

Private Schools and the Public Good
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[SLIDE] Earlier this year I had the chance to see *Hamilton* on Broadway, so I want to start with this question: “How does a...?” (opening monologue from *Hamilton*). Stop. I can’t continue. People pay four to five hundred bucks a pop to see this stuff on Broadway. I can’t just be giving it away for free in the Department auditorium. But I do want to draw on several themes from the show to provide some structure to this talk on private schools and the public good.

The talk moves in three parts from past to present to future. First, we’ll look at an episode in the history of private schools, then a contemporary challenge, and finally the prospects for a promising future.

Hamilton, of course, is about history, and private schools have played a significant role in our country’s history. They have their roots in the earliest days of America, and they have educated more than their share of our nation’s leaders. But their long and noble history has not been without challenge.

“Raise a glass to freedom” is a recurring refrain in *Hamilton*. But in the early 20th century private schools faced the ultimate loss of freedom, namely, the loss of their very existence. Here’s the story in brief.

On November 7, 1922, the citizens of Oregon elected Walter Pierce as governor and approved a ballot initiative that Pierce supported, the *Compulsory Education Act*. The act required all children in the state to attend public schools starting in 1926—effectively eliminating private education.

[SLIDE] To get a sense of the sentiment prevalent in some circles at the time, take a look at this editorial in the October 15, 1922 edition of the *Washington Times* right here in this city. We’ve got this huge building in the center, and the caption reads: [SLIDE] “This giant building represents the PUBLIC SCHOOLS of the United States. This is the ONE thing that is important in this nation. In comparison with it NOTHING ELSE has importance. The Capitol..., the great monument in memory of Washington, the mountain ranges, the WHOLE NATION is subordinate to this noblest of all earth’s monuments—THE PUBLIC SCHOOL.” By the way, all usage of uppercase is theirs, not mine. They loved uppercase in this piece, don’t ask me why.

OK, I get it, public schools are a foundational institution in our society, no question, but in comparison to them nothing else has importance? I can think of a few things that might measure up.

The editorial goes on to say, [SLIDE] “The public school is DEMOCRATIC... It teaches THE FACTS that all *intelligent* human beings accept.” Catch the dig there.

And in another not so subtle swipe against private schools we read, [SLIDE] “There is only one typically American school and that is the American PUBLIC SCHOOL.”

And any candidate for office is put on clear notice, for [SLIDE] “If he hesitates, if he departs one inch from the old idea that the public school is the SCHOOL OF AMERICA and the ONLY school, if he hesitates in his loyalty to THAT school, he is a traitor to the spirit of the United States, and your vote should tell him so.” Ouch! Now that is hard core politics right there.

So that editorial from the *Washington Times* then ran as an ad in the *Oregonian* newspaper the next month on November 5, 1922, and two days later, Walter Pierce was elected governor and the *Compulsory Education Act* was approved by the voters. In the words of *Hamilton*, we were “outgunned, outmanned, outnumbered, out planned.” We lost that battle bigtime.

[SLIDE] *The New York Times* ran a piece the next month in December explaining how all this happened. The headline reads “What the Klan Did in Oregon Elections.” The second sentence reads, [SLIDE] “One of the surprises of this year’s election was the success of a candidate for Governor of Oregon, with Ku Klux support, and the adoption by the voters of that state of a law designed to do away with all private schools.” Think about that for a moment. Let that sink in. The goal here was to extinguish private education.

Fortunately for freedom, the Supreme Court ruled in the landmark case *Pierce v. Society of Sisters*—in 1925, a year before the Oregon law was to take effect—that Oregon cannot compel students to attend only public schools, that “[t]he child is not the mere creature of the state,” that parents have rights when it comes to directing “the upbringing and education of their children.” “Raise a glass to freedom,” indeed!

But why rehash the circumstances of a 90-year-old Supreme Court decision? Shakespeare has the answer and put it eloquently: “What is past is prologue.” And if one prefers advice from a more contemporary author, try Faulkner, who writes, “The past is never dead. It’s not even past.”

Make no mistake, the issues debated in *Pierce* persist today. Segments in society still believe that government knows best when it comes to schooling and that the country would be better off if all children were exposed to a common curriculum and common values in common schools.

So far from being the narrow-minded bigotry of a long-gone era, the arguments advanced against private schools in the 1920s are, frankly, still around. We must continue to counter the claim that all of America’s students belong in public schools because that’s where they’ll best learn citizenship and tolerance and civic values, despite the fact that private school students score well above the national average on the NAEP Civics Assessment, the government’s own test of civics, and despite the fact that study after study touts the advantages of private schools in fostering good citizenship.

But the argument goes, private schools can be sponsored by anyone, and the word “anyone” can conjure up some frightening images. In 1922, the scary possible sponsors of private schools included communists and Catholics. In our day, the scary possible sponsors of private schools

include conservative Christians and Catholics, along with other moral traditionalists, who stand in the way of the prevailing, progressive version of sexual freedom.

And that's where I want to turn next because I try to avoid controversy whenever I can. So now we're in Part 2, a present challenge, namely, the tension between religious liberty and sexual liberty.

First the tie-in with Hamilton. Alexander Hamilton was an influential player in the Philadelphia Convention that produced the U.S. Constitution, signed by the delegates in Independence Hall September 17, 1787. [SLIDE] Here is Howard Chandler Christy's painting of the signing, which is on display in the Capitol. [SLIDE] This is George Washington, who was president of the convention; and [SLIDE] here's Alexander Hamilton, whispering in the ear of Ben Franklin, probably asking, "How does a...?"

Four years later, in 1791, the first ten amendments to the constitution were officially adopted. The first words of the first amendment read, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Those words have since been the focal point of one or two Supreme Court decisions relating to private education, including the recent Trinity Lutheran decision.

A few months ago, I was on a panel at the Cato Institute on this very issue of religious liberty and sexual liberty and I started by saying that talking on this topic is like walking on eggshells, and that's OK. I actually like that simile, because we should be addressing the topic sensitively and carefully with civility and respect. Better to walk on eggshells than, say, stomp on grapes, to use another analogy involving feet and food, which, by the way, is rarely a good combination.

When people address this admittedly very sensitive issue, they sometimes forget that there are two competing rights: religious freedom and sexual freedom. So we have the right of individuals to hold and express religious beliefs and form communities that nurture those beliefs on the one hand, and the right to sexual self-expression on the other. A balance has to be struck, and that generally requires compassion, sensitivity, and respect.

Religious schools, like religious communities, are built around beliefs, traditions, and a moral code and culture. But if they cannot stay true to the beliefs and traditions that define their communities, if they cannot preserve them, they lose their focus, and eventually there is no mission-centered community.

Let me take a secular example. If a Montessori school were forced to hire teachers not trained in or supportive of the Montessori pedagogy; if it were forced to admit students and families who oppose the Montessori approach, it would soon lose its identity as a Montessori school. It has to discriminate in admissions and hiring to remain true to itself.

And let's press it. Should yeshivas have to admit non-Jews as students or hire Christians to teach the Talmud? No! That, too, would defeat the school's purpose and identity.

Sometimes the religious liberty side of the issue is easier to understand when we extract it from the debate about sexuality and treat it as a purely doctrinal issue. For example, should a Catholic school be allowed to dismiss a religion teacher who insists on proclaiming in class that Jesus was a wise and holy guy and a savvy political leader, but not the son of God? Most people would support the school's right to dismiss such a teacher in order to maintain the integrity of its mission. It is, after all, a Catholic school, constituted to hand on the Catholic faith.

Now let's move to the sexual freedom issues. Should the same Catholic school be allowed to dismiss a teacher who proclaims in the classroom that she's in a sexual relationship outside of marriage and there's nothing wrong with that, and in fact what *is* wrong is the Church's teachings on reserving sex for marriage. It's the same issue as the religion teacher proclaiming Jesus is not Lord, because the school has a right to safeguard its identity and mission.

And let's look at the flip side, because this issue goes both ways. Should a more liberal religious school that supports, say, reproductive freedom be allowed to dismiss a teacher who insists on proclaiming that abortion is sinful? Yes, of course, if we're to apply the principle evenly. Schools have a right to maintain their integrity, mission, and identity, or else they soon disintegrate as distinctive institutions.

And as for those who say that school choice programs should exclude schools that adhere to traditional standards of sexual morality, as a thought experiment, let's move the argument from school choice programs to tax deductions for donations to religious institutions. Should we only allow tax deductions for contributions to churches that, say, don't discriminate against women when it comes to ordination? Or only to synagogues that don't teach that sex outside of marriage is wrong? If we start establishing such conditions, who establishes them? Who decides what is the proper list of practices for churches to qualify for deductible donations? The state? A popular vote?

But that's why we have a First Amendment respecting the establishment of religion and protecting the free exercise thereof. That protection is not contingent on a popular vote; it's not subject to the latest polls. In fact, it's precisely to protect unpopular speech. Popular views don't need protection.

And let me say this, elected officials should be ashamed when they suggest that a religious institution should have to give up its cherished beliefs in order to qualify for a government program. The Supreme Court's decision in *Trinity Lutheran* reminds us that a school does not have to sacrifice its religious identity to participate in a state grant program. Indeed, a requirement of that sort is, as the court put it, "odious to the constitution."

And now Part 3, a promising future. I want to turn to parent choice in education and the opportunities that private schools provide in offering choice and advancing the public good. There are several parallels between the show *Hamilton* and the school choice movement. They are both about a noble movement in pursuit of a lofty goal, namely, the goal of freedom. They are both about a struggle against all odds, about turning the way things are upside down, about wresting power from rulers reluctant to give it up. And finally they are both about dramatically changing opportunities for countless individuals.

One endearing quality of *Hamilton* is its ability to vividly depict the impact of an abstract movement on the lives of particular individuals: Alexander Hamilton himself, his wife Eliza, his son Philip, as well as countless other characters in the show.

One blessing in my career is that I started as a classroom teacher in St. Rose of Lima School on 164th Street and Amsterdam Ave. in Manhattan, and that has helped me keep in mind that our calls for school choice affect real, live particular individuals. I know firsthand how a faith-based education can affect people at the core, can alter the trajectory of their lives. School choice is not abstract and remote, it is concrete and personal. It has a face, a voice; it changes lives.

So why are we in this struggle for freedom? We have certain core beliefs, and I want to mention three. We believe parents are the child's primary educators. They know the child best; they love the child most, and they are in the best possible position to make decisions about the education of their children. School choice empowers parents.

Second, we believe in pluralism in education. When CAPE's board met with Secretary DeVos last March in this very room we went around the table and introduced ourselves: leaders of organizations representing Evangelical Christian schools, Mainline Protestant schools, Jewish, Islamic, Catholic, Waldorf, Montessori schools, etc. Our members have different answers to fundamental questions about education: the role of the teacher, the nature of students, the very purpose of education. And they also have different answers to fundamental questions about life: Why are we here, where are we going? These are not trivial matters; they are profound, and it is absolutely essential to preserve this pluralism in education in a society where, as someone said, we have lots of different answers to the question, What is the good life? That pluralism serves the public good.

My final point is that school choice is about children and their opportunities. There's a touching ballad in *Hamilton* in which two fathers are talking to their newborn children about the revolution and promising, "We'll bleed and fight for you; we'll make it right for you." In other words we'll pass on this new world to you and then someday you will astound us with your accomplishments. "Someday you'll blow us all away," is how the lyric puts it. The song is essentially about the sacrifice of one generation for another and the hope of a promising future for the next generation. And that's ultimately why any of us should be in the school choice movement.

So empowering parents, preserving pluralism, and providing kids with a promising future is why I support the right of parents to choose their child's school

Friends, we are in the middle of a revolution. "Look around, look around, how lucky we are to be alive right now," is a line from *Hamilton* that directly applies to us. The latest numbers from NCES show that private school enrollment is on the rise, up 7 percent in two years. In state after state, including, as of this summer, the deep blue state of Illinois, more parents are getting a chance to direct their children's education. Also this summer, the Supreme Court took an historic step toward turning around decades of bigotry against religious institutions. "History is

happening.” It’s not the birth of a nation, but it is the birth of freedom for so many parents and children.

So this is not the time to give up. Our schools serve the public good. They educate the whole person, in all dimensions. They teach the lessons that count most in life: lessons about God, love, responsibility, the mystery of creation. In an age when so many young people are adrift, our schools provide students an anchor and a moral compass. They offer a firm foundation and a hopeful future.

So don’t give up! Keep fighting the good fight to preserve these schools and thereby preserve the public good.