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THE MERITS OR DEMERITS OF THE PUBLIC FUNDING OF PRIVATE EDUCATION

The following is a partial transcript of a debate which took place at the Thomas J. White Center on Law & Government at the University of Notre Dame on November 13, 1984. The participants in the debate were Linda Tarr-Whelan, director of Government Relations for the National Education Association and Lawrence Uzzell, president of LEARN, Inc., of Washington, D.C. The debate was moderated by Professor Douglas W. Kmiec, director of the White Center.

PROFESSOR KmieC:

On behalf of the Thomas J. White Center on Law and Government of the University of Notre Dame, let me welcome you to what I know will be a stimulating and exciting debate on education policy. We have two very articulate spokesmen for their respective positions here this afternoon. To speak in opposition of public funding of private education is Linda Tarr-Whelan, the director of Government Relations for the National Education Association, which represents 1.7 million public school teachers. To speak in favor of tuition tax credits, we also have a very distinguished spokesman, Mr. Lawrence Uzzell, president of LEARN, Inc., an educational research foundation based in Washington, D.C. Mr. Uzzell is a former staff member of both the Senate and House Education Committees and also a former member of the U.S. Department of Education. Mr. Uzzell states in his biography that he remains skeptical concerning the existence of all three organizations. To begin our debate, I would ask Linda Tarr-Whelan to state the position against the public funding of private education.

Tarr-Whelan:

I appreciate the opportunity to be here today to debate Lawrence Uzzell on the issue of funding for public and private education. First of all, let us remember that 90% of the school students in America are in the public school system.
Of the 10% in private schools, about 85% of those, better than eight out of every ten, are in a religiously connected private school. Overwhelmingly, those schools are affiliated with the Catholic Church. Second, it is important to note that right now the Federal government pays about $6.5 of the dollars that are spent in public education. In other words, in our local school districts, on average, for every dollar of taxes expended in the schools, about 6.5 cents would come from the federal government. Moreover, there is a very large amount of aid from the federal government which goes to private as well as public schools. Since the middle of the 1960's, there has been a theory called the Child Benefit Theory, which says that the child should benefit from health, welfare, transportation and textbook expenditures in any federal program, regardless of whether it is public or private.

Today, I do not argue against the Child Benefit Theory. I do argue against the expansion of the public funding of private education through tuition tax credits, deductions and vouchers. This has been a major debate in this country for some time. Tuition tax credits is an issue which first received extensive consideration in the United States Congress in 1975-78. There were votes taken in 1980, 1982 and 1983, and I am sure there will be votes in 1985 or 1986 or 1987 as we look down the road on this issue. Tuition tax credits have never passed both houses of Congress. Most recently it was defeated in 1983 in the Senate of the United States, by a vote of 59-38. That was a bipartisan vote in opposition to tuition tax credits. The measure has been considered by thirteen states since 1967, in public referenda. It has been defeated every time. Most recently defeated in 1982 in California and Massachusetts, and defeated in 1981, in the District of Columbia. Thus, we have a public policy issue before us which has a considerable amount of history. There are a variety of public opinion polls that have been taken on the issue of tuition tax credits, and generally have come up with a consensus figure of approximately 55% of the public in opposition to tuition tax credits and 36% in favor of tuition tax credits.

Who are the opponents of tuition tax credits? Since 1975, the most vocal has been the Coalition for Public Education, which include the National Parents and Teachers Association and a large number of civil rights groups, education organizations, public policy groups, and churches. In addition, the organized church community has been split on this issue since its inception. The Catholic Church has been institutionally in favor of tuition tax credits, and so has the most
conservative of the Jewish groups. The Baptists, Methodists, Lutherans, Presbyterians and the less-conservative Jewish groups, the American Jewish Committee and the American Jewish Congress, have been in opposition to tuition tax credits.

Why are these groups opposed to tuition tax credits, but in favor of pluralism and choice for parents? Because they, and we [The National Education Association] believe that the use of public funds for this purpose would aid only a small number of middle class parents at the expense of the larger public. In the United States, approximately 30% of our taxpayers or citizens of voting age have children in school. The others do not. We are looking to them to support the public education system. With tuition tax credits they would be asked to also support the private education choice of a minority of families.

Tuition tax credits are also bad economic policy. The [Reagan] Administration’s proposal, which would have cost 2.5 billion dollars over three years had it not been defeated yields no public—only private—economic benefit. Further, the benefit would not be evenly spread across the United States. Only eight states and the District of Columbia have 15 percent or more of their students students in private school.

Would it assist low income parents, who would like to make a choice of sending their children to a private institution, but are not able to do so economically? The answer is no. While much of the argument has been based on that particular issue, I would say to you that the studies are quite conclusive that tuition tax credits would primarily benefit middle class families for several reasons. First, you have to pay taxes for a tax credit to be of much benefit to you, and the [Reagan] Administration has consistently fought refundability which would have the federal government give you the dollars back if you are not paying taxes. The figures demonstrate that 46% of black families and 37% of Hispanic families with children in school make less than $10,000 a year and pay less than $200 of federal tax, so there really would be very little, if any, benefit to these families. Those families whose income is above $30,000 a year would receive two-thirds of the benefits.

Tuition tax credits are bad educational policy. This measure does not improve education. I would use one brief example. Two cities have more than 20% of their students in private school: Boston and Providence. Statistically, it cannot be shown that the schools in Boston or Providence are any
better than schools in cities of similar sizes. In fact, the state of Utah which has less than 1% of its students in private schools has excellent public schools, so I don’t believe that there is a case which can be made that through competition somehow local schools will improve. It is also bad educational policy because you have a very strange situation in private schools. They have a very different clientele than the general public school, and in fact, when the tuition tax credit was up before the Senate last year there was strong resistance to any regulations of laws which would ensure that private schools could not discriminate on the basis of either sex or handicap. It is very clear that the public schools take all students. If it is to be public funds that follow the student into private education, they should not be allowed to discriminate.

Finally, I believe that tuition tax credits would violate the principal of the separation of church and state. . . .

In summary, public funding for private education through tuition tax credits or tax payments will not lead to excellence in public education and would be poor educational policy. It would be divisive and violative of the separation of church and state. It would use public funds for the private purposes of a few parents in a few states at the expense of all the taxpayers. Therefore, while I believe parents must have the choice of where they wish to send their children to school, I believe that in the public arena where we are spending public dollars, they should be expended with the public service of preparing all of our students for excellence in the future.

PROFESSOR KmieC:

To present the case in favor of tuition tax credits, Mr. Lawrence Uzzell.

UZZELL

It is presumptuous of me to be in the Thomas J. White Center on Law & Government and talking about this subject because I have already learned so much from Notre Dame. With this issue, we are not talking about the public good vs. the private good. We are talking about two different ways of serving the public good. You don’t have to be a public institution to serve the public good. Look at the United Way. You don’t have to be a private institution to violate the public good. Look at some of the things that the Pentagon does, or some of the things the Department of Education does. No-
tre Dame is a private institution; the University of Indiana is a public institution. Both of them serve the public good and each one is stimulated and enriched by the existence of the other. In order to favor monopoly over parental choice, you have to have a rather exotic definition of what the public good is. You have to decide that the public good excludes academic excellence, that the public good excludes social justice and that the public good excludes intellectual freedom, because I think it can be shown that parental choice would, far more than monopoly, serve the public good in all three of those areas, and I will take them one by one.

There is really a remarkable new consensus that has developed in the last few years about academic excellence. Until just three years ago, the public school establishment was telling us that American schools were getting better and better; that we had the finest schools in the world, and the critics of these schools were in some way un-American or unfair. Very abruptly in 1983 that changed. As we now know, in the 1960's and 1970's America's public schools were engulfed by what a National Commission called "a rising tide of mediocrity."

In order to reform public schools, we are going to have to make some very dramatic departures from the way those schools have been run. It's going to take a lot of effort and its going to take a lot of time. It may be ten years before we get public education back up to what I think is the inadequate level of the 1960's. During those ten years, if you assume that we do achieve the objective in that time, there are going to be millions of children who are going to be graduating from school. Those children cannot wait for us to fix the public schools. They need help right now, and they only realistic chance for a decent education for those children, and I would predict they only realistic chance for a decent education for many others, even after we achieve all the goals of public school reform, is going to be in the private sector.

In 1981, a study commissioned by the Carter Administration conducted by James Coleman of the University of Chicago found that on the average private schools do a better job than public schools reaching academic achievement, provided that you correct statistically for family background, income and ethnicity. Now nobody would say, certainly not myself, that such evidence means that the worst private school is better than the best public school. By the same token, however, it ought to be clear that the worst public school is not better than the best private school. There are
always some children who are better off in private schools and some who are better off in public schools. All the advocates of tuition tax credits and vouchers argue is that why not foster the existence of both of these at once. Let the parents have as wide a range of choice as possible. This choice will help all children.

Institutions, whether they are private or public, when they are monopolies, tend to get stale. Schools tend to get like established churches, or one-party governments, if they don't have to earn the loyalty of their clients: they tend to run out of charisma and to stop functioning effectively. Competition helps all schools, jolts all schools out of their complacency. In this regard, my opponent has it exactly backward. The percentage of private schools and public schools in Utah or Boston or Providence isn't important. The important question is the percentage of competitive schools vs. non-competitive schools. I think it's clear if you just look at the demographics that the city of Boston - the inner city - has a lot of public schools which are effective monopolies. They have a captive clientele. Lower income families have no realistic choice, but to go to that public school. They have no option to go to private school because they can't afford it, and they have no option to go out into the suburbs and put down a down payment and start paying mortgages to buy a house in a community with good suburban public schools.

In Utah, a much higher percentage of the population is choosing schools on a competitive basis. Every public school in the State of Utah knows that it is in potential competition with every other public school in the State of Utah. There is a remarkable correlation between the degree of competition and the success of schools, public or private. The very worst schools are public schools in the inner cities that have a captive market. Thus, on the issue of academic excellence alone, I think the arguments for tuition tax credits are very strong. However, the case for parental choice is even stronger, in terms of social justice, equity, and racial integration.

In the District of Columbia, the population of the city is about 70% black. The public school enrollment is more than 90% black. D.C.'s Catholic schools are 65% black, and the majority of students are protestant. It is clear from the statistics, that even if your only objective were racial integration, if you didn't care at all about academic excellence or pluralism and freedom as ends in themselves, the fastest way to achieve integration would be through tuition tax credits and vouchers. Nationwide, Professor Coleman found that the most seg-
regated schools in the country are public schools. They're only public in name because you have to pay $300,000 to buy a house in the suburbs to get your kids into these schools. These schools are socially and ethnically more exclusive than private schools. The average public school, Coleman found, is more segregated by ethnicity and income than the average private school. One of the striking things about the tax code which hasn't been mentioned is that at present, it helps the rich and the middle class more than the poor. The existing federal tax code allows you to write off your local property tax payments, your mortgage payments, and your state tax payments, all of which enable you to live in an exclusive suburb and send your child to an exclusive, public school. Thus, the existing tax code favors the rich more than the poor, it subsidizes the rich to move out of cities and into exclusive suburbs where their kids will go to schools only of their own ethnicity and only of their own social class. It subsidizes homeowners more than renters, it helps the middle class more than the poor, and it helps whites more than blacks. All of these categories of people, the middle class, whites, and suburbanites, now have mobility and consumer sovereignty. It is the blacks, Hispanics, and poor in the inner cities who don't have consumer sovereignty and who would get it through tuition tax credits and vouchers.

The final point is the most fundamental of all, and that is intellectual freedom. Schools are not like cheese. If schooling were a physical commodity, then we could just have a government program like the surplus cheese program and distribute this physical commodity from one group of people to another with plans designed from a centralized agency. But schooling, whether it is at the college level or the elementary or secondary level, is a highly value-laden enterprise. Schooling cannot be value neutral. And the effort to make it so has had the effect of making today's school books the blandest, the most lifeless, and the most boring in history. Feminists and fundamentalists and people in between have radically different ideas about what a good education should look like and the fact that we use monopoly as the vehicle to deliver education at the elementary and secondary level means that we are constantly making enemies of people who could be friends. We are constantly making decisions on a winner take all basis within this monopoly. If you live in the State of Louisiana, the fundamentalists have passed a law which mandates the teaching of creation science in biology courses. If you live in a school district whose schools are getting money from the
Women's Educational Equity Program of the U.S. Department of Education, you have feminists being subsidized to attack the traditional family through the school system. If you belong to a minority which dissents from this value, you're just out of luck. It's decided on a monopoly basis.

The only way to let parents choose schools which reflect their own vision of truth is by treating schools the same way we deal with every other institution that deals with values and the transmission of ideas—the way we treat newspapers, the way we treat political parties and churches—that is, to recognize that no one has the right in a pluralistic society to forcefeed these values to somebody else's children.

Underlying all three of these issues, academic excellence, social justice, and pluralism is a fundamental question which really decides the whole controversy all by itself. That fundamental question is: whose child is it? If the answer is his parents, then the burden of proof is on those in government to deny or restrict or regulate the choice of the parents to send him to a school consistent with their values. If the answer is that children belong to the government, then the burden of proof is on the parents to justify their choices. I would suggest to you that the correct answer is indeed the parents, and for that reason, tuition tax credits and vouchers are not only the most practical mechanism for serving the public good, but are also fundamental to it.