Pierce vs. Society of Sisters (1925)

On June 1, 1925, in *Pierce v. Society of Sisters of the Holy Names of Jesus and Mary* (268 U.S. 510), the U.S. Supreme Court declared unconstitutional an Oregon law making public school attendance mandatory. In its ruling, the court upheld the right of private schools to exist and for parents to govern their children's education.

The Compulsory Public School Attendance Bill was an initiative to amend the Compulsory Education Act that compelled children between the ages of eight and sixteen to attend public schools. Inaugurated by the Scottish-rite Masons of Oregon, the initiative measure appeared on the November 7, 1922, Oregon ballot.

Proponents of the measure—including the Ku Klux Klan and the Federation of Patriotic Societies—believed that the measure was necessary to preserve and perpetuate a homogeneous American culture. Opponents argued that the measure not only violated constitutionally guaranteed property rights but also posed a threat to religious freedom and the ability of parents to educate their children in accordance with their faith and conscience. Those most opposed to the measure were Roman Catholics, the initiative's main target, and Seventh-Day Adventists, Episcopalians, and Lutherans—religions that operated private schools.

The Roman Catholic archbishop of Portland, Alexander Christie, immediately founded the Catholic Civic Rights Association of Oregon to combat the initiative and anti-Catholicism generally through pamphlets, newspaper articles, and lectures. In addition, the Oregon episcopacy asked pastors of the 130 Catholic parishes in Oregon to educate voters about the measure and to encourage Catholics to vote.

In the end, the initiative passed by an almost 53 percent margin, with 115,506 votes in favor and 103,685 opposed. Although the measure was not to become operative until September 1, 1926, opponents immediately took their case to the federal court.

The lead plaintiff, the Sisters of the Holy Names of Jesus and Mary, was joined by the Episcopalian Hill Military Academy in Portland. Taking up the cause of the law's constitutionality were the Scottish-rite Masons and the new governor, Walter M. Pierce, who had garnered support for his election by tacitly supporting the Compulsory School Bill.

Following the November election, Archbishop Christie approved the creation of the Catholic Truth Society of Oregon to carry out an informational lecture and media campaign to combat the initiative's intent and the general anti-Catholic climate. In addition, the newly formed National Catholic Welfare Conference gave legal aide and with the Knights of Columbus provided financial backing, spiritual and moral support, and a national media campaign to oppose the law. The National Council of Churches provided legal support.

The proponents of the law claimed that it was a valid exercise of the state's police power to control education within its boundaries. Opponents argued that the measure (1) impaired the obligation of a contract between the Sisters and state law, under which their schools were incorporated; (2) constituted the illegal seizure of the Sisters' property in violation of the due process clause of the Fourteenth Amendment; and (3) violated parental rights to determine their children's education. On March 31, 1924, the Oregon District Court ruled the law unconstitutional and issued an injunction. Governor Pierce appealed the decision to the U.S. Supreme Court.

In *Pierce v. Society of Sister*—supported by *amicus curiae* briefs from the Episcopal Church, the Seventh-Day Adventists, and the American Jewish Committee—the Sisters' counsel reiterated arguments regarding private school property rights, private school compliance with state educational regulations, and parental rights. Associate Justice James C. McReynolds, writing for a unanimous Supreme Court, upheld the District Court's adjudication. The ruling has continued to uphold the constitutionality of private schools to exist and parents' right to oversee their children's education.

Written by Robert Bunting

Further Reading:

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