

Introduction: The Inheritance

In 1975, a dentist living in an affluent New Jersey suburb told a newspaper why he opposed using an income tax to fund inner-city public schools. In the process, he unwittingly summed up the clash between self-interest and the claims of community that was to undergird school finance battles in New Jersey and the nation for decades to come. “You can’t expect people who worked very hard to make a little money to pay for other people’s children,” the dentist told the reporter. “That’s why we moved here—to maintain good schools for our children. Look, I’m already paying for three kids, and now you want me to pay more for somebody else’s? Possibly this is being selfish, but I don’t think so.”

That suburban professional could acquit himself of selfishness because, from one perspective, his words expressed nothing but the bedrock promise of the American meritocracy: upward mobility for the hard-working and the self-reliant, no matter their race or class. We call that promise the American Dream, and even those who regard it as little more than a hoax—a dream indeed—see it as a fundamental tenet of our national faith. We do not view the ambition to move up, and to take our families with us, as selfish. That drive, we like to say, is part and parcel of our energetic, individualistic national character. In particular, we view the desire to improve our children’s lives as the reverse of selfish; we see it as altruistic, and, of course, sometimes it is. Nevertheless, the dentist’s words also expose the American Dream’s oft-noted dark side. When success is defined as the earned reward of hard work, we need feel no responsibility for those who are left behind, or for their children. Indeed, if we count the power to better their children’s lives as one of the deserved rewards that the successful have earned, it can seem logical, even just, for the less successful—defined, of course, as the less deserving—to lack that power. We do not think much about what this logic implies for their children. They aren’t our children, after all.

The public schools have a special place in our dream of a meritocratic America, a place free of inherited privilege or disadvantage, where the fruits of success—a little money, a house in the suburbs—go to the deserving. We think of the public schools as the engine of equal opportunity, the institution that levels the playing-field for children born with a strike or two against them. The suburban dentist’s words remind us, however, that for middle-class America the schools have also become something else: one of the rewards for victory on that supposedly

level playing-field. Buying the house in the suburbs also buys our children access to the good school down the street. The assumed levelness of the playing-field assures the winners that their laurels are earned, not inherited, yet even those who claim to see the level playing-field as only fair seldom accept it for their children. Most parents want their children to have a better-than-equal chance, deliberately ignoring—or perhaps not even noticing—how this aspiration undermines the meritocratic ideal. Ironically, the ultimate reward for winning the game fair and square is the chance to rig the next round in favor of our own children, by making sure their schools have better teachers, more rigorous courses, and finer laboratories than anyone else’s. “We don’t leave our kids the farm anymore, or the estate. We leave them education,” one participant in New Jersey’s education funding wars reflected, years after retiring from the fray. “For the middle class and upper middle class, it’s the property right, the inheritance they pass onto their children. And they all want to leave more of it to their kids than [to] some other kids. The whole thing is about giving their kids relative advantage.”

No wonder, then, that we have spent two generations fighting about school funding, in almost every state in the nation. The fights would be bitter enough if they were just over how to divvy up scarce tax dollars, but because education spending is a down payment on the future, school funding battles reflect deeper conflicts over society’s values and direction. We define the boundaries of community in part by deciding whose children count as “our children,” and therefore deserve the best we can give them.

Over the years chronicled in this book, the school funding fight has ebbed and flowed. Since the early 1970s, when the issue migrated from the federal to the state level, forty-five of the fifty states have faced education finance lawsuits. Scholars divide the litigation—perhaps a bit too neatly—into two waves: the equity cases of the 1970s and -80s, and the adequacy cases of the 1990s and beyond. Plaintiffs in the first-wave equity lawsuits located the failure of government policy in the inequality of rich and poor school districts—the extra spending the rich could afford, the heavier tax burdens the poor often shouldered. But state governments won two-thirds of these cases, perhaps because courts were leery of ordering wholesale changes in local spending and taxation. Beginning in the 1990s, however, plaintiffs changed tack, using the educational guarantees enshrined in state constitutions to argue that government had failed to ensure every

student an adequate education. With this change in strategy came a shift in the balance of success: by the early years of the twenty-first century, plaintiffs had won two-thirds of these second-wave adequacy suits. Historically, school finance reform has been a liberal cause, but in 2002, conservative Republican President George W. Bush gave the adequacy movement potentially its biggest boost when he signed the federal education law known as No Child Left Behind. NCLB requires states that accept federal education money—in other words, all of them—to ensure that every child achieves proficiency on standardized tests of core subjects. By ordering states to break out test score data by such demographic categories as race, disability, and economic disadvantage, the law makes it impossible to hide the failures of poor minority children within schoolwide or statewide averages. NCLB is the apotheosis of the demand, historically a conservative one, for accountability in public education—results in exchange for resources. Liberals, however, have wasted no time in noting that such a demand is reasonable only if schools have the raw materials needed to produce results. Thus, accountability demands buttress adequacy claims, producing, in the words of journalist Peter Schrag, “the fusion of conservative tactic with liberal purpose.”

New Jerseyans like to say that everything that happens in America happens in the Garden State first, and, indeed, New Jersey has been litigating school funding almost since the beginning of such litigation, in cases combining both equity and adequacy claims. This book tells the story of New Jersey’s school funding battle, one of the oldest, longest-lasting, and bitterest in the nation. The story of one state, even one as wealthy, crowded, and diverse as New Jersey, can never perfectly represent the whole. Still, New Jersey’s two-generation-long struggle over a rich society’s responsibility for educating the poor strikes chords that echo across our wealthy, crowded, diverse nation.

Other People’s Children is the first book to tell the story of New Jersey’s school funding battle, from the filing of the initial lawsuit, Robinson v. Cahill, through the tortuous legal odyssey of its successor, Abbott v. Burke. Over the course of this long history, the school-funding debate has often been conducted in an atmosphere too rarefied for ordinary citizens to breathe. By contrast, my account is intended for general readers, since they are the voters, taxpayers, and neighbors who must ultimately decide how our democracy will balance the claims of individual and community. Because I am not writing for experts, I do not exhaustively analyze every legal

issue that the Robinson and Abbott cases raise; still less do I detail all the technical ramifications of New Jersey's successive school funding formulas. Even well-informed citizens find school finance dull and confusing, and no wonder: education funding laws can be dauntingly complex and numbingly tedious. Their implications for democracy and social justice lie buried amid a welter of algorithms. I have tried to include just enough technical detail to suggest the impact that a few words hidden deep in a statute can have on real lives.

This book is also not a definitive analysis of educational progress in the thirty-one school districts and hundreds of schools covered, at one time or another, by the Abbott rulings. The debates over how best to measure school success—whether standardized tests provide meaningful information, whether dropout statistics conceal more than they reveal—are beyond the scope of my narrative. Although in my conclusion I briefly discuss test scores and their implications, I have not tried to tell the Abbott districts' individual stories, which run the gamut from extraordinary promise to debilitating failure.

Instead, I have tried to show how the participants in this epic battle over public education framed the issues before them, and how, as New Jersey's lawyers, judges, and politicians wrestled with those issues, children grew up to make what they could of their opportunities. The book interweaves the public story—an account of legal and political wrangling over laws and money—with the private stories of the children who were named plaintiffs in the Robinson and Abbott suits. As New Jersey's school funding fight unrolled in the courts and the legislature, these private stories seldom formed part of the public discourse; like a subterranean river, they flowed unseen beneath the ground on which the public drama was enacted. Only by bringing the children's stories into the light, as this book seeks to do, can we understand the true dimensions of the public battle. The children of Robinson and Abbott are individuals, not types, but I believe their life stories illuminate the complex interactions among public institutions, private choices, and social conditions that reformers inevitably confront.

As Robert Wilentz, then-chief justice of New Jersey's Supreme Court, wrote in his 1990 Abbott ruling, "After all the analyses are completed, we are still left with these students and their lives." Education is essential to our American Dream, and to theirs; the quality and equality of the schooling we give them goes to the heart of what kind of society we want to be. If we tacitly

accept that some children—poor children, minority children, other people’s children—will never be offered the educational prerequisites for success, we are accepting that they will never have equal life chances. At bottom, arguments over how far we are willing to go to educate the poor are arguments over how fully we will welcome them into the community of democratic citizenship. In New Jersey—and in the nation—that argument goes on.