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VICTORY FOR HOME SCHOOLING

Some people have very strange ideas of what should be punished as a crime. While all sorts of people who commit horrible offenses go unapprehended and unpunished, in some states parents are arrested and even jailed for the alleged crime of either teaching their own children at home or of sending them to an "uncertified" religious school.

The Georgia Supreme Court, in the case of Roemhild v. State, has struck a blow for parents' constitutional right to teach their children at home. The district attorney had prosecuted parents for the criminal offense of giving six hours per day of wholesome formal instruction to their children at home, contrary to Georgia's compulsory education statute. The court voided the Georgia compulsory school law as unconstitutional because it is impermissibly vague in violation of due process.

The decision is a significant victory not only for Mr. and Mrs. Roemhild, and not only for the principle of home schooling, but also for the Rutherford Institute and lawyers John W. Whitehead of Virginia and Wendell R. Bird of Georgia who filed a 120-page brief with a 200-page Appendix as amici curiae. They made persuasive arguments that home education is a constitutional right and that the Georgia compulsory education statute should be construed to permit home education.

The brief argues that the home education is a right based on the First Amendment guarantees of religious freedom, no establishment of religion, free speech and belief, privacy, and parental liberty, plus the guarantees of due process and the Ninth Amendment. They quoted expert witnesses and cited evidence ignored or overlooked by the court-appointed attorney representing the parents.

No argument was made in the case that the Roemhild children were uncared for, abused, unloved, or uneducated. The parents gave daily instruction to their children, documented in calendars of attendance, and the children made satisfactory scores on the Georgia Criterion Referenced Tests.

The argument that a child must be in a formal school (public or "certified"

nonpublic) is so incongruent with American historical experience as to be laughable. As the Rutherford Institute pointed out, home education was the principal form of education in early America and the main source of the primary education of nine presidents (Washington, J.Q. Adams, Lincoln, Wilson, and F.D. Roosevelt) and of many other prominent Americans (including Benjamin Franklin, Thomas Edison, the Wright brothers, Andrew Carnegie, and Pearl Buck).

It has been recognized since Pierce v. Society of Sisters in 1925 that the state may not force a child to attend a public school. The Rutherford Institute brief accurately points out that what the education establishment is trying to do today is to achieve indirectly by burdensome regulation what Pierce prohibits the states from doing directly.

Most states today expressly or impliedly allow the option of home education to fulfill the compulsory education statutes: 15 states have statutes that expressly allow home education; 21 states allow an implied exception from the compulsory education statutes; and 7 states permit home education by treating it as a private school. No one knows how many children are instructed at home, but estimates run as high as one million.

Home education utilizes the tutorial method of instruction which numerous studies have found superior to traditional classroom instruction. Even if its educational effectiveness had not been demonstrated in the past, it would be a shortsighted public policy to restrict home education at the very time that personal computer technology is developing the potential of raising home instruction to the state of the art.

The National Commission on Excellence in Education reported last year that "about 13% of all U.S. 17-year-olds are functionally illiterate," and the "average achievement of high school students on most standardized tests is now lower than 26 years ago when Sputnik was launched." This is hardly a time for the education establishment to point any fingers at home instruction.

Dr. Raymond S. Moore, president of Hewitt Research Foundation and the leading authority on home education, has shown that "youngsters educated at home achieve higher than national averages in standardized measures." This result includes even children who are taught by high school-educated parents who have no teachers' certificate and could not pass the certification process demanded by those who want to outlaw home schooling.