Touro Law Review

Volume 8 | Number 3 Article 18

1992

Education Article

EDUCATION ARTICLE

N.Y. CONST. art. XI, § 1:

The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.

SUPREME COURT

NASSAU COUNTY

Reform Education Financing Inequities Today v. Cuomo[279]
(decided December 12, 1991)

The supreme court was presented with the challenging issue of whether the court should declare New York State's system of funding public education unconstitutional because it resulted in significant budgetary disparities between low-wealth and high-wealth districts to the detriment of the districts, students and taxpayers.[280] Plaintiff, Reform Education Financing Inequities Today (REFIT), contended that the state's educational financial scheme failed to comply with the education article of the New York State Constitution,[281] was contrived from property tax valuation in violation of the equal protection clause of the New York State Constitution,[282] and violated the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.[283] Despite the court's awareness of the present

279. No. 2500/91, 1991 N.Y. Misc. LEXIS 725, at *1 (Sup. Ct. Nassau County Dec. 12, 1991).

280. *Id.* at *2.

281. *Id.*; N.Y. CONST. art. XI, § 1.

282. N.Y. CONST. art. I, § 11. ("No person shall be denied the equal protection of the laws of this state or any subdivision thereof. No person shall, because of race, color, creed or religion, be subjected to any discrimination in his civil rights by . . . the state or any agency or subdivision of the state."). *Id.*

283. *REFIT*, 1991 N.Y. Misc. LEXIS 725, at *2; U. S. CONST. amend.

inequities created in funding public education, the court, in complying with the basic policy of separation of powers, refused to alter the legislatively enacted educational funding scheme, holding that any alterations must come from the New York Court of Appeals or by legislative action.[284] Consequently, the court dismissed the action.[285]

To date, there are fifty-one different formulas devised by the legislature to distribute limited state aid to the various districts within the state.[286] Within the past year, there has been no new legislative action to alleviate financial disparities, only budgetary cuts which render such disparities even more pervasive.[287]

In rendering its decision, the court acknowledged that the issue of school funding significantly impacted the future of the state.[288] The court stated that "[e]ducation is paramount in preparing our children to function in Society as citizens and workers."[289] However, the basis of the court's decision to dismiss the action rested primarily on its reliance on the reasoning and holding of the court of appeals in *Board of Education, Levittown Union Free School District v. Nyquist*.[290]

XIV, § 1.

284. *REFIT*, 1991 N.Y. Misc. LEXIS 725, at *23.

285. *Id.*

286. *Id.* at *10.

287. *Id.* at *15-*16.

288. *Id.* at *1.

289. *Id.*

290. 57 N.Y.2d 27, 439 N.E.2d 359, 453 N.Y.S.2d 643 (1982), *appeal dismissed*, 459 U.S. 1138 (1983). In *Levittown*, the plaintiffs claimed that an educational funding law, which provided that funds raised by local taxes be augmented by allocations of state funds, resulted in grossly disparate financial support. Consequently, this violated the equal protection clauses of the state, and federal constitutions, in addition to the education article of the state constitution. *Id.* at 35, 439 N.E.2d at 361, 453 N.Y.S.2d at 646; *see also* U.S. CONST. amend. XIV, § 1; N.Y. CONST. art. XI, § 1. Plaintiff's cause of action was based solely on the disparity of expenditures per pupil between the low-wealth districts and the high-wealth districts. *Levittown*, 57 N.Y.2d at 36, 439 N.E.2d at 362, 453 N.Y.S.2d at 646. However, there was no claim that any student was denied an education nor that the quality of education fell short of the minimum standards set forth by the Board of Regents. *Id.* at 38, 439 N.E.2d at 363, 453 N.Y.S.2d at 647-48.

The court, in *Levittown,* stated that the constitutional language of the education article[291] contained no indication of a requirement that the education provided by the state be equal or substantially equivalent in every district.[292] Rather, the *Levittown* court determined that "[w]hat appears to have been contemplated when the education article was adopted . . . was a State-wide system assuring minimal acceptable facilities and services"[293] and to "provide for maintenance and support of a system of free schools in order that an education might be available to all the State's children."[294] Thus, the intent motivating the adoption of the education article in 1894 was to assure "minimal acceptable facilities and services in contrast to the unsystematized delivery of instruction then in existence within the State."[295]

The court of appeals, in *Levittown,* discarded the equal protection claims by applying the rational basis standard of review.[296] The funding scheme was upheld despite disparities in per pupil expenditures among the various districts, which were primarily attributed to the unequal varying real property tax bases or unequal demands on local revenue within each district.

The court of appeals asserted that extreme deference would be given to legislative decisions and that they would not be overridden absent "gross and glaring inadequacy" resulting from legislative formulas designed to finance the state's public schools.[297] Such provisions were determined to be peculiarly appropriate for formulation by the legislature. However, as the court in *REFIT* pointed out, it is unclear as to whether "gross and

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291. N.Y. CONST. art XI, § 1.

292. *Levittown,* 57 N.Y.2d at 47, 439 N.E.2d at 368, 453 N.Y.S.2d at 652.

293. *Id.* at 47, 439 N.E.2d at 368, 453 N.Y.S.2d at 653.

294. *Id.* at 48, 439 N.E.2d at 368, 453 N.Y.S.2d at 653.

295. *Id.*

296. *Id.* at 43, 439 N.E.2d at 365-66, 453 N.Y.S.2d at 650. The court of appeals found that the public school funding scheme had a rational relationship to the legitimate state purpose which was "the preservation and promotion of local control of education [which] is both a legitimate State interest and one to which the present financing system is reasonably related." *Id.* at 44, 439 N.E.2d at 366, 453 N.Y.S.2d at 651.

297. *Id.* at 47-49, 439 N.E.2d at 369, 453 N.Y.S.2d at 653.

glaring inadequacy" was intended to refer to the funding of education or the quality of the education.[298]

In *REFIT*, plaintiffs contended that in light of the changes that have evolved since *Levittown*, the current funding of education has resulted in the "gross and glaring inadequacy" which would merit judicial action to correct the malfunctioning legislative scheme. The court agreed that what constituted the exception in *Levittown* had now become the rule.[299]

Although it is conceded that the state aid formulas produce less than half the money spent by the schools, and that districts rely largely on their own resources, the court noted that the growing disparities between poor districts and wealthy districts were not attributable to inadequate tax efforts on the part of the poorer districts because some of the most inadequately financed districts were among the highest tax rate districts of the state.[300] In addition to state budgetary cuts, which the wealthier districts have been able to absorb,[301] poorer districts have been faced with an increasing "high-risk" student population,[302] coupled with state imposed mandates that the state does not provide funds to implement.[303] Hence, minimal budgetary expenditures are depleted rapidly.

The state maintains that the holding in *Levittown* requires a

298. *REFIT*, 1991 N.Y. Misc. LEXIS 725, at *8. The plaintiffs, in *REFIT*, did not claim the education level in their district was either below the minimum standard or inadequate. Rather, they contended that the "'gross and glaring inadequacy' . . . found absent a decade ago, now exists in that the gap between rich and poor districts has widened dramatically since Levittown." *Id.*

299. *Id.* at *8-*9. To date, "the maximum disparity in Suffolk is nearly 330 to 1, disparities of 100 to 1 are not uncommon, and 19 Suffolk districts are 16 times richer than William Floyd and Wyandanch (a ratio observed in Levittown only in the most extreme single case)." *Id.* at *9. The plaintiffs also revealed a growing disparity in per-pupil expenditure; ranging from $7,107 to $43,000 per pupil. Whereas at the time *Levittown* was decided, disparities of 4 to 1 have risen to 6 to 1. *Id.*

300. *Id.* at *10.

301. *Id.* at *16-*17.

302. *Id.* at *11-*12. High-risk student populations include minority groups who require special programs in English. They also include handicapped students who require special facilities. *Id.*

303. *Id.* at *12 (for example asbestos removal).

showing of "gross and glaring inadequacy" with respect to the quality of education and that the students in the poorer districts are receiving a "minimum" standard of education. However, the court indicates that no such "minimum" standard has been articulated to date.[304]

The court considered it ironic that "everyone from the governor to legislators to various committees proclaim it is a travesty to allow property wealth to determine the quality of educating the children, yet the New York State school finance scheme remains unimproved."[305] The court recognized that the judiciary has a "duty to evaluate the fulfillment of the constitutionally imposed obligation of the legislature."[306] In support of its argument, the court noted that in *Baker v. Carr*,[307] "the United States Supreme Court departed from a line of precedents insulating such 'political questions' as legislative apportionment from judicial inquiry -- and in so doing, opened the door to a revolution in constitutional adjudication."[308] Also, various other states have moved toward judicial intervention in public school financing often finding the disparities plaintiffs complain of as violative of equal protection at both state and federal levels, as well as a violation of state education clauses.[309]

Noting that there is a direct correlation between disparities in education funding and the quality of education, the court stated that "'to the extent educational quality is deemed related to dollar expenditure, it tends to prove inadequate quality of education in the poorer districts . . . .'"[310] While the court stated it would be

304. *Id.* at *12-*13. The court provided a historical evolution of legislative formulas used to determine district allowances. However, none of the formulas defined the "minimum" standard in the quality of education articulated in *Levittown*. *Id.* at *13-*16.

305. *Id.* at *17.

306. *Id.*

307. 369 U.S. 186 (1962).

308. *REFIT*, 1991 N.Y. Misc. LEXIS 725, at *17-*18.

309. *Id.* at *18-*22; *see* Abbott v. Burke, 575 A.2d 359 (N.J. 1990); Rose v. Council for Better Educ., Inc., 790 S.W.2d 186 (Ky. 1989); Helena Elementary Sch. Dist. No. 1 v. State, 769 P.2d 684 (Mont. 1989); Serrano v. Priest, 487 P.2d 1241 (Cal. 1971).

310. *REFIT*, 191 N.Y. Misc. LEXIS 725, at *21 (quoting *Abbot*, 575 A.2d

"foolhardy to believe that money alone would solve the problems of our educational system," it acknowledged that the poorer students' "educational needs are often dramatically different from those of students in affluent districts."[311]

The United States Supreme Court, in *San Antonio Independent School District v. Rodriguez*, held that the right to education is not a fundamental right.[312] The Court rejected the plaintiffs' argument that "education is distinguishable from other services and benefits provided by the State because it bears a peculiarly close relationship to other rights and liberties accorded protection under the Constitution."[313] Rather, the Court found that there was "no charge . . . that the system fails to provide each child with an opportunity to acquire the basic minimal skills necessary for the enjoyment of"[314] the other rights protected under the Constitution.

Despite the recognition of the present inequities in funding public education, the *REFIT* court noted that the "'[p]rimary responsibility for the provision of fair and equitable education opportunity within the financial capabilities of our State's taxpayers unquestionably rests with [the legislative] branch of our government.'"[315] The basic policy of separation of powers prevented the court from declaring the state's educational funding scheme unconstitutional. Thus, the court determined that any deviation from the *Levittown* holding must be made either by the

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at 384).

311. *Id.* at *22.

312. 411 U.S. 1, 3 (1972).

313. *Id.* at 35.

314. *Id.* at 37.

315. *REFIT*, 191 N.Y. Misc. LEXIS 725, at *24 (quoting *Levittown*, 57 N.Y.2d at 48, 439 N.E.2d at 369, 453 N.Y.S.2d at 653).

court of appeals or the legislature.[316] In the event of an appeal, it appears that the state supreme court has provided adequate reasons to make this deviation.

316. *Id.* at *25.