

Equity Suit Updates From The Courtroom

DAY 17 - September 8, 1997

This was the final day of the case. The anticipated closing arguments became a colloquy between the attorneys for the plaintiffs, intervenors and the defendants. Judge Pellegrini said that although this was a very time consuming case it was an "Easy Case" because of the testimony going so quickly and the lack of objections by all sides during the case. Plaintiff's attorney began with a discussion of what thorough and efficient might signify. His point was that it did not mean "minimal education" it did mean a "quality education." Judge Pellegrini asked if the standard of quality education meant as it did in the West Virginia Case, Attorney Schmidt answered in the affirmative. Judge Pellegrini followed with a number of questions that related to whether the plaintiffs thought that thorough and efficient meant dollar for dollar equality and is it unconstitutional to have any difference between districts. Plaintiff's attorney said that there are differences because of the "creativity" and choices of local people. There appears to be a tension between local control and thorough and efficient system of education. Judge Pellegrini asked if a local board decided not to spend the money, how would that affect the thorough and efficient standard? Attorney Schmidt said that there has to be some oversight on the part of the legislature and the executive branch ,as there is today, that these kinds of things would not happen.

Judge Pellegrini asked if all but a few districts spent \$15,000 per pupil and a few spent \$45,000 would that be disparate enough to go to court. Plaintiff's attorney said that some might bring a case on that account, he was sure the plaintiffs in this case would not. How, asked Judge Pellegrini do you explain that some wealthy districts spend a great deal of money and their outputs are not as good as some poor districts. Plaintiff's attorney said that these would be the exceptions and generally this is not true. Judge pointed out that some districts, such as Clairton spend \$9,100 per student and are not doing well, even though they have a good building. Plaintiff's Attorney talked about the "cakes and shares" philosophy that all taxes are state taxes and that all should get an equal share. In some cases, where the educational task is difficult, there may be additional needs.

Judge Pellegrini said that the court was not going to declare a number of dollars per student, nor did it want to continue supervising a cases over a long period of time.

Attorney for the Plaintiffs pointed out that they believed that was a good position and that plaintiffs were asking for a declaratory judgement that the present system is unconstitutional . The harm done to individual children in poor districts without equality of opportunity is the crux of the matter, not a set amount of dollars per student.

Attorney for the Intervenors began their presentation about opportunities for children and the need to have the resources available to them. The judge can make parameters about dollars. The state has the right to look at what local boards are doing. The question, asked Judge Pellegrini, is does the state have the right to step in and take corrective action. Do we have to look at salaries because they are the biggest part of the expense of a school district. Does a higher salary make a better teacher? Do we have to address that question, or is that within the purview of the legislature. Mr. MacDonnell said that there were no absolutes and that we should avoid talking in absolute terms. The concept of quality education is not about absolutes. If all districts have the ability to make choices, then the system is constitutional. As long as we rely on local wealth, it is not. Judge Pellegrini asked if there was an acceptable level of disparity, 15-18% or what. He pointed to Alabama, where a constitutional amendment was passed that the judiciary could not interfere with the decisions of the legislature.

Attorney for the defendants said that there is less debate over the facts of the case and more about the law. Petitioners cannot articulate what an adequate education is. The only possible conclusion is a dollar for dollar amount as was suggested in the Danson case.

However, uniformity was rejected in the Constitutional Convention and it is not what thorough and efficient means. Judge Pellegrini asked if an "East St. Louis" school district could be acceptable in his framework. If it is then this is a justiciable case on some sort of standard of adequacy. What constitutes adequacy if then a legal matter. If the legislature said that all schools should do is "help kids tie their shoe laces" would say that this matter is outside the purview of the court. The attorney for the defendants said "yes". Judge Pellegrini disagreed. He thought that we had settled this issue with Marbury v. Madison. Abuse of power is well within the purview of the courts.

Attorney for the Defendants said that each district would have to come in and say that it could not meet the standards laid out by the state, because it did not have enough funding.

If the answer is dollar for dollar then the plaintiffs win and if the issue is adequacy then the defendants win. Is that it asked Judge Pellegrini. The Attorney for the defendants said yes. The judiciary should not interfere with the actions of the General Assembly. Judge Pellegrini asked if that was the issue and is this case justiciable on that basis. If it is true that courts should not determine the meaning of the constitution why is it that Ohio, N.J., West Virginia, Maryland (now) have all come around to throwing out the present systems. Attorney Knorr said that those were "activist courts." The judiciary should not micro-manage the educational system. Judge Pellegrini also dismissed the defense's claim that this is within the purview of sovereign immunity of the state.

Mr. Schmidt of the Plaintiffs said that Philadelphia's tax effort was larger than anywhere else if you consider all municipal and county taxes. And that Dr. Fortune's study had shown and the 150 poorest districts did significantly less well on TELLS and the PSSA than the 150 wealthiest. Danson was a unique case for Philadelphia and unique to its tax situation which is different than all other districts because the district has no taxing power.

Judge Pellegrini answered a question about the courts being funded in a uniform manner by the state after many years of being funded locally. Mr. Knorr objected to a comparison of the schools and the courts and said that the systems were not of the same historical lineage. Judge Pellegrini said that the development of local and state funding was similar.

Judge Pellegrini referred to the Philadelphia Equity Suit's determination of justiciability. If it is not than PARSS v. Ridge will be the same. It will not be justiciable. If it is than Judge Pellegrini will wait to a conclusion of the case, if it takes too long and is not scheduled, then it will take several months to make the decision in this case. Or we could request that the Supreme Court take this case right now. There was no agreement on this issue and the proceedings were at an end.