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# The Supremes Belt Out a New Hit: School Choice in Minnesota after Cleveland

## A Symposium

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*Immediately after the United States Supreme Court's June decision upholding the constitutionality of Cleveland's voucher program for low-income boys and girls, American Experiment president Mitch Pearlstein asked a number of friends and observers in Minnesota and elsewhere to consider the implications of the decision, particularly for the Twin Cities and the rest of the state. Twenty-seven writers, from a variety of political and other backgrounds, responded to the following set of questions:*

*The U.S. Supreme Court recently ruled that the Cleveland voucher program for low-income students—which includes both public and private schools—is aligned with the letter and spirit of the Constitution. What implications will this decision have in Minnesota? What implications should it have? What, in other words, are your hopes for expanded school choice in this state?*

*More precisely, should education tax credits in Minnesota be broadened to cover tuition at private and religious schools (and not just a limited number of education “expenses” as is currently the case)? Or should we adopt vouchers, which are much easier to use than tax credits?*

*Should any new choice program here be limited to low-income students, as the Cleveland program is? Or should it include all students?*

*What can we reasonably expect increased school choice to accomplish?*

*Notwithstanding great jubilation in many quarters, what might displease you about the Cleveland decision? What fears might you have now that the high court has ruled that voucher programs can include private and religious schools?*

*Their brief and very useful essays follow, in alphabetical order.*

## **It's Time to Test School Vouchers**

***Duane Benson***

The best school voucher plan would be like crop insurance in a picture-perfect summer: you've got it, but you don't need it.

Ideally, the Minnesota Business Partnership and others wouldn't be advocates of school choice programs because every Minnesota student would be getting the best education possible. But when up to two-thirds of Minnesota's elementary schools could be classified as "underperforming" under the new federal accountability standards, there are dark clouds on the horizon. When roughly half of Minnesota's minority eighth graders don't pass the basic skills tests, there's heavy rain. And when half the Twin Cities' ninth graders fail to graduate with their classmates four years later, you've got hail.

I don't know that school choice can deliver everything that the advocates claim. Certainly there's evidence to suggest that school choice programs help those who take advantage of them and may spur public schools to improve. A recent report by Harvard economist Caroline Hoxby indicates that school districts faced with competition from both public and nonpublic schools rise to the challenge by improving performance and responding to parental demands.

Locally, a recent report by the University of Minnesota's Center for School Change found that programs such as open enrollment, postsecondary enrollment options, and charter

schools generated the creation of new options within public schools in order to meet student needs. And in Milwaukee, home of a decade-long experiment with vouchers for low-income families, public schools have reached out to their nonpublic competitors to coordinate programs and services.

Of course, opponents of school choice point to their own studies that come to diametrically opposed conclusions. Fact is, the jury is still out on vouchers. According to recent studies by the U.S. General Accounting Office and the RAND Corporation, it's too early to tell. There simply isn't enough data to prove that school choice is a success or a failure. By the way, there's also no evidence to show that school choice programs undermine public schools, as some opponents claim they do.

There is, however, plenty of evidence to show that what we are currently doing to educate the next generation isn't working for far too many students. Test scores, graduation rates, the number of college freshmen taking remedial classes, and international comparisons of learning levels point to massive dark clouds on the horizon.

The achievement gap between white and minority students is particularly troubling. First, because many minority students come from low-income backgrounds and will be destined to a life of continued poverty if they fail to get an education. Second, because it is in the minority communities that Minnesota will experience most of its growth in the coming years. Unless we can find a way to close the

achievement gap, Minnesota employers will face an increasing shortage of high-skilled talent prepared for twenty-first-century careers. That will affect all of us.

That's why the Minnesota Business Partnership is working with others in the community to advance a limited school choice program exclusively for low-income families with children in a handful of Minnesota's lowest-performing schools.

A bill introduced [in the Minnesota Legislature] last year by Representative Tony Kielkucki and Senator Tom Neuville would apply only to low-income students in "persistently low-performing schools" where more than half the students score poorly on state tests for three consecutive years. Among the requirements for nonpublic schools participating in this pilot project would be willingness to accept students on a random basis; compliance with state testing requirements (paid for by the state); and meeting specific attendance, yearly progress, and parental involvement goals.

The bill addresses a lot of the objections put forward by those who oppose choice. But it also contains requirements that some nonpublic schools will object to. That's fine. Nonpublic schools aren't required to participate. The Archdiocese of Minneapolis and St. Paul supports the legislation. And the Milwaukee experience indicates that once the demand is established, supply will follow.

When it comes to the "study wars," I side with the GAO and the RAND Corporation. There isn't enough evidence to

determine whether school choice can be judged a success or a failure. But under the current system, I see storm clouds on the horizon and raindrops on my windshield. Rather than throw competing studies at each other while another generation of minority students drowns in the rain, it's time for Minnesota to find out for ourselves whether an expanded school choice program can succeed where the current system has failed.

*Duane Benson is executive director of the Minnesota Business Partnership, a nonprofit, nonpartisan public policy group comprised of 100 CEOs leading some of the state's largest employers.*

## **Avoiding Strings**

**Joshua Borenstein**

Headline in the *Star Tribune*, July 2, 2004: "School Vouchers Approved for Use Across the State; Vote Denounced by Local Religious Schools."

No, this is not a joke. No, you haven't walked into Bizarro World. This is a real possibility. If we aren't careful, and we push vouchers at all costs, they could end up blowing up in our faces.

What if all sorts of government strings are attached to vouchers? What if a Mormon school is forced to go against its policy and accept non-Mormon kids? What if a Catholic school is forced to teach sex education? What if a girl in a Jewish school complains that girls are not given the opportunity to study Talmud, and the state says it's discriminatory?

If religious schools lose their rights to teach the way they believe, these are

just the tip of the iceberg of potential problems. No true religious school is going to compromise its standards to accommodate government funding. It will drop out of the program, refuse vouchers, and many kids will end up being cut off from the best educational routes for them. "School choice" could result in *limiting* the options.

Think I'm being overly dramatic? Consider what has already happened in Milwaukee, home of the best (and maybe only) true voucher program. The voucher is usable at religious schools and provides enough money to make a difference for the school. But Milwaukee does not allow a school to turn away a student because of religious beliefs. If a Muslim child wants to attend a Jewish school, it must accept him, even though he doesn't share the school's beliefs or its mission.

Vouchers could be a fantastic provision for families and schools, but we must approach them with caution. We must take the time to do it right, otherwise we face the possibility of being further behind than we are right now. Wouldn't the antivoucher crowd like that?—to push through an unusable plan, so two years later they can say, "See, it didn't work, just like we said." Then our true chance of success will have been wasted.

At this time, tax credits may offer an advantage to this problem, in that they eliminate the government's ability to boss schools around. If the schools aren't receiving government money, they should be able to continue fulfilling their roles and purposes.

While tax credits cannot effect change as well or as quickly as vouchers, they may be the best initial move, followed later by vouchers that come with *much* planning and care.

*Rabbi Joshua Borenstein is finance director of Torah Academy in St. Louis Park, Minnesota, and a member of Presidium, Agudath Israel of America, Minneapolis Division.*

## **Choice Opponents' New Red Herring**

***Morgan Brown***

School choice supporters have always felt the argument that choice programs violate some convoluted interpretation of the First Amendment was something of a red herring. Thus, it came as no surprise when, following the Supreme Court's recent decision, the teacher union lawyer who led the attack on the Cleveland choice program announced that "this legal challenge was never our first line of defense. The First Amendment argument was a means to an end."

With their "church-state" straw man cast aside, choice opponents now face the prospect of potentially having to debate choice initiatives on their merits. Predictably, they have chosen instead to trot out a new series of "red herring" objections in hopes of distracting the media and the public.

One favorite is the easily disprovable claim that choice programs "drain funding from public schools." (Both total and per-pupil spending has risen substantially in the Cleveland and Milwaukee school districts since choice programs were established.)

Some opponents have even resorted to nasty ethnic stereotyping, implying that choice programs will result in American Muslims flocking to publicly funded terrorist academies. (This vile comment appeared in a *St. Paul Pioneer Press* column by a public school social studies teacher.)

But the line that many opponents seem to have embraced is that private schools do not and will not serve children with learning disabilities or other special needs.

Given how patently false this statement is, one can only wonder about the motives of those who make it. Is it their goal to stigmatize the dedicated people who run and teach in private schools as uncaring, uncompassionate, elitist—or worse?

Walk into most inner-city private schools and you'll hear a very different story. Indeed, since many of these schools are faith-based, they often view outreach to needy children as an integral part of their mission.

Thus, private schools already accept "special ed" children, or at least children who were labeled that way before they arrived at the schools' doors. Some of the most encouraging anecdotes from the world of urban private education involve children who were previously classified as learning disabled but are now catching up with their peers after it was discovered that they were just years behind in reading.

Well, choice opponents argue, private schools may take a few difficult kids now, but they'll become much more selective once vouchers are instituted. While such an assertion may

make for a good scare tactic, there is no evidence to support it in any publicly funded choice program existing today.

Programs in Cleveland and Milwaukee serve children from low-income families and, in Florida, children from low-performing schools. Beyond those qualifications, random selection methods are used, effectively prohibiting any additional screening. With such open admission policies in place, these programs have thousands of students with learning disabilities.

Moreover, in Cleveland, the voucher covers 100 percent of the costs for special needs students, eliminating any financial disincentive for private schools to accept them. Florida even has a separate choice program, available *only* to students with disabilities, that allows them to transfer to a private school or another public school.

Perhaps the most revealing examination of this issue is in a 2000 report by Marquette University comparing the admission practices of the Milwaukee Public Schools (MPS) and the Milwaukee Parental Choice Program (MPCP). The MPCP now enables some 10,000 children to attend 106 private schools and is widely credited—even by Milwaukee school board members—with having sparked recent improvements and reforms in the city's public education system.

The report states that "private schools receive no information from eligible students in such areas as academic ability, special education needs, or prior disciplinary action. On a space available basis, private schools in the MPCP must accept any eligible applicant."

In contrast, the report found that “MPS has the final say, *not the parent*, in determining where a special needs student attends school” and that “no MPS elementary, middle, or high school accepts all students with special education needs.”

Given the threat the expansion of school choice poses to their control over the current K-12 education system, we cannot expect the teacher unions and other interest groups to engage the issue honestly. As a result, the choice movement must redouble its efforts not only to describe its vision for the future, but also to tell the story of how disadvantaged children who are already getting a private education—often at great financial burden to their families—are benefiting here and now.

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## **Public Funds for Private Schools**

***Bryan Dowd***

Is the addition of private schools to the menu of publicly funded choices desirable? I believe that, theoretically, the answer is yes, though perhaps for different reasons than most conservatives.

For example, I do not believe that the benefits of choice are derived primarily from increased competition among schools. Some of the problems faced by public schools are beyond their control, and many potential improvements fall prey to higher priorities, particularly job security for administrators and unionized teachers. Competition with private schools

eventually may empty the public schools, but it is unlikely to change them. Thus, the primary *potential* benefit of school choice is not choice of school, per se, but choice of curriculum and learning environment.

My daughter spent approximately equal time in public and private schools in the Twin Cities. She had good and bad teachers in both systems. The difference was that in the public school system, the bad teachers were back the next year. In her Christian private school, every topic was fair game, and the debates were frequent and furious. In the public schools, the curriculum and class discussions were heavily censored.

In an ideal world, I would favor a standard, open curriculum designed to produce students who share a love of knowledge and truth, intimate familiarity with the fruits of hard intellectual labor, and the rewards of helping, and being helped by, others. The standard curriculum would promote the pursuit of objective truth and train students who recognize and reject self-refuting statements such as “There is no such thing as objective truth.”

Students would learn that some systems of religious, economic, and political thought have led to the highest general levels of educational attainment, public health, wealth, and freedom in the history of the planet, and others have led to ignorance, illness, unimaginable poverty, enslavement, and governments that have killed 100 million of their own citizens during the past seventy years. Students would become familiar with philosophical

foundations of each system and develop practical approaches to promoting the former and opposing the latter. In their study of mathematics, students would learn why logic is an enormously useful, but ultimately incomplete, guide to truth. Their exploration of the natural world would be guided by science that was uncompromising in its rigor **and** its honest assessment of its scope and accomplishments.

Unfortunately, this curriculum is unlikely to surface in public schools. The schools that are most likely to emphasize the rule of law and its moral foundations, the unfettered pursuit of truth, the intrinsic and unassailable worth of the individual person, and true freedom of expression are private religious schools. The schools most likely to lay a strong theoretical foundation for ethical business practices, or to detail the unprecedented horror that resulted from combining atheism with powerful governments, are private religious schools.

How will private religious schools in Minnesota fare under the Supreme Court's ruling? The Minnesota Constitution appears to prevent direct payments to religious schools. However, Jon Lerner (*The Controversial Case for Universal School Choice in Minnesota*, Center of the American Experiment, 1993) argues that vouchers might pass constitutional muster, because parents, rather than the government, choose the school to receive their voucher. Lerner may be technically correct, but my guess is that Minnesota courts will

approve vouchers only for secular schools, thereby granting wealthy Minnesotans yet another tax advantage. Serious religious schools probably would be leery of vouchers in any event, if there was any hint that the public funds might carry the same censorship strings that plague public schools.

Public aid might be sufficient to encourage the expansion of secular private schools, but part of what private secular schools sell is socioeconomic homogeneity, and high tuition is one way of achieving it. So in the end, private secular schools probably will remain the domain of the wealthy. Public schools will continue to support their bureaucracies and omit the parts of culture, science, and history that atheists find offensive or incongruous with their worldview. Religious schools will remain the privately subsidized, uncensored alternative.

In short, the impact of the Supreme Court's ruling in Minnesota may be rather limited. I'll sit up and pay attention when the Supreme Court realizes that the Orwellian purge of religion from the public schools, and gradually from public life in general, is equivalent to state-sponsored promotion of a specific view of the relationship between human beings and God, and thus violates the Establishment Clause.

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## Making the Case for Choice

*Pete du Pont*

“Where a government aid program is neutral with respect to religion, and provides assistance directly to a broad class of citizens who, in turn, direct government aid to religious schools wholly as the result of their own genuine and independent private choice, the program does not offend the Establishment Clause.” With these words, the Supreme Court held school vouchers to be constitutional.

In light of other voucher programs (there are over eighty operating in America), the decision makes sense. The G.I. Bill can be used to attend a Catholic seminary. Likewise, low-income day-care vouchers can be used to send a child to a synagogue-run facility, and retirees can endorse their Social Security checks to local churches. All involve federal money, but all are the individual choices of independent men and women. These decisions are little different from parents picking a new, better school for their children.

The war against school choice is not over, for the National Education Association—the teacher union—and a variety of liberal groups have stated that they will continue the fight. But a big battle has been won. Now the question is how a state like Minnesota, or any other state, can take advantage of the opportunity the Supreme Court has created.

The starting point must be a substantial public discussion of why allowing parents to make educational decisions for their children is the right

thing to do. It should be undertaken by governors, legislators, mayors, and community public policy organizations.

The case for parental choice should be obvious, and the liberal arguments against it are not very persuasive. As liberal Wilmington (Delaware) *News Journal* columnist Norm Lockman put it, liberals are hard pressed to argue that “the children of the poor must be prohibited from seeking better education in different schools because it is unfair to the people who are failing to educate them properly.”

But many parents, particularly minority parents, have not focused on the opportunity school choice would give their children. Low-income families who do not have the resources to send their children to private schools still want a good education for their kids, so the argument will resonate. Recall that in 1999, when the Children’s Scholarship Fund offered 40,000 scholarships to kids across the country, 1.25 *million* families applied, including 29 percent of New York City’s low-income families, 33 percent of Washington’s, and 44 percent of Baltimore’s. Since minorities are the group most heavily disadvantaged by failing public schools, school choice is a civil rights issue as well as an educational one. With the Supreme Court’s approval in hand, this is the time for state governments to make the case for choice.

The second step would be to introduce a sound school choice program in the Minnesota Legislature. As in the Cleveland plan, its scholarships should be limited to low-income families, and the voucher amount should be large

enough to make the broadest set of schools available. The maximum Cleveland voucher was \$2,250; its amount varied depending upon a parent's choice of a charter school, magnet school, adjacent public school, or private school. Parents had to co-pay a portion of the tuition if they chose a private school. A higher voucher amount would be better, but in any case a program can easily be designed to fit the educational structure of Minnesota's school system.

Another approach might be to initially make the voucher available to low-income children in a state's failed schools. Recall that under the education bill signed by President Bush in January, low-income students in schools that fail to meet academic standards for two years must be allowed to transfer to better schools. The list of 8,600 such schools across the country was released by the education department in July; 79 are in Minnesota, so that might be a good starting point.

Whatever the mechanism, a discussion of the merits of school choice must begin, focused on a plan that will help the neediest of Minnesota's children. There are any number of plans that would serve children well, but the public debate to engage parents and educate them about the choices they now have must be the starting point. Getting children a better education than the public schools are now providing is one of the best things any state could do for their future.

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## **The Unambiguous Tax Credit**

**Todd R. Flanders**

The Supreme Court's decision is an important step in a gradual march toward greater choice in education. Here in Minnesota, it should give impetus for new and expanded support for choice initiatives. This would be good news for low- and middle-income Minnesota families—those who benefit most directly from choice—and good for all who value freedom, entrepreneurship, and competition.

Choice, as any business knows, drives a market for quality and price because the customer has options. The quality and price of a Quarter Pounder are driven by the availability of a Whopper down the street. There is every reason to believe that fair markets in education would work similarly. Recent research by Harvard University economist Caroline Hoxby showed that Milwaukee's voucher program has improved all schools affected by choice, especially public schools. There are reasons to be skeptical, though, that Cleveland- or Milwaukee-style vouchers are the best avenue for choice in Minnesota. Our state has been an innovative leader in education tax credits. Minnesota could lead again by broadening such programs to bring further benefits of choice, without some potential dangers attending vouchers.

There is nothing wrong with the *idea* of vouchers. The possible problems come from what state legislatures might do with vouchers, or what strings might be attached to them. The

idea of vouchers is simple. The state has an interest in assuring that its citizens are educated, much as it has an interest in assuring that its citizens are fed. But the state need not run all the schools any more than it need run all the farms. Formal education, unlike daily bread, costs more than \$5,000 per year per child (often a lot more), making it inaccessible to most families without subsidy. The state's interest in an educated citizenry justifies subsidies. Vouchers simply provide the subsidies directly to families to purchase education rather than directly to government-run schools to provide it.

The idea of vouchers is also constitutionally solid. The Supreme Court's decision in the Cleveland case should have been unanimous instead of five to four. Families, not religions, are the beneficiaries of vouchers. Only a Court that has for fifty years gone through Houdini-like contortions in Establishment Clause interpretation could have smelled a problem in Cleveland. But a problem was smelled, and the sentiments of dissenters in *Zelman* should give pause to voucher advocates.

Justice Stephen Breyer, joined by two other justices, warned about voucher programs "in terms of religiously based social conflict." He sees the decision leading to "a form of religiously based conflict potentially harmful to the nation's social fabric." Forget that such a view is out of touch with what actually goes on in Lutheran, Jewish, Catholic, and other sectarian schools in Minnesota and every other state. What matters is that many in our nation's elite legal, academic, and media circles think that

way. And so long as they do, there will be pressures on lawmakers to attach strings to voucher programs. In higher education, colleges such as Grove City in Pennsylvania and Hillsdale in Michigan have protected their distinctive and publicly beneficial missions by rejecting state dollars in whatever form, including government grants to students.

The advantage of Minnesota's tax credits is that the money used to defray some private school expenses is unambiguously the parents' money; it has not been "given" to them by the state. An expansion of these tax credits to include tuition at sectarian or nonsectarian private schools would likewise be a matter of parents' money, not state grants.

Both state and federal tax credits should be advocated, because both the state and the nation have an interest in an educated citizenry. It is time to expand school choice opportunities to all families, rather than have it remain the option only of those who can afford to live in excellent school districts or pay private tuitions.

Expanded school choice would bring another, and less discussed, societal benefit: it would interest more parents in the content that schools are teaching their kids. The average parent tends to be more sensible about curricular content than the average university school of education. When parents have more choice in education and become more interested in what is actually taught, good things can happen.

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## **Facilities Make the Difference**

***Gardner Gay***

Not only the state of Minnesota but the entire nation should wholeheartedly adopt a voucher plan.

First let me say that I am a product of the public school system. In fact, I spent grades K-9 in the very same public school system that caused the Supreme Court to make its recent ruling on vouchers, the Cleveland public schools.

Also, I am an advocate for public schools. Not only am I employed by an organization that closely aligns itself with public schools and public school support, but every one of my and my wife's six children attend public school—and we wouldn't have it any other way.

Why am I in favor of vouchers? In part it's because I spent my first ten years as a student in a really bad school system. But, just as important, because I spent my next three years in a really good public school system. The differences were so stark that thinking about it would make most people's head spin.

I'm not going to focus on the teachers. In fact, when I was in the not-so-good school system, the teachers were the bright spot for me. I liked every teacher I ever had in Cleveland.

I'm not going to focus directly on money. Suffice it to say that it boggles my mind that a school district can "lose" millions and millions of dollars, over and over again.

I'm not even going to touch the home life issues, the family economic factors, or the politics that invade all institutions.

What I am going to focus on is facilities.

Some of the core-city school buildings that I've visited across the country create environments that are not conducive to learning: boarded-up buildings that look like they should be abandoned, and paint so dingy and dreary it makes you wonder why they even bothered. That leaves children who attend those schools void of hope.

And where are the computers? Where are the textbooks for everyone? Heck, in some schools you can ask, Where's the library?

Why should our kids have to wait years for someone to fix these things? They shouldn't. Our kids should be able to go where they can use facilities that will make them equal with other children so that they don't wind up long strides behind.

I got that chance, though it was like entering a lottery. I was accepted in a program that selected 200 of 2,000 applicants to receive a good education at a high-quality public high school. What about the other 1,800 kids who applied? They had to go back to the same depressing facilities. They should not have had to do that. Everyone should have gotten the same opportunity to succeed.

That's what vouchers can do.

***Gardner Gay is CEO of the Minnesota ABC Foundation.***

## **Invite Teachers to Own the Challenge**

***Curtis W. Johnson***

As someone closely associated with Minnesota's leadership on school choice in the early 1980s and its invention of the charter school idea in the late 1980s, I am fast to confess readiness to give vouchers to kids stuck in bad schools. And chances are good that unchosen schools will improve. I've interviewed Milwaukee school board members who say the district schools got better after vouchers came.

So greater choice is a good thing. But, in Minnesota, we'd be smart to navigate around this all too predictable and stylized voucher struggle. Instead, we should push on down the road where we're already the lead vehicle.

For nearly two decades now, Minnesota has been gradually making a fundamental change in the "system" of K-12 education, what policy guru Ted Kolderie calls "withdrawing the exclusive." First with the mid-1980s Trojan horse of letting both ambitious and bored high schoolers go to college instead, thus allowing dozens of new, competing learning organizations into the K-12 field. Then came the broader choice prerogatives of the late 1980s.

On the supply side, the 1991 legislature passed the nation's first charter school law. Charter schools, though somewhat bruised on the trip up the organizational learning curve by fragile finances and shaky governance models, are now a part of the permanent institutional fabric.

And while the legislature has twisted itself into a knot, obsessing over the Profile of Learning standards, more choices for students and greater choices for teachers are spreading.

The Minnesota law governing charters permits any of our established non-profit institutions to sponsor a school. Poised to act on this permission are such institutions as the University of St. Thomas, Hamline University, Augsburg College, the Minneapolis YMCA, and the Volunteers of America chapter. Just imagine how many more choices there could be for students if Minnesota's major nonprofits begin to make better education part of their mission. Why not the Guthrie Theater, Walker Art Center, the Children's Theatre, the Minnesota History Center?

What about the educators? When the subject of teachers arises, all we hear about is looming shortages and lagging pay scales. Why don't we face facts? Do the math. Multiply the number of teachers in the public system by the amount of money it would take to pay them at the professional levels they demand. The dollar figure blows away hope.

But there is a way to achieve higher incomes and a real professional experience. And again, Minnesota is actually leading the way. A seemingly radical idea—teachers as owners of the school—has been rattling around these circles since the late 1980s. But it took serious root when the rural Le Sueur and Henderson district created the New Country charter school in 1993 to serve about a hundred students.

The teachers are partners in practice—just like lawyers or doctors, and, if we may still say so, accountants. New Country has no courses, no curriculum, and no employees.

Teachers make all the important decisions: who teaches there, what people are paid, which strategies to use for student learning. Satisfaction survey scores of students and their parents are stratospheric, and the students are all passing Minnesota's state tests.

So here is the basic argument. The system as it stands is on its last legs. It serves some kids well, but no matter how much money flows into it, it fails too many. The schools the system runs may in fact be better than they were a generation ago, but the challenge has outrun the improvement. The system will talk reform but not do it. Those who try from the inside get shut down. What progress is made comes too slowly. The system will hijack reform terms, will promise better results for more money, only to later lament that the job was harder than expected, and that even more money is needed. So the best thing to do with more money is to get a firm agreement with educators not to fight alternatives (such as more charters or teacher-owned schools) to district-operated schools. That's an immediate, tangible, political result.

Half of all new teachers today leave the profession within five years. The key policy challenge: give good ones a reason to stay in the school business. The teachers-as-owners model gives them everything they've ever demanded through bargaining, including better

salaries. And it invites an untold number of those who left out of frustration a reason to return—and *own* the challenge.

The first political party, or the first state, that manages to create a different system alongside the old one will achieve something historic.

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## **Reframing the Debate**

***Ember Reichgott Junge***

The recent Supreme Court ruling that private school vouchers are constitutional creates an opportunity to move from the divisive debate of the past toward a common goal of expanding choices for students. It is a chance to reframe the debate.

Voucher opponents—like me—recognize that private and religious school vouchers are here to stay. We can't hide behind the argument that "vouchers aren't constitutional," at least at the federal level. The debate moves from courts to state capitols, where legislators have considered vouchers for years.

But the political task is not an easy one. Voucher proponents realize that legislators and their constituents have genuine concerns about the cost of voucher programs, the unfairness of schools that accept vouchers not being held to the same standards as other schools, and the tuition subsidy for students already in private schools. These kinds of voter concerns (not the con-

stitutional question) caused past failures of voucher initiatives in Michigan and California.

Both sides could gain from a middle solution that expands school choice while guaranteeing access, quality, and accountability in education. Minnesotans still have much to say about what kind of school choice they value.

For over a decade, Minnesotans led the nation in creating public school options, including public charter schools. We should continue to guarantee as part of any choice expansion that full funding follows the student, that all students have equal access, and that schools receiving public funds are accountable to the public. The Progressive Policy Institute calls this “accountable choice.”

Minnesota’s successful charter school model achieves the right goals. Certainly, it can be improved. But the charter potential to stimulate education reform and innovative choice is stronger than a voucher model. Why? Vouchers merely fund an existing system of private and religious schools. Charter schools stimulate change from the smallest school to the largest school district. Consider:

**Innovation.** If the goal is to give parents and teachers real “freedom to be better,” charter schools are the model. Charter school laws allow someone other than the local school board to create and run a public school. The result? Charter schools are becoming the “research and development” sector for American public education. This fall over 2,700 public charter schools

will operate in thirty-six states, and new ideas keep on coming.

Vouchers do little to encourage new approaches. They simply feed public dollars into a large and structured private system.

**Competition.** If the goal is to drive change in district public schools, public charter schools do it better. In 2001, the U.S. Department of Education reported that *more than half* of traditional districts created new educational programs in response to charter schools. Nearly one-fourth of traditional districts responded to charters by opening new district schools, often designed to meet specific student needs.

Charter schools drive response in district public schools, because the ground rules are the same. Private schools abide by their own rules. It is difficult for one system held accountable to the public to compete with one that is not. Without the same ground rules, vouchers do little to drive change in the larger system.

**Accountability.** If the goal is to increase accountability in education, then public charter schools do it better. In return for waiver of some regulations, charter schools must agree to strict academic standards in a charter and successfully manage school finances and operations. If charter schools don’t perform, they are closed. That’s *greater* accountability than is required of district public schools.

By contrast, private and religious schools neither abide by state regulations nor generally commit to performance standards. They don’t have to.

**Access.** If the goal is to serve all students regardless of family income, ethnicity, or disability, then public charter schools do it better. By definition, public charter schools serve all students on a first-come, first-served basis, and no tuition may be charged. Private schools may select their students and charge tuition.

To give parents real choice, full per-pupil funding must follow students, reflecting factors like poverty and disability. But low-income families receiving a \$2,500 voucher must still raise the remaining tuition—which can be over \$7,000 per year. No voucher proposal comes close to full funding. Admittedly, charter schools may be 15 to 20 percent underfunded compared to district schools, but this fall over 670,000 charter students nationwide will be served without paying tuition.

The choice is ours. We can continue the divisive debate. Or we can work to find common goals and create “accountable choices” to serve the needs of children, parents, and all Minnesotans.

*A lawyer, writer, broadcast analyst, and former state senator, Ember Reichgott Junge is the author of Minnesota legislation creating charter schools, which won the 2000 Innovations in American Government Award from Harvard University and the Ford Foundation.*

## **Markets and Religion: Political Fault Lines**

**Tom Kelly**

In *Democracy in America*, Alexis de Tocqueville wrote that “scarcely any political question arises in the United States which is not resolved, sooner or

later, into a judicial question.” That is truer today than it was 170 years ago. The issue of school choice—whether parents may constitutionally direct tuition assistance from the government to the private school of their choice—is the latest example. The Supreme Court’s decision in *Zelman v. Simmons-Harris* ends the federal phase of the legal battle over school choice.

The issue of school choice touches two of the key cultural fault lines in American politics, and in the American legal profession, at the turn of the twenty-first century. The intellectual foundation of the school choice movement is a belief in markets—in the power of individual choices among competing schools to result in a better education for everyone. It is no accident that the first prominent intellectual champion of the modern school choice movement was Milton Friedman. This belief in the power of individual choice is explicit in the opinions of the Supreme Court majority in *Zelman*. One of the intellectual foundations of the opposition to school choice is the contrary belief, bequeathed to us by the progressives, that individual choice is essentially meaningless in a society dominated by large institutions. That intellectual heritage can be seen in the dissenting opinions.

The second fault line, of course, is religion. All three dissenting opinions reflect the belief that religious differences are a threat to American society. Justice Stevens puts it most dramatically, raising the specter of the Balkans, Northern Ireland, and the Middle East if vouchers may be used to help pay for

elementary and secondary education in private, denominational schools. On the other hand, part of the argument for school choice is that religious faith can play a positive role in addressing some of our hardest social problems. Certainly the results obtained by Catholic schools in educating inner-city kids support the view that a religious environment can be conducive to learning. And the experience of America over the past two centuries demonstrates, to my satisfaction, that religion can be a positive social force without destroying social cohesion if we agree that faith is an individual, not a governmental, matter.

The *Zelman* decision does not resolve the question of whether school choice is good policy. It simply returns that question to the political process, where it belongs. Those of us who champion school choice now must make our case to the public, based on the merits of a system that incorporates parental choice and privately run schools. The policy arguments made by the dissenting opinions in *Zelman* will be raised again in the political process, and balanced against the arguments (superior academic performance and parental satisfaction, for example) in favor of choice. That is how democracy is supposed to work. And for this reason, regardless of the outcome of the political debate over school choice, *Zelman* is a victory for democracy.

That victory may not stand in Minnesota. The Minnesota Constitution (Article XIII, Section 2) provides that:

In no case shall any public money or property be appropriated or used for

the support of schools wherein the distinctive doctrines, creeds or tenets of any particular Christian or other religious sect are promulgated or taught.

The Supreme Court's conclusion in *Zelman*, however, is that a school choice program in which funding is based on the choices of parents does not constitute the appropriation of public money to sectarian schools. Existing Minnesota precedent supports a similar conclusion under the Minnesota Constitution (*Americans United Inc. as Protestants and Other Americans United for Separation of Church and State v. Ind. School Dist. No. 622*, 179 N.W.2d 146 [Minn. 1970]; *Minnesota Federation of Teachers v. Mammenga*, 485 N.W.2d 305 [Minn. Ct. App. 1992]).

If Minnesota adopts either a Cleveland-style choice program or a broad tax credit applicable to parochial school tuition, a challenge under the state constitution is certain. Based on the Minnesota case law, an argument in favor of school choice based on the reasoning of *Zelman* should prevail. But only if it is made.

*Tom Kelly, the Republican candidate for Minnesota attorney general, was a partner at Dorsey & Whitney from 1993 to 2001.*

## **Inefficiency in Design**

### **Bob Kierlin**

Pundits, politicians, and practitioners offer three solutions to the education problem: (1) more funding, (2) elimination of the Profile of Learning, and (3) more school choice through programs like charter schools and vouchers. While I believe these actions have

merit, they would not solve the underlying problem that exists in Minnesota's educational system.

What is the real problem? From my experience in organizational practice, I see the problem as improper and inefficient **assignment of duties** throughout the educational chain of command that supports 90 percent of Minnesota students. Consider the following.

There are five main levels of jurisdiction in our public school system. At the bottom level, and on the front lines, are the teachers. At the next level up are the administrators. Next come the school boards, followed by the Department of Children, Families and Learning (DCFL). Far removed from the actual process, yet atop the hierarchy, stands the state legislature.

In a healthy organization, the teachers would devise ideas for innovation and improvement in their classrooms, then the administration would aggregate and prune these ideas to take them to the board. The board would consider and then approve—on behalf of the taxpayers—the ideas that are fiscally responsible, and the DCFL would administer the funds to the boards that the legislature provided as part of its duty to maintain good public schools.

In practice, the Minnesota situation is somewhat reversed. The legislature—rather than the teacher—claims the innovation prerogative, resulting in mandates like the Profile of Learning. The DCFL has taken on the responsibility for building design, school calendars, and hot lunch programs—projects more appropriate for

competent school boards whose own election implies community trust. The school boards, seeing that their jobs have been confiscated by the DCFL, have taken over the work of the administrators, wading through the minutiae of administering extracurricular activities and writing job descriptions. Administrators, in turn, spend their time filling out reports and job applications. Finally, teachers are frustrated knowing that they could be much more effective without so many standard operating procedures holding them back.

Vouchers will only give some students an opportunity to get off the broken wagon. Scrapping the Profile of Learning does little more than provide prep time to legislators who will concoct some other far-removed scheme to “solve” the education problem. The one great idea that should come from the legislature is simple, yet it represents a shift change in the current mind-set.

The legislature must delegate education to the educators while making the DCFL the legislature's administrative wing for distributing appropriated funds to school boards. The school boards must be free to pass these funds along to administrators wherever the students enroll. This will free school boards from the overreaching powers currently assumed by the DCFL. If the boards take on their proper role of fiscal responsibility and approval of administrative proposals, both board members and administrators should be happier. Good administrators will then

provide the leadership to our teachers to improve their performance and increase job satisfaction.

In a scenario with a proper chain of command, the legislature would see that all education is “public” because our society’s health and well-being depend on an educated populace. The distinctions between “public,” “charter,” “home,” and “private” should diminish. **How** children are educated is not as important as making sure that they **are** educated. The legislature should guarantee maximum freedom for parents and educators to choose the pedagogical method they deem best for the child, subject to an annual measure of performance.

Certainly, the Supreme Court decision in the Cleveland voucher case expands educational possibilities. But until our schools have good leadership structures, additional choices may not be the single variable that produces results.

*State senator Bob Kierlin is CEO of the Fastenal Company and president of the Hiawatha Education Foundation.*

## **Big Win for School Choice**

***Mary Kiffmeyer***

Because of my own background and experiences as the mother of four and grandmother of ten and the oldest of fourteen children myself, I feel strongly that every child should have as personalized an educational experience as possible.

To some extent, a diversity of teaching methods is available within the public schools, but monopolies—especially

government-run monopolies—never provide the greatest possible number of choices. The diversity of educational possibilities is broadened when public schools, and also private secular schools, private religious schools, home education, charter schools, and other options are available.

In Minnesota, all of these options are available. The issue is **access**.

My husband and I chose to use public, private, and home education options for our own children, and I think the combination was a winner for our family. Still, not every family has the luxury or the ability to gain access to the array of educational opportunities. This is why I was so pleased to hear about the Supreme Court’s ruling regarding the Cleveland voucher program.

It is my hope that Minnesota and all other states will fashion programs like the one in Cleveland so that poor families will have available an array of educational choices and that underprivileged children across America will enjoy the individual education they need to achieve their potential.

This isn’t to say that I think any Minnesota school choice program should be limited to low-income students. To the contrary, I think school choices should be open to anyone who wants to use them. Indeed, to make school choice programs politically most palatable, lawmakers probably would be well advised to make them widely available.

Future voucher and tax credit programs should be as inclusive as possible in terms of the expenses they cover.

They should include all education costs, including tuition. They should be structured in a way that is easy to use, especially for low-income people; vouchers may be more practical than tax credits that require an up-front family expenditure.

However a school choice program is structured, the monetary amount of the tax credits or vouchers should more closely match the amount that the state assigns as the cost to educate each pupil.

To assign tax credits or vouchers, especially to low-income families, for something less than what the public school system assigns as the cost of educating them is unfair. It restricts the exercise of choice and hinders low-income students from benefiting from all of the education options.

This is particularly true for special-needs students. When private schools admit special-needs students, they should receive the full amount that the state assigns as the cost of educating those students. I feel very strongly about this, as one of my sisters is developmentally disabled.

One fear I have is that school choice advocates, in their zeal to enact choice options, might overlook shortcomings or overstate benefits. This gives antichoice forces a reason to criticize, nitpick, and defeat choice initiatives in the arena of public opinion and in the legislative process.

Advocates must acknowledge and answer the concerns of school choice opponents and state reasonable expectations for the results of school choice. We must present concrete evidence of

overall success and be prepared to produce real-life examples of people who have benefited from school choice. The best examples are ones that confound the critics' concerns—demonstrating that school choice benefits special-needs students, for example. At the same time, we must show that children from families not participating in school choice programs are not harmed.

In the wake of the Supreme Court's recent decision, we must work hard to ensure the most progressive, most personalized, and most practical implementation of school choice.

*Mary Kiffmeyer is Minnesota's secretary of state.*

## **Let's Take Tax Credits to the Next Level**

***Cal Larson***

It was easy to find similarities between the Supreme Court and World Cup Soccer this summer: intricate maneuvers, lengthy gaps between moments of decisive action, and, in the end, only razor-thin margins between victory and defeat. Sometimes the outcomes of such contests even led to civil unrest, and there certainly must have been more than a few teacher union officials ready to take to the streets like disappointed German fans when the Court ruled 5–4 against them and for students in the *Zelman v. Simmons-Harris* voucher case.

As Harvard-based scholar and former Minnesotan Paul Peterson has noted, "In many cities and most states, and over the opposition of every interest group with a stake in the educational

status quo, the new byword of reform is choice.” Peterson made an important appearance before the Minnesota Senate Education Committee back in 1996 when former governor Arne Carlson, who broke precedent and personally testified himself, was promoting a plan to create a school choice pilot project for low-income students who were struggling academically.

Carlson had a lot of heart for this issue because his life was so significantly affected by the gift of an outstanding education that under normal circumstances would have been far out of the reach of his family’s ability to provide or obtain. In 1997 he modified his approach and triumphed on the issue of education tax credits, which did not go as far as covering tuition payments but nevertheless opened up new learning options for thousands of schoolchildren.

And now we have *Zelman*, which is another promising development in the notion that at the end of the day, our main focus has to be on what is best for the kids and their families. Of course *Zelman* does not create a “right” to a voucher, but it assures Americans that even this highly charged school choice option can be implemented properly and within the scope of our cherished Constitution. The Supreme Court’s blessing of the Cleveland voucher plan, which includes nonpublic, religiously affiliated schools, is likely to result in making ever broader school choices a more accepted and less radical part of the education landscape.

So, with *Zelman* momentum at our backs, is it time to dust off that Carlson

voucher plan from 1996? No doubt such a proposal will at least be introduced in the 2003 legislature. But there are valid reasons for school choice proponents to not take this course but instead to build on the Carlson legislation that was actually enacted—the education tax credit.

After all, a single Supreme Court decision does not entirely change a political culture overnight when that culture has been—at its most generous—ambivalent about vouchers. Further, likely state regulation of voucher schools will alter their fundamental character and independence, and, lastly, the Minnesota Constitution contains language not found in the national document that would almost certainly keep the issue tied up in state courts.

We can make the most of the *Zelman* decision by taking the education tax credit to the next level. Income eligibility limits should be removed so all families are treated fairly (just as all families are not charged public school tuition) and the tax credit should be allowed to offset tuition expenses. The Mackinac Center in Michigan and the Cato Institute in Washington, D.C., are prominent supporters of education tax credits, which preclude government regulation of nonpublic schools and create the conditions for educational excellence: parental choice and responsibility, freedom for educators, and a vibrant education marketplace open to all.

*Cal Larson of Fergus Falls has been a member of the Minnesota Senate and the Senate Education Committee since 1986.*

## All Options for Everyone

**Harry Mares**

Education does not begin in Washington, D.C.; it does not begin in our Capitol in St. Paul. Education always has begun and always will begin at home. It begins in our living rooms and in our kitchens. Even the best schools are not a substitute for parental involvement and support. Not every teacher is a parent, but every parent is a teacher. All parents need to realize they are teachers.

The recent Supreme Court decision upholding vouchers reflects this understanding: that the primary responsibility for a child's education rests with the parents of that child. And with that responsibility there should be some freedom to decide which educational setting is best for their child. Moreover, a family's income should not be a barrier to a child's getting a high-quality education.

Minnesota already has educational choice. Public school or private school, charter school or religious school, home-school or cyberschool. These are all choices in education currently available to some, but not all, students. Minnesota has been at the forefront in providing options to parents and students. We led the nation by starting the charter school movement. We have open enrollment: a student can attend school in a neighboring district if that district has the space. We have postsecondary enrollment options: high school students can take college courses and earn dual credit. There are many choices in Minnesota,

but some choices are not available to some families.

I grew up in Racine, Wisconsin, and attended a Catholic grade school and high school. It was important to my parents that I receive a good education along with religious instruction, which the Catholic school provided. As an adult, I was a public school teacher for thirty-six years and sent my own children to the public school in White Bear Lake. It was a choice my wife and I made, and we were pleased with the education they received.

I feel very fortunate that my family was in a position to make these choices. And that's what they were: choices.

Some parents are not so blessed. They may be sending their child to a school where many of the third grade children cannot read, and they do not have the option to enroll their child in another school in the district because there are no open slots. They may have their child on a long waiting list for one of the many successful public charter schools in our state, hoping their child will get in before the next school year starts. They may want to send their child to a private school in their neighborhood but may not be able to afford the tuition.

Since parents are responsible for their child's education, every type of option should be available to all families.

In Minnesota, we have education tax credits and deductions that provide parents with some powerful choices in their child's education. The tax credits can be used for education-related expenses like tutors and academic summer camps.

The tax deduction can be used for the same expenses as the credit, but parents can also deduct some of the expense of private school tuition. The legislature should look at expanding this program by increasing the eligible income level, allowing a credit for private school tuition, and increase the credit and deduction amounts.

Expanding the education tax credits and deductions may be a more complicated approach to school choice than vouchers, but it truly puts parents in the driver's seat with respect to their child's education. A parent's involvement in a child's education needs to be respected and encouraged. Education begins at home, and education tax credits and deductions provide parents with the tools to help their child be successful in the classroom.

*Representative Harry Mares chairs the Minnesota House Education Policy Committee.*

## **From Down Here at the Grass Roots**

***Elizabeth Mische***

My response to the Cleveland voucher decision is not that of a free-marketeer or a constitutional scholar or a partisan politico. It is the response of Somebody's Mother, with fifty-two collective years of personal experience with public K-12 education. The Supreme Court ruling comes too late for Minnesota to provide my own children with access to the education they deserved and I desired for them, but on behalf of Other People's Kids, I say, "Vouchers—yes" for entirely parental reasons.

Although suburban and outstate public schools worked well enough for my three daughters to be admitted to and excel in competitive universities and graduate schools, they were not good enough. I understood this when my children were in grade school and I was a single parent attending graduate school. I understood that the factory-farm high school they later attended in an affluent suburb was not good enough.

I considered using private schools without religious affiliation. These schools could help me meet the cost of attendance—but even with scholarships we were short a few thousand dollars. I knew my children's needs, but the state kept their funding earmarked for the educational establishment represented, at that time, by only two unions. Today, a single union speaks for Minnesota teachers.

We wrestled the girls' way into post-secondary enrollment options classes at the University of Minnesota as a way of surviving senior year and a paucity of language instruction. We endured the seven minutes dedicated to each student at conferences, and the dumbness of getting recommendations from counselors who had never seen them before they filled out the college forms. We gnashed our teeth when program after program was adopted and abandoned, as teachers sought creativity, professional satisfaction, and "ownership" of school policies and practices. We narrowly escaped the Profile of Learning.

Ironically, my three self-motivated daughters are among the students now cited as a credit to the public school system, though I taught them to read, and

to read critically, and to write as well as they do (which is not well enough). What did parents who had no money and less knowledge than I had do? They put up with what was there, and their children may or may not have fared as well as mine. Our children were used as human shields in the establishment's publicly avowed battle to protect public education as it is now constituted. I know the claims against vouchers: that allowing parents to vote with our feet and our share of the public purse would doom other children to even worse schools. That the rich benefit disproportionately from a voucher program. That we should, instead, stay in the existing monopoly and improve it.

But other children are going to have increasingly worse schools even *without* vouchers to provide school choice, if my observations and the law of diminishing returns have any validity. Protecting the status quo is what bureaucracies like teacher unions and school systems do, and the status quo almost inevitably falls heir to diminishing returns. One fails in one's duty if one allows one's own children to go down with that boat if there are alternatives.

Children should not be expected to stay while the public schools work on twenty-year improvement programs. An institution's life span permits it to take all the time it needs to improve the fifth grade, but Sarah and Rosie and Anna have to be in the best fifth grade class their parents can find *now*—they won't get another fifth grade year. Nor should the children of the poor be forced to provide the

superstructure that allows public school teachers, legislators, and other public employees to send their own children to the schools of *their* choice with money earned at public expense.

My family has tended to fall in the economic margin of too little for choice, and too much for assistance. If means testing for vouchers will be cumbersome to administer or slow down the political will to make vouchers a reality in Minnesota for children of nonwealthy parents, then I can better live with the affluent having vouchers, too, than with the rest having none. If teachers and administrators and union lobbyists, public relations professionals, and the collateral workers they support feel beleaguered as families of all provenance and income leave them to fend for something better, I can live with that—and so can they.

You don't have to be Somebody's Mother to understand this, but it helps.

*Elizabeth Mische, a college English teacher, is executive director of the Partnership for Choice in Education.*

## Vouchers Are a Bad Idea

*Roger Moe*

The recent 5–4 Supreme Court opinion concerning vouchers for private schools is disappointing. Voucher schemes, like the Cleveland program, are still a bad idea and will siphon public tax dollars away from our public schools. Instead of supporting the 350 public school districts and 850,000 schoolchildren (80 percent of all children in the state), voucher schemes would direct

Minnesota's public tax dollars to fund private schools. These private schools are not required to hire certified teachers, meet academic standards, or publicly report their test scores.

I believe that the Court's unfortunate decision will not change the lack of public support for vouchers schemes, nor will it make the diversion of precious resources away from already cash-strapped schools any more palatable to those who value a high-quality education for all our students. Vouchers would force taxpayers to support two separate education systems: one (public) that will be drastically underfunded and that is required to educate all our children, and another (private) that has no accountability measures to ensure that public money is spent wisely.

Supporters of vouchers argue that these programs would allow poorer students to attend private schools previously available only to the middle and upper classes. A responsible analysis of the facts tells a much different story. With some private schools charging \$10,000 per year, poor families will not be able to make up the difference between the voucher amount and the tuition costs. The Cleveland voucher, for example, is \$2,250 per year. Most states are not prepared to put millions into a voucher program. During a budget crisis, this option seems especially unlikely.

Vouchers are absolutely not the only way to improve ailing inner-city schools. These schools need investments in proven educational programs such as small class sizes, early childhood and after-school programs, tech-

nology innovations, and recruitment and retention of talented, well-trained educators. Minnesota has been a leader in these efforts. We need to continue our successes and increase that commitment. Minnesota already has excellent school choice options available to students and parents. We have charter and magnet schools, open enrollment and postsecondary enrollment options, choices that do not undermine our public school system.

Private schools do not face the same costs that public schools do. Public schools accept every student who comes through the door regardless of educational or economic need, creating funding concerns that are often not faced by private schools. For example, Minnesota already carries a \$250 million special education deficit, and a voucher program would do little to ease that burden.

Any voucher proposal in Minnesota would face tough public scrutiny. Voucher proposals have not been popular with the public. Since 1972, citizens across the country have had a chance to vote for vouchers seven times in statewide referenda; voters have turned them down all seven times. Voucher proposals have also had little legislative success over the years. Twenty states have introduced voucher bills, but only two have enacted them into law. As recently as 1995, the Minnesota Legislature rejected a voucher proposal.

Minnesota public schools are the backbone of our state's democratic system, helping all of our young people grow to be productive citizens. Our

state has a long tradition of providing strong, high-quality education programs—both K-12 and higher education—as a basis for a well-educated workforce. Now is not the time to undermine our public education efforts with a proposal that will harm a successful system.

*Roger Moe, majority leader of the Minnesota Senate, is the DFL-endorsed candidate for governor.*

## Ending Apartheid in Education

**Mark Myles**

The Supreme Court's school voucher decision will increase opportunities for poor children just as *Brown v. Board of Education* increased opportunities for black children.

I once believed that public education offered the same hope to poor children that America offered to early immigrants. I remember my emotion when I first read the words of Emma Lazarus on the base of the Statue of Liberty—"Give me your tired, your poor, your huddled masses yearning to breathe free"—and thinking that this too is the mission of public education. While the American dream still holds promise for immigrants, public education offers too little hope for too many of our nation's poor children.

In the Minneapolis public schools, less than half of students who make it through eighth grade graduate from high school. In the Cleveland public schools, less than one-third of students who make it through eighth grade graduate from high school.

Virtually all who don't graduate are poor, and low graduation rates are not restricted to minorities. Only 32 percent of Cleveland's white students graduate from high school. More than ever before, if you don't succeed in school you don't succeed in life, and as a nation we can no longer afford to undereducate a significant portion of our population without peril to our way of life.

Without fixing blame on schools, parents, teachers, or kids, let's simply admit that what we are currently doing leaves too many kids behind. Public schools are neither bad nor good; they are both, depending on who you are. Now that the Supreme Court has removed the constitutional impediment to school vouchers, we can loose the forces of customer choice, competition, and free enterprise. With the future of so many children at stake, we must quit shielding public education from the very forces that have improved performance and sparked innovation in every human endeavor, including education. Competition has made our higher education system the envy of the world.

Above all, this is America, a democratic capitalistic country. **Democratic** means you are free to make choices. Americans value deeply their right to choose everything from the way they worship to what they read. Capitalism implies multiple suppliers competing for the business of free people called customers.

Choice of schools among competing multiple suppliers is not an option for most parents. Only the affluent can choose private schools or move to the

suburbs and find better public schools that work for their kids. Some see the present public school system as a protected monopoly with captive customers run by and for powerful special interest groups.

In 1890 the Sherman Anti-Trust Act outlawed monopolies in most other endeavors because we came to a national consensus that monopolies result in lower quality and higher prices. We will someday look back on the forcing of poor students to attend public schools that don't educate them as incredulously as we now look back at racially segregated schools. By denying choice for most, we have perpetuated educational apartheid for many.

Diane Ravitch, one of the nation's foremost historians of education, writes about a hundred years of failed school reforms in her recent book *Left Back*. Minnesota's ten-year, hundreds-of-millions-of-dollars-later failure to enact meaningful graduation standards is living testimony to the system's inability to change. Vouchers offer the best potential to help parents select better schools for their children, but expect continued fierce opposition from public education's powerful special interest groups.

Fearmongering has already begun with claims that vouchers will drain the best students from public schools. The same groups made the same claims when they were faced with charter schools. The fact is that charter schools locally, statewide, and nationally enroll a higher percentage of poor students, minority students, non-English-speaking students, and students with disabili-

ties. Schools that accept public voucher students will not be able to screen students on any basis under the Emma Lazarus "give me your tired, your poor" doctrine. The Supreme Court has made separation of church and state a nonissue. As for draining resources, existing systems will have to become more efficient and work harder at retaining customers. Welcome to the real world.

Some think school vouchers are extreme. I do not. Thirty years in public education taught me the impossibility of changing systems with too few incentives or consequences. To paraphrase the late Senator Barry Goldwater: Extremism in order to educate all children is no vice; the continued defense of a system that does not educate so many is no virtue.

*Mark Myles was superintendent of the Duluth public schools from 1994 to 1998. This essay originally appeared in the Duluth News Tribune.*

## **Public School Options Pay Off**

***Joe Nathan***

What should states do in response to the Supreme Court's *Zelman* decision? Based on a new study by the University of Minnesota's Humphrey Institute, along with issues not dealt with in the study, states should adopt several successful Minnesota school choice programs, and work hard to get information to families. But I hope states won't rush into vouchers or tax credits. While bureaucracy can be overwhelming, badly designed or badly monitored

school choice plans could have disastrous results.

Some people would provide tax credits or vouchers to support attendance at just about any school parents select. Our research suggests that it's vital to review academic performance and financial practices regularly.

We found that some Minnesota schools serving previously unsuccessful students squandered money. In one case a school district didn't check on the director of a proposed contract school; he had been found guilty of fraud via swindle. The district gave him several hundred thousand dollars for the school, which did not survive its first semester and left huge unpaid bills. Another contract school director with fewer than 300 students paid himself almost \$200,000 a year, far more than any district superintendent.

Some school choice advocates would fund a school if parents want to send their children to the school. Bureaucratic rules can be counterproductive, and unnecessary, but a loosely monitored school choice plan probably is *not* a good idea.

Our study shows that school choice can have excellent results. The study, by Penn State professor Bill Boyd, the Humphrey Institute's Deb Hare, and me, examined Minnesota's four statewide school choice laws: Post Secondary Options (1985), Second Chance Laws (1987), Open Enrollment (1988), and Charter Public Schools (1991). (The report is available at [www.centerforschoolchange.org](http://www.centerforschoolchange.org).)

Youngsters who participate in programs such as postsecondary options,

charter schools, open enrollment, and "second chance" options often improve their performance. School choice programs also help to improve the broader public education system. Critics who predicted doom when these programs started usually were wrong. There were some problems, but overall, as one editorial noted, these choice programs have "paid off."

More than 30 percent of Minnesota's grade 7–12 students now use one of the state's school choice laws, and the number is growing dramatically. Since 1988–89, the number of Minnesota K-12 students increased 17 percent. Meanwhile, the number of students using statewide school options grew more than 1,300 percent.

School choice helped improve district schools. For example, postsecondary options helped convince many high schools to offer new advanced placement, international baccalaureate, and College in the Schools courses. The 785 percent increase in Minnesota students taking advanced placement exams since 1989 is more than twice the national increase. More than 80 percent of postsecondary options students say that, given the choice, they would participate again.

Most dire predictions from choice opponents were wrong. Opponents predicted, for example, that public school choice would hurt students with disabilities. Yet research by University of Minnesota professor James Ysseldyke, initially a choice skeptic, found that choice programs helped students with disabilities. Opponents also predicted that charter schools would be

“elite institutions,” but charter schools serve a significantly more racially diverse and low-income student body than the state’s district-run public schools.

Our study also found that parents and students are seeking more information about school options. It’s currently difficult for many families to get information about existing options. Moreover, many families say it’s hard to decide among existing options. More information and assistance are vital to help families understand and use options.

Our report did not deal with several vital issues that still need to be examined. For example, which schools should be allowed to participate in publicly funded choice plans? A recent story in *American Enterprise* magazine reminded us that some Americans hate others and have schools supporting their philosophy. Should taxes, or tax credits, be used to support such schools? I’d say no.

Should some publicly funded schools be allowed to use admissions tests, while others must accept all or a random sample of students? A few public schools use an admissions test. So do many private schools, and some parochial schools. I think there should be a “level playing field”: any publicly supported K-12 school should be open to all kinds of students, not just those who can pass admissions tests.

While school choice can help individuals and the overall system, a poorly designed school choice program could create more problems than it solves. The most effective plans must include

careful monitoring, a level playing field, good family information, and boundaries within which schools must operate.

*Joe Nathan is director of the Center for School Change at the University of Minnesota’s Humphrey Institute of Public Affairs.*

## **We Owe It to the Children**

***Peter Noll***

The recent Supreme Court decision acknowledging the constitutionality of the Cleveland school choice program marks a new beginning for American education, clearing the way for creative and important educational reform. Perhaps most importantly, this decision recognizes that parents are best equipped to decide what school best meets the needs of their children.

Up until now, school choice has been a privilege enjoyed by families with the economic means to either afford private school tuition or move to areas with high-quality public schools. Families lacking these means have had no choice, in many cases trapping children in failing schools.

There is no single perfect school for every child or one-size-fits-all educational solution. The more choices parents have, the better the chances are that they will find the right fit for their children. Genuine choice enables parents to help their children learn and encourages all schools to succeed.

Despite great strides and concerted efforts, public schools—particularly in urban areas—have not always provided access to the kind of education that allows young people to succeed. School

choice programs have the potential to expand opportunity for children and raise educational achievement. Furthermore, in areas where choice programs exist, the added benefit of competition has increased the quality of public schools, as choices and competition fuel innovation and improve quality in the business community. So why would anyone oppose school choice programs?

Opponents have claimed that, among other things, school choice programs breach the separation of church and state and result in reduced funding for public education. While the Supreme Court has now addressed the first contention, the second has been the subject of significant research. The Washington, D.C.-based Institute for Justice reports that in Cleveland and Milwaukee, where school choice programs are in place, public school spending has actually grown. In addition, they note that in these same communities, academic achievement has improved across the board as a result of expanded educational options.

One challenge in Minnesota is to counteract the trumped-up arguments and fear-instilling tactics of the powerful oppositional lobbying groups that strive to preserve the status quo, even at the expense of incarcerating low-income families in low-performing schools. Another is to negate language inculcated into the Minnesota Constitution that prohibits direct government revenue to sectarian schools. This is an antiquated nineteenth-century article in the constitution that is blatantly discriminatory and needs to

be purged or perhaps interpreted by the courts as not precluding the use of government revenue by individual families choosing to send their child to a sectarian school.

School choice will undoubtedly be a contentious issue during the upcoming legislative session. And while there are many stakeholders involved in this issue, it is vital that all parties remain focused on the most important stakeholder—the student.

Our great state is no stranger to educational innovation. From charter schools to open enrollment to advanced placement, Minnesota has consistently led the nation in reform initiatives. School choice is a logical extension of this legacy. The Minnesota Catholic Conference supports an array of choice options, including vouchers underwritten by corporations and individuals, who, in turn, would receive tax credits for their gifts; government-financed opportunity scholarships, especially those that target low-income families; and an expansion of our current education tax credit program so that it covers tuition for non-public schools. Existing school choice initiatives in Milwaukee, Cleveland, Pennsylvania, Arizona, and Florida offer prototypes that might be adapted to Minnesota's political and educational landscape.

We all share the responsibility to educate our youth. Regardless of one's position on this issue, we can all agree that a high-quality education is a solid foundation for lifelong success.

The most critical issue is not whether school choice is manifested as

scholarships, tax credits, vouchers, or some combination of these options. What is essential is that educational options be expanded to serve all our children and the common good.

*Peter Noll is education director at the Minnesota Catholic Conference, the public policy voice of the Catholic Church in Minnesota.*

## **A G.I. Bill for Kids**

### ***Sally C. Pipes***

The long-awaited Supreme Court ruling that a Cleveland school choice plan is constitutional is an emancipation proclamation for children, a blow against the failed government education monopoly, and a lesson for policy makers in Minnesota and across the nation.

In many places children are trapped in failed, dangerous schools such as those in Cleveland. The schools there were so bad that a federal court shifted control to the Ohio state legislature, which in 1996 decided to give choice a chance. The plan targeted some 4,000 low-income parents, 75 percent minority, with incomes under \$20,000. Single mothers head 70 percent of the families. The plan provides a voucher of up to \$2,250 to help pay for tuition. Most of the parents opted to send their children to private parochial schools, for good reason.

The schools charge no more than \$2,500 per year, and parents can afford them. But these schools also have a record of achieving better results than the government school system, even though they spend much less. The

scholarships were valid at any school, but local public schools refused to accept any voucher students.

Since the plan allowed parents to choose private religious schools, opponents argued that the program violated the Establishment Clause of the First Amendment. In 1999 a federal judge struck down the Cleveland choice plan, sending the case to the Supreme Court, which has now ruled that since parents, not the government, decide where to spend the voucher money, there is no direct government aid to religion and no constitutional violation.

As the Cleveland and Milwaukee choice plans confirm, choice helps children achieve and does not, as opponents charge, “take money from public schools.” Neither does it promote elitism or segregation. There was never any academic, financial, or practical reason to oppose choice, and now there is no legal reason. There never should have been in the first place. Future generations will wonder why it took so long to extend personal choice, a cornerstone of American life, to schoolchildren and their parents.

Legislators and policy makers should ignore the furious reaction from the antichoice education establishment, especially from those who send their own children to exclusive private schools. Choice opponents are on the wrong side of the civil rights issue of our time. Armed with the high court ruling, which amounts to a G.I. Bill for children, legislators should now make parental choice in education the cornerstone of their policy.

As the choice plans in Milwaukee and Cleveland show, choice promotes student achievement and parental satisfaction. Both will increase as choice expands, but legislators must take into account past experience. Instead of the large-scale efforts that have failed at the polls in California, legislators should follow Cleveland's example and start with a limited plan for low-income students in the worst schools.

As Milton Friedman notes, increasing the voucher to \$7,000, or whatever the state spends on each student per year, would give parents more latitude. If they so desire, they may select a government school. With a captive clientele and a steady flow of taxpayers' money, despite poor results, these schools have had little incentive to improve. They will now have to improve if they expect to attract students. Choice thus becomes a way to reform the government schools.

Tuition tax credits are not in conflict with choice and should be expanded to include as many students as possible, in government and non-government schools. Choice will also give charter schools a much-needed boost.

The liberal opposition to educational choice is hypocritical. Food stamps are vouchers that allow low-income people to buy food at the store of their choice. Government housing vouchers do not oblige the recipients to seek lodging in a government barracks. Vouchers that allow needy parents to choose better schools should find no opposition from supporters of these programs. Educational choice

programs must not be limited—as other vouchers are—to any particular group or just a few cities.

Legislators should not rest until all parents in America, as part of their basic civil rights, are empowered to choose the school that best meets the needs of their children. The Supreme Court ruling on Cleveland will help make that a reality.

*Sally C. Pipes is president and CEO of the California-based Pacific Research Institute.*

## **Education Is Power**

### **Greg Pulles**

The Cleveland voucher decision is a landmark, but the legal logic is not startling—it seems so obvious that the government is not establishing any religion by giving parents money to educate their children, anywhere they want and however they see fit. They can send their children to a secular school or to any religious school of their choosing. The decision **does** break significant new ground in the effort to awaken the parents of children disadvantaged by the existing system.

If most parents are happy with the public schools their children attend, they shouldn't be. Parents should expect better than the Profile of Learning and a dumbed-down curriculum based on process and learning to learn (versus content); “hands on, everyday” math versus traditional hard core mathematics; and the deletion of history and geography and all the other essential elements of a classical liberal education. But the reality is that most parents are happy with their children's

public school. Wayzata parents just don't know that the "Trojans" aren't learning anything about Greece. The teachers they meet are wonderful, their children all get A's and B's (all are above average in Wobegon), and they all graduate on time.

And so the reality in Minnesota is that public schools are here to stay. The city schools, however, will eventually close, and they should. The Cleveland voucher decision has finally awakened those Minnesotans who suffer most from the existing public system—African Americans.

Education is power. In the last half of the twentieth century, African Americans rose up and defeated outright bigotry and segregation and legally enforced second-class status. They rightfully asserted their right to dignity. But dignity is not power. Education is. The reality of our increasingly high tech world is that underrepresentation in the acquisition of real skills (not a diploma)—the ability to read, write, and do math at a highly proficient level—will continue to result in underrepresentation in high-paying jobs. The data are very clear that African Americans as a group are way behind in the acquisition of these skills. Only slightly more than 30 percent of African American fourth graders can read at the basic level. Only 56 percent of African Americans graduate from high school "on schedule." And while many young African American men and women eventually obtain diplomas or graduate equivalency certificates, these individuals start their adult lives at an educational disadvantage.

The public schools in the city—and the good people who work in them—have the deck stacked against them.

First, the lawyers have gotten the Supreme Court to outlaw most effective disciplinary measures—can't expel, can't require uniforms or standard dress or short hair. Faced with the delays and time and trouble of the ACLU-mandated due process at every disciplinary turn, teachers have surrendered their schools to the students. When discipline leaves, so do good leaders, the best students, and homework. The curriculum suffers as well. Faced with the inability to get students to do homework, the desire not to flunk them (put up with *him* for *another year?!),* would you as a teacher make the subject matter easy or difficult?

Second, the geniuses at Columbia University's Teachers College have dumbed down the curriculum, and that has hurt the inner-city public schools the most. Over a hundred years ago, American education took a giant wrong turn with the "reformer" John Dewey, who took content out of the system in the name of teaching process, or "how to learn." The result today is an unmitigated disaster. The content-free Profile of Learning is the bloom on the flower of ignorance.

African American parents will ultimately and rightfully demand that they be allowed to direct where the money for their children's education will be spent. They will close the public schools in the city when they finally have had enough of substandard education. African Americans now know they do not have to settle for a public

education system that deprives their children of equal educational opportunity. Bless the Cleveland voucher decision for lighting a fire.

*Greg Pulles is vice chairman and general counsel of TCF Financial Corporation.*

## **The Religion of the Public School**

**Albert H. Quie**

*Wisdom is proved right by her actions.*

—Matthew 11

What an opportunity the Supreme Court has given public schools with its decision to approve school vouchers. Too many people in public schools have had the attitude that one of the ways to make sure public schools have enough revenue to function well is to make sure nonpublic schools receive no revenue from tax dollars. It seems to be an article of faith.

Now the Court's decision offers another exciting possibility. Envision public and private (including parochial) schools going together to the legislature in search of equality for both systems. Both are attempting to fulfill the mandate of the human heart for the academic, moral, and social development of our children.

There was a similar breakthrough in 1965. Federal aid to education at the elementary and secondary level had always been stymied. President Johnson brought together not only public school leaders but also private and parochial school leaders, and together they designed the Elementary and Secondary Education Act (ESEA). The

coalition was so strong that the law was passed in both the House and the Senate without amendment. If public school leaders are willing, that same ecumenical cooperation and dialogue could return now that vouchers are constitutional.

After ESEA was passed in 1965, I met with educators in Rochester, Minnesota, the center of my congressional district. They wanted to discuss the law and its impact on their schools, especially since I was a member of the U.S. House Committee on Education and Labor. Private and parochial schools were eligible for federal help in many ESEA provisions, especially educational materials.

When I arrived at the hall, I noticed a number of nuns sitting together, and I went over to visit with them before the meeting began. I stated my surprise and pleasure that public and nonpublic school educators were meeting together in Rochester. "How often do you get together?" I asked. "This is the first time," they replied. Both a great sadness and a great hope came into my heart.

Sadness because dedicated educators were not sharing their skills and dreams in order to enhance the learning of all children. Can you imagine doctors and nurses in public hospitals not meeting with doctors and nurses of church-related hospitals?

But hope, too, because the ice was broken.

I had voted against the Elementary and Secondary Education Act of 1965. At that meeting I made up my mind: in the future I would support the act and

try to amend it so it would function in the most equitable and effective way possible. How I wish the recent Supreme Court decision had been available to us then. While education legislation will always be controversial, my heart is lifted when I see a young woman achieve because of special help she has been given, or when an older man remembers the teacher who got through to him, or when I recall how a minority person once said to me, "If not for the nuns, I'd never have made it."

Public school people need not fear the loss of public schools. Public schools are such a part of the warp and woof of American society that it is practically a spiritual belief. I call it the religion of the public school. The Supreme Court decision could, in fact, have the same impact as Vatican II. There had been great difficulty among religious faiths prior to Vatican II in the 1960s, but the unity and cooperation that have occurred since then are revolutionary. It will take similar leadership on the part of the largest school system—the public schools—to bring about this kind of openness in education.

Great and dramatic changes will take place in education, but leaving children behind is unconscionable. That is the worst crime we commit as a society. We must give our disadvantaged children the same opportunity of choice—full choice—that motivated people of means have. We must recognize that human beings and institutions (including public schools) do best when they are challenged the most.

But competition will not solve all our education problems. Cooperation

and reaching out to others are even more powerful in the human spirit, and the results are more long lasting. Here is an opportunity to do in education what we have been prevented from doing in the past.

*Albert H. Quie, a member of the U.S. Congress for twenty-one years, was governor of Minnesota from 1979 to 1983.*

## **A Green Light for Choice**

***Lawrence W. Reed***

In upholding the constitutionality of the Cleveland voucher program, the Supreme Court affirmed that it hardly constitutes a government establishment of religion if religious schools are among the choices parents can freely make. By implication, government schools do not have an automatic claim on a child's education superior to the choice of his parents.

The constitutionality of a particular, and very successful, voucher program clears away a major roadblock to freedom and quality in education. It will rekindle the debate about breaking up the government monopoly in schooling. But it thankfully leaves to the states the matter of how to move forward with programs that enhance choice and competition. Vouchers are one way to do that. But so are tax credits, whose constitutionality has also been affirmed by court rulings. In the months and years to come, some states may adopt vouchers. Others may adopt tax credits. Yet others, like Florida, may embrace both. Let the debate—and real progress toward liberating parents and children from a poorly

performing government assignment system—begin!

My central point is not to criticize vouchers, but to advance the tax credit option as a viable alternative, especially in states where vouchers have been unfairly stigmatized and decisively defeated. Opponents of choice-based reforms like teacher unions—what I call the “send the cash, keep the change” crowd—are clearly on the defensive now.

The kind of credit the Mackinac Center for Public Policy has advocated since 1996 is “universal”—which not just parents paying tuition but also other parties can secure for contributions to scholarship funds. Any taxpayer—individual or corporate, parent or grandparent, neighbor or friend—could contribute to the education of any elementary- or secondary-school child and then qualify for a dollar-for-dollar credit against certain state and/or local taxes. The maximum credit could be equal to half what the government spends per pupil in the public schools, which is more than enough to cover educational expenses at 90 percent or more of private schools. A credit limit of half what the government spends would generate a savings for taxpayers every time a child migrates from the public to the private system—savings that could be returned to taxpayers or used to augment resources in public schools.

Would tax credits be sufficient to encourage businesses to contribute to education scholarship funds? Absolutely. After explaining the concept, I’ve asked CEOs all over Michigan this question: “Suppose you had a choice.

You could send a million dollars in taxes to Lansing for the politicians to spend. Or you could send that million to one or more scholarship funds to help children, who might be your future employees, get a good education. Which would you do?” I’ve never met one who preferred option number one.

Any school choice plan should start with the recognition that private schools are not the problem we face today. They are an important part of the solution. We must not bargain away their independence or expanded choice will mean little. We must not burden them with new government mandates cloaked in the guise of “accountability.” Private schools are **already** accountable—they have customers who can take a walk, not captives who have no real options.

Tax credits can get the job done while minimizing the danger of intrusive government, though private schools will always have to be vigilant under any system. They will galvanize and strengthen civil society by giving individuals and companies new incentives to assist the educational dreams of their fellow citizens. They will bolster the incentives of existing public schools to improve. And perhaps most importantly, they will put choice and responsibility back in the hands of parents, from whom such things should never have been taken in the first place.

The Supreme Court’s momentous decision is an open door for improving schools through the power of choice and competition. Even more than it is now, it will be seen in time as a pivotal ruling in the restoration of American

education. States now have a solid green light to move ahead, and more than one option for reform. For the sake of the children, let's not lose another minute.

*Lawrence W. Reed is president of the Mackinac Center for Public Policy in Midland, Michigan.*

## **The Genius of Letting Parents Choose**

***Kristin J. Robbins***

The underlying genius of parent choice in education is that market forces will finally be brought to bear on the public school monopoly. As schools are forced to compete for students and the money that attends them, they will either improve or risk not being chosen.

Contrary to most of what is written about school choice, the biggest beneficiary of these market forces will be **students in public** schools (although not necessarily the public school establishment). While some families will leave public schools if school choice becomes an option, the vast majority of students will remain. These students will be the big winners as their schools make changes to become “competitive” and, thus, attractive to parents seeking the best option for their children—improved test scores, smaller school scale, higher standards, and so on.

These results will be achieved only if the school choice program is well designed, however. Fundamentally, the key to a successful school choice program is flexibility and minimal government control.

School choice is an effective tool for improving education **systems** because it harnesses the power of parent choice (and thus the market). As parents decide what best serves the needs of their children, and dollars shift based on those decisions, schools will have real incentives to meet those needs.

The benefits to the public school system will be directly proportional to the amount of freedom given to parents. Thus, designing a system of “choice” with a great number of strings attached will yield little systemic change.

The results of Governor Arne Carlson's 1997 education tax credit law bear this out. Opponents of parent choice used two methods to dilute the “choice” in the program. First, the tax credit could not be used for private school tuition. Second, it was limited to low-income families who often could not afford the up-front expenditure necessary to receive the credit. Thus, while it has been a great benefit to families who have been able to take advantage of it, the education tax credit's impact on the public school system has been marginal.

We must not let the foes of educational freedom thwart the creation of meaningful choices for parents again. In order for parent choice in education to live up to its potential, the following conditions must be met.

***The program must allow maximum freedom for parents with limited government mandates.*** Any effective school choice program must not add regulations to nonpublic schools. Nonpublic

schools currently comply with a host of state requirements regarding health, safety, and other issues. They are subject to the ultimate accountability: if parents are not satisfied, they will send their children somewhere else. Additional state regulations would not improve nonpublic schools and would likely reduce the number of choices available to parents as nonpublic schools opted out of the program rather than accept new regulations.

**The program must give low-income families genuine choices about where their children go to school.** This is achieved most efficiently through vouchers. Giving vouchers directly to parents would alleviate the cash-flow problem many families face trying to use the tax credit. Many simply do not have the \$1,000 available to pay for tutoring or other services up front. Vouchers would also increase efficiency by reducing paperwork and relieving the Department of Revenue of the responsibility of tracking eligible expenses.

**The program must be open to families of all income levels if systemic change is to occur.** Many suburban, as well as urban, schools are failing to meet the needs of their students, and they will make the necessary changes only if they are forced to compete for students and dollars.

**To truly take advantage of market forces, the voucher must be large enough to have an economic impact.** Ideally, the amount of the voucher would be whatever average amount the state spends per pupil. This would ensure that schools receive enough money to meet the needs of various types of students. For example, if the state average is

higher for students with special needs, the amount of the voucher should also be higher for special needs children.

Adopting a parent choice program that adheres to these basic principles would fling open the doors of educational opportunity for all. It is up to us, the citizens of this great state, to demand from our leaders nothing less for our children.

*Kristin J. Robbins is former executive director of Minnesotans for School Choice.*

## **The Stage Is Set for Hard Work Ahead**

**Tim Sullivan**

Just so that I am not misunderstood, let me say first, and for the record: the Supreme Court's decision in the Cleveland voucher case is a mighty victory for all those who support parental choice. A cornerstone case. A landmark.

But just as we herald the moment, let us also not forget the limits of this ruling on immediate circumstances. Most notably, this victory is not on a par with **Brown v. Board of Education**, as some allies have asserted. After decades, the **Brown** decision led almost overnight to the end of de jure segregation in the nation's schools. Clearly, allies presented a brilliant legal strategy that positioned the Cleveland program as essentially an equal-opportunity case, in the same civil rights spirit as **Brown**.

But let's be clear: alone, this decision guarantees exactly zero new school choice programs around the country. Not one. It just protects our current gains. This is the business equivalent of an airline heralding the fact that all of

its airplanes landed safely today. It's great news, to be sure, but avoiding disaster is just the necessary first step of success. To capitalize, we now need old-fashioned hard work.

So what are our chances now for making gains? Three recent developments, taken together, give school choice advocates in Minnesota a genuine opportunity to expand on the school choice gains won in 1997 under the determined leadership of Governor Arne Carlson.

The first is the overwhelming new research evidence that **choice actually helps children in public schools!** An explosive recent report by Milwaukee school board member John Gardner shows that between 1997 and 2001—years of expanded school choice—Milwaukee public school students increased their achievement in eleven of fourteen tested areas. This research debunks the most powerful myth employed by antichoice advocates: that choice somehow helps the few at the expense of the many. This research shows the opposite: choice helps all.

Second, a recent in-depth study by the Minneapolis-based *Star Tribune* comparing test scores with funding levels helps demolish the education establishment's second big myth: that funding is the key to achievement. In fact, even the liberal *Star Tribune* found a compelling link between high funding and high achievement in barely half the cases. Most notably, Minneapolis schools enjoy the highest levels of funding in the state—about \$11,000 per child—yet they continue to score the worst on standardized test

scores. Memo to candidates in the governor's race: higher funding alone does not equate to higher achievement.

Third, every poll in recent months shows that education will be the top issue in this year's gubernatorial race. There's never been a better time to talk about education reform, choice, and the limits of funding on achievement. And yet, as I write, none of the three major candidates has embraced choice themes with the passion and tenacity of Arne Carlson, or even Rudy Perpich before him.

Republican candidate Tim Pawlenty voted for education-choice credits and deductions and has even sponsored legislation to expand them. But as I write, he hasn't advocated for them, even though they regularly garner 70-plus percent support from voters. Why not take this opportunity to make the case to Minnesota? While he must reassure voters that he supports public schools, Pawlenty cannot win by simply outpromising his opponents on school funding. The route to victory for him is to differentiate himself as the true education reformer.

Independence Party candidate Tim Penny might be an intriguing alternative, but so far his views on school choice are unclear. Penny's history suggests both hope and concern. On the one hand, he has embraced personal retirement accounts as part of Social Security reform, suggesting a belief in individual empowerment over one-size government solutions. On the other hand, he collected tens of thousands of dollars from teacher unions during his

time in Congress. It's safe to say that we need to know more.

DFL Party candidate Roger Moe has a long public career of supporting the public education establishment. Unless he experiences an eleventh-hour epiphany (hey, past governors have switched on this issue), there is almost no chance of making gains if he is elected.

Supreme Court decisions do make a difference in public life, but often only if they are followed up with ballot-box support and bold leadership from those who win high office. Four years from now, I hope we can say that the Supreme Court's decision meant much more to us than that all our planes landed safely today.

*Tim Sullivan, a business development principal for America's electric cooperatives, was Governor Arne Carlson's point person for school choice during the successful effort to pass education tax credits and deductions in 1997.*

## **Wishing Away an 1877 Law**

### **D. J. Tice**

The Supreme Court victory for school vouchers sets up the next legal battleground—in state courts. The prospect will discomfort conservatives.

Actually, it may be more precise to say that looming disputes over “school choice” and state constitutions *should* discomfort conservatives who value strict constitutionalism and nonpolitical judging.

It is quite possible—it may even be likely—that a school choice plan, if enacted, will be upheld by Minnesota courts. But that victory for school choice could prove to be a defeat for the cause of judicial restraint if conserva-

tives, who usually decry results-based judging, applaud it in this case because it's *their* result that's prevailing this time.

I should clearly say here that I support school choice, believing that competition would improve all schools and that religious schooling might help some kids. But a thing does not become constitutional because I favor it, any more than a thing becomes unconstitutional because I'm against it.

The whole critical debate about the proper role of courts today turns on the idea that judges' job is to uphold constitutions and laws as they are written—unless and until they are changed by the people through proper processes. In the case of a constitutional provision, that means an amendment.

So what's the problem for school choice in the Minnesota Constitution? In its much discussed decision, the U.S. Supreme Court reaffirmed that so long as parents in a school choice plan are free to select any private school, religious or secular, the arrangement does not constitute an “establishment of religion,” which is all the federal constitution forbids.

But Minnesota's state constitution, like many state constitutions, goes further. It contains a separate provision titled “Prohibition as to aiding sectarian schools” that reads: “In no case shall any public money or property be appropriated or used for the support of schools wherein the distinctive doctrines, creeds or tenets of any . . . religious sect are promulgated or taught.”

Any questions?

Understandably, the strategy of school choice proponents has generally

been to persuade state courts to ignore provisions like these—more precisely, to “interpret” them to mean nothing more than the federal constitution’s ban on religious “establishment.” Minnesota courts have used essentially those grounds to approve indirect assistance to parochial schools.

There may be good legal reasons why state constitutional bans on aid to church schools don’t block school choice subsidies. But conservatives play with fire, it seems to me, when they encourage judges to engage in the kind of “abracadabra” rulings necessary to declare these explicit state prohibitions identical with the federal constitution’s much more general “establishment” language.

How can conservatives credibly complain of “activist” judging that ignores, say, property rights, or gun rights, or limitations on federal power, if conservatives, too, applaud when courts wish away constitutional limits they find inconvenient?

Minnesota’s constitutional language banning aid to religious schools was added to the document by amendment. Voters approved it by referendum, in 1877, by more than two to one.

Yet “establishment” clauses already existed at the time, in both the federal and state constitutions. Obviously, Minnesotans intended the school provision to mean something different—something more.

School choice champions argue that amendments of this kind were motivated by the intense anti-Catholic bigotry of the late nineteenth century. Maybe so—but is that reason for judges

to ignore clear constitutional language the people have not seen fit to alter?

There are some who would sweep away many constitutional limits on government that conservatives cherish with similar arguments—by claiming those limits reflect the out-of-date values of dead, white, aristocratic males on an untamed frontier, or some such. Conservatives shouldn’t help such thinking gain credence.

One alternative, of course, is for proponents of school choice to mount forthright efforts to enact new state constitutional amendments to permit such programs. But one sometimes hears them dismissing that option because school choice referendums have proven hard to pass, what with the political muscle of teacher unions and public schools.

This is a bit unnerving. If Minnesota voters in 1877 made a ban on public aid for religious schools part of the state constitution, and if proponents of such aid believe today’s voters, given the chance, would affirm that ban, should conservatives, of all people, ask judges to overrule both yesterday’s voters and today’s?

*D. J. Tice is a columnist and editorial writer for the St. Paul Pioneer Press. This essay is adapted from a Pioneer Press column.*

## **The Culture War and the Decline of Education**

***Stephen B. Young***

The Supreme Court’s decision to approve the use of publicly funded vouchers to meet social needs for education of young Americans opens the

way to more significant achievements than improving educational outcomes for children living in distressed neighborhoods of large cities.

There is another need, greater even than that of providing better opportunities for such children. I speak of the need to reverse the outcome of the culture war that, since 1965, has been fought over the meaning of America. I take it that the cultural left has largely won that war and that such a victory is a bad thing.

What the left has sought to impose, and now seeks to maintain, is a culture of permanent adolescence, the “sanctification of appetite” to use the well-chosen words of D. J. Tice of the *St. Paul Pioneer Press*.

What the left sought to overthrow was a culture of adult responsibility, a culture resting on moral character, the work ethic, and the core American values enshrined in the Declaration of Independence, the Constitution, the Federalist Papers, Washington’s Inaugural and Farewell Addresses, and Lincoln’s Gettysburg Address and Second Inaugural Address.

Having chosen intellectuals as its warriors, the left seeks a monopoly wherever culture and intellect are put to work. Above all, the left gravitates to institutions of education. The academy has replaced the proletariat as the vanguard for progressive forces.

Colleges and universities—where tenure and academic freedom have created sinecures for advocates of anti-Americanism—train the new cadre of

social change agents in doctrines of deconstruction, genderism, multiculturalism, critical legal studies, and a generalized affinity for self-victimization: in short, the value set protected by political correctness. But the doctrines used to shape the curricula of higher education work their way into the wider society, especially into the ranks of those who manage and teach in public education.

In fact, since teacher unions have exiled parents as the significant controlling voice over public schools, public education more and more gives our culture a leftward tilt toward the mores of self-absorption and rejection of civic virtue. In Minnesota, the Profile of Learning imposed on high school students and their parents by the Department of Children, Families and Learning demonstrates this process at work.

As our culture has tilted leftward during the culture war of the past thirty-five years, levels of educational achievement have declined. The link between these two trends can be found in the power and the attitudes of those who have a monopoly over public education. In St. Paul and Minneapolis, the teacher unions and the DFL Party dominate school board elections. There is no meaningful diversity of opinion regarding the worldview imposed on our public schools in these major communities.

Vouchers can break this monopoly for all parents and their children. Vouchers are an end run behind the political structures that favor the left in our culture war. Vouchers can restore

intellectual standards and quality to the education of all American children.

In Minnesota, public education should be provided, first and foremost, through vouchers and then by publicly managed schools for students and families who do not want to use the voucher system.

Schools would then be organized and run by teachers and parents. Teachers would respond to the needs and values of parents, not to ideologies. If certain parents like the ideology of the left and want their children to be raised to believe in those values and perceptions, under a general voucher approach to public education they can send their children to schools run by the left.

With a general program of vouchers, there would be a level playing field among ideologies seeking to win over

the allegiance of young Americans. No point of view would have a monopoly over the bureaucracy of public education. Competition of ideas and values would bring about the restoration of sound values and more humanly truthful ideas. The left cannot prevail on the merits; only where it stacks the deck through elimination of dissent.

Vouchers putting economic power directly into the hands of parents would do more than tax credits to speed the breakup of left ideological correctness in public education. Parents need a simple and effective level to make their voices heard in public education, not more tax forms.

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