P.S. to the NEWS
by PHYLLIS SCHLAFLY

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

ATTACK ON PRIVATE SCHOOLS

President Carter recently reaffirmed to the world that human rights is the core of his administration's policy. While "human rights" is subject to almost any definition, it would seem that one basic element would be the right to be considered innocent until proven guilty.

President Carter ought to apply his words to the Internal Revenue Service which is now trying to legislate a new policy under which private schools are guilty until they prove themselves innocent. The proposed IRS regulation would judge any private school, which was started or expanded during the last two decades, guilty of race discrimination until the school purges itself of its alleged sins by specified acts that are prohibitively expensive.

If the school doesn't obey to the satisfaction of IRS officials, the punishment is loss of its tax exempt status. Both compliance and noncompliance would be so financially costly that most private schools would be forced to close.

Internal Revenue is graciously allowing the public to comment before putting its proposed regulation into effect. Already more than 100,000 letters of protest have poured in and the hearings in December were some of the best attended ever held in Washington.

Back in 1925 in the case of Pierce v. Society of Sisters, the U.S. Supreme Court held that it is unconstitutional to require all parents to send their children to public schools. But the effect of the IRS ruling is clear -- to bring to a halt the rapid recent growth of private schools and to force almost all pupils into public schools.

In the last decade, public schools have been rapidly declining in enrollment because of the falling birth rate and because of parental dissatisfaction with what the public schools teach and don't teach. Alarmed about empty classrooms and

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teacher unemployment, the bureaucratic push is on to require all children to attend public schools through use of the tax power.

As applied to religious schools, the proposed IRS ruling is so clearly a violation of First Amendment freedom of religion that one wonders how even the most arrogant officials have the gall to propose it. The proposed IRS regulation would require private schools to have a student body whose percent of minority children is at least 20 percent of the percentage of minority children in the local public school district.

This regulation would require the private religious school to enroll enough minority pupils to satisfy the IRS percentage regardless of whether the minority pupils are members of that religious faith, and even if such enrollment could be achieved only by (a) enrolling them free while children of their own parishioners must pay tuition, or (b) dismissing children of their own parishioners in order to make places for minority children.

In the 1971 case of Lemon v. Kurtzman, the U.S. Supreme Court held it is unconstitutional for the state to pay salaries of parochial school teachers who ~~taught~~ teach only secular subjects, because that would involve "an excessive government entanglement with religion." Paying the salaries of science teachers isn't as much of a church and state "entanglement" as giving IRS the power to set racial quotas for the student body, faculty, and board members based on a percentage of flexible figures determined by surveying the population patterns separately for each public school district and then applying them to private schools which have no geographic relation to public school boundaries.

The proposed IRS ruling would be just as discriminatory and costly to secular private schools. Thousands of parents put their children in private secular schools because public schools fail to teach the basic skills (reading, writing and arithmetic) in a disciplined environment.

Minority children should have the right to attend a nondiscriminatory school at the taxpayers' expense. Internal Revenue should not have the power to destroy parents' rights to send their children to private schools at their own expense.

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