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DISPARITY IN FINANCING PUBLIC EDUCATION: IS THERE AN ALTERNATIVE TO *RODRIGUEZ*?

Revenues necessary to fund public education are generated by a system of school financing in general use throughout the United States.[1] Basically, funds are derived from three sources: federal aid, state aid, and some form of local ad valorem tax on property, as determined by assessed values. Even though the percentages supplied by each source vary from jurisdiction to jurisdiction, each system appears to have one common denominator—a major portion of its operating fund is supplied by taxation of property situated within the school district or local unit of government.[2] Obviously, a district with high property values can generate more revenue for public education than a property poor sister district, even though the taxpayers residing in the wealthier district may have a smaller tax burden. Thus, the more fortunate citizens living in the wealthy districts are able to provide a higher quality education for their children than those who reside in districts with low property values, assuming at least some causal connection between available funds and educational quality.[3]

While theoretically state and federal educational assistance funds channeled into a system serve to bring districts into balance, in reality the funds from these two sources are often too inadequate to assure any equal expenditure of funds by the various districts.[4] The disparities have simply been too great for federal and state aid to make any substantial reduction in the difference between per-pupil expenditures in wealthy and poor school districts.

In recent years, the complex issues involved in an equal protection oriented analysis of public school financing have been the subject of detailed attention by the courts.[5] Citizens of property poor districts have sought

1. For a description of funding in the majority of state educational finance systems, *see* J. COONS, W. CLUNE & S. SUGARMAN, PRIVATE WEALTH & PUBLIC EDUCATION (1970); Coons, Clune & Sugarman, *Educational Opportunity: A Workable Constitutional Test for State Financial Structures*, 57 CALIF. L. REV. 305, 373-77 (1969).

2. During the 1968-69 fiscal year, local property taxes supplied 55.7 per cent of educational funds in California. In Texas, funds generated by local property taxation supplied 41.1 per cent of educational funds for the 1970-71 school year. *See* N.Y. Times, Mar. 12, 1972, § 4, at 3, col. 1.

3. In *San Antonio Independent School District v. Rodriguez*, 93 S.Ct. 1278 (1973), the Supreme Court cited an extensive list of educational authorities and publications divided over the exact relationship between funds expended and quality of education. *Id.* at 1302 n.86 and 1303-4 n.101.

4. For example, in New Jersey, state aid constituted 28 per cent of total educational funds available, with federal assistance supplying 5 per cent. Robinson v. Cahill, 118 N.J. Super. 223, 231, 287 A.2d 187, 191 (Super. Ct. 1972).

5. *See, e.g.*, Van Dusartz v. Hatfield, 334 F. Supp. 870 (D. Minn. 1971); Burruss v. Wilker-

judicial relief from an alleged denial of equal protection of law, in that the present systems allow wealthier districts to offer a higher quality public education at proportionally less expense to their residents.[6]

Notwithstanding the amount of litigation and commentary which the questions involved have generated in the wake of the landmark case of *Serrano v. Priest*,[7] no clear solution has been reached by the courts. Two recent decisions, one by the United States Supreme Court and the other by the New Jersey Supreme Court, indicate that the law in this area is still far from being settled. The Supreme Court decision rejects the reasoning of *Serrano*, while the New Jersey decision presents a less difficult and more attractive solution to the very real problem of devising equitable public school financing systems. The purpose of this comment is to compare the more salient features of the two cases, and note some of the advantages in the approach followed by the New Jersey court.

In *Serrano*,[8] the California Supreme Court ruled that the state's public school financing system violated fourteenth amendment rights. The usual test to determine the constitutionality of a state law is the "rational relationship" test[9] in which a court must decide if the law in question bears a rational relationship to a legitimate state interest. However, where a fundamental right is affected, such as the right to interstate travel, or a suspect classification, such as race,[10] is involved the court subjects the law to strict judicial scrutiny. Since the California court found both a fundamental interest and a suspect classsification, it applied the stricter test and ruled that the state's public school financing system violated the United States Constitution.

In *San Antonio Independent School District v. Rodriguez*,[11] the United

son, 310 F. Supp. 572 (W.D. Va. 1969), *aff'd*, 397 U.S. 44 (1970); McInnis v. Shapiro, 293 F. Supp. 327 (N.D. Ill. 1968), *aff'd sub nom.* McInnis v. Ogilvie, 394 U.S. 322 (1969); Milliken v. Green, 389 Mich. 1, 203 N.W.2d 457 (1972); Sweetwater County Planning Comm. v. Hinkle, 491 P.2d 1234 (Wyo. 1971).

6. In *Serrano v. Priest*, 5 Cal. 3d 584, 487 P.2d 1241, 96 Cal. Rptr. 601 (1971), the California Supreme Court noted that while the poorer districts spent only one third as much per pupil as the wealthier districts, they were taxing property at a rate three times higher. Even with governmental aid, per pupil expenditures ranged from $407 to $2586. *Id.* at 592-95, 600, 487 P.2d at 1246-48, 1252, 96 Cal. Rptr. 606-08, 612.

7. 5 Cal. 3d 584, 487 P.2d 1241, 96 Cal. Rptr. 601 (1971).

8. 5 Cal. 3d at 618, 487 P.2d at 1266, 96 Cal. Rptr. at 626.

9. *See, e.g.*, McGowan v. Maryland, 366 U.S. 420 (1961); Lindsley v. Natural Carbonic Gas Co., 220 U.S. 61 (1911).

10. The "strict scrutiny" test was outlined by Mr. Justice Harlan in *Shapiro v. Thompson*, 394 U.S. 614, 658-60 (1969) (Harlan, J., dissenting). In *Shapiro*, this test appeared as the "compelling interest" doctrine, but *Serrano* and related cases have used the term "strict scrutiny."

11. 93 S.Ct. 1278 (1973).

States Supreme Court scrutinized a public school financing system for the first time.[12] While it expressly refrained from giving its stamp of approval to the present Texas system,[13] the Court held that the alternative prerequisites for invoking the "strict scrutiny" test were not present, and that consequently, measured by the traditional presumption of constitutionality, the system should not have been declared unconstitutional under the Equal Protection Clause of the fourteenth amendment.[14] In *Robinson v. Cahill*,[15] the New Jersey Supreme Court heard an appeal from a lower court[16] which had declared that the state's method of financing public education was unconstitutional under the Equal Protection Clause of both the United States and New Jersey Constitutions. Significantly, the United States Supreme Court's decision in *Rodriguez* was handed down while the New Jersey Supreme Court was preparing its *Robinson* opinion. Even though aware of the *Rodriguez* decision, the New Jersey court affirmed the lower court's decision by holding that the system violated the state constitutional mandate for quality education. Thus, aside from the division within the United States Supreme Court in *Rodriguez*,[17] it is quite clear that the controversy surrounding this problem is still healthy, and that still more litigation of the constitutional issues involved may be expected.

Serrano v. Priest represents the first avenue of attack on the problem of public school financing's relationship to the equal protection clause. The California Supreme Court examined that state's statutory revenue generating system[18] and concluded that it directly affected education, a fundamental interest, and was based on wealth, a suspect classification. Having found both of the alternate prerequisites for invoking the strict scrutiny test,[19] the court ruled that California's school financing plan violated the

12. The Court had, on two previous occasions, an opportunity to consider constitutional attacks on public school financing systems, but affirmed lower court decisions upholding the constitutionality of the school systems without opinion. *See* note 5 *supra*.

13. We hardly need add that this Court's action today is not to be viewed as placing its judicial imprimatur on the status quo. The need is apparent for reform in tax systems which may well have relied too long and too heavily on the local property tax. And certainly innovative new thinking as to public education, its methods and its funding, is necessary to assure both a higher level of quality and greater uniformity of opportunity. 93 S. Ct. at 1309-10.

14. *Id.* at 1300, 1308. *See* Lindsey v. Normet, 405 U.S. 56 (1972); Dandridge v. Williams, 397 U.S. 471 (1970).

15. 62 N.J. 473, 303 A.2d 273 (1973).

16. 118 N.J. Super. 223, 287 A.2d 187 (Super. Ct. 1972).

17. Justices Brennan, Douglas, Marshall and White dissented.

18. *See* CAL. EDUC. CODE §§ 20701-06 (West 1969).

19. 5 Cal. 3d at 604, 614, 487 P.2d at 1255, 1262-63, 96 Cal. Rptr. at 615, 622-23.

plaintiffs' right to equal protection, since no compelling state interest in preserving the system was shown.[20]

Considering the obvious disparity in per-pupil expenditures among California's local school districts,[21] there is little doubt that if the court was justified in invoking the "strict scrutiny" test, the holding of unconstitutionality was correct. Although wealth classifications have been viewed with suspicion in the past,[22] cases considering wealth have also involved a recognized fundamental interest.[23] While the United States Supreme Court has indicated that a wealth classification standing alone might be sufficient to invoke the "strict scrutiny" test,[24] no cases have been decided on this basis alone.[25] Similarly, while the Court has indicated that the presence of a fundamental interest will require application of the "strict scrutiny" test,[26] it has never expressly declared education to be a fundamental interest, even though *Brown v. Board of Education*[27] stressed the importance of education and emphasized that the opportunity to obtain an education is "a right which must be made available to all on equal terms."[28]

An examination of the financial statistics involved in *Serrano* clearly indicates that wealth can be a classifying factor,[29] and noting *Brown*'s

20. It should be noted that the California Supreme Court found both a suspect classification and a fundamental interest, but avoided the "compelling state interest" element of the strict scrutiny test. The court reached the same result, however, by observing that state purposes neither demanded nor required discrimination. *Id.* at 610, 487 P.2d at 1260, 96 Cal. Rptr. at 620.

21. *See* note 6 *supra.*

22. *See, e.g.,* Harper v. Virginia Bd. of Elections, 383 U.S. 663, 668 (1966); *Developments in the Law: Equal Protection,* 82 HARV. L. REV. 1065, 1124 (1969).

23. Tate v. Short, 401 U.S. 395 (1971) (criminal rights); Shapiro v. Thompson, 394 U.S. 618 (1969) (right of travel); Harper v. Virginia Bd. of Elections, 383 U.S. 663 (1966) (right to vote); Griffin v. Illinois, 351 U.S. 12 (1956) (criminal rights).

24. McDonald v. Board of Elections, 394 U.S. 802, 807 (1969) (dictum).

25. *See* note 23 *supra.*

26. In *Skinner v. Oklahoma ex rel. Williamson,* 316 U.S. 535 (1942), the Court held that the right to procreate was too fundamental to be forfeited under a state program of mandatory sterilization for habitual offenders. *Id.* at 541. *See* Karst, *Invidious Discrimination: Justice Douglas and the Return of the "Natural-Law-Due-Process Formula",* 16 U.C.L.A. L. REV. 716 (1969); *Developments in the Law: Equal Protection,* 82 HARV. L. REV. 1065, 1127-32 (1969).

27. 347 U.S. 483 (1954).

28. *Id.* at 493. The Court has also emphasized the important role of education in numerous other cases. *See* Wisconsin v. Yoder, 406 U.S. 205 (1972); Abington School Dist. v. Schempp, 374 U.S. 203 (1963); Pierce v. Society of Sisters, 268 U.S. 510 (1925); Meyer v. Nebraska, 262 U.S. 390 (1923).

29. *See* note 6 *supra.* The California court held that the classification was de jure, since it resulted from state statutes. 5 Cal. 3d at 603, 487 P.2d at 1254, 96 Cal. Rptr. at 614 (1971).

emphasis on the right to an education, the California court had some authority for extending the judicial recognizance of fundamental interests to include education.[30] Finding both a suspect classification and a fundamental interest involved, and with no compelling state interest in maintaining the system under attack,[31] the *Serrano* decision appears justifiable.

In *San Antonio Independent School District v. Rodriguez*, the constitutional issue pertaining to public school financing systems was approached along the lines of the *Serrano* decision.[32] Here, however, the United States Supreme Court held that the lower court erred in invoking the "strict scrutiny" test.[33] After examining the Texas plan, the Court concluded that it neither operated to the disadvantage of suspect classes nor involved a fundamental right protected by the Constitution.[34] Furthermore, the Court reasoned that when measured by the rational relationship test, the system furthered a legitimate state purpose and therefore did not violate the Equal Protection Clause of the fourteenth amendment.[35] In upholding the constitutionality of the Texas system, the Court determined that neither of the alternative requirements for invoking the "strict scrutiny" test were met,[36] even though the Supreme Court of California had found both present in basically the same public school financing plan.[37] Noting that there

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The court acknowledged that this classification was not intended; however, the general view is that discrimination in *race* must be intended to be de jure. Annot., 11 A.L.R.3d 780 (1967). The de jure label, therefore, may have been undeserved, but since the California court has also held de facto segregation invalid, the distinction loses significance. *See, e.g.*, San Francisco Unified School Dist. v. Johnson, 3 Cal. 3d 937, 479 P.2d 669, 92 Cal. Rptr. 309 (1971).

30. The list of fundamental interests recognized by the Supreme Court has been small: voting, right of travel, certain criminal rights and the right to procreate. See the cases cited at notes 23 and 26 *supra*. *But cf.* San Antonio Independent School District v. Rodriguez, 93 S.Ct. 1278 (1973), where the Court noted that ". . . the right to vote, *per se*, is not a constitutionally protected right . . ." *Id.* at 1298 n.78.

31. *See* note 20 *supra*.

32. Plaintiffs in *Rodriguez* also urged that the strict scrutiny test be applied, arguing that wealth was a suspect classification, that education was a fundamental right, and that since no compelling state interest was shown, the Texas public education financing system was unconstitutional. The three judge lower court which heard the case agreed, finding that defendants were unable to even establish a reasonable basis for the classifications. 337 F. Supp. 280, 284 (W.D. Tex. 1971).

33. 93 S.Ct. at 1300.

34. *Id.* at 1294, 1299.

35. *Id.* at 1308.

36. *See* note 34 *supra*.

37. *See* note 1 *supra*. The only major distinction among school financing systems of different states appears to be the percentage of funds derived from each major source of revenue. The Court also considered the similarity between the Texas system and those of other states in its opinion:

> One also must remember that the system here challenged is not peculiar to Texas or to any other State. In its essential characteristics the Texas plan for financing public

was no absolute deprivation of education, and that discrimination against a definable category of people was not shown by the appellees[38]—other than perhaps the "coincidence" of residence in a poorer district—the Court concluded that "the disadvantaged class is not susceptible to identification in traditional terms,"[39] and that "this Court has never heretofore held that wealth discrimination alone provides an adequate basis for invoking strict scrutiny."[40]

Directing its attention to the appellees' alternate theory of relief, interference with a fundamental right, the Court indicated that the proper test for determining if an interest is fundamental is whether the right is "ex-

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education reflects what many educators for a half century have thought was an enlightened approach to a problem for which there is no perfect solution. 93 S. Ct. at 1308.

38. In holding that the Texas system did not discriminate against a definable class of people, the Court rejected one of the appellees' justifications for the application of the strict scrutiny test to the Texas system:

> . . . in support of their charge that the system discriminates against the "poor," appellees have made no effort to demonstrate that it operates to the peculiar disadvantage of any class fairly definable as indigent, or as composed of persons whose incomes are beneath any designated poverty level. Indeed, there is reason to believe that the poorest families are not necessarily clustered in the poorest property districts. *Id.* at 1291.

The Court also cited a study of Connecticut school districts in support of the view that poor people did not necessarily reside in poor districts. Note, *A Statistical Analysis of the School Finance Decisions: On Winning Battles and Losing Wars*, 81 YALE L.J. 1303, 1328-29 (1972). *But see* Justice Marshall's strong dissent:

> In light of the data introduced before the District Court, the conclusion that the school children of property poor districts constitute a sufficient class for our purposes seems indisputable to me. 93 S. Ct. at 1326 (Marshall, J., dissenting).

The facts seem to support Justice Marshall's dissent. The Court compared two districts within the San Antonio area: Edgewood, the poorer district, had a median family income of $4,686; Alamo Heights, the wealthier district, had a median family income of $8,001. It is also interesting to note that approximately 90 per cent of Edgewood's students were Mexican-American and over 6 per cent were black. The students of Alamo Heights, however, were primarily white, with 18 per cent Mexican-Americans and less than 1 per cent blacks. 93 S.Ct. at 1285-86.

39. *Id.* at 1292.

40. *Id.* at 1294. *But see* the Court's dictum in *McDonald v. Board of Elections, supra* note 24. Justice White, in his dissent, suggested another reason for finding the Texas system unconstitutional under the equal protection clause. Texas law places a ceiling on the tax rates local districts can impose. Assuming that the residents of a district were willing to shoulder the burden of such a tax rate, they still could not generate the revenue produced by their more affluent neighbors in other districts, even though the latter grouped taxed itself at a lower rate. The appellees, therefore, would be precluded by law from making the same amount of money available to their schools as the wealthier districts enjoyed. The majority opinion noted this possible result, but indicated that this particular aspect of the Texas system was not at issue in the present controversy. *Compare* 93 S.Ct. at 1314 (White, J., dissenting) *with* 93 S.Ct. at 1305-06 n.107.

plicitly or implicitly guaranteed by the Constitution."[41] Noting that education is not expressly given protection under the Constitution, the Court held that there was no justification for giving it implicit protection, and refused to accept the appellees' interesting "nexus theory"—that education is a fundamental right "because it is essential to the effective exercise of First Amendment freedoms and to intelligent utilization of the right to vote."[42] The Court did not deny the importance of education in all aspects of life, but reasoned that it was without either the ability or the authority to "guarantee to the citizenry the most *effective* speech or the most *informed* electoral choice."[43]

Robinson v. Cahill[44] is the first state appellate case concerning the constitutionality of a public school financing system to be decided subsequent to the *Rodriguez* decision. Although noting the United States Supreme Court's analysis and rejection of the reasoning followed by *Serrano*, the New Jersey Supreme Court unanimously affirmed a lower court decision[45] which held that the present New Jersey system of public school financing was unconstitutional.

Most significant is the New Jersey court's alternative to *Serrano's* approach. Aware that *Rodriguez* precluded an attack on the system through the federal equal protection clause,[46] and noting the United States Su-

41. *Id.* at 1297.

42. *Id.* at 1298. The soundness of this relationship has been questioned before. *See* Coons, Clune & Sugarman, *Educational Opportunity: A Workable Constitutional Test for State Financial Structures*, 57 CALIF. L. REV. 305, 355-69 (1969); Kurland, *Equal Educational Opportunity: The Limits of Constitutional Jurisprudence Undefined*, 35 CHI. L. REV. 583, 584-89 (1968). Justice Marshall, however, offers a sound argument in support of the proposition that while some rights, per se, have not received the designation of "fundamental interests," they are so essential to the exercise of other rights that any distinction loses significance:

> The task in every case should be to determine the extent to which constitutionally guaranteed rights are dependent on interests not mentioned in the Constitution. As the nexus between the specific constitutional guarantee and the nonconstitutional interest draws closer, the nonconstitutional interest becomes more fundamental and the degree of judicial scrutiny applied when the interest is infringed on a discriminatory basis must be adjusted accordingly.
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> Only if we closely protect the related interests from state discrimination do we ultimately insure the integrity of the constitutional guarantee itself. This is the real lesson that must be taken from our previous decisions involving interests deemed to be fundamental. 93 S. Ct. at 1332-33 (Marshall, J., dissenting).

43. *Id.* at 1298 (emphasis in original).

44. 62 N.J. 473, 303 A.2d 273 (1973).

45. 118 N.J. Super. 223, 287 A.2d 187 (Super. Ct. 1972).

46. The New Jersey court indicated that it had considered the federal equal protection argument in its opinion before *Rodriguez* was decided, but apparently altered its opinion

preme Court's admonition that the problem was one for the states to resolve,[47] the New Jersey court affirmed the case on state constitutional grounds. By basing its reasoning on the state constitution, the court effectively avoided the inherently difficult "suspect classification-fundamental interest" basis of *Serrano*, which it criticized as not helpful and too mechanical in application.[48] While indicating that the Equal Protection Clause of the New Jersey Constitution could conceivably be broader than that of the United States Constitution, the court was reluctant to hinge its decision on the former, recogizing that this would necessarily implicate all governmental services, and that the issue of equal protection should not be discussed in the limited context of public education alone.[49] Relying, therefore, on the New Jersey constitutional mandate for "a thorough and efficient system of free public schools for the instruction of all the children in this state between the ages of five and eighteen years,"[50] the New Jersey court ruled that while this state obligation could be delegated to the various local governments, the state must act to insure its performance if local governments either refused or were unable to meet that duty.[51] Noting a lack of any other valid criterion for measurement, the court used the "dol-

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slightly after the Supreme Court handed down its decision. *See* 62 N.J. at ___, 303 A.2d at 282.

47. "The consideration and initiation of fundamental reforms with respect to state taxation and education are matters reserved for the legislative process of the various States . . ." 93 S. Ct. at 1309.

48. 62 N.J. at ___, 303 A.2d at 282-83.

49. Using the suspect classification criterion for invoking the strict scrutiny test, any local service which quantitatively or qualitatively differed throughout the state because of local variances in funding would be susceptible to attack. Recognizing this, the New Jersey court refused to consider the equal protection argument in the narrow context of education alone. This potential application of the equal protection approach successfully used in *Serrano* was also noted by the Supreme Court in the *Rodriguez* decision:

> This case represents far more than a challenge to the manner in which Texas provides for the education of its children. We have here nothing less than a direct attack on the way in which Texas has chosen to raise and disburse state and local revenues. We are asked to condemn the State's judgment in conferring on political subdivisions the power to tax local property to supply revenues for local interests. In so doing, appellees would have the Court intrude in an area in which it has traditionally deferred to state legislatures. 93 S. Ct. at 1300.

50. N.J. CONST. art. VIII, § 4, para. 1 (1947). It is significant to note that this provision is similar to those of other state constitutions. *See, e.g.*, VA. CONST. art. VIII, §§ 1-2. In *Serrano v. Priest*, the California Supreme Court indicated that its decision could also have been based on the California Constitution. *See* 5 Cal. 3d at 596 n.11, 487 P.2d at 1249 n.11, 96 Cal. Rptr. at 609 n.11. Whether the state constitutional approach would have been successful in *Serrano*, however, is doubtful. *Compare* 6 U. RICH. L. REV. 441, 442 n.6 (1972) *with* 85 HARV. L. REV. 1049, 1050 n.9 (1972).

51. 62 N.J. at ___, 303 A.2d at 294.

lar input per student"[52] standard in determining that the system under review did not fulfill the state constitutional requirement. By its interpretation of the New Jersey constitution's provisions for free public schools, the court reasoned that its only alternative to declaring the system violative of the state constitution would be to conclude that the district with the lowest dollar per pupil expenditure fortuitously coincided with the minimum standards constitutionally permissible. The court felt that such a conclusion would be unfounded.[53] Perhaps in deference to the application of the "strict judicial scrutiny-rational relationship tests" in other cases, the court stated that the present system bore "no apparent relationship to the mandate for equal educational opportunity."[54] Rather, it felt the system was "a patchy product reflecting provincial contests rather than a plan sensitive to the constitutional mandate."[55]

Realizing that every local government has different tax benefits and burdens, the New Jersey Supreme Court rejected the trial court's contention that the present system discriminated against taxpayers. Noting that local autonomy is an essential feature of home rule,[56] the court squarely faced the proposition that if wealth classification is indeed "suspect," the entire political structure might be shaken. The court obviously felt this step neither desirable nor necessary.[57] The opinion required that the state's educational standard be clearly defined, leaving the door open for localities to exceed their obligation if that was desired by the local taxpayers, provided that this option did not become "a device for diluting the State's mandated responsibility."[58]

In comparing the approach in *Serrano* with that in the *Robinson* decision, the latter appears to be a more preferable analysis of the methods employed by a state to generate revenues for operating public schools. *Robinson* permits judicial review of the financing methods of local governmental services under similar state constitutional provisions while avoiding the "strict scrutiny" approach of *Serrano*, which lends itself too easily to a broadside attack against virtually any state or local governmental

52. The New Jersey court adopted this standard because its objectivity facilitated judicial review of the school system at issue. In *Rodriguez*, the Supreme Court held that the equal protection clause did not demand equal dollars per student. The point is still a matter of controversy. *Compare* 93 S.Ct. at 1291 *with* Michelman, *The Supreme Court 1968 Term*, 83 HARV. L. REV. 7, 47-59 (1969). *See also* Comment, *Equality of Educational Opportunity: Are "Compensatory Programs" Constitutionally Required?*, 42 S. CAL. L. REV. 146 (1968).

53. 62 N.J. at ___, 303 A.2d at 295.

54. *Id.* at ___, 303 A.2d at 296.

55. *Id.* at ___, 303 A.2d at 297.

56. *See* note 51 *supra*.

57. 62 N.J. at ___, 303 A.2d at 281.

58. *Id.* at ___, 303 A.2d at 298.

service funded by local property taxes. *Robinson*, moreover, does minimal violence to the more desirable elements of home rule.[59] The New Jersey court indicated that a good faith legislative promulgation of educational standards would satisfy state constitutional requirements. Even though the court held the state responsible for assuring an adequate quality education for all New Jersey children in public schools, the court left the door open for local districts to exceed that standard when the local residents so desired.[60] *Robinson* assured that children residing in poorer districts would receive an education which is not directly correlated in quality to the value of local property. Thus, each child is guaranteed an education which at least meets a minimum standard of quality, no matter what economic conditions predominate in his neighborhood. The court realistically observed that the amount of dollars available for public education in a district bears a significant relationship to the quality of education offered, even though other factors must also be considered and even though educational authorities disagree as to the nature and extent of that relationship.[61]

Robinson represents a better approach toward an effective solution to the problems inherent in public school financing systems, even though the difficulties involved in any effort to create a system both fiscally sound and equitable in operation are certain to remain controversial for some time.

K. W. G.

59. *See* note 51 *supra*. Local governments within the United States have traditionally been able to determine, within limits, what local governmental services are necessary or desirable, and to what degree. The New Jersey court left this desirable option to local governments, allowing them to provide funds for better schools, so long as legislatively determined minimum standards are met.

60. 62 N.J. at ____, 303 A.2d at 297-98.

61. *See* note 3 *supra*.