

13. EDUCATION AND THE CONSTITUTION #1

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Former U. S. Senator Schmitt Blames Economic and Social Failures on Government Managed Schools

The education system managed by State Governments and significantly controlled by federal money and regulation has failed. After World War II, our “public education system” for elementary and secondary grade levels left the control of parents and fell under selfish special interests, led by leaders of unions and social activists, that largely ignore the needs of children and the nation. This continually deteriorating situation threatens the national security of the United States and the liberty and prosperity of its citizens.

Elementary and secondary education requires the full, dedicated attention of all Americans. Without an educated electorate, a democratic republic cannot continue free and focused on the best interests of individual citizens and their future. Without the intellectual tools and wisdom provided by broad and objective education, citizens cannot reach their full potential in life for themselves and their families. Nor can they support the legitimate economic requirements of the nation and undertake the successful and perpetual defense of liberty.

The Founders gave us clear guidance in the Constitution for handling the education of the people by unequivocally limiting the power of the federal government in this essential activity. These limitations came in

spite of the Founders’ deeply held and clearly expressed belief in education’s fundamental importance to a democratic Republic. First of all, no mention of education exists in the Constitution among its explicit listing of the powers of Congress and the Executive. Then, by way of the 9th Amendment, the Founders left the natural right of educating their children with the people. That 9th Amendment states, unambiguously, “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.” The “certain rights” referenced by this Amendment, clearly include those specified in the Bill of Rights. Those “others retained by the people” logically would embrace all naturally encompassing, or intensive, human rights of a free people. For example, the “unalienable rights of life, liberty, and the pursuit of happiness” identified by the Declaration of Independence clearly constitute such intensive rights. Other such rights include education as well as privacy, free association, travel, communication, and thought; in other words, rights that inherently belong to humans as a species.

Further, by virtue of the 10th Amendment, the governmental powers for providing for education are among those “not delegated to the United States by the Constitution” and “are reserved to the States, re-

spectively, or to the people.” Specifically, power over education is “not delegated to the United States,” directly or indirectly, by any other constitutional provisions.

Congress’ Article I power to “provide for the...general welfare” does not and should not permit federal legislation on just any social issue such as education. The full phrase, in fact, reads, “provide for the common Defence and general Welfare.” Subsequent Clauses clearly limit the specific powers of Congress only to common defense and general welfare, and no Clause gives Congress power to do anything just because it appears politically or ideologically expedient. This Article I phrase also must be viewed in the context of the more inclusive phrase “promote the general welfare” found in the Preamble. There, that phrase sets out one of several basic reasons for the establishment of our form of government and hierarchically subordinates the Article I Congressional power to other constitutional limitations.

Finally, Clause 18 of Section 8, Article I, reinforces the clear directive from the Founders that Congress only has the legislative powers enumerated in Article I and no others. Clause 18 allows Congress only, “To make all Laws which shall be necessary and proper for carrying into execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or any Department or Officer thereof.” The italicized phrases clearly limit rather than expand Congressional powers. Although this Clause gives Congress the authority to write and oversee regulations with the force of law, it can do so only as related to enumerated powers, none of which refer to education.

Unfortunately, given their explicit constitutional mandate under the 10th Amend-

ment, the States have almost totally failed in their responsibility for quality education of the nation’s electorate. Entrenched union interests, social activists, and school bureaucracies have usurped legislative control of education. Legislatures in turn have strengthened the political power of everyone except those with the greatest interest in quality education; that is, parents, children, and taxpayers. Legislatures have become beholden for campaign contributions and election-day assistance to the National Education Association, the American Federation of Teachers, and many non-educational special interests. In return, elected officials block implementation of reform measures like enhanced classroom discipline, merit pay, curriculum reform, elimination of unnecessary administrative overhead, charter school initiatives, and parental choice using vouchers. The net consequence of this narrow minded, selfish environment, plus the complacency of too many parents and other citizens, becomes ever-greater State funding for education’s adverse special interests and ever-poorer results for children.

How serious has the problem become? Several generations of voters have graduated or dropped out with no usable background in history, particularly American history. Far too many voters cannot adequately read or write. Similar deficiencies exist in the electorate’s working knowledge of simple math and personal economics. A large proportion of voters cannot comprehend how government actions will affect their families’ liberty and financial future. Further, most voters and future voters have little knowledge-based perspective about the role that science and technology plays and will play in their personal lives.

The recent attempt by the National Governor’s Association to formulate educational standards constitutes a potentially important

and clearly constitutional innovation. We can hope that implementation of the standards recognizes that individual States have flexibility to deal with local skill needs. Unfortunately, this agreement does nothing to eliminate the expensive, politicized, and increasingly dysfunctional State educational systems.

In addition to embracing quality standards and dealing positively with their implementation, the Governor's Association must prevent any unconstitutional move by the Congress and the President to nationalize their standards. Congress' and the Bush Administration's "No Child Left Behind Act of 2002" stands as a classic example of unconstitutional national legislation and, still worse, uses loss of funding to coerce States to follow federal mandates. Rather than recognizing this Act's unconstitutionality by repealing it, the President now proposes to revise and extend the Act's mandates while reinforcing its coercive provisions. Americans should note that authoritarian government control of youth education exists as a major tenet of national socialism, and the time has come to back away from that insidious cliff!

So, what would be a start in bringing education to the level required for individuals and the country? If we lived in a perfect nation, teachers of our children would belong to the best-paid profession, bar none. No more critical professional undertaking exists in the United States than that of pre-college instruction and mentoring. Today, the highest paid teachers entrusted with this hugely important responsibility receive an average compensation of only about \$30 per hour before taxes. Considering that the future of the United States, as well as the future of the child, depends on how well teachers perform, the best teachers should receive on the order of \$180 per hour, or at

least as much as the average lawyer receives. For the very best teachers, pay scales should reach at least those of the highest paid attorneys. We must ask ourselves which professionals, teachers or lawyers, have the greatest responsibility to the future of the United States and liberty?

Even at the terrible pay scales of today, and with no significant pay or job retention incentives based on merit, dedicated and highly competent teachers work twelve-hour days and six-day weeks for nine to ten straight months each year, if not more. They believe in what they are doing in spite of overly bureaucratic and often incompetent administrations and politically correct classroom restrictions. Nonetheless, in general, the best and the brightest young Americans now find no financial attraction or personal satisfaction in a public school teaching career. Having to endure discouraging politics, stifling regulations, student disobedience, parental indifference, and actual physical danger overwhelms their desire to work with children and cannot compete with the lure of other professions.

"Hope for the best" never can be a strategy for achieving security and preserving and enhancing liberty through quality education. Rather, it requires a revolution in planning, action, and desire by vast numbers of parents and other committed Americans. That revolution must begin with the 2010 elections of new State legislators who will put our children's future first and of a Congress that will stop unconstitutional governmental meddling with that future.

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