

# FROM INTEGRATING STUDENTS TO REDISTRIBUTING DOLLARS:

*The Eclipse of School Desegregation by  
School Finance Equalization in 1970s California*

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My current book project examines the relationship between opposition to school desegregation through busing, school finance equalization litigation and reform, Proposition 13 and the tax revolt, and the increasing concentration of income and wealth in the hands of the nation's richest one percent that pundits, policy makers, and scholars have begun to refer to as America's new Gilded Age. In my paper, I want to explore a piece of this particular constellation of interrelated developments, namely, the connection between the rise of school busing to promote school desegregation and the rise of school finance litigation and reform, which scored its first major victory in the California Supreme Court in 1971 in the case of *Serrano v. Priest*.

Criticism of the largely property tax revenue basis for funding K–12 schools is almost as old as public schools themselves. Alluding to the

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inequalities in per pupil expenditures between local school districts rooted in their differing property values, no less than Horace Mann himself denounced the notion that “mere circumstance of local residence” should shape a child’s access to equality of educational opportunity.<sup>1</sup> Mann’s concern anticipated similar reservations voiced by northern members of Congress during Reconstruction and the Gilded Age, Populists, Progressives, and New Dealers, and found expression, almost verbatim, in the California Supreme Court’s *Serrano* decision, which rejected the state’s school financing scheme for making “the quality of a child’s education a function of the wealth of his parents and neighbors.”<sup>2</sup>

Given this longstanding criticism, why did it take until the 1970s before school finance reform gained traction, beginning in California and then spreading across the country? The answer, I contend, can be found in the combination of two contemporaneous developments: opposition to school busing to promote desegregation and the burgeoning tax revolt over rising property taxes. The former spurred support for school finance reform whose proponents — from both the left and right — often expressed preference for the redistribution of property tax dollars over the redistribution of students through busing, while the latter prompted efforts to search for alternative sources of revenue for financing public schools.

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On January 16, 1970, Daniel Patrick Moynihan delivered a soon-to-become infamous memorandum to President Richard Nixon. “The time may have come when the issue of race could benefit from a period of ‘benign neglect,’” Moynihan wrote. By “race,” Moynihan meant the “position of Negroes” — “*the* central domestic political issue.”<sup>3</sup> And at the center of

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<sup>1</sup> Mann quoted in Robert A. Gross and John Esty, “The Spirit of Concord,” *Education Week*, October 5, 1994.

<sup>2</sup> Goodwin Liu, “Education, Equality, and National Citizenship,” *Yale Law Journal* 116:2 (2006): 331–411; Charles Postel, *The Populist Vision* (New York: Oxford University Press, 2007); David Tyack, Robert Lowe, and Elisabeth Hansot, *Public Schools in Hard Times: The Great Depression and Recent Years* (Cambridge: Harvard University Press, 1987); *Serrano v. Priest*, L.A. No. 29820, 5 Cal. 3d 584, August 31, 1971.

<sup>3</sup> “Memorandum for the President from Daniel P. Moynihan,” January 16, 1970, John D. Ehrlichman Papers, Box 30, Folder Committee for Educational Quality [2 of 2], Richard Nixon Presidential Library (hereafter, RN).

the race issue in the early 1970s was busing, which Nixon would describe in 1971 as “by far the hottest” domestic issue.<sup>4</sup>

California turned up the heat on the busing controversy less than a month after Moynihan’s memorandum. On February 11, 1970, Los Angeles County Superior Court judge Alfred Gitelson ruled in the case of *Crawford v. Board of Education of the City of Los Angeles*. “Negro and Mexican children suffer serious harm when their education takes place in public schools which are racially segregated, whatever the source of such segregation may be,” Gitelson announced. His decision drew no distinction between “segregation not compelled by law (allegedly *de facto*)” and segregation “compelled by law (allegedly *de jure*).”<sup>5</sup> Moreover, in the sprawling city of Los Angeles, it required extensive busing to implement. Little wonder, then, that the *Los Angeles Times* described *Crawford* as “the most significant court decision on racial segregation outside the South.”<sup>6</sup>

California governor Ronald Reagan was more blunt. He denounced the decision as “utterly ridiculous . . . shatter[ing] the concept of the neighborhood school as the cornerstone of our educational system.”<sup>7</sup> Later that year, Reagan reiterated his vigorous opposition to “forced busing,” insisting instead that “quality education must be provided for every child” within his or her neighborhood school.<sup>8</sup> Caspar Weinberger, Reagan’s director of finance, had suggested how to help make this happen the year before when he called for property taxes — which he described as “one of the most regressive” — to be reduced and replaced with increased income, commercial real estate, and sales taxes. In turn, these taxes, “which are directly related to ability to pay,” Weinberger maintained, would support 80 percent of public school costs.<sup>9</sup> Similarly, a Reagan Administration “Issue Paper”

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<sup>4</sup> White House Tape Collection, December 7, 1971, Conversation 631-8, RN.

<sup>5</sup> *Crawford v. Board of Education of the City of Los Angeles*, “Minute Order of Court’s Intended Findings of Fact, Conclusions of Law, Judgment, and for Preemptory Writ of Mandate,” February 11, 1970.

<sup>6</sup> “L.A. Schools Given Integration Order,” *Los Angeles Times*, February 12, 1970.

<sup>7</sup> “Press Release #101,” February 17, 1970, Box GO 74, Folder Busing — General, 1970 (2/3), Ronald Reagan Governor’s Papers, Ronald Reagan Library (hereafter, RR).

<sup>8</sup> Ronald Reagan, speech to the California Real Estate Association, October 5, 1970, Box GO 160, Folder Education-Finance-K-14 (1970), RR.

<sup>9</sup> Caspar Weinberger, press release, July 22, 1969, Box GO 160, Folder Education-Finance-K-14 (1970), RR.

on education called for property tax reform and greater support for “less affluent” school districts in March 1970, just one day before Reagan vowed to “take all legal steps possible to oppose mandatory student busing.”<sup>10</sup>

Richard Nixon concurred with his fellow California Republican’s busing diagnosis and school finance prescription. Indeed, if Nixon’s *opposition* to school desegregation through busing, represented the “neglect” half of Moynihan’s “benign neglect” advice, his *support* for school finance reform represented the “benign” half.<sup>11</sup> In a nationally televised address on busing delivered on March 24, 1970, Nixon blasted *Crawford* as the “most extreme” desegregation decree issued by any court to date owing to its failure to distinguish between unconstitutional de jure segregation and “undesirable” (but not unconstitutional) de facto segregation. Where de facto segregation existed, rooted in “residential housing patterns,” Nixon maintained, it was better to employ “limited financial resources for the improvement of education . . . rather than buying buses, tires and gasoline to transport young children miles away from their neighborhood schools.”<sup>12</sup>

Nixon’s preference was to redistribute those “limited financial resources” to improve education — to desegregate dollars, rather than desegregate students. He spelled this out just a few weeks earlier in a “Message on Education Reform” in which he denounced the absence of “equal educational opportunity in America.” This absence was felt most in school districts with a “low [property] tax base,” which “find it difficult or impossible to provide adequate support to their schools.” Declaring school finance inequality a “national concern,” Nixon called for “narrowing the gap” between “rich and poor states and rich and poor school districts.”<sup>13</sup>

To this end, he issued Executive Order 11513, establishing “The President’s Commission on School Finance,” chaired by Neil McElroy, formerly secretary of defense during the Eisenhower Administration. Nixon’s action

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<sup>10</sup> Issue Paper No. 1 (Education), March 2, 1970, Box GO 160, Folder Education-Finance-K-14 (1970), RR; Draft of form letter to constituents, March 3, 1970, GO 74, Folder Busing — General, 1970 (2/3), RR.

<sup>11</sup> White House Tape Collection, December 7, 1971, Conversation 631-8, RN.

<sup>12</sup> Richard Nixon, “Statement by the President on Elementary and Secondary School Desegregation,” March 24, 1970, Daniel Patrick Moynihan Papers, Box 23, Folder Desegregation, RN.

<sup>13</sup> Richard Nixon, “Message on Education,” March 3, 1970, Daniel Patrick Moynihan Papers, Box 20, Folder Commission on School Finance [1 of 7], RN.

stemmed from the advice of Robert Finch, secretary of health, education, and welfare, whose recommendation came at a time when, as Finch recollected, “busing” was “driving us nuts.”<sup>14</sup> The Commission’s tasks included considering alternatives to the property tax for financing public schools, whose regressivity Nixon and other leading members of his administration would repeatedly criticize over the course of the early 1970s.<sup>15</sup>

Nixon’s call for school finance reform as a preferred alternative to school busing for promoting equality of educational opportunity reinforced efforts already afoot by lawyers who hailed from the opposite side of the ideological spectrum from him. On August 23, 1968, attorneys from the Western Center on Law and Poverty in Los Angeles and the San Francisco Neighborhood Legal Assistance Foundation filed the case of *Serrano v. Priest* in Los Angeles County Superior Court. The suit challenged the federal and state constitutionality of the “substantial disparities” in per pupil expenditures between school districts that stemmed from differing property values from one district to another. These disparities in per pupil expenditures were, Serrano’s lawyers added, racially discriminatory. A “disproportionate number” of non-white students resided in property-poor districts, which levied higher property tax rates but generated lower property tax dollars to fund their public schools owing to their lower property value base.<sup>16</sup>

As *Serrano* and similar cases began to unfold, the *Washington Post* observed how “northern liberals” were embracing school finance equalization litigation as a way to “stay ‘liberal’ without being in favor of busing.”<sup>17</sup> This observation was borne out by Terry Hatter, executive director of the

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<sup>14</sup> Robert H. Finch, “View from the Lieutenant Governor’s Office,” Oral History Interview, Conducted 1983 by Harry P. Jeffrey, Jr., California State Fullerton Oral History Program, for the California Government History Documentation Project, the Reagan Era, 93.

<sup>15</sup> Executive Order 11513, March 3, 1970, Ex FG 273, Box 1, Folder President Commission on School Finance, RN.

<sup>16</sup> *Serrano v. Priest*, Superior Court of the County for Los Angeles, No. 938254, “Suit to Secure Equality of Educational Opportunity Under the Equal Protection Clause of United States Constitution and California Law and Constitution,” August 23, 1968, Collection of Briefs, Pleadings, Memoranda, and Other Documents from Plaintiff’s Attorney in *Serrano v. Priest* Case, UCLA Law Library (hereafter, *Serrano* Case Files).

<sup>17</sup> “School Revenue Crisis,” *Washington Post*, November 28, 1971, in FI, Box 72, RN.

Western Center on Law and Poverty, which helped initiate *Serrano*. “In busing,” Hatter declared, “we found a lot of emotionalism, but very little movement toward equal education.” By contrast, with school finance reform, “we have a chance at equal education.”<sup>18</sup> Hatter’s colleague, Derrick Bell, criticized *Brown v. Board of Education* for its emphasis on how segregation harmed black, but not white, students. In part for this reason, Bell gravitated toward school finance equalization over desegregation, despite his earlier involvement with the NAACP in desegregation litigation.<sup>19</sup> Roy Innis, national director of the Congress for Racial Equality, agreed. “The best approach to providing quality education for black children,” he maintained, “lies in equalizing the money spent on the education of all children” — desegregating dollars, as opposed to desegregating students. “No one ever learned anything on a bus.”<sup>20</sup> A few years later, Detroit’s Democratic and African-American mayor Coleman Young, agreed. “I shed no tears for cross-district busing,” Young quipped about the United States Supreme Court’s 1974 *Milliken* decision that overturned a cross-district busing plan to promote desegregation between Detroit and its suburbs. “I don’t think there’s any magic in putting little white kids alongside little black kids if the little white kids and little black kids over here have half a dollar for their education and the little black kids and little white kids over there are getting a dollar.”<sup>21</sup> To these substantive reservations about busing, *Serrano* attorney Harold Horowitz added a pragmatic one in his marginal comments on one of the briefs in the case in May 1970. “Remedying inequalities from financing,” Horowitz wrote, “are simpler than from racial imbalance — not the practical problems as in *Crawford*.”<sup>22</sup>

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<sup>18</sup> Hatter quoted in transcript of KNXT broadcast, August 31, 1971, Collection of Newspaper Articles and Radio and Television News Transcript Regarding *Serrano v. Priest*, *Serrano* Case Files.

<sup>19</sup> Derrick A. Bell, Jr., “School Segregation: Constitutional Right or Obsolete Policy,” paper presented at the Seminar on Public Policy (Center for Urban Studies, Harvard University), May 16, 1974.

<sup>20</sup> “CORE Head Praises Michigan Property Tax Switch,” *Atlanta Journal*, November 18, 1971.

<sup>21</sup> Young quoted in James T. Patterson, *Brown v. Board of Education: A Civil Rights Milestone and its Troubled Legacy* (New York: Oxford University Press, 2001), 180.

<sup>22</sup> Appellants’ Reply Brief, May 5, 1970, Collection of Briefs, Pleadings, Memoranda, and Other Documents from Plaintiff’s Attorney in *Serrano v. Priest* Case, *Serrano* Case Files.

The qualms Hatter, Bell, Innis, and Young expressed about *Brown* coincided (in part) with Richard Nixon's, who criticized what he called the "smug paternalism" and "racist overtones" implicit in the "assumption [of desegregation] that blacks or others of minority races would be improved by association with whites."<sup>23</sup> Similarly, the prioritization of school finance equalization litigation over desegregation through busing expressed by Hatter, Bell, Innis, Young, and Horowitz, as well as those "northern liberals," in general, to whom the *Washington Post* alluded, also echoed Nixon, Reagan, and members of their administrations.

In a meeting with Nixon in December 1971, John Ehrlichman lauded school finance reform as a way to move beyond busing and enter a "new era" in American education divorced from the "preoccupations of the past."<sup>24</sup> In fact, that new era had already arrived a few months earlier, and Ehrlichman praised Nixon for having anticipated it with his School Finance Commission. On August 30, 1971, the California Supreme Court issued the nation's first ruling against the constitutionality of a state's school financing system. "We have determined that [California's] funding scheme invidiously discriminates against the poor," read the nearly unanimous (6 to 1) decision in *Serrano v. Priest*. "Affluent districts can have their cake and eat it too: they can provide a high quality education for their children while paying lower taxes. Poor districts, by contrast, have no cake at all." Such a system of school financing was unconstitutional.<sup>25</sup>

President Nixon applauded the *Serrano* decision. The case, he declared shortly after it had been decided, was "a shocker" but a "good thing." It would, he believed, propel efforts already under way to reform the "lousy," regressive property tax-based system of public school financing. This, in turn, would help tamp down the "property tax revolt" that was "very real," inextricably bound with the school "finance problem," and gathering momentum across the country.<sup>26</sup> "Taxpayer rebellion against increases in the

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<sup>23</sup> Richard Nixon, "Statement by the President on Elementary and Secondary School Desegregation," March 24, 1970, Daniel Patrick Moynihan Papers, Box 23, Folder Desegregation, RN.

<sup>24</sup> White House Tape Collection, December 7, 1971, Conversation 631-8, RN.

<sup>25</sup> *Serrano v. Priest*, L.A. No. 29820, 5 Cal. 3d 584, August 31, 1971.

<sup>26</sup> White House Tape Collection, September 30, 1971, Conversation 78-2, RN; Nixon quoted in Gareth Davies, *See Government Grow: Education Politics from Johnson to Reagan* (Lawrence: University of Kansas Press, 2007), 206.

property tax” was growing, declared *U.S. News and World Report* in November 1971.<sup>27</sup> This was most evident in the record rates of rejection of local bond and tax proposals, as Senator Henry Jackson wrote Elliott Richardson, secretary of health, education and welfare, a few weeks later, which, when coupled with *Serrano*, reflected “a crisis in financing education.”<sup>28</sup>

Lewis Engman, assistant director of Nixon’s Domestic Council, and Roy Morrey, staff assistant to the council, cautioned against misconstruing the cause of the burgeoning property tax revolt. Yes, public education costs were growing at a rate that outstripped the rate of GNP growth, in general, and in cities, in particular (owing to their higher concentrations of poor and special needs students, declining tax bases, and greater tax dollar competition for other services). However, public opinion polls, Engman and Morrey maintained in a memorandum to John Ehrlichman, nevertheless indicated support for increased funding for education — just not from the “hides of property tax payers.”<sup>29</sup>

The property tax, in other words, was the problem. It represented a relic of a time when real property was an accurate proxy for wealth and income in a way that it had ceased to be. No longer an “appropriate measure of ability to pay,” Engman wrote in another memorandum to Ehrlichman, the property tax had grown “extremely unpopular,” in part owing to its “highly inequitable,” regressive nature. Among the “wide range” of corroborating evidence, Engman cited a 1967 study that demonstrated how property owners who earned less than \$2,000 per year paid 6.9 percent of their income in property taxes, while property owners who earned more than \$15,000 annually paid only 2.4 percent. Compounding the property tax’s regressivity problem was its rise, from 2.7 percent of per capita income in 1960 to 4 percent of per capita income in 1970. California property taxes had gone up at an even greater clip than the rest of the country’s,

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<sup>27</sup> “Financial Crisis for Public Schools,” *U.S. News and World Report*, November 8, 1971, 48–50.

<sup>28</sup> Sen. Henry Jackson to Elliott Richardson, December 1, 1971, Lewis Engman Papers, Box 5, Folder Taxation, School Finance Initiative [2 of 2], RN. For a similar claim made about California specifically, see, Assemblyman Alan Sieroty, et al., to Reagan, April 30, 1970, Box GO 160, Folder Education-Finance-K-14 (1970), RR.

<sup>29</sup> Lewis Engman and Roy Morrey to John Ehrlichman, “A Possible School Finance Initiative,” October 20, 1971, Lewis Engman Papers, Box 5, Folder Taxation, School Finance Initiative [1 of 2], RN.



fully one-third greater.<sup>30</sup> Engman's memorandum was internal. Other Nixon administration officials, however, blasted the property tax's regressivity publicly.<sup>31</sup>

*Serrano* thus not only brought the "school finance" problem into "particular focus," as Engman and Morrey observed, and offered a "liberal" alternative to desegregation through busing, but it also presented the opportunity for the Nixon administration to respond to the tax revolt and reap the electoral reward of that response. For that reason, Engman wrote Ehrlichman in December 1971, Nixon needed to push for property tax reform before "the Democrats pre-empt the issue. . . . It is a good issue for the man in the street, but we will lose credibility unless we propose legislation early."<sup>32</sup>

*Serrano*, combined with the escalating property tax revolt, was thus prompting searches for alternative sources of school funding that may "radically restructure the very foundations of public education," wrote the *U.S. News and World Report*.<sup>33</sup> In fact, one of those searches was already under way in the White House. Indeed, even before the California Supreme Court ruled in *Serrano*, White House aide Gerald Miller wrote Lewis Engman about the "major concern" brewing over school finance and the "concomitant problem" of property taxation. Property taxes not only fell particularly hard on "low income persons," but they were an "inadequate vehicle" for financing education.<sup>34</sup>

To fix this, Engman and Morey proposed a school finance initiative for the administration to pursue: a federal Value Added Tax (VAT) that would serve as a more "equitable" substitute for reduced, local property taxes.

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<sup>30</sup> Lewis Engman to John Ehrlichman, December 1, 1971, Lewis Engman Papers, Box 5, Folder Taxation, School Finance Initiative [2 of 2], RN.

<sup>31</sup> See, e.g., Secretary of Education Sidney Marland in "New Education Funding Urged," *Atlanta Constitution*, October 13, 1971 and Elliott Richardson in "Financial Crisis for Public Schools," *U.S. News and World Report*, November 8, 1971, 48–50.

<sup>32</sup> Lewis Engman to John Ehrlichman, December 1, 1971, Lewis Engman Papers, Box 4, Folder Taxation, School Finance, Property Taxes, RN; Reagan, too, drew a link between *Serrano* and tax reform, calling the latter a step in the direction of meeting the requirements spelled out in the former, Transcript, press conference, September 7, 1971, Box P3, Folder Press Conference Transcripts 7/7/71 through 10/20/71, RR.

<sup>33</sup> "Financial Crisis for Public Schools," *U.S. News and World Report*, November 8, 1971, 48–50.

<sup>34</sup> Gerald Miller to Lewis Engman, August 13, 1971, Lewis Engman Papers, Box 4, Folder Taxation, School Finance, Property Taxes, RN.

Despite his initial skepticism — as he put it, “property tax relief is a helluv’an issue. It’s terribly boring” — Nixon quickly warmed to the idea, especially as he realized how it offered an end-run around busing. Meeting with Nixon and Ehrlichman in December 1971, Moynihan responded to Nixon’s comment that busing was the “hottest” domestic issue by suggesting that it “could unravel the last twenty years in race relations.” He then praised Nixon, through his Department of Justice, for having made great strides in desegregating public schools in the South — for having “finally delivered on *Brown*.” However, he added, with attention shifting to the North, whose schools lacked the South’s history of de jure segregation, Nixon should stake out a different approach to equality of opportunity. Ehrlichman suggested school finance reform, linking it to *Serrano* as an alternative to busing to resolve “inequality in educational opportunity.” Nixon agreed. Here was an “idealistic” issue that could “assume historic proportions,” he replied: “stop forcing people together” and instead ensure that all students have an “equal shot where there is no inferior education.” A federal initiative to relieve the property tax burden was essential, as Nixon put it in his inimitable way, “so that we can finance the little bastard kids.”<sup>35</sup>

Over the course of the next month, Nixon promoted his property tax relief / school finance reform initiative. Meeting with the Commission on School Finance he had created in 1970, he suggested a VAT as a possible source of “massive federal assistance” and alternative to escalating property taxes.<sup>36</sup> One week later, in his January 20, 1972 State of the Union address, he railed against “soaring” property taxes as “one of the most oppressive and discriminatory of all taxes.” They were also, according to a handful of recent court rulings, a “discriminatory and unconstitutional” basis for funding schools. In response, Nixon vowed to make “revolutionary” recommendations to “relieve the burden of property taxes and provid[e] both fair and adequate financing for our children’s education.”<sup>37</sup>

Though Nixon did not mention a federal VAT in his State of the Union speech, he did mention it in the charge he issued to the bipartisan Advisory Commission on Intergovernmental Relations (ACIR) that same day.

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<sup>35</sup> White House Tape Collection, December 7, 1971, Conversation 631-8, RN.

<sup>36</sup> White House Tape Collection, January 13, 1972, Conversation 647-10, RN.

<sup>37</sup> Richard Nixon, State of the Union Address, January 20, 1972, <http://stateoftheunion.onetwothree.net/texts/19720120.html> (last accessed Nov. 26, 2012).

Calling school finance reform “one of the greatest challenges this Nation faces today,” Nixon asked the ACIR to consider whether a federal VAT would serve as the “best substitute” for local property taxes and, if so, to suggest ways to “eliminate otherwise regressive aspects” of it.<sup>38</sup> Income tax credits, Engman wrote on behalf of the Nixon Administration, represented one such way.<sup>39</sup> *Washington Post* columnist Stewart Alsop praised Nixon’s efforts, describing Nixon’s proposed federal VAT as the “most surprising, most interesting and most generally gutsy of President Nixon’s bombshells for the election year.”<sup>40</sup>

In fact, this bombshell never detonated. As 1972 drew to a close, the ACIR rejected Nixon’s suggestion for a federal substitute source of revenue for local property taxes. Though “deeply conscious” of the “discriminatory aspects” of the property tax basis for funding public schools, the cases challenging this approach to public school finance, and the “growing aversion” to increasing property taxes to meet the rising costs of public education, ACIR chair, Robert Merriam, wrote Nixon in December 1972, his Commission did not believe a “massive Federal [VAT] program” was “necessary” or “desirable.” Instead, the ACIR insisted that state governments should assume a greater share of the burden of financing public schools from local governments. This would, in turn, “greatly facilitate property tax relief.”<sup>41</sup>

With that, Nixon’s push for a federal government–led initiative for a “complete overhaul of our property taxes and our whole system for financing public education” ground to a halt. Nixon’s 1972 State of the Union address promise to find a federal government solution to the “school finance crisis that [also] provided property tax relief” was now “highly unlikely” to be fulfilled, wrote Engman.<sup>42</sup> Nor, as it soon turned out, would it be fulfilled by another arm of the federal government: the United States Supreme Court. On March 21, 1973, in the case of *San Antonio v. Rodriguez*, the

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<sup>38</sup> Richard Nixon to Robert Merriam, January 20, 1972, Ex FG 273, Box 1, Folder President’s Commission on School Finance 11/1/71 [1 of 2], RN.

<sup>39</sup> Lewis Engman to Louis Petro, February 18, 1972, Lewis Engman Papers, Box 4, Folder Taxation, School Finance Correspondence [2 of 2], RN.

<sup>40</sup> Stuart Alsop, “Nixon’s Tax Bombshell,” *Washington Post*, December 10, 1971.

<sup>41</sup> Robert Merriam to Richard Nixon, December 14, 1972, Lewis Engman, Box 3, Folder Taxation, School Finance, ACIR, RN.

<sup>42</sup> Lewis Engman to David Parker, December 12, 1972, Lewis Engman Papers, Box 4, Folder School Finance, President’s Message.

Court refused to apply the logic of *Serrano* to the *federal* constitutionality of inequitable school funding between property-rich and property-poor districts within states.<sup>43</sup>

With the federal government and Constitution now effectively removed from the scene, the locus of school finance equalization reform shifted to state courts and state legislative houses based on state constitutional educational provisions. (Since then, some 45 states have faced state constitution-based legal challenges to their heavily property tax-based school financing systems.<sup>44</sup>) As school finance litigation and legislation waxed — at least at the state level — school desegregation waned over the course of the 1970s.

Whereas state-based cases challenging school finance inequality accelerated after *Rodriguez* foreclosed a federal challenge, nothing analogous at the state level involving desegregation emerged in the aftermath of the Supreme Court's 1974 *Milliken* decision, which found no federal constitutional support for cross-district busing to promote desegregation. Legal scholar James Ryan attributes this difference to the "perceived practical and political difficulties with desegregation — difficulties that must not have seemed as formidable with regard to school finance reform."<sup>45</sup> Put another way, school finance reform was, as Ryan puts it, "an easier pill to swallow" than school desegregation through busing. Ryan's explanation echoes what proponents of school finance reform had to say in its defense over school desegregation through busing, which, in turn, helps explain how and why the former eclipsed the latter as *the* educational civil rights issue beginning in the 1970s.

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On the heels of *Serrano*, California governor Ronald Reagan identified school financing and property tax relief as the state's "most urgent" issues. He exhorted the state legislature to "eliminate the chronic crisis in public school financing by shifting the burden from the homeowner to a broader

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<sup>43</sup> *San Antonio v. Rodriguez*, No. 71-1332, 411 U.S. 1, March 21, 1973.

<sup>44</sup> *Rebell*, 2.

<sup>45</sup> James E. Ryan, "Sheff, Segregation, and School Finance Litigation," *New York University Law Review* 74 (May 1999): 566.

based tax.” If the Legislature failed to act, he warned, the “people may act themselves through the initiative process.”<sup>46</sup>

Reagan was wrong. The California Legislature did respond to *Serrano*, but that did *not* stop Californians from taking the initiative with the initiative process. Assembly Bill 65, signed by Reagan’s successor, Jerry Brown, in 1977, increased the money that property-poor school districts spent on students, in part, by transferring some of the property tax dollars generated in property-rich districts. The following year, on June 6, 1978, nearly two-thirds of Californians cast ballots in favor of Proposition 13, which drastically cut and capped property tax rates, property assessments, and by extension, property tax dollars collected. It also triggered the nationwide tax revolt, as states across the country adopted tax limitation measures, and ushered in the anti-tax, anti-government ethos that would become synonymous with the Reagan revolution in American politics.

These developments — school finance equalization and property tax reduction — were not simply contemporaneous, but rather connected, at least according to some observers. As veteran California journalist Peter Schrag has noted, by compelling a redistribution of property tax revenues from property-rich to property-poor districts, *Serrano* “undermined one powerful reason to vote against” Proposition 13, namely, the adverse impact that a loss of local property tax dollars would have on the caliber and control of local schools. For this reason, Schrag concludes, *Serrano* “appears to have been a significant factor” in Proposition 13’s passage.<sup>47</sup>

Though the causal relationship between *Serrano* and Proposition 13 is the subject of some debate — and even more uncertain is just who exactly benefited from *Serrano* and its progeny (i.e., to what extent did poor and minority students reside in property-poor districts, as so many proponents of school finance equalization litigation presumed) — the impact of *Serrano* and Proposition 13 on California is less debatable.<sup>48</sup> *Serrano*

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<sup>46</sup> Reagan quoted in Lou Cannon, *Governor Reagan: His Rise to Power* (New York: Public Affairs, 2003), 363.

<sup>47</sup> Peter Schrag, *Paradise Lost: California’s Experience, America’s Future* (Berkeley: University of California Press, 1999), 148. For a contrary view, see Isaac William Martin, *The Permanent Tax Revolt: How the Property Tax Transformed American Politics* (Stanford: Stanford University Press, 2008).

<sup>48</sup> Jon Sonstelie, Eric Brunner, and Kenneth Ardon, *For Better or For Worse? School Finance Reform in California* (Public Policy Institute of California, 2000): “Although

ultimately led to legislation that equalized (more or less) public funding of K–12 public education by redistributing property tax dollars across the state from property-rich to property-poor districts. Proposition 13, however, limited the amount of property tax dollars that could be collected. Before Proposition 13, California ranked in the top ten states in per pupil expenditures in public schools. By the mid-1990s, California ranked in the bottom ten, where it remained over a decade later.<sup>49</sup> Though California's schools were more equally financed across districts thanks to *Serrano*, they were much less generously financed than they had been relative to other states. In short, the combination of Proposition 13 and *Serrano* saw California public school financing leveled down.

Beyond California, as school finance litigation proliferated after *Serrano* and the tax revolt spread after Proposition 13, America's public schools, while more equally financed, became less generously financed relative to the burdens they had to bear, in particular, a massive post-1965 immigration and a steady shift of new jobs from heavy industry and manufacturing toward technology and finance. Between 1949 and 1970, expenditures on elementary and secondary schools as a percent of GDP doubled from 2.3 to 4.6. In the forty years since then, this percentage has flattened or declined on an annual basis, fluctuating between 3.8 and 4.7.<sup>50</sup>

In the post-*Serrano*, post-Proposition 13 era, California has gone from having among the highest college-going rates in the United States in 1970 to being ranked second to last among states in the percentage of high school seniors who enroll in four-year colleges in the early twenty-first century.<sup>51</sup>

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many low-income and minority families lived in low spending school districts, just as many lived in high-spending ones. As a result reductions in revenue inequalities across districts did not help disadvantaged students as a whole." As for Proposition 13's impact, "By limiting property taxes, Proposition 13 eventually led to per pupil spending reductions" (3).

<sup>49</sup> Peter Schrag, "Proposition 13 Turns 30: Compounding California's Mess Something Awful," *California Progress Report*, June 4, 2008.

<sup>50</sup> [http://nces.ed.gov/programs/digest/d11/tables/dt11\\_028.asp](http://nces.ed.gov/programs/digest/d11/tables/dt11_028.asp) (last accessed Nov. 26, 2012).

<sup>51</sup> John Aubrey Douglas, "Treading Water: What Happened to America's Higher Education Advantage," in *Globalization's Muse: Universities and Higher Education Systems in a Changing World* (Berkeley: Berkeley Public Policy Press, 2009), 168; "California at a Crossroads: Confronting the Looming Threat to Achievement, Access and Equity at the University of California and Beyond," (Chief Justice Earl Warren Institute on Race,

Moreover, as its college-going rates have plunged relative to other states, California's income inequality has spiked at rates that outstrip the national rate of growth in income inequality. In 1970, California's income inequality was comparable to the national average. Nearly forty years later, it was greater than all but five states.<sup>52</sup> For economic historian Claudia Goldin and Lawrence Katz, the declining growth rate in educational attainment nationwide since the late 1970s is a "major contributor" to increasing inequality in family income.<sup>53</sup> To what extent does this hold true for California? And, if so, to what extent does it stem from the connections I have suggested here between opposition to school desegregation through busing, school finance equalization litigation and reform, Proposition 13 and the tax revolt? These are some of the questions that the book, which this paper is an early step toward, will seek to answer.

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Ethnicity and Diversity, October 27, 2006), [http://berkeley.edu/news/berkeleyan/2006/11/images/Brown\\_Edley.pdf](http://berkeley.edu/news/berkeleyan/2006/11/images/Brown_Edley.pdf) (last accessed Nov. 26, 2012).

<sup>52</sup> Steven A. Camarota and Karen Jensenius, "A State Transformed: Immigration and the New California" (Washington, D.C.: Center for Immigration Studies, June 2010), <http://www.cis.org/california-education> (last accessed Nov. 26, 2012).

<sup>53</sup> Claudia Goldin and Lawrence Katz, *The Race Between Education and Technology* (Cambridge: The Belknap Press of Harvard University Press, 2008), 325.