming Queens Republican incumbent Frank Padavan's razor-thin margin over challenger James Gennaro holds up in the final, certified count).

Smith acknowledged as much in his statement.

"Frankly, we would rather wait two more years to take charge of the Senate than to simply serve the interests of the few," he said, characterizing the negotiating tactics of the Gang of Three as "self-serving politics."

Smith's statement capped a week of drama that gripped Albany and spilled over downstate during the weekend when many of Greater New York Democrats went home. In Manhattan on December 6, Smith met with at least some of his Democratic colleagues, in an effort to quell unhappiness among many of them, progressives in particular, about what they had heard of the deal struck two days before.

Now, observers are left to assess the relative weight in the negotiations' collapse of the marriage issue, other qualms Democrats had about the concessions made to Diaz, Espada, and Kruger, and unhappiness that Espada voiced on December 9 about whether he was really getting the deal he understood last week.

The Gang of Three had never articulated a coherent rationale for their common dissent except for their ability to exact what each of them wanted individually from Smith. Espada had voiced unhappiness with the lack of Latinos in top state positions, and Smith agreed to bifurcate what had in recent years been two jobs combined into one - the roles of president pro tempore and majority leader. Under this scheme, Espada would become majority leader, which early reports indicated would make him Senate President Smith's number two.

Kruger, who had so assiduously courted Republicans in the past that they gave him a committee chairmanship over one of their own, was to be given the reins of the powerful Finance Committee.

Diaz, in contrast, only won a commitment that he would chair the Aging Committee, a second-tier post that lent credibility to the conventional wisdom that his major objective was to block gay marriage in New York - which of course is what he said.

For four days, this agreement clung to life, as the three rebels were the only ones willing to talk about it on the record. Diaz crowed about his victory over the gay community, and Espada and Kruger reveled in their new-found prominence in the Democratic leadership. Meanwhile, throughout the weekend, Smith, in the face of unanimity in press accounts of what happened last week, continued to insist that no specific deals had been struck.

On December 5, the day between Smith's meeting with the Gang of Three and his sit-down with other members of his caucus, out gay Democratic Senator Tom Duane of Chelsea, who years ago introduced a marriage equality bill, said he had not been briefed on details of the negotiations and argued, "You know, right now, it's Malcolm Smith versus Dean Skelos. I'm for Malcolm Smith. That is the question on the table."

Alan Van Capelle, executive director of the Empire State Pride Agenda, New York's LGBT rights lobby, which worked hand-in-glove with the Democrats to flip the Senate and helped attract more than \$1 million to that cause, told Gay City News, "Not one single senator has told me that as part of the deal that was reached there was an agreement to delay the timing for marriage. Malcolm Smith has earned the opportunity for our community to give him a chance to explain what the deal is."

On December 8, two days after meeting with Smith, another Senate Democrat, who did not wish to be quoted by name and would not discuss the specifics of the caucus gathering, nevertheless confirmed the gist of what Van Capelle said - that nobody had asked for sign-off on a deal that would have explicitly precluded a gay marriage vote. That senator pledged to go public if the question of what was or was not agreed to on marriage was not resolved by the end of December.

Meanwhile, the agreement with Espada spiraled south over the weekend. On December 8, Smith confirmed that Jeffrey Klein of the Bronx, currently his deputy minority leader, would be the deputy president, meaning that Espada was at best number three in the pecking order. Smith had also come to recognize that certain authority that he intended to wield was in fact formally given to the majority leader post, and that this situation would need to be remedied by the full Senate in January.

At a particularly odd press conference in Albany that day - the NYSNYS News Service captured the incredible scene - Smith named Bill Stachowski of Buffalo, who had been in line for the Finance post Kruger would now be given, deputy majority leader. However, Smith would not confirm the identity of the majority leader Stachowski would be deputy to, nor for that matter did he name the Finance chair who had bumped the new deputy from that slot. Faced with those questions, Smith abruptly announced he was leaving for another meeting, and Stachowski was saddled with an irate Capitol press core demanding to know why they had been called to a news conference where no questions were being answered.

The following day, Tuesday, Espada bailed on the deal, griping to the New York Times, "I feel tremendously dismayed and disappointed that the office of the majority leader has been gutted and reduced to a sad joke on all New Yorkers, but particularly the Latino community." Diaz echoed the sense of wounded ethnic pride. The fat lady was cued.

Smith has taken a gamble - he and his fellow Democrats may well be consigned to another two years in the minority. And whether in the minority or the majority, Smith has undoubtedly gotten at least some of his Senate colleagues wondering whether he is the Democrat best suited to lead the caucus. No sure-bet challengers have come forward or even come to mind for most political observers.

If the Democrats cannot hold onto the majority, marriage equality is effectively dead for two years - it was the intransigence of Skelos on that issue and others such as transgender rights that convinced the Pride Agenda that it needed to cast its lot fully and squarely against the Republicans this year. At the same time, Van Capelle is breathing a huge sigh of relief that the potential betrayal has been staved off.

"We applaud Senator Malcolm Smith's ongoing efforts to lead the new Senate majority that voters chose during the recent elections," he said in a written release. "By stating that reform in the Senate cannot include bargaining away civil rights, Senator Smith has once again demonstrated his commitment to standing up for all New Yorkers."

On an upbeat note, Van Capelle continued, "The Pride Agenda looks forward to continuing to work with Senator Smith when the legislative session starts." However, with a bow to the political reality that even if the Democrats run the Senate, GOP votes would be needed to get gay marriage over the goal line, he added, "In the meantime we will be working with legislative leaders - Democrats and Republicans... to earn the votes we need to bring the marriage equality bill to the floor of the Senate for passage."

Ethan Geto, a longtime gay political insider who informally advised the Pride Agenda in its negotiations with Democratic leaders over the past week, had high marks for Van Capelle's steadiness.

"It was untenable for the gay community and the Empire State Pride Agenda, which played such a critical role in the Democratic wins in the Senate this year, to leave unanswered the questions about the marriage equality bill," he told Gay City News. "Their efforts demonstrated a level of political maturity and political clout as manifested by the statement by Malcolm Smith this morning."

Asked to assess what role he felt Governor Paterson played in blocking the original deal struck, Geto said, "It is my impression that David Paterson played a very constructive role in resolving this to the satisfaction of the gay community." Geto went on to warn that the three rebellious Democrats "will have to think long and hard about not voting for the Democrats to be the majority."

"If they keep the Republicans in, the voters in their districts will understand that it means no reform of the rent regulation laws, no greater tenants rights protections, and I think that those voters will rebel and turn them out."

Geto's accolades for the Pride Agenda appear borne out in the emphasis in Smith's statement on the principle of civil rights not being negotiable. But, his spokesman, Hank Sheinkopf, even as he insisted he could not speak to the agreements reached during the December 4 meeting "because I was not there," largely debunked the importance of marriage equality in the collapse of the negotiations.

"What happened was that yesterday Espada decided to change the rules, withdrawing his support for Senator Smith," Sheinkopf told Gay City News. "And the leader said, 'You know what? That's it.' If these guys want to talk to us as Democrats, that's fine. Otherwise, tough luck."

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