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# Church and State Fight in Oregon said to be due to Activity of Ku Klux Klan

WASHINGTON, April 17. — In educational and religious circles keener and wider interest is being shown in the attack upon the constitutionality of the Oregon public school law than in any other controversy which reached the Supremee Court in recent years.

Like most states, Oregon has a compulsory education law which requires children to attend school, and prescribes the course of study. The right to enforce such regulations has not been seriously questioned in the courts. But in 1922 the voters of Oregon, 115,506 to 103,685, went a step further, and enacted a law under which children between the ages of 8 and 16, with some exceptions, would after September, 1926, be required to attend "public" schools.

Opponents to this step charged that the law was due to the activity of the Ku Klux Klan. Suits were promptly brought in the federal district court by the Society of the Sisters of the Holy Names of Jesus and Mary, conducting parochial schools, and by the Hill Military Academy, a private school. Enforcement of the law was restrained, and the state appealed to the Supreme Court.

### Joint Opposition

Joined in opposition to the new law eventually were a number of religious organizations, Jewish as well as Christian, and many educational institutions, colleges, and universities, as well as private and parochial schools. The broad contention was that should states be permitted to monopolize the education of children up to the grammar grades, the next step would be the taking over of education in the higher grades.

The new Oregon law proposed that all children between 8 and 16 physically able and living within reasonable distance should attend public schools, unless educated at home by private tutors under state supervision. In the lower federal court the question of property rights was controlling in the decision of the constitutional questions presented. The private and parochial schools contended with success that the state law under which they had been incorporated constituted a contract, which must be respected and could not be broken; that under the contract they had acquired property rights through the erection of schools which could not be confiscated or seriously impaired without violating the federal constitution; that teachers in such institutions had employment rights which must be protected; and that it was an inherent right of parents and guardians, guaranteed by the federal constitution, to decide where their children should be educated, subject to the right of the state to require them to be sent to a public school provided they were not adequately educated elsewhere.

### Teach Allegiance

Alleging a purpose to promote patriotism by large public school expenditures, the state contended that with an increase of facilities attendance in the primary grades should be increased as proposed in the new law. The state asserted that it was its duty to teach children their true allegiance, and to impress upon young minds that the claims of the government were superior to those of any religion. The authority to require children to attend school embraced the right, the state insisted, to compel them to go to the public schools.

Education, important in building up good citizenry, came within the police powers of the states, under their general welfare jurisdictions, Oregon further asserted, insisting that in such matters the federal government had no right to interfere. It was for the state courts and the people at the polls to remedy any defects which might develop, it said, and not for the federal courts, because local conditions must always control in such matters. Insisting that "some vestige of sovereign power" should remain with state governments, Oregon gave warning that should its law be held invalid, a movement would be started at once for a constitutional amendment.

### Church and State

Summarized, Oregon's argument was that the national government was founded upon the theory that church and state should be maintained separate, a principle to be closely guarded in the education of its youth; that the right of state to control a minor when public welfare required had been thoroughly established in the courts and included control over their education; that private and parochial schools are not superior to public schools, therefore the new law would not deprive them of any rights or privileges or subject them to any disadvantages; that the opposition came from those who wanted children given sectarian religious instruction; that the fight involved the survival of the public schools; that it had been consistently held in the courts that states could at their pleasure amend or cancel such charters without encountering any constitutional prohibition; that the new law would not interfere with religious liberty; that those who desired to send their children to parochial or private schools could do so during hours when their attendance at the public school was not required; that children in public schools would be excused under the new law a certain number of hours each week for such religious instructions as their parents or guardians might desire; and that the religious views of some parents could not be permitted to destroy the effectiveness of a salient law.

### Filed a Brief

The Protestant Episcopal Church, the Seventh Day Adventists and the American Jewish Committee each filed a brief as friend of the court in support of the position taken by the parochial and private schools. Opponents of the new law declared it a serious menace. They attributed the weakening of the moral fiber of the time to the lack of religious and moral training, particularly in children, declaring that unless present tendencies were restrained, conditions here would be worse than those in Soviet Russia. Oregon's idea of separation of church and state would mean, they declared, no church but only state, because if schools could be prohibited from teaching religion and morality, all religious instruction would be brought within the control of the state.

The parochial schools took the view also that the most effective religious training could be accomplished as a part of the daily education of children. They denounced the new law as not only extremely unwise but arbitrary, revolutionary, oppressive, and violative of rights which since the foundation of the government have been considered essential to liberty.

### Not Unpatriotic

Furthermore, the opponents of the new law stated as a fact that no private or parochial school in the state had been deficient or delinquent in any respect; that none had taught objectionable or prejudicial subjects or unpatriotic doctrines; that if they were inferior in any respect to public schools the remedy was not in legislation which would destroy them, but in acts to regulate them; that the new law would not result in broadening the educational field or in correcting evils, or in promoting the general welfare of the people.

They denounced as without foundation the charge made by friends of the new law that the increase in crime among children was due to private schools, and that such schools were conducted by bolshevists, communists and syndicalists. Never before had a state, they declared attempted to prohibit a distinctly useful business, whose beneficial effects had never been questioned. If private schools could be prohibited, they said finally, any lawful business in which the people may be engaged, could be destroyed at the will of the state.


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(continued from page one)

living in it could not see the rights of others. If not carried too far this civic pride was good. It was necessary, however, to recognize the rights of others and the value of interdependence.

The Bishop said that he recently made a visit to his home province of Ontario after fifteen year's absence. He was surprised to see the advancement they had made. What were villages when he knew them had developed into towns and cities, largely through the development of the hydro-electric power, and through the development of the west. People in the west, he found, were just as ignorant of the east as the east was of the west. The old province of Quebec was not a whit behind in modern development. The need of knowledge on both sides was apparent with recognition of the claims of each.

"On the Pacific will be the great development of the century," was the Bishop's prophecy. World happenings will centre there. China with her four hundred millions were awakening and the population of Japan and her dependencies now number eighty-seven millions. These nations were in close contact with Canada, and there was interdependence between them and ourselves.

### Obey Laws

The Bishop then mentioned the need of obeying all the laws of the country. When a law was passed, even if the individual was not in sympathy with it, it should be respected. Changes should be brought about only by constitutional means. This applied particularly to alcoholic liquor laws. These laws were most flagrantly broken. It must be remembered that others had a right to think. He felt Canada was not playing the game in allowing export of liquor designed to break the laws of the United States. The rights of all had to be recognized. International interdependence was founded on good will. Refusal to recognize the rights of others was reverting to a state of savagery. It was impossible to make the laws of the jungle ours. The motto of everyone he hoped was service, which someone had said was "the rent we pay for our room on earth."

The charge against Dan Brophy of stealing an accordion was dismissed in the city police court yesterday afternoon. Brophy declared that he bought the accordion from another party whose name he could not remember.

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