IP!S® to the NEWS

by PHYLLIS SCHLAFLY

RELEASE: December 16

Box 618, Alton, Illinois 62002
Phone: 618-462•5415

LITIGATION FOR EDUCATIONAL FREEDOM

The Institute for Humane Studies in California has just published an excellent and much-needed little pamphlet by attorney William B. Ball of Harrisburg, Pennsylvania, which shows the interrelation of the four principal areas of litigation involving educational freedom today. Mr. Ball has been the lawyer on the freedom side of some of the most important cases.

The first area involves the state laws requiring compulsory school attendance. Fortunately, the U.S. Supreme Court a half century ago abolished the totalitarian notion that a state could pass a law compelling all children to attend public schools. Now state laws require attendance at some school, but there is a great variety in their provisions from state to state. Some require attendance until age 14, some until age 18.

William Ball was the lawyer who won the landmark U.S. Supreme Court case when Wisconsin tried to force the Amish children to attend high school in violation of their religious beliefs. Despite this case, prosecutors in many states have been bringing criminal charges against parents who send their children to religious schools the state does not approve of. Prosecutors in many states are seeking a broad enforcement of the law beyond the intent or language of the statutes.

The typical compulsory school attendance statute requires children to attend public school unless given equivalent education. But many states have been interpreting "equivalency" to mean attendance at a school "approved" by the state. If we want to preserve educational freedom, the definition of equivalency should not be allowed to obliterate religious, parental or· educational rights.

The second area of litigation is in the enforcement of state standards on private schools. These standards can impose on the private schools an almost confiscatory level of expense. Regulations may be unreasonable, vague, petty,

(more)

arbitrary, c·. costly. First Amendment values in education may be jeopardized by various gover mental, health, environmental, or land use regulations.

The third area is the right of conscience in public education. The major cases are the 1962 and 1963 U.S. Supreme Court cases prohibiting

prayer in public schools. The Engel case made unconstitutional a 22-word interdenominational prayer expressing dependence on God and thankfulness to Him.

But compare that rule against programs recently used in public schools such as "MACOS" or "The New Model Me." These programs confront the core of a child's beliefs, invade his privacy and familial relationships, and directly attack religious values in many areas of morality. Where is constitutionaJ "equal p rotection" when a handful of persons who objected to Bible reading and praying in public schools are held to prevail over the majority, but authorized school programs are permitted to ride roughshod over other people's religious and moral beliefs?

The fourth area discussed in attorney Ball 's little booklet is the denial of distributive justice in the use of tax funds, that is, the double financial burden paid by parents who choose to send their children to private schools.

Most private elementary and secondary schools do not want public funding because they know that he who pays the piper calls the tune. Most private religious schools do not want to go down the primrose path traveled by the formerly religious colleges which have secularized themselves in order to get public money.

But constitutionally, parents have a right to send their children to private religious schools. Should they be hobbled with arbitrary regulatory controls and financial discrimination as the price of exercising their First Amendment rights? Or should they be permitted an economically free choice in education?

(en