

## Private School Monitor, Summer 1996

### Religion, Schools, and the Public Interest

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"March Madness" may suggest college basketball to some of you and Julius Caesar to others. But this year it makes me think of education reform. A long battle on Capitol Hill over funding of the Washington, D.C. schools ended in March with victory going to those who resisted every attempt to allow a modest school-choice experiment. The political pressure from the teachers unions on members of Congress was just too great. But as *The New Republic's* editors pointed out, hypocrisy hung heavy over the nation's capital: "some of the [congressional reform] bill's most ardent opponents, those who argued that the public schools are still the nation's best hope for a better education system, sent their own children to private schools.... In fact, of the forty-four senators who voted against the voucher plan, only one has sent a child to a Washington public school-- Ernest Hollings of South Carolina, in the 1970s." (April 8, 1996).

During the same month of March, by stark contrast, the mayor of Baltimore, Kurt L. Schmoke, concluded that the only hope for real reform of his city's schools would have to come by way of serious competition fostered by a school-choice plan. Only "deep and radical change" will bring about the kind of school improvement Baltimore needs, he said. "I'm trying not to paint the whole school system with the brush of incompetence and failure, because I don't think that's the case. But there are too many of our children who are not being served to allow me to put my head in the sand and say all is well." (*The Baltimore Sun*, March 7, 1996). Bureaucracies don't work in education, and reforms within such bureaucracies will never be enough. "We have the right to choose virtually everything that's important in our lives," the mayor said, "-our churches, our spouses, our jobs, our homes, our leaders. We ought to be able to choose our children's schools, too." (*The Sun*, March 11, 1996).

Mayor Schmoke may prove to be no more successful in his attempt to reform the governance structure of Baltimore's schools than were those who wanted to reform Washington's system. And if success depends on the advice of *The Washington Post's* editors, Schmoke will lose. The *Post* editorialized about the most recent education summit of the nation's governors, saying that the improvement of our schools will not come about through gimmicks that force the train off track. No, what is needed--and I quote the *Post*-- is the same "dull, straightforward, boring, long-term process of fixing the schools step by step." (March 31, 1996). What is this long-term process of step-by-step fixing that has kept the train of progress on track? It is, according to the *Post*, the building of a tougher curriculum and then getting better measurements and ways of following up on low achievement where measurement reveals it.

This, my friends, is what I would call March Madness: Resistance to the reform of Washington's crippled schools, a cry for real reform in Baltimore, and the ignoring of reality in an editorial office--all three in the same month.

And what should you and I do about it other than go mad? I want to suggest this evening that Mayor Schmoke is surely right that a bureaucracy which holds a legal privilege and financial monopoly in public education cannot fix what is now broken and will never succeed in doing

justice to all the parties responsible for the education of young people. At the same time, however, I want to emphasize that competition among schools is not the only or even the central element in reform. Doing justice to parents' responsibility for their children and to the need for an educated citizenry will require a diversity of school systems that are equitably funded and open to parent choice without discrimination. Such a system, however, will represent more than a market victory over unsuccessful bureaucracies. It will mean a new era of public education and of civic cooperation to achieve justice for all of America's children.

The U.S. Supreme Court was on the right track in *Brown v. Board of Education* to demolish the myth of "separate but equal" schooling that kept Blacks from adequate educational opportunity. However, the decision relied completely on the confidence that the existing system of public schools could achieve the equalization of educational opportunity for black as well as white Americans. Thus, the Justices overlooked the fact that by the 1960's the laws governing education forced separate and unequal schooling on many Catholics, Protestants, and Jews, while also condoning the highly unequal funding of public schools divided by district boundaries. In other words, the court's hope of overcoming racial injustice in public schooling depended on Black's accepting a system in which it was considered legitimate that there are both poorly funded and well-funded school districts and that confessional schools should be excluded. If black Americans would agree to accept their place in such a system, now increasingly secularized and bureaucratized, then they would enjoy "equal" schooling.

What we now know is that schooling is not equal in America, and in many cases the inequalities are getting worse. Moreover, in some of our most deficient metropolitan areas an increasing number of public school teachers, like members of congress, are sending their own children to non-government schools. Genuine choice exists for people of all races, to be sure, but only if they have sufficient wealth and mobility to move to a neighborhood with good public schools or to purchase non-government education at their own expense. This system as a governance structure is unjust regardless of the pedagogical improvements that may be engendered in some government-funded schools.

What we need today, then, are new Supreme Court decisions, more instances of mayoral courage like that of Kurt Schmoke, and legislative vision in a number of states that will take *Brown v. Board of Education* a step further. The time has come to eliminate the last vestiges of public-bureaucratic monopoly that forces some citizens into unequal schooling, and then to build up a new common ground on which citizens as citizens can share an equal legal and financial commitment to the diversified schooling of all their children. The new civic common ground will entail mutual respect for and recognition of diverse schools that can meet the needs of diverse families with diverse faiths and educational philosophies.

How can such a new order be achieved? How can our increasingly diverse population reach a new consensus about its public interest in a pluralistic system of schools? Let me suggest three elements of necessary reform.

First, we Americans must come to recognize that the task of government is different from the task of education. In a review essay dealing with nine different books on education, Professor Alan Wolfe (Boston University), emphasized this point (*The New Republic*, February 9, 1993). Education and policy making are different institutional arts, reflecting two different types of responsibility. Government-run schools, says Wolfe, are a mess today because society passes on problems of poverty, teenage pregnancy, drug addiction and other ills to the teachers. Assuming

that schools are simply an extension of government, citizens and policy makers attempt to solve all kinds of social problems and reach all kinds of social goals by means of the public schools. Families are also often affected negatively by this process. The problem is this: "Schools are simultaneously too rigid to substitute for families and too fragile to substitute for government." The "baleful consequence is to ask too much of the schools and too little of the state." What we are witnessing is the damage done to both families and schools by policies that collapse the boundaries between them as well as between the state and both of those nurturing institutions.

Public schools, in essence, have been misused by government (and thus by citizens, interest groups, and teachers unions) to try to fight battles that ought not to be fought in (or over) the schools. "Americans," says Wolfe, "have a peculiar habit of fighting their political battles everywhere save in elections, and they are now engaged in a political struggle over schooling that is as furious in its means as it is unresolvable in its ends." Many citizens who conclude that public schools cannot be reformed then become convinced that government should be dispensed with altogether in order to let competitive markets determine the outcomes. But government ought not to be excused from doing what governments should do, namely, uphold justice for families, schools, and civil society. Instead, we should ask government to quit trying to do the educating through political, bureaucratic means and focus instead on doing justice to all the families, all the students, and all the schools within the territory of its governance. This means distinguishing government from schooling in a way that is radically different from what we now have. It means a reform not unlike the disestablishment of the church in the late 1700s and early 1800s, when citizens achieved a new public consensus that ecclesiastical life should no longer be considered a department of state. Only by properly distinguishing schools and families from the state and by treating each fairly and equally under the law, will government be in a position to act constructively.

Essentially, of course, this means changing the law so it is consistent in recognizing and honoring parental principalship of minor children. That law exists today in the sense that states must allow parents to choose the agents of their children's education. Nevertheless, this kind of choice, as we have said, exists only for those financially able and mobile enough to exercise the choice, and even then it may come with a financial penalty. Parental principalship is regularly violated or trumped, in other words, by an unjust government structure. Parents, both black and white, are only able to exercise their parental principalship without penalty when they choose the government-run schools that are supported by their taxes. When, for reasons of conscience or some other disposition, parents wish to send their children to a non-government school, their principalship can be exercised only if they have sufficient wealth and are willing to leave their educational tax dollars behind.

Only if government's authority is distinguished from parental authority in a way that leads to the equal treatment of all parents will we be able to achieve the just public governance of education that begins with honoring parental principalship. This is a matter of justice to families, not first of all a question of competitive markets, but the latter will follow when justice is done to families.

This brings me to the second major step that must be taken to reform the American system of schooling. Educational finance must be changed. For government to focus on doing justice rather than on doing education it must seek new ways to provide equitable funding for each child's education. Most state laws still force separate and unequal schooling based on residency. The reason is that funds for government-run district schools derive, for the most part, from property taxes. Those who live in wealthier areas typically have better, richer schools. Busing is no answer to this inequity for it breaks up communities and community schools, further separating parents

from their children and their children from neighborhoods. It further frustrates local control of schools. And we are talking here only of the financial inequity in the government school sector.

How best to resolve this funding inequity is not my concern here. Perhaps the best mechanism would be a statewide collection and distribution of all school-destined property taxes in order to achieve a more balanced outcome. Or perhaps it would be through a statewide tax (income, sales, VAT, or some other) that is then distributed on a per-student basis. Whatever the mechanism, government must find a way to fund education more equitably, and this means the equitable funding of every child's education.

Before we can take the issue of funding to its logical conclusion, however, we must take into account the third essential element of education reform. If government is to do justice to all families and offer equitable financial support for the schooling of every child, as it should, then it must do justice to the religious pedagogical convictions of our diverse citizenry by doing justice to the religiously and pedagogically diverse schools that offer their services. Most education laws today presume that all citizens receive equal treatment even though government-run schools are given privileges denied to independent schools. All citizens pay property taxes for schooling, but only the children who attend government-run schools get a significant return on their public investment. This pattern of discrimination is still justified on the grounds that the public arena is a non-sectarian realm. Most non-government schools are, by contrast, designated sectarian and are thus considered deserving of such discrimination.

This, as I hope you can see, is exactly parallel to the now discredited argument for racial segregation and discrimination. The racist argument went like this: white schools belong to the majority--to those who matter. Black people are different--a minority undeserving of the same social benefits that white people legitimately enjoy. But if today we can see how unjust that position was for black people, why can we not see that it is equally unjust for people of different religious and pedagogical convictions.

This is where we need to make the connection with our first point about distinguishing the governmental task from the academic task. Government should make sure that no citizen is unjustly excluded from a public benefit. And, of course, government should not be imposing one view of the world on all citizens in violation of conscience. But the established education system violates both of these principles while believing that it upholds both of them. Guided by the mistaken assumption that the only genuine education is government-provided education, our governments then exclude all other schools from most public educational benefits. Then, under the equally mistaken assumption that government-controlled schools are non-sectarian and impose no particular worldview on students, our governments act as if their own schools are neutral and that non-government schools alone are sectarian and biased.

But why, in this case, should not governments arrest children in non-government schools for truancy? Why do our governments recognize that parents whose children have completed their schooling in a Catholic or Lutheran school have fulfilled their public obligation of making sure their children receive an education? Clearly, our governments recognize that independent schools of all stripes fulfill a public purpose even though they are independently governed. So it does not take a government-operated school to achieve a public educational purpose. Why then should independent schools suffer discrimination by being excluded from the public support of education funding? As we all know, college loans, the GI Bill, and a number of other government benefits for education do not work this way. Even the recent federal child-care law funds parental choice of

independent, religious centers. The only reason for continuing the pattern of public discrimination against independent (and especially religious) schools is the ingrained prejudice that has existed since the 1840s when the WASP majority decided to exclude Catholic schools from public funding based on the charge that the Catholics alone were sectarian.

Today, of course, every explicit profession of religious commitment at the base of a school--not just a Catholic commitment--marks the school as sectarian. But why is this the case? It is now apparent that ever since the 1840s governments have, by self-declaration, defined their education as "nonsectarian" no matter what philosophy or pedagogical perspective has dominated. For decades after the 1840s, a generalized Protestantism was called nonsectarian. Today a more definite secularism is labeled nonsectarian. And by the same token, whatever is not included must be sectarian in nature. If we look behind the labels, however, we find that self-declared non-sectarianism has never been religiously neutral. Whoever or whatever controls the schools carries a perspective, a point of view, a framework that channels the curricula and the teaching. What goes under the banner of "nonsectarian" is not non-religious therefore but is merely the commitment and perspective that represents the consensus of the current majority or the powers that be. Whatever that consensus is--perhaps including a commitment to no prayer, to no explicit religious morality, and to a pedagogical philosophy of individual self-realization--certainly imposes itself and excludes all contrary views that might serve as pedagogical integrators for the curriculum. What we have, in fact, is a system of schooling in which one framework for instruction is imposed at public expense and by public requirement on all students who attend government-run schools.

On First Amendment grounds, I contend that this is unjust, and the only way to avoid such publicly enforced imposition is to put the government on the side of genuine non-discrimination. How can that be achieved? By distinguishing the governing process from the educational process and then mandating that government act with fairness toward all schools. Every school has a viewpoint, a philosophy, a curricular framework. None is neutral. Government should not privilege any one of them over against others. It ought to give equitable support to all, which means proportionate funding based on the number of children that attend each one.

The way to do this is to recognize that the educational agents parents choose for their children should all be treated with equal respect by government because government is recognizing the primacy of parental principalship. In this respect there should be no discrimination between government-run and independent schools. Only in this way can government avoid an illegitimate establishment of religion or of pseudo-religious ideology and at the same time uphold the free exercise of religion. Only in this way can government do justice to the parental responsibilities of all families while giving support to the education of every young citizen.

Now, if you put all three of my points together, you can see how fundamental are the reforms that will be needed to lay the basis for real educational improvement in the decades to come. Distinguish the governing process from the pedagogical process. Separate school funding from district residency. Let schools be schools--in all the variety that parents and educators desire. Respect the principalship of parents with regard to the education of their children. Then let government act on behalf of citizens and families and schools in ways that can do justice to them all simultaneously. And yes, this will mean allowing schools to compete in an open educational market, but recognize that this must be a market different from markets in cars, or produce, or computers. It has to be an educational market that respects the uniqueness of the pedagogical process and the distinguishable responsibilities of families, schools, and the civic order itself.

Let no school or school system gain a monopoly of public funding or legal privilege. And let governments, which justifiably monopolize public law making, make sure that everyone can gain access to equitably financed schools. In an open and pluralistic system such as I've described, citizens as citizens will be able to act politically for the common educational good rather than be trapped in never ending fights for winner-take-all monopolistic control of government-run schools. The schools, properly separated from government, will then be free to maintain their independence and focus on education rather than politics. Legitimate public mandates such as an English requirement, or testing at different grade levels, or any number of other obligations to uphold the public interest, may not serve as grounds for government to take control of the schools, but must devolve onto diverse schools and school systems with the recognition that the schools rightfully have their own internal authority and governance structure.

At this point the public interest will begin to be properly distinguished from, and supportive of the diverse schools systems that are free to educate children in all kinds of ways. And government will finally be free to concentrate on justice rather than on pedagogy--on doing justice to the diverse religious convictions of America's families and communities by not imposing one definition of religion on everyone. Finally, education will be free to develop in sync with parental principalship; with religious freedom; with racial and financial nondiscrimination; with an open and competitive educational market; and with a civic focus on the public interest that actually includes the entire public.

The background for, as well as much of the argument presumed in, this presentation can be found in:

James W. Skillen, *Recharging the American Experiment: Principled Pluralism for Genuine Civic Community* (Grand Rapids: Baker Books, 1994), see especially Chapter 9, "Schooling in the Republic."

"Educational Freedom With Justice," in Skillen, ed., *The School-Choice Controversy: What is Constitutional?* (Grand Rapids: Baker Books, 1993), pp. 67-85.

"Religion and Educational Policy: Where Do We Go From Here?" *The Journal of Law and Politics*, vol. 6 (1990), pp. 503-29.

Rockne M. McCarthy, James W. Skillen, and William A. Harper, *Disestablishment a Second Time: Genuine Pluralism for American Schools* (Grand Rapids: Eerdmans, 1982).