The Way I See It

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STUDENTS MUST NOT LOSE CONSTITUTIONAL RIGHTS

The Republican landslide in the 1980 national elections has been hailed by some as a rejection of the liberal policies that began a half century ago with the election of Franklin D. Roosevelt. Leading conservatives have wasted little time in declaring their intentions to reverse the direction of a number of controversial national policies. Senator Orrin G. Hatch of Utah, for example, has proposed a Constitutional amendment to end affirmative action in employment and college admissions. Senator Strom Thurmond of South Carolina, the new Chairman of the Senate Judiciary Committee, has gone even further by proposing that education be removed from the purview of the federal courts.

The federal courts first became involved with education in the famous 1819 Dartmouth College case in which the Supreme Court sided with the college's belief that it should be able to operate without public interference. Since the 1954 case of *Brown v. Board of Education,* there has been substantial controversy surrounding the decisions of the federal judges. Slowly and precisely over the next two decades, *de·jure* segregated schools were integrated and then judicial focus was turned northward and westward to those school systems where segregation was never legal but, in fact, was operant. Further, the federal courts have curtailed the exercise of religion in the public schools and have limited the extent to which public funds can support parochial schools. They have also mandated that students be accorded due process prior to exclusion from the schools and have defined the limits of the academic freedom of faculty at public institutions.

Senator Thurmond and his supporters believe that the removal of educational standards mandated by the federal judiciary would bring an end to court-ordered busing and would mean a return of prayer to the public schools. Educational decisions, they argue, are best made at the local level. Those who promote a state's rights position claim not to be concerned that 50 independent sets of educational standards might evolve—not concerned, that is, until they realize that their state might adopt the status quo, or even worse, might begin to tamper with things they hold dear.

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For instance, the U.S. Supreme Court has ruled against Wisconsin's requirement that Amish children must remain in school until age 16. If Wisconsin by itself were free to decide who could be compelled to attend school, it could just as easily decide who could be excluded—and the Amish, because they might look strange and might not hold mainstream views, could be among those excluded by law. Similarly, the Court has invalidated statutes in Pennsylvania and Kentucky, which, respectively, provided for daily Bible readings and the posting of the Ten Commandments in all classrooms. If Pennsylvania were to be able to require Bible readings, might it not just as easily require readings from *Mein Kampf*? Might not Kentucky just as easily require the posting of Hindu prayers? New York was forbidden by the Court from providing a state-written, nonsectarian voluntary prayer for the public schools. Without a federal standard, what would stop it from requiring all students to participate in a daily sectarian service? Further, while one state might want to provide significant support to parochial schools, another might choose to ban all such schools or those supported by unpopular religions or sects. While one might choose to operate its schools in a neighborhood model, another might decide that it does not want to educate children from certain neighborhoods. And so on. . . .

Senator Thurmond's amendment would mean that the Constitution of the United States would not be applicable to education. In the schools, the basic rights of due process and equal protection, as well as freedom of speech, religion, and assembly, would no longer be guaranteed. We are not a great nation as a result of the laws established by the states. We are great as a result of the supremacy of our national Constitution. As a people, we can ill afford to avoid the Constitution in the area needing it the most, education—the institution responsible for transmitting the American tradition to those who will shape this nation's future. ■

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