

Speech:

RESCUING SCHOOL CHOICE FROM ITS FRIENDS

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This generation has witnessed many proposals for school choice, some few of which have now taken root in law and practice. It is time to consider what it is that states such as Wisconsin and Ohio have understood that remains opaque to their sisters. Though the ten year old Milwaukee program is effective and popular, its vital insight has so far eluded the genius of those who draft statewide initiatives. In many states, including my own, the initiative will remain the indispensable constitutional tool for achieving parental choice, for it alone can assure both the identity of private schools and the long-delayed burial of Jim Blaine next to his kinsman Jim Crow. But, before another state commits the fate of school choice to some instrument that even die-hards like me feel bound to reject, serious reformers must clarify their common objective. What exactly is that larger tent of policy that could accommodate both the market enthusiast and the indispensable mainline voter?

In search of this common purpose I start with two general observations about markets — one ethical, the other descriptive. First, the market is our favorite instrument; but, as the public well understands and agrees, it must never become an end in itself. When our political discourse reduces school choice to another analogue of banks, airlines, and electric power, we give aid and comfort to its enemies. Voters care more about the visible hand of the parent than they do about the invisible hand of Adam Smith. And they are right to do so.

My second and descriptive point is simply this: There presently exists for many parents a very real, if imperfect, market in state-provided educations. You who have purchased homes near popular government schools can attest to its liberating power. The full-blooded state monopoly reserves its most exquisite atrocities for the ordinary family and the poor. This truism may not decide who gets vouchers, but it certainly identifies the primary victims of the present regime. It also reminds us that — in assessing raw self-interest — the rational middle-class will discount the need for vouchers exactly to the extent of its range of choices. Thus, reformers may have to seek the sympathy of this critical mass of relatively comfortable voters on grounds broader than the market itself. Here I will suggest but a few among these humane justifications. I proceed by way of six premises that clearly deserve a larger place in the debate.

First: there is in fact no system of public schools in the United States. According to the *O.E.D.* the adjective “public” identifies institutions that are accessible to all citizens in the manner of parks, streets, libraries, pools, and museums. Heroes of the civil rights movement have given their lives in support of this definition. But access to any particular state school today remains a privilege attached to residence. No Oakland child has a right to enroll in my carefully chosen neighborhood school in Berkeley.

Most state educators seem unmoved at the sight of this Balkanization by family wealth. For them, if the legislated scheme imposes a common teaching method and a common government curriculum, this is sufficient. Sameness among schools seems to render segregation by economic class almost as benign for the child as it is convenient for these managers of the establishment. Add to this a widespread assumption that our state schools in fact have achieved at least a rough uniformity in their method and content, and one begins to understand how the educators’ sense of

injustice can be anaesthetized. Their serenity reminds us that our national conscience for seventy-five years remained largely at ease with a constitution that assured nothing more than a surface equality among institutions segregated by race. Given an authentic uniformity among our schools, segregation by mere wealth might to many seem a paltry complaint.

The prudent educator would observe that we must in any case be practical. Government cannot force middle class families to live among the workers and the poor; under our basic law it can't even force them to attend state schools. Let us, then, settle for educational uniformity at a high level of method and content — and spending. The problem with such practical wisdom is that both the educator and the public which bestows his legitimacy lack the uniformities of mind that such a policy would demand. They are profoundly divergent. My second, third and fourth premises confirm this intellectual discord and proceed to its implications.

The second premise briefly is this: Our society lacks a common pedagogy. Its teaching professionals are in deep conflict about *method*. Given this indeterminacy of right practice, the system lacks justification for the conscription of any child for a particular school with its particular method.

But, does not the common *content* of state education somewhat reduce the weight of this injustice? For some it might, at least if the state curriculums were in fact uniform and were imposed upon rich and poor alike. And, of course, we do find a broad consensus regarding mastery of the 3R's and science plus obedience to the law. This understanding about the minimal substance of compulsory learning is presently institutionalized by each of the fifty states in those statutes that prescribe the curricula of private schools and home schoolers — the laws that define truancy.

But, at that point our society's agreement about correct content ceases, providing us our third premise. To wit: Above the minimum established in the truancy statutes everything concerning human value that enters the curricula of government schools is up for grabs. And this is necessarily so. For, on the question of the good life, we are a people divided. There is not, and cannot be any *public* curriculum that expresses the moral significance of specific sexual behaviors, euthanasia, war, drugs, animal rights or gender roles. Extend this list of our cultural skirmishes as you will.

Now, each state teacher will in fact teach one of the six possible answers to such crucial questions. These answers are: Yes; no; maybe; I don't know; decide for yourself; and we can't discuss it. Lacking any public measure of correctness, the particular response is chosen by the local sovereigns — or teacher; it is not *our* answer but theirs. Nor can this result be justified as the loser's decent democratic deference to local majorities; for the privileged are excused. If the message offends, the affluent family can escape it; the rest, however, remain cultural captives, a guaranteed audience for the private opinions of the neighborhood imperium.

The fourth premise is related but broader : Even if, as a people, we agreed upon specific moral answers, (and in some cases we do) the society would still lack consensus regarding the ultimate *source* (if any) of the child's basic obligation to respect them. Thus in government schools the imperative for my being a good citizen must shrink at best to pure social contract; indeed, whether and why contract itself should bind anyone remains in great dispute. The teacher is impotent to invoke religious or, perhaps, even natural foundations. What is left is some version of Hobbes or Rawls — or nothing.

Imposing any one of these conflicting notions about ethical foundations upon the captive family makes education lawless, arbitrary and morally random. Haphazardly the state commissions

disparate sovereigns to deliver their parochial versions of the child's responsibility to seek the good life. As he grasps all this, even the most indifferent suburbanite begins to recoil and move toward parental choice as the benevolent hope that our poorest families might escape this educational lottery.

Of course, *some* adult will necessarily impose his or her favorite content on the child. Here I simply assert premise number five: so long as the legal minimum is satisfied, the parent is the best decider. There is plenty of supporting theory, but I won't reargue it here.

These first five premises roughly express America's institutional problem. Together they suggest that in reforming schooling our most salient common purpose must be the enfranchisement of the ordinary family and the poor in a market system of accessible, hence truly *public*, schools in both sectors.

My sixth and final premise is that choice has a wide range of benign social effects; it maximizes those human goods on which Americans do in fact agree — goods that we thus can rightly claim as “public.” Reformers must learn to argue for choice in these more affirmative terms. Recently, they have had useful practice in this art as the psychometric professions report how the parental option raises test scores of disadvantaged children even at diminished levels of spending, an outcome that is useful and important, but for me a bit esoteric.

The champions of choice need in addition to grasp and flaunt such simple and cherished concepts as the 1st Amendment value of speech. Schools of choice constitute a form of media that is uniquely suited to dissemination of beliefs that are held by persons who typically are left unheard in the marketplace of ideas. Through its chosen school the ordinary family can speak systematically, not only to its own children but, through them, to the rest of us. Its ideas become embodied and thus transmitted. Parents give both the child and the world the best of their wisdom. The A.C.L.U should understand this. Perhaps one day it will.

Consider also the impact of choice upon parental responsibility with its radiating implications for family life. The middle class knows these well and jealously secures its own prerogative; for the rest, however, parental sovereignty comes to an end with little Harry's fifth birthday. From that moment the child experiences family as a vulnerable and sometime thing. And the parents experience themselves as impotent. This displacement of non-rich parents by the state is thoroughly poisonous. In collaboration with the psychological professions, reformers should learn to describe this calamity and present school choice as therapy for the family.

And still another victim of the Leviathan merits our sympathy. Imitating chattel slavery, our economy of education corrupts both parties to the bondage. Those who are given dominion over the ordinary family are themselves rendered insensitive and venal to the same degree that their subjects are rendered evasive and shiftless. In the end the educational masters find themselves equally in thrall. As we would rescue the family, so must we rescue the teacher from her pathological role as monarch of the poor.

There are many other humane and persuasive recommendations that its supporters should be making for choice. These include the nourishment of inter-group tolerance, the integration of social classes, racial integration and even the liberty of the child himself— a subject on which I will here offer only this brief word. It is *within* the family that the voice and choice of the maturing child have their best chance for a hearing. Paradoxically perhaps, parental sovereignty is the efficient cradle of the child's own autonomy (if occasionally by accident).

The bottom line: Policymakers must seek, first and foremost, those solutions that secure choice to the ordinary family and especially the poor. It would take an economist to miss this point, just as it was missed yet again this last year in California. Consider Proposition 38. Regardless of age, handicap, or family income, every school child would have received a flat \$4,000 voucher. Tempting to the middle class, this would have been useful to about one percent of those families who are financially unable to pay substantial added tuition. Such a voucher would have been sufficient to start new private schools for those who can pay extra, but for them only. The Catholic bishops (who with their schools in place stood to gain the most) said no thanks, reaffirming their 1981 decision to support vouchers — but only when they are properly designed. In general the media and public opinion took similar pro-choice but anti-38 positions.

Having now observed and opposed eight such policy debacles (meanwhile applauding Milwaukee), I would today identify specific criteria for any future proposal for school choice whether by way of initiative or statute. In general where the benefit is to be targeted exclusively upon a disadvantaged group, these criteria will bind less strictly. Conversely, as eligibility for vouchers is broadened to include all children, the following six conditions become more salient:

1. Public agencies (and not merely school districts) must be liberated and encouraged to form and/or operate deregulated schools that are -- along with private schools -- financed within the system of state scholarships; consumers seek this varied public option, and market theory thus requires it. It is, indeed, the logical drift of the “charter” school idea.
2. Private school identity must be protected by capping future legislation that affects curriculum, hiring or discipline (either academic or behavioral) at its present level.
3. For each classification of student the scholarship must be large enough to attract diverse new private providers; the minimum amount may be roughly estimated at 80% of the average government school cost per pupil in each category. Our new president’s \$1500 proposal should be at least quadrupled in amount and the number of eligible children correspondingly reduced. So modified it would constitute a realistic experiment.
4. Reflecting aspirations that are typical of today’s private schools, providers would commit to select a portion (say 20%) of new admissions from non-rich families and refrain from pricing them out. This guarantee can take several forms, and schools could be given an option among them.
5. Reasonable transportation for the poor must be subsidized.
6. Consumer information must be temporarily facilitated by a sunsetted (say five-year) public system. Honoring these six criteria would implement those purposes that seem common to most supporters of parental choice — in other words to most American voters. Proposals of this general design will not only make choice politically viable but will be less vulnerable to the sort of objections raised in the recent decision by the U.S. Court of Appeals in the Cleveland case. Among the many models available my personal preference is a two-step initiative establishing, first, a constitutional *right* for children from families of modest means to receive vouchers worth at least 80% of the relevant state-school cost; this right would be coupled with an *empowerment* of the state legislature to *extend* equivalent benefits by statute to all families in accord with the six criteria. The middle class can be counted on, with all deliberate speed, to secure that extension to themselves through the political process.