



CASCADE POLICY INSTITUTE

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## Summary

In 1925 the U.S. Supreme Court overturned Oregon's Compulsory Education Act, which required children ages 8 to 16 to attend only public schools. The Court found that the Act violated the rights of both children and parents. Seventy-five years later many children and parents are still denied full educational freedom.

**Word count: 637**

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## Children not mere creatures of the State

***By Steve Buckstein***

This month marks the 75th anniversary of a landmark U.S. Supreme Court case, *Pierce v. Society of Sisters*, that helped define the relationship between government and children. Though played out in the anti-immigrant and anti-Catholic fervor of the 1920s, the case holds lessons for us today.

Bigotry was strong in America during the '20s, and not only against blacks. The wave of immigrants seeking freedom was sometimes met by resistance from those unable to accept different customs and religions. When some immigrants placed their children in private, often Catholic, schools, the stage was set for political conflict.

At that time in Oregon, the Ku Klux Klan was a powerful force, and it strongly supported a citizen's initiative that would have required all children ages 8 to 16 to attend public—and only public—schools. The measure was placed on the 1922 general election ballot and was supported by an array of civic and political leaders, including the soon-to-be governor Walter Pierce.

The Oregon Compulsory Education Act was defended as a “precautionary measure against the moral pestilence of paupers, vagabonds, and possibly convicts.” Voters were told that children would be led astray from the one true path to American citizenship if allowed to attend schools that were not under government control.

Voters approved the measure by a narrow margin. Before enactment, it was challenged in court by the Sisters of the Holy Names of Jesus and Mary, an operator of Catholic schools, and by Hill Military Academy. A district court declared the law unconstitutional on two major grounds: it would infringe on the property rights of private schools, and curtail the liberties of parents and teachers. The case was then appealed to the U.S. Supreme Court by Governor Pierce. Meanwhile 17 other states were considering similar compulsory public school laws.

The Supreme Court justices had to weigh two sides: bigotry and fear, or individual liberty and reason. They chose liberty and reason. In its unanimous rul-

ing the Court declared, “The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.”

Seventy-five years after the Supreme Court’s decision favoring school choice, most parents still don’t have control over their children’s education. However, choice movements across the country are working to provide parents and their children more educational options through tuition tax credits, vouchers, charter schools and more.

Most opposition to school choice today is not fueled by bigotry. Interest group politics and paternalism are key factors now.

Oregon’s public school system employs more than 50,000 people, half of whom are certified teachers. Teacher unions, administrators and other school employees all have a vested interest in opposing reforms that might allow kids, and the tax dollars that follow them, to move outside their control.

Some people honestly believe that because certain parents might make poor choices about their children’s education we should deny most parents the right to make that choice. This paternalistic attitude is exhibited even among some parents who send their own kids to private schools, but are unwilling to help others make the same choice.

Whether driven by interest politics or paternalism, today’s school choice opponents continue a long history of intolerance against education alternatives, and an unwillingness to allow parents to choose the best schools for their children.

Oregonians should remember the Supreme Court’s wisdom of 75 years ago: “The child is not the mere creature of the State.” All of us, especially parents of students in under performing schools, should demand more parental control and diversity in education.

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*Steve Buckstein is president of Cascade Policy Institute, a Portland, Oregon think tank. For more on educational freedom visit [www.cascadepolicy.org](http://www.cascadepolicy.org).*

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Please contact:

Angela Eckhardt  
Program Director  
Cascade Policy Institute  
813 SW Alder Street, Suite 450  
Portland, Oregon 97205

Phone: (503) 242-0900  
Fax: (503) 242-3822

[www.cascadepolicy.org](http://www.cascadepolicy.org)  
[angela@cascadepolicy.org](mailto:angela@cascadepolicy.org)