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# Reslicing the School Pie

John E. Coons, Stephen D. Sugarman, and William H. Clune III

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State systems of taxing and spending for elementary and secondary education tend to combine misery and mystery in equal parts. Historically, the school money debates have been dominated by specialists on such complex questions as "subvention," "overburden," and "equalization formulas," effectively insulating the institution from the scrutiny of its victims. Today, however, in what may be the last shot in the skirmish on poverty, school finance is finally receiving serious public attention:

ITEM. President Nixon has appointed a School Finance Commission. ITEM. The Supreme Court has twice in the past two years been asked to strike down as unconstitutional the methods by which public education is presently financed; it has not foreclosed the question, and may be forced to face the issue directly in its next term. ITEM. Governor Milliken of Michigan has proposed shifting from a shared state-local school finance arrangement to an essentially state funded one. ITEM. The Office of Economic Opportunity has announced its willingness to sponsor experimental tuition voucher programs; Governor Reagan of California has commented favorably on one form of the voucher plan. ITEM. Governor Rockefeller of New York has appointed a blue-ribbon commission to make a comprehensive examination of the quality, cost, and financing of elementary and secondary education for the coming decade.

All this may stimulate a large yawn; yet there may be surprises in store. A variety of hostile forces are beginning to converge on the old system. Lawyers, educators, and social scientists increasingly score the unfairness to students and taxpayers of our reliance upon local property taxes; voters (allegedly property owners) reject local bond issues, budgets, and property tax overrides at an alarming rate; striking teachers demand an even higher priority for education on our list of national commitments; school districts reluctantly shorten the school year because of the money pinch; Catholic schools either close or stagger along, praying with their public counterparts for a governmental rescue

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that will keep parochial pupils from landing in the overburdened public schools.

Ironically, this tumult comes as leading educational critics proclaim the utter irrelevance of current schooling, especially in our cities. The system is not diseased, they say; it is a corpse that more cash will simply cosmetize. Their hope—if hope they have—is integration, is accountability of teachers, is individualization or technology; it is not money. Even many of the most radical structural reformers, decentralizers, and political participators decline to engage seriously the question of economic support for their enterprises. Their know-nothing attitude is, to an extent, pardonable; financial reform will not itself revitalize education, and its pursuit lacks the allure of public combat over more visible and glamorous objectives. Regrettably, it is a precondition to improvement of any sort whatsoever.

*Villains and Victims* However, even the idea of financial reform in education is as confused as the rhetoric of equal opportunity that confounds the debate. Lest we sin ourselves, an initial clarification is indicated. The issue is not quantity. Even conceding the onus of guilt borne by a curmudgeon federal government, *the critical need in school finance is not simply for more money.* The fundamental evil of the present system is reliance upon *local property taxation of unevenly distributed property wealth.* This is not so complex a matter as sometimes it is made to appear. Simply put the tragedy involves two villains and two victims, all four of which typically inhabit school districts with low property wealth per pupil. The villains are higher tax rates for education and lower spending in schools; the victims are the children and those who bear the taxes for their public schools.

Consider this example from Los Angeles County in California. Michael, a fifth grader, lives in the Walnut elementary district; in 1968-69 the cost of his public education was \$500. His friend, Robert, lives in the Keppel elementary district; in that same year his fifth grade spent \$786 per pupil. Each boy's family has the same income and owns a home of the same value (market and assessed). Michael's house is taxed at 3.28 percent of assessed valuation; Robert's at 2.33 percent. The California "system" thus provides substantially fewer school dollars for the children of those in the Walnut district who pay the higher tax rate. The example chosen is conservative. It is typical of our states.

*Disaster of Form* The historical parent of this prodigy is the rough compromise that emerged from the struggle after 1850 between the public school enthusiasts and their individualist opponents. The victory of the schoolmen was never complete; education was made compulsory and universal, but the principle of state responsibility was never clearly

accepted. Instead, the local community became the foundation of "public" education, a result which tempered individualist fears of a monolith, making the enterprise politically possible. In an agrarian economy with a fairly uniform distribution of wealth within most states, this parceling out to local units of the new duty to educate might have been seen as tolerable to both sides. After another quarter century of economic change, the nightmarish reality began to surface. What the individualist had surrendered in the establishment of public education was beyond recall; what the reformers had bargained for in equality had become a casualty of the industrial revolution.

By 1900, the clustering of wealth in urban foci already was well under way. Then, as now, school districts in most states depended for their principal support upon the power delegated to them to tax the value of real property located within their boundaries. As the disparities in taxable wealth widened among communities, education prospered in some districts and foundered in others for reasons unrelated either to local need or local enthusiasm. Balkanization of education had come to mean good schools in the rich cities and the virtual collapse of many rural districts. Public education has never recovered from this original disaster of form. The identity of rich and poor districts shifts and changes with time; in some cases cities favored through the first half of this century may now face the problem of corporate poverty. But for town and country alike the iron rule of the system is unaltered: the dollars spent for a child's education are a function of the wealth of his school district. Today in some states the taxable wealth per pupil in the richest districts is 100 times the wealth in the poorest.

State "equalization" programs of aid to poor districts have been the typical twentieth century response to this problem. From state to state there is considerable variation in these devices whose details are impenetrable to the amateur and deserve no attention here. Their principal effect is anesthesia for the outrage of the victims. State support for poor districts is made highly visible and thus politically effective in tranquilizing local indignation. However, the notion that the districts have been "equalized" is transcendent fiction. So far from reality is it that in California, Wisconsin, Illinois, and elsewhere millions in "state aid" have been identified which, under existing legislation, actually benefit only the wealthy districts. This aid is a bonus for being rich! The consequence of the system is disparity in spending, which in California districts ranges from well below \$500 to \$3,000 per pupil.

Seeing this helps to explain the durability of the local property tax despite the predictions and imprecations of politicians, property owners, journalists, and others prone to discover taxpayer revolts. Plainly, it survives because it is the basis of a highly effective system of privilege. Communities that enjoy high property values per pupil, either because of the presence of wealthy residents

or of industry, can have good schools (and other municipal services) for a cheaper tax rate than their poorer neighbors. Such communities and their residents have a strong interest in preserving the discrimination.

The benefited class is a peculiar one: it is not distinguished simply by personal wealth. Rich families sometimes live in districts poor in taxable wealth, while some of the richest districts are industrial enclaves inhabited largely by blue collar or poor families. Overall, however, there appears to be a correlation between personal wealth and district wealth, and it is the children of the poor living in poor districts who are the most poignant victims. These families cannot afford to move or to choose private schools. By and large they are white families, at least in the North. Minorities tend to cluster in larger cities near or somewhat above average in wealth. This is not to say that such minority children are never victims of fiscal discrimination *inside* their district of residence, though that particular swindle itself is beginning to decline.

The problem, then, is not vicious motivation or conspiratorial purposes, but merely wild and arbitrary imposition of privilege and deprivation according to the accident of district wealth. The evil is blindly structural in the most primitive sense that the state has created a discrimination machine. Districts above the median in wealth naturally resist change, and they are politically vigorous; districts of roughly average wealth have no clear stake in reform and are apathetic or even turned off by the centralist rhetoric of most of the reformers. Only poor districts would clearly benefit, and their historic failure to move the legislatures is not surprising.

*Judicial Intervention* Ironically, this chronic political impotence of the victims itself may assist reform by sanctioning judicial intervention. It is not fanciful to describe the projected relief for children of poor districts as another rescue of a (literally) disenfranchised minority. Who but the Supreme Court could brake this machine so insulated from ordinary majoritarian politics?

However, seen as a constitutional issue for the court under the Equal Protection guarantee, the matter becomes complex. Three pointed problems of judicial role threaten to bar even threshold examination of the problem. First, to be effective in dealing with any issue of this magnitude, the Court must be able to articulate a clear and principled basis for condemning the system. The principle must permit reasonably accurate prediction of future decisions involving a variety of possible legislative responses. Second, sensitive to its nonelective and antimajoritarian character, the Court should shrink from imposing a uniform system upon the states. Its primary objective should be not to bind but to loose the legislatures from the existing log jam, sparing whatever is tolerable in the old order and permitting a wide variety of new state systems. Third, the

Court will need confidence that its will can be enforced. However, the first is the key to all; the primary concern must be the discovery of a satisfactory standard by which to judge state systems. So far it is the failure of litigants to offer such a standard that has alienated the judges who have spoken on the issue.

Until this year two cases had reached the Supreme Court, one each from Illinois and Virginia. The three-judge federal panel in Illinois dismissed for lack of "discoverable and manageable standards" a suit which asserted a duty of the state under the 14th Amendment to spend for each child according to his individual needs. The Supreme Court affirmed without argument or opinion, and with but one dissent. Except for an additional dissent a similar complaint in the Virginia case met an identical fate in the following term of the high Court. Counsel in the several remaining cases are seeking a standard that will pass judicial muster and yet be effective. The problem is urgent, as crucial cases in California and elsewhere proceed to their final disposition. Thus far, the Court appears to have kept an open mind. A recent appeal in a school finance case from Florida presented an opportunity to seal off debate on the issue. Instead, the Court sent the case back for trial. This leaves the final judicial answer perhaps a year or more away.

The difficulty in this quest for principle is illustrated by the disunity of the critics, some of whose proposals have bordered on the extreme. For example, one formula—an analogy to the one man-one vote rule—asserts a duty to spend equal dollars per child throughout the state. The federal judges in the Illinois suit declared this "the only possible standard" and then rejected it. Only die-hard egalitarians would quarrel with the court's assertion that a rule forbidding compensatory spending is the last thing we need. What then of the "needs" formula proposed by the Illinois and Virginia complaints? The primary flaw in such a standard is that it is really not a standard at all; indeed, it is the replacement of all standards by the purest nominalism, each child bearing his own "rule." This approach may be satisfactory for educational philosophers; its appeal to judges is less obvious. Finding and enforcing the dollar rights of each child according to his needs (whatever that may mean) is not an activity in which courts will be eager to engage.

Two other formulas contending for scholarly and judicial attention at least can claim status as bona fide principles. Each is simple and is cast in the negative—that is, as a proscription of particular state action, thus avoiding the problems raised by insisting upon a duty of specific legislative behavior. Under *Proposition One* the state would merely be forbidden to permit variations in district or family wealth to affect spending per pupil. *Proposition Two* would agree but would add a prohibition against variations in the number of dollars spent on any child by virtue of his place of residence. This difference is highly significant. *Proposition Two* (Professor Arthur Wise) is a centralizing prin-

ciple satisfied only by statewide standards for spending. *Proposition One* would permit local decision resulting in the spending of more or fewer dollars per pupil from one unit to another, so long as those variations in spending are not in any degree the consequence of variations in wealth.

Together these two propositions draw the line of battle between the centralists and those favoring local incentive. The former are outraged that the quality of education could be affected by differing enthusiasm for education from district to district. On the other hand, the latter see in local decision a source of health, variety, and citizen involvement plus an insurance against the statewide mediocrity risked by centralization. In any case, one's policy preference in this regard should not be confounded with his view of the Constitution. Even centralizers should prefer *Proposition One* if the Court sees preservation of local choice as the condition of its intervention. Continued local choice, liberated from the effects of wealth variations, is a more attractive prospect than no reform at all; besides, who can say the legislatures will not be persuaded to centralize once the old order is invalidated under *Proposition One*?

*Power Equalizing: Districts* However, our own preference for *Proposition One* is not purely tactical. The use of relatively small units to determine important aspects of educational policy seems to us plausible; and it is quite feasible to make existing school districts substantially equal in their power to raise money for education. Even retaining the property tax as the local source (we would prefer a local income tax), such parity of power could be managed through a combination of state subsidies, redistricting, and other devices. The resulting system is called "power equalizing." Suppose, for example, the legislature provided that all districts might tax local real property at a rate of from 1 percent to 3 percent and that the district's own choice of specific tax level within that range would, in accord with a relation set by law, fix the district's spending level. The amount per pupil actually raised by the tax would be irrelevant. What would count is how hard the district chose to tax itself, not the wealth on which the tax was levied. The relation might be as simple as the following table:

<i>Locally Chosen Tax</i>	<i>Permitted Spending Per Student</i>
1% (minimum permitted)	\$ 500
1.1%	550
2%	1,000
3% (maximum permitted)	1,500

Mechanically it might operate in a variety of ways. For example, if a district taxing at 2 percent raised \$800 per student, it would be subsidized \$200 per student from general sources by the state. If a district were wealthier and raised

\$1,200 at 2 percent, \$200 of this would be redistributed as part of the subsidy for poorer districts. Alternatively all proceeds of the locally chosen taxes could be paid into a state pool with all disbursements made from that pool based solely upon the local tax rate.

Power equalizing formulas can be adjusted to take into account variations in the cost of educational goods and services from place to place. They can also be tuned to reflect subtler economic factors such as municipal overburden and educational considerations such as the "needs" of disadvantaged (or, for that matter, gifted) students. In short, power equalizing formulas provide the base for any true "compensatory" scheme.

Power equalizing also is an answer to the central dilemma of the community control movement: how can an urban enclave like Ocean Hill-Brownsville achieve political autonomy without accepting economic prostration? Every district, irrespective of size or wealth, through power equalizing can be rendered both independent and equal in the power to educate its children. The poverty of a neighborhood's tax resources cannot by itself justify continued subordination to a larger school district. If the state desires it, Ocean Hill-Brownsville can be economically as unfettered as Scarsdale.

*Power Equalizing: Families* Some have suggested that power equalizing can satisfy both the centralist drive for equality and the objectives of local government by a further extension to the family level. Imagine, for example, that each family with school-age children is a small school district that has been equalized in its power to tax itself and to spend for education. All parents would choose among schools, each of which operates at a set level of cost per pupil, say \$500, \$800, \$1,100, and \$1,400. The school would receive its income (for secular instruction) from the state; it could charge no further tuition. The family's choice of a school cost level would fix the rate of a special tax upon its own income. The tax rates also would vary by family income class with the aim of equalizing for all families the economic sacrifice required to attend any school at a given spending level. For example, a welfare mother might pay \$15 in tax for all her children to attend a \$500 school; for that same school the tax price to a middle-class family might approach the full \$500 cost, while the price to a rich family would exceed the full cost. A \$1,400 school might cost these same three families \$100, \$1,000, and \$2,000 respectively.

Schools in such a system could be all public, all private, or mixed. The constraints on curriculum could be few or many, but any substantial limitation would frustrate at least some of the purposes for trying such a system in the first place. One important object is, after all, for the first time to give a true choice to all families—including the poor. Through family choice, it is argued,



competition and experimentation would be stimulated and variety and quality thereby enhanced. Also better matching of schools and children would be effected by the judgments of parents and children than by an impersonal attendance boundary for the neighborhood or the judgment of an expert. In providing choice to the parent, an answer also would be given to the other dilemma in the community control movement: how to maintain a true "community" while respecting the interests of dissenting minorities. In a family based system, the community would be transformed from an artificial and inescapable community of geography to a community of interests, one freely chosen and freely abandoned.

Obviously the details of such a system would have to be carefully tailored if such ancillary policies as racial integration, fair competition, minimum standards, and job security for teachers were to be satisfied. The model "Family Choice in Education Act" which has been drafted to express these policies comprises hundreds of provisions. It encourages private schools with guaranteed loans but protects public schools against unfair competition by limiting the capitalization of private schools. For similar reasons it disallows contributions either from interested sources or for ideological objectives. The model act also puts pupil admission to a school on a random basis, thereby maximizing racial and social integration. To assist the choices of schools by parents, an elaborate system of information and counseling would be provided. Of course, free and adequate transport would have to be made available. In all respects, the complex provisions of the model act strive to assure the fullest measure of independent action and equality of opportunity for schools, parents, and pupils.

However, an interesting division recently has emerged between what may be viewed as the centralists and decentralists among family choice proponents. The schism is illustrated by a proposal for educational vouchers outlined by the Center for the Study of Public Policy at Cambridge, a proposal that conceivably will be supported by the Office of Economic Opportunity in a series of experiments. (*Teachers College Record*, February, 1971.) Though reflecting some of the aims of the model family choice act, the CSPP proposal specifically rejects it and offers in its place a striking contrast. Rather than provide equal access for all to schools of different quality, the CSPP model deliberately tends to equalize all schools in the voucher system at a level of quality to be centrally, not parentally, determined. This uniformity would be achieved by giving more money to schools with a higher population of disadvantaged children. It would not allow for variation in spending in accord with the tax effort families are willing to make for their education. Effectively, parents who are poor would be denied the opportunity to aspire to an education which is not merely

different in style but qualitatively superior to the governmentally mandated minimum.

The CSPP model is the expression of a plausible—if, to us, mistaken—value choice in education. It is probably compatible with the constitutional test we have offered, since (depending upon its eventual details) it divorces quality in public education from variations in wealth. Along with power equalizing systems—both district and family—it nicely illustrates the boundless possibilities for experiment and change in the structure of American education. If the old order survives another century, it will not be for want of alternative models: