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December 17, 1983

The Honorable Ronald Reagan, President
The White House
Washington, D.C.

Dear Mr. President:

We, the undersigned, are deeply concerned about the documented violations of the civil rights of Christian citizens of Nebraska where twenty-six (26) churches are in jeopardy because mandatory state approval of their ministries would violate their religious convictions and their constitutional rights.

As you are aware, seven (7) fathers have been jailed since the day before Thanksgiving. The wives of these Godly men, their twenty-three (23) children, and their school Supervisor with her six month old nursing son, have been forced to flee as fugitives from their homes and their state.

Mr. President, these men are in jail only because of their religious beliefs and we are convinced that you and millions of Americans are deeply grieved at the plight of these God-fearing people.

We urgently request that you initiate a full investigation of the abuse of the constitutional rights of these our brothers and sisters, or take whatever appropriate action you might deem necessary to provide immediate relief so that these families can be reunited in their homes during this Christmas season.

Sincerely and respectfully yours,

APPROVED FOR SIGNATURE BY THE FOLLOWING:

Rev. Jimmy Swaggart
Baton Rouge, La.

Dr. William R. Bright
San Bernardino, Ca.

Dr. D. James Kennedy
Ft. Lauderdale, Fl.

Rev. Jerry Falwell
Lynchburg, Va.

Dr. James T. Draper
Ft. Worth, Tx.

Dr. Tim LaHaye
San Diego, Ca.

Dr. Charles Stanley
Atlanta, Ga.

Dr. Ed Rowe
Wheaton, Il.

(partial listing only)

GEORGE HANSEN
SECOND DISTRICT, IDAHO

1125 LONGWORTH BUILDING
WASHINGTON, D.C. 20515
TEL.: (202) 225-5531

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FINANCIAL INSTITUTIONS SUPERVISION,
REGULATION AND INSURANCE

INTERNATIONAL TRADE, INVESTMENT
AND MONETARY POLICY



Congress of the United States
House of Representatives
Washington, D.C. 20515

IDAHO DISTRICT OFFICES:
UPPER SNAKE RIVER VALLEY
Box 740, IDAHO FALLS, IDAHO 83401
TEL.: 523-5341

SOUTHEASTERN IDAHO
250 S. 4TH, SUITE 220
POCATELLO, IDAHO 83201
TEL.: 236-6980

MAGIC VALLEY
1061 BLUE LAKES BOULEVARD NORTH
TWIN FALLS, IDAHO 83301
TEL.: 734-6466

WESTERN IDAHO
442 BORAH FEDERAL BUILDING
304 NORTH 8TH STREET
BOISE, IDAHO 83701
TEL.: 334-1876

December 19, 1983

The Honorable Ronald W. Reagan
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

The enclosed letter to you from many key leaders of the nation's religious community is a humanitarian appeal for help to gain relief for those beleaguered Nebraska families caught in one of the most touching human dramas in our history involving religious conscience.

This matter has been brought to your attention time and again over the past few years but never under the heartfelt circumstances of seven families torn from each other and their homes with the fathers in jail and the mothers and their 23 children in flight as fugitives.

Mr. President, I know we strongly agree on the principle of state sovereignty within its own jurisdiction and especially state and local control over matters of public education. However, it is distressing that a situation touching the religious conscience of parents and the intimate fabric of the family should also be viewed by the federal government as solely a matter of local concern, ignoring the implications of damage to freedom of religion as we have all understood it to be protected by the First Amendment.

Further, serious mishandling and delays by the state in this case have raised questions in the entire religious community as to how local a situation this could be. I need not remind you that last Thursday another Nebraska minister, a Reverend Robert Gelsthorpe, was sentenced to a daily fine and continued daily imprisonment. The religious community perceives a daily \$200 fine levied directly against a church as far from a local matter in its impact and as a precedent.

Mr. President
December 19, 1983
Page 2

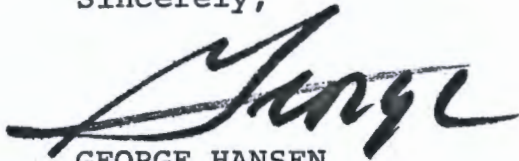
Surely, Mr. President, the technical issues regarding the educational well-being of children can be resolved at the appropriate levels of government and in the proper forums without devastating the homes and families involved.

Senators Orrin Hatch, Roger Jepsen, and Bill Armstrong have today joined me in a strong request for your personal involvement, as a charitable man and strong proponent of religious and family values, to encourage the appropriate authorities to make an immediate effort to bring the families back together in their homes, especially so that they might share their Christmas with one another.

Many key public officials, spiritual leaders who communicate weekly with tens of millions of Americans and citizens across the nation of all denominations have for several weeks appealed for help for these people. And those who have prepared the enclosed letter are themselves receiving strong petitions of concern from their own constituencies that something be done for the relief of these families whose lives have been so tragically disrupted.

Mr. President, I have visited the jail and the wives and children. They would be most grateful for your assistance. And, I have visited with each of the Religious leaders signing the enclosed letter, all of whom wanted to meet with you in person to enlist your personal involvement in the spirit of the Christmas season in ending the plight of these suffering families.

Sincerely,

A handwritten signature in black ink, appearing to read "George Hansen", written in a cursive style.

GEORGE HANSEN
Member of Congress

GVH:jg

THE WHITE HOUSE

WASHINGTON

December 20, 1983

MEMORANDUM TO: MORTON C. BLACKWELL

FROM: William Cattan *WC*

SUBJECT: Washington protest for Faith Baptist Church

This past Thursday, December 15, a protest was held in Lafayette Park by supporters of Dr. Everett Sileven, Pastor of Faith Baptist Church, Louisville, Nebraska, and the seven members of his church who were jailed November 23 on contempt of court charges.

The National Park Police estimated the crowd at 500, and perhaps a quarter of those there had made the trip directly from Louisville. The rest of the crowd were mainly Baptists from churches all over the east coast (Massachusetts to Florida) and the mid-western states.

During the opening of the protest all of the Pastors and lay representative of religious organizations introduced themselves, and there were about 65 individual churches represented.

The main point of most of the posters and speeches was to draw an analogy between Christian persecution in the Soviet Union and what they saw as the rising specter of Christian persecution in America. One poster queried: "How is Nebraska like Russia. Answer: they both have Nebraska corn and Christian persecution."

The judge who ordered the arrest warrants for the seven men presently in jail, and the Governor of Nebraska, came in for the most criticism, with President Reagan a close third. The criticism of the President was two-fold. First, the protesters said that they, and other Christian evangelicals, although appreciative of all that the President had done for them in the past, felt that the real test of his friendship would come in this situation when the chips were really down and individual freedoms were at stake. Secondly, they rejected the claim that the Justice Department could not get involved in State issues citing, for example, the Carter Administration's intervention in Nebraska courts when litigation was taking place over the State's decision on the extension of the ERA.

The protest lasted several hours, and was orderly and without incident. Following the protest, ten of the religious leaders met with Secretary of Education Bell.

LAW OFFICES
BALL & SKELLY
511 N. SECOND STREET
P. O. BOX 1108
HARRISBURG, PENNSYLVANIA 17108

*file
Nebraska case*

WILLIAM BENTLEY BALL
JOSEPH G. SKELLY
PHILIP J. MURREN
RICHARD E. CONNELL
SANDRA E. WISE
MICHAEL CHEREWKA

TELEPHONE
AREA CODE 717
232-8731

December 29, 1983

Mr. Morton Blackwell
Office of Public Liaison
Room 191 Old Executive Building
The White House
Washington, D.C. 20500

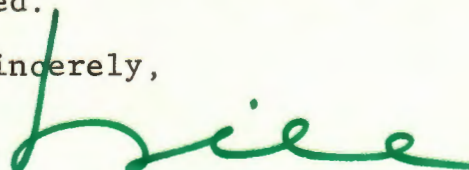
Dear Morton:

I fear you may have been nonplussed over my reception of your good news that Mr. Pendleton had gone to Nebraska. I wax "emphatic" in discussing the Nebraska situation because of my deep sense of the wrong which has been done to Christian people there, my absolute certainty of what is needed to be done, and a sense of annoyance over the ignorance that surrounds the situation.

Over the years I have functioned in a good many areas of public law - representing, for example, Texaco and Pfizer in this state in matters involving environment, state regulation, etc. But the fundamentalist school cases are something special. They are really on the cutting edge of our American liberties, because they involve what the future citizenry shall be and very basic questions relating to free expression and families. I cannot manage to regard them casually.

Do accept my apology if I seemed in any way critical of your good offices. Not so intended!

Sincerely,



William B. Ball

WBB:kav

Enclosures

Here is the Main
Case .

Editorial

The next step

With a stroke of the pen this week, Judge Conrad Cyr upset some important assumptions held by state school policymakers about the regulation of private schools. His decision in *Bangor Baptist Church vs. the State of Maine* may be narrow in that he did not address lofty constitutional issues, but it will be far reaching in its impact. It will force the state to reassess its relationship with private schools, and in so doing should force it to consider the even more fundamental question of how to ensure minimum quality in *all* schools.

During the lengthy trial in U.S. District Court, Christian school officials argued that their schools are arms of their churches, and that state control of teacher certification and curriculum violates religious freedom. State officials raised an equally valid legal principle, namely that the state has a legitimate interest in maintaining some minimal level of educational quality as long as it does not infringe on religious and other First Amendment rights.

Judge Cyr chose not to base the major portion of his decision on those arguments. Instead, he said state officials are misinterpreting state laws by trying to shut down Christian schools that do not submit to the approval process. In saying so, he has rendered school approval a voluntary process in educational matters, although he left the door open a crack for state officials to invoke truancy laws against parents, a path they have rejected to date.

State officials are pondering their next step. They can appeal the case to a higher court. Or, they can prosecute some parents under truancy laws, in the hopes of frightening off the schools' clientele, an unlikely prospect. Or, they can try to have the laws rewritten to reflect their interpretation of what it should say about closing recalcitrant schools. These courses have "grave" constitutional implications.

One other option: They can throw up their hands and walk away from the mess.

But nothing can happen of value until state education policymakers get their own house in order. It's clear from the sharp wording of some passages in Judge Cyr's decision that the state might have lost the case anyway even if the law had been unambiguous, because of the freedom-of-religion questions raised by forcing a religious school out of business.

A major problem is the state cannot prove that certification and curriculum standards ensure a minimal quality of secular education. They don't in public schools. They don't in private schools. In fact, standards that take into account processes such as the number of college courses taken by a teacher or the number of required courses in a curriculum do not tell us anything at all about quality. They only tell us about quantity.

The only standards that tell us about quality are those that evaluate a school's product, and so far state officials and many local school officials have shown disregard for that fact — in private or public schools. Even when Christian school officials offered to report the results of standardized test scores to the state if they could be exempted from school approval standards, the offer was refused by state officials.

The state has a legitimate interest in the secular portion of a child's education. But the tools it is currently using to measure quality are ill-suited for the job.

That's why the state's zealous pursuit of this case has struck a tinny note from the start. Harassing law-abiding and responsible school officials and citizens who wish to send their children to schools that are probably doing a good job by any reasonable standard made little sense to begin with.

Now, Judge Cyr tells us these school officials and citizens are not even breaking the law, and that Maine's scheme of compulsory education has been "historically enlightened" until this attempt to re-interpret its meaning. State officials should think twice before continuing on the current tack. One can agree with their actions in principle, as we have in the past, but their targets and tools lack credibility.

Not until they clearly define objectively sensible minimal standards of quality and provide the tools to measure those standards will they act in a way that will pass both judicial and citizen muster.

As for private schools, let them compete in the marketplace. We believe that parents who take the time to shop around for a school are perfectly able to compare their own public schools and the neighborhood private school and decide which are better. They can recognize educational malpractice when they see it. The history of the Christian school movement clearly shows it's not going on there.

MAR 11 1983

New
England

THE CHRISTIAN SCHOOL TRIAL

Periodic testing would be acceptable



Rufus Brown, Defense Counsel

m107A
William Bentley Ball, the attorney representing the Maine Association of Christian Schools in its lawsuit against the state of Maine, was waiting for an elevator in the Bangor Federal Building with one of his expert witnesses. "What you have to say today is very important," Ball said. "It might well be read by the Supreme Court."

Ball was not the only person with a sense of history at the eight-day hearing. Earlier the Rev. Herman C. "Buddy" Frankland had asserted that he and the other pastors in the association were "redefining what our forefathers . . . did 207 years ago." And the state brought in some of the foremost experts in the United States to buttress its argument that the state had a right and a duty to oversee the curriculum and quality of instruction in Maine's fundamentalist Christian schools.

The major thrust of Ball's strategy during the trial was to show that state authority is no assurance that a child will receive a quality education. Ball persuaded witnesses to admit that there is not even

agreement on what subjects should be contained in a basic curriculum. While one expert limited the list to only reading, writing, arithmetic and citizenship, others added history, science, and "life skills." In fact, Ball was able to show that the witnesses could not even reach a consensus on what science is.

The state's attorneys, led by deputy attorney general Rufus Brown, were put in the position of defending the status quo in a field where the status quo varies. Brown brought in several educational specialists who testified to the need for teacher certification and state curriculum requirements, including the country's foremost expert in testing, George Mataus, who told the court that standardized achievement tests should not be used to demonstrate knowledge because they tend to subvert the educational process.

In the battle of experts, credentials were everything, and Brown spent a full hour listing Mataus's education, honors, and achievements. Ball brought UCLA professor Donald Erickson



back to the stand on the trial's last day to defend himself against assertions by Mataus and another state witness that Erickson was testifying about matters beyond his province.

Basically, Erickson said that educational experts cannot agree on what makes good education, good teachers or a good curriculum. He criticized the educational establishment as being preoccupied with trying to cure problems with another professional course or more technical knowledge rather than developing a student teacher's sense of commitment or natural skills. Erickson said that there is "no demonstrable evidence" linking teacher certification to good teaching and student learning. The idea that a bachelor's degree should be required for private religious school teachers "can do serious harm" in some instances, Erickson said. And most statutory requirements "are not educationally sound," he said. "The worst school I've ever seen followed the [state] requirements to the letter."

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William Bentley Ball, foreground, a Pennsylvania attorney with a national reputation for defending Christian schools against state intrusion.

To assure the state that children were actually learning, Erickson offered what came to be known at the trial as the Erickson Common Sense Test: Give a child a book and ask him to read part of it. Then ask him questions about it. If he can answer the questions correctly, he knows how to read. "You need some kind of formal or informal assessment of the child's ability," Erickson said. "That's the only way I know of." But he balked at endorsing nationally recognized tests, such as the California Achievement Tests or the New York Regents Exam. "A lot of it is a matter of common sense," he said. "I think we create a lot of mystique in education that obscures more than it clarifies."

The question of using testing to satisfy state education requirements took up a large portion of the trial's latter days. The Christian schools, while not endorsing the idea outright, seemed to be implying that they would accede to submitting test results — through parents, not directly — to the state to at least establish their reputations. Judge Conrad Cyr's interest in the idea was evident from the questions which he frequently asked witnesses.

The state was prepared to rebut the concept with Mataus, who traced standardized testing back to 19th Century England and beyond. In some cases, Mataus said, it was not unusual for a teacher's salary to depend on the scores his students achieved. "The problem was, the tests became the curriculum," Mataus said. "Education becomes reduced to preparing for the test." He added that

he was surprised Christian schools in Maine were backing the idea, "because private schools in North Carolina fought this tooth and nail and won."

Mataus said testing, especially when the tests were selected by a state education department, "gives the state de facto control of the curriculum. You don't have to set textbooks or courses, you just have to set test questions . . . He who controls the test controls the curriculum." He predicted that attempting a solution with tests would bring both sides "back into court very soon." Besides, he said, testing could have a "serious negative effect" on private religious schools. Mataus, who comes from a background of private Catholic schools and teaches at Boston College, said, "One important thing with religious schools is the concept of permeation, that religious themes run through all subjects. If they have to prepare students for tests that do not have those themes, they may have to spend a lot of time away from that religious training, and I would resent that."

But Mataus, a witness for the state, also admitted that educational researchers have not been able to find a direct link between teacher effectiveness and student learning. "It's not a straight line effect," he said. "It interacts with too many other school factors." And under cross-examination by Ball, he said there was no consensus in the educational community on the need for teacher certification in private religious schools, or on the need for state approval of such schools, or on the need for a state

official to have unlimited power to prescribe required courses, as Maine's Commissioner of Education has.

Responding to questions from Judge Cyr, Mataus said cognitive (factual) learning can indeed be measured with tests, although "affective" learning (moral values) could not. And "the compelling interest in my view for the state is in cognitive goals." But he remained firm in his personal philosophical opposition to testing as a way of assuring the state that those goals are being met because he felt that requiring teacher certification was "less intrusive" than requiring testing.

The trial ended last week without either side presenting closing arguments. Those will wait until summer, after final written briefs have been submitted to Cyr. As Cyr declared testimony at an end, the two teams of attorneys gathered in the center of the courtroom to congratulate each other rather like two basketball teams after the final buzzer. "We accomplished 100 percent more than we intended to," deputy attorney general Brown said. "I think the record in this case is as solid as it could possibly be." Ball has a reputation of scrupulously avoiding comment about his cases, but as he gathered his files last week he admitted that he was "very satisfied with the way the trial went."

The financial cost of the trial to the state has yet to be measured. "I'm going to hate to order the transcript of this," Brown said. "It'll cost thousands." The trial's expense "will be a matter of great concern to the state," he added. "The Bath Iron Works trial [testing the state's ability to finance a new shipyard for the company in Portland using bond money] cost \$3,000. We spent more than that here before we even walked into the courtroom." Frankland says the Christian schools in Maine are paying their expenses out of their own pockets, with no help from any of several Christian legal foundations in the country, although he did not rule out the possibility that they might seek such help in the future if the case is appealed by either side.

The decision in the case will affect more than the 17 members of the Maine Association of Christian Schools and the almost 40 other Christian schools in the state. Maine is one of 12 states that require state approval of private religious schools. Frankland and others involved in the case say they are aware of the case's possible consequences, but say they are more concerned with its effect in Maine. A victory for the state "would seriously inhibit, perhaps halt or even reverse development of [Christian] schools here," Erickson testified. Parents of students in the schools and the students themselves testified repeatedly that they would move out of Maine if state control were upheld, even if it meant breaking up their families.

Cyr's decision is not expected until July at the earliest. Appeals could delay a final solution for several years.

by Jeff Clark

Photography by Stephen Nichols

Nebraska Christians go to jail for their school

HARRISBURG PATRICK 12/17/83

Fundamental harassment

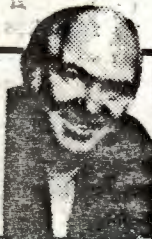
ONE OF the great compelling motivations for the formation of the American union was the hunger of the settlers for religious freedom. They brought that conviction to the eastern seaboard. There the principle of religious liberty took root and flowered — but somehow it never made it westward to Nebraska.

For the past seven years, state officials have been engaged in a systematic campaign to wipe out a score of fundamentalist Christian schools scattered around Nebraska. Their efforts successfully came to a head in the matter of the tiny Faith Baptist School in Louisville: Seven stubborn men, the fathers of children enrolled in the school, are now in jail for their stubbornness. The unhappy story is beginning to draw national attention.

It is by no means a novel story. In 1925, Oregon attempted to make Catholic children attend public schools. Fifty years later Wisconsin persecuted the Amish. Ohio, North Carolina and Kentucky have sought at various times to whip the fundamentalist Christian schools into line. Nebraska follows in an ignominious path.

SYNDICATED
COLUMNIST

JAMES
KILPATRICK



The situation in Nebraska now is so complicated by bad law and bad behavior that sympathetic observers despair of salvaging the kind of religious freedom that has been won elsewhere. In the town of Louisville, a few miles south of Omaha in Cass County, a fundamentalist pastor named Everett Sileven established the Faith Baptist Church. In the church basement he established a school for about 25 children from his flock, ranging in age from 5 to 16, and he assigned his daughter Teresa and two adult monitors to supervise their instruction in the program known as Accelerated Christian Education. Teresa, for the record, has a bachelor's degree.

CAME the state of Nebraska, brandishing Title 19 of the Nebraska Revised Statutes and citing rules 14 and 21 promulgated thereunder, all to the effect that only state-approved schools may operate under the law. State approval involves teacher certification, materials and equipment, length of school day and year, requirements for health and safety, a minimum required curriculum, and the filing of reports on school attendance. Only teachers holding "a valid Nebraska certificate, legalizing him or her to teach the grades or subjects to which elected," are permitted to teach.

Pastor Sileven got some bad advice. The well-established law is that our individual right to the free exercise of religion is not an unlimited right. Society also has rights. In the matter of education, society has a right to insist that children learn the basic subjects, that they

attend classes in a safe environment, and that the state be informed of their continuing education.

Sileven and his flock chose to be adamant. They insisted that the state had no right to regulate their school in any way. In one embarrassing legal pleading, they charged that the state was violating their right "to bear children... as they see fit," which was nonsense. The state's petition for an injunction to close the school led to a poorly prepared trial in which key constitutional issues were not even raised. The injunction was granted. The Nebraska Supreme Court upheld the state. The U.S. Supreme Court, without hearing argument, summarily affirmed. Nebraska officials then undertook to enforce the school's closing. Sileven spent four months in jail for contempt; now seven of his followers are in jail, and the situation deteriorates.

IN ITS opinion approving the injunction, a majority of Nebraska's Supreme Court approved the state's requirement for teacher certification. Chief Justice Norman Krivosha dissented. He found nothing "either in our statutes or in logic which compels a conclusion that one may not teach in a private school without a baccalaureate degree if the children are to be properly educated." That issue is being pressed anew in a new case involving the Park West Christian School in Lincoln.

My own sympathies lie entirely with the estimated 500 fundamentalist families in Nebraska who regard their little schools as direct extensions of their church. I have visited such schools; I have witnessed their cheerfulness and their discipline; and I have seen evidence that their children do at least as well as children in public schools. Assuming compliance with health, safety and basic curriculum, I think they have a right to be left alone.

THE WHITE HOUSE

WASHINGTON
December 23, 1983

MEMORANDUM TO: FAITH WHITTLESEY
THROUGH: Jack Courtemanche
FROM: Morton C. Blackwell *MB*
SUBJECT: Nebraska School Situation

I received this packet December 23rd from Pastor Carl Godwin of Lincoln, Nebraska. This contains more detailed information than we have had before about the many Christian schools in conflict with state education authorities in Nebraska.

MCB:jet

1 Attachment a/s

MEMORANDUM TO THE FILES:

This same memorandum was sent to: T. Kenneth Cribb,
Charles O'Malley
Wm. Bradford Reynolds
Lilly Hausenfluck

NEBRASKA CHRISTIAN SCHOOL CONFLICT UPDATE

DECEMBER 22, 1983

Pastor Jim Eckerberg
Church of Christ
7th & A
P.O. Box 846
Gering, NE 69341
(308) 436-4037

In January of 1982 the State of Nebraska filed a motion on Elder Jim Eckerburg of the Church of Christ. The following June 10, 1983, a summary judgment was granted to the state against the school. Pastor Eckerburg and his church were found in contempt-of-court on November 1, 1983. The church was fined \$100.00 a day, and Hershall Stoner, the school principal, was fined \$150.00 a day for every day the school was in operation from that time forward.

The week of November 7th the people decided to close the school, and move it to Torrington, Wyoming. After the 24th of November the school was re-opened in Wyoming. Judge Kortum dismissed the fines because of the compliance with his order.

Pastor Bob Gelsthorpe
North Platte Baptist Church
P.O. Box 641
North Platte, NE 69101
(308) 534-5279 (church)
(308) 532-0182 (home)

Pastor Bob Gelsthorpe of North Platte Baptist and his church were found in contempt-of-court on December 15, 1983. Judge Murphy ordered Pastor Gelsthorpe to pay \$200.00 a day and, the church was also ordered to pay \$200.00 a day for every day the school operates from December 15th on. The fines now total \$1200.00 as of December 21st.

Judge Murphy also ordered that Pastor Gelsthorpe spend every day that the public schools operate in the Lincoln County Sheriff's office from 9:00 a.m. until 3:00 p.m.

Mrs. Agnes Rich
United Pentecostal
Apostolic Church
515 S. Oak St.
Grand Island, NE 68801
(308) 384-9627
(308) 382-1726

Mrs. Agnes Rich of the United Pentecostal Apostolic Church, her head teacher at the school, and a parent representative were all found in contempt-of-court on November 10, 1983. All three were ordered to pay \$50.00 a day as long as the school continues to operate.

In January of 1983 the school and church were found not to be in compliance with the rules and statutes of the State of Nebraska.

As of this letter, the State has NOT carried out any further legal action against Mrs. Rich since she was found in contempt on November 10th. The total fines as of December 22nd are \$5100.00.

Pastor Dennis Cason
Pastor Bruce Miller
(Interim Pastor)
Independent Baptist Church
P.O. Box 113
Morrill, NE 69358
(308) 247-2603

In January, 1982, the State of Nebraska filed a motion on Pastor Cason of the Independent Baptist Church of Morrill, Nebraska, for operating an unapproved, unlicensed school. Summary judgment was granted on June 10, 1983.

At their contempt-of-court hearing on November 8, 1983, Pastor Cason and his people were found guilty. The church was fined \$100.00 a day and Pastor Cason was fined \$50.00 a day for every day the school was in operation. The fines were retroactive back to late October, 1983, when the school received a form letter stating it could not be accepted for approval by the Department of Education.

On November 13, 1983, the people of the church voted to close the school and move to Wyoming. On November 17th, Judge Kortum acknowledged their compliance and negated the fines.

Pastor Cason has since resigned from the church due to these problems. The church has also lost one-third of its people because of the Christian school issue.

Principal David Burkey
Faith Christian School
Beaver Crossing, NE 68313
(402) 532-5795 (school)
(402) 532-7615 (home)

The State of Nebraska moved for an injunction to close Faith Christian School approximately two years ago. Principal Dave Burkey stated that the trial was set for November 15, 1983. On November 18, 1983, the State asked for a summary judgment against the school. Mr. Burkey expects a ruling to be handed down by Judge Bryce Bartu sometime in January or February of 1984.

Elder Warren Rushton
Platte Valley Baptist Church
1720 1st Street
Columbus, NE 68601
(402) 563-5303
(402) 563-2747

Mr. Warren Rushton, Chairman for the Nebraska Coalition for Parental Rights estimates that there are ten home schools that are involved in court litigation currently. There have been two judgments against the home schools: (1) The State of Nebraska versus Bigelow in 1982 and (2) the State of Nebraska versus Morrow in 1983. Both were found guilty with injunction reliefs filed to close them down.

Mr. Rushton believes the main problem with the home schooling situation is that the State of Nebraska courts are not following the regulations and rules set up by the United States Supreme Court in regulating and handling First Amendment Cases. He also believes that, according to the Accountability and Disclosure reports of 1980 and 1982, 21 senators had a large portions or the highest portion of their funds supplied by the Nebraska State Education Association; therefore, according to Mr. Rushton, there needs to be a study of the Department of Education here in Nebraska.

Pastor Carl Godwin
Bible Baptist Church
4400 North First Street
Lincoln, NE 68521
(402) 474-0642 (church)
(402) 475-2119 (home)

In May of 1982, the State of Nebraska filed a motion on Rev. Carl Godwin and Park West Christian School for operating an unapproved, unlicensed school. Pastor Godwin then retained Mr. William Ball from Harrisburg, Pennsylvania, as the school's attorney.

The trial date was set for June 1 - 10, 1983. Five days before trial the State filed for and was granted summary judgment by Judge Bernard McGinn. On May 27, 1983, the school was ordered closed.

Two months earlier Pastor Godwin and several others started negotiating meetings with the State and the Department of Education. (See five-paged article enclosed: "Nebraska Negotiations Are to No Avail.")

On December 9, 1983, Judge McGinn granted a stay in his order to close the school while Park West Christian School appeals to the Nebraska Supreme Court. This case is expected to be heard by the Nebraska Supreme Court sometime this spring.

Pastor Everett Sileven
Faith Baptist Church
5th & Elm
Louisville, NE 68037
(402) 234-3435 (church)
(402) 234-6615 (home)

Faith Christian School was filed on in 1977 for operating an unapproved, unlicensed school. They were found guilty at the district level by Judge Case. The Nebraska Supreme Court upheld the decision in February of 1981.

The case was then appealed to the United States Supreme Court, which summarily dismissed the case without hearing any arguments.

From that time until now, the school has continued to operate in spite of the order to close by Judge Case. Everett Sileven was found in contempt-of-court and spent four months in jail. He was released in December of 1982. That September the State padlocked Sileven's church, and only opened it for services on Wednesday evenings and on Sundays.

In March of 1983, several of the parents of the Christian school children were found in contempt-of-court. They were fined and sentenced to jail, but the case was again appealed to the Nebraska Supreme Court. The Court granted a stay and agreed to hear the case, which has not happened as of yet.

The fall of 1983 brought contempt-of-court charges again to Sileven, the school teacher, and seven sets of parents of the school children. On November 23, 1983, seven fathers were jailed for refusing to testify in their contempt-of-court proceedings, and the wives and children of the seven men all fled from the State of Nebraska. Sileven and his daughter also left the state. (His daughter is the teacher at the school.)

Amish Families

We are not able to get all the specific facts concerning the Amish. They were apparently first filed on in the fall of 1978 after being found guilty. They were then fined. After refusing to pay the fine, one Amish man's wagon was confiscated and auctioned. These people finally sold their land and fled the state in the spring of 1982. (Some articles are enclosed for your information.)

NEBRASKA NEGOTIATIONS ARE TO NO AVAIL

On March 30, 1983, leaders of the unlicensed church schools in Nebraska met for the first in a series of negotiating sessions with the education department officials in Senator Tom Vickers' office. The purpose of these negotiations was to seek a solution to the conflict that has become known nationwide as the Nebraska Church School Conflict. The church leaders who were involved in these negotiating sessions with the education officials were Dr. Rex Fuller, of the Christian Law Association; David Burkey, Administrator of the Mennonite Church School at Beaver Crossing, Nebraska; Carl Godwin, Pastor of the Bible Baptist Church in Lincoln, Nebraska; and his local attorney, Larry Stunkel. These meetings were tape recorded and typed transcripts were later given to all participants. The transcript of the very first meeting indicates that Dr. Lutjeharms clearly explained to the church leaders that he did not have the power to change the law; thus, they would have to seek solutions within the limits of the present law. This they fully understood.

Dr. Lutjeharms went on to explain that he did have some latitude under the law in which he could work. As an example of this, he referred more than once to the Golden Plains Mennonite Church at Grant, Nebraska, which has two teachers, one of whom has two years of college education and the other who has only a high school degree. This school applied for, and was given approval, by the Department of Education a year ago and that annual approval was given again just weeks ago.

As the discussion continued, David Burkey, the administrator of the unlicensed Mennonite Church School at Beaver Crossing, Nebraska, reminded

Dr. Lutjeharms that his teachers were not college graduates and had no college transcripts. The Commissioner replied, "Nor do the ones at Golden Plains". He also stated "There have been some certificates issued with less than a bachelor's degree in the state". Dr. Lutjeharms again referred to the Golden Plains Mennonite Church and concluded his comment with this sentence: "The reason I bring it up is simply that it's on less than a bachelor's; so, yes, that's possible."; thus, it is very strongly indicated that what was worked out for the people of the Golden Plains Mennonite Church School could, perhaps, be done for the Mennonite Church School at Beaver Crossing and other similar church schools in our state. With this in mind, the group proceeded to find an alternative way for the Department of Education to get information from the churches rather than demanding that these churches submit applications seeking a government permit to operate their educational ministries.

The church leaders had said all along through this conflict that they were willing to do basic reporting through the parents of the school children; therefore, after many negotiating meetings, a Parent Representative Report Form was developed. This form was presented to the State Board of Education as an alternate means of communicating information to the Department of Education. On June 10, 1983, the State Board of Education voted five to three to accept this new means of communication. The Parent Representative Report Form involved two reports: the school report and a teacher report, but from the State Board of Education it went to the Attorney General's office, and he added a third report called a Fall Report Form. Therefore, the forms developed into something far more than basic reporting; however, because of their desire to avoid conflict in our state, such as the one in September of 1982, and because Dr. Lutjeharms had indicated he had latitude under the law to work with them just as he had the Golden Plains Mennonite

Church, these churches worked through their parent representatives and hoped for a peaceful September.

But, on September 9th, these hopes were dashed! The same man, who is recorded on transcript as saying that he had some latitude under the law to work with people as he did in the case of the Golden Plains Mennonite Church School, now says that those who have college degrees, and even masters degrees, are not qualified to teach. Only three teachers were considered certifiable and these were all graduates of secular colleges. Those who were graduates of Christian colleges were not certifiable.

Of the twenty-five unlicensed church schools in the state, nine turned in their Parent Representative Report Forms. These nine are primarily the ones who are involved in litigation with the state. The state has not yet moved on all twenty-five schools. Of the nine who turned in forms, the Commissioner recommended to continue efforts to close eight of them and the State Board voted unanimously to do so. The one exception was the Park West Christian School in Lincoln, which has all college graduate teachers, including two teachers with masters degrees. The Commissioner's recommendation involving this school was that its high school should be closed, but that its kindergarten through eighth grade would be allowed to operate if they would use only the three teachers who were graduates of secular colleges. No Christian college graduates were considered qualified. Of course, Pastor Godwin immediately told the media that he could not operate this way.

Church school leaders have asked themselves: "Could it all have been a trap? Was it just a means of gathering information to be used against these churches?"

Now several churches in our state are operating in defiance of a court order and could be found in contempt of court very soon. So, when the

conflict starts and churches are locked, property is confiscated and ministers are jailed, remember that this same bureaucracy that continues to prosecute churches with tax money is hypocritical. Could anything be more hypocritical than to certify teachers at Golden Plains, neither of whom has graduated from college and one of whom has never attended college, and then to refuse to allow some with college degrees to teach?

Of course, Dr. Lutjeharms is trying to explain his exception for Golden Plains by saying they come under the Yoder vs. Wisconsin decision. In Yoder vs. Wisconsin the U.S. Supreme Court simply said that the Amish do not have to send their children beyond the eighth grade. Dr. Lutjeharms must answer several questions: How can the Department of Education decide which religion fits under Yoder vs. Wisconsin? How can they allow the Golden Plains Mennonite Church to operate with their blessings and prosecute the Beaver Crossing Mennonite Church? And, why are they all of a sudden so excited to recognize the Yoder vs. Wisconsin decision? Why did they not do so when the Amish were in the state, rather than fining them and confiscating their property and causing them to sell their land and flee for their religious freedom?

The final, most perplexing, question is: Why did Dr. Lutjeharms use the Golden Plains situation as an example of what could be done to resolve this counter productive conflict if he had no intentions of doing so?

In light of all this treatment and considering the following comments made by Genevieve Schillo, Superintendent of the Omaha Archdiocese to the Unicameral's Education Committee in 1981, is it any wonder that the churches fear the regulation of their ministry by the Department of Education? Her testimony was: "I wish to emphasize that our compliance does not mean that

we are any less...committed to the rights of parents and the freedom of private schools to operate...We are concerned about the increasing state encroachment, we are concerned about the loss of our independence. We do not want to see an ice cap of state control moving steadily in the direction of a total monopoly of education. Just because we chose not to join the efforts of those who sought to change the laws in the last legislative session with respect to the control of private schools, we certainly would not want you, as state senators or the general public, to have the impression that we have always been happy with the implementation of the statutory standards. Ours has been a constant struggle to avoid being made a carbon copy of the public school system through rules and regulations. The State Department of Education has not, in our view, taken a neutral stance in its dealing with private education."

The church leaders, in good faith, tried to negotiate a settlement and sincerely hoped for peace, but it was all to no avail and appears to have been an exercise in futility.

Carl Godwin, Pastor
Bible Baptist Church
Lincoln, Nebraska

Lincoln Star 9-7-83 front page
Judge says order to close Christian school stands

By Mike Goff
of The Lincoln Star

Lancaster County District Judge Bernard McGinn ruled Tuesday that his order last May to close Park West Christian School in Lincoln will stand. Park West, 4400 N. First St., is operated by Bible Baptist Church, which along with Conquerors Christian Academy of the United Pentecostal Church, 2980 Holdrege St., came under legal fire in May 1982.

State Attorney General Paul Douglas and Lancaster County Attorney Mike Heavican filed a petition to close both schools because they weren't employing state-certified teachers, or

administrators and weren't complying with state attendance reporting requirements.

McGinn Tuesday denied Park West's motion for a new trial, noting that the Nebraska Supreme Court has held that the state's right to regulate schools "was a reasonable regulation and did not impose an unreasonable burden" upon religious beliefs, nor violate First or Ninth amendment rights.

McGinn's closing order wasn't implemented during the 1982-1983 school year because attorneys anticipated lengthy hearings before going to trial.

When his order came in May, without ever going to trial, school at Park West had already closed for the summer.

Heavican said he'll meet with state Department of Education officials to determine whether the department has changed its evaluation of the school.

If the school still is lacking approval in some area of its operation, the church's probable appeal of any court-ordered, forceful closing of the school should allow it to remain in operation until the appeal is decided, Heavican explained.

The state Department of Education on Friday will determine whether to grant temporary approval for the schools to report teacher qualifications by the parents of students, rather than by school administrators.

3 schools submit forms, Page 11

Opinions

Monday, Sept. 12, 1983 • 8



"Dedicated to the People of Nebraska, and to the Development of the Resources of the State" — Sept. 7, 1867.

Lincoln Journal

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Editorials: Opinions of the Journal

State must not prefer one church school over another

As the Rev. Carl Godwin of Lincoln's Bible Baptist Church well knows, the Journal editorially has not agreed with him on the Christian school issue. The newspaper's opinion is that all teachers in non-public schools should meet the same minimum qualifications required of teachers in public schools. Essentially, that means graduation from a teacher training institution — public or private — and certification by the state Department of Education.

Nevertheless, Godwin is making a hard-to-refute point when he accuses the state Board of Education of religious discrimination. One can't blame him for being upset.

Last Friday the state board granted temporary approval to three of the five elementary grade teachers in the heretofore unapproved Park West Christian School, which Godwin's fundamentalist church operates. About the three: Marilyn Stryker is a graduate of Kearney State College, Brigita Doolley a graduate of the University of Nebraska and Paula Miller a graduate of Central Michigan University.

The two Park West elementary teachers not approved by the state are graduates of Citadel Bible College and Baptist Bible College, according to the school's published information. None of Park West's high school staff was approved, either.

Godwin pointed out that while the state board was thumbing down approval for some of his teachers and also saying no to fundamentalist church-sponsored schools in Louisville, Beaver Crossing, York, Grand Island, North Platte and Gering, it earlier had granted temporary approval to the Golden Plains School in Grant. That Mennonite elementary school, Godwin says, has two teachers, one of whom has no college exposure and the other but two years.

It was under the U.S. Supreme Court's

celebrated Amish case decision, Yoder vs. Wisconsin, that the Mennonite school at Grant was accorded preferential treatment, the Baptist preacher says he was informed. Presumably, prior approval of the state Justice Department was obtained, despite the clear command of state law requiring certification.

If what Godwin relates is so, the accusation of preferential treatment is very hard to put down. Like it or not, it forces the question whether the State of Nebraska has any business discriminating between religious congregations. The U.S. Supreme Court's unwise ruling that such treatment is possible makes it neither automatically nor inevitably acceptable.

The Lincoln Journal regards religious discrimination by the state as a terrifying prospect. It is more of a fundamental threat to our society than the question of teacher certification. It strikes at our very social core, at what we have solemnly pledged to one another, at what has fostered harmonious pluralism in this land.

A tiny tail may wag the entire kennel, but if the Yoder doctrine is to be honored in Nebraska, the state may then have no recourse other than removing minimum teaching and program requirements in all non-public schools. Meeting minimum approval or accreditation standards would have to become a voluntary action by any of Nebraska's non-public schools.

Any condition requiring some religiously-based schools to meet standards but excusing others is a situation which puts the state in an untenable position. The state must be scrupulously even-handed with religious bodies which sponsor day schools.

In this area, there dare not be special circumstances allowing one to do things denied all others.

RULE 14

- 14-(0) The school must be approved by the state before it is even considered to provide instruction in compliance with the compulsory attendance law.
- 14-(1) (f) To be considered a teacher you must have a certificate.
- 14-(2) Must apply to State Department of Education for approval to legally operate. Requirements of Rule 14 must be met.
- 14-(5) Reports must be filed. Reports are totally at the discretion of the commissioner; all he requests is to be reported.
- 14-(14) All teachers, to be legal, must have a certificate.
- 14-(16) (b) 50% of principal's time to be spent in administration (if 10 or more teachers in school). This is often difficult.
- 14-(16) (c) Principal must have a certificate - he is church staff.
- 14-(20) 50% of textbooks to be copyrighted no later than 5 years before date of purchase and no older than 5 years. Burdens school with requirement of using new books which may carry a non-acceptable philosophy and prevents the use of older acceptable books.
- 14-(22) (b) Suggested that 99% of books in elementary library be non-religious. Though suggested it could be held to approximately that amount if officials wanted to.
- 14-(22) (d) 25 new books per teacher per year are to be added to library (up to total of 150). Expense could be great.
- 14-(23) Elementary students to be able to use library on an "unscheduled basis". We are more structured than this. It would almost require a librarian.
- 14-(32) The course offerings for high school are far beyond what we need as a small school. Each year, whether needed by students or not, the following would have to be offered:
- 4 Language Arts courses (English, speech, etc.)
 - 3 Social Science
 - 2 Math (At least one of Algebra II, Geometry, Trigonometry every other year.) Sometimes we may have no students in these.
 - 2 Science Courses
 - One in Biology each year
 - One in Chemistry or Physics each year

RULE 14

(Continued)

6 Vocational Education Courses

Our students are basically college preparatory students not needing the strong vocational education program. The expense and teachers are beyond us.

1 P. E.

1 Music

1 Art - We never have had a high school course.

- 14-(38) 70% of courses in High School must be taught by teachers endorsed (trained) in that area. We often must use teachers we can get and have available, but are qualified to teach the course.
- 14-(39) High school must have a certificated librarian 2 hours per day. Expense? Person available? Person would have to have 12 hours in library media.
- 14-(40) High school must have a guidance counselor, certificated, with 12 hours of graduate college training, for at least 2 hours per day.
- 14-(44) (b) Library must have 1,200 books - 600 of which are non-fiction and listed in standard bibliography lists approved by the State Department. Expense? Need 1,200 books for 12 students?
- 14-44 (o) 98% of books to be non-religious.
- 14-44 (1) Reader's Guide is required - we don't have more than one or two magazines listed in it.
- 14-44 (f) Need 10 magazine subscriptions. Why? No need with few students. Expense great.

SUMMARY OF RULE 14

- 14-(0) Only a school approved by the State Board is considered to provide a program of instruction which is in compliance with the compulsory attendance laws.
- 14-(1)(a) A school year is 36 weeks.
(b) Schools must be in session 175 days.
(c) A school day is 5 class hours of instruction.
(f) A teacher is a certificated instructor.
- 14-(2) Application for approval. Form must be signed by public school superintendent. School must meet with Department of Education to determine if regulations can be met. Probationary approval. Visitation by Department of Education re compliance inspection. If Rule 14 not met, recommendation of non-approval.
- 14-(3) Each failure to meet a numbered or lettered regulation of this Rule shall constitute a separate violation. Maximum number of allowable violations:
- | | |
|-------------------|---|
| K - 12 | 4 |
| 7 - 12, or 9 - 12 | 2 |
| K - 6, or K - 8 | 2 |
- Probation. If school on probation continues to exceed allowable number of violations, Department shall recommend to Board that the school be non-approved to operate as a legally constituted school system for the ensuing school year.
- 14-(3)(f) Members of Department of Education, in determining whether to recommend to the State Board that a school system be placed on probation or be non-approved "shall take into consideration the purpose and philosophy of the school system and the quality and appropriateness of the total educational program and it may take into account other factors such as the sparsity of population, location, and transportation when they create an undue hardship on the student."
- 14-(5) To be approved, a school must submit annually Approved School Reports to Department of Education (Fall Approval Report and Annual Term Summary Report). Public school superintendent shall "verify the accuracy of the information." Disapproval as penalty for filing.

- 14-(6) "Each statutory violation shall be treated as a separate violation from this Rule".
- 14-(7) Elementary school instructional program shall be based on a written statement of purpose and/or goals developed at the local level and approved by the local Board of Education or governing body.
- 14-(8) The policies have to conform to the statement.
- 14-(9) Elementary school curriculum.
- (a) reading and language arts
 - (b) mathematics
 - (c) social studies
 - (d) science
 - (e) health
 - (f) physical education (including "positive mental attitudes")
 - (g) art
 - (h) music
- 14-(11) School must develop policies and procedures for special education programs for all resident handicapped children which are in compliance with Rule 51.
- 14-(12) School must utilize a competency measure such as Nebraska Assessment Battery of Essential Learning Skills.
- 14-(13) School must keep record of student attendance and academic progress.
- 14-(15) 90% of teachers shall be assigned to areas for which they have a certificate endorsed for areas of specialization and the levels for which the person is specifically qualified.
- 14-(16)(b) 50% of principal's time must be for administration and supervision.
- (c) Principal must hold an Administrative and Supervisory Certificate.
 - (d) Principal must meet with governing body at least quarterly to plan for implementation of educational program of school.
- 14-(17) 30 to 1 pupil-teacher ratio.
- 14-(18) Teacher must participate in at least two days of in-service activities each year.
- 14-(20) At least 50% of textbooks shall have a purchase date of within five years and a copyright date no more than five years old at time of purchase.

14-(22)(d) Each elementary school shall acquire a minimum of 25 new library resources, exclusive of textbooks and encyclopedias, of different titles, per teacher per year up to 150 titles during one year.

14-(22) School must subscribe to at least two children's magazines. At least one professional magazine.

14-(24-28) Health and safety requirements.

14-(32) Secondary school required subject fields:
(a) Language Arts (40 instructional units)
(b) Social Studies (30 instructional units)
(c) Mathematics (20 instructional units)
(d) Science (20 instructional units)
(e) Vocational Education and/or Practical Arts (20 instructional units)

consists of:

1. VO Agri./Agribusiness
2. Business and Office Education
3. Distribution Education
4. Home Occupations
5. Home Economics
6. Trade and Industrial
7. Industrial Arts
8. Other occupationally oriented courses:
 1. Communications and Media
 2. Fine Arts
 3. Humanities
 4. Marine Service
 5. Recreation and Hospitality
 6. Public Service
 7. Personal Service

(f) Physical Education (10 instructional units)

(g) Health

(h) Music (4 instructional units)

(i) Art (4 instructional units)

The secondary school regulations parallel the elementary school regulations. However:

14-(39) Each secondary school shall have a certificated person assigned for at least two class hours per day to provide library-media services and shall have the responsibility for the secondary instructional materials and equipment. This person must have at least 12 semester hours of college credit in the field of library-media.

14-(40)

Must have a certificated person for at least two class hours per day to provide individual or group counseling and guidance services to pupils. This person must have had at least 12 semester hours of graduate college credit in basic guidance and counseling.

14-(42)

Pupil-teacher ratio 27-1.

14-(44)

Library media center requirements:

- (a) Two sets of encyclopedias
- (b) 1700 items
- (c) 98% must be non-religious
- (d) file cabinets
- (e) must subscribe to Readers Guide
- (f) must subscribe to 10 periodicals listed in Abridged Readers Guide
- (g) must acquire minimum of 150 new library resources each year. 50% must be in the standard references of 44(b)

SUMMARY OF STATUTES

- 1701 (1) Schools and teachers subject to general school laws of state in re (a) grades (b) qualifications, (c) certification of teachers (d) promotion of pupils.
(2) Schools shall have adequate equipment.
(3) Schools shall have adequate supplies.
(4) Schools shall be graded the same [as what?].
(5) Schools shall have courses of study for each grade conducted therein, substantially the same as those [courses of study] given in the public school.
- 1703 Nothing in 1701 shall be construed as to interfere with religious instruction in any denominational school.
- 1704 Owner or governing board has authority to (a) select textbooks (b) equipment and supplies (c) employ teachers (d) exercise general management of school, SUBJECT TO THE PROVISIONS OF 1701.
- 1705 County superintendent or superintendent of schools shall inspect such school and report to the proper officers failure to observe 1701, at least twice a year school must permit and assist in this.
- 1706 Penalties: If school, after final determination by the authorities, fails/refuses to conform to 1701, 1705: (a) no person shall be granted a certificate to teach therein (b) pupils shall be required to attend the public school.
- 201 Every person with a child shall cause such child to attend regularly a public or denominational school. Term not less than 175 days.
- 207 Each teacher shall keep record showing ((1) name, age and address of each child enrolled (2) number and county by school district (3) number of days each pupil was present/absent (4) cause of absence. Teacher shall send list of the pupils enrolled, with name, age and address of each to superintendent.
- 213 Instruction in American citizenship. Policed by Committee on Americanism: (1) examine textbooks re American history and government (2) assure themselves as to the character of all teachers employed. One hour per week for patriotic teachings and exercises. Teaching of American history "from approved textbooks."

- 214 Character education required.
215 Commissioner of Education shall prepare an outline with suggestions such as in his judgment will best accomplish the purposes, set forth in Section 79-214, and shall incorporate the same in the regular course of study for the first twelve grades of ALL schools of the State of Nebraska.
- 238(5)(C) State Board has power and duty to establish rules and regulations for approving the opening of new schools, for the continued legal operation of all schools.
- 1233(1) No person shall be employed to teach in any denominational school who does not hold a valid Nebraska certificate or permit issued by the Commissioner of Education legalizing him to teach the grade or subjects to which elected. (2) Denominational schools may employ others as teacher aids.
- 1234 State Board may revoke a certificate for just cause (including immorality, neglect of duty, etc.); i.e., can intervene in the running of the school, based on its judgment).
- 1229 A person holding the title of principal or supervisor of an accredited school or as supervisor of any special subjects or subject in which such persons actually supervise the work of other teachers in that subject or more subjects, shall hold a Nebraska Administrative and Supervisory Certificate or a Nebraska Prof. Administrative and Supervisory Certificate.
- 1239 Teacher or administrator must register the certificate with the county superintendent and no contract for a school shall be valid until registration. [See balance of this statute].
- 1247.02 Accrediting procedure. A school must first be an approved school.
- 1247.05 Teacher certificates. Board to adopt rules re certificates for all elementary and secondary schools of this state based upon earned college credit, or the equivalent thereto-including "moral, mental and physical fitness for teaching, all in accord with sound educational practices".
- 1247.06 Maximum which Board may require for first issuance of a certificate shall be that the applicant is of sound mental and physical health and of good moral character, and a statement countersigned by an authorized official of a standard institution of higher education which certifies the grade levels

1247.07

and subject fields or areas of specialization for which the applicant was specifically prepared to teach and that the applicant has (1) baccalaureate degree, (2) satisfactorily completed the institution's program for teaching (3) met all other appropriate requirements of the institution. Certificate shall indicate the grade levels, subjects, subject fields, or areas of specialization for which the holder was specifically prepared by a standard institution of higher education or authorized by the Board to teach, counsel, supervise and administer.

Amish colony selling out, going away

By Dean Terrill

Southeast Nebraska Bureau

PAWNEE CITY — It's not being overly dramatic to call it the end of an era.

History will note forever that Pawnee County once hosted a colony of Old Order Amish. Similarly, Levi Troyer and Atlee Miller will tell their grandchildren about their families' four years

in Nebraska.

For all practical purposes, Wednesday was the last chapter as Troyer auctioned off his horse-drawn machinery and other farm items. Miller hopes for an equal crowd — estimated at approximately 350 — when he sells out next Tuesday.

Both men and their families will pack up immediately for Ohio, their home be-

fore crowded conditions brought them west. The Roman Borntragers and Rudy Troyers (no relation to Levi), the last of a settlement which once numbered seven families; will head to Wisconsin once Borntrager finds a buyer for his farm.

Ironically, Wednesday's sale came one day after the Nebraska Legislature gave preliminary approval to a bill

which would clear the Amish in a drawn-out school dispute. Their refusal to hire state-certified teachers prompted several lawsuits, including one still pending in Pawnee County District Court.

"They should have done it two years ago, so it's kind of disgusting in a way," said the soft-spoken Troyer. "We're just getting started now."

But both of the original settlers said they harbor no bitterness, either toward government officials or the community.

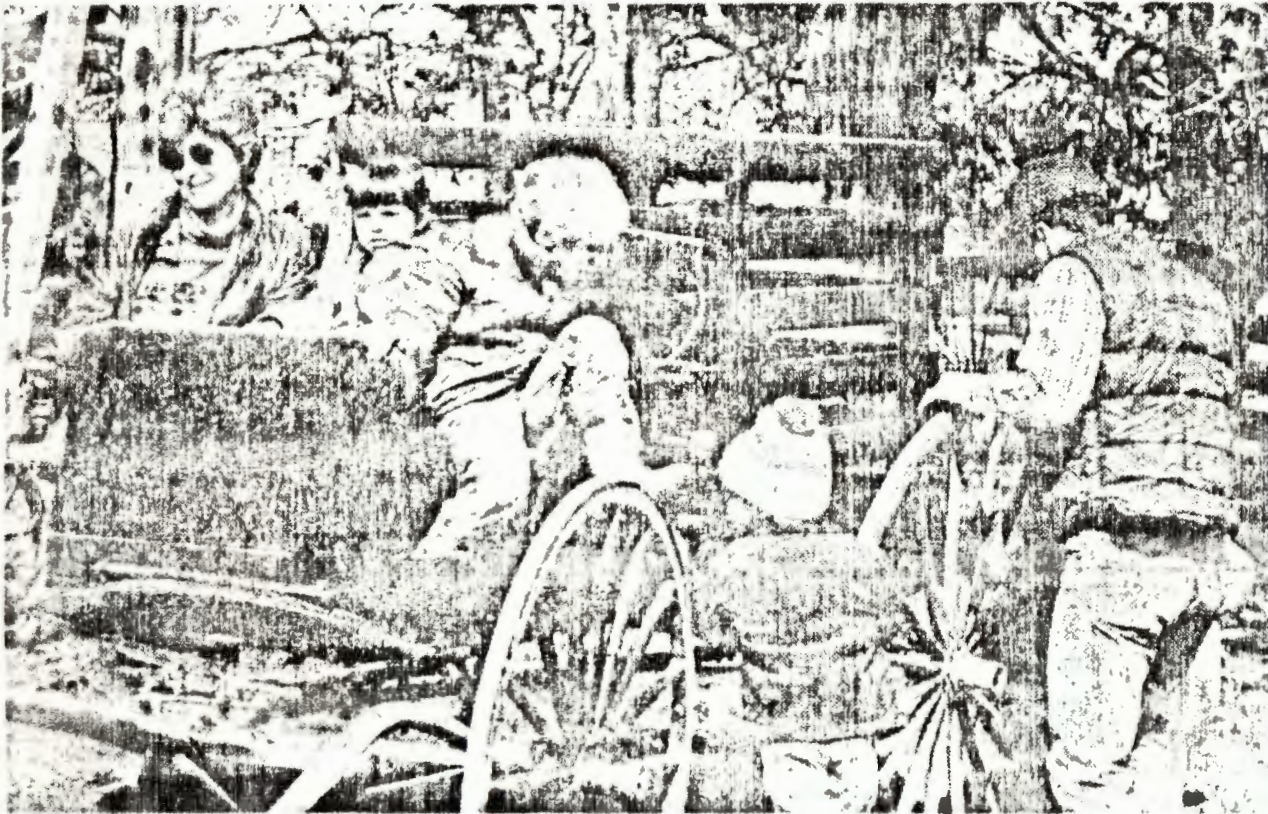
"It's been a pleasant and short four years," said Miller, the focus of controversy when his buggy was sold at a sheriff's sale to pay off a court fine. "We're grateful for all the goodness shown us and we'll be missing a lot of friendly faces."

A crowd coming from several counties was attracted by such olden day offerings as wood cook stoves, antique light fixtures and one-row machinery. A like-new black buggy brought \$510, a breaking cart \$400 and a weathered bob-sled \$85.

Serious bidders were obviously outnumbered by the curious. The Amish, conspicuous because of the men's wide black hats and the women's tiny caps and long dresses, were surrounded by well-wishing friends.

The women, incidentally, had a complete sellout of the baked goods which have earned them a lofty reputation.

"I really like these people," said Joe Marti, who came 18 miles from Bern, Kan., for the sale. "They're hard workers and I blame Nebraska that they are having to leave. What the Legislature is doing is good, but it should have come sooner."



Staff photo by Dean Terrill

Horse-drawn machinery was plentiful, whether you were buying or just climbing.



Amish farm auction

While there had been some toward the newcomers at local editor-publisher Bill that largely subsided after clear the colony would not go.

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... selling out, going away

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Staff photo by Dean Terrill

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Staff photo by Dean Terrill

Amish farm auction drew a crowd of 350 people.

While there had been some animosity toward the newcomers at first, said local editor-publisher Bill Thompson, that largely subsided after it became clear the colony would not grow.

"They're quiet and very honest, just going about their business," said Thompson. "They don't expect anything but to be left to go their own way."

Besides the school dispute, the Amish were having economic problems because of religious beliefs forbidding the

use of electricity. That conflicted with a state Agriculture Department requirement that automatically cooled storage tanks be used to store milk, the farmers' main livelihood.

According to Miller, however, it appeared the state was about to resolve that problem. The school situation is the main reason the families are moving.

"We would have changed our plans if these things had been done a year ago," he said. "But then, life does go on."

Lincoln Journal
Jan. or Feb. 1982?

Metro-Regional

More Metro-Regional news in Sec

Amish schools are different in many ways

PAWNEE CITY — There's no electricity and George Washington is missing because portraits are considered a graven image. Visitors try not to stare at the girls' ankle-length dresses and tiny black caps.

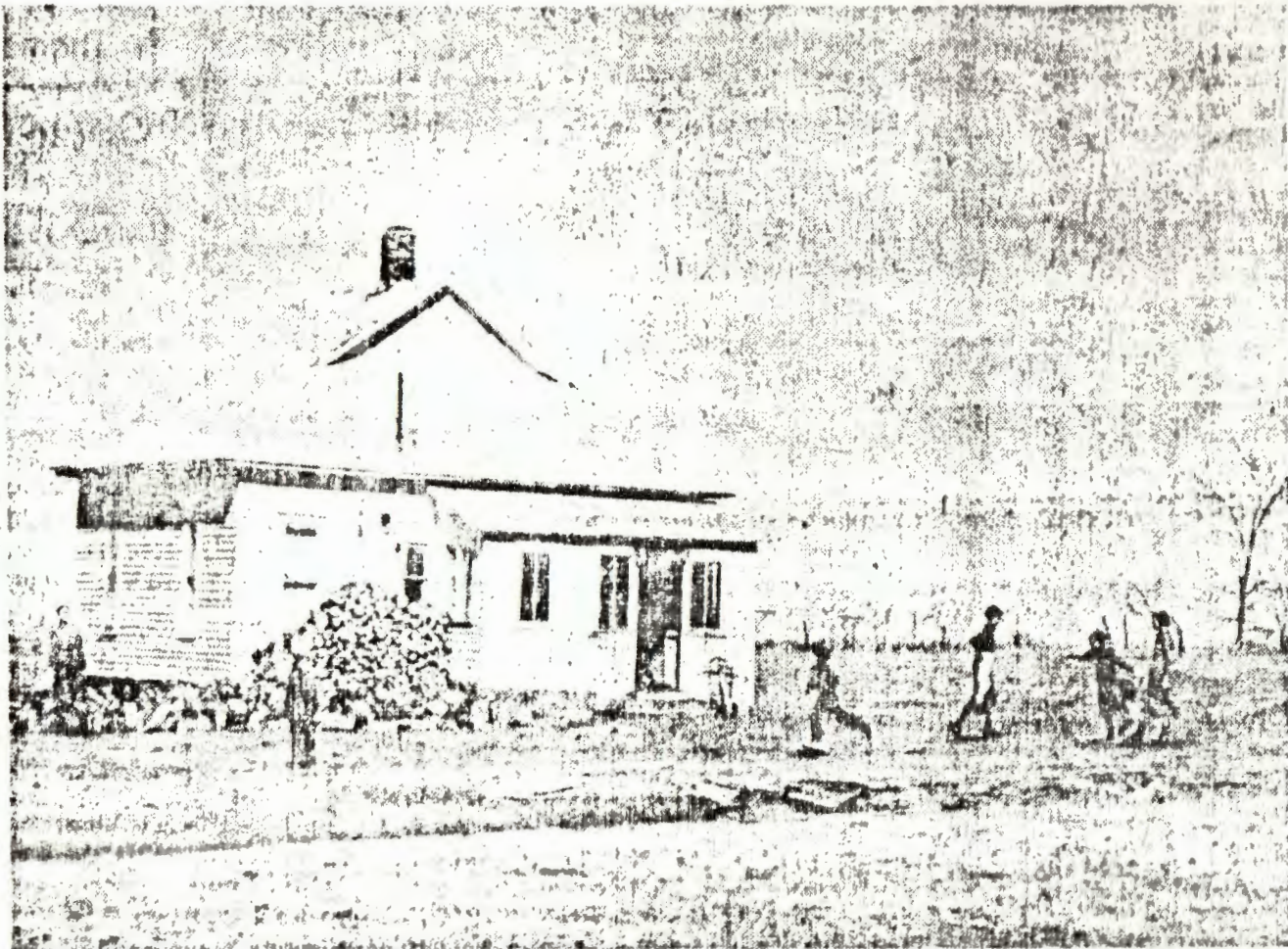
Otherwise, the six-pupil West Branch School strongly resembles hundreds of others once dotting the Nebraska countryside. This rural school, however, is Old Order Amish, one of two in the state.

The other is East Pawnee, a few miles east on Nebraska 4 but less recognizable since classes are held in Roman Born-treger's garage. West Branch is a one-time public school that was moved in last fall.

Mrs. Born-treger, whose 10 pupils include five of her own children, and West Branch's Sara Miller have been charged with teaching without state certificates. Both are in their first year; both are eighth-grade graduates as per Amish custom. And both, steeped in the cultural and religious precepts of several generations, strongly feel that state standards violate their people's constitutional rights. Their contention could go as high as the U.S. Supreme Court.

Same subjects

Meantime, pretty much the same subjects taught in public schools are taught in the two classrooms. A visit to West Branch, practically in the Chris Miller farmyard, indicated two additions: German and religion. Fridays are largely



STAFF PHOTOS BY DEAN TERRILL

Amish children play in the yard of West Branch School in Pawnee County.

Fund drive will aid Pawnee County families

Amish buggy buy-back try fails

By Dean Terrill

Southeast Nebraska Bureau

PAWNEE CITY — An attempt to buy

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Meantime, pretty much the same subjects taught in public schools are taught in the two classrooms. A visit to West Branch, practically in the Chris Miller backyard, indicated two additions: German and religion. Fridays are largely given over to those two subjects.

"We need the German because our church services are still in that language," said Sara, the fourth sister in a family of 12 to have taught. "And school is opened every morning with prayer."

Looking even younger than her 17 years, the teacher wore a neatly pressed dress much too long for recess baseball. A white cap helped set her apart from the three girls with their black caps.

The school lost four pupils recently when the Felly Yoder family moved to Texas. Mrs. Yoder is Sara's sister. That left six pupils and six grades, all children of Atlee Miller: Iva, Mattie, Alvin, Dora, Alton and Atlee Jr. The family lives just across the section.

"We're real well satisfied with Sara as a teacher, only we do wish there were other children," said their father. "I wouldn't be afraid to put my children or any other Amish up against those educated in town."

'Surroundings not good'

Miller's objections to public schools are "both on what they would be taught and what they wouldn't be," he said. Besides the lack of religious training, he said, the children would be subjected to "such teachings as sex and evolution."

"Just the surroundings of the public schools are not good," he continued. "Discipline and Bible are what children need most."

Discipline? Sara said she has no discipline problems at all "because that is something learned at home and then put into practice at school." Hard work is stressed by parents and school alike, added her mother.

Amish buggy buy-back try fails

By Dean Terrill

Southeast Nebraska Bureau

PAWNEE CITY — An attempt to buy an Amish buggy sold recently at a sheriff's auction and return it to its original owner apparently has failed because the buyer refuses to sell.

James Svoboda of Belvidere, who raised more than \$800 in a state fund drive in behalf of the Amish, said the new owner turned down a telephoned open-end offer for the vehicle. Roy Nider, a Pawnee City grocer, paid \$420 for the buggy at the December auction.

"I told Nider we would pay a fair price, including some for his inconvenience, but he replied that he didn't need the money," said Svoboda. "Yet I'm hopeful he will reconsider. That buggy is the very symbol of a 400-year-old culture."

Nider, who commutes to the grocery from nearby Axtell, Kan., told a reporter he bought the buggy "for my own reasons." He declined further comment except to say he was misquoted in a Kansas City article that reported he might return the vehicle to its original owner.

Second thoughts

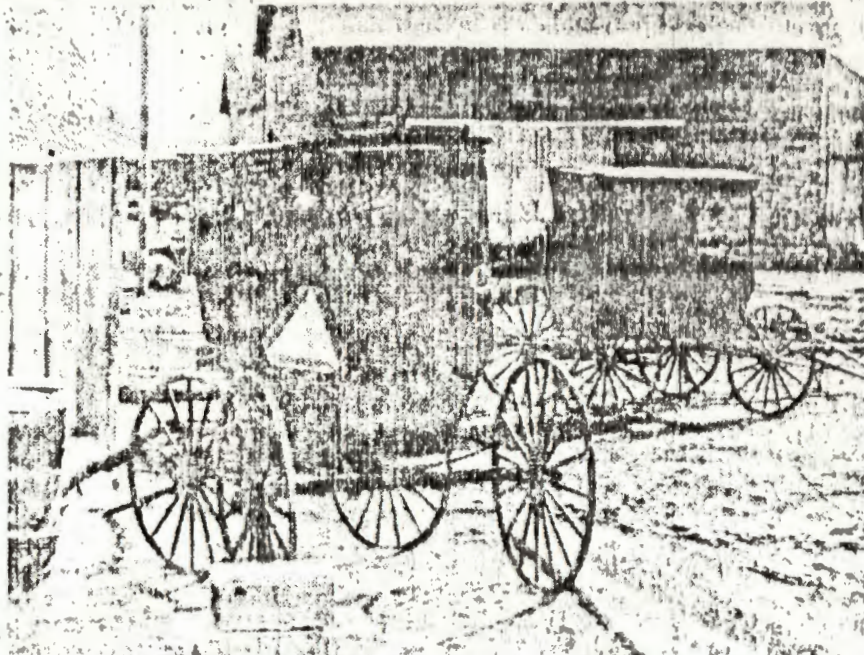
That owner, Atlee Miller, vowed last month that he would leave the community after Pawnee County authorities seized the buggy and \$169 from a checking account to pay a \$30 fine. A court appeal ran the total to \$589 after the Amish father of 11, fined for sending his children to an Amish school that had a non-certified teacher, said it would violate his principles to pay the fine.

Miller told a reporter Thursday he has received such support that he has second thoughts about moving.

"Besides lots of letters, we've had visitors from as far away as Hastings and Grand Island who came to give encouragement," said Miller, 42. "And most of this community is real friendly. I guess we can always get another buggy."

\$500 to Miller

Since the buggy apparently won't be relinquished, Svoboda said \$500 will be



Two buggies are parked in the yard at the Chris Miller house.

the U.S. Supreme Court. The Pennsylvania-based National Committee for the Preservation of the Amish Religion will defend the Nebraska families through nationally known attorney William Ball.

Although Miller is uncertain whether to move, another of the six resident families definitely has decided to pull out. The Chris Millers, who bought a 17-acre "retirement tract" west of town last March, are uncertain only about date and destination.

One of teachers

Their 17-year-old daughter, Sara, is one of two teachers charged with teaching without a certificate. Their hearings probably will be timed with the four fathers' cases.

"It isn't a Christian way of life to have to fight like this," said Sara's mother, Ada, distantly related to the Atlee Millers. "It's getting hard to turn the other cheek, but at least we don't strike back."

One daughter and son-in-law the Felly

"We now clamp the box in place every day before the mail comes and take it down afterward," said Mrs. Miller. "That's better than having to buy new ones."

That incident was an exception, however. The families say they generally have been well-treated in the three years since the Atlee Millers and Levi Troyers moved here from Ohio. The others followed from that state and Iowa.

The most vocal protest against the Amish, a small, unsigned ad appearing in the Beatrice Daily Sun and Pawnee Republican, was not strongly worded. Retired farmer Ellis Doyel told a reporter he was the lone sponsor, but he estimated that "about 85 percent of the rural people here share the same feelings."

Keep to themselves

Now executive director of Pawnee Village, a retirement center, Doyel said his main objection is that the Amish "live

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"Just the surroundings of the public schools are not good," he continued. "Discipline and Bible are what children need most."

Discipline? Sara said she has no discipline problems at all "because that is something learned at home and then put into practice at school." Hard work is stressed by parents and school alike, added her mother.

"Learning to do a good day's work is much more important than anything a boy might learn in high school," said Mrs. Miller. "Our people also are taught to work for others and for satisfaction, not just for pay."

The mother, more outspoken than some of the other settlers, scoffed at the teacher certification requirement.

"There's a difference between being certified and qualified," she said. "Somebody said that for us to have a certified teacher would be like a Catholic teaching a Baptist Sunday school."

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\$500 to Miller

Since the buggy apparently won't be relinquished, Svoboda said, \$500 will be given to Miller to help purchase a replacement. The balance of the fund will be used to defend Miller and three other Amish fathers in another court action next month.

Miller, Levi Troyer, Felty Yoder and Roman Bornreger face misdemeanor charges of violating compulsory school-attendance laws — the same offense which brought Miller's first fine. County Court hearings tentatively are scheduled for March 31-April 2.

The church vs. state implications are almost certain to take the matter to the Nebraska Supreme Court and possibly



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"It isn't a Christian way of life to have to fight like this," said Sara's mother, Ada, distantly related to the Atlee Millers. "It's getting hard to turn the other cheek, but at least we don't strike back."

One daughter and son-in-law, the Felty Yoders, already have left for Texas because of the tension. The Chris Millers have nine other married children in various states.

"We were hoping that some of the others would settle here, but not now," continued the housewife, in her mid-50s. "There are many other places where our people can have their schools in peace."

Except for the court cases, the most serious protest against the Amish was the knocking down of four families' rural mailboxes in December. The one belonging to the Chris Millers later was stolen.

"We now clamp the box in place every day before the mail comes and take it down afterward," said Mrs. Miller. "That's better than having to buy new ones."

That incident was an exception, however. The families say they generally have been well-treated in the three years since the Atlee Millers and Levi Troyers moved here from Ohio. The others followed from that state and Iowa.

The most vocal protest against the Amish, a small, unsigned ad appearing in the Beatrice Daily Sun and Pawnee Republican, was not strongly worded. Retired farmer Ellis Dovel told a reporter he was the lone sponsor, but he estimated that "about 85 percent of the rural people here share the same feelings."

Keep to themselves

Now executive director of Pawnee Village, a retirement center, Dovel said his main objection is that the Amish "live very much to themselves and will never become a real part of the community." Also, farmers resent their competing for land and merchants feel threatened because they buy no cars or other modern conveniences.

"I feel no bitterness toward them, just disappointment," Dovel continued. "I'd even say they have a right to their own schools, but not if existing laws have to be changed to accommodate them."

"They're a God-fearing people and you don't have to worry about them stealing, yet if they change the community they've taken something in that way."

Iowa says its 23 Amish schools can use non-certified teachers

DES MOINES, Iowa (AP) — The Iowa Department of Public Instruction Wednesday authorized 23 Amish schools to continue using non-certified teachers.

The authorization continues until next year an exemption from the school standards law. The exemption has been granted to the Amish annually since 1968.

Department elementary education consultant Edith Munro told the DPI board that the 524 children in the Amish schools are making satisfactory progress as measured by the Iowa Test of Basic Skills.

"They do very well on these tests," said Ms. Munro. "The schools emphasize study habits, quality of work and finishing your work. They are making satisfactory progress for the type of life they lead."

Many of the Amish young-

sters score above the 60th or 70th percentile on the basic tests, Ms. Munro said. That means they performed better than 60 percent or 70 percent of those taking the tests.

"I'm not saying their schools are as good as the public

school system," she said. "They are making satisfactory progress in the basic skills only. The public schools teach additional things that are important to the quality of life as we lead it, and the Iowa Test does not test for that."

Pawnee City trial put off in Amish education case

PAWNEE CITY (AP) — A trial to decide whether two Amish families in Nebraska can continue educating their children with a private tutor has been postponed.

It was to start Friday in Pawnee County Court, but one of the lawyers involved in the case said Tuesday a "legal question" has arisen and submission of additional briefs is necessary.

A new trial date will be set when the briefs are received by the court, the attorney said.

The Levi Troyer and Atlee Miller families could face maximum misdemeanor penalties of \$500, three months' imprisonment or both under a new Nebraska law effective this year. There is no minimum fine.

The two families have a total of 18 children.

Amish families from Ohio moved to farms near Pawnee City about 3½ years ago and drew fines the first year for not sending their children to state-approved schools. One family left Nebraska. The Atlee Millers and the Levi Troyers remained. The Roman Borntregers, another Amish family, moved in from Wisconsin.

Last May, Borntreger, Miller and Troyer were charged in district court with violating Nebraska's school laws.

Pawnee County Attorney L. Joe Stehlik, who filed the suit, also named Borntreger's wife, Barbara, for teaching without a Nebraska certificate or permit. She teaches 16 Amish children in a garage attached to the Borntreger house.

Marjorie Thiemann, Pawnee County school superintendent, said the Amish children seem to be getting an adequate education "for their purposes, as far as I can tell."

She said the school is within the Pawnee City district and they soon will take new achievement tests.

Mrs. Thiemann said the Amish children's school year is 25 days shorter than is required for Nebraska public schools. Boys in the eighth grade generally are dismissed from classes to help pick corn in the fall and plant crops in the spring. "For the most part, people have accepted them," she said.

Lindholm said there is "no question" about the effectiveness of Amish education.

"They had schools before the government had schools," he said, and Amish children are taught to speak English, German and Pennsylvania Dutch. They learn "patience and kindness, cooperation rather than competition, consensus rather than individualism. A 12-year-old Amish girl can cook a meal for 30 threshers. Her mother taught her."

William Thompson, publisher of the Pawnee Republican and for nine years a member of the Pawnee City school board, believes the Amish school should be allowed to operate. "But that was a minority view on the board," Thompson said. He said he's not totally behind the Amish position, but supports them on principle.

Since the "long-established culture" of the Amish is recognized by some other states, Nebraska should find a way to let them operate their own school and their own society," he said.

On the other hand, Thompson said, "I wonder how they'd feel if a farmer from here brought his customs into an Amish community."

Stehlik declined to be interviewed.

Borntreger declined to answer a reporter's questions or permit photographs to be taken on his property.

"The Faith Baptist people can't assert that their religion prevents them from compliance," Lindholm said.

He said there is no way that Amish teachers could qualify for certification in Nebraska because their reli-



Mrs. Thiemann



Thompson

gious beliefs reject schooling beyond the eighth grade. The Amish believe higher education exposes a person to "scientific pursuits, automobiles" and other elements of "worldliness," which they reject, he said.

Lindholm, a Lutheran minister, said he could not teach Amish students because of his education. "I would not be the right example. I would undermine their beliefs," he said.

The Amish have schools in 21 states, Lindholm said, and among them only Nebraska, Iowa and six others require parochial school teachers to be certified. Iowa, however, makes it possible to obtain an exemption each year.

Mrs. Campbell said she would look at teaching experience and religious training in judging the qualifications of an Amish teacher. But she indicated the Amish school would not receive special consideration, and she would follow the law closely in weighing its application.

"We would be setting a precedent," she observed.

The Amish controversy began in Pawnee County shortly after three Amish families from Ohio moved to farms near Pawnee City about 3½ years ago and drew fines the first year for not sending their children to state-approved schools. One family left Nebraska. The Atlee Millers and the Levi Troyers remained. The Roman Borntregers, another Amish family, moved in from Wisconsin.

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State Seeking School Accord With Amish

Continued from Page 1

Church at Louisville or any other unlicensed church school "if they'd apply."

But the Faith Baptist and Amish School issues "are entirely different," she said. "The Amish want to comply with the law."

Faith Baptist was ordered to close because its instructors are not certified by the state. The Rev. Everett Sileven, pastor of Faith Baptist Church and administrator of its school, has said the state has no authority to license his school because of its closeness with the church.

Sileven said Saturday that he didn't want to comment on Mrs. Campbell's proposal. "This is the first I've heard of it and I want to get specifics before I say anything," he said.

The Rev. William Lindholm of Livonia, Mich., president of the National Committee for Amish Religious Freedom, said in a telephone interview that Mrs. Campbell has made "a good-faith offer" and he has directed attorneys for Amish families in Pawnee County to "begin whatever action is necessary" to get around Nebraska's certification provision.

Lindholm said publicity surrounding the Faith Baptist controversy has been "unfortunate" for the Amish school. He said the two issues have little in common.

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NEBRASKA CHRISTIAN SCHOOL CONFLICT UPDATE

DECEMBER 22, 1983

Pastor Jim Eckerberg
Church of Christ
7th & A
P.O. Box 846
Gering, NE 69341
(308) 436-4037

In January of 1982 the State of Nebraska filed a motion on Elder Jim Eckerburg of the Church of Christ. The following June 10, 1983, a summary judgment was granted to the state against the school. Pastor Eckerburg and his church were found in contempt-of-court on November 1, 1983. The church was fined \$100.00 a day, and Hershall Stoner, the school principal, was fined \$150.00 a day for every day the school was in operation from that time forward.

The week of November 7th the people decided to close the school, and move it to Torrington, Wyoming. After the 24th of November the school was re-opened in Wyoming. Judge Kortum dismissed the fines because of the compliance with his order.

Pastor Bob Gelsthorpe
North Platte Baptist Church
P.O. Box 641
North Platte, NE 69101
(308) 534-5279 (church)
(308) 532-0182 (home)

Pastor Bob Gelsthorpe of North Platte Baptist and his church were found in contempt-of-court on December 15, 1983. Judge Murphy ordered Pastor Gelsthorpe to pay \$200.00 a day and, the church was also ordered to pay \$200.00 a day for every day the school operates from December 15th on. The fines now total \$1200.00 as of December 21st.

Judge Murphy also ordered that Pastor Gelsthorpe spend every day that the public schools operate in the Lincoln County Sheriff's office from 9:00 a.m. until 3:00 p.m.

Mrs. Agnes Rich
United Pentecostal
Apostolic Church
515 S. Oak St.
Grand Island, NE 68801
(308) 384-9627
(308) 382-1726

Mrs. Agnes Rich of the United Pentecostal Apostolic Church, her head teacher at the school, and a parent representative were all found in contempt-of-court on November 10, 1983. All three were ordered to pay \$50.00 a day as long as the school continues to operate.

In January of 1983 the school and church were found not to be in compliance with the rules and statutes of the State of Nebraska.

As of this letter, the State has NOT carried out any further legal action against Mrs. Rich since she was found in contempt on November 10th. The total fines as of December 22nd are \$5100.00.

Pastor Dennis Cason
Pastor Bruce Miller
(Interim Pastor)
Independent Baptist Church
P.O. Box 113
Morrill, NE 69358
(308) 247-2603

In January, 1982, the State of Nebraska filed a motion on Pastor Cason of the Independent Baptist Church of Morrill, Nebraska, for operating an unapproved, unlicensed school. Summary judgment was granted on June 10, 1983.

At their contempt-of-court hearing on November 8, 1983, Pastor Cason and his people were found guilty. The church was fined \$100.00 a day and Pastor Cason was fined \$50.00 a day for every day the school was in operation. The fines were retroactive back to late October, 1983, when the school received a form letter stating it could not be accepted for approval by the Department of Education.

On November 13, 1983, the people of the church voted to close the school and move to Wyoming. On November 17th, Judge Kortum acknowledged their compliance and negated the fines.

Pastor Cason has since resigned from the church due to these problems. The church has also lost one-third of its people because of the Christian school issue.

Principal David Burkey
Faith Christian School
Beaver Crossing, NE 68313
(402) 532-5795 (school)
(402) 532-7615 (home)

The State of Nebraska moved for an injunction to close Faith Christian School approximately two years ago. Principal Dave Burkey stated that the trial was set for November 15, 1983. On November 18, 1983, the State asked for a summary judgment against the school. Mr. Burkey expects a ruling to be handed down by Judge Bryce Bartu sometime in January or February of 1984.

Elder Warren Rushton
Platte Valley Baptist Church
1720 1st Street
Columbus, NE 68601
(402) 563-5303
(402) 563-2747

Mr. Warren Rushton, Chairman for the Nebraska Coalition for Parental Rights estimates that there are ten home schools that are involved in court litigation currently. There have been two judgments against the home schools: (1) The State of Nebraska versus Bigelow in 1982 and (2) the State of Nebraska versus Morrow in 1983. Both were found guilty with injunction relief's filed to close them down.

Mr. Rushton believes the main problem with the home schooling situation is that the State of Nebraska courts are not following the regulations and rules set up by the United States Supreme Court in regulating and handling First Amendment Cases. He also believes that, according to the Accountability and Disclosure reports of 1980 and 1982, 21 senators had a large portions or the highest portion of their funds supplied by the Nebraska State Education Association; therefore, according to Mr. Rushton, there needs to be a study of the Department of Education here in Nebraska.

Pastor Carl Godwin
Bible Baptist Church
4400 North First Street
Lincoln, NE 68521
(402) 474-0642 (church)
(402) 475-2119 (home)

In May of 1982, the State of Nebraska filed a motion on Rev. Carl Godwin and Park West Christian School for operating an unapproved, unlicensed school. Pastor Godwin then retained Mr. William Ball from Harrisburg, Pennsylvania, as the school's attorney.

The trial date was set for June 1 - 10, 1983. Five days before trial the State filed for and was granted summary judgment by Judge Bernard McGinn. On May 27, 1983, the school was ordered closed.

Two months earlier Pastor Godwin and several others started negotiating meetings with the State and the Department of Education. (See five-paged article enclosed: "Nebraska Negotiations Are to No Avail.")

On December 9, 1983, Judge McGinn granted a stay in his order to close the school while Park West Christian School appeals to the Nebraska Supreme Court. This case is expected to be heard by the Nebraska Supreme Court sometime this spring.

Pastor Everett Sileven
Faith Baptist Church
5th & Elm
Louisville, NE 68037
(402) 234-3435 (church)
(402) 234-6615 (home)

Faith Christian School was filed on in 1977 for operating an unapproved, unlicensed school. They were found guilty at the district level by Judge Case. The Nebraska Supreme Court upheld the decision in February of 1981.

The case was then appealed to the United States Supreme Court, which summarily dismissed the case without hearing any arguments.

From that time until now, the school has continued to operate in spite of the order to close by Judge Case. Everett Sileven was found in contempt-of-court and spent four months in jail. He was released in December of 1982. That September the State padlocked Sileven's church, and only opened it for services on Wednesday evenings and on Sundays.

In March of 1983, several of the parents of the Christian school children were found in contempt-of-court. They were fined and sentenced to jail, but the case was again appealed to the Nebraska Supreme Court. The Court granted a stay and agreed to hear the case, which has not happened as of yet.

The fall of 1983 brought contempt-of-court charges again to Sileven, the school teacher, and seven sets of parents of the school children. On November 23, 1983, seven fathers were jailed for refusing to testify in their contempt-of-court proceedings, and the wives and children of the seven men all fled from the State of Nebraska. Sileven and his daughter also left the state. (His daughter is the teacher at the school.)

Amish Families

We are not able to get all the specific facts concerning the Amish. They were apparently first filed on in the fall of 1978 after being found guilty. They were then fined. After refusing to pay the fine, one Amish man's wagon was confiscated and auctioned. These people finally sold their land and fled the state in the spring of 1982. (Some articles are enclosed for your information.)

NEBRASKA NEGOTIATIONS ARE TO NO AVAIL

On March 30, 1983, leaders of the unlicensed church schools in Nebraska met for the first in a series of negotiating sessions with the education department officials in Senator Tom Vickers' office. The purpose of these negotiations was to seek a solution to the conflict that has become known nationwide as the Nebraska Church School Conflict. The church leaders who were involved in these negotiating sessions with the education officials were Dr. Rex Fuller, of the Christian Law Association; David Burkey, Administrator of the Mennonite Church School at Beaver Crossing, Nebraska; Carl Godwin, Pastor of the Bible Baptist Church in Lincoln, Nebraska; and his local attorney, Larry Stunkel. These meetings were tape recorded and typed transcripts were later given to all participants. The transcript of the very first meeting indicates that Dr. Lutjeharms clearly explained to the church leaders that he did not have the power to change the law; thus, they would have to seek solutions within the limits of the present law. This they fully understood.

Dr. Lutjeharms went on to explain that he did have some latitude under the law in which he could work. As an example of this, he referred more than once to the Golden Plains Mennonite Church at Grant, Nebraska, which has two teachers, one of whom has two years of college education and the other who has only a high school degree. This school applied for, and was given approval, by the Department of Education a year ago and that annual approval was given again just weeks ago.

As the discussion continued, David Burkey, the administrator of the unlicensed Mennonite Church School at Beaver Crossing, Nebraska, reminded

Dr. Lutjeharms that his teachers were not college graduates and had no college transcripts. The Commissioner replied, "Nor do the ones at Golden Plains". He also stated "There have been some certificates issued with less than a bachelor's degree in the state". Dr. Lutjeharms again referred to the Golden Plains Mennonite Church and concluded his comment with this sentence: "The reason I bring it up is simply that it's on less than a bachelor's; so, yes, that's possible."; thus, it is very strongly indicated that what was worked out for the people of the Golden Plains Mennonite Church School could, perhaps, be done for the Mennonite Church School at Beaver Crossing and other similar church schools in our state. With this in mind, the group proceeded to find an alternative way for the Department of Education to get information from the churches rather than demanding that these churches submit applications seeking a government permit to operate their educational ministries.

The church leaders had said all along through this conflict that they were willing to do basic reporting through the parents of the school children; therefore, after many negotiating meetings, a Parent Representative Report Form was developed. This form was presented to the State Board of Education as an alternate means of communicating information to the Department of Education. On June 10, 1983, the State Board of Education voted five to three to accept this new means of communication. The Parent Representative Report Form involved two reports: the school report and a teacher report, but from the State Board of Education it went to the Attorney General's office, and he added a third report called a Fall Report Form. Therefore, the forms developed into something far more than basic reporting; however, because of their desire to avoid conflict in our state, such as the one in September of 1982, and because Dr. Lutjeharms had indicated he had latitude under the law to work with them just as he had the Golden Plains Mennonite

Church, these churches worked through their parent representatives and hoped for a peaceful September.

But, on September 9th, these hopes were dashed! The same man, who is recorded on transcript as saying that he had some latitude under the law to work with people as he did in the case of the Golden Plains Mennonite Church School, now says that those who have college degrees, and even masters degrees, are not qualified to teach. Only three teachers were considered certifiable and these were all graduates of secular colleges. Those who were graduates of Christian colleges were not certifiable.

Of the twenty-five unlicensed church schools in the state, nine turned in their Parent Representative Report Forms. These nine are primarily the ones who are involved in litigation with the state. The state has not yet moved on all twenty-five schools. Of the nine who turned in forms, the Commissioner recommended to continue efforts to close eight of them and the State Board voted unanimously to do so. The one exception was the Park West Christian School in Lincoln, which has all college graduate teachers, including two teachers with masters degrees. The Commissioner's recommendation involving this school was that its high school should be closed, but that its kindergarten through eighth grade would be allowed to operate if they would use only the three teachers who were graduates of secular colleges. No Christian college graduates were considered qualified. Of course, Pastor Godwin immediately told the media that he could not operate this way.

Church school leaders have asked themselves: "Could it all have been a trap? Was it just a means of gathering information to be used against these churches?"

Now several churches in our state are operating in defiance of a court order and could be found in contempt of court very soon. So, when the

conflict starts and churches are locked, property is confiscated and ministers are jailed, remember that this same bureaucracy that continues to prosecute churches with tax money is hypocritical. Could anything be more hypocritical than to certify teachers at Golden Plains, neither of whom has graduated from college and one of whom has never attended college, and then to refuse to allow some with college degrees to teach?

Of course, Dr. Lutjeharms is trying to explain his exception for Golden Plains by saying they come under the Yoder vs. Wisconsin decision. In Yoder vs. Wisconsin the U.S. Supreme Court simply said that the Amish do not have to send their children beyond the eighth grade. Dr. Lutjeharms must answer several questions: How can the Department of Education decide which religion fits under Yoder vs. Wisconsin? How can they allow the Golden Plains Mennonite Church to operate with their blessings and prosecute the Beaver Crossing Mennonite Church? And, why are they all of a sudden so excited to recognize the Yoder vs. Wisconsin decision? Why did they not do so when the Amish were in the state, rather than fining them and confiscating their property and causing them to sell their land and flee for their religious freedom?

The final, most perplexing, question is: Why did Dr. Lutjeharms use the Golden Plains situation as an example of what could be done to resolve this counter productive conflict if he had no intentions of doing so?

In light of all this treatment and considering the following comments made by Genevieve Schillo, Superintendent of the Omaha Archdiocese to the Unicameral's Education Committee in 1981, is it any wonder that the churches fear the regulation of their ministry by the Department of Education? Her testimony was: "I wish to emphasize that our compliance does not mean that

we are any less...committed to the rights of parents and the freedom of private schools to operate...We are concerned about the increasing state encroachment, we are concerned about the loss of our independence. We do not want to see an ice cap of state control moving steadily in the direction of a total monopoly of education. Just because we chose not to join the efforts of those who sought to change the laws in the last legislative session with respect to the control of private schools, we certainly would not want you, as state senators or the general public, to have the impression that we have always been happy with the implementation of the statutory standards. Ours has been a constant struggle to avoid being made a carbon copy of the public school system through rules and regulations. The State Department of Education has not, in our view, taken a neutral stance in its dealing with private education."

The church leaders, in good faith, tried to negotiate a settlement and sincerely hoped for peace, but it was all to no avail and appears to have been an exercise in futility.

Carl Godwin, Pastor
Bible Baptist Church
Lincoln, Nebraska

Lincoln Star 9-7-83 Judge says order to close Christian school stands

front page

By Mike Goff
of The Lincoln Star

Lancaster County District Judge Bernard McGinn ruled Tuesday that his order last May to close Park West Christian School in Lincoln will stand.

Park West, 4400 N. First St., is operated by Bible Baptist Church, which along with Conquerors Christian Academy of the United Pentecostal Church, 2980 Holdrege St., came under legal fire in May 1982.

State Attorney General Paul Douglas and Lancaster County Attorney Mike Heavican filed a petition to close both schools because they weren't employing state-certified teachers, or

administrators and weren't complying with state attendance reporting requirements.

McGinn Tuesday denied Park West's motion for a new trial, noting that the Nebraska Supreme Court has held that the state's right to regulate schools "was a reasonable regulation and did not impose an unreasonable burden upon religious beliefs, nor violate First or Ninth amendment rights."

McGinn's closing order wasn't implemented during the 1982-1983 school year because attorneys anticipated lengthy hearings before going to trial.

When his order came in May, without ever going to trial, school at Park West had already closed for the summer.

Heavican said he'll meet with state Department of Education officials to determine whether the department has changed its evaluation of the school.

If the school still is lacking approval in some area of its operation, the church's probable appeal of any court-ordered, forceful closing of the school should allow it to remain in operation until the appeal is decided, Heavican explained.

The state Department of Education on Friday will determine whether to grant temporary approval for the schools to report teacher qualifications by the parents of students, rather than by school administrators.

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Opinions

Monday, Sept. 12, 1983 • 8



"Dedicated to the People of Nebraska, and to the Development of the Resources of the State"—Sept. 7, 1867.

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Editorials: Opinions of the Journal

State must not prefer one church school over another

As the Rev. Carl Godwin of Lincoln's Bible Baptist Church well knows, the Journal editorially has not agreed with him on the Christian school issue. The newspaper's opinion is that all teachers in non-public schools should meet the same minimum qualifications required of teachers in public schools. Essentially, that means graduation from a teacher training institution — public or private — and certification by the state Department of Education.

Nevertheless, Godwin is making a hard-to-refute point when he accuses the state Board of Education of religious discrimination. One can't blame him for being upset.

Last Friday the state board granted temporary approval to three of the five elementary grade teachers in the heretofore unapproved Park West Christian School, which Godwin's fundamentalist church operates. About the three: Marilyn Stryker is a graduate of Kearney State College, Brigita Dooley a graduate of the University of Nebraska and Paula Miller a graduate of Central Michigan University.

The two Park West elementary teachers not approved by the state are graduates of Citadel Bible College and Baptist Bible College, according to the school's published information. None of Park West's high school staff was approved, either.

Godwin pointed out that while the state board was thumbing down approval for some of his teachers and also saying no to fundamentalist church-sponsored schools in Louisville, Beaver Crossing, York, Grand Island, North Platte and Gering, it earlier had granted temporary approval to the Golden Plains School in Grant. That Mennonite elementary school, Godwin says, has two teachers, one of whom has no college exposure and the other but two years.

It was under the U.S. Supreme Court's

celebrated Amish case decision, Yoder vs. Wisconsin, that the Mennonite school at Grant was accorded preferential treatment, the Baptist preacher says he was informed. Presumably, prior approval of the state Justice Department was obtained, despite the clear command of state law requiring certification.

If what Godwin relates is so, the accusation of preferential treatment is very hard to put down. Like it or not, it forces the question whether the State of Nebraska has any business discriminating between religious congregations. The U.S. Supreme Court's unwise ruling that such treatment is possible makes it neither automatically nor inevitably acceptable.

The Lincoln Journal regards religious discrimination by the state as a terrifying prospect. It is more of a fundamental threat to our society than the question of teacher certification. It strikes at our very social core, at what we have solemnly pledged to one another, at what has fostered harmonious pluralism in this land.

A tiny tail may wag the entire kennel, but if the Yoder doctrine is to be honored in Nebraska, the state may then have no recourse other than removing minimum teaching and program requirements in all non-public schools. Meeting minimum approval or accreditation standards would have to become a voluntary action by any of Nebraska's non-public schools.

Any condition requiring some religiously-based schools to meet standards but excusing others is a situation which puts the state in an untenable position. The state must be scrupulously even-handed with religious bodies which sponsor day schools.

In this area, there dare not be special circumstances allowing one to do things denied all others.

RULE 14

- 14-(C) The school must be approved by the state before it is even considered to provide instruction in compliance with the compulsory attendance law.
- 14-(1) (f) To be considered a teacher you must have a certificate.
- 14-(2) Must apply to State Department of Education for approval to legally operate. Requirements of Rule 14 must be met.
- 14-(5) Reports must be filed. Reports are totally at the discretion of the commissioner; all he requests is to be reported.
- 14-(14) All teachers, to be legal, must have a certificate.
- 14-(16) (b) 50% of principal's time to be spent in administration (if 10 or more teachers in school). This is often difficult.
- 14-(16) (c) Principal must have a certificate - he is church staff.
- 14-(20) 50% of textbooks to be copyrighted no later than 5 years before date of purchase and no older than 5 years. Burdens school with requirement of using new books which may carry a non-acceptable philosophy and prevents the use of older acceptable books.
- 14-(22) (b) Suggested that 99% of books in elementary library be non-religious. Though suggested it could be held to approximately that amount if officials wanted to.
- 14-(22) (d) 25 new books per teacher per year are to be added to library (up to total of 150). Expense could be great.
- 14-(23) Elementary students to be able to use library on an "unscheduled basis". We are more structured than this. It would almost require a librarian.
- 14-(32) The course offerings for high school are far beyond what we need as a small school. Each year, whether needed by students or not, the following would have to be offered:
- 4 Language Arts courses (English, speech, etc.)
 - 3 Social Science
 - 2 Math (At least one of Algebra II, Geometry, Trigonometry every other year.) Sometimes we may have no students in these.
 - 2 Science Courses
 - One in Biology each year
 - One in Chemistry or Physics each year