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Homeschooling in California and the Good Society in Kansas

By John R. LaPlante

Recently a California court made news when it ruled that homeschooling parents must have a teaching certificate. While the ruling has no legal effect outside the state, the debates it has stirred have implications across the country.

Gov. Arnold Schwarzenegger responded decisively saying, "Every California child deserves a quality education, and parents should have the right to decide what's best for their children." He added that parents should "not be penalized for acting in the best interests of their children's education."

The governor's statement is consistent with a long history in which the rights and responsibilities of parents to direct the education of their children have been recognized.

In the 1923 case *Meyer v. Nebraska*, the U.S. Supreme Court overruled a state law against teaching foreign languages to any student who had not completed the eighth grade. Citing concerns about foreign immigrants, Nebraska said that the law was essential to promoting "the best interests of this country."

The nation's highest court disagreed, saying the lofty goals cited by the state could not replace the judgment of parents. The Nebraska law "exceed[ed] the limitations upon the power of the state," it said.

Two years later, in *Pierce v. Society of Sisters*, the court struck down a law that would have shut down private schools in Oregon. It said that the law there unreasonably interfered "with the liberty of parents and guardians to direct the upbringing and education of children under their control." It cited "the fundamental theory of liberty," in its reasoning, saying "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."

Through these and other decisions the court has established limits on the power of government. There are many other limits as well, such as the Bill of Rights and the checks and balances among the executive, legislative and judicial branches. Limits on government are an essential part the American fabric.

Another limit is the recognition that the political sphere is only one of several vital institutions in society. Others include the family; religious communities; the world of commerce; and voluntary organizations.

Each of these institutions is valuable, and each has its own purposes and operating principles. “Treat everyone the same” may be a good principle for government programs, but most parents will find that it’s not a good idea for childrearing.

Trouble results when one institution starts acting like another. Religious organizations can help us comprehend the spiritual world. But when they seek the power of law, they become distracted and corrupted.

As the cases from California, Nebraska and Oregon show, institutions can clash. In fact, it’s normal for leaders in one institution to seek to expand their reach to others. So we have some school officials (people in the institution of government) applauding the California court for pushing the power of their own institution into the realm of another (the family) in the name of education.

The distinct roles played by various institutions can also get muddled when some people in one institution voluntarily cede some of their responsibilities to people in another. The shedding of family responsibilities and the rise of welfare programs is one example.

The most recent muddling of institutions is the idea, touted by Gov. Sebelius and others, that government should be further involved in the institution of the family. They call for pre-K programs that involve government-paid workers who teach parents how to be parents, and care even for infants—things that the family has always been responsible for.

As Kansans consider this idea, they ought to remember the example of Gov. Schwarzenegger: We need each institution to do its own job well, and respect the role of each.

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