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The Ultimate Parent? **by Sheldon Richman**

If you believe that parents have a natural and constitutional right to raise their children as they see fit, the federal Ninth Circuit Court of Appeals recently ruled against you.

The occasion was not a case of child abuse or neglect. Quite the contrary, it was a case of parents objecting to a school's asking their 7- to 10-year-old children about sex.

In 2001 the Palmdale School District, in Los Angeles County, California, had a graduate student in psychology design a survey for children in the first, third, and fifth grades. In a notice to parents, the district said the 79-question survey was intended to "establish a community baseline measure of children's exposure to early trauma (for example, violence)" and to "identify internal behaviors such as anxiety and depression and external behaviors such as aggression and verbal abuse." The notice told parents that they could opt out of the survey and included a letter of consent, which stated, "I understand answering questions may make my child feel uncomfortable. If this occurs, then, Kristi Seymour, the research study coordinator, will assist us in locating a therapist for further psychological help if necessary." This should have been a tip-off to parents.

The letter made no reference to the sexual content of the survey, which asked children how often they engaged in, for example, "Touching my private parts too much," "Thinking about touching other people's private parts," and "Thinking about sex when I don't want to."

After filing an unsuccessful complaint with the school district, several parents went into federal court for an injunction and damages, charging that the school violated their rights to privacy and "to control the upbringing of their children by introducing them to matters of and relating to sex." The district and appellate courts rejected those claims. The plaintiffs have not decided whether to appeal to the U.S. Supreme Court.

Two issues deserve attention: (1) Judge Stephen Reinhardt's claim that parents' freedom regarding education is limited to choosing the schools to which they send their children; and (2) the doctrine of *parens patriae*, under which the judge ruled that the school district has the legitimate authority to look after not only the education, but also the mental health, of children.

Imagine a Wal-Mart customer demanding, as a matter of right, that the store manager carry certain items and not others. We understand that a customer's right consists in patronizing or not patronizing the store. If he enters, he takes the store as he finds it. If he dislikes the store, he can go elsewhere.

Judge Reinhardt believes that, in educating their children, parents are in the same position as the Wal-Mart customer. He writes, "Once parents make the choice as to which school their children will attend, their fundamental right to control the education of their children is, at the least, substantially diminished. The constitution does not vest parents with the authority to interfere with a public school's decision as to how it will provide information to its students or what information it will provide, in its classrooms or otherwise."

This reasoning is plausible — except for one large detail. Even if parents choose private education, they have to pay school taxes. The choice is rigged. That's unjust.

Parens patriae, or "father of the country," is the doctrine that the state is the ultimate guardian of children. Judge Reinhardt wrote, "The questioning can also be justified on the basis of an alternative state interest — namely, *parens patriae*.... The School District's interest in the mental health of its students falls well within the state's authority as *parens patriae*. As such, the School District may legitimately play a role in the care and nurture of children entrusted to them for schooling."

In fact, *parens patriae* is one of those high-sounding slogans (the Latin helps) that comes down to this: the state is more powerful than anyone with the audacity to disagree. Did you consent to *parens patriae*? If not, by what authority does it apply to your children?

Judge Reinhardt's presumptuous ruling embodies Senator Hillary Clinton's favorite quotation, "There's no such thing as other people's children." Any self-respecting parent rejects that philosophy root and branch.

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