FROM: Phyllis Schlafly

68 FAIRMOUNT, ALTON, ILLINOIS 62002 / (618) 462-5415

RELEASE: FEBRUARY 14, 1984

VICTORY FOR PRIVATE SCHOOLS IN MAINE

Christian schools have won a major court battle in Maine -- the first victory for Christian Schools in a Federal court. It will be interesting to see if it is true that, "as Maine goes, so goes the nation."

U.S. District Court Judge Conrad K. Cyr ruled in favor of the Maine Association of Christian Schools (MAC) by finding that the state does not have the right to shut down religious schools. This was the denouement of an emotional and legal battle that started in 1977 and expanded to pit dozens of fundamentalist Christian schools and churches against Maine's attempt to close those schools if they didn't cooperate with the state certification process.

The litigation phase of the controversy started in October 1981 when the Maine Association of Christian Schools (MAC) filed suit against the state asking for a declaratory judgment against the state's power to close down 40 Christian schools which opposed the state certification process.

State officials are claiming that the Cyr ruling is "narrow" because it focused on state law rather than large constitutional questions. Maybe so, but the 83-page decision will be far-reaching in its impact because its core issue is the fundamental question of the state's relationship with private and religious schools.

Judge Cyr not only ruled that the Christian schools will stay open, but that the Department of Education and the Attorney General have no power to seek their closure and that licensure of religious schools is optional. He also ruled that no pastor or administrator will be prosecuted for encouraging a student to attend a church school.

The state had claimed that Christian schools, merely by their existence, were causing children not to go to state-approved schools and therefore were encouraging truancy; this was called "inducing habitual truancy." Judge Cyr rejected that argument; it simply is a non sequitur of the truancy law.

The education establishment argued that the state has a legitimate interest in

maintaining a minimal level of educational quality. Specifically, that means that the state demands the right (a) to certify private schools, (b) to certify private school teachers, (c) to approve curriculum, and (d) to close down schools that don't "cooperate."

The Christian schools, on the other hand, argued that their schools are arms of their churches, and that state control of teacher certification and curriculum violates religious freedom.

The real problem with these constitutional and legal arguments is that they don't address the real goal, which is to assure quality education for our children. The state simply could not (and did not try to) prove that certification and curriculum standards ensure a minimal quality of education -- in private schools or in public schools!

Standards which are based on such factors as the number of college courses taken by a teacher, or the number of courses offered in a curriculum, don't tell a thing in the world about how much the pupils learn.

The only standards that can be justified are those which evaluate the school's product. That can be easily done by requiring the pupils to take standardized tests and comparing the scores, something that Christian and other private schools have been very willing to do. The state's education establishment rejected this approach because it wants to control what the schools teach.

Parents who shop around and select a private school for their children are doing their own job of comparing results. They are perfectly able to observe the world around them, compare the product of various schools, and recognize educational malpractice when they see it.

The litigation was terribly expensive for the several dozen small Christian schools involved in the suit. They had to pay more than $200,000 in out-of-pocket expenses for court costs and legal fees, as well as sustain a significant loss of income because many parents pulled their children out of the Christian schools under the fear that they might be prosecuted and jailed or have their children taken away from them. Considering the state's behavior, that was a realistic fear. MAC has now filed a motion to recover its costs from the state.