

UNCONSTITUTIONAL

By
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The republican administration's promotion of the educational program "No Child Left Behind" has precipitated a great deal of controversy among educators and the general public as well. The discussions center around issues such as testing, funding, and the difficulty of including such a program in an already busy curriculum. However, no one has touched on the major issue related to this program. The program is unconstitutional.

When the founders of our country wrote the constitution, they were probably very concerned about individual rights, but they were more concerned about states rights. Consider the fact that they were thirteen states (countries) trying to form a federation for the common good. They were interested in mandating to the federal government only those things which they felt were essential to the operation of a central government, but they were greatly concerned that a strong federal government could take away some of their autonomy. As a result, they identified stated powers which the federal government could possess. They also identified other areas (the right to bear arms) as things which would provide protection against tyranny against the states on the part of the federal government. They particularly listed those things which the federal government could do and then blanketed all other powers in a general statement which said that anything not specifically identified as a power of the federal government would become the absolute province of the states.

Education was one of those items not given to the federal government and has forever been interpreted to mean that education is the absolute right of the states. This has been upheld in many law cases which have further noted that the federal government does not only have no authority over education, but that they may not use their powers or resources to influence education within the states.

This provision, while legally supported, has been largely ignored. For many years, the federal government has developed educational programs and funded them at the state level. In fact, they have created such an involvement in education that they now have an office of education which has an annual budget in excess of 75 billion dollars. The fact that they have offered money for state educational programs may not, in itself, be inappropriate. What has happened, however, is that the fourth branch of government, and perhaps the most powerful, the bureaucracy, has tied in intricate rules and regulations which must be followed in order for states and school districts to qualify for any federal funding. Interestingly, most states have outlined their school responsibilities in a few hundred pages, but federal supported programs have volumes of rules to accompany each grant that they award. "No Child Left Behind", for example, has over 1,000 pages of regulations with another voluminous document to further explain those regulations.

The problem, which our forefathers so astutely perceived, is that with government interference and funding comes control. Thus, to a great extent, local or state control

gives way to the federal bureaucracy. In the case of “No Child Left Behind”, there is imposed an accounting system to be checked by testing. As most educators know, when a test is a measure of students, teachers, and school systems, it behooves each system to “teach to the test” in order to insure a favorable rating and additional funding. The test items then become very important, and those making the test can assure that what they want to be taught will certainly follow. In the long run, control of the testing can result in impacting attitudes, morals, thoughts, subject matter, political correctness, religion, social thought and even political orientation. Eventually, these tests will direct the nature of the curriculum. In the case of “No Child Left Behind”, we are already switching public school accountability from its legal base in the states to the federal government.

Others have been concerned by this activity. Hillsdale College for years refused federal money because of the control which it brought by the federal government. Pennsylvania, many years ago, eliminated federal special education monies because they received less than 10% of their special education monies from the federal government, but they were required to adopt procedures which amounted to 90% of their regulations. Currently, the legislature in Utah is raising these same questions.

It is interesting that none of the watchdogs of our legal or social systems have noticed this or at least shown any concern. It is also notable that both political parties have willingly participated in such violations. We demand allegiance to the Constitution as it relates to such things as abortion, gay marriage, concealed weapons, prayer in school, desecration of the American flag and illegal immigration. We give a great deal of attention to the appointment of federal judges, fearing that our future interpretations of the Constitution will endanger our democracy. But the education of our children and the potential for a national manipulation of our educational system proffers a far greater impact on our society than any of these.

This is not a question of right or wrong. Perhaps our system of education would be better off if we followed the acclaimed formats used in many foreign countries. Perhaps we would be financially better off if we relied on federal financial support for public education rather than the states. Perhaps a national curriculum might insure a better fit for the children of America and eliminate some of the discrepancies we find among the fifty states. After all, this is probably not any kind of conspiracy, but a happenstance which most people support.

However, interference by the federal government in the educational programs of the states, no matter how well intended, is unconstitutional and thus, illegal. If the citizens of this country favor the continuance of the present involvement of Washington D.C. in their public schools, then they must follow the procedures to bring this about. If the state legislators and local school boards wish to give up their educational autonomy in favor of federal dollars and federal educational control, then they must insist on and support an amendment to our Constitution which would make the required changes. It is not appropriate to cling to our Constitution as a guide to our legal system on some issues while ignoring others.