

# **MATTER OF GAY ACTIVISTS ALLIANCE v. Lomenzo**

**31 N.Y.2d 965 (1973)**

In the Matter of Gay Activists Alliance, Respondent, v. John P. Lomenzo, as Secretary of State of the State of New York, and ano., Appellants.

**Court of Appeals of the State of New York.**

Argued January 2, 1973.

Decided January 11, 1973.

Louis J. Lefkowitz, Attorney-General (Thomas P. Zolezzi and Ruth Kessler Toch of counsel), for appellants.

Harold M. Weiner for respondent.

Eldon V. C. Greenberg for New York Civil Liberties Union, amicus curiae.

Chief Judge FULD and Judges BURKE, JASEN, GABRIELLI, JONES and WACHTLER concur in Per Curiam opinion; Judge BREITEL taking no part.

\*966Per Curiam.

The Not-For-Profit Corporation Law mandates the Secretary of State to accept for filing a certificate of incorporation which meets the formal requirements of the statute and sets forth corporate purposes that are lawful. Since in the present case the appellants acknowledge that the formal requirements were complied with and that the purposes for which the corporation is to be formed offend against no law, the Secretary of State lacked the authority to label those purposes violative of "public policy." (See *Matter of Association for Preservation of Freedom of Choice v. Shapiro*, 9 N Y 2d 376.) Nor does he possess the power to reject a certificate on the ground, asserted by him, that the proposed corporate

name is "not appropriate"; the provision dealing with corporate names contains no such criterion or standard (N-PCL, § 301).

It follows, therefore, as the unanimous Appellate Division also concluded, that the Secretary of State's refusal to accept the petitioner's certificate was arbitrary, being in excess of his authority.

The order appealed from should be affirmed, without costs.

Order affirmed.