

HOUSE EDUCATION COMMITTEE

February 9, 1983

The meeting was called to order by Chairman Fritz Daily in the old supreme court chambers in the Capitol Building at 12:40 p.m., with all members present.

Chairman Daily opened the meeting to a hearing on House Bill: 635.

REPRESENTATIVE NANCY KEENAN, District 89, Anaconda, opened by saying before we begin, I would like to offer an amendment to House Bill 635. This section provides for the 185 days of instruction or the equivalent thereof. This amendment is to accommodate some of the legislation that we have seen before us; the four day week. (see exhibit 1 for a copy of the amendment) When the Montana Association of County School Superintendents asked me to carry this bill, I thought about it for quite some time. I have had 12 years of education in a private Catholic school, and I must say that it was a good and quality education. Private schools in our state are a very valuable and necessary sector of our state. We are here today because there is a serious problem. It is a most sensitive issue. The Board of Public Education is mandated by law to provide school age children within the state of Montana with an adequate basic instructional program. At the present time, we have very few tools and no guidelines to work with to carry out that responsibility. We have several pieces of legislation before us, and I am sure that this addresses the fact that we do have a problem. House Bill 635 attempts to address the problem, and possibly provide a few solutions. There are many people here today to testify that this type of legislation infringes on their religious rights. This bill is not prohibiting private education, it is merely taking steps to ensure that all children of this state have access to an adequate education as provided for in our constitution.

PROPOSERS

LARRY STOLLEFUS, Montana Association of County School Superintendents, submitted written copies of his testimony to committee members. (see exhibit 2)

CHIP ERDMANN, Montana School Board Association, submitted written testimony. (see exhibit 3)

JOHN BOARD, President, Montana Education Association, supplied the committee with copies of his testimony. (see exhibit 4)

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MERV FINSTAD, Montana Association of Elementary School Principals, submitted a prepared statement. (see exhibit 5)

JIM MURRY, Executive Secretary, AFL-CIO, submitted a written copy of his testimony. (see exhibit 6)

JUDY BROWNING, Assistant Attorney General for the State of Montana, said I have selected and summarized some court cases about various state school compulsory attendance laws, and state's efforts to enforce those laws. (see exhibit 7) I would like to comment about a common thread that runs through all of these court decisions, and that is that states may reasonably regulate all schools, not just public schools. Most of these cases involve parents who have objected to sending their children to school on the grounds that it violates the first amendment of the United States Constitution, which protects freedom of religion. The courts have balanced the interest of the individual with religious freedom, verses the state's interest in minimal education for it's youth. No court has held that a state may not reasonably regulate the schools. Provisions may be made for a minimal curriculum for teacher qualifications for the length of the school session, and for health and safety requirements. It is when the state overregulates exactly what curriculum must be followed, exactly what procedure must be used, that the state gets into difficulty.

RICHARD TRERISE, Montana Association of County School Superintendents said I am in support of this bill with reservations. I am in strong support of the notification process that this bill outlines. My concern as a county superintendnet is centered on the problem of retained authority dealing with the isolated cases requiring action that check the educational opportunities that certain children may be being deprived of. My reservations relate to the detail and scope of the requirement. I do not feel they need to be that strict. These are my own views and I do not represent my organization on that issue.

HIDDE VAN DUYM, Board of Public Education, presented the committee with prepared statements of his testimony. (see exhibit 8)

ROD SVEE, Office of Public Instruction, said we support with hesitation House Bill 635. As on all private schools with the historical implications that have been proposed from the Attorney General's opinion in 1980, which delegates duty to the Board of Public Education. The board is looking for guidance, and the best way to establish procedure. House Bill 635 is the most formalized method that has been proposed up to this point, but there are some words that could be changed, such as adequate. We must define those before it is finalized.

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Other testimony submitted by proponents to House Bill 635, include Pat Fairbanks, who submitted the testimony of Terry Minnow, Montana Federation of Teachers. (see exhibit 9) Alan Gunderson, Board of Public Education. (see exhibit 10)

OPPONENTS

REPRESENTATIVE NORMAN E. WALLIN, District 76, Bozeman, said I wish to be recorded as an opponent to House Bill 635, and I will let others speak for this opposition.

PASTOR DOUG KELLEY, Grace Gospel, submitted written copies of his testimony to committee members. (see exhibit 11)

JOHN FRANKINO, Montana Catholic Conference, submitted written testimony. (see exhibit 12)

RUSSEL JOHNSON, SDA Church, said I understand the problem the Board of Public Education and the Superintendent of Public Instruction are struggling with. The religious issue, the training of children, is a vital and important part of education. If it is your religious liberties that are being taken away, I think we ought to stand up and support you, even if we differ in these areas. The good book tells us that there is coming an age of intolerance, when we will not be able to even buy or sell unless we comply with the beast power. The bible also tells us that the true christian cannot compromise on such issues. This legislation paves the way for this kind of thing. Police powers would be granted, and a person who was not complying would have to comply, or there would be prosecution taking place. This infringes too heavily on the rights of Montana citizens. I would not want to be a party to the kind of law where we would set up this kind of intolerance. Much of the wording in this bill is unnecessary and infringes on the rights of all of us. I would urge that we adjust or defeat this house bill.

PASTOR MIKE McGOVERN, Missoula Foursquare Church, said state legislators should represent the people's voice and not special interest groups such as the County School Superintendents. The general public is not demanding this. There are presently enough laws and ordinances on the books to ensure against abuses, we need no more. How can a public education system be given supervisory controls over the private sector, and keep their motives pure, while local public systems are losing \$15,00. per child per year that leave the public school system.

SHARON SUTTON, Christian Liberty Academy, Broadview, submitted written testimony and exhibits concerning her husband's loss of employment due to religious convictions. (see exhibit 13)

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Opponents who voiced opposition to House Bill 635, and left prepared statements included the following:

RON KAUTZMAN, Summit Valley Christian School. (see exhibit 14)

JAY WILSON, Christian Education Association. (see exhibit 15)

LEONARD ROSSNER, Broadview. (see exhibit 16)

WILLIAM J. JOHNSON, Biylder. (see exhibit 17)

JUSTIN FULTON, Darby Babtist Temple. (see exhibit 18)

ERIC BERG (see exhibit 19)

BLAINE DAUGHERTY, Billings. (see exhibit 20)

PASTOR LEE BARROWS, Great Falls. (see exhibit 21)

PASTOR DON KELLEY, Joplin. (see exhibit 22)

CHRIS McBEE, Montana Homeschoolers Association. (see exhibit 23)

REVEREND JOY PAUL SCHWENKE, Bible Babtist Church, Sidney. (see exhibit 24)

GLENN R. LINDSAY, Grace Gospel, Valeer. (see exhibit 25)

PENNY JEROME, Helena. (see exhibit 26)

PASTOR HENRY BAUMA, Teton Christian School. (see exhibit 27)

STEVE VALENTINI, Missoula Community Chapel. (see exhibit 28)

WILAMENA BERG, Darby. (see exhibit 29)

CAROL DAUGHERTY, Billings. (see exhibit 30)

GENE AND BONNIE BOULTON, Bozeman. (see exhibit 31)

Other opponents to House Bill 635 included David Lockie, Bozeman, Richard Dion, Treasure State Academy, Michael Tappen, Sunburst, and Gregory Ammondson, Missoula.

Articles and other information submitted by opponents to House Bill 635 is attached.

Rep. Keenan closed by saying I am pleased to have the opportunity to address these issues, and I think it is obvious that there is a problem here that needs to be addressed. There have been

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several comments that the control of the education of a child is the parent's and not the state's. I hate to speak to control, but I would rather speak to responsibility. Clearly in article 10, section 1, of the Montana Constitution, it states it is the goal of the people in Montana to establish a system of education that will develop the full educational potential of each person. The quality of educational opportunity is guaranteed to each person of this state. There have also been several comments to the effect that the law is interfering with the free exercise of religion and the ministry of the church. Nothing in the proposed statutes interferes with the free exercise of religion, or the ministry of the church. There is no foundation in the U.S. Constitution which states that since God founded the christian school, government has no rights whatever respecting it. It is in the interest of all citizens that government may impose reasonable requirements pertaining to health, safety, and education. I seriously believe that this is a situation that warrants your sincere study. It is an emotional issue, it is a sensitive issue, but is an issue that presents a problem. In closing, I am confident that in this committee's wisdom, a solution to this problem will be found.

Questions from committee. Rep. Peck said it was my understanding that Senate Bill 253 was opposed in committee, yet I seem to be hearing here today, support for this bill. Is this correct? Rev. Kelley responded I will speak for the Montana Association of Church Schools. We are not supporting Senate Bill 253. At the present time, there is a possibility that something is going to come out of the Senate Education Committee that is liveable from all perspectives. Between Senate Bill 331, a bill to clarify, and Senate Bill 253, a bill to control. There are some that did testify in favor of that bill; in particular, the Catholic segment and the nonpublic schools. The Montana Association of Church Schools and the Seventh Day Adventists have been opposed to that, as have several other organizations and groups around the state.

Rep. Peck commented I am a cosigner on this bill. One of the reasons I cosigned was the Wold Point incident. This was a so called religious group. If you will remember the incident, one youngster was killed; a couple of others were seriously injured. I believe this is a good example of the state's interest in the educational process. The opposition has to recognize that the state does have some interest, and there are constitutional issues in the statutes that go directly to that point. If you people are going to support Senate Bill 253, the House Education Committee is in one position, but if you are just going to oppose all interest of the State of Montana, I think you could end up with some bad legislation. We need to cooperate to protect the concerns that I have expressed. I hope you can do that so there are protections for the children within the school system. The state does have an interest and I think that most, if not all of the members of this committee will support that statement.

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Rep. Hannah stated as a point of clarification, the child that died in the Wolf Point incident was five years old, and it doesn't matter if it was a private or public school, there would have been no control over that. In regard to the constitution, and some of the things Rep. Keenan said, it seemed to me Nancy, that you were referring to the part of the constitution that mandates that adequate quality and control of education is mandated in the constitution. Rep. Keenan replied I was saying that the comment was made, and I believe it was said by one of the opponents, that the control of the child's education is of the parent's control and not the state's. I said that I don't choose to speak to control, but that under the constitution, we speak to a responsibility of the state to have the opportunity to ensure that each child have a quality education.

Chairman Daily closed the hearing on House Bill 635 at 1:55 p.m.

The meeting was adjourned at 2:00 p.m.


FRITZ DAILY, Chairman


Cheryl Fredrickson, secretary

VISITOR'S REGISTER

HOUSE

Education

COMMITTEE

BILL

HB # 635

DATE

Feb. 9

SPONSOR

Keenan

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Jay Wilson	Bozeman	Christian Education Assoc.		X
Gene Boulton	Bozeman	Christ's Church of BZN.		✓
Lee BARROWS	GRT FALLS	CORNERSTONE CHRISTIAN CH.		XX
Michael T. Tapp	Sunburst	Sunburst Christian Ch.		X
Merv Finstad	Helena, MT	Mont. Assoc. of Elem. School Principals	X	
Henry Bouma	Choteau Mt.	Teton Christian School		✓
DONALD P. KELLEY	JOPLIN, MT.	GRACE CHRISTIAN SCHOOL		✓
Arthur D. Pouch	Great Falls	Cornerstone Christian Ch.		✓
Leonard Roessner	Bradenview MT.	self + family		✓
Sharon Sutton	Bradenview	Christian Lib. Assn.		✓
Chris McBee	Bozeman MT	Home Schooler Assoc.		✓
David Lockie	Bozeman MT	Citizen		✓
Pat Fairbanks	Helena	Mont. Federation of Teachers	X	
Jim Murray	Helena	Mont. AFL-CIO	X	
John Frankens	Helena	Mt. Cath. Conf.		✓
Earl Hargis	Florence	Florence Presb. Church		✓
John Bond	Helena	MEIA	✓	
Justin L. Tuton	Darby, MT	Darby Baptist Temple		✓
Blair Daugherty	Blgs. MT	NYBC		✓
Richard Dim	Grt Falls	TREASURY STATE Academy		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE _____ COMMITTEE _____

BILL HB 635

DATE _____

SPONSOR Keenan

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Hiddle van Dym	Helena	Board Public Sch	✓	
Harry Stallfuss	Ft. Benton Mt.	Mont. Assoc. of County Supt	✓	
William Kautzman	Butte	Summit Valley Christian Sch		✓
Kenneth Wise	Missoula	MSLA. Foursquare Ch.		✓
Gregory Hammondson	Missoula	Roundtable / ^{Countryside} Church		✓
Dwight W. Miller	Butte	Butte Foursquare Church		✓
Walter C. Leary	Laurel	First Baptist Church		✓
Michael McGovern	MISSOULA	FOUR SQUARE CHURCH		✓
Ron Kautzman	Butte	Summit Valley Christian Sch		✓
Glenn Lindsey	Valier	Grace Evangelical Church Sch.		✓
Wesley M. Teterud	Great Falls	Emmanuel Church		✓
Rod Snee	Helena	OPI	✓	
Andrew Mason	Helena	54 Fair Sq.		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

219/83

House Education

AB 1035

[illegible]

(Please leave prepared statement with Secretary)

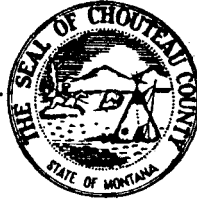
Exhibit 2

Amendment to HB 635

1. Page 11, line 23.

Following: "instruction"

Insert: "or the equivalent"



Larry Stollfuss
Superintendent

P.O. Box 487
Fort Benton, Montana 59442
(406) 622-3242

February 9, 1983

HOUSE EDUCATION COMMITTEE
HOUSE BILL 635 - KEENAN AND OTHERS
TESTIMONY OF LARRY STOLLFUSS REPRESENTING THE MONTANA ASSOCIATIONS OF
COUNTY SCHOOL SUPERINTENDENT

I am speaking as a proponent of H.B. 635 as the representative of the Montana Association of County School Superintendents. The issue here seems to change with each person who addresses it, from the County Superintendents view, it is quality education for all children, be it public or non-public.

We feel the state has the right and duty to impose these regulations, to start a process by which all children will have a quality education assured. We are talking about changes in the current statutes that deal with compulsory enrollment, changes that initiate a process, establish minimal criteria and teacher certification in all schools. And will, I believe benefit all non-public school students in this state.

Representative Keenan has pointed out the differences between S.B. and H.B. 635. I would like to discuss the reasons for these differences or the lack of them.

Under Section 20-5-102, we are asking for statement to be filed with the County Superintendent by the child's parent, guardian or school authority saying that the child is enrolled in a school that complies with the following.

A basic program of instruction equivalent to that prescribed by the Board of Public Education pursuant to 20-7-111. We are talking about the basics, minimal standards. We know that most non-public schools are taking their students much further, but for those children enrolled in schools that are not, this section is vital.

We addressed the area of buildings and facilities in hopes of clarifying the Attorney General's opinion on home type schools for we feel that a properly equipped and staffed home could certainly be a very good school, but we want to safeguard against those who would not provide an adequate education.

The home school created a vast majority of problems. A student has a problem, the parent has a problem, the parent decides rather than work through the problem they will teach the child at home. Home schools start like this all the time. We need to define the school setting.

- a. Local health and safety regulations are important and I think everyone here will agree to that section.
- b. Protections of staff and students against fire and other hazards.
- c. Adequate furnishings and equipment - in our way of thinking a kitchen table and one chair does not make a school. Furnishings in quantity to handle the number students enrolled - Area large enough to handle that student number, so we need adequate ventilation, proper lighting. Perhaps a chalkboard, tables, desks etc.
- d. Separate place of instruction so designated as to foster educational achievement. A room or place where a majority of the instruction takes place. Free from interruptions, free from baby sitting chores. A place sacred to learning.
- e. Provide supervised and safe areas where students congregate before and after school - again we are totally concerned with the safety of students.
- f. Record Storage - important because lost records can never be reconstructed - who can argue with this provision, but the non-public school that was keeping no record.

Teacher certification is important as it says to everyone that I have had the training to be a teacher. This is not a guarantee of success, but is a very good indicator. What untapped potential there must be, teachers untrained or partially trained, teaching in the non-public schools who with proper training would take their places among the master teachers of this state. What child deserves less?

Records - What an important part of every life. The most important record of all times the Bible. I am thankful that it was preserved. An educational system must provide such a record for their students. In the rapidly changing society of today, where the jobs of tomorrow haven't been created today, every child has the right to a record of achievement that will say to colleges, universities and future employers, Yes, I can. The keeping of records is vitally important.

A Library - a place where a student can grow and explore. Library skills, skills that everyone should have. Materials will not be specified. The religious schools will have religious type learning materials. A library of sufficient size for the program and number of students is vital.

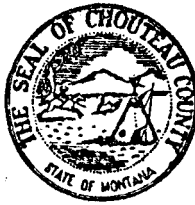
The appeal process - as outlined - so no one can take unfair advantage on any non-puplic schools.

20-5-105 - Section 6, provides a check within the system.

If the County Superintendents are expected to be attendance officers in 95% of the third class districts in the State, if we are required to determine of a basic program of instruction, if we are required to determine a school's compliance, we need this process. It will allow county superintendents to say yes you are, or no your not.

H.B. 635 will give a consistency around the state, yet will still maintain a local level of elected control. We support these proposals, not because we want to control or destroy the non-public schools. We fully realize and accept their importance. We do not see these regulations as threat to freedom, but as a way to strengthen the freedom of our entire state by assuring each child rights to an education that has been granted by our state constitution. If county superintendents are to be involved, we hope you will take into consideration all the important points addressed in House Bill 635. It answers all Questions; Who, Where, When, and How. And for the last Question, Why? If we are going to have regulations, let's have regulations that are uniform and enforceable.

Chouteau County
Superintendent of Schools



Education
Foundation of the Future

Larry Stollfuss
Superintendent

P.O. Box 487
Fort Benton, Montana 59442
(406) 622-3242

DATE: FEBRUARY 9, 1983

FROM: LARRY STOLLFUSS

TO: PROPONENTS OF H.B. 635

SUBJECT: TESTIMONY

1. Be sure to register your name for testimony.
2. Please fill out witness statement.
3. Limit your testimony to under 4 minutes and emphasize your own perspective.
4. The sequence of proponents looks as follows:

Representative Nancy Keenan
Montana Association of County Superintendents - Larry Stollfuss
Attorney General's Office Representative
Legislators
Non-public School Representatives
Education Associations
Office of Public Instruction
Individual Proponents
Representative Nancy Keenan

WITNESS STATEMENT

Exhibit 3

Name Chip EERDMANN Committee On Education
Address Helen Date 2/9/83
Representing Mr School Bd Assoc Support ✓
Bill No. 635 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. see attached

2.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

MONTANA SCHOOL BOARDS ASSOCIATION

501 North Sanders
Helena, Montana 59601
Telephone: 406/442-2180
Wayne G. Buchanan, Executive Director

OFFICERS:

PRESIDENT

Marvin Bartel
P.O. Box 2042
Wolf Point, MT 59201

VICE PRESIDENT

Robert Short
1510 Tompy
Miles City, MT 59301

IMMEDIATE

PAST PRESIDENT

Owen Robinson
P.O. Box 1419
Great Falls, MT 59403

DISTRICT DIRECTORS:

1 EARL MESSICK
Rte. #1, Box 1248
Libby, Mt 59923

2 MARVIN EDWARDS
P.O. Box 428
Chinook, MT 59523

3 MARVIN BARTEL
Box 2042
Wolf Point, MT 59201

4 HENRY NOLLMMEYER
Savage, MT 59262

5 ANITA JOHNSON
Route 1, Box 1644
Lewistown, MT 59457

6 LICE TULLY
5355 Mullan Road
Missoula, MT 59801

7 KENNETH BANDELIER
740 E. Bannack St.
Dillon, MT 59725

8 TAMMY HALL
6734 Gooch Hill Road
Bozeman, MT 59715

9 MADGE ESHLEMAN
233 Wanda Lane, Rt. 8
Billings, MT 59101

10 ROBERT SHORT
1510 Tompy
Miles City, MT 59301

MUNICIPAL:

BILLINGS DIRECTOR

MICHAEL YOUNG
1235 Burlington Avenue
Billings, MT 59102

BUTTE DIRECTOR

ROBERT GOODMAN
1800 Sampson St.
Butte, MT 59701

GREAT FALLS DIRECTOR

DARLENE MEDDOCK
1245 Park Garden Road
Great Falls, MT 59404

MISSOULA DIRECTOR

CHARLES BRIGGS
132 University Ave.
Missoula, MT 59801

Chip Erdmann

Testimony on HB 635

HB 635 is one of several bills introduced in this legislature which address the area of nonpublic schools in Montana. MSBA has consistently supported the concept which requires a basic curriculum in nonpublic schools and also some type of mechanism to ensure that the standards are being met.

This bill is a comprehensive approach to the non-public school issue. It addresses the issues which are currently vague, and sets up a reasonable review mechanism by the county superintendent with an appeal to the Board of Public Education.

We feel this is a reasonable, workable approach to the nonpublic school controversy. It will enable the Board of Public Education to meet their constitutional mandate of ensuring a basic education for all children in Montana, with a minimum of governmental intrusion into the nonpublic schools.

1232 East Sixth Avenue, Helena, Montana 59601
Telephone 406-442-4250

FEBRUARY 9, 1983

TO: HOUSE EDUCATION AND CULTURAL SERVICES COMMITTEE

FROM: JOHN C. BOARD
PRESIDENT
MONTANA EDUCATION ASSOCIATION

RE: HOUSE BILL 635

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

FOR THE RECORD, I AM JOHN BOARD, PRESIDENT OF THE MONTANA EDUCATION ASSOCIATION, AND I RISE IN SUPPORT OF HOUSE BILL 635.

THIS BILL IS NOT ONLY A GOOD BILL; IT MAKES SENSE, AND IT IS REASONABLE. IN THE FIRST PLACE, IT LENDS CREDENCE TO OUR STATE'S CONSTITUTION WHICH WAS WRITTEN AND APPROVED BY THE PEOPLE OF MONTANA AS AN EXPRESSION OF THEIR BELIEF IN DEMOCRACY AND THEIR FAITH IN RULE BY THE MAJORITY.

SECONDLY, THIS BILL ATTEMPTS TO MORE CLEARLY DEFINE AND EXECUTE THE INTENT AND PURPOSE OF ARTICLE X, SECTION 1, WHICH GUARANTEES THAT "EQUALITY OF EDUCATIONAL OPPORTUNITY IS GUARANTEED TO EACH PERSON OF THE STATE."

THIRDLY, THIS BILL RESPECTS THE OVERWHELMING PRACTICE IN OTHER STATES WHICH HAVE DEALT WITH THIS ISSUE AND HAVE REQUIRED THAT ALL SCHOOLS - PRIVATE AND PUBLIC - MEET CERTAIN, REASONABLE STANDARDS. ONE OF THE STANDARDS MOST OFTEN REQUIRED IS THAT CHILDREN BE PROVIDED A STANDARD EDUCATIONAL OPPORTUNITY AND THAT THEY BE TAUGHT BY TRAINED TEACHERS WHO HAVE MET THE CERTIFICATION STANDARDS OF THE STATE. THE COURTS, BY AND LARGE, HAVE UPHOLD OTHER STATE LEGISLATURES' RIGHT TO REQUIRE SUCH A STANDARD. IN A PREVIOUS LETTER TO EACH OF YOU, I ADDRESSED THIS SUBJECT IN MORE DETAIL AND PROVIDED FOR YOU A SYNOPSIS OF WHAT LEGALLY CONSTITUTES AN

ADEQUATE PUBLIC EDUCATION IN MOST OTHER STATES. I WOULD CALL YOUR ATTENTION TO THIS MATERIAL.

MEMBERS OF THE COMMITTEE, THERE ARE THOSE WHO WOULD CHARGE THAT THE ENACTMENT OF THIS BILL WOULD VIOLATE THE SACRED AMERICAN PRINCIPLE OF "SEPARATION OF CHURCH AND STATE." THIS WOULD NOT BE TRUE.

THE "FREE EXERCISE CLAUSE" OF THE DECLARATION OF RIGHTS IN MONTANA'S CONSTITUTION, AND THE BILL OF RIGHTS IN THE UNITED STATES CONSTITUTION, GUARANTEE THAT ONE MAY BELIEVE AS ONE CHOOSES IN MATTERS OF RELIGION. AT THE SAME TIME, NO ONE, IN A DEMOCRATIC SOCIETY SUCH AS OURS, HAS AN ABSOLUTE RIGHT TO ACT AS S/HE CHOOSES ON THE BASIS OF HER OR HIS BELIEFS. IN A THEOCRACY, RELIGIOUS BELIEF MAY DICTATE A PERSON'S OR A GROUP'S ACTS, BUT IN A DEMOCRACY, THIS IS NOT ALLOWABLE, AND ONE CANNOT INVOKE "FREEDOM OF RELIGION" AS A DEFENSE FOR THOSE ACTIONS WHICH VIOLATE OR THREATEN THE HEALTH, WELFARE, OR SAFETY OF THE COMMUNITY. I SUBMIT THAT AN IMPROPERLY OR POORLY EDUCATED PERSON IN TODAY'S WORLD IS A THREAT TO THE HEALTH AND WELFARE OF THE COMMUNITY.

THERE ARE THOSE WHO WOULD PLEAD THAT TRAINED TEACHERS WHO HAVE BEEN CERTIFIED BY THE STATE ARE NOT A GUARANTEE THAT CHILDREN WILL RECEIVE AN ADEQUATE EDUCATION. THIS, IN FACT, MAY BE TRUE IN ISOLATED INSTANCES. THE SAME CHARGE, HOWEVER, COULD BE MADE AGAINST LAWYERS, DOCTORS, DENTISTS, BEAUTICIANS, OR CERTIFIED PUBLIC ACCOUNTANTS WHO ALSO MUST BE LICENSED BY THE STATE. CONCEDED THAT MISTAKES ARE MADE IN ISOLATED CASES, I WOULD RESPOND BY SAYING THAT THE PROBABILITY OF A CHILD'S RECEIVING AN IMPROPER EDUCATION FROM A TRAINED, CERTIFIED TEACHER IS FAR LESS LIKELY TO HAPPEN THAN IT WOULD BE FOR A CHILD TO RECEIVE AN INADEQUATE EDUCATION FROM AN UNTRAINED, UNCERTIFIED TEACHER.

THERE ARE THOSE WHO WOULD ARGUE THAT THIS BILL WOULD THREATEN THE MORAL CLIMATE OF PRIVATE SCHOOLS. I BELIEVE THIS IS "BEGGING THE QUESTION" BECAUSE I AM CONVINCED THAT THERE ARE TRAINED, CERTIFIED, AND PRACTICING TEACHERS WHO WOULD

MEET THE ADDITIONAL RELIGIOUS AND MORAL STANDARDS REQUIRED BY ALMOST ANY RELIGIOUSLY-FOUNDED PRIVATE SCHOOL.

FINALLY THERE ARE THOSE WHO WOULD MAKE THE CASE THAT THIS BILL IS DESIGNED JUST TO PROTECT THE ECONOMIC INTERESTS OF THE "EDUCATIONAL ELITE AND ESTABLISHMENT." SUCH A CHARGE IS WITHOUT MERIT. WERE THE "ECONOMICS" OF THIS BILL MERITORIOUS FOR CONSIDERATION, AND THEY ARE NOT, I SUBMIT THAT THE ECONOMIC SELF-INTEREST OF PRIVATE SCHOOLS IS IN MORE JEOPARDY THAN NOT. THE EMPLOYMENT OF TRAINED, CERTIFIED TEACHERS WOULD PLACE A GREATER BURDEN UPON THOSE SCHOOLS WHO CURRENTLY DO NOT EMPLOY TRAINED, CERTIFIED TEACHERS AND WHO DESIRE NOT TO DO SO. FOR YOUR INFORMATION, I WOULD POINT OUT THAT, BY 1980, THE ACCELERATED CHRISTIAN EDUCATION PROGRAM WAS WELL ON THE WAY TOWARD BECOMING "BIG BUSINESS" IN THAT, BY 1980, IT HAD BECOME A TEN MILLION DOLLAR INDUSTRY IN THIS COUNTRY.

FINALLY, I SUBMIT, THAT HOUSE BILL 635 IS NOT ONLY IN THE BEST INTEREST OF THE MAJORITY OF THE PEOPLE OF MONTANA, BUT IT IS IN THE BEST INTEREST OF THE HEALTH, SAFETY, AND WELFARE OF MONTANA'S CHILDREN. THIS BILL DELIBERATELY AND, WITH GOOD CAUSE, ATTEMPTS TO MAKE A REALITY OUT OF THE CONSTITUTIONAL MANDATE, "EQUALITY OF EDUCATIONAL OPPORTUNITY IS GUARANTEED TO EACH PERSON OF THE STATE." EVERY INDICATOR DEMONSTRATES THAT THIS IS BEING DONE FOR CHILDREN IN MONTANA'S PUBLIC SCHOOLS; AND, WE WOULD CONTEND THAT THE SAME SHOULD BE AFFORDED TO MONTANA'S CHILDREN IN PRIVATE SCHOOLS.

MEMBERS OF THE COMMITTEE, THE MONTANA EDUCATION ASSOCIATION URGES YOUR SUPPORT OF THIS BILL.

#

WITNESS STATEMENT

Name MERVIN H. FINSTAD Committee On EDUCATION
 Address 1023 Broadway Helena, Montana Date 2-9-83
 Representing Montana Association of Elementary School Principals Support X
 Bill No. 635 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

My name is Merv Finstad. I am currently serving as President of the Montana Association of Elementary School Principals. I am a graduate of an accredited church - affiliated high school. I just completed a three year term as chairman of the Board of Deacons of First Baptist church in Helena.

As resident of this State I believe every child is to be guaranteed under the constitution a basic quality education. I believe this is regardless of whether they attend a public or non-public school. Most private schools who want well-prepared students entering the job market or continuing their education at Vo-techs or colleges are anxious to see that their students are well-prepared.

However, some private schools under the guises of religious freedom, do not want to recognize any state authority in pursuing their educational programs. But in our State, all citizens have a legitimate interest in the welfare of all of God's children. No one is seeking to deny private schools the right to pursue religious freedom or instruction. I was pleased that I had the opportunity in high school for a daily chapel period and religious instruction but I am also thankful that my private school was accredited and prepared me for college. Some private school and home/school activists claim public schools with all of our accreditation standards are not meeting the academic needs of their children. It is a fact that Montana public schools score consistently above the national average on achievement tests and we are obligated to work with all children regardless of handicaps. It is a fact that many private schools cannot supply the specialized services necessary for children with handicapping conditions and it is easy for private schools to exclude children with severe behavioral problems.

The standards that are being recommended in HB 635 will help insure that all Montana children will be adequately prepared. I don't believe any of us would want to secure services from a non-certified doctor, lawyer or other professional who had not completed their training from an accredited institution. Even our state cosmetologists must meet certain standards. Why should we apply a different standard for the education of our State's children?

It is those schools calling themselves "church ministries" or parents who believe that they have been led by a higher power to teach their children where problems will appear. Educators spend at least four years preparing themselves and learning about pedagogical techniques. But there are those private school advocates who believe because they were once a student that this qualifies them to teach children. This is sheer mockery and is no different than my feeling prepared to be a pastor of a church because I read the Bible. Most churches want pastors who have completed a degree in a theological program. Beware that "Whatsoever a man soweth that shall he also reap" and I believe this applies specifically to the education of our states children. There are those private school advocates who are leading their fellow citizens down a rocky road where many times the public school is forced to pick up the pieces when things have gone awry in the private schools and then these children return to our public schools. HB 635 deals with basic tenents of quality education that should be afforded all Montana children.

I believe in the separation of church and state and the right of private schools to pursue their religious beliefs. The state educational authorities only want what academically is best for our states most precious natural resource - our children.

I believe proponents of Christian or non-public schools have forgotten one of the basic teachings of the Bible which is that Christians are to respect and obey the government. In taking an arrogant, self-rightous position, the supporters of some Christian schools not only reproach the Bible, but in some ways insult those who work in public schools and state agencies. The "vocal minority" that has been evident in great numbers at the legislature these past weeks will continue to exert pressure on you for no state scrutiny. However, I believe the public school system does work and I believe the private school system can work when we work together to insure a quality educational program for all our children.

I urge passage of HB 635.

Thank you



JAMES W. MURRY
EXECUTIVE SECRETARY

Box 1176, Helena, Montana

ZIP CODE 59624
406/442-1708

Exhibit 6

TESTIMONY OF JIM MURRY ON HOUSE BILL 635, BEFORE THE HOUSE COMMITTEE
ON EDUCATION AND CULTURAL RESOURCES, FEBRUARY 9, 1983

I am Jim Murry, executive secretary of the Montana State AFL-CIO.

I am here today to testify in support of House Bill 635. We believe that every child has the right to a sound basic educational program, and this bill helps ensure that each Montana child will have that opportunity.

Education has always been a special concern of organized labor. When Samuel Gompers, the first president of the American Federation of Labor was asked, "What does labor want?", he responded by saying, "We want more school houses and less jails, more books and less arsenals, more learning and less vice, more constant work and less crime, more leisure and less greed, more justice and less revenge." That was in 1893, but organized labor's concern for education began long before that.

In the early days of our nation's history, only those who could afford it could obtain an education. There was no such thing as free public education, and indeed there was a notion that workers' kids should not be educated. In 1823, shoemakers in Philadelphia staged demonstrations demanding free public education and paved the way for the public school system as we know it today.

We also believe that anyone who wishes to send their children to a private school should have that right. But we also believe that there are certain standards which must be met to protect the right of those children to a fundamental and basic education and to ensure

their health and safety. The standards set forth in this bill ensure that these children will not attempt to pursue a higher education and find they are unable to do so, or go into the job market and discover they do not have even minimum skills to hold down a job.

Our world and our job markets are changing rapidly. New technological advances make it even more imperative that our children are well-educated.

We ask your support of House Bill 635.

Exhibit 7

WITNESS STATEMENT

Name Judy Browning Committee On House - Education
Address Justice Building Date 2-9-83
Representing Attorney General Support _____
Bill No. H.B. 635 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

A SUMMARY OF SELECTED COURT CASES AND STATE LAWS
CONCERNING
SCHOOL ATTENDANCE

I. UNITED STATES SUPREME COURT DECISIONS

1925 Pierce v. Society of Sisters (268 U.S. 510)

Oregon law requiring compulsory attendance at public schools, with no exceptions for private schools, was held unconstitutional as an unreasonable interference with parents' right to direct the upbringing of their children.

COMMENT: The Court's opinion states (at page 534) "No question is raised concerning the power of the State reasonably to regulate all schools, to inspect, supervise and examine them, their teachers and pupils; to require that all children of proper age attend some school..."

1972 Wisconsin v. Yoder (406 U.S. 205)

Wisconsin law requiring attendance at public or private schools through the age of 16 was held unconstitutional as applied to Old World Amish children who had graduated from 8th grade.

COMMENT: The Court stressed that the Old World Amish had a history of three centuries as an identifiable religious sect and a long history as a successful and self-sufficient segment of American society; thus, the Amish had "convincingly demonstrated the sincerity of their religious beliefs...and the adequacy of their alternative mode of continuing informal vocational education." The Court went on to state (at page 236): "Nothing we hold is intended to undermine the general applicability of the State's compulsory attendance statutes....There is no basis for assuming that...reasonable standards cannot be established concerning the content of the continuing vocational education of Amish children under parental guidance, provided always that state regulations are not inconsistent with what we have said in this opinion."

II. RECENT STATE AND FEDERAL COURT DECISIONS

MICH Hanson v. Cushman (490 Fed. Supp. 109)
1980

Michigan law requiring attendance at a public school or at a non-public school that followed a curriculum comparable to that of a public school, that employed certified teachers, and that was approved by the State, was upheld.

COMMENT: Although the parents argued that their curriculum was superior to that of the public schools, the Court said that it would be too difficult for the State to examine and supervise a host of facilities and individuals who might undertake to instruct their children at home without certification.

MICH State v. Nobel (Mich. Dist. Ct., S-791-0114-A)
1980

Michigan compulsory school attendance law, permitting home schools so long as certified teachers were employed, was not violated where a home school teacher had completed all requirements essential to state certification but had refused to obtain the certificate for religious reasons.

OHIO State v. Whisner (351 N.E. 2d 750)
1976

Ohio Board of Education's regulations applicable to private schools were so detailed (including a regulation requiring that a certain percentage of the day be spent on certain subjects) that compliance with each and every standard effectively eradicated the distinction between public and private education. The Court found the regulations unconstitutional.

NEBR State v. Faith Baptist Church (301 N.W. 2d 571)
1981

Nebraska law and regulations requiring that any non-public schools must get state approval of curriculum, of length of school day and year, of health and safety conditions, and of qualifications of teachers, was upheld.

COMMENT: Faith Christian School, which used the Accelerated Christian Education curriculum, and believed that the Bible mandated religious teaching rather than the secular humanism of the public schools, argued that the right to religious freedom should permit them to be excused from the State's compulsory education laws under the holding in Wisconsin v. Yoder. The Court stated (on pages 579-580): "The cases we have cited from the Supreme Court of the U.S. should leave no doubt as to the critical interest which the State has in the quality of education provided its youth. Although parents have a right to send their children to schools other than public institutions, they do not have the right to be completely unfettered by reasonable government regulations as to the quality of the education furnished....The refusal of the defendants to comply with compulsory education laws as applied in this case is an arbitrary and unreasonable attempt to thwart the legitimate, reasonable, and compelling interest of the State in carrying out its educational obligations, under a claim of religious freedom."

NO. State v. Shaver (294 N.W. 2d 883)
DAK.

1980 North Dakota law requiring attendance at a public school or at a state-approved non-public school that hired certified teachers was upheld.

COMMENT: Bible Baptist Church School, which used the Accelerated Christian Education curriculum, and which hired non-certified teachers, argued that the Bible ordered parents to educate their children in Christian schools and that their children did better on standardized tests than did children taught in the public schools. The Court stated (at page 900): "Although North Dakota's minimal requirement for state approval of a private or parochial school may be imperfect, without the regulations the State would have no reasonable assurance that its recognized interest in providing an education for its youth is being protected."

WEST State v. Riddle (285 S.E. 2d 359)
VA.

1981 West Virginia laws and regulations, which permitted home schooling if approved by the County Board of Education, and which required that home schools furnish information to the county boards concerning attendance and performance of pupils, was upheld.

COMMENT: Biblical Christians, whose home-teaching record was excellent, argued that the holding in Wisconsin v. Yoder should excuse them from the state's law and regulations. The Court noted: "We find it inconceivable that in the twentieth century the free exercise clause of the 1st Amendment implies that children can lawfully be sequestered at home on a rural homestead during

all of their formative years to be released upon the world only after their opportunities to acquire basic skills have been foreclosed and their capacity to cope with modern society has been undermined as to prohibit useful, happy, or productive lives.

III. LAWS CONCERNING SCHOOL ATTENDANCE IN STATES CONTIGUOUS TO MONTANA

IDAHO

Parent or guardian shall cause children between the ages of 7 and 16 to be instructed in subjects commonly taught in the public schools. Unless the child is otherwise comparably instructed, as may be determined by the board of trustees of the school district in which the child resides, the child shall attend a public, private, or parochial school during a period in each year equal to that in which the public schools are in session. (Idaho Code, §33-202, 1981).

NORTH DAKOTA

Parent or guardian shall send child between ages of 7 and 16 to a public school. (N. D. Cent. Code, §15-34.1-01, 1981). Exceptions are made for attendance for the same length of time at a parochial or private school approved by county superintendent. (N. D. Cent. Code, §15-34.1-03, 1981).

SOUTH DAKOTA

Children between ages of 7 and 16 must be sent to public or nonpublic elementary school. (S. D. Compiled Laws Ann., §13-27-1, supp. 1981). A child may be excused from school attendance, if provided, for the same length of time, with competent alternative instruction in the basic skills of language arts and math. The parent or guardian shall identify in the application where and by whom the child shall be instructed. No instructor need be certified, but may not instruct more than 22 children. All instruction shall lead to a mastery of the English language. The child so instructed shall annually take the same nationally standardized achievement test of the basic skills as is used in the public school district where the child is instructed. The superintendent of elementary or secondary education or his designee may visit and observe the child's alternative instruction twice in any school year. (S. D. Compiled Laws Ann., §13-27-3, supp. 1981).

WYOMING

Parent or guardian shall send children between the ages of 7 and 16 to a public or private school, unless the child has been legally excluded through suspension or expulsion. (Wyo. Stat., §21-4-102, 1977).



Board of Public Education

Exhibit 8

BOARD MEMBERS

Hidde Van Duym
Executive Secretary

EX OFFICIO MEMBERS:

Tim Schwinden, Governor
Ed Engenbriht, Superintendent of
Public Instruction

Irvonn E. Dayton, Commissioner
of Higher Education

APPOINTED MEMBERS:

Allen D. Gunderson, Chairman
Billings

John Robocker, Vice Chairman
Kalispell

James Graham
Isis

George A. Johnson
Great Falls

Harold C. Meloy
Helena

Arthur Schauer
Libby

Thomas A. Thompson
Bozeman

TESTIMONY SUPPORTING HB 635 BY HIDDE VAN DUYM, EXECUTIVE SECRETARY, BOARD OF PUBLIC EDUCATION

This bill addresses a present problem which needs to be solved.
I would like to formulate the problem in a few sentences.

The problem is in the area of compulsory attendance. Does the State of Montana want to be serious about its compulsory attendance laws or not? The intent of compulsory attendance laws is to see to it that every child receives a minimum education.

At the present time any parent can call him or herself a school and avoid the intent of the compulsory attendance statutes. I have attached Board correspondence which illustrates the case.

If the intent of the compulsory attendance statutes is carried out what needs to be defined is what qualifies as an exemption from attendance at a public school. Contrary to many claims, the State has the right to require a minimum education. For your information I attach a pamphlet by Mr. William Bentley Ball related to this issue.

In addition there needs to be some guidance as to how these exemptions are monitored. This comes down to clarifying the role of the attendance officer and the county superintendent. Right now there is no clarity. There is no child census, the role of the attendance officers has been neglected if they have been designated at all and there is no guarantee that a child receives a basic education.

The Board, which for various reasons has the responsibility for seeing to it that all children receive a basic education, came to the legislature with a request to clear up this confusion in the form of SB 253. It supports HB 635 because this bill addresses the same issues albeit in stricter manner. HB 635 spells out the exemption from attending the public school system and provides guidance as to implementation and monitoring.

This committee may wish to amend some sections particularly those that relate to teacher qualifications and building and grounds requirements. But I urge this committee not to give up on the intent of this bill.

It addresses the important issue of whether you are serious or not about compulsory attendance in the State of Montana.



Sunrise Academy

P.O. Box 355
Miles City, Montana 59301

RECEIVED

DEC 26 1980

SUPERINTENDENT
OF PUBLIC INSTRUCTION

State School Superintendent
State Board of Education
State Capitol Building
Helena, Montana

Dear Sir,

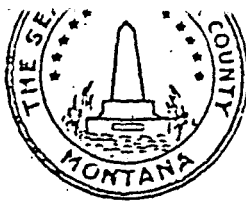
This letter is to inform you that we have established a private school, known as Sunrise Academy, located in Miles City, Mt. with the above mailing address.

The school is in operation at least 180 days per year, and operates for at least 6 hours per day. Our curriculum includes reading, writing, art, math, social studies, music, physical education, science, health, fine arts, vocational education, free enterprise, constitution, history and on the job training for specific skills. The student body at this time consists solely of the members of our own family.

To the best of our knowledge, this letter completes our legal obligation. If there are any further requirements established by law, please let us know.

Sincerely,

Daniel E. Thueringer
Superintendent; Sunrise Academy



County of Custer

Custer County Courthouse
1010 Main
MILES CITY, MONTANA 59301

January 21, 1981

Mr. Rick Reese
Assistant to the State
Board of Public Education
33 South Last Chance Gulch
Helena, Montana 59601

RE: Sunrise Academy - Private Instructional Program
Miles City, Montana

Dear Mr. Reese:

Enclosed please find a copy of a letter dated January 15, 1981 which was addressed to Mr. Daniel E. Thueringer, Superintendent of the Sunrise Academy, in Miles City, a recently established private school. Also enclosed please find copies of the various letters referred to in my letter of January 15th, as well as a copy of Attorney General Mike Greely's opinion dated August 7, 1980 relating to the responsibilities of the State Board of Public Education and private institutions. I have not enclosed a copy of the Standards for Accreditation of Montana schools as amended by the Board of Public Education dated March 8, 1976, Third Edition, as I assume you have access to that document. A copy of that document was, however, enclosed with my letter of January 15 to Mr. Thueringer.

I note that the Attorney General's opinion provides in part as follows:

"Therefore, the Board of Public Education may review programs which may be submitted to them annually by private institutions, to determine

Mr. Rick Reese
Page 2
January 21, 1981

whether they comply with the board's requirements and issue a statement to those institutions that are in compliance. However, this review may not impose teacher certification requirements upon teachers, librarians, and guidance counselors. An institution which does not obtain a statement of compliance from the board may seek judicial review or present its justification in court during the course of the proceedings initiated by an attendance officer when he finds a child who is not enrolled in an appropriate institution."

The Attorney General's opinion suggests that there should be some guidance from the Board of Public Education in these matters.

I am writing to inquire whether or not the Sunrise Academy has submitted the educational program it offers to its enrollment and whether or not the Board of Public Education has made a determination as to whether or not the Sunrise Academy's educational program complies with the requirements of the State Board of Education. If you have not issued a statement as to whether or not Sunrise Academy is in compliance, is it because you have not been furnished sufficient information by Sunrise Academy or because you do not believe that it is your duty to review programs submitted by private institutions? My reason for asking the question is that the Attorney General's opinion states that the Board "may" review programs, which could mean that you are not required to review them.

If the matter is investigated by an attendance officer, what criteria would the attendance officer use in determining whether or not the program of the private institution is in compliance and what procedures should be followed by an attendance officer in initiating and reviewing the situation? In your opinion, does Section 20-5-105 of the Montana Code Annotated provide sufficient authority to an attendance officer to enter a private institution, without Court Order or other authority and to conduct an investigation? That seems to be the second alternative set forth in the Attorney General's opinion.

The third alternative set forth would be for a private institution to seek judicial review to determine whether or not its educational program is in compliance, however, there is nothing that would

WITNESS STATEMENT

Name Pat Fairbanks Committee On Education/Cult. Res.
Address Helena Date Feb. 9, 1983
Representing Montana Federation of Teachers Support X
Bill No. HB 635 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: delivering written testimony of Terry Mironov.
1. for the members of the Committee

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.



MONTANA FEDERATION OF TEACHERS

AMERICAN FEDERATION OF TEACHERS

AFL-CIO



P.O. Box 1246

Helena, Montana 59624

(406) 442-2123



TESTIMONY OF TERRY MINOW, MONTANA FEDERATION OF TEACHERS, AFT, AFL-CIO, PRESENTED TO THE EDUCATION AND CULTURAL RESOURCES COMMITTEE OF THE MONTANA HOUSE OF REPRESENTATIVES IN SUPPORT OF HOUSE BILL 635 ON WEDNESDAY, FEBRUARY 9, 1983.

Mr. Chairman and Members of the Committee:

My name is Terry Minow and I represent the Montana Federation of Teachers, AFT, AFL-CIO. I am appearing in support of House Bill 635.

Montana's present laws do not meet the educational needs of the children of the state. Montana's constitution guarantees our children the right to equal educational opportunity when it states, "It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state."

With every right there is a corresponding duty. For example, every person has the right to a fair trial. It is the state's responsibility to ensure that that right is provided for through laws that regulate how a jury is selected, how a judge is elected, what evidence may be introduced, etc. The state must also meet its responsibility to our children by providing adequate regulations for private schools and a way to enforce them.

As a representative of teachers, I believe this bill helps provide equality of educational opportunity by setting standards for the qualifications of teachers in private schools. To argue that an individual need not meet any qualifications makes meaningless the years of training and experience we, as teachers, have undergone to become qualified.

When you hire a plumber you know that that person has completed training and education which qualifies him or her to work on your pipes. When you enroll your child in a private school, you need to know that the teacher is qualified to teach your children. In the case of a plumber, if you have the knowledge to fix the pipes yourself you can do so. If you wish to educate your own child, you must prove to the state that you are qualified to do so. If you fail in your plumbing efforts and the pipes burst it may be a tragedy to you as a homeowner, but it only affects your property, which is repairable. However, a child is not a piece of property that can be repaired. With a substandard education a child is not prepared to meet his or her responsibilities to society.

The issue of free enterprise, the parent's right to choose from a variety of educational options, may be a concern to some. This bill will not limit the option to choose between public and private schools. Instead, it will ensure that when parents consider those options, they will know that both the public and private schools will provide equal educational opportunities for their child. We can not leave the education of our children to the marketplace principle of "let the buyer beware". Too much is at stake for the child and for the society in which he or she lives.

In summary, on behalf of the Montana Federation of Teachers, AFT, AFL-CIO, I urge your support of House Bill 635 and ask that you give a "do pass" recommendation. Thank you for your consideration.

WITNESS STATEMENT

NAME Allen D. Gunderson, Chairman BILL No. H.B. 635
Board of Public Education
ADDRESS P. O. Box 926, Billings, MT 59102 DATE 02/09/83
WHOM DO YOU REPRESENT Board of Public Education
SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The Board of Public Education consists of seven members who are appointed by the Governor to seven year terms. By law, no more than four can be from the same Congressional District or the same political party. Although we have two members on the Board, out of seven, who are involved professionally in education, we are a lay board. The Board's interest in the private school problem has not been promoted by any special interest group that might benefit by making it more difficult for the private schools to operate. If the Board represents any constituency, I feel that constituency consists of all of the children of this state who are of school age.

Why is the Board in favor of legislation on this subject? Well, very frankly, the Constitution and statutes place a rather heavy responsibility on the Board with regard to secondary education, both in the public and non-public schools. Section One of Article Ten of our Constitution provides that, "Equality of educational opportunity is guaranteed to each person of the state." Please note that this provision does not limit itself to children in the public school system. It very clearly refers to every person, (or child) in this state.

The statutes then provide that every child shall attend public schools unless they come within one of the exceptions provided in Section 20-5-102 M.C.A. One of these exceptions is that a child does not have to attend public school if he or she is enrolled in a private school that provides a basic instructional program as prescribed by the Board of Public Education.

It seems clear that our Board is responsible for seeing to it that every child, not just public school children, as some would have you believe, but that every child of school age within this state is provided with a basic instructional program. The Board is not complaining about the responsibilities placed on it by the Constitution and the statutes. Most constitutional lawyers agree that the state has a right to require that a child receives a basic instructional program in a safe and healthful environment. The state certainly has an interest that a child learn the language of his country (reading, writing, spelling), its history, geography and form of government, and how to compute. Our society would be in sad shape if people lacked this basic knowledge.

Unfortunately, under the present law the Board has really no way to determine that children in non-public schools are being provided with a basic educational program. The Board has been very concerned about this problem for at least three or four years. New private schools are starting up all over the state. The Reverend Jerry Falwell has stated that there are three new private schools started each day in this country and I can assure you that Montana has its share. No doubt the majority of them are providing an adequate basic instructional program, but the Board has no way to determine compliance.

Our present law does not allow home schools, but it has been fairly easy to get around this prohibition. For instance, in December of 1980, a gentleman in Miles City wrote a letter to the Superintendent of Public Instruction stating he was starting a private school where his own three children would be the only students. He gave the school a name, had some letterhead printed and he was in business. I would like all of you to have a copy of that letter. As indicated by a letter the Board received from the Custer County Attorney, the local authorities did not know how to handle the situation. The questions asked by this County Attorney in this letter illustrate the confusion that exists.

The Board became aware of many other problems and you have heard about them from other witnesses. I would, however, like to tell you about a Billings

family that I became aware of through a client of mine who is the grandmother of the children involved. This family has five children, the oldest is now 9 or 10 years of age and there is another of school age a year younger. The parents do not believe in immunization and have strong religious convictions that led them to believe that their children should not go to public school. Unfortunately, they couldn't afford to send them to a private school, so they didn't send them to any school. Finally, this year the grandmother decided that she couldn't stand it any longer and she paid the tuition to send the two school age children to a private school. They now attend a private school in Billings for three or three and one-half hours a day, five days a week. The grandmother has told me that this private school has one teacher for 23 students. She didn't know how many grades that teacher taught. Are these children receiving a basic instructional program? Maybe, but the Board really doesn't know and under present law it is very difficult to find out.

About two years ago the Board did try to remedy the problem by adopting policy giving the County Superintendents and truancy officers certain inspection duties. It has not worked out too well. Many County Attorneys have told us that it is unenforceable under present law. The County Superintendents do not know how far they can go in enforcing our policy. The Board needs help from this Legislature.

This is not an easy problem to solve, but just because it is difficult, controversial, and for some emotional, doesn't mean we should just turn our heads and ignore it. Although the Board has sponsored its own bill in the Senate (S.B. 253), which is somewhat less stringent, the Board does support H.B. 635. This bill would certainly be easier to implement because the certification and accreditation rules are already in place.

Exhibit 11

WITNESS STATEMENT

Name Douglas B Kelley Committee On Education
Address 1330 LeGrande Helena, MT Date 2/9/83
Representing MT Assoc of Church Schools Support _____
Bill No. HB 635 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Unbiblical
2. Unconstitutional
3. Unreasonable
4. Unnecessary

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Grace Gospel
A New Testament Church

Box 5627
Helena, Mt. 59604



Doug Kelley - Sr. Pastor
Brad Williams - Pastor

February 9, 1983

Representative Fritz Daily, Chairman
House Education Committee
State Capitol Building
Helena, Montana 59620

Dear Chairman Daily and Members of the House Education Committee:

For many weeks and months, I have raised my voice in public and private in an effort to protect one of our most precious freedoms - the freedom to be a parent. Although the authors of House Bill 635 might have noble purposes, HB 635 will have an ignoble effect in that it seriously harms our precious freedom to parent our children.

The proponents of House Bill 635 have little or no evidence to show that the actual purpose of compulsory attendance will be achieved. The purpose of compulsory attendance was set forth in Commonwealth v. Roberts, 34 N.E. 402, which states as follows:

The object and purpose of compulsory educational law are that all children shall be educated, not that they should be educated in any particular way.

This same statement is found in People v. Levisen, 404 Ill. 574, 90 N.E. 2d 213 (1950) which stated:

The law is not made to punish those who provide their children with instruction equal or superior to that obtainable in public school. It is made for the parent who fails or refuses to properly educate his child.

The right of parents to control and decide their children's education is a clearly recognized and fundamental constitutional right. It is found in the Ninth Amendment to the United States Constitution which states:

The enumeration in the constitution, of certain rights shall not be construed to deny or disparage others retained by the people.

Even the United Nations in its Declaration of Human Rights recognizes that the fundamental unit of society is the family,

February 9, 1983

and that parents have the right to control the education of their children. In Thiede v. Town of Scandia Valley, 14 N.W. 2d 400 (1944), the Supreme Court of Minnesota stated:

The entire social and political structure of America rests upon the cornerstone that all men have certain rights which are inherent and inalienable. Among these are the right to be protected in life, liberty, and the pursuit of happiness; the right to acquire, possess, and enjoy property; and the right to establish a home and family relations , at 405.

A parent's right to educate his children has also been recognized in many other cases across the United States. Many of these states have recognized this by the right of privacy within marriage or family including the right to have children. Cases having a special bearing are: Cary v. Population Services Intern., 431 U.S. 816, 97 S. Ct. 2010, (1977); Roe v. Wade, 410 U.S. 113, 93 S. Ct. 705, (1973); Griswold v. State of Connecticut, 381 U.S. 479, 85 S. Ct. 1678 (1965).

In Meyer v. State of Nebraska, 262 U.S. 390, 43 S. Ct. 625 (1923), the United States Supreme Court considered whether or not it was permissible to prohibit the teaching of foreign languages before a certain age level. The Court in this case quoted the Fourteenth Amendment provisions concerning "life, liberty or property" and went on to state:

While this court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and some of the included things have been definitely stated. Without doubt, it denotes not only freedom from bodily restraint, but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men., at 399.

In earlier decisions of the Supreme Court, the standard in determining constitutionality was whether the regulation which infringed upon parental rights bore a reasonable or substantial relation to a legitimate state purpose. But that has changed.

The burden on the State is now a much greater one. In the recent cases previously cited, such as Roe v. Wade, supra., the standard must now be "compelling state interest." The State may not simply employ a "balancing act" by balancing the State interest against the degree of interference with parental rights. Rather, the State interest must be "compelling" or the parental right to educate the child must be held inviolate.

Is there a "compelling state interest" in the education of children? As stated by the Supreme Court of the United States in San Antonio Independent School District v. Rodriguez, 411 U.S. 1, 93 S. Ct. 1978 (1973):

Education, of course, is not among the rights afforded explicit protection under our Federal Constitution. Nor do we find any basis for saying it is implicitly so protected. . . ., at 35.

We have carefully considered each of the arguments supportive of the District Court's finding that education is a fundamental right or liberty and have found those arguments unpersuasive., at 37.

Thus, there is serious question as to what, if any, "compelling state interest" the State really does have concerning the education of the children. In applying the "compelling state interest" test, the U.S. Supreme Court stated in United States v. Robel, 389 U.S. 258, 88 S. Ct. 419 (1967) as follows:

We are concerned solely with determining whether the statute before us has exceeded the bounds imposed by the Constitution when First Amendment rights are at stake. . . . Our decision today simply recognizes that, when legitimate legislative concerns are expressed in a statute which imposes a substantial burden on protected First Amendment activities, Congress must achieve its goal by means which have a "less drastic" impact on the continued vitality of First Amendment freedoms. . . . The Constitution and the basic position of First Amendment rights in our democratic fabric demands nothing less., at 267.

In reviewing House Bill 635, it is clear that it does infringe upon the parental right to raise and educate their children in accordance with their own dictates. Thus, the second question must be asked: Does the State of Montana have a "compelling

interest" in the education of the children? If this question is answered in the affirmative, we must ask the third question: Is the method of implementing the "compelling state interest" the "least drastic" method available? I think not.

As a former county attorney and former defense attorney, I am appalled by the intrusive nature of House Bill 635. The unwarranted search into our churches cannot and should not be permitted. The unwarranted interference with parental rights cannot and should not be permitted. In particular, House Bill 635 is offensive in the following areas:

(1) Section 20-3-205 (26) gives vast and unconstitutional power to the county superintendents to "review, investigate, and accept for filing or reject any statement from a non-public school." The power to review and investigate is virtually the power to control. This type of control is intrusive, unwarranted and unconstitutional.

(2) Section 20-5-102(a) shifts the burden to the non-public school to "demonstrate compliance." There is absolutely no basis in fact or law to shift this burden to the non-public school. The law in the State of Montana from 1903 through 1983 has been more than adequate to prosecute parents who have failed in their responsibility to educate their children. There are several truancy prosecutions throughout the State of Montana right now which evidence this very fact. Accepting the language suggested in House Bill 635 virtually shifts the burden from the public sector to the non-public sector. Such shifting is unwarranted and unconstitutional.

(3) The equivalency provision set forth in new Section 5 (1) is vague and ambiguous. Again, who is going to make the decision on equivalency? The present law allows the courts of law to make that decision. It appears that House Bill 635 is going to shift that responsibility to the county superintendent. I seriously question the appropriateness or constitutionality of this shifting.

(4) Written contracts for the administrators or teachers serve absolutely no purpose. Many church and private schools do not as a matter of practice or conscience use written contracts. From the perspective of the church, these administrators and teachers are oftentimes viewed as "ministers" who receive no financial compensation. The written contract for most is the written Word of God, from Genesis through Revelation.

(5) It's difficult to comprehend any justification for the certification of either the administrators or teachers. If the requirement to certify teachers and administrators is passed, one of the essential differences between the private and public schools will be needlessly obliterated. Ever since the leading Catholic case of Pierce v. Society of Sisters (1925), the right of private schools to exist has been recognized. For the government to determine who is qualified to teach based upon certification is an act of total control over the ministry of the churches. Furthermore, it is recognized by all that certification does not mean that a teacher is competent to teach. It merely means that the teacher has successfully completed a certain course of instruction. Teachers of the church schools have been certified by God, the government of the church, the parents and the students.

(6) The requirement for building the facilities and record keeping is unconstitutional on its face. The requirements are too detailed and too intrusive. Again, this section of law virtually obliterates distinction between private and public and gives total control to the State.

The law in the State of Montana has been muddled ever since recodification of the school laws in 1971. Prior to recodification, former Section 75-2901 which upon recodification became 75-6303 (later 20-5-102) stated that "A PARENT SHALL INSTRUCT or cause to be instructed" their children. Notice that the burden was placed upon the parents. This is as it should be. Prior to recodification, the statute stated that a child should be enrolled in a public, private or parochial school. Private and parochial schools were not second-class schools relegated to a subsection of the compulsory attendance law. They stood shoulder to shoulder with the public schools.

An editorial which appeared in the Missoulian on Tuesday, January 18, 1983, stated everything so well. Sam Reynolds, editorial page editor, stated as follows:

Most parish schools with their religious doctrine (so very suspect for many people), are using love, discipline, non-certified teachers and are doing a whale of a good job by any measure that the public schools, or government, wish to make.

Horror stories about semi-literate home-taught kids undoubtedly could be dug up, along with horror stories about parish schools that do a bum job.

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It's to rescue those kids from deprivation that motivates state government to step in, in place of the parents.

Government should step out. Public education is its turf. Private religious education is not. The First Amendment says that government "shall make no law respecting an establishment of religion (imposing prayer on public schools), or prohibiting the free exercise thereof" (controlling church schools.)

The fundamentalists are working on legislation in Helena to loosen state control. Under the bill, a school would have to have an "organized course of study" that included all the basic subjects. It would not have to abide by the Board of Public Education's "basic instructional program."

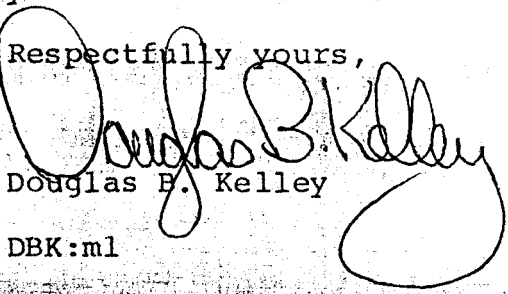
The course of study outlined should be enough to prevent educational horror stories from happening. It should be applied only to private schools.

And -- to get back to fundamentals -- it should be passed by the Legislature.

-- Sam Reynolds

To the conclusion of Mr. Sam Reynolds of the Missoulian, I wish to add my hearty Amen. Thank you for giving this matter your utmost attention and consideration.

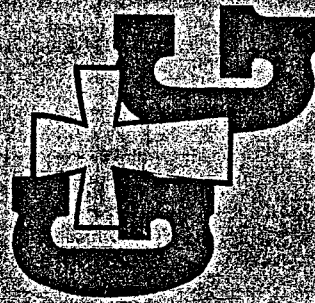
Respectfully yours,



Douglas B. Kelley

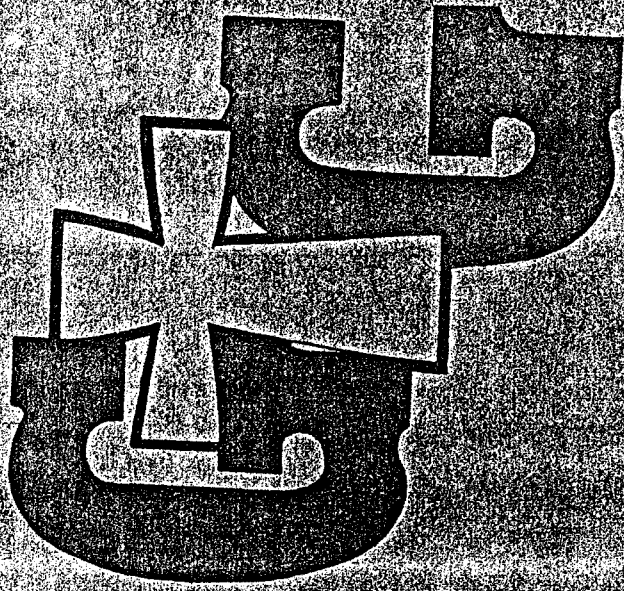
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What type of sports or extracurricular activities are available at Grace Gospel? In 1982, Grace Gospel Academy played basketball as a member of the Montana Christian Athletic Association. Eight students from Grace Gospel placed first or second in the Montana Idaho Student Convention, earning a right to travel to Denton, Texas, for the International Student Convention. Student convention allows wholesome expression of a student's gifts and abilities in such divergent areas as spelling, music, track, photography, sewing, soul winning, Bible memory, and forensics, as well as many other areas.



For additional information, please write or call:

Grace Gospel Academy
1580 Valley Speedway
Helena, Montana 59601
(406) 458-9183



GRACE GOSPEL ACADEMY

A Ministry of Grace Gospel Church
1580 Valley Speedway
Helena, Montana 59601

Pastor: Douglas B. Kelley

Principal: Robert N. Malberg

GRACE GOSPEL ACADEMY

THE PURPOSE

The Academy trains Christian youth in the highest principles of Christian leadership, self-discipline, individual responsibility, personal integrity, and good citizenship. The Academy stands without apology for the old time Gospel and the highest standards of morality in Christian behavior. Grace Gospel admits students of any race, color, and national origin.

Just as the strongest plants grow in the greenhouse, the strongest Christians grow in a semi-protected environment. Young Christians are allowed to develop and mature through the adolescent and teenage years without the usual worldly peer pressure.

At Grace Gospel Academy, the students receive massive doses of love and discipline. It's not unusual for a staff member to wrap his arm around a young child and literally cry out to God for the need of that special young life. Likewise, it is not unusual for a staff member to mete out needed discipline. Pouting, seltishness, anger, and disrespect are unacceptable at Grace Gospel Academy.

THE PROGRAM

Over 5,000 schools in America use the Accelerated Christian Education Program. Approximately 3 to 4 new Christian schools are started every 24 hours. This trend is accelerating as Christian parents realize the inability of government schools to teach the moral and spiritual truths necessary to prepare young lives for responsible leadership.

Accelerated Christian Education works! It is practical, proven, and continuing to improve. Even the most distinguished traditional Christian schools are handicapped when they have to adapt secular materials to Christian curriculum and philosophy. The Accelerated Christian Education Program is 100% Christian from beginning to end.

Perhaps the primary blessing of ACE is individualized instruction. A genius and a handicapped child may sit side by side and progress spiritually and academically at their own speed.

COMMON QUESTIONS . . .

Is Grace Gospel Academy accredited? Accreditation by the state governmental agency is an administrative mechanism designed to ascertain uniform education for all children in secular schools. It was established as a governmental means of causing a public school district to provide what the state educational agency determined as minimum academic and facility standards for all schools.

Accreditation of a private Christian school is not necessary for a graduate who wishes to attend college. In Montana, no accreditation is available for primary schools. Registrars of institutions are interested in the academic merits of individual students — not in the name of their secondary school. Registrars evaluate each applicant's academic aptitude through nationally standardized tests. The instructional program at Grace Gospel Academy is designed to properly train students who wish to continue their education beyond high school.

The only advantage of graduating from an accredited secondary school in the State of Montana is that the student does not have to pass a college entrance examination in order to enroll as a student in a post-secondary institution in the State of Montana.

Are the Grace Gospel teachers certified? Like accreditation, certification is an acknowledgement by a state governmental agency that a teacher meets certain standards. Certification does not mean that the teacher is "competent" to teach your children. It merely means that the teacher has successfully completed a certain course of instruction.

The teachers at Grace Gospel Academy have been certified by God, the government of the church, the parents and the students. Students are tested prior to acceptance and at the conclusion of every academic year by the nationally recognized California Achievement Test. The results show that the teachers have definitely been certified for this important biblical task.

How much does it cost to attend Grace Gospel? Those involved in Christian Education have found that "it doesn't cost, it pays." A registration fee and a monthly fee is charged all parents in order to defray the necessary expenses of staff, equipment, and materials. If a parent is unwilling to financially support the education of his child, the child should not be enrolled at Grace Gospel Academy, because the parent will also be unwilling to spend the necessary time in praying, reviewing PACES, and meeting with supervisors.

John Frankino
Montana Catholic Conference

Exhibit 12

We recognize, and I'm sure you also recognize, the key role private education has played in the history of our nation and in the state of Montana.

Private schools still play a key role in our educational system.

It will be a sad day if a choice is not available. The free enterprise alternative should be guarded and preserved.

We feel that the bill before you today contains provisions that are unnecessary, potentially dangerous to certain segments of the private educational community of Montana and should be rejected by this committee.

It is, however, important that the status of elementary schools be settled. In the past few years the Attorney General's statement that the state is responsible to see that all parents comply with the Compulsory Education Law, has caused anxiety and confusion on the local school level, and has demanded an exorbitant allocation of our time in attendance at and participation in meetings dealing with clarification of this matter. It is vital to the cause of private school education that this matter be finalized, so that we can get on with the real responsibility of education. SB 635 is not the answer.

The State Board of Education has, during this past year or so, addressed the questions related to the compulsory attendance section of our present law. They have discussed the issues with private school representatives and have presented their recommendations to this legislature in the form of SB 253. Although many people representing various other private schools stated their objections to the State Board's recommendations, we told the Senate Committee last week that for the Catholic schools, the largest single private school system in the state, SB 253 was acceptable. This bill before you today goes beyond the State Board's recommendations and presents some definite problems.

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The power to tax is not the only power to destroy. The power to regulate and dominate is also the power to destroy. We feel this bill opens the door for undue interference in the work of private schools and paves the way for potential mischief by public officials who may have a chip on their shoulder. Take for example 2(d) on page 11. (explain)

These are many of the questions that can be raised. Voluntary compliance with provisions of the basic instructional program or accreditation criteria developed by the State Board and the State Department is one thing; mandated compliance in certain areas is something entirely different.

We ask you to reject this bill, or at least reject those provisions of the bill that go beyond the recommendations of the State Board of Public Education.

Higher salaries for teachers, smaller classes and more resources equal better education, right? Wrong, says a noted sociologist whose recent study shows that Catholic schools, lacking those assets, actually produce better results

How to Save Our Public Schools

Condensed from THE NEW REPUBLIC
PHIL KEISLING

IN 1960, six-year-old Ruby Bridges braved the taunts of white racists to become one of the first blacks to enroll in an all-white school in the New Orleans public-school system. Two decades later, Bridges took her eldest child out of that same school system and placed him in a Catholic school. "I don't like to put down public schools," she says, "but my son wasn't really learning the way he should have."

As Bridges painfully discovered, integrating the public schools is only half the battle. A more insidious evil than segregation is a public-school system that's bad and getting worse. The signs of decline—from the 19-year stretch

THE NEW REPUBLIC (NOVEMBER 22), p. 182 BY THE NEW REPUBLIC, INC., 1220 19 ST., N.W., WASHINGTON, D.C. 20036. SOME OF THIS MATERIAL ALSO APPEARED IN THE WASHINGTON MONTHLY (JUNE 82).

ver and Phillips Exeter. Others are turning to fundamentalist Christian schools and white academies. But the majority—60 percent of the nation's five million private-school students—attend parochial schools operated by the Catholic Church.

Contrary to popular misconceptions, Catholic schools are relatively inexpensive (tuition seldom exceeds \$1000 a year), have mostly lay faculty (74 percent), and are open to students from all backgrounds and religious denominations. (In many inner cities, most Catholic-school students are black.)

Last year, noted University of Chicago sociologist James Coleman, along with associates Thomas Hoffer and Sally Kilgore, published a path-breaking study entitled *High School Achievement: Public, Catholic, and Private Schools Compared*.^{*} Coleman surveyed 58,728 students in 893 public and 122 private high schools, and concluded, among other things, that students in a typical private school—a Catholic school with larger classes and fewer resources—achieve more than those in the average public school.

Greater Expectations. When Coleman first announced his results in April 1981, many reacted as if he'd just endorsed public hangings for juvenile delinquents. Academics assailed Coleman for flaws in the study, noting for example that he didn't fully account for the effect on a

child's achievement of having parents who *care* enough about education to pay for private-school tuition.

Quarrel aside, there is a simpler and more obvious explanation for the achievement gap noted by Coleman. Private schools are just more rigorous. Their students, for example, are more likely to have over an hour's worth of homework every night than are students in public schools. Private schools impose stricter disciplinary rules and maintain more order in their classrooms.

Most important, private schools put a much greater emphasis on academic subjects. Seventy percent of their students are enrolled in an academic program, compared with only 34 percent for public school. Fourteen percent of Catholic-school students take a third-year foreign language, compared with just six percent in the public schools. For chemistry, the comparable figures are 53 percent and 37 percent; for geometry, 84 percent and 53 percent.

In other words, private schools demand more of their students—and they get more. As a result, outside of high-performance public schools, higher achievement is much more likely on average to be found in private schools than in public ones.

It is a simple, even obvious, conclusion; what is amazing is the great number of people who choose to distort it or ignore it entirely. For many of these critics, the solution

^{*}Basic Books, New York, N.Y., 1982.

centers on one thing: increased educational spending.

But is there good reason to believe that higher salaries for teachers will automatically raise student achievement—when private-school teachers already make about \$3500 less per year, work longer hours and manage larger classes? Unfortunately, no. In the last two decades expenditures for public education increased nearly sixfold while the quality of schools plummeted.

Failing Teachers. One can point an accusing finger at the influence of TV and at apathetic parents. But the lion's share of the blame must fall on those with the most direct influence on children: the nation's 2.2 million teachers. The quality of the nation's teaching corps today is embarrassingly low and sinking further. The profession is attracting the nation's least academically gifted students. Just one measure: in 1981-82, college students planning to major in general education scored an average of 394 on the verbal portion of the SAT—32 points below the already dismal national average. When the Lemon Grove School District in Southern California gave a "basic skills" test scaled at eighth-grade levels to certified prospective teachers, 35 percent flunked one or more parts.

The nation's two major teachers' unions—the American Federation of Teachers (AFT) and the National Education Association (NEA)—don't dispute the low quality of teachers. They stress, though, that

if Americans want better schools, they'll simply have to pay more for better teachers. Yet what would result if teachers' salaries were doubled overnight? Very little, except that the incompetent and mediocre teachers now in the classroom would get more money—and would be less inclined to quit.

That latter point is important because replacing bad teachers with good ones, after all, is the whole point of raising salaries. But retirement or resignation now are about the only ways to get rid of incompetent teachers. Firing a tenured teacher—and most fall into that category after just three years' experience—is virtually impossible. In the last six years, for example, Philadelphia has dismissed only 24 of its 13,000 teachers; a typical dismissal takes two years and involves expensive legal fees.

Short of changing tenure rules, both the AFT and the NEA contend that better teachers can be phased into the ranks over a period of years. But aside from whether children should be forced to wait that long for better teachers, this gradual approach has a graver flaw: it won't work. Consider the educational job market as it is:

The AFT predicts 55,000 teachers will be laid off this school year—which hardly leaves much room for bright, new hires. (Union contracts usually dictate that layoffs be on the basis of seniority, not competence.) Student enrollments peaked 11 years ago, yet the number of

185

teachers continued to grow. In 1959-60 there were 24.7 students per teacher versus 18.7 in 1980-81. If the nation was to return to the earlier ratio, it would have to lay off almost 500,000 more teachers. That would be unwise, to be sure, but further decreases are hardly unreasonable.

Higher salaries for certain teachers may prove necessary; the dire shortage of math and science teachers, for example, can be resolved in the near term by paying more for these specialties. But without other changes in our public schools, spending more money will only produce more dashed expectations.

Higher Standards. This is where the Coleman report holds its most important lesson. It suggests that

Another characteristic Coleman

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linked to higher achievement is the private schools' insistence on a more orderly learning environment. Not only do Catholic schools have stricter disciplinary standards, but the implied presence of a higher authority suffuses the classroom. Public schools cannot duplicate this spiritual asset, but they should pay more attention to fostering shared values and clear lines of authority—if for no other reason than that Catholic-school students themselves felt they were treated more fairly than their public-school counterparts.

As for specific disciplinary measures, the Coleman report suggests that public schools need to re-evaluate some dearly held notions. In theory, any child can be transformed into an attentive student with understanding and patience. In practice, it takes only a few disruptive students to poison the learning atmosphere for everyone. Many of these students should be removed from regular classrooms so that teachers can focus on students who have shown a willingness to learn.

Perhaps the most important lesson of private schools—and one Coleman unfortunately didn't examine—involves teachers. Almost no private schools require teaching certificates; instead, the emphasis is on whether instructors know their subjects and can teach them well. Although pay in private schools is substantially lower, outstanding performance is usually rewarded

OATMEAL COOKIES

1½ cups unsifted all-purpose flour
1 teaspoon baking soda
1 cup butter or margarine, softened
¾ cup granulated sugar
¾ cup firmly packed light brown sugar
Mix flour with baking soda. Combine butter, the sugars and pudding mix in large mixer bowl; beat until smooth and creamy. Beat in eggs. Gradually add flour mixture, then stir in oats and raisins. (Batter will be stiff.) Drop by rounded measuring teaspoons onto ungreased baking sheets, about 2 inches apart. Bake at 375° for 10 to 12 minutes. Makes about 5 dozen.

CHOCOLATE CHIP COOKIES

¾ cups unsifted all-purpose flour
1 teaspoon baking soda
1 cup butter or margarine, softened
¾ cup granulated sugar
¾ cup firmly packed light brown sugar
1 teaspoon vanilla
Mix flour with baking soda. Combine butter, the sugars, vanilla and pudding mix in large mixer bowl; beat until smooth and creamy. Beat in eggs. Gradually add flour mixture, then stir in chips and nuts. (Batter will be stiff.) Drop by rounded measuring teaspoons, about 2 inches apart, onto ungreased baking sheets. Bake at 375° for 8 to 10 minutes. Makes about 7 dozen.
For Chocolate Chocolate Chip Cookies, use Chocolate Pudding *Instant* Pudding.

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with merit pay. Teachers who prove to be incompetent can be more readily fired, or simply not rehired.

Compare this with public schools, where only people with proper credentials can teach, and where teachers are paid, without regard to ability, according to seniority, advancement and the possession of academic degrees. This system protects incompetent teachers and demoralizes excellent ones.

Hard Lesson. The major defenders of this system—the AFT and the NEA—once offered their members badly needed protection from the penalty of school boards. Yet the unions—among the nation's most powerful lobbies—have succeeded all too well at gaining political clout, contributing to the decline in the quality of public education while protecting their members. The children are the real losers.

If our schools fail, the nation loses more than just the well-educated citizenry it must have. Democracy itself is threatened. As more people abandon the public schools to those too poor to escape them, ours becomes a society increasingly stratified.

Is such a bleak outcome inevitable? Not at all. In fact, for all its criticism, Coleman's study is strangely heartening, suggesting



EIGHT WOMEN boarding a 747 jetliner were assigned to row 36, seats A through H. One petite member of the party glanced at her seating assignment and exclaimed, "For the first time in my life I'm a 36D!"

—Contributed by Louise Griffin

that schools *do* make a difference. Though Coleman found that the achievement gap between white and minority students widened between the 10th and 12th grades in public schools, he found it actually narrowed in private ones. The report suggests that schools really can overcome the debilitating effects of poverty and racial discrimination.

Understandably, the public has grown impatient with politicians and educators who make excuses for poor schools or seek refuge in unrealistic—and discredited—solutions such as large new infusions of public money. Nostrums like tuition tax credits for private schools aren't a solution, either; they're more an admission of defeat than a sensible way to revitalize public education. The fact is, for many parents concerned about their children's education, public schools are the only game in town.

Good public schools need not become an endangered species. But if we continue to ignore warning signals such as the Coleman report, it won't take a sociologist to perform a post-mortem. Parents like Ruby Bridges could easily explain what went wrong.

For information on reprints of this article, see page 214



WITNESS STATEMENT

Name Sharon Sutton Committee On Education
Address Broadview Date Feb.
Representing Christian Liberty Academy Support _____
Bill No. 635 Oppose ✓
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

separate sheet enclosed

2.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

MR. CHAIRMAN AND COMMITTEE MEMBERS

I AM SHARON SUTTON FROM BROADVIEW. I AM A TEACHER AT THE CHRISTIAN LIBERTY ACADEMY IN BROADVIEW. THE SCHOOL OPERATES OUT OF OUR HOME.

I AM OPPOSED TO HB#635. SPEAKING AS A HOME SCHOOLER I BELIEVE MY ACCOUNTABILITY NEEDS TO DEAL EXCLUSIVELY WITH THE BASIC ORGANIZED EDUCATION OF MY CHILDREN. WHERE THE SCHOOL IS-HOW THE CURRICULUM IS CARRIED OUT AND WHO THE TEACHER IS-IS NOT THE ISSUE WHEN THE GUIDELINE OR ACCOUNTABILITY FOR THE HOME SCHOOLER IS THE BASIC EDUCATION OF CHILDREN.

I WANT TO SHARE A FEW DETAILS OF OUR CASE THAT MAY HELP YOU UNDERSTAND WHY WE BELIEVE OUR ACCOUNTABILITY MUST DEAL EXCLUSIVELY WITH THE BASIC EDUCATION OF CHILDREN. MY HUSBAND AND I BELIEVE IT IS OUR GOD GIVEN RESPONSIBILITY TO TRAIN OUR CHILDREN IN OBEDIENCE TO GOD'S WORD. IN ORDER TO CARRY OUT THAT TASK IN EVERY SUBJECT IN EDUCATION WE ENROLLED FOUR OF OUR FIVE CHILDREN IN THE CHRISTIAN LIBERTY ACADEMY CURRICULUM. ONE WEEK AFTER THE PUBLIC SCHOOL OPENED MY HUSBAND'S EMPLOYER RECEIVED NUMEROUS PHONE CALLS FROM THE COMMUNITY SAYING THAT THEY DID NOT WANT A MANAGER OF A LOCAL BUSINESS THAT DID NOT SUPPORT THE LOCAL SCHOOL. MY HUSBAND WAS THEN ASKED BY THE BOARD TO RESIGN WHICH HE DID.** ABOUT A MONTH LATER WE WERE SERVED WITH A SUPPONEA TO APPEAR IN COURT ON CHARGES OF TRUANCY. WE APPEARED AND ENTERED A PLEA OF "NOT GUILTY". WE THEN ASKED FOR A COURT APPOINTED ATTORNEY DUE TO OUR UNEMPLOYMENT SITUATION. THAT REQUEST WAS DENIED BECAUSE THE JUDGE SAID THAT THERE WAS PROBABLY NO JAIL SENTENCE INVOLVED. THEN GOD LED US THRU FRIENDS TO A MAN BY THE NAME OF DOUG KELLY, A PASTOR AND AN ATTORNEY, WHO HAS VOLUNTEERED TO GIVE HIS TIME IN DEFENDING US. MR. KELLY ASKED FOR A TRIAL BY JURY. THE PROSECUTION THEN SUBMITTED A MOTION TO LIMIT THE TESTIMONY SUBMITTED TO WHERE THE SCHOOL WAS AND WHO THE TEACHER WAS. THE PROSECUTING ATTORNEY LATER STATED IN A NEWSPAPER ARTICLE THAT WHY THE SUTTONS CHOSE TO EDUCATE THEIR CHILDREN AT HOME OR HOW THEY WERE DOING IT WAS IRRELEVANT.

THIS IS WHY WE OPPOSE LEGISLATION THAT HAS THE POWER TO PUT A HOME SCHOOL OUT ON ANYTHING OTHER THAN NOT FOLLOWING THE GUIDELINES FOR THE BASIC ORGANIZED EDUCATION OF CHILDREN.

THANK YOU.

Sharon Sutton

SHARON SUTTON
BROADVIEW, MT.

** HAND-OUT VERIFYING REASON FOR UNEMPLOYMENT

NOTICE OF DETERMINATION

THIS DECISION IS FINAL UNLESS AN APPEAL IS
FILED ON OR BEFORE:

10-23-82

APPEAL RIGHTS

THIS DETERMINATION OF BENEFIT ENTITLEMENT AND/OR INELIGIBILITY OR DISQUALIFICATION IS FINAL UNLESS A REQUEST FOR REDETERMINATION OR APPEAL IS FILED FROM THIS DECISION THROUGH YOUR LOCAL EMPLOYMENT OFFICE OR BY MAIL WITHIN 5 DAYS AFTER RECEIPT OF NOTIFICATION OR WITHIN 7 DAYS AFTER NOTIFICATION IS MAILED, SETTING FORTH THE REASONS WHY YOU BELIEVE THIS DETERMINATION TO BE IN ERROR.

TO THE CLAIMANT: IF YOU FILE A REQUEST FOR REDETERMINATION OR APPEAL, YOU SHOULD CONTINUE TO FILE A CLAIM IN THE USUAL MANNER FOR EACH WEEK OF UNEMPLOYMENT FOR WHICH YOU WISH TO CLAIM BENEFITS.

Ward L. Sutton

Broadview, MT 59015

SOCIAL SECURITY NUMBER

917-46-4551

DATE MAILED

10-21-82

O.C. DATE

10-3-82

LOCAL OFFICE

003

ON THE BASIS OF INFORMATION AVAILABLE, AND THE PROVISIONS OF THE MONTANA UNEMPLOYMENT INSURANCE LAW, IT IS DETERMINED YOU ARE:

☐ ELIGIBLE - NO DISQUALIFYING ACTION

☐ INELIGIBLE

☐ DISQUALIFIED

DISQUALIFICATIONS

☐ FROM: THRU: ☐ FROM: UNTIL QUALIFIED

☐ 6 WEEK REDUCTION IN BENEFIT DURATION AND UNTIL YOU HAVE 6 WEEKS OF PROPER REQUALIFYING WAGES. MAXIMUM WEEKLY DURATION REDUCED TO _____ WEEKS.

☐ _____ WEEKS FOR ADMINISTRATIVE PENALTY

☐ 12 MONTHS

REASON SECTION

39-51-2503

OF MONTANA LAW (SEE REVERSE SIDE) BECAUSE:

No disqualifying action. Your employer requested your resignation and you had no choice of remaining employed. The information in the record does not show that your separation was due to any actions which could be considered misconduct.

RECEIVED

OCT 22 1982

**BILLINGS JOB
SERVICE EAST**

YOUR EXPERIENCE RATING ACCOUNT WILL BE CHARGED.

NAME AND ADDRESS OF INTERESTED EMPLOYER

Coner
3811 1st Ave, So.
Billings, MT 59101

DEPUTY

K. Pinkham, Claims Examiner/ls

DATE OF DETERMINATION

10-19-82

Exhibit 14

WITNESS STATEMENT

Name RON KAUTZMAN Committee On EDUCATION
Address 3450 PARKWAY Date 2/9/83
Representing SUMMIT VALLEY CHRISTIAN SCHOOL Support _____
Bill No. 635 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. WHY IMPOSE REGULATIONS ON SCHOOLS THAT DON'T NEED THEM
2. CERTIFICATION FROM THE STATE DOES NOT INSURE THAT THERE WILL BE QUALITY EDUCATION.
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

February 9, 1983

Dear Mr. Chairman and Members of the House Education Committee:

I would like to quote to you from the editorial page of the Montana Standard, Butte, Tuesday, January 25, 1983. "Formal church schools are different than home schools because just about nobody has been criticizing the quality of education they offer. Even Al Gunderson, chairman of the Board of Public Education, said last Fall that the board isn't much worried about church-affiliated schools. So why rush to regulate them? Why fix a problem that doesn't exist?"

That is the same question I would like to ask today. Why try to fix a problem that doesn't exist? Why try to regulate a legitimate, quality program that doesn't need to be regulated.

I have been an educator for 14 years. The past 8 years have been spent in Christian Education as principal of Summit Valley Christian School, a ministry of the Butte Foursquare Church. During that time we have demonstrated the ability to both provide a quality education with an organized accelerated course of study and give parents an alternative to public education. To this point we have controlled ourselves, without any help from the State. Our test records show that we have done an excellent job. At the present time we have students in the 8th grade who have never attended a public school. These students test from 1½ to 3 years above grade level using a national standardized test with 1963 norms. (It was approximately 1963 that national test scores started to drop. From that point until the present the reading level on achievement tests has also declined. If we used 1983 tests our test results would probably be much higher.)

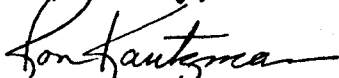
As a former certified teacher in the State of Montana I would like to ask why it is necessary to - (1) employ as administrators, under written contract, only persons who are certified with the state and (2) employ as teachers, under written contract, only persons who are certified with the state? It didn't take me long as a teacher to figure out that the degree I had wasn't going to make me a good teacher. It was going to be the on-the-job training and my dedication to my chosen profession that would make me or break me. To this point, I contend, that certification does not make quality. It is the dedication of the individual teacher that will provide quality.

I have addressed only 2 points of this bill that seem to be unnecessary. There are several other points in the bill that are both vague and unnecessary. It has been stated that church schools don't cause worry to the State. Please don't enact legislation that would over-regulate us.

In this day, when so many things are wrong - declining moral standards, rising crime, etc. - let's take a positive step forward and make Montana a leader in education by allowing church schools to freely function and continue to provide the quality education that we have for the past decade.

Thank you for your consideration of this very important matter. Please oppose HB 635.

Respectfully,



Opinion and comment

Don't over-regulate private education

Some bills before the Legislature would put the state's nose and front feet well inside the tent of private education.

One bill, introduced for the Board of Public Education, would set standards for private school teachers and administrators, require private schools to keep attendance and student progress records for inspection by the county superintendent of schools, and require the schools to meet local health and safety rules.

Members of the Board of Public Education have expressed concern for some time about the growing number of children who are being taught at home by their parents. But this bill goes beyond "home schools" and seeks to impose more state regulation on all private schools.

Some private educators say that because few homes meet the kind of safety and health standards required of school buildings, the bill could make home education illegal on grounds that have nothing to do with their quality of instruction.

Critics of home schools have told a few horror stories about a few students who apparently have been getting woefully inadequate instruction at home. As far as we know, however, no one has determined just how widespread home education is, or what kind of education it's generally providing.

The Legislature should try to find out, before galloping off to save the children.

Formal church schools are a different matter. They're different because just about nobody has been criticizing the quality of education they offer. Even Al Gunderson, chairman of

the Board of Public Education, said last fall that the board isn't much worried about church-affiliated schools.

So why the rush to regulate them? Why fix a problem that doesn't exist?

Many church schools already are inspected to make sure they meet the standards of a national Christian education program. Unless the Legislature feels those standards are inadequate, it should leave these schools alone.

If the Legislature finds that the quality of parental teaching at home is generally poor, something should be done. Parents should have a right to educate their children (or have them educated) however they see fit. But if the kids aren't even learning the basics, the state has a right to act.

But it doesn't have to do anything especially drastic. Rep. Jack Sands of Billings has proposed that home school students simply be required to reach a certain level on achievement tests. If they fail, their parents could ask for a curriculum approved by the state. That proposal, or something similar, ought to be a reasonable way to assure the progress of home school students without forcing these schools to submit to a lot of state regulation.

The Legislature should take pains not to pass legislation that will work against private education needlessly. Public education, open to everyone, will always be essential, but that doesn't mean public schools should be the only schools. Parents and students are entitled to educational choice.

The Legislature can help preserve that right of choice by rejecting unnecessarily stringent proposals to regulate private schools.

Education

WITNESS STATEMENT

Name Jay Wilson Committee on H.B. 635
 Address 1233 N. 8th Bozeman Date 2/9/83
 Representing Christian Education Association Support ✓
 Bill No. 635 Oppose ✓
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

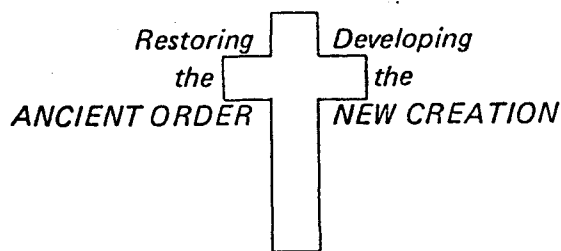
Comments:

1. ~~God~~ U.S.A. was founded on concept rights come from God.
2. Parental control of education one fundamental right derived from God.
3. Humanism - the religion of public schools
4. Christian education regulation by humanists point of H.B. 635.

Reject H.B. 635

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

JAY WILSON, EVANGELIST
Christ's Church in Bozeman — Bozeman's Christian Church
P.O. Box 635
Bozeman, MT 59715



"Repent, and let each of you be immersed in the name of Jesus Christ for the forgiveness of your sins, and you shall receive the gift of the Holy Spirit" (Acts 2:38).

To: Editor

Dear Sir:

I note that the state Department of Public Instruction is once again going to attempt to take control of private education by influencing the state law makers to pass "appropriate" legislation in the next legislative session. Such action should cause the alarm bells to ring in the minds of every Montana resident.

Point No. 1 — Free public education for all children is the 10th plank in Karl Marx's Communist Manifesto — the ten planks being for taking over advanced countries. There are a couple of reasons why public education is so important to the advancement of Communism, or socialism. One reason is that money for public education comes from the government treasury — and therefore local schools must teach what the government wants taught. And what the government wants taught is an increasing dependence on "Big Brother" in Washington, D. C. A second reason that public (government) education is so important to elitist socialist planners is that compulsory attendance laws are passed in connection with education funding and other controls. In other words, the "State" is now assuming that it has ultimate responsibility for the education of children, and has legislated to force "irresponsible" parents to send their children to school. Here is the point, and mark it well in your minds — public education is the means by which children cease to be wards of their parents, and become wards of the "State".

Point No. 2 — Progressive, or modern education follows the basic format established by John Dewey, radical professor and "father of modern education". Dewey's format was deliberately designed to slowly reduce American children (and consequently, the American public) to the level of animal — both intellectually and morally. That his plan is being successfully implemented is obvious in the 20 year decline in Math and English skills as established in national test scores, and the rotting moral fiber of our nation's youth. God has been thrown out of the government schools, and humanism has been established as the official religion in God's place. Why? When people are reduced to the animal level, they no longer have the moral strength to be free — animals need a herdsman. And the collectivist planners are using government education as the primary means of herding Americans into the slave-state corral.

Point No. 3 — Many parents — in varying and increasing degree — are recognizing the effects of Points No. 1 and 2, and have decided to assume their God-given responsibility for the minds of their children. Some are educating their children at home, some are cooperating with other parents of a similar mind set and forming their own private schools, and some parents are working with their local churches in church Monday through Friday educational ministries. The flight from government schools to private education is alarming to government school officials. It is alarming to local administrators because it means a loss of funds for them to administer. It is alarming to bureaucratic planners in Helena because they see that some of the animals may escape being trapped in the collectivist corral. Hence we see that they are going to attempt to influence legislators in the next session to give them control over private education — to make sure that all the "strays" are rounded up and properly amalgamated with the docile herd now being prepared for the "Worker's Paradise".

Point No. 4 — Do not allow your legislators to pass such unConstitutional legislation in the next session. And do not ask for specific exemptions from the "law" — the Constitution already guarantees our freedom in these matters. Press for a return to the Constitution.

Point No. 5 — Abolish public education.

I made a decision seven years ago that my children would not be educated by the government — that they would be educated by me. I am simply serving notice to the state of Montana that this decision still stands, and will stand, regardless of action taken by the legislators and bureaucrats in Helena, because it is in accord with the written will of the King of kings, and Lord of lords.

Jay Wilson, evangelist
Christ's Church, Bozeman

"The Bible only makes Christians only"

TESTIMONY OF THE CHRISTIAN EDUCATION ASSOCIATION OF MONTANA
P.O. Box 635 — Bozeman, MT 59715

to the House Education Committee
on House Bill 635
Feb. 9, 1983

INTRODUCTION:

The issues raised by the proposed House Bill 635 on clarifying exemption from compulsory enrollment in a public school for pupils enrolled in a nonpublic school, etc., are extremely far-reaching in scope — possibly more far-reaching than members of the Committee realize. The issue is much deeper than simply "quality education". We are dealing with the subjects of parental rights, and separation of church and state as indicated in the 1st Amendment to the U.S. Constitution. In our testimony, we hope to be able to speak clearly to these issues, with concluding focus on the specific provisions of House Bill 635.

BRIEF SURVEY OF SOURCE OF RIGHTS AS DEFINED IN THE DECLARATION OF INDEPENDENCE

The foundation for freedom in this country — unique in history as the only voluntary recognition of this fact — is that rights are not granted by government, but are granted by God. As the founding fathers attested — "We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the pursuit of Happiness." More than just pretty words on a piece of paper, this concept was the fuel for the American Revolution. With a firm belief that their rights were derived from a sovereign God, they rebelled against the tyranny of a despot who would take away their God-given rights.

In the next breath they went on to define the function of government — "That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed." The function of government is to secure previously existing rights. A government which exercises powers interfering with such God-given rights was considered by the document's signers as unjust.

How can "just powers" be defined? The very element of "just" and "justice" is that there is some standard — that there is some measuring rod — against which conduct can be tested. The question is: What is that measuring rod? Are "just powers" subject to the vagaries and whims of each newly enlightened generation, or is there some sounding bass of "justice" that never changes? An increasingly secular society is rejecting the existence of a standard derived from God, and consequently moving away from the foundational principles of freedom which made America the greatest country on the face of the earth.

But the standard for justice for our founding fathers — and the source of our laws regarding what is criminal and what is not — was the basic principles of the Bible. This was the backdrop of the documents for American freedom — so much so that these truths were regarded as "self-evident".

CHILDREN ARE WARDS OF THEIR PARENTS — NOT WARDS OF THE STATE

One of the basic questions of life is: Who owns the children? In America children have always been regarded as wards of their parents. The parents are responsible for feeding, clothing, and educating their young. This has been regarded as a fundamental right derived from God, and a right to be protected by the local and national governments from all enemies, foreign and/or domestic. The fact that a small percentage of parents have not been as responsible for feeding, clothing, and educating their children as "others" deemed they ought to be has never negated the general fact that nobody is more concerned about children than their parents. In American education, parents have the right and responsibility to discipline and instruct their children in the way they think the children should go.

In other countries — such as Nazi Germany and the Soviet Union — children have been and are regarded as wards of the state. Children are raised by their parents until the state deems that the child needs to be sent elsewhere — for the good of the state. Children are educated by the state where the state wants the children educated, and in curricula that the state determines is most suitable for the child — for the good of the state. Such language, of course, is the language of tyranny.

The fundamental issue before the Committee today is this issue: Who owns the children? The provisions of House Bill 635 are major steps in the process by which children cease to be wards of their parents, and become wards of the state.

EDUCATION ESTABLISHMENT – CONTROL, NOT QUALITY

The Committee has heard, and will hear arguments from various sources with the “educational establishment” – the Board of Public Education, and others – who insist that the state has an obligation to ensure that every child in Montana is receiving a “quality education”. The issue of “quality” is simply a smokescreen, and not the real issue facing the Committee today. For 20 straight years scores on national tests of public school students have declined, and while Montana remains above the national average, its “quality” of public education has declined in keeping with the national “quality”. Certification of teachers and requirements for so many hours of instruction in such and such courses demonstrably do not generate “quality education”. In fact the declining “quality” of public education is one of the major reasons why many parents are removing their children from the public system, and are involved in educating their children at home where they can control the environment, or are cooperating with other parents of a like mind, or cooperating with their churches in private education.

“Quality” is a smokescreen. The real issue is “control”. So it was in Nazi Germany, and so it is in the Soviet Union.

Note that the terms of House Bill 635 give “power” to the Board of Public Education to regulate or disallow any form of private education – at the whim of the Board of Public Education. Under the terms of this bill a private school must beg permission from the state to operate, and parents must beg permission from the state to operate outside the confines of “public education”. Under the terms of this bill, private education is considered “unqualified” unless it can demonstrate – at the whim of the state – that it is “qualified”. Under the terms of this bill, parents are automatically considered guilty unless they can demonstrate their “innocence”.

Consider one example from the pages of recent American history. In 1970 the state of Ohio established its Minimum Standards for Ohio Elementary Schools, which were applied to non-public as well as public schools. When Levi Whisner, of the Tabernacle Christian School, refused to meet the standards on the grounds that he couldn't meet them without compromising his belief in the Bible, he was promptly hauled into court. Whisner maintained that the Minimum Standards were effectively establishing Secular Humanism as a state religion, and a direct violation of the 1st Amendment to the U.S. Constitution. In July of 1976, the Supreme Court of Ohio ruled in Whisner's favor, agreeing that the Standards were in fact humanistic, and were violating Whisner's rights. Of extreme importance in this case was the Friend of the Court brief filed by Dr. Martin W. Essex, Superintendent of Public Instruction for the State of Ohio. We quote from Dr. Essex as being indicative of the direction that Public educators can take when given “power” to act:

“If defendants have presented evidence sufficient to support a claim of religious infringement by the State through its Minimum Standards, must the religious freedom necessarily prevail? Clearly not . . .

“Even if defendants were to have stated a claim for relief under the Free Exercise Clause, the State's interests in providing for a compulsory minimum standard of education clearly outweighs whatever minor infringement on defendants' religious practices may result” (Whisner vs. Ohio).

It is clear that Dr. Essex regards the State's power in compulsory education as more important than Constitutionally guaranteed religious freedom. Such is the language of Nazi Germany, and the Soviet Union. Unfortunately, Dr. Essex is representative of the general attitude of public educators.

Our point in this passage is that private education – and the Committee – have cause to fear what reposing “power in the hands of public educators can do.

OBJECTIONS TO PROVISIONS IN THE BILL

The Christian Education Association of Montana is composed of churches which operate Monday through Friday educational ministries as part of their church's function. To them, Monday school is just as much a part of their religious education as Sunday school. As integral ministries of their churches, the State cannot regulate their Monday through Friday ministries any more than it can their Sunday ministries without violating the 1st Amendment to the Constitution. Churches – by their very existence, and by principles in the formation of America – must operate, and must be subject to God rather than the state.

For this reason, we must maintain that every provision of House Bill 635 regulating Christian education, and affecting the God-given right and responsibility of parents for educating their young, must be rejected. Quality is not the issue – we cannot and must not accept control by the state. Such control would at some point wipe out our cherished freedom to bring up our children in the discipline and instruction of the Lord.

We ask the Committee to very carefully consider these issues, and reject House Bill 635.

WITNESS STATEMENT

Name Leonard Roessner Committee On Education
 Address Rt #1 Broadview Mt. 59015 Date 2-9-83
 Representing Self and family Support _____
 Bill No. 635 Oppose ☒
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Why are we trying to legislate through restrictive standards (health, safety, etc) something that works? That is, church school, and home school.
2. The cornerstone of our society, and public schools, God, has been rejected. This is why our society is undergoing moral decay.
3. Until this foundation can be returned I cannot and will not subject my son to the Godless environment and peer pressure in the public school. The 7 hours a day 5 days a week of this pressure on children is tremendous. For these reasons I want the choice of educating our children in the home.

Summarize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

to attack our public school people. I know for a fact that there are administrators and teachers in the public school system who are good, dedicated people, and excellent educators.

But in the past 15 or 20 years the foundation of our public school system has been ~~so~~ ~~in~~ ~~erect~~ right out from under our administrators and ^{teachers} ~~people~~.

Through ^{the work of} a very few vaciferous atheists God has been taken out of the school. ~~that~~ Our public schools can now teach, under the guise of history, about Buddha, Mohammed, Confucius etc - but yet cannot even say the word Jesus Christ ^{let alone teach about} ~~let alone teach about~~ ~~our very truth~~.

The very cornerstone of ~~our~~ country has been ref. This leaves our school system helpless before attacks of the adversary. Please permit me to

Explain.

~~But~~ My wife was a public school Teacher for 8 years - I have seen her come home with tears of frustration in her eyes & because she sees children with excellent minds ~~turning~~ turning to drugs and other abuses - why? Because our teachers and administrators ~~are~~ have had their hands tied behind their backs when it comes to discipline. Children will try to push ^{test} until they find how far they can go. In today's school systems, ~~that~~ the teachers have no real disciplinary power and they ~~will~~ soon know it.

I challenge you to choose any public ^{this} school in this city or any other in Montana and sit outside in your vehicle during the noon hours & observe what takes place. I think you already know what you'll see - some schools even have ~~an~~ sort of unofficial "Smoking Area". Remember this is Ji-hi I'm talking about - Not even

high school!

When I was in grade school I tested my teachers, and got the back of my legs switched for it! When I got home I tested my parents + thought maybe I could get the teacher in trouble - well I got another switching to match the first. I praise and thank that teacher and my father today for they love for me and the security of discipline they gave me.

I am proud of 7 yrs. away today a week has tremendous influence on children

I have ^{raised} a family of children all through the public school system - some of them started on drugs, and that includes nicotine - one of the most addicting drugs known to man - ask your doctor. And ~~to this~~ today those children are in their 20's and still battling what they learned ~~from their parents~~ ~~in the public school system~~.

They didn't learn it at home. ~~at~~ my wife & I now have a 2 year old. When I pass on out of it I would ~~my~~ money, pass

Property will mean nothing -
 the legacy I leave will be
 in my children, and the mores
 & morals they bring with them.
 I will not put my son
 into the public school system
 environment in its present condition
 to pass a part of necessary.

Since it is impossible to
 legislate the peer pressure
 environment & ungodly
 attitudes in the public
 school, I desire the option
 of teaching my child at
 home within the law.

Thank You

Donald R. Rennie
 Rt #1 Broadmead Mt 59015

~~Re: [unclear] [unclear]~~

~~#1 & #6 [unclear] [unclear]~~
~~Feb 10 1982~~

WITNESS STATEMENT

Name William J. Johnson Committee On Education
 Address STAR Route Boulder Mont. Date 02/09/83
 Representing Independent Support _____
 Bill No. HB 635 Oppose ☒
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. There is nothing wrong with Public Education. However we need for many reasons to have an alternate way. Rules that are too tough are against the American way. However
2. if they are too loose we have problems also.

My desire is for regulated home schools. True religion has nothing to hide. We all desire to educate our children well.

4.

We could allow home schools if:

1. we register with county Sup.
2. we allow ourselves to be tested periodically

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Justin L. Fulton Committee On Education
 Address P.O. Box 506, Darby Date 2/9/83
 Representing Darby Baptist Temple Support _____
 Bill No. HB 635 Oppose X
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Scriptural Order of authority (God, ^{Government} Constitution, People) requires officials to protect us from overzealous officials who would try to supersede the authority of Christ over the church.
2. Responsibility of government to protect us from violating our conscience before God, to be ~~at~~ terror to evil.
3. Responsibility of gov't to protect us from those who are covetous of authority that has not been given them either Biblically or Constitutionally.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

TESTIMONY

TO: House Education Committee/HB 635

BY: Pastor Justin L. Fulton, Darby Baptist Temple, Darby, MT

DATE: February 9, 1983

First, I would like to thank you for the privilege of coming before you today to explain my reasons for opposing HB 635.

In the midst of a controversy which has been characterized by much reasoning and rationalization, it is of utmost importance that decisions be based upon principle. It is as evident in this case as in most others that evil always has many "good" reasons for existing. Reason without the proper foundational principles is as a house built upon sand. No institution, be it home, church, or government can stand for long upon the sands of reason.

I. SCRIPTURAL ORDER OF AUTHORITY

All those ruling in homes, business, worship, and government must understand that it is God who has established "the powers that be." Daniel 4:17, 32 states, "...that the most High ruleth in the kingdom of men, and giveth it to whomsoever he will." This is true regardless of their personal morals of religious convictions, for verse 17 states, "...and setteth up over it the basest of men." It is God, therefore, who has ordained "the powers that be." (Romans 3:2) According to this passage, all are to be subject to the Higher powers. Colossians 1:15-19 speaks of Jesus Christ and the preeminence He holds: "Who(Jesus)is the image of the invisible God, the first born of every creature: For by him were all things created, that are in heaven, and that are in earth, visible and invisible, whether they be thrones or dominions, or principalities, or powers: all things were created by him, and for him: And he is before all things and by him all things consist. And he is the head of the body, the church: who is the beginning, the first born from the dead; that in all things he might have the preeminence. For it pleased the Father that in him should all fulness dwell." Please note his preeminence includes "thrones,

(2)

dominions, principalities or powers." He is the creator and sustainer of all things. He is the Head of the institution of the local church which has outlasted all governments, families, churches, and individuals. In our government, the highest power under God is the constitution, which in turn declares that "All political power is vested in and derived from the people..."

I oppose HB 635 because it strongly opposes and allows over-zealous officials to supercede the authority of a church, Christ Jesus. In effect it is the same request as was made of King Darius (Daniel 6) against Daniel. Praying and searching the Word of God for direction is only lip service if we have already subjected ourselves to the authority of men.

II. PROTECTING THE CONSCIENCE OF THE PEOPLE

Governments responsibility to God is clearly expressed in Romans 13:2-4. The powers are to be consistent with the "ordinance of God." They are to be the "ministers of God." Their purpose is to be a "terror to evil", "a revenger to execute wrath upon him that doeth evil." The purpose of subjection to the higher powers, therefore, is two-fold: 1) to bring wrath upon evil (evil by God's definition)-clearly church education does not fit God's definition of evil; 2) to have a clear conscience void of rebellion against God's authority. No Christ honoring local church can with clear conscience subject its educational and training program to the dictates and standards (authority) of government, when God has clearly stated that Christ is the Head. When there arises a conflict, because of humanistic men who ignore or usurp God's sovereign position by dictating the curriculum and staff requirements of churches and families, we must say with the Apostle Peter, "We ought to obey God rather than men." Acts 5:29. HB 635 is an extreme example of this type of usurpation.

III. PROTECTING THE PEOPLE FROM TYRANNY

The evils to which you are to be a "terror" are innumerable in Romans 13:9-10. "Thou shalt not commit adultery;...Thou shalt not covet; and if there be any other commandment, it is briefly comprehended in this saying, namely, Thou shalt love thy neighbour as thyself." HB 635 would violate two of these commands. For men to seek to usurp the supreme authority of

Christ over a church by certifying the staff and prescribing its curriculum; to usurp the privileges, responsibilities, and authority of parents for the training of their children in a godly manner by assuming "state parentage"; to desire my children because of the dollars they are worth to the public school system, is the height of coveteousness. The citizens of Montana should fully expect that you will protect us from this type of tyranny. No respectable man and certainly no God fearing parent would consider it loving for his neighbour to dictate how he should train his children, and accordingly, relinquish his parentage to that neighbour. Neither would we call it love if our neighbour began to assume "parentage" of our children and began to demand control of their minds. Please protect us from those who consider our children their most valuable resource. God says they are my heritage from him.

IV. IS TESTING A SOLUTION?

As to the question of testing by the state officials, two problems exist. 1) If a state official determines and administers the test, the state is still exercising authority over the churches or individual homes, as the case may be. 2) Testing is only another means, though more subtle, to control curriculum and/or staff. An official of one of Montana's many educational beauracracies stated to a meeting of parents January 31, 1983, that, "...by giving the test they can also manipulate the curriculum." This is true. As anyone trained in the field of education knows, one of the purposes of testing is to find "strengths" and "weakness" in curriculum. This is one reason we do test our students now. No, we are not interested in having our curriculum "manipulated" by state officials, and we cannot permit that authority to be exercised over us by anyone. We must be free to follow the direction of the Word of God.

Please protect us from these intrusions of personal and religious freedom and violations against God's authority by rejecting HB 635. Thank you for your time and consideration.

TESTIMONY

Exhibit 19

TO: the Committee on Education
House of Representatives

CONCERNING: House Bill No. 635

BY: Erik Berg
Darby, Montana

INTRODUCTION:

I appreciate this opportunity to present my views to the Committee on Education in the Montana State House of Representatives. My purpose is twofold:

1. to explain my convictions regarding educational testing of children and the educational authority granted to the State by the Constitution of the State of Montana
2. to urge you to oppose HB #635, an instrument that would allow the State to wrest authority from parents.

I am a father of three boys, two of whom attend Darby Baptist Temple church school.

THE STATE'S AUTHORITY IN EDUCATION

I would like to draw your attention to the educational authority granted to the State by the Constitution of the State of Montana.

Following are some major points from the Constitution:

Article II, Section 1 ". . . All government of right originates with the people, is founded upon their will only, and is instituted solely for the good of the whole."

Government is instituted for the "good of the whole." This parallels Romans 13:3, "For rulers are not a terror to good works, but to the evil." Government's responsibility is to spend their time being a "terror . . . to evil," not harassing parents who are bringing up their children "in the nurture and admonition of the Lord" (Ephesians 6:4.) HB #635 seeks to wrest the control of the training of children from these parents and turn it over to the State.

Article X, Section 6 speaks to the prohibition of financial aid to ". . . any church, school, academy, seminary, college, university, or other literary or scientific institution, controlled in whole or in part by any church, sect or denomination."

Please notice that the constitution speaks to the control that a church has over its own ministry. The constitution does not give the State authority over church ministries, such as day schools.

Article X, Section 9 (a) "There is a board of public education to exercise general supervision over the public school system . . ."

The constitution does not grant the board of public education authority over private schools, including parental instruction of children in the home.

In summary, the Montana State constitution grants authority to the State over public school systems only --- not private or home schools, while it protects the authority of parents to train their children in the way they should go (Proverbs 22:6; Deuteronomy 6:1-9.)

EDUCATIONAL TESTING OF CHILDREN

I would like to draw the committee's attention to a possible solution that some would suggest. This potential proposal would call for testing of children to determine educational acceptability and subject proficiency. I urge you to not consider testing as an alternative to the control of the State which is so explicitly defined in this bill. Testing also implies the State's authority in determining what constitutes an acceptable education. Authority to educate children is granted solely to parents by the Word of God as shown in Deuteronomy 6:1-2, 6-7:

Deuteronomy 6:1-2 Now these are the commandments, the statutes, and the judgments, which the Lord your God commanded to teach you, that ye might do them in the land whither ye go to possess it: That thou mightest fear the Lord thy God, to keep all his statutes and his commandments, which I command thee, thou, and thy son, and thy son's son, all the days of thy life; and that thy days may be prolonged.

Deuteronomy 6:6-7 And these words, which I command thee this day, shall be in thine heart: And thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up.

If testing were to be done, let it be done on the basis of performance in life, not on paper.

The Bible speaks of a young man who passed a test based on his performance. That young man was Daniel, a prince of Judah, "well favored, and skillfull in all wisdom." Daniel, who was carefully nurtured in the Word of God, was taken captive by the Babylonians, where he showed himself to be superior in all ways. Daniel proved himself based on his ability to thrive on simple vegetables instead of the king's rich fare, which was unclean to God's covenant people. Daniel showed himself to be in better physical and mental shape than the others who had eaten the king's meat, because he trusted in God's abundant provision. His

1
victory demonstrates the effectiveness of performance discerned from an examination based upon observance of life. (Daniel 1.)

I urge you to evaluate children based on the evidence shown by a changed life, not by a State-sponsored paper exercise.

* * * * *

I could expound on a variety of reasons why House Bill #635 should be defeated. However, I believe the main issue here is one of authority. As I have attempted to point out, HB #635 seeks to usurp God-given authority from parents and transfer it to the State. We must first decide what is Biblically and fundamentally right, then tailor our laws and actions to fit these foundational truths. Expediency is no excuse for violating God's Law.

I respectfully urge you to reject House Bill No. #635, in its entirety, thereby leaving the education of children up to God and parents.

WITNESS STATEMENT

Name BLAIN DAUGHERTY Committee On EDUCATION
Address 2949 W Date 2/9/83
Representing NTBC Support _____
Bill No. H.B. 635 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. HEART OF OUR COUNTRY BASIS ON Religious Freedom.
2. U.S. CONSTITUTION guarantees this freedom.
3. NO real evidence against Church School academics.
4. THE WORD OF GOD is the only authority the Church can answer to.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

2949 Weaver Ave.

Billings, Mt. 59101

February 8, 1983

The following are expressions of why I am in opposition the the bill which has been submitted by the County Superintendant:

I. The heart and core of this country has been freedom of religion. George Washington said, "True religion affords government its surest support. The future of this nation depends on the Christian training of the youth. It is impossible to govern without the Bible." Could Washington's belief exist with the proposed bill?

II. This bill is contrary to the U. S. Constitution and can only add untold court cases in Montana. Presently, many other state school officials are being sued over these same unconstitutional issues.

III. There is no real evidence that private schools are failing in academic areas. However, there are many reports of low achievement by certified, accredited, State-schooled children. We challenge you to do some honest research in this area.

IV. The Word of God is the final and only authority of any true church. It would be impossible to allow the state to certify, accredit or in any other way govern the Work of God.

Submitted by

Blain Daugherty

Blain Daugherty, Pastor

ANSWERS TO COMMON QUESTIONS ABOUT CHRISTIAN SCHOOLS

by Dr. Paul A. Kienel
Executive Director of WACS

If the Child and Family Services Act (HR 2966 and S626) now pending before Congress were to become law, what effect would it have on Christian schools?

FIRST: It has been estimated that the Child and Family Services Act would cost taxpayers 14 billion dollars over the next ten years. In my view, the American taxpayer is already gasping his last without adding an additional ever-expanding welfare program. If we as taxpayers do not speak out against such measures, our liberal legislators will tax us into oblivion.

SECOND: The act would create a national network of federally-controlled (tax-supported) child care centers and provide a wide range of health, social, psychiatric and recreational programs directed primarily at children under six years of age in lower income groups. The act would have a devastating effect on our Christian pre-schools that are now expanding rapidly across the country. It would be almost impossible for them to compete with the "free" federal child care centers.

THIRD: The proposed services range from "in-home" care (babysitting) to medical, dental, nutritional and psychological services as well as a host of typical social services that are already available to poverty families. Social planners backing the Family Services Act envision a wide-range program for children that will provide their educational, emotional, psychological, physical and behavioral needs during their prime formative years. The obvious potential for mental and psychological manipulation of young minds is awesome. Dr. Rhoda Lorand of New York said, "The Child and Family Services Bill confronts the American people with two fundamental issues. Do we want to transfer the responsibility for the care of pre-school children from the family to the Federal Government? And can we afford to give HEW billions of dollars to create a giant laboratory to tinker with the minds of very young children?"

If you care as much as I do about the outcome of the next generation, then let's ban together against this outrageous effort to control the

hearts and minds of millions of young Americans. I urge you to write your U.S. senators and congressmen today.

How do Christian schools compare academically with public schools?

Many have assumed because Christian schools are not funded by government tax dollars that Christian schools are academically inferior to their public counterparts. They equate expensive facilities and high salaries with quality instruction.

Evidence is mounting to indicate that Christian school students are not only doing as well as their public school counterparts but are, in fact, significantly ahead of them. Perhaps the largest sampling of the quality of academic instruction is available through a testing program administered among Christian schools who are members of the California Association of Christian Schools (now Western Association of Christian Schools). The program has been administered for the past nine years by the test department of Harcourt Brace Jovanovich, publishers of the well known Stanford Achievement Tests. John P. Yates, a test consultant for the firm, reported to CACS, "Year after year testing shows that CACS students score higher than the national average at every grade taught."

The graph below shows Christian school students participating in the CACS (WACS) testing program to be from six months to sixteen months ahead of the national norm in reading. This is significant because reading is the foundational skill to all learning. Notice how the level of reading proficiency increases as students progress through the grades.

Are Christian schools growing in number? I hear private schools are closing.

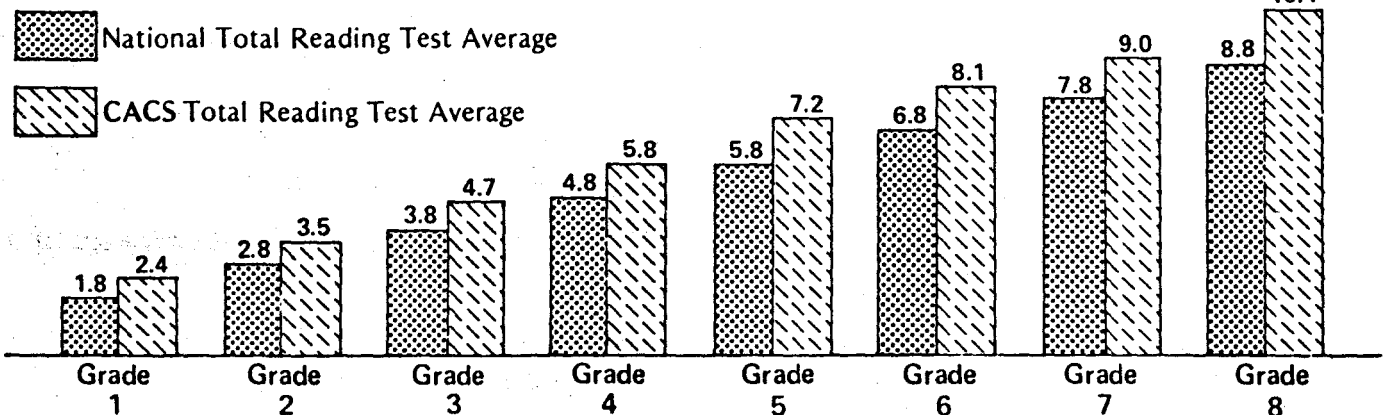
It is true that Catholic schools and military academies have been on the decline for some years. And of course the public school enrollment figures have been dropping rather dramatically.

As many as four and five public schools in a single school district have closed or are closing this year. In the midst of this decline of other systems of education, the Christian school movement has emerged as the fastest growing educational movement in America. Across the country Christian schools are coming into existence at the rate of two new ones per day. In the past ten years, CACS (WACS) has grown from sixty-eight member schools to 500 member schools and colleges. During this period, our student enrollment has increased from 11,388 to 63,131 students. This same rate of growth is occurring simultaneously across the country as more and more parents discover the spiritual and academic advantages of Bible-centered education for their children. It is interesting to note that Christian schools are buying or leasing some of the public school facilities that are closing. Whittier Christian High School, where my oldest daughter Sandi is a senior, has leased a beautiful million dollar public school campus this past year.

Will the development of "fundamental" public schools affect Christian school enrollment?

"Fundamental" schools patterned after traditional schools are coming into vogue in public school districts around the country. In Pasadena, California, where the idea of modern-day "fundamental" public schools began, Pasadena Christian School (490 students) has lost thirty students to Pasadena's three new fundamental public schools. Wally Bourgeois, Superintendent of Pasadena Christian School, said, "The secular fundamental schools appealed to those parents who were not concerned with the spiritual emphasis of our school."

As long as our Christian schools continue to offer true Bible-centered education that is spiritually and academically sound, I doubt that many parents will transfer their most prized possessions, their children, to non-Christian "fundamental" schools. □



CACS students are compared to some 225,000 students that were carefully selected to represent average students across the United States (1973). The figures represent the average (median) of all tests at each grade level. The test used was the 1973 Stanford Achievement Test, Form A. The school year is based on ten calendar months. — John P. Yates

WITNESS STATEMENT

Name LEE BARROWS Committee On EDUCATION
 Address 622 CAROL DR. Date FEB 9, 1983
 Representing CORNERSTONE CHRISTIAN Comm. Support
 Bill No. HB 635 Oppose I OPPOSE THE BILL!
 Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. The bill is a reactionary measure taken against home schools. The bill is a flagrant violation of our First Amendment rights. Our church schools are not secular - church schools.
2. Non-public school standards are higher than public schools because we are accountable to the parents in the sense that they are very capable of telling whether their children are receiving a quality education. If they aren't the school will go under.
3. The bill would constitute a monopoly for public schools.
4. The more government gets involved in education the more its costs and the less education the students receive.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Testimony of:
Pastor Lee Barrows
622 Carol Dr.
Great Falls, Mt. 59405
453-7700

Feb. 9, 1983

Montana State House of Representatives
Education Committee

Gentlemen:

Thankyou for this opportunity to express my opposition to HB 635. I am opposed to the bill for the following reasons:

(1) It is a reactionary measure taken because a handfull of home schools in our state are under fire for potential problems or , in one case, real problems. These schools do not represent more than 20 students or 6 school settings. It would be an unbelievable over-reaction to this isolated problem to support a bill of this nature. The state already has the legal review to investigate and bring charges in these cases. They do not need further control, especially control that is a violation of our First Amendment rights! They have ample legal authority to deal with these situations now under the current law!

(2) Certified teachers and administrators do not guarantee a quality education. For example 50 percent of all students entering MSU and the U of M are required to take bonehead Math and English. The academic level of public school students has declined to such a degree that most states are considering doing away with certification and tenure and paying teachers according to the quality of the product. Before the administrators had all the authority and the teacher very little our students were receiving a higher quality education. The more government gets involved in our schools the less education the children get. What makes you think that it will be any different with private schools. Private schools have a built in control called parental accountability where the school simply goes under if it is not getting the job done because no parent in their right mind is going to pay the price of private schooling if it is not quality.

(3) This bill would make our children the ward of the state instead of their parents which is a violation of our U. S. Constitution. That will cost all of us dearly before it is all said and done whether our children are in private or public school.

(4) This bill is asking for a cure where there is no disease!

(5) It would constitute a monopoly for the public school sector which our nation will not tolerate in any other area free enterprise. In no case will we tolerate the competition controlling it's competitor.

(6) Our schools are not secular, they are Church just like our choir, Bible studies, men's meetings, etc. are and you wouldn't even consider trying to control those activities.

We simply ask that you "leave us alone" and let us continue to produce quality students who are an honor to this country. Keep us separate from home schools for now if necessary. Deal with the five problems you have on a case by case and kill HB 635. Thankyou.

Sincerely yours,


Pastor Lee Barrows

WITNESS STATEMENT

Name DONALD P. KELLEY Committee On EDUCATION
Address Box 7 TOPLIN, MT. Date FEB. 9, 1983
Representing GRACE CHRISTIAN SCHOOL Support _____
Bill No. HB635 Oppose XXXX
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. PUBLIC SCHOOL EXPERTS THROUGHOUT AMERICA ARE ADVOCATING DECENTRALIZATION AS A MEANS TO IMPROVE PUBLIC
2. SCHOOLS. YET, IN MONTANA THE PUBLIC OFFICIALS ARE GRASPING FOR TIGHTER CONTROL. THIS IS POOR
3. ADMINISTRATION TO GIVE MORE RESPONSIBILITY WHERE THE PEOPLE ARE INADEQUATELY HANDLING WHAT
4. THEY ALREADY HAVE

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Testimony of: Pastor Donald P. Kelley
Box 7
Joplin, Montana 59531

In opposition to: HB635

As I see it, HB635 is simply a bill to centralize control over all aspects of education with the public school bureaucrats. I liken this to a farmer leasing out his land on a crop-share basis. He will not lease his land to a farmer whose fields are overrun with weeds and is only averaging 10 bushels per acre. By comparison, it seems to me to be poor administration to give the public school bureaucrats more responsibility and authority when they cannot adequately handle what they already have.

It was stated in an article in the February issue of "Reader's Digest" entitled, "How to Save Our Public Schools", that there is an estimated 300,000 functional illiterates who come out of American high schools each year. The article went on to say, "In other words, private schools demand more of their students and they get more. As a result, outside of high-performance public schools, higher achievement is much more likely to be found in private schools than in public ones." Phil Keisling, the author, also discovered that "In the last two decades expenditures for public education increased nearly sixfold while the quality of schools plummeted."

One of the control issues is teacher certification. Quoting from the same article, "The quality of the nation's teaching corps is embarrassingly low and sinking further. The profession is attracting the nation's least academically gifted students. Just one measure: in 1981-82, college students planning to major in general education scored an average of 394 on the verbal portion of the SAT--32 points below the already national average." Dan Alexander, president of the Alabama Board of Education, told "Family Weekly", "...we have an accredited university that graduated 1338 teachers in 1972. They rated a percentile score of three(3) on the National Teachers' Examination. Fifty (50) is average. These people are now our well-tenured teachers."

Quoting further from the article in "Reader's Digest", "Perhaps the most important lesson of private schools--and one Coleman unfortunately didn't examine--involves teachers. Almost no private schools require teaching certificates; instead, the emphasis is on whether instructors know their subjects and can teach them well." "Compare this with public schools, where only people with proper credentials can teach, and where teachers are paid without regard to ability, according to seniority, advancement and the possession of academic degrees. This system protects incompetent teachers and demoralizes excellent ones. The children are the real losers." Yet, these

same people have the audacity to try to impose their already failing system on us by asking you to give them an education monopoly in Montana!

Wilson Riles, Superintendent of Public Instruction for the California School system, made the following comment about improving the California system. "Our big switch was to return more of the educational power and activity to the school site." Professor Roland Barth of the Harvard School of Education and Director of the Study on the Harvard School of Education said in an interview with "Family Weekly", "The obvious alternative to large controlling bureaucracies is democratization and decentralization. This means shifting the locus of many educational decisions from the central office to the individual school." Senator S.I. Hayakawa from California feels that school administrators "should develop learning activities that provide diversity and variety in school programs: alternative schools or schools-within-schools." While the experts in the field of public education are advocating a decentralization of control, the Montana education bureaucrats are grasping for more central powers! Why?

I have before me several articles clipped from the Great Falls Tribune over the last few years. In Billings, two male teachers apparently involved in the girl's athletic program lost their jobs because of "conduct inappropriate to a student-teacher relationship." They were both being investigated for "alleged sexual misconduct and allegedly supplying alcohol to minors." A third male teacher in Billings was sentenced "after pleading guilty to two counts of deviate sexual conduct with a 16-year old male student." Are these some of the extras the education bureaucrats would like to impose on the private schools?

Or perhaps they would like to send us their expert dance instructor to make a bunch of monkeys out of our children. Or maybe they want us to follow the "Yanzick method" of science instruction by bringing bags and buckets of human fetuses into the classroom? Is it the tenured, certified way to ask our boy students "whether they would urge their pregnant girlfriends to get an abortion, marry her or ignore her"? This same teacher was apparently living with another teacher "out of wedlock". Is that why the teachers protested the anti-cohabitation bill in 1979?

Our students are not burning down our schools, carrying guns to school, or taking dope. The Bible is not banned from our schools and our children advance only when they learn the material. Another article in the March 16, 1979, issue of the Tribune shows that the Board of Education placed 21 schools on probation. I would venture to say that if the state schools were going by our standards, there would be more than 21 schools on probation!

We are not here today to ask that the state schools be forced to adopt our standards of education. We are simply saying that we CANNOT adopt their standard of education. HB635 is a gross overreaction to a nonexistent problem. The scriptures say, "And why do you look at the speck in your brother's eye, but do not notice the log that is in your own eye? Or how can you say to your brother, 'Let me take the speck out of your eye,' and behold, the log is in your own eye? You hypocrite, first take the log out of your own eye; and then you will see clearly enough to take the speck out of your brother's eye." Mathew 7:3-5

If you're not impressed with the scriptures, "common sense" tells us, "If it works, don't fix it!" Thank you.

Two teachers to leave jobs

BILLINGS (AP) — The Billings School Board fired a West High School girls' basketball coach early Tuesday for "conduct inappropriate to a student-teacher relationship."

Board Chairman Doug Sipes said Jon Erbe was fired after board members heard testimony from 10 witnesses, including policemen and students, during a five-hour hearing. The vote was 4-2.

Don V. Russell, the other teacher, resigned before the hearing Monday night.

Police had investigated both men for alleged sexual misconduct and allegedly supplying alcohol to minors.

No criminal charges were filed against either man.

Russell and Erbe coached the West High girls' basketball team in 1978 when the incidents allegedly occurred in Billings. They were suspended with pay in February.

Russell read a statement saying he was "wrongfully and maliciously accused" by the board.

William Kahn, executive director of the Billings Education Association, who appeared on behalf of the teachers, said he encouraged Erbe to appeal his firing to the county school superintendent.

Teacher sentenced for sexual conduct

BILLINGS (AP) — Russell Creaser, a former high school music teacher, has been sentenced to serve two weeks in the Yellowstone County Jail after pleading guilty to two counts of deviate sexual conduct with a 16-year-old male student.

The county jail term was a condition of a five-year suspended prison sentence.

State District Judge Robert Wilson also stipulated Friday that Creaser could not teach in elementary or secondary schools in Montana or any other state during his five-year probation, and he said the 46-year-old former Billings West High School teacher must receive counseling.

Creaser had pleaded guilty to both counts in October.

The incidents occurred in the summer and fall of 1978. The charges came after several teachers at the school took allegations of sexual misconduct to police.

The prosecution had sought a 10-year prison term for each count.

But defense attorney Richard Anderson said he thought publicity about the case had been sufficient punishment for the former music teacher.

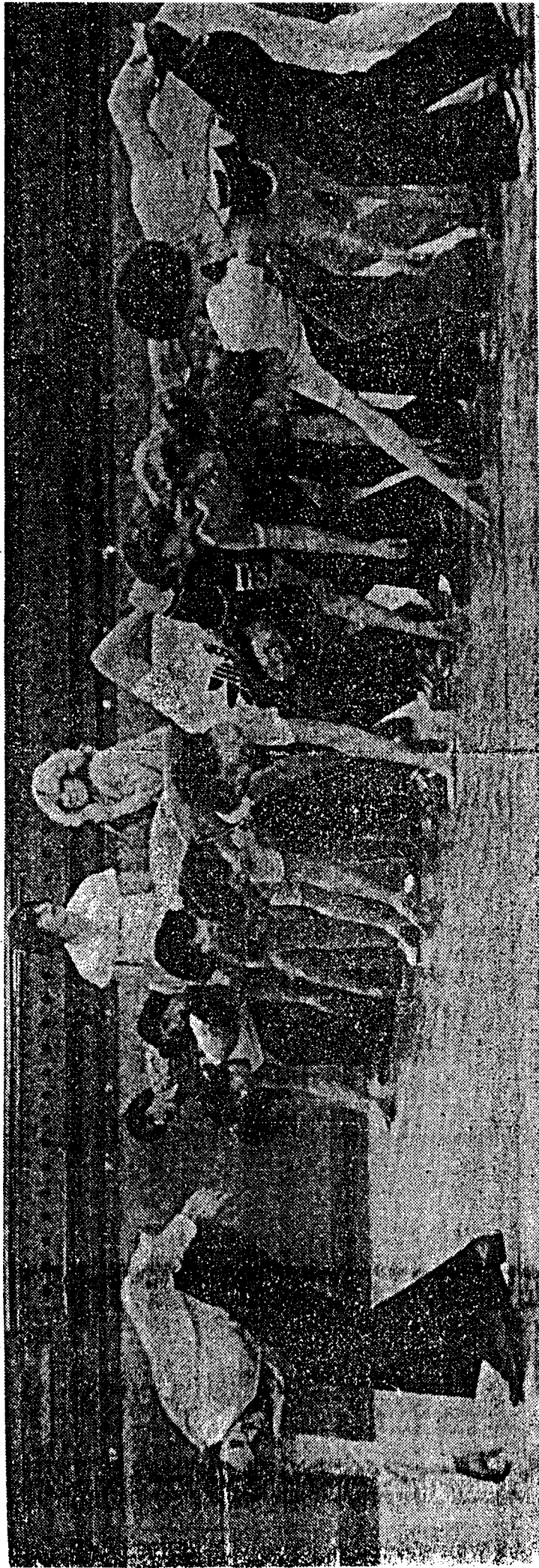
In sentencing Creaser, Wilson said his acts were reprehensible and "shocked the conscience of the entire community."

Great Falls

No. 330—93rd Year

Great Falls, Montana, Sunday, April 8, 1979

TRIBUNE



DOIN' THE SCRIMMAGE? — Disco dance instructor Phil Coe teaches a new line dance to students in a

two days teaching disco steps to 300 eager students.

More photos on Page 15. (Tribune Photo by S. White)

...which has no surmise



THE NEW PHYS ED —

Students in gym class at Great Falls High School get a workout while they learn disco dancing.

Instructor Phil Coe, at left, teaches a dip to a surprised Liza Cortez. Coe said he found the students eager and willing to learn the latest disco dances. At right, gym students appear to prefer disco dancing to calisthenics.

Tribune Photos

by Stuart S. White

Thursday, September 17, 1981

Court hears school board's appeal in teacher firing

By GARRY J. MOES

Associated Press Writer
HELENA (AP) — The Montana Supreme Court found itself confronted Wednesday with an appeal packaging a bundle of the most sensational issues of the day — cohabitation, abortion, morality in the public schools, local educational control, tenure rights of teachers and the role of the courts in determining public policy.

The case was an appeal by the Palson School Board of a district court's decision overturning a ruling by state and local school officials that the school board acted properly in refusing to renew the contract of tenured science teacher Tim Yanzick.

Among the charges levelled against Yanzick were that he lived out of wedlock with another teacher and discussed it with his students, that he brought a bucket of human fetuses into his classroom and discussed with seventh graders age 11-14 the pros and cons of abortion and marrying pregnant sweethearts.

The case attracted a battery of lawyers to the Supreme Court bar Wednesday — five for the school board and its supporters and two representing Yanzick and the Montana Education Association.

Attorneys told the court the case has fundamental implications for the future of public schools, local government authority and the rights of individual teachers to choose their own lifestyle. In addition to Wednesday's extended oral arguments, the court will be wrestling with some 125 pages of written arguments and more than 70 previous court cases cited by the lawyers to back their viewpoints.

Yanzick's lawyer, Christopher Swartley, of Missoula argued that the case was merely a procedural one for the Supreme Court — namely that the court had only to decide whether District Judge Gordon Bennett applied proper standards of review in overturning the decisions of the state

would be permitted to consider in a teacher employment situation.

Pressed for an example of a lifestyle which could permit a board to fire a teacher, Swartley listed "outright homosexuality" involving a teacher and one of his students.

When Morrison asked Smith whether a teacher in a Mormon community taking an alcoholic drink would be subject to dismissal, Smith said that would not fall within the parameters of standards which courts have established.

Emclie Loring, lawyer for the Montana Education Association, a statewide teachers' organization, said Lohm was speaking nonsense when he contended that the Montana Legislature has set no limits on the discretion of school boards in hiring or firing

teachers. She said the state's tenure laws clearly set forth guidelines requiring serious misconduct or incompetence as grounds for removal of tenured teachers.

Lohm said teachers must be "Simon pure" — without stain or suspicion — because they exert such a fundamental influence on children of impressionable age.

And he argued that the Supreme Court must set limits on court review of local school boards' discretionary decisions.

Without such a limit, he said, school boards throughout Montana will be forced to keep unwanted teachers out of fear of prolonged litigation.

Swartley agreed that such might be the case but courts must balance the rights to school districts with the

rights of individual teachers.

Haddon said the court should remember that direct classroom activity, and not only outside personal matters, were involved in this case. He said that Yanzick had asked boys in his class whether they would urge their pregnant girlfriends to get an abortion, marry her or ignore her. And he said that when he brought the fetuses into the classroom he was forcing young children to "show hands" on what is currently one of the most "fundamental issues" facing the nation today.

Haddon charged that Yanzick displayed a calloused disregard for the dignity of human life in his treatment of the subject of abortion and by leaving bags and a bucket of fetuses in the classroom unattended overnight.

Smith argued that the effectiveness of local actions by teachers is legally acceptable.

of education depends on the level respect a teacher can acquire for himself.

But Missoula lawyer Sam Haddon, representing the other side, told the court, "This is not a procedural case, but a policy case. The policy question is: who under the (Montana) constitution and statutes are going to run the schools of our state?"

Chad Smith, lawyer for the Montana School Boards Association, said that the courts have held that teachers are subject to a higher standard of conduct than others in society and that in the Montana the "moral framework" of local communities must dictate what kind of actions by teachers is legally acceptable.

Sherman Lohn, the Palson board's attorney, said the board was in no way advocating that teachers in this day and age should always be forbidden from living out of wedlock.

But Lohn said that "totality of the situation" in this case — including Yanzick's entire course of conduct, the public nature of his activities and the moral standards of a small rural community — require Bennett's decision to be reversed.

Swartley argued that there are court precedents that require the showing of a direct rational connection between a teacher's conduct and his or her fitness as a teacher before the conduct can form the basis for a refusal to renew employment.

He argued that in this case, the students believed Yanzick to be a good teacher and there had been no evidence that his lifestyle adversely affected his performance.

Swartley said, in response to questions from Justice Frank Morrison Jr., that the courts must determine on a case-by-case basis where to draw the line on what kinds of lifestyle a school board

Teachers protest anti-cohabitation bill

By LARRY ELKIN

HELENA (AP) — Montana teachers are trying to kill, or at least broaden, a bill aimed at preventing them from living with members of the opposite sex out of wedlock.

"I'm going to try to amend it to make it include eastern district congressmen," said Sen. Pat Regan, D-Billings, who is a teacher. "It's not funny. I think it's ridiculous to single teachers out."

Regan was referring to Republican Congressman Ron Marlenee, who represents eastern Montana. Marlenee lived with his girlfriend for two years in Washington, D.C., before marrying her last fall.

"I don't agree with the concept of the bill," commented Senate Minority Leader Chet Blaylock, D-Laurel, a high school teacher. "There's other

people who serve as role models for children — policemen, for example. And I think you'd need a Gestapo-type organization to enforce it in these towns."

"I don't favor cohabitation, but they singled out one group, and it happened to be the one I belong to."

The bill is HB774, which has cleared the House and was approved by the Senate Judiciary Committee Saturday. It attracted virtually no attention in the House, and teachers' lobbyists reportedly did not hear of it until told by a Senate committee member Saturday.

A public hearing on the bill early last week brought no opposition.

The bill, as amended by the Senate committee, applies only to teachers. It gives school boards the right to fire, or to refuse to hire, unmarried teachers who live with unrelated members of the opposite sex.

It apparently stems from a case in

which an all-Hutterite public school board refused to hire a teacher who lived with a man. The teacher appealed to the state Human Rights Commission, which ruled she had been illegally discriminated against because of "marital status."

The committee added a preamble to the bill that declares, "Teachers have a unique role in children's lives" and "The proper functioning of schools can be disrupted if a teacher's lifestyle so far deviates from the expectations of parents that the entire community is thrown into turmoil."

The preamble is intended to explain to a court why the Legislature made the exception for teachers, in the event the law is challenged.

The first move of the newly organized opposition was to ask the committee to reconsider the bill. The committee agreed to review its decision today.

"I'm not so sure we can justify singling out teachers," committee mem-

ber Thomas Towe, D-Billings, said in asking that the bill be reconsidered. "It's obvious there are other people involved in that same category."

Another committee member, Fred Van Valkenburg, D-Missoula, suggested that another hearing on the bill be scheduled. The idea was rejected by Chairman Everett Lensink, R-Bozeman, who cited other pending business. Opponents of the bill can talk to committee members individually, Lensink said.

Blaylock said the original bill was expected to fail because it would have allowed discrimination in all hiring, in credit practices and in other areas against those who "cohabit." But the Senate committee tightened the bill to do only what its sponsor — Rep. Carl Seifert, R-Polson — said it was intended to do.

Broadening the bill again may help kill it, Blaylock said, or the House may reject the Senate's amendments.

Legal Notices

CALL FOR BIDS
Trustees of District 29, Joplin, will accept sealed bids for the following on 11/17/79.

Montana news in brief

More students using drugs regularly; starting age drops

By JAY GOLEY
Tribune Staff Writer

The statistics had been assumed until last month. Drug use among high school students, if it's common everywhere else, ought to be common in Great Falls, school officials believed.

The problem was showing up in local schools, but no one knew how big it was.

They know now.

Students in the top six grades not only use drugs, including alcohol, but a growing number use them regularly. Some started before the sixth grade — when they would have been 11 or 12 years old. And the number of early experimenters is rising. It may have doubled in the last six years.

Of students polled Dec. 1, almost half (48.3 percent) said they had already used alcohol, another drug or both. Almost all (90.3 percent) high school students answered yes to the same question.

That fact isn't particularly significant, said Kenneth Kelly, supervisor of the school district's drug-alcohol program, because a student who drank a single can of beer would be expected to answer yes.

But, Kelly went on, many high school students said they used drugs or alcohol regularly. Half the juniors said they did so at least once a week.

Students surveyed were told that drug use did not include prescription medicine or over-the-counter medicine such as aspirin, Kelly said.

Findings from the random survey of more than 600 students were about what Kelly expected, but there were some surprises.

Only 6.6 percent of high school students said they experimented with drugs, including alcohol, before the sixth grade, but almost twice as many (13.5 percent) seventh and eighth graders said they had.

The indication, Kelly says, is that use is starting earlier. He called that revelation especially ominous, because addiction is much more likely among drinkers and other drug users who start early.

In the main, Kelly said, Great Falls is no better and no worse than the average U.S. city. In his estimation, however, that statement is not cause for a sigh of relief.

He quotes Richard Schweiker, secretary of the U.S. Department

of Health and Human Services, who said alcohol and drug abuse "has reached such alarming proportions that if alcohol abuse is a sickness, then today an epidemic is stalking our young people."

Here are some more figures: Some high school students (3.7 percent) said they use a drug every day. More seniors (6.1 percent) said they use drugs daily.

Weekly use was more common, with 13 percent of junior high students, 36.9 percent of high school students and 49.2 percent of juniors admitting to it.

More than a third (35.8 percent) of the high school students surveyed said they had driven a car after using alcohol or other drugs. More than half (54.7 percent) of seniors had done so.

More than 90 percent of the students, who were guaranteed anonymity, denied using drugs at school. Outdoor "keggers" and

beer parties in private homes were the usual scene of drinking and other drug use, they said.

They may use drugs, but few students believe they have a drug problem. Only 6.5 percent said they did. But a much larger number (93.7 percent) said a parent, brother or sister had a drug problem.

Kelly sees the survey as proof that "the problem is there and we all need to make an effort to do something about it."

He credits the school system with making its effort, and says it's time the rest of the community became involved. Some community leaders are already helping, but most parents and other adults "really haven't taken a look at the problem, at least enough to get involved," Kelly said. "They know there's a problem, but it's not their problem. It's the mystical George's."

Student drug use

A poll conducted in Great Falls public schools in December 1982 showed that most high school students have used alcohol, other drugs or a combination of both. School officials also discovered that experimentation with drugs is beginning earlier. Twice as many seventh and eighth graders as twelfth graders used drugs before the sixth grade.



Findings:

- 90.3% of high school students used alcohol or other drugs.
- 81.1% of 9th graders had already experimented.
- 48.3% of 7th graders had tried drugs or alcohol.
- 25.2% of junior high students used drugs once a month.
- 62.5% of high school students went to keggers.
- 21.2% of junior high students attended beer parties.
- 54.7% of high school seniors mixed drinking and drugs.

Gifted students moved ahead with abilities

SEATTLE (AP) — A 10-year-old freshman at the University of Washington is the youngest college student in the United States.

A 13-year-old girl praises the university's Philosophy Department and says she has come to enjoy the humor of the ancient Greeks.

These students are part of a program launched in 1977 called Early Enrollment. Their combined grade-point average is a 3.6 on a 4.0 scale.

Skipping gifted children ahead is better than holding them back with their own age group, says Dr. Hal Robinson of the Child Development Research Group.

"In the old one-room schoolhouse, kids weren't segregated by age," said Robinson. "They were allowed to work at their own speed. It's only since the growth of the urban school that this bureaucratic system of age segregation has become established."

In one case, a mother called Robinson because Iowa school authorities had told her to remove all books from her 18-month old child's reach because the youngster had begun to read.

She followed their advice, and the toddler started sneaking in episodes

of Sesame Street. The mother wanted to know if she should unplug the TV, too.

Robinson explains that early reading and exceptional problem-solving skills are signs that a child may be intellectually gifted.

All of the students enrolled in the program scored higher than 80 percent of Washington's graduating high-school students on a state pre-college test.

The younger students haven't had

problems making or maintaining friendships. Many of the girls say most of their friends are other university students. The boys say they have friends in their neighborhoods.

Robinson, who hopes to see the program expanded, believes there are many more gifted children "than anyone suspects."

"The standard bell-curve predicts that there should be three kids per 100,000. That's nonsense. We've found ten times that many."

Girl truant on moral grounds

LAWRENCE, Kan. (AP) — A court hearing has been scheduled for Tuesday for a 15-year-old rural Lawrence girl accused of truancy after she stopped going to school for what her family called moral reasons.

Janice Flory was taken to a juvenile detention center in McPherson Thursday night.

The girl's father, Ivan Flory, said Saturday that his daughter chose not to attend school any longer because of permissive attitudes among fellow students.

Flory said the decision not to at-

tend school was his daughter's, and that he and his wife, Donna, stand behind her in the decision.

"It's not the education. It's all the things that go along with it," Flory said. "It's the permissiveness of society. There are drugs and alcohol in the schools, and it seems like nobody wants to do anything about it."

"At this age, it can be quite a temptation with all those things around. So she can learn here at home all the things she needs to know until her later years, when she decides exactly what she wants to do."

21 state schools placed on probation by

HELENA (AP) — The state Board of Education has placed 21 public schools on probation for numerous and continued violation of state accreditation standards.

Another 119 schools were granted renewed accreditation but with advice that they need improvements for full compliance with state standards.

The board re-accredited 651 other state schools for one year without stipulations.

The board usually requires improvement within a year from a school accredited, with advice that if conditions fail to improve, or worsen, the school is placed on probation, and trustees are required to file a plan for improvement.

Withdrawal of accreditation would mean loss of state funding. No Montana school of any size has ever lost its state accreditation.

Here is a list of schools placed on probation, and the chief reasons:

Missoula — Hellgate High, a too-short class day, two teachers teaching subjects for which they are not certified, four classes exceeding the maximum of 30 pupils, and a facility inadequate for instruction, health and safety. Sentinel High, for two misassigned teachers, 23 classes exceeding the maximum enrollment, and inadequate facility. Deer Lodge — Powell County High, one uncertified teacher, four misassigned teachers.

signed teachers, one class exceeding the maximum enrollment.

Lima — misassigned teachers, inadequate supervision time for superintendent. Hays-Lodgepole — misassigned teachers, one teacher and superintendent without proper credentials until February, inadequate facilities.

Fort Benton — misassigned teacher, inadequate library.

Frazer — misassigned teachers, inadequate library, principal without administrative credentials. Hobson — one noncertified teacher, misassigned teachers. Darby — superintendent without administrative credentials, teacher.

without teaching credentials until January. Antelope — misassigned teachers, inadequate facilities. (Antelope students have met at Plentywood High since fire destroyed their school early this year.)

Fromberg — noncertified teacher, too little time for lab and drill courses.

White Sulphur Springs — teacher

Friday, March 16, 1979

Great Falls Tribune 31

Board of Education

without certificate until February

misassigned teachers

Elementary Schools

Anaconda — Dwyer Elementary

for exceeding the maximum allowable

28 students in three classrooms, inadequate library

Jackson — noncertified teacher

Hays — superintendent not certified until February

Lodgepole — noncertified superintendent

tendent and teacher

Fromberg — noncertified teacher, misassigned teachers

Johnston — noncertified teacher

Hobson — noncertified teacher

Arrowhead — noncertified teacher, one class over limit

Darby — superintendent without administrative certificate, four teachers misassigned, three overloaded classes

Restroom ruling brings walkout

'Potty patrols' pique pupils

STURGEON, Mo. (AP) — Picketed, angry and over the potty patrol, about 100 students Friday picketed Sturgeon High School, charging that restroom restrictions leave them with "no privileges or rights."

The school's policy is restricting restroom use between class periods and requiring teacher supervision of the visits. It was established to prevent smoking in lavatories, officials said.

On Friday, a few students carried handmade signs reading, "Potty Patrol Must Go" and "Sturgeon High Is A Prison."

A Boone County deputy sheriff told the picketers it was not legal to demonstrate if they behaved themselves.

Nevertheless, school officials said the protesters were each in line for possible three-day suspensions, and parents of the protesters were summoned to

school Friday to pick them up.

Some parents called for a special school board meeting to consider the change in the 1940 student high school.

School superintendent Don Schooler said, "Classrooms are going on as normal. We don't have picketers. They called the policy 'totalitarianism' and said it was 'un-American' and 'unconstitutional.' The superintendent policy is to keep the restrooms clean and to prevent smoking in lavatories."

Students who picketed the bathroom in the police hall of the kids said they were picketing the school's policy.

Also on Thursday, a school board policy under which students with more than seven days' absence from school faces possible loss of academic credits. Medical excuses must be cleared by a faculty committee.

You know, it's not

with the measles or chicken pox, or something like that. They're usually sick two or three weeks." Dailing said.

"They (school officials) can't do that."

Another mother with two students in school said, "This potty patrol is crazy. She said she wanted parents consulted before such restrictions are instituted."

On Thursday, about 100 students walked out of class over the potty patrol. She said she heard the students (them) but made no headway.

Students who picketed the Taff, Roland Dailing and Naty Paige said Spears Thursday wouldn't negotiate until everybody returned to class.

"Spears doesn't want those kids to be individuals," another mother said. "He wants them to be as he says. But, they're not babies."

Sturgeon is a rural community about 30 miles from Columbia.

Books, pencils and guns

NEW YORK (AP) — Some New York City children go to school with books and pencils. Others go to school with books and pencils and guns.

Since last July, school officials have confiscated 98 handguns from students, four of them from elementary school children. In several cases, the guns were discovered when children were shot accidentally by other pupils showing off their pistols.

So the Board of Education, which says gun-toting is up 23 percent this school year, has set up a new "special weapons task force" to investigate the problem.

"MEET THE ARTIST"

JOYCE THOMAS

Will Be Showing
STAINED GLASS
at Holiday Village
ART FESTIVAL

Sat., May 31 10 a.m.-6 p.m.



5-30-80 GFT/RT/NE

9-year-old suspected in school fire

A 9-year-old student allegedly used matches to light two fires Monday morning at Longfellow School, 1100 6th Ave. S., causing an estimated \$10,000 damage, police and fire department officials said.

Police juvenile authorities arrested the boy on suspicion of arson shortly after firemen doused a blaze in the school's music room. No injuries were reported as a result of the fire, which began about 7:45 a.m.

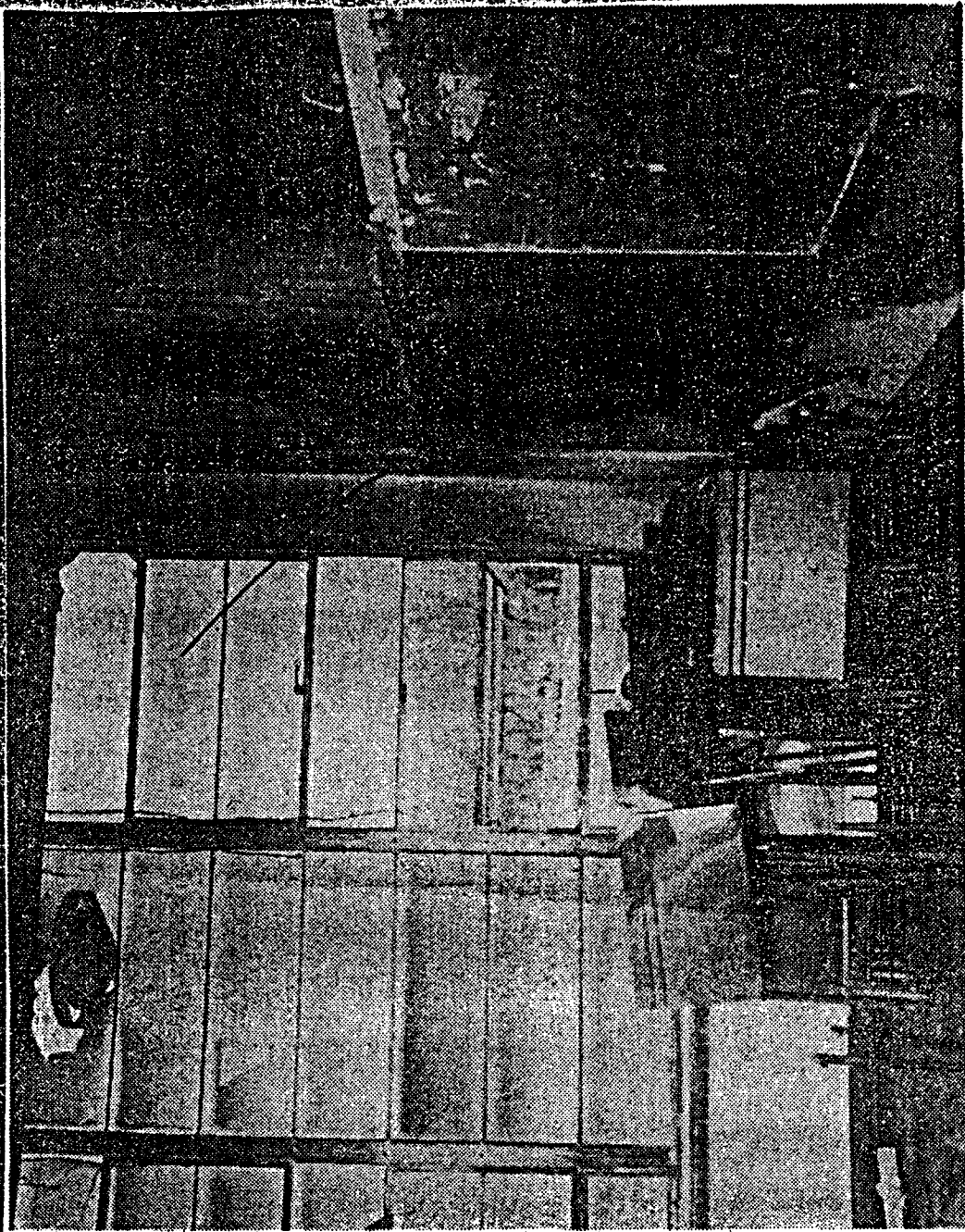
Officials suspect the boy used matches to light a canvas-draped voting machine on fire, then went to a corner of the music room and torched pieces of paper, police said. Voting machines are stored in a side corridor leading into the hallway.

Longfellow School principal James Bergman said a teacher detected smoke in a hallway leading to the music room just before 8 a.m.

The teacher saw first that the cover on one of the voting machines was burning, Bergman said, and she and the janitor extinguished the flames. Damage to the voting machine appeared slight.

It was not until after the first fire was extinguished that the larger fire in the music room was detected, Bergman said.

Walls of the room had been draped for acoustical effect. A piano, music stands, chalkboards, chairs, some percussion instruments, walls and windows in the room, were heavily damaged.



LONGFELLOW FIRE — An arson-caused fire did an estimated \$10,000 damage to the music room at Longfellow School, 1100 6th Ave. S., early Monday. Police juvenile authorities arrested a 9-year-old boy on charges of suspicion

of arson shortly after the fire was extinguished. About 40 windows on the west side of the room were broken by heat. Walls and some equipment were damaged. (Tribune Photo)

Dear Abby



Teacher's lessons taken to heart

DEAR ABBY: I'm 18, just graduated from high school, and for the last six months I've been dating a woman of 30. I would like nothing more than to marry her, but there are problems.

She teaches high school. (That's how we met -- I was one of her students.) We started dating while her divorce was pending, but because of school district policy, we couldn't go public with our affair. Only her sister, my family and one mutual friend (another woman teacher) know about us. After her divorce, she plans to move in with the mutual friend to avoid gossip. I offered to stop seeing her, but she refused.

She admitted that when we first started seeing each other she was interested only in sex and didn't intend to fall in love with me, but she couldn't help herself. If we get married, she could go on teaching and I could work part time and go to college. The only barrier we have is that she worries about what "society" will think because of the age difference, and because she's a school teacher and I'm a student. I don't care what anybody thinks. I've always been mature for my age and know we could be happy together. What do you think? — 18 GOING ON 30

DEAR 18: I'm sure you could be happy together, but for how long? I recommend a long engagement. Very long. And if you still feel the same way about each other in two years, I'll buy the rice.

Censorship in schools on the rise

KANSAS CITY, Mo. (AP) — Censorship in public schools is on the rise, with schools in a survey saying they ban books varying from "The Diary of Anne Frank" to the dictionary, a national teachers group reports.

"Library censorship is quite severe and is growing," said Lee Burruss, a member of the group's Committee on Censorship.

He released the findings of the recent survey Thursday at the 68th annual convention of the National Council of Teachers of English. The meeting runs through the end of the week.

Burruss said 30 percent of 2,000 schools recently surveyed censored books, school newspapers or other curriculum materials. He said a similar survey in 1965 showed only 20 percent exercised censorship.

Burruss, a professor at the Univer-

sity of Wisconsin-Stevens Point, said several standard dictionaries were banned in all Texas schools by the state School Book Commission on grounds they contain "bad words."

As an example of what the commission considers a "bad word," Burruss cited "bed." He said many dictionaries contain a definition of "bed" as a verb that includes sexual intercourse.

Books purged from various school libraries, he reported, included "Catcher in the Rye," "Go Ask Alice," "Of Mice and Men," "The Grapes of Wrath," "A Separate Peace," "The Diary of Anne Frank" and "To Kill a Mockingbird."

"In a given year, one out of five teachers hear objections to these books," he said, with about half the complaints resulting in removal of the books.

[The Bible.] "The Scarlet Letter" and "1984" also have been removed by some school districts, he said.

Burruss said the most common reasons cited for censorship are language that is too frank sexually and "bad words" — a term which he said is used to cover profanity, obscenity and bad grammar.

He said a relatively small number of outspoken people were responsible for censorship. "These groups are well organized. There are 15 or 16 groups around the country involved in school censorship," he said.

"Educators must take action," Burruss said. "Teachers need to know and plan the curriculum while involving the board of education, parent groups, students and educators to assure public support at the grass roots level."

Montana Champ Places Ninth in National Bee



Wade Walla, 1982 Champ

Wade Walla was an eighth-grader at Alliance Christian School in Lewistown when he won the 1982 Treasure State Spelling Bee and went on to place ninth in a field of 126 contestants at the National Spelling Bee in Washington, D.C. Wade's finish was the best in the Montana bee's 17-year history. Here are his thoughts about his experiences in Washington, D.C., and spelling bees.

"April 17, 1982, was the day before my birthday. I remember it well, because on that day I won the Treasure State Spelling Bee. I had dreamed about it for as long as I could remember, because my sister, Theresa, had won it in 1977, and I have always competed with her.

"I left for the National Spelling Bee on May 29, 1982. We almost didn't make it out of Lewistown as a heavy snowstorm closed all but one road leading out of town. We made it to Billings despite the weather's best efforts, however, and caught the plane for Washington.

"It was my first ride in an airplane and I was, needless to say, fascinated. The flight to Salt Lake City was uneventful, but enjoyable, and from there we went to Minneapolis and from there to Washington.

"The first night we signed into the Washington Hilton and took a walk with my parents recalling experiences from their previous trip with my sister.

"The next day was free time, although at 7:00 p.m., we went on a boat trip down the Potomac for-

lowed by a night bus tour during which we saw the I Jima, Jefferson, and Lincoln monuments. Of the thr I liked the Jefferson Monument the best.

"I really enjoyed the next day. We visited the F Theater where Lincoln was shot. We also saw the t tional Archives where the Declaration of Independence is kept. After that we went to the Capitol Building, a despite all warnings, my father got lost from the gro My mom and I were very embarrassed by this incid and left the tour group to tour on our own thus av ing the tour leader's scorn.

"My dad and I visited the Smithsonian Air a Space Museum and then we went to the Washing Monument.

"The next day was the first day of the spelling b I survived to the second spelling day along with 46 o ers. The last spelling day was on June 3, and I went in the 7th round on the word suzerainty securing place. Molly Dievney of Denver won with the w psoriasis.

"After the spelling bee, I toured Annapolis Na Academy. On my last day in Washington, we saw t Washington Zoo and the White House. I felt sad as t trip drew to a close, but I had had a lot of fun. We supper at a banquet for all the spellers, and I got a check.

"One word of advice to you spellers: work ha because if you go to Washington, it will be one of t most memorable experiences of your life."

January 1983

Lee Newspapers of Montana
Present the 1983

Treasure State Spelling Bee

WITNESS STATEMENT

Name Chris McBee Committee On #B Education
 Address 302-D So 16th Date 2/9/83
 Representing Montana Home Schoolers Assoc. Support _____
 Bill No. HD 635 Oppose ☒
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. John Board's statement that this bill fulfills Art 10 sec 6 is fallacious. This bill only consolidates the power of his organization and remove or decrease viable alternatives.
2. The requirement for certification of all teachers has be demonstrated in testimony for HB 49, SB 253, SB 331, to be impractical and not supported by the production of a higher quality student.
3. I submit that the men representing the educational establishment are not representing the majority of people in this state but represent the vested interest of the teachers and administrators of the public system and an abstract concept that the state in its obligation to provide "equality of opportunity" of education has the privilege to impose a monopoly.
4. Christians who find that their government is beginning to pass laws which conflict with the word of god are obligated to disobey those laws even if it means taking the consequences. This has occurred in Nebraska recently. We ask you not to back us against the wall.
5. Please examine closely the copies of the laws which have been put into effect in Louisiana and Arizona.
6. Montana Home Schoolers Assn. supports a concept that will enable parents and public administrators to work together in the testing of children to measure achievement. We are quality conscious. We are dissatisfied with the public system and can do better.
7. Please listen to the outpouring of people in opposition to these proposed restrictions. These people come at their own and often great expense while itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes. The representatives of the public education establishment can come up here and still receive their pay and talk all day.

Chris McBee

McDoe

ISSUED BY
ROSE HOTTORD
SECRETARY OF STATE

State of Arizona
House of Representatives
Thirty-fifth Legislature
Second Regular Session
1982

CHAPTER 221

HOUSE BILL 2116

AN ACT

RELATING TO EDUCATION; PRESCRIBING EXCEPTIONS TO COMPULSORY SCHOOL ATTENDANCE; PRESCRIBING DUTY OF COUNTY SCHOOL SUPERINTENDENT TO MAINTAIN TEST RESULTS AND AFFIDAVITS RECEIVED FROM PARENTS OR GUARDIANS OF CHILDREN INSTRUCTED AT HOME OR ATTENDING PRIVATE OR PAROCHIAL SCHOOLS; PRESCRIBING DUTY OF COUNTY SCHOOL SUPERINTENDENT TO REVIEW TEST RESULTS TO DETERMINE WHETHER A CHILD BEING INSTRUCTED AT HOME IS PROGRESSING ACADEMICALLY; AMENDING TITLE 15, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-310, AND AMENDING SECTION 15-802, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 3, article 1, Arizona Revised
3 Statutes, is amended by adding section 15-310, to read:

4 15-310. Receipt of test results: education of children

5 taught at home; hearing

6 A. THE COUNTY SCHOOL SUPERINTENDENT SHALL MAINTAIN THE NATIONALLY
7 STANDARDIZED ACHIEVEMENT TEST RESULTS RECEIVED FROM THE PARENT OR GUARDIAN
8 OF A CHILD WHO IS BEING INSTRUCTED AT HOME AND THE AFFIDAVITS RECEIVED FROM
9 THE PARENT OR GUARDIAN OF A CHILD ATTENDING A PRIVATE OR PAROCHIAL SCHOOL
10 AS PROVIDED IN SECTION 15-802, SUBSECTION B, PARAGRAPHS 1 AND 2.

11 B. THE COUNTY SCHOOL SUPERINTENDENT SHALL ANNUALLY REVIEW THE
12 NATIONALLY STANDARDIZED ACHIEVEMENT TEST RESULTS TO DETERMINE WHETHER A
13 CHILD BEING INSTRUCTED AT HOME IS PROGRESSING ACADEMICALLY. IF THE COUNTY
14 SCHOOL SUPERINTENDENT DETERMINES THAT THE NATIONALLY STANDARDIZED
15 ACHIEVEMENT TEST RESULTS INDICATE THE CHILD IS NOT PROGRESSING
16 ACADEMICALLY, HE SHALL DESIGNATE A QUALIFIED INDEPENDENT EVALUATOR TO
17 DETERMINE WHETHER THE EXEMPTION OF THE PARENT OR GUARDIAN FROM THE
18 PROVISIONS OF SECTION 15-802, SUBSECTION A, SHALL BE CONTINUED. FOR THE
19 PURPOSES OF THIS SECTION, "INDEPENDENT EVALUATOR" MEANS A PERSON DEEMED
20 QUALIFIED TO EVALUATE THE ACADEMIC PROGRESS OF A CHILD BY THE COUNTY SCHOOL
21 SUPERINTENDENT AND WHO IS NOT EMPLOYED ON A REGULAR BASIS BY THE PUBLIC
22 SCHOOL SYSTEM OR WHO IS NOT A RELATIVE OF THE CHILD OR WHO DOES NOT HAVE ANY
23 FORMER ASSOCIATION WITH THE PARENTS OR GUARDIAN OF A CHILD BEING
24 EVALUATED.

1 C. IN MAKING THE DETERMINATION OF THE CONTINUATION OF AN EXEMPTION
2 UNDER SECTION 15-802, SUBSECTION B, PARAGRAPH 1, THE DESIGNATED
3 INDEPENDENT EVALUATOR SHALL MEET WITH THE CHILD, THE PARENT OR GUARDIAN OF
4 THE CHILD AND THE PERSON WHO INSTRUCTS THE CHILD AT HOME IF THAT PERSON IS
5 OTHER THAN THE CHILD'S PARENT OR GUARDIAN. THE DESIGNATED INDEPENDENT
6 EVALUATOR SHALL TAKE INTO CONSIDERATION OTHER EDUCATIONAL FACTORS, BEYOND
7 THE NATIONALLY STANDARDIZED ACHIEVEMENT TEST RESULTS, AS PRESENTED BY THE
8 PARENT OR GUARDIAN AND THE INSTRUCTOR TO DETERMINE WHETHER THE CHILD IS
9 PROGRESSING ACADEMICALLY.

10 D. IF THE DESIGNATED INDEPENDENT EVALUATOR DETERMINES PURSUANT TO
11 SUBSECTION C OF THIS SECTION THAT THE CHILD IS NOT PROGRESSING
12 ACADEMICALLY, HE SHALL RECOMMEND TO THE COUNTY SCHOOL SUPERINTENDENT TO
13 NOTIFY THE PARENT OR GUARDIAN, IN WRITING, THAT AFTER A PERIOD OF THIRTY
14 DAYS FROM THE RECEIPT OF THE NOTICE, THEY SHALL NO LONGER BE EXEMPT FROM
15 THE PROVISIONS OF SECTION 15-802, SUBSECTION A. THE NOTICE SHALL BE MAILED
16 TO THE PARENT OR GUARDIAN BY UNITED STATES CERTIFIED MAIL ADDRESSED TO THE
17 PARENT OR GUARDIAN AT HIS LAST KNOWN ADDRESS AND SHALL INCLUDE A COPY OF
18 THE REASONS FOR THE DESIGNATED INDEPENDENT EVALUATOR'S DETERMINATION TO
19 RECOMMEND THE TERMINATION OF THE EXEMPTION.

20 Sec. 2. Section 15-802, Arizona Revised Statutes, is amended to
21 read:

22 15-802. Compulsory school attendance; exceptions;
23 violation; classification

24 A. Every person who has custody of a child between the ages of eight
25 and sixteen years shall send the child to a school for the full time school
26 is in session within the school district in which the child resides, except
27 that if a school is operated on an extended school year basis each child
28 shall regularly attend during school sessions which total not less than one
29 hundred seventy-five days, or the equivalent as approved by the
30 superintendent of public instruction, during the school year.

31 B. A person shall be ~~excused by the governing board~~ from the duty
32 prescribed by subsection A when it is shown to the satisfaction of the
33 ~~governing board and the county school superintendent~~ that:

34 1. The child is instructed at home BY A PERSON PASSING THE READING,
35 GRAMMAR AND MATHEMATICS PROFICIENCY EXAMINATION AS PROVIDED IN SECTION
36 15-533 ~~by a competent teacher in the subjects given in the common schools~~
37 ~~of the THIS state~~ AS PROVIDED IN SECTION 15-203, SUBSECTION A, PARAGRAPHS
38 15 THROUGH 18 AND THE CHILD TAKES THE NATIONALLY STANDARDIZED ACHIEVEMENT
39 TEST EACH YEAR. THE PARENT OR GUARDIAN OF A CHILD BEING INSTRUCTED AT HOME
40 SATISFIES THE CONDITION OF THIS PARAGRAPH BY FILING WITH THE COUNTY SCHOOL
41 SUPERINTENDENT A COPY OF THE CHILD'S ACHIEVEMENT TEST RESULTS EACH YEAR AND
42 AN AFFIDAVIT STATING THAT THE CHILD IS BEING TAUGHT AT HOME. THE
43 NATIONALLY STANDARDIZED ACHIEVEMENT TEST MAY BE ADMINISTERED BY A PUBLIC
44 OR PRIVATE SCHOOL AND ALL COSTS INCURRED IN ADMINISTERING THE TEST SHALL BE
45 CHARGED TO THE PERSON WHO HAS CUSTODY OF THE CHILD. IF THE PUBLIC SCHOOL
46 ADMINISTERS THE NATIONALLY STANDARDIZED ACHIEVEMENT TEST AS PROVIDED IN
47 THIS PARAGRAPH, THE TEST RESULTS SHALL NOT BE INCLUDED IN THE SUMMARY
48 REPORT AS PROVIDED IN SECTION 15-743.

49 2. The child is attending a regularly organized private or
50 parochial school. THE PARENT OR GUARDIAN OF A CHILD ATTENDING A PRIVATE OR

1 PAROCHIAL SCHOOL SATISFIES THE CONDITION OF THIS PARAGRAPH BY FILING AN
2 AFFIDAVIT WITH THE COUNTY SCHOOL SUPERINTENDENT STATING THAT THE CHILD IS
3 ATTENDING A SCHOOL WHICH PROVIDES INSTRUCTION IN THE SUBJECTS GIVEN IN THE
4 SCHOOLS OF THIS STATE, AS PROVIDED IN SECTION 15-203, SUBSECTION A,
5 PARAGRAPHS 15 THROUGH 18, AND THE CHILD IS ATTENDING ~~taught by competent~~
6 ~~teachers~~ for the full time that the schools of the school district are in
7 session.

8 3. The child is in such physical or mental condition that
9 attendance is inexpedient or impracticable.

10 4. The child has completed the common school courses prescribed by
11 the state board of education.

12 5. The child has presented reasons for nonattendance which are
13 satisfactory to a board consisting of the president of the local governing

1 board, the teacher of the child and the probation officer of the superior
2 court of IN the county.

3 6. The child is over fourteen years of age and is, with the consent
4 of his parents or guardian, employed at some lawful wage earning
5 occupation.

6 7. The child is an enrollee in a work training, career education,
7 vocational or manual training program which meets the educational
8 standards established and approved by the department of education.

9 C. A person violating any provision of this section is guilty of a
10 class 3 misdemeanor.

Approved by the Governor - April 22, 1982

Filed in the Office of the Secretary of State - April 22, 1982

DEFINITION OF A SCHOOL UNDER GENERAL
SCHOOL LAW

ACT NO. 828

HOUSE BILL NO. 1782

An Act to amend and reenact Section 236 of Title 17 of the Louisiana Revised Statutes of 1950, relative to the definition of a school under general school law, and otherwise to provide with respect thereto.

BE IT ENACTED BY THE LEGISLATURE OF LOUISIANA:

Section 1. Section 236 of Title 17 of the Louisiana Revised Statutes of 1950 is hereby amended and reenacted to read as follows:

236. Definition of a school

For the purposes of this Chapter, a school is defined as an institution for the teaching of children, consisting of an adequate physical plant, whether owned or leased, instructional staff members, and students. For such an institution to be classified as a school, within the meaning of this Chapter, instructional staff members shall meet the following requirements: If a public day school or a nonpublic school which receives local, state, or federal funds or support, directly or indirectly, they shall be certified in accordance with rules established by the Board of Elementary and Secondary Education; if a nonpublic school which receives no local, state, or federal funds or support, directly or indirectly, they shall meet such requirements as may be prescribed by the school or the church. In addition, any such institution, to be classified as a school, shall operate a minimum session of not less than one hundred eighty days. Solely for purposes of compulsory attendance in a nonpublic school, a child who participates in a home study program approved by the Board of Elementary and Secondary Education shall be considered in attendance at a day school: a home study program shall be approved if it offers a sustained curriculum of a quality at least equal to that offered by public schools at the same grade level.

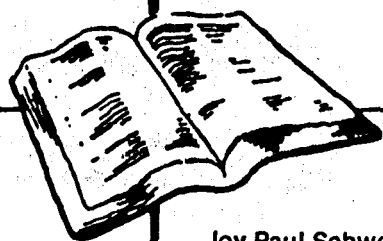
Section 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of this Act which can be given effect without the invalid provisions, items, or applications, and to this end the provisions of this Act are hereby declared severable.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed.

Approved Aug. 1, 1980.

Bible Baptist Church

5th AND CENTRAL - SIDNEY, MONTANA 59270 - (406) 482-3706



Joy Paul Schwenke
Pastor

February 9, 1983

TO: House Committee on Education and Cultural Resources

FROM: Rev. Joy Paul Schwenke
109 5th St. SE
Sidney, Montana 59270

RE: HB635

Mr. Chairman, Committee members:

I speak in opposition to HB635. There are several things wrong with the bill, which render it unacceptable.

First, the bill is an intrusion into the church's ministry by the state. The federal and state constitutions guarantee the separation of church and state. This applies not only to Sunday services, Mid-week Prayer time, Weekday Bible Clubs, Youth activities, Vacation Bible Schools, and Bible Camps, but also to the church's educational ministry. I call your attention to the recent court ruling in Michigan, which ruled that the state has no legal authority to regulate church staff or curriculum. Although some argue that education is secular not purely spiritual, I remind you that we are commanded Biblically to "train up a child in the way he should go..." (Prov. 22:6). We are commanded to teach him a God-centered view of life. When the public schools do not teach him Biblical standards, we have no choice but to educate him outside of the public schools.

Let me give a specific example of an unconstitutional act if this bill were to pass. Our school is operated by our church. It is a ministry of our church. The school board is elected by our church. I, the pastor, serve as the administrator of the school. Our assistant pastor serves as the head supervisor in our school. Although we are both qualified to teach, having taken courses of study in College and post-gradu-

ate work for such, we would not be accepted under the proposed bill. That would put the state in the position of approving, or actually disapproving of our church staff and ultimately our church ministry. This is not only unconstitutional but unBiblical. The Bible says that Christ is the head of the church, not the state. Yet the state is virtually setting itself up as the head of the church (or an authority higher than the church) by trying to approve its staff and curriculum.

I am opposed to HB635 also, because the bill would use the state standards of education for the standards of the Christian and private schools. If these standards have been effective in maintaining quality in the public schools, there may be some justification for trying to apply them to the private schools. But they have not done so. Certification has not guaranteed good teachers. Neither has state approval of local schools guaranteed good education. Achievement test scores have dropped 20 straight years, except for a miniscule rise this past year. It is a sad fact that Jim Jones had every license the state could put on him, but this did not check or halt this terrible catastrophe. I simply assert that your standards have not worked to keep high standards of education in the public schools, neither will they in ours. Furthermore, by trying to attack abuses through certification and education equivalency, you will only fail. There is a better way to attack them.

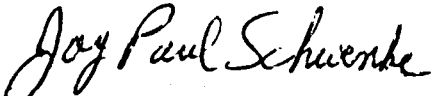
I also see a problem in letting the county superintendents be the inspectors or approvers. Although these are sincere people, they are actually our competitors. The state is in competition for our children, because of the additional state and federal aid they get per pupil. This is an incredible conflict of interest and would not be tolerated in any other area of business.

My last thought concerns the children. No matter what the state does, it cannot love the children more than the parents. Parents are turning to private schools because of their concern for their children. In addition to paying taxes to support the public schools, they must pay tuition costs for the private schools. Parents should not be assumed guilty unless proven innocent. Yet, HB635, assumes that every school and parent is guilty until proven otherwise. Legitimate abuses should be prosecuted through regular channels of law, not by administrative declaration.

Our schools are not huge; they are not fancy. But they teach reading, 'riting, and 'rithmetic. They instill values, principles, and hope in children's hearts. They work. They worked before this bill

was proposed. . They will work after this bill is debated and disposed of. Please, leave us alone. You are welcome to visit our schools, you are welcome to copy our methods. We ask simply, to be exempt from your regulations. We ask only to be left alone.

Respectfully submitted,

A handwritten signature in cursive script that reads "Joy Paul Schwenke".

Joy Paul Schwenke
Sidney, MT

WITNESS STATEMENT

Name Glenn R. Lindsey Committee On _____
Address Bx 478 Valer, Ind Date Feb 9, 83
Representing Grace Gospel Church Valer Support _____
Bill No. 635 Oppose ☒
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

Violation of 1st Amendment guarantee that Congress (legislative bodies)
shall not regulate church or cause them to come under the authority
of the Congress.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Mrs. Penney Jerome
3632 Rainbow Dr.
Helena, MT 59601

Exhibit 26

February 8, 1983

House Education Committee

Dear Representatives,

I write in opposition to House Bill 635. After having listened to the Senate hearings on SB257 and SB331 I have a respect for the complexity of this issue. To each person, depending upon their frame of reference, it's a different issue. I would like to share a testimony from what would represent the majority of constituents opposing this bill - concerned parents and simple, ordinary, tax-paying citizens.

Our desire to fulfill our God-given responsibility to raise and train our own children is the heart of the issue. We do not believe our children are the responsibility of the State, County, or Public Educators, no matter how well meaning they may be. We also believe we have the right to protect their innocence and require adherence to a strong moral code. A system that advocates birth control over sexual purity, tolerates profanity and rebellion, and teaches situational ethics will not produce the desired quality of character in our children. These concerns, in addition to the consistent decline in the academic achievement of Public School students force us to seek an alternative. As parents we are not going to remove our children from one unsatisfactory situation and pay to place them in a worse one. These "unregulated" private schools are doing more than a satisfactory job, and in many cases outstanding!

My 21-year-old developmentally disabled sister graduated after 16 years of Public Special Education. Despite the efforts of many well trained, certified, even caring individuals, she was unable to read. She attended Grace Gospel Academy 1981-82 (1 academic year) and is now reading between 2nd and 3rd grade level. For years she had struggled so hard without success. Undoubtedly this achievement is an answer to prayer, but one accomplished through Grace Gospel Academy.

My 16-year-old brother is another, even more miraculous example of the good fruit being born by these schools. He has attended Grace Gospel Academy since Fall, 1981 after attending 1 year in another private school, and 7 years in Helena Public Schools. During his public school years he was diagnosed "problem child", with "behavioral learning disabilities." After 4 years of frustration for child, parents, and teachers he was shuffled into a supposed "special class for children with similar behavioral difficulties." My parents had been assured it was not a Special Ed class for retarded children. Although his aptitude scores indicated above average intelligence he was indeed placed in a class for disabled children. When my parents questioned the obvious status of his classmates they were informed there had been no money for the other class, and this was to be his fate. After 2 lost years there, my brother had had enough. He was not being challenged academically, and had to endure much very negative peer pressure. He had determined not to enter 7th grade Special Ed at the Jr. High. In desperation my mother entered him in a private Christian school. That was the best thing that ever happened to him and her.

Exhibit 27

WITNESS STATEMENT

Name Pastor Henry Bauma Committee On Education
Address Choteau, MT 59212 - Box 219 Montana Date Feb. 9 - 83
Representing Teton Christian School Support _____
Bill No. 635 Oppose ☒
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Mr. Chairman & members of The Committee (Name)

Questions of values?

Bill 635

Should we Purpose a Bill as Christian Educators
- that the Public Educators could not live with?
is this Bill reasonable?

A. Could we Purpose The Public Educators are
to receive a Christian Accreditation or
to be Certified with the Christian school
system?

B. Should we enforce education to be
based on the word of God? When
The Bible is not even Permitted in the
Public school?

Prov. 22:6 "Train up a child in the way
he should go: and when he is old, he
will not depart from it."

1-8 - "He that soweth, inequity shall reap
Vanity"

2. Do we have a Conflict who owns, & should
Teach & Train?

Psa. 127-3 - "For children are an heritage (Possession
of the Lord" & the fruit of the womb his reward"

Gal. 6-7 - "Be not deceived, God is not
mocked: for whatsoever a man
soweth, that shall he also reap"
but he that soweth to the spirit
shall of the spirit reap life everlasting"

- We Cannot Come against our Constitution

3. in which way should strengthen & regular
education?

A. don't we salute the flag, regulating
as under God?

B. does not our Pres., judges etc. to swear
in with the Bible

C. Does not Congress open in Prayer
asking guidance of God?

D. should our state must trust our
Church's as irresponsible?

H. Question

A. as Isa - 5 - 13. "Therefore my People (Church)
are gone into Captivity, because they
have no knowledge, & their
honourable men are perished &
their multitude directed up with
"thirst"

B. Luke 18 - 16 "But Jesus called them unto
him & said - suffer little
children to come unto me, &
forbid them not: for of such
is the Kingdom of God

-The above Name Bill 635-

WITNESS STATEMENT

Name Steve Valentini Committee On 635
Address 140 S. 4th West Date 2-9-83
Representing Missoula Community Chapel Support _____
Bill No. 635 Oppose XXXXXXXXXX
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

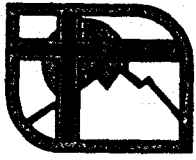
1.

Turned in a Written Testimony.

2.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.



Missoula Community Chapel

140 South 4th West, Missoula, Montana 59801 • Phone (406) 721-7804 • Stephen R. Valentine, Pastor

February 9, 1983

House Education Committee
Capitol Station
Helena, Montana 59620

Representative,

Parents are withdrawing their children from the public school system and enrolling them in private, parochial and church school with increasing numbers each year. This is alarming public educators and administrators. As a result of their concern House Bill 635 has been introduced which will put private schools under the regulation of the public system and give the public educators control of private schools.

HB-635 indicates certification of teachers, administrators, and state approval of facilities will insure these private school students will receive a quality education. This hasn't worked in the public school system - why should it work in the private sector?

The quality of education students are receiving should be based on what the students know and have learned, not on state certification of teachers or facility. Certification does not insure quality education when the certification does not even insure the quality of the teacher.

The parents are responsible for their children, so let parents choose how they want their children educated. It is not the state's responsibility.

I would like to submit a possible solution to all concerned. Set up a standardized testing program where all students are annually tested. This would let you know who needed regulating: private schools or public schools. Please vote NO on HB-635.

Sincerely,

Stephen R. Valentine

SRV/cmv

TESTIMONY

Exhibit 29

TO: The Committee on Education
Montana State House of Representatives

CONCERNING: House Bill #635

BY: Wilamena Berg
Darby, Montana

INTRODUCTION

Thank you for allowing this opportunity to present my views regarding the education of my husband's and my children. I am sorry that I am not able to attend the hearing on HB #635.

With regard to HB #635, it sorely grieves my heart that it does not, in any way, take into consideration what God says in His Word about the responsibilities of government, parents, and children in the area of education. After all, God created all things for His pleasure (Revelation 4:11, Colossians 1:16-19) and established the institutions of family, church, and government; therefore, He expressly tells us how they are to operate in order to glorify Him.

I am the mother of three boys, two of whom attend Darby Baptist Temple church school and the other of whom (almost 4 years old) is learning to read, write, and do arithmetic at home. My husband, who is also submitting testimony, and I believe that God's Word is the only standard for faith and practice. Therefore, all authority--whether in the home, the church, business or government-- must meet the criteria of standards set forth in His unchangeable Word. That is the reason why it is so important to us that you, our representatives in government, take into consideration God's Word concerning the rights and responsibilities of government, parents, and children.

You have testimony concerning parental and governmental responsibilities and rights; so, I wish to speak on behalf of my children concerning their rights and responsibilities, as set forth in God's Word.

CHILDREN'S RIGHTS

The only children's rights that exist are the ones which line up with God's Word. The following principles give the gist of what God has to say about children and their right to instruction:

1. to have parents who love them and correct them with both the rod and reproof in order to bring about wisdom (Proverbs 3:12, 29:15; Hebrews 12:3-11)

2. to have parents who bring them up in the nurture and admonition of the Lord (Ephesians 6:4)
3. to have parents who train them in the way they should go; so that when they are old, they will not depart from that way (Proverbs 22:6)
4. to have parents who teach by speech and example God's commandments, as found in His Word, diligently, consistently, at all times and in every place (Deuteronomy 6:6-9) (This would not be possible with HB #635.)

And these words, which I command thee this day, shall be in thine heart: And thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up. And thou shalt bind them for a sign upon thine hand, and they shall be as frontlets between thine eyes. And thou shalt write them upon the posts of thy house, and on thy gates.

Please notice that these passages of scripture are directed to parents, not to persons "interested" in the welfare of children in general. God has commanded parents in the area of training their own children; so, parents, whether Christian or not, are accountable to only God for the training, or lack of training, of their children. HB #635 prohibits the free exercise of the God-given responsibility.

CHILDREN'S RESPONSIBILITIES

God is explicit about children's responsibilities in education:

Colossians 3:20 Children obey your parents in all things; for this is well pleasing unto the Lord.

Proverbs 6:20-23 My son, keep thy father's commandment, and forsake not the law of thy mother: bind them continually upon thine heart, and tie them about thy neck. When thou goest, it shall lead thee; when thou sleepest, it shall keep thee; and when thou awakest, it shall talk with thee. For the commandment is a lamp; and the law is light; and reproofs of instruction are the way of life.

Children will answer to God concerning their behavior and attitude toward their parents and the instruction their parents have provided for them (Galatians 4:1-2.)

PROTECT MY CHILDREN'S RIGHTS

Please take heed to God's written Word in this matter of rights and responsibilities in education of children. House Bill #635 will not allow my children to receive God-honoring, God-fearing, Bible-based instruction to which they have a right. By not allowing my children to receive the type of instruction adherent to the Word of God, you tamper with their preparation to meet the Lord God of the universe! Therefore, to protect my children's rights, which are my God-given responsibilities as a parent, I urge you to not even consider House Bill #635 in any form.

Exhibit 30
2949 Weaver Avenue
Billings, Mt. 59101
February 8, 1983

Dear Representative,

I am writing to oppose the bill that has been submitted by the County Superintendant.

This bill would put State restrictions upon churches and would attempt to force closure of church schools.

I am opposed to any intervention from the State involving church schools. Constitutionally, we are guaranteed this right of separation.

One issue that I am opposed to involves teachers. Just because a teacher carries the State stamp "certified" does not mean he is qualified to teach. A State-trained teacher is nothing more than a public school teacher even if he is put into a Christian school setting. My opposition to State-trained, "certified" teachers is not because I am willing to accept sub-standard teachers, but rather it is because the Christian school philosophy and the public school philosophy are at opposite poles. Christian principles put Christ as the highest authority for all aspects of life. The public school philosophy may allow for private religious beliefs, but those must be left outside the doors of public schools. Law upon law has forced prayer, the Bible, and Christian beliefs about creation and morals out of the public schools. These laws have also forced many Christians out of public schools. When God has been removed, the religion of humanism is there to quickly fill in the void. I am opposed to my children being forced to listen to the doctrines of humanism five days a week.

I am opposed to the County Superintendant's planned intrusion into church facilities to be sure they are adequate. We are certainly concerned for the safety and health of our own children -- far more than the State could be. We are confident that the State Superintendant would not like to check our church facilities on Sunday. We feel church control on Monday is just as much a violation as church control on Sunday.

Please consider these thoughts from a concerned mother and teacher of school-age children enrolled in a church-operated school.

Sincerely,

Carol Daugherty
Carol Daugherty

Feb. 9, 1983

Exhibit 31

This letter is to inform you that we consider all legislation such as proposed in S.B. 253 and H.B, 635 to be in violation of you oath of office to defend and support the Constitution of the United States, especially the First Amendment, which prohibits making laws that interfere with the free exercise of religion.

We further believe that such legislation is in direct opposition to God's expressed plan that parents, rather than the state, have the charge and responsibility to train and teach their children.

No amount of arguments about "compelling interest of the state", nor "children's rights", nor other subderfuge will change these facts. It must be clear to you from what is already happening in other states that there are many people who will not recognize the validity of "laws" which destroy the freedom of religion.

One of the strongest convictions that led to the founding of this nation was the determination to keep religion free from government control. We believe it is urgent at this time for you to consider the far reaching effects of the legislation before you and reject it with a strong voice that says clearly that freedom will be preserved in Montana. The best way to assure that there will not be another war for religious freedom is to not sow the seeds that are certain to grow into such a harvest. H.B. 635 is unconstitutional and would result in the greatest termoil ever to disrupt the communities of Montana. It is our sincere hope that you will see the true nature of this kind of legislation, and perceive the certain disaster that would follow in the wake of efforts to enforce it. Let Montana be the state that leads the others in maintaining Constitutional religious freedom.

Gene & Bonnie Boulton
1104 N. Pinecrest Dr.
Bozeman, MT 59715

WITNESS STATEMENT

Name MICHAEL MCGOVERN Committee On EDUCATION
 Address 311 BEN HOGAN DR. Date 2-9-83
 Representing MISSOULA FOURSQUARE CHURCH Support _____
 Bill No. 635 Oppose X
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. state legislators should represent the people voice and not special interest groups such as county school superintendents. The general public.
2. is not demanding this.
3. There are presently enough laws & ordinances on the books to ensure against abuses. we need no more.
4. How can a public education system be given supervisoryal controls over the private sector and keep their motives pure, while local public systems are losing \$1500.00 per child per year that leaves the public system.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Russell Johnson Committee On Ed.
Address 127 Humboldt Loop Date Feb 9, 1983
Representing SDA Church Support _____
Bill No. H.B. 635 Oppose ☒
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Sympathy w. Bd. of Public Ed.

However

2. Infringes on religious rights

3. Age of intolerance approaching

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Richard Treise Committee On Ed
Address 316 N Park Helena Date 2-9-83
Representing MACSS Support ☒
Bill No. 635 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Constitutional Protection of Christian Schools

by
William Bentley Ball



Executive Director Paul A. Kienel and Attorney William B. Ball

Mr. Ball is a constitutional lawyer who has been lead counsel in litigations in 20 states and in 19 cases in the Supreme Court of the United States, including the landmark decision in the *Amish Case*, *Wisconsin v. Yoder* and *California v. Grace Brethren et al.* He is a member of the bars of New York, Pennsylvania, Supreme Court of the United States; U.S. Court of Appeals, 7th Circuit; U.S. Court of Appeals, 3rd Circuit; U.S. Court of Appeals, 5th Circuit; U.S. Court of Appeals, 9th Circuit; U.S. Court of Appeals for the District of Columbia Circuit.

Constitutional Protection of Christian Schools

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Constitutional Protection of Christian Schools

by William Bentley Ball*

Two views are gaining currency in the United States these days with respect to "the things that are Caesar's." One is that which has appeared with renewed and dangerous emphasis among the federal and state bureaucracies these past five years — namely, that *everything* is Caesar's — that is to say, that almost all human activity must take place by permission of government and that, in particular, the activity of education is a prerogative of the state (whether that education is religious or not). I need not deal with this concept at great length here: three state supreme courts (in Vermont, Ohio and Kentucky) have directly contradicted that view. The Supreme Court of the United States, in its 1972 decision concerning Amish parents, went a great distance in doing the same thing. That Court has not yet passed upon all the issues which have arisen concerning religious liberty in education, and that is one of the reasons why it is critically important that all persons engaged in religious, educational or welfare work need a very exact understanding of what government may and may not do under the United States Constitution.

Parenthetically, I must here warn against hip-shooting litigation. It is very easy, when trouble comes along, to say "Let's go to court" and to add the rallying cry, "We'll take this all the way to the Supreme Court if we have

* Partner, Ball & Skelly, Harrisburg, PA

to!" But here's the rub: the Supreme Court has not definitely spoken on a number of constitutional issues related to religious education. And we have no guarantee that the Supreme Court (or any other court in the United States) will necessarily rule rightly in test litigations which are brought. As an attorney who has been involved in much constitutional litigation in the field of religious liberty, I can say that the first rule to be observed is one of great caution toward starting lawsuits. Litigation is a last resort. Sometimes it is best to *defend* in litigation rather than to start litigation. Litigation, in any event, should be undertaken only when it is perfectly clear that all other methods are hazardous, and litigation should *never* be undertaken unless it is solidly prepared, with painstaking effort. And here I should add, that the preparation of litigation is necessarily a time-consuming business and that the burden of conducting even one constitutional litigation may be great enough to involve most of the time of two or three lawyers for protracted periods. Haste in litigation may produce immeasurable woes, not only in terms of the particular client's interests but also in terms of precedents which may prove ruinous to everyone.

All of the foregoing ties into the subject of this paper, which relates to the basic question of what rights, if any, government has with respect to religious schools. That brings me to the second view to which I referred above.

There has been widely circulated in fundamentalist circles, over the past two years, the view that, since God has founded the Christian school, government has no rights whatever respecting it. This view is without

any foundation whatever in the Constitution of the United States. And here I am referring to a view of our Constitution which regards religious liberty as the most sacred of our liberties.

The start of our inquiry must be what I often call "the preamble" to the Preamble of the Constitution — namely, the Declaration of Independence. The Jewish liberal constitutional lawyer, Leo Pfeffer, has often remarked that our Constitution has a complete secular purpose, as is evidenced by the Preamble, which nowhere mentions God. But it is my own view that there is a preamble to that Preamble — namely, the Declaration of Independence. The Declaration very plainly states that our rights come from God, not from the state. But the Declaration also recognizes the concept of government. It says "that to secure these rights, governments were instituted among men, deriving their just powers from the consent of the governed." Here we see it recognized that government has a job to do — "to secure these rights." We also see it stated that government only has powers which are "just" powers. What are these rights? They are stated broadly: "life, liberty and the pursuit of happiness." Our courts have, from the very beginning, recognized that those three bundles are related to a thing which philosophers have called "the common good" — or the good of everybody. If the common good is not recognized, then everybody's individual rights are placed in jeopardy.

Let me illustrate: suppose that in the matter of traffic safety, we forget about the common good and that therefore, there would be no speed limits and no traffic signals. Even if all citizens were virtuous and tried their best to drive with care, the chaos and carnage

resulting from the absence of traffic laws would be stupefying. And I think you would agree that there would still be a lot of trouble if one group — namely clergymen — were exempted from the traffic laws, or even if the exemption extended only to clergymen engaged in a trip for religious purposes. Now the traffic laws do not exist just to protect me. I derive great benefit from them individually, but so does everybody else. They serve a common good.

I could multiply examples, as they pertain to many criminal laws, the national defense, etc. If you will now take a look at the actual Preamble to the Constitution, you will see a whole series of "common good" purposes stated as to which government — for the sake of the common good — is given powers and as to which very careful restrictions are placed upon government in the exercising of those powers.

The long and short of it is that if we do not have government for the purpose of protecting the common good, we have a society of chaos and danger, a jungle in which every person has to look out for himself in order to survive.

In terms of religious liberty — and, in particular, with respect to the Christian school — are there any "common good" considerations which ought to be observed and as to which government may play a role? I realize that some pleas for defiance of government are hard to resist, especially when they are made with high emotion and contain citations to the Bible and the Constitution. A sort of euphoria can take over as one is made to feel that he is in the exact same slot as the early Christian going to face the lions in the arena. Well and good, if we are right. But God gave us reason, and

we ought to apply our reasoning powers very solemnly, carefully and deliberately before we make our decision to defy the state. An important step in the reasoning process is to inquire whether the state's interest is one which is truly for the common good.

So far as religious education is concerned, the "common good" area in which the state may act is very small indeed. The two broad principles are the following:

1. Government may not dictate, control or supervise the religious mission of a religious school, whether that school is operated by a church or not.
2. Government may pose *reasonable* requirements pertaining to health, safety, sanitation and a basic core of learning.

These two principles require explanation. Under the first heading, it is very clear that government may not dictate, directly or indirectly, the curriculum of a Christian school (except as to the "core" which I define hereinafter). It may not dictate teaching methods. It may not impose teacher qualifications (including, of course, teacher certification). It may not dictate textbooks or instructional material. It may not require governmental approval, certification or any other form of licensing of the school. It may not conduct inspections of the school with regard to any of the foregoing matters or with regard to pupil performance or teacher performance. It may not require the school to belong to surrogate private accrediting agencies or to be passed upon by them. It may impose only very limited reporting requirements as discussed later. It may not control or dictate wages or hours of employment within the school. It may not dictate its legal structure (for

example, to be incorporated or chartered). It may not play any role with respect to labor relations within the school or certify the teachers of that school as a bargaining unit under the National Labor Relations Act or any state labor relations act. Government may not apply to the school laws relating to discrimination on account of religion, sex or handicap. While serious questions remain to be solved with respect to discrimination on account of race, so far as the admission of students is concerned, government has no power to impose on the Christian school a program of affirmative action such as was proposed by IRS in 1979 in its Proposed Revenue Procedure respecting racial discrimination.*

As to compulsory attendance laws, or truancy laws, serious questions remain to be resolved by the courts. The compulsory attendance laws of several of the states are plainly unconstitutional and could not properly be complied with. Those state truancy laws which require a child to have a basic modicum of education in a safe and healthful environment are, in my view, valid. I regret that, to expose this whole subject in proper detail, would take far greater space than the plan of this paper permits.

As to the second principle: government may impose reasonable fire regulations. "Reasonable" — not every fire regulation is reasonable. In one state recently the state fire marshal attempted to impose upon a Christian school a State Fire Code. The Code was drawn broadly enough to cover every sort of institu-

*There are some dicta in U.S. Supreme Court decisions which are contrary to the foregoing. But those dicta appeared in contexts relating to state aid to religious schools and did not consider the issue of government "entanglement" with religion.

tion, public or private. Research disclosed that the Code had been developed essentially with respect to industrial buildings. It contained many provisions which made no sense whatever as applied to a small school building. It contained references to a national safety code which had been developed by safety experts — a remote body which had worked up a set of regulations which, in their subjective judgment, were ideal. The school could not have begun to comply with all of these regulations. To sustain even part of the cost of making the changes which they required would have put the school out of business financially. Furthermore, a number of the regulations were completely unworkable in terms of a small school setting. Mainly, they were unnecessary for the protection of the children. Having said all that, it is nevertheless clear, that governmental authority may make requirements for the protection of school children against fire. The reasonableness of these regulations is usually best determined by experienced, commonsensical local officials or, if the question becomes one involving witnesses in court, practical-minded, experienced engineers or contractors. Fire protection is clearly a "common good" matter, and it is necessary that government require reasonable fire protection for all children. I see no violation of constitutional principle here at all. Further, I see a very important point with respect to potential liability of the school in damage actions by parents whose children have been killed or injured due to fire. If the school is able to show compliance with fire laws, so far as these are reasonable, the school will likely be protected from such liability claims.

The same considerations apply to other aspects of child safety. Again there must be the most careful

scrutiny to assure, on the basis of competent professional advice, that the state or local requirements are reasonable. An aspect of safety requirements which often comes up is the question of whether a private religious school may be required to report to some public official the names and addresses of students enrolled therein. This is a "gray" area, but, if we agree on the concept of a reasonable compulsory school attendance law, then I believe that we could agree to the making of such reports. The reasons for the reports — or, to put it differently, the only valid reasons for such reports — are (a) to help locate a child who may be missing, (b) to assure that the child is in compliance with the compulsory attendance laws. While the latter reason seems to me to be of possible questionable validity, the former reason appears to me strong especially in this day of so much molestation of children. Immediately, however, I note this warning signal: I consider the state entitled to this information solely for the above two purposes and not for any other purpose. In no sense should the Christian school, in making such report, indicate that it is thereby subscribing to the idea that the public educational authorities have supervisory control over the religious school. That point being made clear, I do not see any constitutional difficulty in the school's making it known to some public official that a certain child is enrolled in, and will be daily located in, the school.

As to health requirements, a word of strong warning at the outset. Under federal legislation states are devising State Health Care Plans and under some of these which I have seen, the definition of "health" is so broad as to embrace virtually any kind of human conditions — mental, psychological, social, economic, sexual, etc. I

see the state's "health" requirements as valid only in an extremely narrow area. These reasons are reasons closely allied to the fire and safety considerations expressed above. Reasonable kitchen, food and laundry requirements may be imposed — and for all of the reasons I have stated above. Law, properly understood, has an educational dimension. For example, the fact that we still have, in a few states, laws against fornication, represents a teaching that our society condemns fornication. Here the law expresses a Biblical principle, and it is well that it should. Also, therefore, when the law provides that a kitchen in a school not be a source of disease, and provides elementary implementing requirements, this undoubtedly serves a useful educational function. Competent local medical advice can ordinarily be obtained as to the reasonableness of the imposition in question. Immunization presents certain special problems. Certainly where there is an epidemic, the state has constitutional power to impose immunization requirements. We must beware, however, of the word "epidemic." Currently, health authorities are complaining of an "epidemic" of venereal disease. Venereal disease is indeed of "epidemic" proportions, but it is spreading mainly through the voluntary acts of individuals. We should be wary of any attempt of health authorities to impose, within Christian schools, any form of venereal disease control.*

As to curriculum, it is undoubtedly constitutional that government require that all children physically and mentally capable receive a basic education (as I will

*I do not here deal with the gigantic problems posed by the efforts of public authorities to use the tax moneys of all citizens, and the apparatus of government itself, to impose requirements upon public schools which are at complete variance with Christian morality.

define the term "basic"). There would appear to be a compelling state interest that a child learn the language of his country (reading, writing, spelling), its history, geography and form of government, and how to compute. Our society would be chaotic if people lacked these forms of knowledge — especially English communication. I think you can see evidence of the chaos as you note the growing illiteracy of children emerging from the public schools. The growing dependence upon sensation, audio-visual sound and imagery in substitution for true education, the use of reasoning powers and reliance upon the mind, is a very great danger to our society at the present.

It would appear that the Christian school would willingly concede that there is a very strong "common good" interest in children's learning the "basic branches;" however, beyond this, all subjects must plainly be optional. As we brought out in the case which the Christian schools of North Carolina so courageously waged against the North Carolina competency testing statute, there is no agreement in the general community as to anything beyond the basics, and that proves that there is no compelling state interest in imposing anything beyond the basics. About every five years some pressure group comes forward and says that a particular subject is critically necessary. We have seen these vogues of the New Math, courses in Consumerism, Environment, Free Enterprise, etc. Many Christian schools feel they cannot, in conscience, offer courses in Consumerism — which are essentially courses in materialism.

May a Christian school be required by the state to report levels of achievement by its pupils in the "basic branches"? The question is not an easy one to answer.

On the one hand, suppose that a school advertising itself as a "religious" school, is in fact a herding place for children in a warehouse or garage. Suppose, further, that the school advertises that it teaches the "basic branches" and that, in fact, it does, but in hit-or-miss fashion — very badly — the end result being that the children learn little or nothing. Is not the state entitled to some evidence that the course offering is not a fake? If it cannot, then what is the point of requiring the "basic branches" at all? If a parent can comply with compulsory attendance laws by sending his child to a school which merely says that it offers the basic branches, but in real fact does not, what's the point of the compulsory attendance law?

On the other hand, if the state can measure the school's performance in the "basic branches," does this not really put the state in the position of running the school? If a state law would merely require that the schools submit achievement results in the basics to state authorities, what would be the point if the state could not then pass upon the level of achievement? Why give the state that information if the state can do nothing with it? Suppose that the school makes an honest report to the state authorities that shows that its children are performing below satisfactory levels on the Stanford Achievement Test: what would be the point of a law which gave the state that information but provided no consequences? But if the state should be empowered to pass upon the results, where does the power of the state end? If it can impose sanctions, then it can impose sanctions representing the state's standards.

• My answer to these opposing policies is to say that the state should not be deemed to have power to review

achievement results in the schools. While I realize that fake and fraudulent schools may be established and that it is quite possible that some private religious schools will do a bad job in the educating of children, I believe that there are two immensely important factors which protect the "common good" in this matter: (a) the parent market, (b) existing state laws relating to fraud, safety, and health. The parent market is critically important. These are days of horrendous inflation, taxation and loss of employment. Parents are *not* long going to invest money in schools which are worthless. Parents who care enough about their children to enroll them in private schools are, by and large, parents who are keenly interested in their children and willing to sacrifice for them. This is a practical fact of life. In case after case I have seen private school parents who are men and women of excellent intelligence and deep love for their children. I believe that the parents, the children and the public are well protected by the "parent market" factor. There are plenty of laws to protect parents and children against fraudulent or dangerous schools. These laws can be, and are, enforced in all fifty states, and there is not good reason for imposing an overlay of additional structures of law in view of that fact. Weighed against the dangers of state supervision, surveillance, inspection and control of private religious education, it is very clear that the schools may not constitutionally be required to subject themselves to evaluation by public officials — which can only mean the imposing of public school standards on private religious schools — and therefore making them a carbon copy of the schools which the state owns and runs. It must never be forgotten that the Bible-centered Christian school was not founded by the state and is

not funded by the state. It is not a creature of the state and may not be run by the state.

Lastly, it is important to note that public education is 100 percent state-controlled and state-funded. Yet it is precisely in the public school that education failure has been so noticeable — in terms of illiteracy, low achievement, dropouts, push-outs, violence and drugs. That merely proves that no amount of government control of education — even 100 percent control — apparently gives the slightest guarantee of quality in education.

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The foregoing constitutes a summary of the constitutional principles which I believe to be involved with respect to "the things that are Caesar's." Not many things are, when it comes to Christian schools. Intrusions by the state in the "prohibited areas" which I have discussed must be vigorously resisted. But also we must abjure emotional crusades which would plunge the Christian schools into needless — and wrongful — assaults upon government. We must never forget that when we speak of "government," we are *speaking of something that is ours*. We must always keep reminding Americans that they own their government. The government is not "they," and when public officials go astray, we must rebuke them and bind them down to their role as our servants. I am greatly distressed by the essentially *unAmerican* character of statements I have recently read which would, on the basis of a lack of understanding of our constitutional law, make it appear that *no* things are Caesar's — that is, that there is no "common good" area which

we the people, as a people, have a responsibility to protect. As a veteran of several decades of fighting off governmental intrusions on private liberties (not only in the educational area but in the area of charitable foundations, churches, private hospitals, child-caring agencies, the marriage relationship, environment and private free enterprise), I feel myself somewhat qualified to speak with special sensitivity on the subject of governmental lurching into the private sector. During World War II I recall an incident in which a commander, inspired with zeal to fight the Nazis, inadvertently caused his own American troops to be shelled. No one could doubt this man's zeal: he was eloquent zeal personified. His trouble was that he was all zeal, and once his enthusiasm had expended itself through his gun batteries' carrying out his orders, it was not the enemy who got hurt but his own troops. The Christian school movement is one of the great assets that our beloved country now possesses. It must not be put in danger by trigger-happy tactics. We Americans have great constitutional traditions, and we must preserve them. In these we find, and must constantly reanimate, a radical defense of religious liberty seen in the light of a Christian view of the common good. □

A Victory for Christian Schools

Basics and the Bible are freed from state control

It is 8:30 a.m. on a wintry Michigan day. In a classroom decorated with a large Scripture verse and accordion-pleated angels sit 27 third- and fourth-graders. The mood is quiet and serious. Lessons start with the Pledge of Allegiance, then a stanza of *America*. The students pray aloud for relatives; they thank God for Bobby's new glasses. For 45 minutes, their teacher, Joel Allen, 28, leads the students through Bible study. "Who made you?" he asks. "God made me. *Job 33: 4*," the children answer. During the course of the 6½-hour day at the Bridgeport Baptist Academy, the students, ages four to 18, are drilled in the basics and the Bible. Says Allen: "We don't consider it a job working here. We consider it a ministry."

The independence of that ministry was resoundingly upheld last week. In a strong, unambiguous decision, a Michigan judge reaffirmed the First Amendment guarantee of separation of church and state by exempting private Christian schools from state supervision of their curriculum and teachers. Ministers, teachers and parents of the Bridgeport Baptist Academy and the Sheridan Road Christian School, both near Saginaw, had charged that attempts by the state's board of education to supervise curriculum and teacher qualifications violated their religious freedom. Judge Ray Hotchkiss agreed, ruling that the board, by imposing its secular standards of education on religious schooling, "interfered with plaintiffs' constitutional right to freely exercise their religion." Said Hotchkiss: "This court fails to see a compelling state interest in requiring nonpublic schools to be of the 'same standard' as public schools in the same district. Such a scheme does not ensure even a minimum degree of quality of education." Hotchkiss, however, did uphold the state's right to impose on the Christian schools health and safety requirements, to which they had never objected.

The fundamentalists were jubilant at their victory. Said Sheridan Road Principal Bill Swain: "We knew our position was strongly supported by the Bible. We thought we had the Constitution on our side. But I didn't expect to get a favorable decision." William Bentley Ball, a leading constitutional lawyer who argued for the two schools, called the judgment "very strong on religious liberty, clarifying the right to teach and the right to learn."

While the decision applies only to Michigan, it may influence other states. As independent Christian



Sheridan Road Principal Swain in court
Demanding separation of church and state.

schools have proliferated over the past decade—with an estimated enrollment of 600,000 students nationwide—so have conflicts with state authorities. In Nebraska, the Rev. Everett Sileven of Louisville was jailed four times in 1982 for defying a court decision requiring him to hire state-approved teachers for his Faith Baptist School. In Massachusetts, Assistant Attorney General Maria Lopez has asked a civil court to impose a \$100-a-day fine on two ministers who operate the Grace Bible Church Christian School in Dracut until they agree to report the

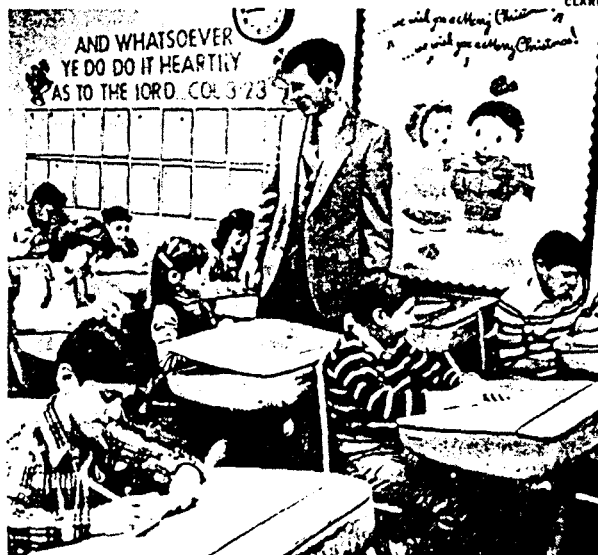
names, ages and residences of their 30 students. In Maine, a major case will be tried in February. The issue: whether the teachers at the Bangor Baptist Church School and some 20 other Christian schools need to have state approval and whether the schools must maintain and report educational records.

These cases involve a conflict between two important democratic values: religious liberty and the state's obligation to ensure that children have access to a free, adequate education. All 50 states have compulsory attendance laws, and ten of them require their private schools to use state-certified teachers. Catholic, Lutheran and Jewish schools for years have accommodated state requirements. But the Protestant fundamentalists who run the new Christian schools interpret both the Bible and their mission more rigidly. The Rev. Gerald Somero, 42, minister of the Sheridan Road Baptist Church, believes that by complying with licensing requirements "we are saying to the state 'you have a right to choose whom God has called to the ministry of teaching.'"

States generally require that teachers be college graduates with a certain number of education credits and practice-teaching hours. In contrast, teachers at the Bridgeport Baptist Academy must be "born again," regard teaching as a spiritual calling and live by biblical standards. They must have some college training, preferably at a Christian institution, but a bachelor's degree is not essential. Nonetheless, some teachers at these schools are highly qualified by any secular standard: Allen, for instance, not only has a teaching degree but a master's in divinity, both from Christian colleges.

In the Michigan trial, the issue of teacher certification turned out to be more of an embarrassment to state officials than to the Christian schools. Education experts could not agree on which standards the Christian teachers needed to follow, nor could they prove any link between certified teachers and good education. Noted Judge Hotchkiss, a former public school teacher: "The overwhelming evidence shows that teacher certification does not ensure teacher competency and may even inhibit it." Since each student who leaves a Michigan public school to attend a Christian academy deprives the local school district of about \$2,000 in state aid, the judge also observed that state officials were hardly disinterested guardians of education. He called state regulation of private schools "an incredible conflict of interest."

Many parent sponsors of the new Christian academies have a deeply rooted animosity toward public schools. In their view, the



Bridgeport Teacher Allen presides over a quiet classroom
"We don't consider it a job. We consider it a ministry."

schools have adopted a godless philosophy of "secular humanism" by requiring classroom discussion of such touchy subjects as sex education and feminism. Because secular humanism is in conflict with the Bible, as these parents see it, it is a sin for them to send their children to public schools. Says Blanche Reinbolt, who has three children at Bridgeport Baptist Academy: "I've seen what certified public school teachers have done for my kids, and it wasn't good."

Among other things, discipline at the academy is strict. Behavior "condemned by the word of God," such as profanity, smoking, lying, fighting, gambling and cheating, is considered grounds for corporal punishment and even expulsion. Before their children are accepted for enrollment, parents must sign a letter authorizing staff members to paddle students for continual offenses. (The letter explains: "Following the administering of the strokes, the staff will pray with your child, assuring him or her of their love.") Says Howard Riles, father of a sixth-grader: "What I hope is that when my daughter goes off to college, she'll have some character."

The Bridgeport parents pay from \$900 for one child to \$1,750 for three or more children. Talented students are motivated to excel; those with less ability at least learn the basics. Like many Christian schools, the Bridgeport Academy uses a core curriculum of social studies, science, math, English and spelling interspersed with Bible teachings. The results make a strong case: at Bridgeport, eighth-grade students taking the Metropolitan Achievement Test averaged tenth-grade levels. At Nebraska's Faith Baptist, pupils scored a year ahead of their public school counterparts on the California Achievement Test.

Michigan officials intend to appeal Judge Hotchkiss's verdict. Says Assistant Attorney General Richard Gartner: "The state now has no process to approve non-public schools." Part of Michigan's compulsory education law says that parents must send children to state-approved schools. According to Gartner, there is now a legal doubt as to whether the compulsory attendance requirement is legal.

Nationwide, there remains much confusion over the constitutionality of state education laws. Says Maine's Deputy Attorney General Rufus Brown, who will argue a similar case in February: "A number of state and federal courts have recognized the legitimacy of minimal standards for teacher qualifications and for curriculum." But Dean Kelley, head of the civil liberties division of the National Council of Churches, maintains, "The U.S. Supreme Court has recognized the right of parents to send their children to schools other than the public schools." The Supreme Court may have to make another decision—this time on what requirements states can impose on both public and private schools. —By Ellie McGrath. Reported by Barbara B. Dolan/Detroit

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01 N. Sanders

Helena, Montana 59601

Phone: (406) 442-2180

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What is to be done?

Quite a bit, says Keisling

By Phil Keisling
Editor, The Washington Monthly

Editor's note: Phil Keisling, author of the following hard-hitting article - taken from a paper one titled "The Class War We Can't Win or Lose" - which has been reprinted by permission of the Public Service Research Council, will address the Chairman's Breakfast 7:30 a.m. Friday, October 22, at the Montana Conference of Education Leadership in Billings.

Let's not kid ourselves. Public education is in mortal danger, and unless its ostensible friends act now, its slide into oblivion will be irreversible. While there's certainly no shortage of ways to improve our public schools, here are some places to start:

should withdraw from their local parent-teacher association chapters. Much as individual teachers may be sympathetic — and many thoughtful teachers are quite disgruntled with their unions — the teachers as a group are, to put it bluntly, the enemy. They're ultimately more interested in protecting their jobs than making sure your children get a good education.)

In taking on the teachers, parents and concerned citizens need to be bold. Rather than boycott the schools they should try to take them over. Parents should visit classrooms and observe teachers. They should apply pressure to school boards and administrators to fire incompetents. They should seek ways to undermine credentialism; for example, urging school districts to hire as teachers able and exciting people who don't happen to have teaching certificates. Citizens will have to fight a lot of little battles, but once the facade begins to crack, it could crumble quickly.

— Bring Back Requirements. (In the last decade and a half the cry of "academic freedom" has led to a wholesale elimination of secondary school requirements, not just in math and science but in English, history, and other subjects.) Much as they may lament illiteracy among high school graduates, colleges have been a major culprit in this development by lowering their own admission standards to attract more students. More is needed than going "back to basics;" rote memorization of multiplication tables and verb conjugations is no substitute for teaching students how to reason with numbers or express themselves in writing. Even so, at least two years of American history and government, four years of English, and at least two years of math, science, and a foreign language should be considered an absolute minimum for any high school graduate, college-bound or not.

What Is to be done?

Continued from page 1

— **Bring Back Flunking.** In many school districts a phenomenon known as "social promotion" has made flunked students nearly obsolete. The theory's adherents say it's better to pass a slow-learning student on to the next grade because the "stigma" of failure will do far more psychological damage than any loss in achievement. The policy is a cruel hoax; students who aren't failed most certainly will fail in the real world. No small thanks to social promotion, an estimated 13 percent of our high school graduates can't read past a sixth-grade level.

— **Smash Credentialism.** Teachers should be required to have a bachelor's degree in the subject they wish to teach. Beyond that, performance should determine employment. A new teacher should be intensively supervised by a senior teacher the first year; useful methodology courses should be taken during the school year or over a summer vacation. (A few teachers' colleges already use this technique; the graduates of Cambridge, Massachusetts's Lesley College for example, are some of the most highly prized teachers in the profession.)

— **Abolish Existing Tenure Laws.** Most teachers now get tenure after only three years. This gives far too many of them jobs for as long as they want them, protecting those who have no business being in the classroom. A better scheme would offer contracts of increasing duration — one, three, and then five years, for example. If a school district elected not to renew a contract upon its expiration, teachers could not appeal the decision.

Abolishing tenure not only would give schools far more flexibility in upgrading their teaching staffs, but would encourage people to enter the profession for short stints. Attracting the best graduates of our top colleges for two or three year periods — as

the Peace Corps does with its overseas teaching programs — would inject some youthful energy into the profession. Many of these same people, who would make excellent teachers because of their knowledge of their subjects, are now driven away from the profession by the education course requirements. Once in the classroom some may decide to make a teaching career. Such a system would also encourage people in the middle of careers elsewhere to try teaching, thus giving students valuable insights into the workings of the outside world.

— **To Each According To His Ability....** The current method of compensating teachers solely on the basis of seniority and college degrees is senseless, unfair, and one of the cruelest tricks unions play on our children. By rewarding incompetent teachers and making the good ones wonder why they even bother, this system does more to undermine excellence in the public schools than almost anything else. Teachers should be paid according to how well they perform, as measured not only by tests and administrators, but by fellow teachers, parents, and students.

For teachers with badly needed skills in math and science, school districts should pay what's necessary to attract qualified people. Not doing so only insures that most of their students remain ignorant of subjects they can't afford to remain ignorant of, especially in an age of electronics and high technology.

— **Quarantine the Aggressors.** It's naive to suggest that every child in public school can be transformed into an attentive student by even the best of teachers. It takes only a few acts of violence and disruption to poison the whole learning atmosphere; as a result, many of our urban classrooms would drive away even the most dedicated of teachers. The unions have a legitimate

grievance here: teachers must be given far more authority to rid themselves of troublesome students so they can focus on teaching those who have shown some willingness to learn.

The model for most of these changes, if you haven't guessed by now, is the institution liberally denigrated in public but turned to as parents: private schools. These parents do so in the belief that private schools, usually with less money and lower-paid teachers, do a better job of educating their children.

They're right, at least according to a mass report last year by University of Chicago sociologist James Coleman that examined 60,000 high school students in public and private schools. Fellow sociologists have severely criticized Coleman's methodology in reaching this conclusion, and some of the criticisms may be valid. But Coleman's most significant finding is indisputable: both the teachers and students in private schools work harder than their public counterparts. Twice as many private school students have more than an hour of homework at night, and almost three times as many are taking third-year language courses. Private schools not only expect more of their students, they get more — and at the behest of teachers who often lack the credentials public schools would require.

So the nation's private schools have made valuable lessons to offer. But there's one major change that's required to rescue our public schools, and it's by far the most important:

— **Fire incompetent teachers.** Only the wholesale dismissal of incompetent teachers will give our public schools a reasonable chance for survival. Yet most people, especially liberals, reel in horror at this unpleasant prospect. They instead urge

Turn to page

"compassion" and "understanding," as if poorly educated, uninspired teachers can be miraculously transformed into models of excellence. But just as the reluctance to rid the classroom of a few disruptive students can ruin the learning process for everyone, the refusal to make the necessary judgments about the abilities of our teachers will doom our public schools to continued deterioration, and ultimate failure.

As our public schools fail, the victims won't be just the millions of poorly educated children relegated to lives spent on the welfare rolls and in

the unemployment lines. All of us will suffer. A nation of citizens ignorant of basic skills cannot hope to prosper economically in an increasingly competitive world. More importantly, we can ill afford to become a nation in which most of us lack a basic understanding of how our fellow citizens live.

Unpalatable as firings may be, we simply have no other choice. True, clearing our classrooms of bad teachers won't be easy. Many nice, likable people will have to be fired. The power of the teachers' unions to protect and reward incompetents must be broken. But to settle for anything less than the best

teachers is to betray one of the fundamental tenets of our democratic society — that every child, regardless of circumstances of birth, deserves an equal opportunity for a quality education. America certainly has never succeeded in fulfilling the promise of the public schools. But if people continue to abandon the public schools, either by taking their own children out of them or refusing to acknowledge what must be done to save them, we should stop kidding ourselves — and admit it was a promise we never really meant to keep. □

It is hereby made a misdemeanor for any person not a pupil of such schools to be upon the school grounds, or to enter any school building for the purpose of "rushing" or soliciting while there any pupil or pupils of such schools to join any fraternity, society, or association organized outside of said schools.

All persons convicted of violating the provisions of this section shall be punished by a fine of not less than five dollars nor more than twenty-five dollars.

History: En. Sec. 701, Ch. 76, L. 1913;
re-en. Sec. 1134, R. C. M. 1921.

79 C.J.S. Schools and School Districts
§§ 493, 499, 503.

Cross-Reference

Secret societies prohibited in public high schools or other elementary schools, sec. 75-4223.

47 Am. Jur. 423, Schools, § 169.

Regulations as to school or college fraternities. 27 ALR 1074 and 134 ALR 1274.

Collateral References

Schools and School Districts—169, 171, 173.

CHAPTER 29

COMPULSORY SCHOOL ATTENDANCE—TRUANT OFFICERS

- Section 75-2901. Compulsory attendance—excuses.
75-2902. Employment of children under sixteen.
75-2903. Truant officers, powers and duties.
75-2904. Duties of principals, teachers and clerks.
75-2905. Prosecution of truants.
75-2906. Pauper children.
75-2907. Indian children—intent of act.
75-2908. Acceptance of tribal authority by school boards.
75-2909. Enforcement of attendance laws on Indian reservations.
75-2910. Boards to require attendance by Indian children.

Books on Parents

75-2901. (1135) **Compulsory attendance—excuses.** All ~~parents~~ guardians, and other persons who have care of children, shall instruct them, or cause them to be instructed in reading, spelling, writing, language, English grammar, geography, history and civics, physiology and hygiene, and arithmetic. Every parent, guardian, or other person, having charge of any child who is seven ~~(7)~~ years of age prior to the beginning of the fall school term and not over sixteen ~~(16)~~ years of age, shall send such child to a ~~public, private, or parochial school~~, in which the basic language taught is English, for the time that the school attended is in session, provided, however, that children sixteen (16) years of age or over who have successfully completed the school work of the eighth grade, or whose wages are necessary to the support of the family of such child, may be employed during the time that the public schools are in session upon making the proof and securing the age and schooling certificate provided for in the following section. School attendance shall begin within the first week of the school term, ~~unless the child is excused~~ from such attendance by the superintendent of the public schools, in city and other districts having such superintendent, or by the clerk of the board of trustees in districts not having such superintendent, or by the principal of the private or parochial school, upon satisfactory showing either that the ~~bodily or mental condition~~ of the child does not permit of its attend-

ance at school, that ~~the child is being instructed at home by a person~~

~~the opinion of the superintendent of schools, or the opinion of the~~

~~superintendent of schools, or the opinion of the~~
provided, that the county superintendent may excuse children from attendance upon such schools where, in his judgment the distance makes such attendance an undue hardship. In case the county superintendent, city superintendent, principal, or clerk refuses to excuse a child from attendance at school, an appeal may be taken from such decision to the district court of the county, upon giving a bond, within ten (10) days after such refusal, to the approval of said court, to pay all costs of the appeal; and the decision of the district court in the matter shall be final. Any parent, guardian or other person having the care or custody of a child between the ages of seven (7) and sixteen (16) years, who shall fail to comply with the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars (\$5.00) nor more than twenty dollars (\$20.00).

History: Ap. p. Sec. 1921, 5th Div. Comp. Stat. 1887; amd. Sec. 1920, Pol. C. 1895; amd. Sec. 1, Ch. 45, L. 1903; re-en. Sec. 965, Rev. C. 1907; amd. Sec. 1100, Ch. 76, L. 1913; amd. Sec. 1, Ch. 75, L. 1921; re-en. Sec. 1135, R. O. M. 1921; amd. Sec. 1, Ch. 61, L. 1949; amd. Sec. 1, Ch. 53, L. 1955; amd. Sec. 1, Ch. 39, L. 1959.

Cross-References

Application of Montana Rules of Civil Procedure to this section, sec. 93-2711-7.

Compulsory vaccination of children for smallpox, sec. 69-709.

References

Flaherty v. Butte Electric R. Co., 42 M 89, 95, 111 P 348; Thien v. Wiltse, 49 M 189, 194, 141 P 146; Grant v. Michaels, 94 M 452, 465, 23 P 2d 266.

Collateral References

Schools and School Districts⇒160, 173.

79 C.J.S. Schools and School Districts §§ 463 et seq., 501 et seq.

47 Am. Jur. 412, Schools, §§ 156 et seq.

Extent of legislative power with respect to attendance and curriculum in schools. 39 ALR 477 and 53 ALR 832.

Releasing public school pupils from attendance for purposes of attending religious education classes. 2 ALR 2d 1371.

Religious beliefs of parents as defense to prosecution for failure to comply with compulsory education law. 3 ALR 2d 1401.

What constitutes "private school" within statute making attendance at such a school compliance with compulsory school attendance law. 14 ALR 2d 1369.

Applicability of compulsory attendance law covering children of a specified age, with respect to a child who has passed the anniversary date of such age. 73 ALR 2d 874.

75-2902. (1136) Employment of children under sixteen. No child under sixteen (16) years of age shall be employed or be in the employment of any person, firm, company or corporation during the school term, and while the public schools are in session in the district in which such child lives, unless such child shall present to such persons, firm, company, or corporation an age and schooling certificate. Such certificate shall be issued by the city superintendent of schools or principal of schools, or by some person duly authorized by him, and in districts not having a city superintendent or principal, by the county superintendent of schools upon satisfactory proof that such child is of the age of sixteen (16) years or over, and has successfully completed the eighth grade as the same is designated and determined by the state board of education; provided, also, that in case the wages of any child over sixteen (16) years of age are necessary to the support of the family of such child, the city superintendent of schools, or principal of schools, or county superintendent, as the case may be, may, upon production of satisfactory evidence that the wages

STANDING COMMITTEE REPORT

1 of 4

February 18,

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19.....

SPEAKER:

MR.

EDUCATION AND CULTURAL RESOURCES

We, your committee on

having had under consideration HOUSE Bill No. 635

first reading copy | white
| color

"AN ACT TO REVISE THE EXEMPTION FOR COMPULSORY ENROLLMENT
IN PUBLIC SCHOOLS THAT RELATES TO PUPILS ENROLLED IN NON-
PUBLIC SCHOOLS; TO ESTABLISH QUALIFICATIONS FOR THE EXEMPTION;
AMENDING SECTIONS 20-2-121, 20-3-205, 20-5-102, AND 20-5-105,
MCA."

HOUSE

635

Respectfully report as follows: That Bill No.
be amended as follows:

1. Title, line 6.
Following: "NONPUBLIC"
Insert: "AND HOME"

2. Page 2, line 21.
Following: "nonpublic"
Insert: "or a home"

3. Page 7, line 11.
Following: "nonpublic"
Insert: "or a home"

DO PASS

4. Page 7, line 14.
Following: "nonpublic"
Insert: "or home"
5. Page 8, line 12.
Following: "nonpublic"
Insert: "or a home"
6. Page 8, line 14.
Following: "parent"
Strike: "7"
Insert: "or"
Following: "guardian,"
Insert: "in the case of a home school,"
7. Page 8, line 15.
Following: line 14
Insert: "by a"
8. Page 10, line 15.
Following: line 14
Insert: "or home"
9. Page 10, line 17.
Following: "nonpublic"
Insert: "or a home"
10. Page 10, line 23.
Following: "nonpublic"
Insert: "or home"
11. Page 11, line 1.
Following: "nonpublic"
Insert: "or a home"
12. Page 11, lines 8 through 16.
Strike: lines 8 through 16 in their entirety
Re-number: subsequent subsection
13. Page 11, line 23.
Following: "instruction"
Insert: "or the equivalent number of hours"
14. Page 11, line 25.
Following: "(4)"
Insert: "in the case of a nonpublic school,"

15. Page 12, line 1.

Following: "who"

Strike: remainder of line 1

Insert: ":

(a) are certified to teach in any state;

(b) are enrolled in an education program leading to teacher certification; or

(c) provide evidence of acceptable experience according to clearly identified criteria consistent with the educational goals of the school;"

16. Page 12, line 2.

Following: "(5)"

Insert: "in the case of a nonpublic school,"

17. Page 12, line 3.

Following: "who"

Strike: remainder of line 3

Insert: ":

(a) are certified to teach in any state;

(b) teach at least half-time in a subject area in which the person holds a bachelor of science or a bachelor of arts degree; or

(c) provide evidence of acceptable experience according to clearly identified criteria consistent with the educational goals of the school;"

18. Page 12, line 4.

Following: line 3

Insert: "(6) in the case of a home school, allow as teachers only persons who met the requirements of subsection (5)(a) through (c); and"

Renumber: subsequent subsection

19. Page 12, lines 9 through 15.

Following: "20-7-111;"

Strike: "and" on line 9 through "materials" on line 15

20. Page 12, line 16.

Following: "nonpublic"

Insert: "or home"

21. Page 12, line 18.

Following: "nonpublic"

Insert: "or a home"

AND AS AMENDED

DO PASS

STATEMENT OF INTENT ATTACHED

Chairman.

February 18, 1983

STATEMENT OF INTENT
House Bill 635

A statement of intent is required for House Bill 635 because Section 1 provides that the Board of Public Education will consider appeals from the rejection of a nonpublic school's statement of compliance with the compulsory exemption requirements established in new sections 5 and 6. It is contemplated that the Board of Public Education will adopt an appeal procedure that follows the guidelines of the Montana Administrative Procedures Act.

~~XXXXXX~~
~~DO NOT~~