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CATHOLIC FAMILIES AND THE EDUCATION TAX

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CATHOLIC FAMILIES, IN UNION WITH OTHER MEN AND WOMEN OF GOOD WILL, MUST rise up to defend the endangered right of families to control the schooling of their children against the state and federal governments. In concentrating on the particular circumstances with respect to this right for Catholic families--while also being supportive of the rights of all families--this article will re-state democratic principles in schooling, review governmental mistreatment of parental rights, expose unconstitutional action violating parental rights, and suggest proposals to restore control of schooling to parents

DEMOCRATIC PRINCIPLES IN SCHOOLING

In the mid-19th century, the government seized a monopoly of the elementary and secondary education tax by claiming to have the right to educate the children of the society in its so-called "public" schools. The American state alleges that such action was and is democratic. However, as we shall see, genuinely democratic principles for schooling--with due respect for the common good--give priority to the rights of families, limit State action, and protect religious and other private schools.

The family has the primary right to control the education of its children. This right to academic freedom may be exercised at home or by private tutors or at schools conducted by parents, communities, churches, local and State governments, or other groups. This right of family choice of schooling stands on its own constitutional grounds and should in no way be minimized or destroyed by reason of any relationship between the State and any church or school.

There can be a legitimate role for the State in the schooling of its citizens, but since the power of the State exceeds that of the family--and thus may easily lead to abuse--it should be carefully held in check. If the State taxes the public for schooling, the purpose of this action should be to assist parents to exercise their choice of schooling. Taxes must not be used as a means of taking control away from the parents. The State has the right to see that education tax dollars granted to families and students are spent for schooling, but it has no right to set itself up as the schoolteacher of the public, to give any particular group or ideological agenda preferential dominance over the State "public" school, or to allow any private group to usurp such dominance.

Private schools, including those conducted by churches, have the right to exist and to pursue their educational goals in academic freedom on equitably competitive terms with the State, and, if the State taxes for schooling, the right to equitable treatment accorded to competing educational philosophies and the right to be recipients of tax-supported grants directed to them by families.

STATE VIOLATION OF PARENTAL RIGHTS

In early America these democratic principles were widely honored, but in a sudden and sweeping power play in the mid-19th century they were rapidly abandoned. The Massachusetts legislature was the first to obtain a monopoly of the education tax dollar for what was supposed to be a public or common State school. This new institution—eventually to be copied throughout the land—was modelled after the Prussian State system and was the creation of Horace Mann and his Unitarian allies in Harvard University and the Boston business and religious communities.

American Protestants, especially Baptists and Methodists, having used their religious liberty to split into many small sects which were unable or unwilling to conduct their own schools (or else were outwitted by the Unitarians), generally adopted this new State school, which proposed itself as a democratic institution seeking to weld together the diverse elements of the American nation. In imposing this State school on society the Protestant power of the time had the political support of Freemasonry and the “Know-nothing” movement.

Academic and religious dissenters, including Catholics, were told—as they are still being told—that they had to pay taxes for this State school even if they did not enroll their children in it. Dissenters, in effect, forfeited their own education taxes, and then also had to find additional financial support for schooling in accord with their own mind and conscience.

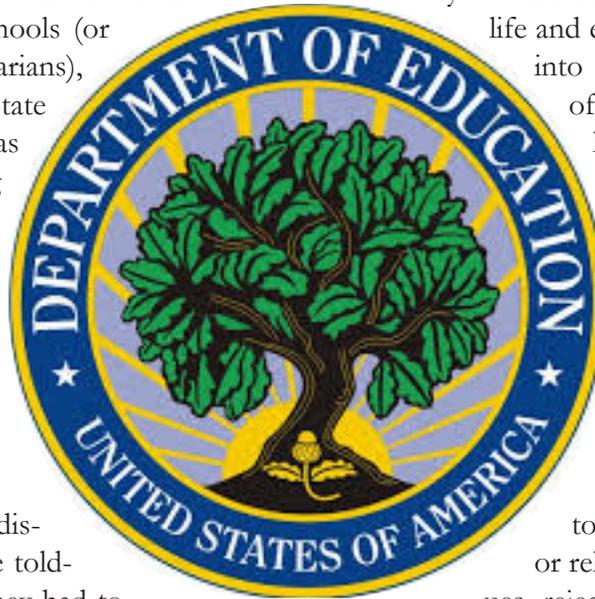
Such denial of tax shares to Catholic families was made possible by the rank hostility stirred up against them particularly by the Know-nothings and like-minded opponents.¹ Tragically, hostility to tax equity for Catholic students in their denominational elementary and secondary schools is still alive, but is now being carried on more cleverly through insatiable demands for taxes to fund the “public” schools.

In its earlier decades the State school presented religious and academic schooling within the context of

the dominant Protestant culture. It offered prayer and the reading of the Bible (King James version of course). It viewed the child as having free will and intellect as traditionally understood. It sought to educate the child. It proposed to form character on Protestant principles. It emphasized academic discipline. It developed human capital in preparation for economic life. It worked with church and family in the upbringing of children. But, while having features agreeable to many families, it was a Protestant school in a pluralistic society, and thus it was an establishment of religion in the traditional sense of one religious coalition being enriched with a preferential tax monopoly from the State.

However, in recent decades, control of the “public” school has been largely seized from Protestantism by Secular Humanism, a particular theory of life and education, which has been brought into the school through the teachings of an array of psychologists and allies, including Wundt, Hall, Dewey, Skinner, Watson, Freud, Darwin, Thorndyke, Rogers, Maslow, Kohlberg, Simon, and Spady, the protagonist for Outcome-Based Education (OBE).

These forces have produced vast changes in the “public” school, including—in addition to its deProtestantization—exclusion or relativism of moral and religious values, rejection of free will and the intellect as traditionally understood, the rise of behaviorism and stimulus-response (S-R) theory, the manipulation rather than the education of the children, attempts to strip the values of the parents from the child through Values Clarification, abandonment of the goal of character formation, weakening of academic discipline, the increasing substitution of affective schooling (self-esteem, psychologizing, etc.) for cognitive learning (reading, writing, arithmetic, etc.), downgrading of the phonics approach to reading, overemphasis on methods of teaching at the expense of strong academic preparation for teachers, harmful forms of sex and drug training, a playground mentality, and socialization of the children modeled in the interests of a larger socialist political agenda. State funding for this school is now an establishment of religion in a new sense—it is a tax monopoly for an atheistic educational environment inimical to the traditional



religions.

Many people are distressed over the present plight of the “public” school and its contribution to the decline in traditional American culture. Undoubtedly such deterioration has been hastened by much of what is being poured into the minds and hearts of the young through the baneful influences that are active within contemporary music, radio, movies, TV, newspapers, magazines, and computers. Nevertheless, there should be little doubt that the abandonment of early American religious influences through State school policy has contributed mightily to the low intellectual and moral condition of vast numbers of “public” school students. Under the pressure of compulsory education, they are herded into a State school system which has been increasingly losing the capacity to educate while at the same time paganizing what has long been a religious culture.

Many people still champion the “public” school on the basis of its former reputation and its economic benefits; many cling to it as a guarantee that Catholic and other dissenting families will never obtain an equitable share of the education tax dollar for their children in denominational schools. Finally, many “public” school teachers and their powerful associations, overriding the academic principle that teachers should be retained for excellence rather than through political organization, are the main force keeping the State school in place as an institution.

UNCONSTITUTIONALITY OF THE STATE PUBLIC SCHOOL

In a hearing before the Judiciary Committee of the U.S. House of Representatives some years ago, I was asked whether the public school is unconstitutional. My answer was that it probably would not be in a community in which the families have a common philosophy of schooling, but that it is definitely unconstitutional in a community in which there are basic academic and religious differences between families on the nature of schooling. Indeed, this is the situation that prevails in this country.

Unfortunately the “educational statist” who support the present school system have been successful in giving the pluralistic citizenry of this nation the impression that the public school is neutral, nonsectarian, public, and constitutional and therefore acceptable to all

the families of this society. However, all of these claims are false, indeed fraudulent, as we shall see.

First of all, the “public” school has claimed to be neutral as to religion in schooling. This has never been the case. The public school was from the beginning unconstitutionally permeated with religion under Horace Mann, whose goal was to sweep the children away from the established Calvinism in the local schools in order to have them instructed in a Unitarian atmosphere in his new State school. The Protestant “public” schools were religious in intent and tone and even now some Protestants are trying to restore their ousted religious practices, with some apparently under the illusion that school prayer and Bible reading will restore the glory days of the old-time Protestant “public” school. Today the Secular Humanist “public” schools are hostile to the religious values not only of Catholic and other long-time dissenters but also of many Protestants, who are now fleeing what they once so proudly called “our public schools.” Thus, far from merely teaching academic content in a neutral atmosphere, the State school is permeated with values bearing on the relevance or irrelevance of religion and effectively teaches that religion is not important by excluding it from the life of the school. The argument that a secular humanistic educational environment is a legitimate exercise of State power ignores the impact this environment has on students through what it teaches and what it omits with respect to the values of a pluralistic citizenry. Therefore the impression that State schools are religiously neutral is false and deceptive.



We must address in a similar way the claim of the “public” school to be nonsectarian. This stems from the dogma of the Unitarian sect that there is an acceptable set of “religious values” divorced from dogmatic sectarianism, but the nonsectarianism advocated by Unitarianism is its own sectarianism. Similarly the alleged nonsectarianism of the early “public” school was essentially a sectarian ploy of a Protestant coalition. Today the so-called nonsectarianism in the State school is the sectarianism of Secular Humanism. The tragedy for dissenters is that their denominational schools were and are vilified as sectarian and thus declared constitutionally unworthy of tax benefits both for themselves and the families which en-

roll in them. The “public” school has invoked Jefferson and Madison to justify its specious nonsectarian status, but these men condemned as a sectarian establishment of religion a “nonsectarian” combination of Protestant sects trying to obtain taxation for the support of their ministers and the maintenance of their churches. Neither the Protestant nor the Secular Humanist “public” school has had either logic or constitutionality on its side, but they have had the political muscle to fraudulently label their own sectarianism as nonsectarianism and thus to take a monopoly of the education taxes.

Next we must evaluate the State school claim to be the “public” school because it extends educational opportunity to all children. In fact, the education that State schools offer is unacceptable to academic and religious dissenters—“public” education is not a legitimate opportunity for their children. One would think that, with dissenting families making this point by their nonattendance at the so-called public school for decade after decade, legislators and judges would realize that there are serious matters of mind and conscience at stake. But instead the State continues to hound dissenters for more and more taxes without the slightest consideration as to whether they have any resources for the schooling of their children. Would it be too much to assume that there are forces in this society who approve of continuous tax pressure as a method of economically coercing dissenter after dissenter into the State school? Strangely enough, after having labelled the education in denominational schools as sectarian and private and therefore unworthy of public support, the State accepts such private schooling in fulfillment of “public” compulsory education requirements. The reality is that both State and non-State (including religious) schools are both public and private in practice, public in teaching academic content and private in teaching such content within the context of a particular, “private” educational philosophy. The State “public” school insists that it is the only way to reach all the children, but a strong argument can be made that a program of tax-supported family choice of schools would be more effective economically and educationally.

Fourthly, we will look at the fraudulent and indeed tortured interpretations of the state and federal constitutional protections for both families and nonstate educators. The most devastating blow against the rights of Catholics and other dissenters was struck by Justice Hugo Black in the 1947 *Everson* decision in which he placed the State school under the protection of the First

Amendment, which he distorted to block tax equity for dissenters. He also enlarged the meaning of church establishment, which traditionally referred to monopoly tax support for one preferred church. According to Black’s reinterpretation of the First Amendment, however, nonpreferential support to a religion was also unconstitutional. Another judicial disaster was the *Lemon* case setting up a tripartite test that includes a proviso that a statute extending programs for private schooling must not foster an excessive government entanglement with religion. Has no lawyer as yet pointed out to the U.S. Supreme Court that the State “public” school has been excessively entangled with religion or irreligion from the days of the bitterly anti-Calvinist and bitterly anti-Catholic Horace Mann?

Since its beginnings in the mid-19th century up to today the American State has violated—and is now violating—the personal constitutional rights of Catholics and other dissenters to academic and religious freedom and to equal protection of the laws: by seizing a monopoly of the education tax for its own schools without regard to the rights of families dissenting through academic conviction and religious conscience; by taxing dissenters to pay for unwanted religious or irreligious educational philosophies; by imposing compulsory schooling on dissenters yet denying them a share of the schooling taxes, including their own; by misleading citizens as to the sectarian academic and religious or irreligious values it has been pawning off as “public” schooling; by claiming that a tax benefit for a family using it at a religious school would be an unconstitutional aid to a church; and by coercing those dissenting families not able to obtain alternative schooling to enroll their children in the State “public” school.² The State has likewise violated and is now violating the constitutional rights of other educators, including churches, by denying families equitable tax shares to bring to the schools of their choice.³

COLLEGES AND UNIVERSITIES AND THEIR STUDENTS

On the college and university level the same practices apply as on the elementary and secondary level, with great injustice to academic and religious dissenters, both families and schools, but here there are many State and federal grants and loans to Methodist, Baptist, Catholic and other religious schools and their students.

The question arises: Why can tax benefits be giv-

ven to students in Methodist, Baptist, and Catholic colleges and universities and not to students in Catholic and Lutheran elementary and secondary schools? Whatever happened to the immortal principle of “separation of Church and State”? One answer can be found in the mid-19th century practice of many Protestants of enrolling their children first in their Protestantized State “public” schools and then in Protestant colleges and universities. It obviously seemed reasonable to them to give tax support on the college and university level where Protestantism had many schools and to deny it on the elementary and secondary level where Catholicism was prominent. In justifying this inconsistency the U.S. Supreme Court trumped up the argument that the college and university level is characterized by “academic freedom” rather than indoctrination. This theme of academic freedom, however, hardly receives an application that could reasonably be termed “equal justice under law”.

In 1964 the DePaul chapter of the American Association of University Professors (AAUP) submitted to the national organization a resolution calling for the academic freedom of college and university students to have an equitable share of the education tax dollar to assist in enrolling in the schools of their choice. However the AAUP, an organization predominantly controlled by State professors committed to academic freedom (but only for professors), wanted no part of this resolution. But the academic freedom of students as well as of professors should be recognized. And so should be the academic freedom of schools—elementary, secondary, college, and university—to protect themselves against federal and State governments and other forces, including their teachers, which might endanger their basic purposes. Thus academic freedom should defend against government interference the education policy of the school to which a student brings a tax-supported tuition grant.

STRUGGLE FOR FAMILY CONTROL OF SCHOOLING

Catholic parents, and other men and women of good will, should realize that their right to control the schooling of their children is under heavy attack. The State has had for decades a compulsory education pro-

gram that has already captured most of the children of the society into its schools, including probably millions of children who in a just society might well be in religious and other private schools. Furthermore the federal government has recently through Goals 2000 made a powerful move designed—despite its stated intentions—to control the State “public” system and to nationalize schooling.

In the midst of these threats the personal rights of Catholic parents to control the schooling of their children have not been well defended. Families often do not realize that as citizens their constitutional rights stand apart from any church or school and that it is their obligation—as the redoubtable Virgil Blum so tirelessly preached—to defend them in the political arena. Many parents seem to expect the hierarchy to protect the political rights of their children in this civil matter, but this is not likely to happen. The hierarchy has many problems in this area including worry about tax exemption.

Further many church administrators have at times shown little respect for the efforts of parents on behalf of the rights of their children and have even severely undercut them, as for instance, by bringing to the U.S. Supreme Court a bill promoting a contract between Church and State that was defeated in an 8-1 decision in the Lemon case and now stands—as a formidable barrier to parental rights—among the tortured confusions that constitute settled Court doctrine in this matter. Furthermore, leading Catholic educational administrators are more likely to nibble away at crumbs from the table of the largesse laid out for the State schools, as they did in 1964 in not opposing the Elementary and Secondary Education Act. Finally, there is the belief that some Catholic clerical leaders are not averse to getting rid of the parochial schools.

Catholic and other dissenting parents—taxpayers all—must ask their legislators why their Johnnies and Anas and Frankies and Tommys and Chucks and Margarets in St. Patrick High School, St. Jude grade school, St. Ignatius Academy, Seton High School, Marist High School, Luther North, Calvin Christian Academy and many similar schools, all fulfilling the State public educational requirements at excellent levels, are denied a share of the education tax. And we must not allow legislators to use the fraudulent excuse that the State is offering these stu-



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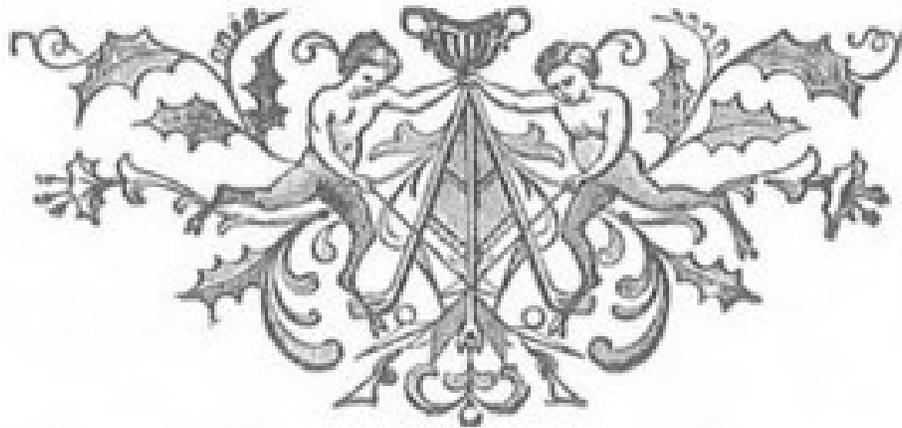


dents a legitimate educational opportunity when in fact it is offering schooling that is controlled by the “private” ideology of Secular Humanism, and that is for the most part mediocre, unacceptable, and unwanted. Parents must see that legislation and court cases in this matter are based not on the relationships between church and state but on the personal civil and constitutional rights of the family--parents and students.

This society needs a return to democratic principles in schooling: to the right of parents to control the education of their children, to limitation of State action so that it assists parents but does not control the schooling of their children, and to respect for the rights of religious and other private schools.

Home schooling and private schools unconnected to the present American State system are probably the most effective means of restoring these principles, but many families cannot avail themselves of such opportunities under present circumstances. The recommendation here is that effective breakthroughs in the restoration of worthwhile schooling should be made through programs of education tax benefits to families which they can bring to the schools of their choice.

Catholic parents, and other men and women of good will, have an unavoidable choice: either defend family rights with organized political action or see them sink further into oblivion.



NOTES

1 Sources on this handicap include: Ray Allen Billington, *The Protestant Crusade*, New York: Macmillan Company, 1938; Lloyd Jorgenson, *The State and the Non-Public School*, Columbia: University of Missouri Press, 1987; Samuel Blumenfeld, *Is Public Education Necessary?* Boise: *The Paradigm Company*, 3rd printing, 1988; Gustavus Myers, *History of Bigotry in the United States*, New York: Random House, 1943.

2In this regard it is appropriate to ask what would be the relative population of State and private schools under conditions of family choice rather than of State control.

3Recently, through the enactment of Goals 2000 (which, I would argue, is in violation of the 10th Amendment), the federal government has more gravely endangered the constitutional rights of parents and students and those of religious and other private schools.