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Judicial Supremacists Lash Out At Parents

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Nov. 16, 2005
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When Hillary Clinton proclaimed that it takes a village to raise a child, many people didn't realize that she was enunciating liberal dogma that the government should raise and control children. This concept fell on fertile soil when it reached activist judges eager to be anointed as elders of the child-raising village.

The U.S. Court of Appeals for the Ninth Circuit just ruled that parents' fundamental right to control the upbringing of their children "does not extend beyond the threshold of the school door," and that a public school has the right to provide its students with "whatever information it wishes to provide, sexual or otherwise."

Instead of using the "village" metaphor, the judges substituted a Latin phrase that has the same effect. Parens patriae (the country as parent) was a legal concept used long ago by the English monarchy, but it never caught on in the United States and the few mentions of it in U.S. cases are not relevant to this decision.

The Ninth Circuit case, Fields v. Palmdale School District, was brought by parents who discovered that their seven- to ten-year-old children had been required to fill out a nosy questionnaire about such matters as "thinking about having sex," "thinking about touching other people's private parts," and "wanting to kill myself." The parents were shocked and looked to the court for a remedy.

No such luck. We live in times when judges (especially on the Left Coast) seize opportunities to create new law and new government powers even if they have to hide behind a Latin phrase of bygone years unknown to Americans.

The three-judge Ninth Circuit panel unanimously ruled against the parents. One judge had been appointed by Jimmy Carter, one by Bill Clinton, and one by Lyndon B. Johnson.

The decision claimed that the purpose of the psychological sex survey was "to improve students' ability to learn." That doesn't pass the laugh test.

The Ninth Circuit decision stated that "there is no fundamental right of parents to be the exclusive provider of information regarding sexual matters to their children" and that "parents have no due process or privacy right to override the determinations of public schools as to the information to which their children will be exposed."

The school had sent out a parental-consent letter, but it failed to reveal the intrusive questions about sex. The letter merely mentioned concerns about violence and verbal abuse, adding that if the child felt uncomfortable, the school would provide "a therapist for further psychological help."

That should have been a warning, but many parents don't realize that the schools have an agenda unrelated to reading, writing and 'rithmetic. Anticipating the new push to subject all schoolchildren to mental health screening, the decision gratuitously stated that the school's power extends to "protecting the mental health of children."

The court didn't bother to defend the nosy questionnaire itself, and said that public school authority is not limited to curriculum. The court made no mention of the need for informed parental consent or a right to opt out of an activity the parents deem morally objectionable.

The Ninth Circuit agreed with the lower court's broad ruling that the fundamental right to direct the upbringing and education of one's children does not encompass the right "to control the upbringing of their children by introducing them to matters of and relating to sex in accordance with their personal and religious values and beliefs."

How did the Ninth Circuit circumvent "the fundamental right of parents to make decisions concerning the care, custody, and control of their children," which has been U.S. settled law for decades? The court referred to this as the Meyer-Pierce right because it was first explicitly enunciated in two famous Supreme Court cases of the 1920s, Meyer v. Nebraska and Pierce v. Society of Sisters, and was reaffirmed as recently as 2000 in Troxel v. Granville.

The Ninth Circuit court said that since the government has put limits on parents' rights by requiring school attendance, therefore, the school can tell the students whatever it wants about sex, guns, the military, gay marriage, and the origins of life. The judges emphasized that once children are put in a public school, the parents' "fundamental right to control the education of their children is, at the least, substantially diminished."

How did the court feel empowered to put new limits on the settled law of Meyer-Pierce and give public schools the power to override parents on teaching about sex? Simple. The three liberal judges based their decision on "our evolving understanding of the nature of our Constitution."

Liberal judges have no shame in proclaiming their belief that our written Constitution is "evolving." In this case, the judges bragged that the Constitution has evolved to create the right to abortion, and then ruled that the evolving Constitution takes sex education away from parents and puts it "within the state's authority as parens patriae."