

14. EDUCATION AND THE CONSTITUTION #2

Harrison H. Schmitt
March 20, 2010

For Immediate Release (See Release of March 18, 2010)

Former U. S. Senator Schmitt Sees Instruction in Basic Virtues Missing from Public Education

The Nation's Founders believed that educational instruction in the basic "virtues" instilled by their Judeo-Christian heritage formed an essential foundation of the American Republic. The thousands of years of trial and error development of that heritage and human struggles to preserve it represented to them an irrefutable basis for insuring the success of both the American Experiment and its citizen's pursuit of happiness. Today, only a minority of our elected officials any longer shares this belief.

Immediately following the Revolution, several of the Founder's personal formulations of the required structure of locally managed education systems make it clear they felt strongly that the virtue, morals, and benevolence of a broadly educated electorate constituted the keystone for maintaining a representative democracy. The absence of such a commitment within the government-run education systems of today flies in the face of this wisdom from the ages.

The Founders truly believed in a Supreme Being, that is, they believed in God. Whatever belief system one might have, proper interpretation of the Declaration of Independence, the Constitution, the Bill of Rights, and the Federalist Papers requires a clear understanding of this fact. Their God, they thought, had provided humankind, both

believers and non-believers, with a blueprint for living happy and well. They truly believed in humankind's intensive and "unalienable Rights to Life, Liberty, and the pursuit of Happiness" and that those rights came directly from a higher power than themselves. How else could they then pledge "our Lives, our Fortunes, and our sacred Honor" to the cause of Independence when the price of failure was hanging?

To a man and woman, the Founders accepted their God's blueprint for society as including an inherent human desire for freedom from the oppression of government as well as the liberty to pursue happiness according to individual initiatives so long as others maintained the same right. A broad adherence to Judeo-Christian virtues and justice would maintain the essential balance between individual freedoms and the partially contradictory need to work productively in a society of other free individuals.

The inherent, but non-religious guidance from the Founder's belief system, however, has disappeared from government-run educational institutions. Blame for this selfish, dangerous, and untenable state of affairs rests squarely and heavily on the shoulders of the modern Democratic Party and its political allies, the National Education Association (NEA), American Federation of

Teachers (AFT), and social activists that support that party's political agenda. Together, the Democrats and the unions fight all forms of parent and child focused educational reform in favor of government-mandated controls. On the other hand, when Republicans have had the opportunity, they have done nothing to effectively counter the objectives of those who would sacrifice our children's future merely for political power.

Powerful ideological forces work to tear down the Founders' guiding educational principles. Together, the modern Democratic Party and Unions fight to keep parental choice, home schooling, and charter schools from improving the future lives of all students; they have resisted paying and retaining teachers on the basis of merit; they have forced college education majors to gain "certification" rather than expertise in the subject they will teach; they have insisted on eliminating instruction in much of basic human knowledge and wisdom; they have degraded the learning environment through political correctness; they have eliminated necessary discipline from the classroom; they have sacrificed educational achievement for mediocrity; and they have driven the time for actual learning to abysmal levels in the majority of public schools.

The Unions and the Democrats' political leadership hurt inner city schools the most—schools in the greatest need for meaningful local improvement. Inner city parents particularly desire parental choice in selecting their children's schools and curricula. However implemented, such choice provides the foundation for innovation and customized learning that can fully tap the inherent ability for children to learn far more than they are challenged to do in most today. Insult adds to injury when some Presidents and other well-heeled politicians send their children to private schools while unconstitu-

tionally requiring less financially secure children to attend government schools. Where can one find a constitutional "equal protection of the laws" in this situation?

The one major positive and constitutional intrusion by the Federal Government into educational policy came in the 1950s with enforcement of the Fourteenth Amendment as requiring racial integration of public schools. Unfortunately, subsequent unconstitutional limits on parental choice for their children's education undercut this right to integrated public schools. Limits on choice have been particularly catastrophic in the inner cities. Currently, most State courts have been unwilling to reject union-driven, local and State limitations on choice, whether related to vouchers, charter schools, or home schooling. The Congress, and recent new proposals by the President, would continue to use unconstitutional legislation to further limit parental choice through federal educational mandates and funding coercion.

Although with important but limited exceptions, State and Federal courts continue to interpret the First Amendment as prohibiting broad use of educational voucher funding that includes church-sponsored schools. This interpretation contradicts the Founder's clear First Amendment intent to only prohibit the *mandate* of a *federally* imposed religion. Note the specific language of the First Amendment in this regard: "Congress shall make no law respecting an establishment of religion" (emphasis added). Could this be any clearer?

Additionally, the First Amendment specifically refers to a limitation on "Congress" and not on the States. The individual rights specified within the First Amendment, that is, free exercise of religion and freedoms of speech, assembly, and petition, correctly have been extended by the combined effects

of the Fifth and Fourteenth Amendments to protect citizens from misuse of State power. On the other hand, the “establishment” and “press” clauses refer to social institutions and not to individual rights and remain, as stated, a limit only on Congress’ power to establish a national religion or restrict freedom of the press. Therefore, if, under the Tenth Amendment’s reservation of non-federal powers to the States, a State wishes to provide for broad parental choice in education, Congress or the Federal Courts should have no say in the matter and State courts should not corrupt the First Amendment’s intent by striking down laws permitting such choice.

Most Americans recognize the critical role of education in our Republic, the importance of “virtue” in society, and the dire situation existing overall in education today. Isolated but critically important examples exist throughout the country of parents taking control of their children’s education. Millions of families pay to send their children to private and parochial schools, or home school them, while also having to pay taxes to support a failed public system. Home schooling and charter schools each now serve over 1.5 million children. In Harlem, New York, parents imposed charter schools on a large portion of their public education system several decades ago. In Milwaukee, Wisconsin, parents succeeded in building a voucher system for their most

disadvantaged students. In Cleveland, Ohio, they succeeded in getting the State legislature to provide a significant educational voucher program also for disadvantaged students, including those enrolled in religious schools. All these efforts took place against the firm and continued opposition of union leadership and most media commentary. The Supreme Court has held correctly that the Milwaukee and Cleveland programs are constitutional. Meanwhile, Florida continues to fight unions, activists, and State Courts over implementation of voucher and tax credit programs for children most in need. Unfortunately, Congress has killed the hugely successful and popular voucher program in the District of Columbia. The fight goes on!

All must work to correct education’s failures, not with more money, but with more commitment to using common sense and the Constitution to get it right— and to elect those at local, State, and Federal levels who will get government out of the way and allow Americans to properly educate their children.

Harrison H. Schmitt is a former United States Senator from New Mexico as well as a geologist and Apollo 17 Astronaut. He currently is an aerospace and private enterprise consultant and a member of the new Committee of Correspondence.