From Phyllis Schlafly December 27, 1983

REGULATION OF NON-PUBLIC SCHOOLS

Those who deplore the steady migration of children from public schools [redacted] into private and religious schools are striking back. They are resorting to a variety of strategems to circumvent [redacted] what has been established law in the United States since 1925, when the U.S. Supreme Court ruled that parents may NOT be forced to send their children to public schools.

Will private schools become just another branch of public education? Will private schools become "private" only in the sense that they are financed by private contributions (instead of taxes) while the government actually runs them? That's the issue.

Many state education boards or state education departments are aggressively trying to control nonpublic schools. They want to have the power to license nonpublic schools, supervise them, decide what they will teach, who will teach it, and how subjects shall be taught, plus the power to close down the schools that do not conform.

The whip used to accomplish these goals is criminal prosecution of parents for violation of the truancy laws, which require all children to attend some school. If the nonpublic school has not surrendered to state regulations, no matter arbitrary or vague or oppressive, the parents can be [redacted] jailed for violating the truancy law.

The goals, tactics and aggressiveness of these state education bureaucracies vary greatly from state to state. Their efforts to achieve what is called "governance" over nonpublic schools take several forms: (1) state certification of nonpublic school teachers, (2) state prescription of [redacted] curriculum, and (3) state licensing of nonpublic schools.

Teacher certification is supposed to assure quality teachers, but the evidence is overwhelming that certification is no key to that goal because

certification is tied to the taking of "education" courses. A dedication to teaching, a love of children, and a good general education are far more important; and those qualities abound among nonpublic school teachers.

In regard to curriculum control, no nonpublic school has challenged a requirement to teach the basics (English, mathematics, civics, history, geography, etc.). However, the nonpublic schools, especially the religious [redacted] schools, vigorously oppose permitting state boards or departments to impose other curricula on them.

Nonpublic school licensing is sometimes called "accreditation," [redacted] "certification," "chartering," or "approval," but whatever the name it still [redacted] means that the nonpublic school cannot exist without permission of the state. The licensing statutes vest wide discretionary powers in the state bureaucracy, which can then impose arbitrary conditions on the granting of the license.

Private and religious schools readily accept fire, safety, building, and sanitary ordinances. But statutes which make the government education bureaucracy the ultimate arbiter, supervisor and prescriber are fiercely resisted as violative of educational freedom.

In the principal court cases, nonpublic schools have been willing to submit tp a "proof of the pudding" test; and the proof is overwhelming that [redacted] their pupils do as well or better on standardized tests than public school students. But the education bureaucracies become almost hysterical at a "results" comparison because they want control of the curriculum, teacher qualification, teaching methelodogy, and textbooks. The 1983 report of the National Commission on Excellence in Education, "A Nation at Risk," shows that the state education [redacted] bureaucracies are hardly in a position to criticize the quality of nonpublic schools.

In his testimony before the Senate Committee on Labor and Human Resources, attorney William B. Ball gave dramatic examples of state efforts [redacted] to close down Christian schools under vague and arbitrary laws. Ball has probably had more Supreme Court cases involving private education than any other U.S. lawyer.

Michigan tried to close down two Christian schools because the statute says that the nonpublic school must be "of the same standard as provided by the general school laws of the states." But the "general school laws" say nothing about "standards," and state officials who testified in the trial couldn't agree on what the "standards" are.

Kentucky tried to jail parents whose children attended Christian schools alleged to be in violation of the following mandate: "Curriculum objectives, decisions, and implementations should be characterized by unit, balance, and articulation with the schools below and above, while retaining flexibilty." Yet nobody could explain what this "mandate" meant.

The state education bureaucracies conjure up the boogeyman that, without state governance of nonpublic schools, children will have an inferior education in fly-by-night schools. That's a false fear. Parents will not remove their children from a free school giving a superior education in order to put them in an inferior school for which they must make financial sacrifices to pay the tuition.