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Horton's Odyssey The Politics of School Finance Reform in Connecticut

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Abstract

School finance reform has been one of the most controversial and contentious issues in public policy over the last thirty years. Public schools have served as battlegrounds over fundamental questions of equality, liberty, and access to social and economic opportunities. Since the historic decision rendered by the California Supreme Court in *Serrano v. Priest* (1971) equated public education with a fundamental right, a wave of legal and legislative reforms swept the nation including the state of Connecticut. Following the lead of California, plaintiffs in the *Horton v. Meskill* (1977) case argued that the Connecticut's heavy reliance on the property tax to finance public schools was unconstitutional. Finding in favor of the plaintiffs, the Connecticut Supreme Court directed the General Assembly to fashion a plan to equalize spending between school districts. Thirty years and numerous attempts later, the goal of school finance reform to equalize spending across school districts has not produced the intended effects of reducing funding disparities. In fact, some would argue that despite modest strides in equalizing spending, the gap between rich and poor districts has widened. To account for this apparent policy failure, tentative explanations will entail a thorough examination of the key institutional actors involved in educational policy making as well as the following factors: political ideology, financial resource constraints, legal complexity and the political economy of school funding. By capturing the legal and legislative dynamics behind the school finance reform movement, a more nuanced and contextualized account emerges to explain the apparent failure of this policy in Connecticut.

Introduction

After the landmark school finance reform decision of *Serrano v. Priest* (1971) in California declared the reliance on the property tax to fund public schools as violating the principle of equal educational opportunity, Connecticut was among several states that followed suit with the case of *Horton v. Meskill* (1977) in the so-called second wave of school finance litigation.¹ The lawsuit filed in 1974 on behalf of then 10 year old Barnaby Horton against the administration of Governor Meskill, was the first to challenge the way Connecticut financed public education. At that time, local property taxes in Connecticut provided approximately seventy percent of the revenue to finance public schools. The remaining thirty percent was derived from state and federal funds. Such a funding scheme, the plaintiffs argued, created wide spending disparities between property-rich and property-poor towns. Similar to the reasoning in the California ruling, the Connecticut Supreme Court found that the heavy reliance on the property tax to fund public education violated the mandate to provide an equal educational opportunity to all children.

In directing the state legislature to fashion a remedy, the Connecticut Supreme Court set in motion a thirty year quest to equalize school funding across Connecticut's municipalities. Successive legislatures, while rhetorically supporting reform, have failed to fully fund equalization schemes. After thirty years of equalization efforts, the state still lags well behind the national average of a fifty percent with approximately 40% of the share of public school funding derived from state funds.² Some studies argue that despite modest strides in

¹ Legal scholars have divided school finance litigation history into three waves to describe the differences in legal strategies employed by plaintiffs during each time period. Second wave lawsuits challenged school finance systems through state education clauses, state equal protection clauses or both. For a full discussion, see Roelke, Green, and Zielewski (2004), 104-133.

² This figure was derived from a report compiled by the Connecticut Conference on Municipalities based on estimates for the Connecticut State Office of Fiscal Analysis.

equalizing spending, the gap between rich and poor districts in Connecticut has widened.³ Using the occasion of the thirtieth anniversary of *Horton v. Meskill*, this study traces the political history of school finance reform from the landmark Horton case in 1977 to the Education Finance Commission of 2007. By capturing the legal and legislative dynamics behind the school finance reform movement, a more nuanced and contextualized account emerges to explain the apparent failure of this policy in Connecticut. Tentative explanations will entail a thorough examination of the following factors: political ideology, state financial resource constraints, legal complexity and the political economy of school funding.

The Serrano case attracted a great deal of scholarly attention on the topic of school finance reform (Berke 1974; Coons, Clune and Sugerman 1970;;Furhman 1979, Wise 1968). Numerous national level studies have examined the impact on court ordered school finance reform. However, few if any detailed case studies have been conducted to analyze the specific trajectory of the reforms in Connecticut. Where Connecticut has been included in multiple case studies, it has often been given secondary or tertiary treatment (Reed 2001). In addition to methodological issues, the foci of much of the scholarly research that has been conducted to date in this area has revolved around the history of litigation efforts in school finance published in legal, economic or public finance journals. These studies have highlighted the various court cases filed nationwide and their impact on school spending. For example, an oft-cited study by Evans, Murray and Schwab (1997) examined the time period from 1972-1992 to assess the impact of court reform on the states. They found a differential impact of spending across the states. Again, the reasons for the differential in spending

For a full discussion see K-12 Public Education: The State of the State and Local Partnership CCM Public Policy Report CCM January 2009

³ One longitudinal study of Connecticut's school finance equalization plan found that after the first six years, inequalities were worse than at the time of the court's decision. For a full discussion, see Reed (2001).

have not been fully delineated. Such cross national studies that assess the impact of court cases in the aggregate have not dwelled on the specific trajectory of change that occurred in Connecticut. Moreover, these studies by aggregating results either overstate or understate the success or failure of reform efforts.

Such comparative studies, while important for achieving a general understanding of school finance reform, do little to shed light on the reasons for the trajectory of reform in individual states including Connecticut. In pointing out the shortcomings of national level studies Michael A. Rebell (2002, 7) cites the need for case studies to provide answers to questions about the success or failure of reform efforts.

The tremendous diversity in facts, legal rights and requirements, political context, and specific holdings of courts in various states makes it impossible to draw meaningful conclusions from national-level studies on the impact of fiscal equity litigation.

This study proposes to fill such a vacuum through an examination of key political and legal actors in Connecticut to permit a better understanding of the underlying dynamics of school finance reform during its inception in the 1970s when legislators took the court's decision and crafted the first equalization plan. Key turning points in the legal and political history will be highlighted with special attention being given to the inception of school finance reform in the 1970s and early 1980s during the passage of the first equalization legislation in 1975, the legislative reform of 1979 in the aftermath of *Horton v. Meskill* (1977), the adoption of the Education Cost Sharing Grant (ECS) in the aftermath of *Horton v. Meskill III* (1985), and finally the seventh state commission to study school finance reform in 2007.

Finally, this study analyzes the role that major institutional actors namely the courts, the legislature, the executive branch, as well as municipalities have played in order to provide a comprehensive explanation for the failure of school finance reform. The failure is likely the product of a dynamic interplay of all of

these institutions in policy formulation and implementation with each contributing its share to the policy stalemate.

Role of the Courts in School Finance Reform

The role of the courts in policy making in the area of school finance has been thoroughly examined in numerous national level studies. The foci of these inquiries has been on the dynamics of judicial decision making, the specific holdings in each of the cases, and finally, the impact of court ordered reforms on equalization plans. Scholarship on the role of courts in the area of school finance reform has been divided between those that portray the judicial branch as having a catalytic effect on legislatures (Bosworth 2001) and those that portray it as having a negligible effect on reform (Rosenberg 2008). Dinan (1996) found that courts can be effective when certain conditions are met such as when the general public and at least one political branch support the goals of the decision and when the court gives the legislature flexibility in crafting a remedy.

Embedded in such debates about the efficacy of courts on school finance are questions about the appropriate role of the judicial branch in policy making. The mixed results from national level studies reflect the sensitivity that some courts have displayed toward charges of judicial activism. Among the many lessons from the desegregation battles after *Brown*, the judicial branch learned that course decisions by themselves are not a wholly adequate response to given social problems. The Connecticut Supreme Court reflects this concern as it recognized its duty to interpret the law and stayed its hand in ordering a specific remedy for school finance. It declining to prescribe a remedy for school finance reform, it called upon the legislature to devise an equalization plan.

Given the prevailing legal trends nationwide for far reaching reforms among jurists after *Serrano*, the Connecticut Supreme Court's restraint is understandable in light of two factors. One factor is the omnipresent political consideration in Connecticut of a political culture steeped in strong traditions of local control. In fact, when directing the General Assembly to fashion a plan to

equalize spending in *Horton v. Meskill* (1977) the court case specifically states that an equalization plan would not require towns to spend the same amount on education. The second factor relates to timing of the case which emerged during the second wave of litigation late 1970s. As Roelke et al (2004) observed in their national study of legal trends, second-wave courts were not prescriptive in their mandates out of deference to the legislative branch. In *Horton* (1977), the majority decision references the consideration to both local control and judicial restraint by leaving the matter to political bodies to devise “ultimate solutions”⁴. Later, in the context of *Horton* (III) the court continued this approach by trodding a middle ground in devising a three-part test making it more difficult for plaintiffs to demonstrate inequities while at the same time prompting the state legislature to return to the drawing board in devising a new equalization plan.

Role of the Connecticut State Legislature in School Finance Reform

While some accounts of school finance litigation place the Courts at center stage attributing failure or success to the jurisprudence of school finance reform, an equally, if not more compelling institution in assessing the impact of school finance reform, is the state legislature. Legislative bodies play a key role in the appropriation of state funds for education. In examining the role that legislators play with respect to the state budget, with the myriad incentives or disincentives for policy reform, it is clear that school finance places legislators in a precarious position. On the one hand, they are seldom in favor of proposing new spending initiatives for fear of electoral backlash. On the other hand, openly opposing school finance and equal opportunity would be an untenable position given the discourse on social justice that has firmly taken root in American society. On the other hand, as one Connecticut state legislator more colorfully summarized the dilemma: voting against school finance reform would be akin to “voting against

⁴ The majority decision in this decision stated that the legislature is the appropriate body to devise “ultimate solutions. The case is also noteworthy for declining to make school finances a federally justiciable matter. *Rodriguez v. San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973).

motherhood.”⁵ Thus, most Connecticut state legislators have had to navigate a middle ground, one on which they enact modest and incremental reforms to pass muster with the courts while not arousing the ire of key constituencies, namely taxpayers.

The Connecticut State Legislature has been particularly adept at such symbolic gestures which give the outward appearance of complying with court directives while in actuality rolling back many key spending provisions through delays, phased-in spending plans, and numerous amendments to cap spending which have had the effect, intended or otherwise, of blunting the impact of court decisions. While initially taking a proactive stance in spurring an equalization plan in 1975 before the courts ordered it to do so, the legislative response ever since that time has been slower and the reforms more modest in comparison to many other states that were faced with similar circumstances in adopting school aid formulas that attempt to equalize spending across school districts.

A second question relates to the equalization plan that the legislature devised during this time period to comply with the Court's decision in 1977. While revising the existing grant system that awarded a flat grant of \$250 per pupil regardless of a town's need, the legislature choose a Guaranteed Tax Base approach. The GTB is designed to reward equal local tax effort with equal revenues from state and local sources. In his discussion of the types of reforms enacted by state legislatures in school finance, Odden (1982) noted that reforms fell into three categories: Guaranteed Tax Base [GTB], foundational grant, and GTB with a foundation model. The latter was considered to be more effective in

⁵ During the final House debate on May 17, 1975 to enact the state's first guaranteed tax base plan Representative Nevas who represented Westport, CT(136th General Assembly District) articulated his perspective on the dilemma he faced in opposing funding equalization in schools. While stating his objections to the bill he noted that his district would not gain any additional funds from the plan. Nevas would later become a federal judge.

meeting equity standards by adjusting for local contribution.⁶ These reforms can be placed along a spectrum with the GTB as the more conservative option and the foundation model as entailing a greater state contribution. While Connecticut eventually moved to a foundation plan in the form of the ECS, it largely was prompted to do so by the court after *Horton III* (1985).

The perennial reworking of school aid formulas by the legislature for over thirty years has prompted the plaintiffs to continue their legal challenges suggesting that the rate and pace of reforms were not satisfactory. During the early 1980s, the legislature undercut the GTB by passing amendments to limit and cap spending. Wesley Horton returned to the courtroom and argued successfully that the legislature was eroding the intent of the legislation and the intent of *Horton* (I). In the subsequent decision known as *Horton v. Meskill* (III) in 1985, the legislature moved to a foundational model otherwise known as the educational cost sharing or ECS as it is commonly referred to today. The judicial and legislative branches in Connecticut had been locked in this back and forth pattern in which the court issues a mandate, the legislature minimally complies, the plaintiffs return to court, and so on. The latest in this judicial-legislative saga is a case brought by the Connecticut Coalition for Justice in Education Funding in 2005 against the administration of Governor Rell. The State Supreme Court heard oral arguments in the spring of 2008 for which a decision is still pending.

Role of the Chief Executive in School Finance Reform

Though the court in *Horton* (I and III) placed the onus on the legislature to craft a school equalization plan, the importance of the chief executive cannot be ignored. The slower rate and pace of school reform in Connecticut is due in part to executive leadership. Governors are in a unique position through policy

⁶ For example, a foundation of \$7,000 per pupil could lead to a state distribution of \$5,000 per pupil in a poor district and a state distribution of \$2,000 in a rich district. The poor district would contribute \$2,000 while the rich district would contribute \$5,000 per pupil.

proposals and the bully pulpit to champion reform efforts. Conversely, they are also capable of benign neglect. This study will examine the role that successive governors have played in the school finance debate. Chief executives, during the inception of the first equalization plans and throughout most of the time period examined in this study, were not especially receptive to reforms. In fact, successive governors have been named as defendants in school finance litigation and have attempted to fend off litigation by defending the status quo.

The reasons for gubernatorial inaction stem in part from the role of chief executives as guardians of the budget. Political ideology appears to have played a more secondary role. Many of these patterns of executive action or inaction are predictable given the role of governors as having central responsibility for the formulation and execution of the state budget. Having to navigate among the competing spending priorities and other fiscal constraints, most governors are reluctant to propose any new spending initiatives, especially during economically difficult times. In a retrospective look at Connecticut, key school finance reform court decisions and legislation dovetailed with economic recessions and budget deficits. Governor Meskill, the defendant in the first Horton case, dealt with a recession in the early 1970s during which time he took the unpopular decision to raise certain taxes and cut services. In speaking before the General Assembly in February 1971, Meskill delivered a grim budget message that was repeated by his successor Ella Grasso in February, 1975 in what became known as “the cupboard is bare” speech:

The cupboard, to be sure, is very bare. The document before you tonight is in every sense of the word an austerity budget. The budget message is also a sad legacy of bad budgeting, of unrealistic figures and of deficit. The failure to face these problems squarely has resulted in a budget for this fiscal year that leaves the state in a deteriorating fiscal position (Keating 2009).

Economic recessions continued to mark the early 1980s and the early 1990s constraining gubernatorial action in the area of school finance reform.

During the mid-80s, there was a brief period of economic recovery during which time the legislature appropriated more funds for school aid. However, it was not until the State of Connecticut was in the fortuitous position of a budget surplus that a dramatic policy proposal was championed by Governor Rell during the 2007 session of the General Assembly. The Governor proposed to spend 3.4 billion in additional state aid over five years to assist municipalities in meeting educational costs (Editor 2007). Such a plan would enable Connecticut to finally achieve a 50/50 cost sharing ratio between the state and school districts. The plan was ultimately defeated by a Democratic majority in the General Assembly that chose to fund other spending priorities.

Role of Municipalities in School Finance Reform

Another dimension of the school finance dilemma concerns the countervailing influence of municipalities as well the competing priorities embodied by the various interest groups operative at the local level. In Connecticut, the politics of school finance reform invariably pits the property-rich towns against the property-poor towns whose goals in devising school aid formulas differ sharply (Pennington 2006). The former seek to utilize school aid to bolster their school budgets and as a mechanism to provide property tax relief. The latter would prefer to use school aid to relieve municipal overburden. These dichotomous views factored into the legislative debates of 1975 and 1978 as various school aid formulas were being devised. Compounding the problem, neither municipal chief executives nor school superintendents view their share of equalization funds grant as sufficient due to rising school costs and inflationary effects. Chief among their concerns is the inadequacy of funds to meet their school budgetary needs. Particularly strong advocates of greater funding have been the suburban municipalities who have seen their share of the ECS funds dwindle over the years while urban centers receive the lion's share due to the legislature's reworking of the school aid formula which gives greater weight to income and other urban factors. As one legislator remarked, "school aid money

was the only new revenue game in town” (DeNardis, Lesley 2008). This was not lost on urban legislators who sought greater shares of the funds in this new revenue game.

One of the factors contributing to the policy stalemate in Connecticut stems from the political economy of school funding equalization plans. School finance equalization schemes are redistributive in nature and necessarily engender intense conflicts (Mintrom 1993). In the school finance debate, these have chiefly been between rich and poor districts, as well as reflecting the divide of rural, suburban and urban districts (Wise 1969). The General Assembly is the legislative arena where these conflicts have played out. Legislators, as representatives of local districts, have had to be cognizant of electoral majorities in crafting a remedy to school finance reform. A fuller explanation for policy failure may lie in the incentives faced by legislators, taxpayers and parents of school students. In so doing, they have been sensitive to local taxpayers’ concerns. Municipalities have undoubtedly served to constrain the actions of state legislators particularly in suburban municipalities which are overwhelmingly represented in the Connecticut General Assembly.

Table 1: Timeline of Key Events in Connecticut School Finance History

Date	Event	Significance
1973	First Commission to Study School Finance and Equal Educational Opportunity appointed by Connecticut General Assembly	Recommendations provided the basis for the first equalization plan in Connecticut
1974	Superior Court Ruling in <i>Horton v. Meskill</i> (I)	Ruled Connecticut' school finance system as unconstitutional, Meskill administration appeals decision to the State Supreme Court
1975	Guaranteed Tax Base Legislation passed	School finance
1977	State Supreme Court decision on <i>Horton v. Meskill</i> (II)	State Supreme Court upholds Superior Court's ruling
1978	Second Commission on School Finance Reform convenes to comply with court decision	
1979	A Plan for Promoting Equal Educational Opportunity in Connecticut	
1979	HB passed by General Assembly	Public Act 79-128 modifies the Guarantee Tax Base plan to include a minimum expenditure requirement
1980	Horton returns to court	
1984	Superior Court Spada issues ruling	State ordered to spend more money on schools
		Governor O'Neill appealed the decision
1985	<i>Horton v. Meskill</i> (III)	Court affirmed the constitutionality of the GTB formula and ruled that plaintiffs must pass a three-pronged test Legislature begins work on a new school finance plan
1988	State legislature passed the "foundation model"	
1989	State legislature passed the Education Cost Sharing Plan	Replaces the Guaranteed Tax Base plan with a new formula
2005	<i>CCJEF v. Rell</i>	Challenged the level of funding in Connecticut as inadequate
2007	Seventh Commission on Education Finance	Issued key recommendations to Governor Rell including a 50-50 state-local school cost sharing plan and accountability measures for school districts in

“Brown By Other Means”: Serrano, Horton, and the School Finance Litigation Movement in Connecticut

Horton v. Meskill (1977) emerged amidst the backdrop of a civil rights movement that was entering a second and more mature phase marked by redressing economic inequities in every corner of American life. The 1960s-70s was a period that was marked by feverish activity and policy innovation unleashed by *Brown v. Board of Education* (1954). The landmark Supreme Court decision declared “separate but equal” to be unconstitutional and called for schools to begin desegregation with “all deliberate speed”. Buoyed by this victory, the Brown decision propelled the civil rights movement forward and ushered in a period of intense public policy activity. Civil rights reformers examined virtually every corner of American life in an effort to remedy past discrimination in the areas of voting rights, fair housing, public schools, and employment among others.

In revisiting the Brown decisions nearly two decades later, many of the hoped for results in pursuing equal educational opportunity had not been fully achieved. There was a sense of disappointment among those who were active in the civil rights movement that the legacy of Brown had lost momentum (Eaton 2004). While *de jure* segregation had largely been defeated, *de facto* segregation persisted due to residential housing patterns. Two decades after the Brown decision, there was a growing realization that despite desegregation policies, inequalities still persisted in many public schools across the United States owing to a concentration of poor minorities in urban centers. Reformers set their sights on the financing of education as another avenue to remedy inequities.

In his book *Courts as Catalysts*, Matthew Bosworth referred to the ensuing litigation over school finance as “a continuation of Brown by other means” (Bosworth 2001, 11). This sentiment was echoed by the Connecticut State Department of Education in 1976. The report reflects the conventional wisdom of the time that equalizing aid to towns will have an impact on equal educational opportunities.

In the past generation, a second edge of that cutting sword of equality has emerged with real force. Its fundamental thrust is money: how it is to be most fairly generated in support of public education, and how it is to be distributed so that equal resources support the education of each child (Anonymous 1976, 1).

School finance reform became the second front to wage the battle against inequality. The landmark decision that ushered in school finance litigation in virtually every state was *Serrano v. Priest* (1971). Acknowledging that there mere removal of legal barriers to education such as ending desegregation would not accomplish the hoped for effects of equalizing educational opportunity, a second prong in the legal strategy would challenge the constitutionality of school funding systems at the state level. The policy impetus found its intellectual parentage in the seminal work in a book on school finance reform by Coons, Clune and Sugerman (1970) entitled *Private Wealth and Public Education*. Coons et al. summarized the relevant legal issues first raising the specter of litigation with the contention that funding disparities violate the 14th amendment equal protection clause. Reliance on the property tax resulted in wide variation in spending between districts making equality of educational opportunity largely dependent on where one lived. Equal protection of the laws in terms of educational opportunity, they argued was violated by such a funding scheme.

The lead counsel for the plaintiffs in *Serrano v. Priest* (1971), not surprisingly, was John Coons. After mounting a vigorous argument showing the stark spending disparities between wealthy districts such as Beverly Hills and Baldwin Park, the latter being home to a largely low-income Hispanic population, the court ruled that significant disparities between districts in terms of spending due to an uneven distribution of taxable wealth violated the equal protection clause of the state constitution. Moreover, the *Serrano* court held that property wealth should not play a role in the amount of money available for education declaring that all children are guaranteed a right to public education regardless

of where they lived. The Serrano case created widespread interest whose impact was far reaching.

Serrano provided a blueprint for continued litigation by its success on state level fundamentality and equal protection claims, and it showed that state constitutions might be vulnerable in ways unavailable at the federal level. (Thompson, Wood and Crampton, 60).

Serrano became to school finance reform what *Brown* was to the civil rights movement, both a rallying cry and a blueprint for action for school finance reformers. In fact, the Serrano decision cited *Brown* in its decision stating unequivocally that education was the most important service provided by state and local government. The next year eleven states reformed their school finance systems as the result of court decisions. The Serrano court articulated a standard referred to as fiscal neutrality which held that property wealth should not play a role in the amount of money available for education. The fiscal neutrality standard would later be utilized by school reformers in Connecticut in devising the Guaranteed Tax Base formula.

Legal entrepreneurs detected a fertile landscape to test their theories in the arena of school finance reform. John Coons, the “Father of Fiscal Neutrality” and lead Counsel on the *Serrano* case, captured the prevailing political and legal climate when he addressed a group of Connecticut policymakers in 1978:

In the late 1960s, I suppose inflamed by the hope of the Warren Court, lawyers around the country decided it would be a good thing to apply some of the doctrines relating to poverty that were emerging from the Supreme Court to education (Coons 1978).

One such legal entrepreneur was a freshly minted, Harvard trained lawyer, Wesley Horton, who later went on to achieve prominence arguing the now famous *Horton v Meskill* (1977, 1985) cases, the Sheff desegregation case (1996), and the eminent domain case *Kelo v. New London* (2005). Having just completed a clerkship under Connecticut Supreme Court Justice House in the late 1960s, he

came away from that experience “with the conviction that the Connecticut Supreme Court was a grossly underused resource” (Horton 1991). He quickly set his sights on school funding informed from the unique vantage point of a father whose son was enrolled in the Canton school system, a rural town outside of Hartford.

Horton also happened to be a member of Canton’s School Board. Dealing with the complexities of school finance from the ground up, he discovered in the course of his duties that Connecticut used a flat grant of \$250 per town as the only method of equalizing spending across school districts (Eaton 2004). Horton would argue that Canton as a property poor rural district was unable to garner sufficient revenues through the property tax to provide an adequate education.

An examination of the facts led Horton to the conclusion that the Constitution State was particularly susceptible to litigation. At the time that *Horton v. Meskill* was filed in Superior Court in 1973, Connecticut ranked fiftieth in terms of equalization measures and was one of only five states which utilized a flat grant system which was considered to be the most conservative and least equalizing method of providing state support to public schools, points Horton raised during the trial. In the majority opinion, the Supreme Court stated that of all the ways that states throughout the country distribute state funds, “the flat grant has the least equalizing effect on local financial abilities” (376 A.2d 359 (Ct. 1977), at 369). Representative of the prevailing mood and belief in positive government, *Horton v. Meskill* (1977) was the first test case to challenge school funding in Connecticut.

Horton pointed out that the school financing system violated Article I of the Connecticut State Constitution’s equal protection clause and Article VIII which provided for free public elementary and secondary schools in the state. Armed with social scientific studies and quantitative data, the plaintiffs successfully made the case that Connecticut’s method of financing public education, primarily through the property tax, violated the state constitution.

The court's decision included a comparative analysis of several Connecticut towns to demonstrate the disparities in tax effort and the sharp differential that the tax effort of different towns could yield for school expenditures. The highest per pupil operating expenses were for Darien at \$1570.47 while Canton's was \$945 yet Canton had to levy a higher mill rate.⁷ "Levelling" up to the Darien standard would animate policy reformers in subsequent years. In upholding the Superior Court's ruling, Horton's mentor, Justice House spoke for the majority and agreed with the plaintiffs that the linking of the quality of a child's education to the property wealth of his or her community was:

Sheer irrationality as of the state's system of financing education in the state on the basis of property values would be similar and no less tenable should the state make educational expenditures dependent upon some other irrelevant factor such as the number of telephone poles in the district (376 A.2d 359 (Ct. 1977) at 373).

In a 4-1 decision, the court ruled that the school finance plan was unconstitutional on the grounds that it violated the education rights clause and the equal protection clause of the Connecticut state constitution.⁸ Moreover, it also concluded that education was a fundamental right under the state's constitution's equal protection provision by virtue of the degree of support given to education by the legislature through the state's history (376 A 2d 359 (Ct. 1977) quoting Anonymous (1972), 1303, 1307). In a blow to local control proponents, the court did not consider it to be a "compelling state interest" an oft cited

⁷ In the Court's decision, the disparities were noted: "taxpayers in property-poor towns such as Canton pay higher tax rates for education than taxpayers in property-rich towns. The higher tax rates generate tax revenues in comparatively small amounts and property-poor towns cannot afford the education of their pupils, on a per pupil basis, the same amounts that property-rich towns do," 376 A.2d 359 (Ct. 1977), at 368.

⁸ The Connecticut Constitution was rewritten in 1965 to include a constitutional right to a free public education. Until that time, Connecticut was the only state without a constitutional guarantee to a public education. For a full discussion of the constitutional history see Collier (2008).

argument to justify differential treatment for education among districts. The decision mirrored much of the logic and reasoning of the Serrano case.

Voices of Dissent: Elite and Mass Opinion Toward School Finance Equalization In the Wake of *Horton v. Meskill* (1977)

Justice Loiselle "The Lone Dissenter on the Connecticut State Supreme Court"

The nearly unanimous Horton decision belied the undercurrent of dissenting voices both within the legal community and among various opinion makers who expressed their reservations about the decision. In the dissenting opinion, Judge Loiselle disagreed with the majority regarding the fundamentality of the right to education in Connecticut.

No one argues that the state's financial system causes an absolute denial of educational opportunities to any child or that education received in elementary or secondary schools is not free, as mandated by the state constitution. After you've brushed the foam off the beer, the plaintiff's argument concerns only one item-- money (376 A.2d 359 (Ct. 1977) at 378).

Justice Loiselle further stated his objections referencing the famous the Coleman Report which cast doubt on the linkage between expenditures and student performance (Coleman 1966).

I am not persuaded that expenditures for educational opportunities above the reasonable minimum mandated by the legislature have any substantial effect on the education of students over the long pull. The Coleman Report suggests that any such thesis is open to serious question. Although the trial court did no make an express finding, it recognized in its memorandum that there is a serious lessening marginal utility for each successive increment of educational input (376 A.2d 359 (Ct. 1977), at 379).

Echoes of Justice Loiselle's doubting comments could be heard from different quarters in the legal community and in the legislative debates and public hearings that transpired in the Connecticut General Assembly during the spring of 1975 and 1979.

The Legal Community and School Finance Reform

Voices of dissent continue to inform some of the school finance reform debates and doubts about the feasibility of finance equalization plans to remedy inequities between school districts. A widely cited article that appeared in the Yale Law Journal in 1973, openly questions the underlying rationale of the Serrano decision (Churgin, Ehrenberg, and Grossi, Jr. 1972). Among the criticisms, the authors of the article argued that the decision itself rested on three faulty premises: 1) the individual wealth of the residents of a school district is directly related to the assessed value of the property in that district, 2) assessed property value is directly related to local expenditure levels and 3) local expenditure levels are directly related to the quality of education. The second and third premises resonated with fiscal conservatives who held that municipalities that were fiscally conservative and prudent in their expenditures could be good stewards of the resources while still providing a quality education.

Public Opinion Towards School Finance Reform in Connecticut

Discerning public opinion towards school finance equalization is a difficult task. Formal public opinion polls have been scant and respondents can seldom be reliably accounted for given the sensitive nature of the subject. Perhaps the most candid responses towards school finance reform can be found in the early days in the wake of the Horton decision when the subject was fresh in the minds of many citizens and before any remedies had been devised. As the legislature devised its court-ordered school finance equalization plan in the spring of 1979, numerous public hearings which shed led on a segment of public opinion and the various education interest groups representing an array of teachers and parents. As Christopher Collier (2008, 604) recounts in vivid detail: "Angry citizens went so far as to assert that the education article should never have been added to the constitution, and that the proper response for the

legislature would have been to find some constitutional means to set aside the court decision.”⁹

The thrust of the *Serrano* decision and its progeny which centered on the notion of equality of opportunity collided directly with another deeply held American value, local control. Twin pillars of American political culture and at times incompatible, liberty and equality have occupied a central place in the U.S. pantheon of politics and policies. American education policy is caught in the crosscurrents of these two competing ideas. Public opinion polls reveal the ambivalence towards education which vacillates between the belief in equality on the one hand versus local control on the on the other hand. Americans routinely express strong beliefs regarding the notion of equality in abstract terms. This abstract value often conflicts with other values such as liberty.

Local control is another cherished value among Americans that has deep roots dating back to colonial times. At its core, local control can be construed as fundamentally a question of liberty or freedom. The ideological questions underlying school finance reform bring into play two incompatible strains in American political thought that have competed for primacy in state educational policy: In Connecticut, the tendency towards local control is especially pronounced, Reed’s (2001) study of public opinion in Connecticut found that among the explanatory factors regarding opposition to school finance reform, local control proved to be the most salient in determining the degree of public support or opposition to school finance reform in Connecticut.

Attitudes towards equality in public school funding involve a complex mix of ideology and attitudes towards school governance that transcends a battle of haves versus have nots. Indeed, in Connecticut the strongest contributor to opposition to

⁹ The education clause was added to the Connecticut State Constitution as the result of the Constitutional Convention of 1965.

funding schools equally stemmed from fears of a loss of local control.¹⁰

School finance reform entails fundamental questions about equality which stated in abstract terms draw support from most Americans. Yet when confronted with specific choices among public policies which entail trade-offs between competing spending priorities, they generally oppose the tax increases necessary to support school finance reform. Such contradictory and competing ideas found in public opinion find their expression in legislative behavior. State legislators, undoubtedly aware of their constituents mixed views, have had to navigate this difficult terrain to craft equalization plans.

Policy Entrepreneurs and School Finance Reform in Connecticut

Months before Wesley Horton entered Superior Court, a contingent of lawmakers from Connecticut (including State Representatives DeNardis, Klebanoff, and Truex) attended a seminar in Texas sponsored by the Education Commission of the States in the summer of 1973 where the Serrano decision was widely discussed. The consensus at the conference was that more school finance litigation would soon follow in other states. Upon their return home, the legislators quickly began to work on a new school finance plan in the hopes of preempting the impending court action (DeNardis 2008). “The Commission to Study School Finance and Equal Educational Opportunity” was established by the Republican controlled 1973 General Assembly and was comprised of

¹⁰ Reed’s study drew from two public opinion surveys conducted by the University of Connecticut’s Roper Center during the spring of 1979. The wording of the first survey was “Some people feel that the same amount ought to be spent for the public schools throughout Connecticut. Others think that the citizens of each town should be able to decide how much they want to spend on education. Which do you think is more important, 1) to fund schools equally, or 2) to let towns decide how much to spend on their schools? In a follow up poll, the wording of the questions changed substantially to read: “Some people say that the state should see to it that rich communities and poor communities have the same amount of money per student to spend on their schools. In general, do you favor this or oppose it?” In the second poll, 74% responded in favor of equality up from 45% in the previous poll. For a full discussion see Reed (2001).

fourteen legislators, the commissioners of education and finance, and eleven interest groups. After a year and a half long study, a plan was unveiled to the legislature during the 1975 session of the Connecticut General Assembly. As one lawmaker succinctly summarized it, the legislature “had a rare opportunity to get a jump on a developing major public problem to prevent the usual government by crisis decision making” (Opinion Article 1979). The impetus for reform came from a few members of the Connecticut state legislature, both Democrats and Republicans who championed and propelled forward the school finance reform agenda. Their viewpoints and experience prevailed in the design of the first equalization plan.

In crafting their proposals, the Commission turned to a national network of school finance activists, policy professionals, and academics that had begun to take shape after the legal battles surrounding Brown. The “reform movement could share information about developments in each state and use data to persuade recalcitrant state legislatures of the funding problems”. (Ladd, Chalk and Hansen 1999) Serving as “ground zero” in the policy arena was the Teacher’s College at Columbia University led by researcher, Donna Shalala, who later went on to become Health and Human Services Secretary under President Clinton. Shalala, a young and rising academic star, was primarily responsible for generating data that the Commission would use to undergird its proposals.

Policy Options Pre-Horton I

The existing system to finance schools in Connecticut was heavily reliant upon the property tax. The only equalization measure at that time was a per-pupil flat grant of \$250 that was distributed to all municipalities regardless of local need or ability to pay. Connecticut lagged the nation in terms of equalization measures. All of these facts weighed on the mind of the commission members as they grappled with how to reform Connecticut’s lopsided school funding system.

On the one hand were deeply concerned with designing a school aid plan that would pass muster with a looming court threat. On the other hand, they were acutely aware of the economic and financial realities of the state. As astute observers of the political realities and gauging what would be politically acceptable to their legislative colleagues they examined several different school aid programs including the Foundation Plan, Percentage Equalizing Plan and Full State Funding (Connecticut State Department of Education 1976). However, only two were given serious consideration and those were largely centered on tax equalization. Full funding schemes or “robin hood” approaches that recaptured funds from wealthier towns to redistribute to poorer towns would not be politically acceptable. Neither would be complete centralization of school funding at the state level as the state of Hawaii and a few other states had chosen utilize.

School Funding Formulas

Embedded in the design of school aid plans are underlying philosophical beliefs about the role and purpose of government. Funding formulas vary across the U.S. but the main variants can be classified as flat grants, equalization grants, multitier grants, and full state funding grants. The Commission to Study School Finance examined all the plans in use at the time but seriously only considered the two which were deemed to be congruent with Connecticut’s political culture. In fact, the Commission’s report references the fact that the decision to utilize the GTB was based on Connecticut’s strong tradition of local control. In explaining its rationale for the adoption of the GTB, the Commission report stated that:

We reviewed all the major methods which can be used to finance current operating expenditures. The other alternatives (foundation program, percentage equalizing grant, full state assumption) were rejected for reasons of cost and the decline in local control over school expenditures and tax rate which might result from their implementation. When fully implemented, this GTB will represent a major step toward equalizing educational opportunity. Its basic appeal to Connecticut lies in its maintenance

of local control of schools. Furthermore, it does not take money directly from one town to equalize expenditures in another town (Anonymous 1975, 18).

As Thompson, Wood, and Crampton (2008, 85) note, “states favoring a more local control perspective tended to devise plans that left considerable local freedom to exceed a set of educational minimums”. In other words, municipalities who chose to expend funds in excess of the minimum would not be penalized. So it was that the first school finance reform came in the form of an equalization grant which rewards tax effort rather than property wealth. The percent equalizing or district power equalizing grant as a school aid formula is a conservative approach to reform insofar as it accepts as a given the property tax as a legitimate method of financing public schools. Each approach embodies certain values such: equity, efficiency and liberty (Garms, Guthrie and Pierce, 1978). Efficiency-enhancing initiatives such as the guaranteed tax base has as its main focus on the maintenance of local control of taxation and seeks to minimize the shift of decision making power to the state. The state guarantees that at a given tax rate, a town will be able to raise a certain amount otherwise the state makes up the difference.

The Guaranteed Tax Base Legislation of 1975: The First School Finance Equalization Measure in Connecticut

The Commission presented the General Assembly with two options: 1) equalize expenditures or 2) equalize tax capacity or tax raising power. The Commission chose the latter because they believed it dealt more directly with the problem to try to achieve tax neutrality among the citizens of the state in providing for the educational needs of children. The bill utilizes the principle of district power equalizing or guaranteed tax base. The first GTB program was comprised of a formula that included: 1) wealth, 2) local tax effort, and 3) need.¹¹

¹¹ Wealth was calculated as the difference between the town’s property wealth per pupil and the property wealth per pupil that was at the 85th percentile in the state in per pupil property wealth. Need was based on the total population of the town.

Calculation of the GTB grant begins with the ranking of all towns based on their ability to pay for school services from local tax sources. If the program were fully funded, the GTB would guarantee each town the same amount of money for each of its pupils as the 85th percentile town at any given tax rate.

Some legislators decried the fact that the final bill went beyond what the commission recommended to the legislature in January. Instead of the 75th percentile it used the 85th percentile and instead of using assessed valuation in each community per pupil it uses per capita and a median family income factor. Under this plan, 144 towns would receive aid and 25 towns would be held harmless meaning that they will receive their basis aid under the Average Daily Membership (ADM) but not receive additional money under the GTB. Each town would be ranked in ascending order from poorest to richest. The goal would be to raise the bottom 85 percent of towns to the 85th percentile.

In what was the first of many revisions, the General Assembly capped the equalization grants so that no school district would receive more than \$12.50 per pupil during the first year of implementation and then raised it to \$18.25 during the 1976 session. If fully funded the new program would have guaranteed each town roughly the same amount of money as would be raised in the 85th percentile town however, due to the cap, some observers in the State Department of Education called the program “flat-grant add-on” rather than an equalization program (Tracy, 30).

Summary of 1975 Legislative Debate and Final Vote on the Guaranteed Tax Base

The debates regarding the first school finance reform legislation took place during the 1975 spring session of the Connecticut General Assembly. Among the participants in the debates were Joseph Lieberman, Christopher Shays and Lawrence DeNardis, all of whom went on to careers in national politics. After a rancorous debate in the House, the Senate debate began with Senator Joseph Lieberman asking the Clerk to announce the bill so that members would return to their seats in light of “such a significant issue.” Next, Senator

Houley moved to adopt the Committee's joint favorable report on House Bill 6310 heralding it as "a very historic first in the State of Connecticut as the bill before us ends the era of the flat grant system of state assistance to local educational costs and a small step forward that moves us toward the long-range goal of equal educational opportunities." She noted the many individuals who have worked very long to place "before our consideration today the concept of a guaranteed tax base and of equalization of the opportunity and the opportunity for equal education" (Houley 1975, 2375).

The near unanimity of the passage of the bill does not tell the whole story. One of the more controversial legislative proposals that generated heated discussions was the so called "robinhood" approach. The legislative proposal which originated in the House, took money from some towns and gave to others what is referred to formally as the recapture provision. Embedded in the school finance reform debates are fundamental questions about equity, is the reform fair, and if so fair to whom, redistribution necessarily implies winners and losers. Most legislators found the idea unpalatable. One Senator stated that "we had basic confidence in the basic fairness of our colleagues, and that in the end they would not pit community against community and legislator against legislator, in stealing from one town to give to another" (Gunther 1975, 2379). The Appropriations and Education Committee revised the formula to omit the provision after an outcry from legislators.

Finally, Bill 6310 was passed in the Senate by a vote of 34 in favor, 1 against and 1 abstention. While the ink was drying on the new legislation, the state appealed the Superior Court's decision to the State Supreme Court. The 1977 Supreme Court decision prompted the legislature to return to the drawing board and empanel a second commission for the purpose of complying with the court's directive devise an equalization plan.

The statesmanlike debate in the Senate came only came after a rancorous debate in the House. Among those who questioned the proposed formula to

calculate aid, Representative Christopher Shays, vigorously questioned committee members about the basis to derive a town's property wealth. Shays district encompassing among the wealthiest towns in Connecticut such as Greenwich stood to lose out under this new plan. Despite the reservations of some House members, the bill passed and went on to the Senate.

In introducing the Senate debate, co-chairs of the Commission, Senator DeNardis, was asked to explain the specific details of the legislation. He recounted how the commission considered Connecticut's system in light of cases that were successfully brought in other states and we knew back in 1973 that it would only be "a matter of time before Connecticut's system would be subject to a similar attack". He went on to state that "Noting the wide variance in property values and taxation, the flat grant does little to equalize that. The quality of a child's education should not depend on the wealth of his parents or neighbors within the school district" (Lawrence DeNardis 1975, 2388).

However, a few Senators went on the record noting that while they voted in favor out of deference and in recognition of the hard work of the Commission, they had serious reservations about the legislation ranging from the equity of the formula to the method of financing it through a state lottery. In fact, when the bill was first introduced in the House in February it appeared to be doomed, due to looming fiscal problems. After the legislation went through several iterations and public input sessions, school finance reform was widely discussed around Connecticut in public forums and news stories.

While the Commission's work was well underway, Judge Jay Rubinow issued his "Memorandum of Decision" in December 1974 declaring the use of the local property tax to fund education as violating Sections I and 20 of Article First of the Connecticut constitution of every child to receive an equal education with all other children in the state. Meanwhile, the Commission continued to study school finance in order to prepare legislative proposals that would fend off

further litigation. The Meskill administration immediately appealed the Superior Court's decision.

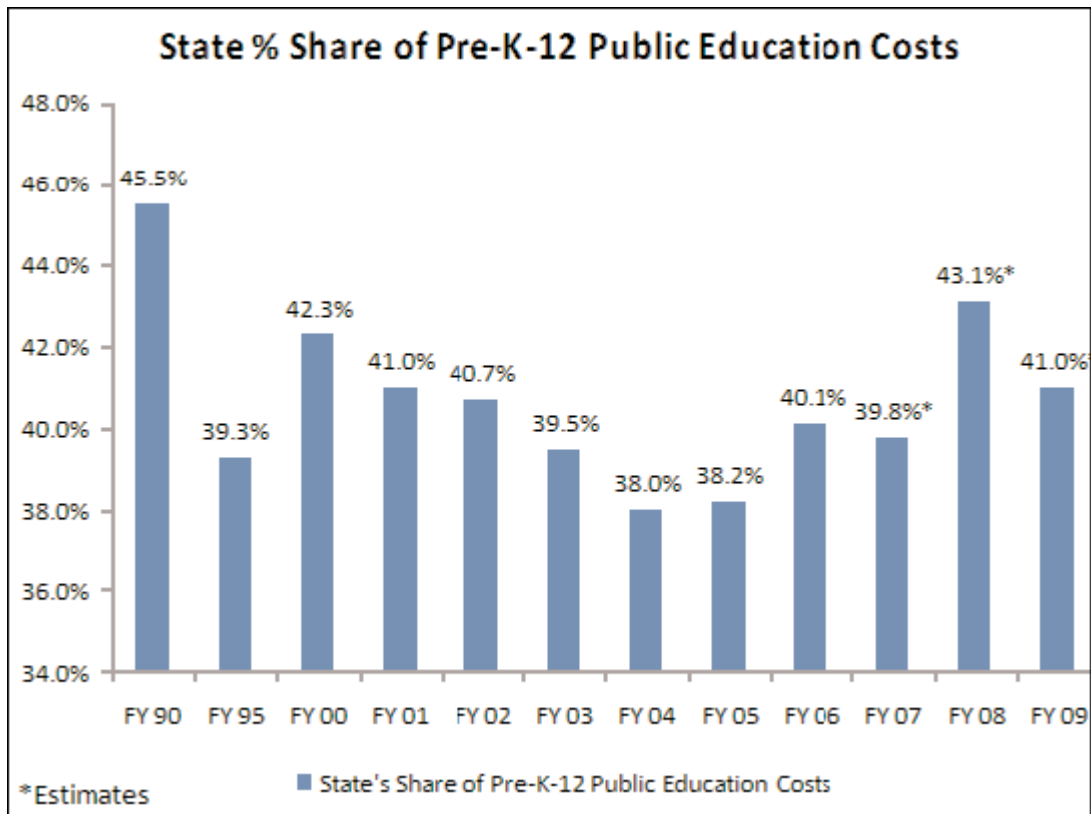
The GTB and Municipal Overburden

Not surprisingly, there were several compromises that were struck to secure passage of the 1975 GTB legislation. State Senator DeNardis expressed mixed emotions about the resulting legislation:

It is extremely important to begin but unfortunate not to have dealt with the closely-related problem of overall tax reform – “twins of the same problem”. Some say the formula goes beyond what the school finance problem involves – by using an income factor and the population of the entire town as opposed to per pupil assessed valuation and attempts to do more than equalize school finance capacity (Larence DeNardis 1975, 2399).

The legislators vowed to work out inequities the next year. The General Assembly doubled the GTB appropriation in 1976 providing additional per pupil grants ranging from \$20-100 dollars still well below what would be needed to equalize spending disparities.

Table 2



Office of Fiscal Analysis, State of Connecticut

Implementation of School Finance Reform in Connecticut

Connecticut represents an interesting anomaly in the area of school finance reform. On one hand, it was an early adopter of reforms. In fact, the legislature took pre-emptive action fashioning an equalization plan years before the court rendered a decision in *Horton* (1977). Yet, after thirty years of equalization formulas, it has lagged behind other states in terms of the amount of state funding provided to public schools.

School finance policy making in Connecticut is marked by both similarities and differences from other states. It has encountered many of the same stumbling blocks experienced elsewhere namely fiscal constraints and recalcitrant legislatures. Beyond the usual problems, tackling school finance reform in Connecticut has also been compounded by a set of factors that made

reform even more difficult. Systemic features such as the tax system in Connecticut marked by the lack of a personal income tax for much of the time period under study greatly constrained the parameters for policy choice.

Educational policy implementation in Connecticut with respect to school finance reform has been particularly impacted by exogenous factors such as the economy. It can best be characterized as incremental, contingent, and variable depending in large part of the vicissitudes of economic cycles and in turn the state's budgetary situation and overall tax structure. Policies were adopted in largely an incremental fashion punctuated by brief periods of policy intensity while legislatures attempted to keep pace with court decisions. After adoption of policy reforms, implementation efforts were eroded due to cyclical recessions and other economic downturns that prompted fiscal retrenchment at the state level.¹² One of the first victims to fall prey to budgetary cuts was school aid.

A typical pattern in Connecticut's school finance experience was the following: policy reforms were adopted which were quickly reversed or mitigated due to fiscal retrenchment owing in large part to economic recessions that hit the Northeast during the late 1970s, early 1980s and early 1990s. Each of these time periods dovetailed with critical junctures in school finance history when key legislation was passed. In addition, to exogenous economic factors, endogenous factors such as the structure of the tax system in Connecticut created little leeway for new initiatives particularly those that were redistributive in nature. A precarious tax structure that allowed little room for new expenditures was made more precarious when economic downturns hit did in each decade since the passage of the first GTB legislation in 1975. Such economic uncertainty exacerbated the already deep ambivalence that many legislators had towards school finance. All of these factors were the environment in which school finance was implemented in Connecticut and undermined serious reforms efforts.

¹² For a full discussion of the impact the economic recession of the 1970s on school finance equity see Berne (1988), 159-180.

Structure of Connecticut's Tax System

The structure of Connecticut's state finance system served in many instances to constrain the parameters for action in the area of school finance. Among the factors that hindered any new spending initiatives were the already high sales tax, the lack of a personal income tax and one of the highest property tax rates in the country (National Institute of Education 1981, 20). Although Connecticut was the wealthiest state in per capita income, most of this personal wealth would not be available to the public coffers owing to the fact that until 1991 the Constitution state was one of only a few states not to levy a broad based income tax. The reliance on a general sales tax as well as gasoline and cigarette taxes left Connecticut vulnerable to economic downturns. Educational reformers had the herculean task of revising a new school finance system within the state's existing tax structure.

Reworking the GTB Formula: "Same Time Next Year"

A recurring theme in the ongoing school finance reform is the cyclical nature of the policy making process. Beginning with the first GTB legislation, dissatisfaction with the final legislation led some to promise that the formula would be reworked during the next legislative session.

In his concluding remarks State Senator DeNardis stated his hope that

Depending on how the judges view this piece of legislation, we may satisfy the plaintiffs in that case in whole or part, but at least we are being responsible as a legislative body and not waiting for the courts to dictate to us, to tell us what to do (Lawrence DeNardis 1975, 2403).

Implicit in his remarks are the recognition that a first attempt to produce an equalization plan, albeit imperfect, was preferable to the alternative, a court ordered plan. So began a thirty year quest to equalize school finances in Connecticut. The original GTB legislation was undertaken with the agreement that the plan would be phased in over a five-year period. This approach left the reform vulnerable to subsequent legislative action. In fact, the legislation

underwent no fewer than five amendments during the 1980's which prompted Wesley Horton to return to court.

Policy Options Post *Horton I*: "Opening Up Creativity"

In addressing a group of Connecticut legislators, John Coons (Professor at the University of California School of Law) expressed his belief that the Horton (1977) decision would open up creativity in the legislative process" (Coons 1978).

We won those cases on the principle that the legislature would not be in any way impeded in using any decentralized system, including the family, as the school district, so long as it did not make the amount of public money for a child's education a function of the wealth of the child's family or the school district. To do that would be an irrational and unfair standard for a public agency, in our view. We published a book in 1970 called *Private Wealth and Public Education*, which expressed this constitutional theory. We analyzed 14 or 15 state school systems and described how they could be reoriented without either wrecking or decreasing local control (Coons 2002).

The second commission fortunately did not have to reinvent the wheel as it attempted to comply with the court's order. The first GTB legislation passed in May 1975 laid the groundwork for subsequent reform efforts and served as a basic template to guide future reformers. As the legislature began its deliberations in the wake of the Horton decision, the basic question which they posed to one another was: what was the court looking for that would satisfy the concerns raised by *Horton v. Meskill*? Perhaps factoring into their decision not to prescribe a remedy, the *Horton* decision recognized and referenced the work of the legislature and the GTB in the written decision. Ultimately, while the court commended the legislature for its efforts, it deemed the GTB reform as "miniscule". Perhaps it should be noted that the GTB as a method itself was not to blame but rather the insufficient funds appropriated by the legislature that led the court make its declaration.

While the work of the first commission was an attempt to satisfy some yet to be articulated legal standard and by so doing possibly fend off litigation

through preemptive action, the post-*Horton* (I) reform efforts were done with the knowledge that they were working under the full gaze of the court and the public expectation that something substantial needed to be done to reform Connecticut's school finance system. Compliance became the watchword of the second commission. Discerning what will pass muster with the courts is always a difficult task made even more difficult by the fact it did not issue any guidelines to the legislature beyond having to produce a constitutionally acceptable school finance plan by May 1, 1979. There were, however, certain policy parameters that the legislature knew it could not exceed in devising a plan. Stated strenuously by Governor Ella Grasso, and echoing the oft repeated refrain by a long line of Connecticut governors before her, she reiterated emphatically that funding for any plan would not come through the adoption of a new personal income tax. (Tracy, 1984, 75)

After the Connecticut State Supreme Court handed down its decision to the legislature, key members of the House and Senate convened a second panel for the purpose of studying and making recommendations regarding the options for financing Connecticut's schools. The second such panel convened for this purpose, it differed in a number of respects from the previous commission. While the composition of the panel included many of the previous members from the first commission, the second panel included a group that had been largely silent partners, the Connecticut State Board of Education and the Department of Education. While Education Department Commissioner Mark Shedd was a member of the first panel and lauded the work of the panel deeming its recommendations as being "sound" adopted a more vigorous viewpoint on the second panel. On the heels of the *Horton* decision, the state auditor's office roundly criticized the Department of Education as lacking leadership and failing to uphold the educational interests of the state (Tracy, 31). Thus, the Department viewed the school finance reform issue as a vehicle to shore up its public image and became a key player on the second commission

and in crafting the remedy in the wake of the *Horton* decision. Additionally, the commission was underwritten by a grant from HEW which would help generate data and proposals and gave the Education Department significant influence over the flow of finance reform options.

The Department of Education played a more prominent role in the crafting of recommendations for the Second Commission. Prior to the mid-1970s, state boards of education had been politically weak and marginal policy actors in most states including Connecticut (Furman). With the property tax revolts in the early 1970s and the perceived failures of public education in general, education became a more highly salient political issue. The reform coalition that had begun to take shape would place state education agencies in a more prominent position.

In Connecticut, Education Commissioner Shedd and the Department had several goals for school finance reform. First among its priorities was to increase the state share of the total cost of public education to 40% up from 27% in the mid 1970s with 100 million dollars allocated for 1975-1976 (Tracy, 4). To accomplish such a funding goal, the Department believed a personal income would have to be the source of revenue. The Department was also influential in developing many of the details of the equalization formula including a minimum expenditure require for local school districts and an income factor that would accord more weight to school districts with disadvantaged students.

Post *Horton* I: Implementation of 1979 GTB Legislation

The revised GTB legislation was enacted on July 1, 1979. The law (P.A. 79-128) called for a five year phase-in with 56% of the full costs of funding in FY 80, 67% in FY 81, 78% in FY 82, 89% in FY 83 and 100% of costs on full funding in FY 84 and thereafter. Douglas Reed points out that if fully funded “The formula was in many ways, a state of the art financing plan that would have substantially equalized the tax bases of Connecticut’s cities and towns.” In actuality, the funding was less than 10% of the amount it would require to fully fund the formula. Also during this time period rising school public expenditures also

shrank the real dollar value of the funds to the point that they were actually lower than 1975 levels.

Put differently, education historian Christopher Collier described the new GTB plan as less effective and more cumbersome than the first GTB plan owing to the sheer complexity of the formula. Factors used to distribute school under the new modified GTB plan included a town's wealth, tax effort and need (Connecticut State Board of Education 1979). The calculation of the grant begins with a ranking of all towns based on the ability to pay for school services from local tax sources. Major differences between the first formula and the 1979 legislation were the inclusion of income wealth and the weighting of children who received Aid to Families with Dependent Children or welfare.

Another major difference between the earlier GTB plan and the 1979 legislation was the Minimum Expenditure Requirement or MER. The legislation set a minimum dollar figure that every district had to meet or exceed which would obligate towns to commit a certain amount of new education aid to schools designed to prevent towns from utilizing the funds for property tax relief. As Collier (2008, 607) points out:

This Minimal Expenditure Requirement (MER) was to provide no fewer dollars than the statewide median per-student expenditure two years previous to the year in which it was granted. In fact, however, by 1984 neither the GTB plan of 1975 nor the schedule of 1979 had been fully funded, nor were they ever.

Compounding the problem was the financial disaster that hit Connecticut during the late 1970s and 1980s with inflation rising as high as 13% which dramatically impacted state revenues. It was in this climate that the legislature passed 10 amendments to the 1979 GTB legislation to retrench the budget by establishing caps on the amount each district could receive. (Reed 2001, 80).

In a policy analysis paper, the Federal Reserve Bank of Boston noted that "these restrictions which were legislatively imposed on the formula during the phase-in period created a system that was difficult to understand and hard to

administer” (Anonymous 1999). Wesley Horton viewed the amendments as undermining the gains he had worked so hard to obtain on behalf of schools. He entered a show-cause motion in Superior Court in 1978 to enjoin the state from distributing state education aid under the existing GTB program and then entered courtroom again in 1985 under *Horton III* (1985).

***Horton III* (1985)**

Horton III (1985) challenged the GTB and the distribution formula adopted by the General Assembly. In issuing its ruling, the Connecticut State Supreme Court devised a three-step test to determine if the formula met the state’s constitutional obligation. In a novel approach to school finance reform, the courts applied the legal reasoning used in the recent reapportionment case used for legislative districting. The Court imposed a more demanding burden of proof that plaintiffs would have to meet in bringing adequacy claims against the state (Reed 1996). During the mid to late 1980s, the legislature passed the Educational Enhancement Act whose main thrust was to make grants to towns for teacher salaries (Collier, 609). These decisions convinced Wesley Horton that there were significant strides being made to equalize resources such that he refrained from filing additional lawsuits against the state.

The Foundation Model and Education Cost Sharing

In response to *Horton III* there was a brief upward trend in funding. The General Assembly passed a foundation model in 1988 which set a foundation figure for each town and then contributes a sum on a sliding scale reflecting the town’s tax base.¹³ The Education Cost Sharing formula components consist of foundation, resident students, poverty weighting, mastery weighting, town wealth, SGWL (State Guaranteed Wealth Level), capping/phase-in, and hold harmless/minimum aid. The last time the ECS formula was changed was 1995.

¹³ An example cited in Collier (2008) illustrates the point: if the foundation figure was \$5,981 in 2007, Greenwich might get \$2,000 from the state and have to raise \$3,891, itself.

The key difference between ECS and GTB is blended wealth. The GTB considered property wealth per capita and used a per capita income measure include to adjust each town's Equalized Net Grand List or ENGL. ECS in 1995-1996 expanded the definition of town wealth to factor in property wealth on both a per student and per capita basis and adjust for income using both per capital income and median household income. The averaging of these four measures gives towns with different demographics the potential benefit that might be missed if only a single measure were used.

After hitting a high water mark in 1990 with 44.7% of school funds providing by the state, Connecticut experienced another recession in the late 1980s and early 1990s. Due to economic expediency, towns were allowed to forego the minimum expenditure requirement.. Since the inception of the ECS grant in 1989 until today, the grant program would be routinely underfunded by the Connecticut General Assembly through capping provisions. As the Connecticut Conference of Municipalities noted in a recent report, the net effect of such caps would mean that "one in four municipalities still receive less per pupil in ECS aid than under the \$250 per pupil flat-grant funding system that was determined to be unconstitutional in 1977."¹⁴

Connecticut Coalition for Justice in Education Funding v. Rell

The chronic underfunding of school aid formulas through ECS capping provisions prompted a public advocacy group to file a lawsuit against the administration of Governor Rell. Wesley Horton had long since left the unfinished business from *Horton v. Meskill* to become part of the legal litigating *Sheff v. O'Neill* lawsuits dealing with the racial segregation of Hartford's schools. No longer the standard bearer of the movement, other public advocacy groups had stepped into the breach to carry the movement forward. One such group, under the auspices of Yale University Law School was the Connecticut Coalition

¹⁴ For a full discussion of the ECS cap, see Connecticut Conference of Municipalities (2009).

for Justice in Education Funding [CCJEF]. This organization filed a lawsuit against the Rell administration in the spring of 2005. The lawsuit alleges that “the state’s failure to suitably and equitably fund its public schools has irreparably harmed thousands of Connecticut schoolchildren” (295 Conn. 240 (2008), overview at [http://ccjef.org/overview .htm](http://ccjef.org/overview.htm)). In partial response to the litigation, Governor Rell empanelled a Commission on Education Finance, the 7th commission since the inception of the first equalization plan.

The Seventh and Final Commission on School Finance?

The Seventh Commission to Study School Finance in Connecticut was empanelled by Governor Rell in January of 2006 and issued its final recommendations in January of 2007. The gubernatorial commission was divided into three subcommittees: ECS, accountability, and other education grants. Not surprisingly, the ECS subcommittee concluded that the state is spending significant less than what the originally proposed formula would have funded education (Connecticut Commission on Education Finance 2006).

Based on the subcommittee’s recommendation and with a budget surplus working in her favor, Governor Rell proposed an unprecedented increased in funds for ECS. Ultimately, the Democratically-controlled General Assembly chose to fund other spending priorities.¹⁵ Meanwhile, *CCJEF v. Rell* is still working its way through the Connecticut Supreme Court. The outcome of the lawsuit will determine whether *Horton* will continue his odyssey.

Conclusions

School finance reform has been marked by many of the same pitfalls that other states have encountered in the design and implementation of school aid formulas. However, as argued in this paper, Connecticut’s difficulties have been more pronounced due to a confluence of political and financial factors that have exacerbated a difficult situation.

¹⁵ The Connecticut Conference of Municipalities noted that the legislature allocated around \$200 million of the 1 billion budget proposal submitted by Governor Rell.

The lion's share of the policy failure rests with the Connecticut General Assembly. As the body prompted by court decisions to design an equalization plan, much of the responsibility can be squarely placed at the legislature's doorstep. While the design of the equalization plans differed depending on whether Democrats or Republicans controlled the General Assembly, what did not differ greatly was the tendency through the time period under review was a notable reluctance to fully fund equalization schemes. Both political parties seemed to be equally concerned with cost containment yielding to important political realities. Gubernatorial inaction, legislative recalcitrance and looming financial and fiscal realities all conspired to doom school finance reform in Connecticut.

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