

State defendants are powerless to prove that the EdChoice voucher plan passes Constitutional muster: Part 2

The state's Constitutional responsibility to secure a thorough and efficient system of common schools had its roots in the Northwest Ordinance of 1785 and 1786, two decades before Ohio became a state. Article III of the ordinance stated in part, "religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

Ohio's first Constitution repeated this provision and added the words "by legislative decree." Ohio's first Constitution also forbade the exclusion of the poor from publicly-funded education.

The Ohio legislature merely granted charters to public and private education providers for several years subsequent to statehood; however, in 1819, the concept of the common school arose in the legislature by the appointment of a committee to study the common school.

In 1824, the legislature passed a bill to establish the common school as a tax supported institution to be organized within the various townships.

In 1837, the state legislature established the position of Superintendent of Common Schools and appointed Samuel Lewis as Superintendent of Common Schools. Please note that the title of the position was Superintendent of "Common Schools". "Common Schools" are public school districts that have a property tax base and public governance, both of which is foreign to private schools.

In his first Annual Report, on page 10, Lewis stated "private schools are considered the best and in being patronized by the wealthy, create a distinction that is ruinous."

Lewis' statement, in a sense, was prophetic. People in the days of Lewis were suggesting that the public system is inferior. Today, the Ohio legislature, via the EdChoice voucher program, is giving preference to the private system. One reason given by the voucher-supporter groups is that the public common system is inferior.

Part 3 of this series will continue in the next post.