Proof of Unlawful Public Education Curriculum and Means of Support.

Summary of Texas Teacher Student Coalition & Observations by Avery:

Morath v. Tex. Taxpayer & Student Fairness Coal., 490 S.W.3d 826 (Tex., 2016)
Texas Supreme Court Opinion Dated 5/13/16

Table of Contents

1. Jurisdiction:

1.1. Justiciability:

"The State primarily invokes the political-question doctrine, arguing the claims under article VII, section 1 involve policymaking reserved to the Legislature and are

nonjusticiable political questions. The State says there are no judicially manageable methods for assessing the constitutionality of the state educational system, and there is no practicable basis for assessing the "reasonableness" of such a complex system." (26)[1]

> "We rejected this argument in *Edgewood I*, and do so again today. We explained that the Constitution imposes standards that are not committed unconditionally to the Legislature, but are instead subject to judicial review. Although the "imprecise" language of Article VII, section 1 necessarily grants the Legislature great discretion to determine what constitutes "suitable provision" for an "efficient system" to provide a "general diffusion of knowledge," it is not *inherently* the Legislature's role to define and interpret the Constitution." (26)

1.2. Standing:

"On another front, the State argues that the Plaintiffs do not have standing to make claims under article VII, section 1 because the courts cannot provide the relief sought, namely legislative changes including changes in funding." (28)

> "The Court rejected a similar standing challenge in *WOC II*[2], holding that "being required to implement unconstitutional statutes" is sufficient to give the ISDs standing to assert constitutional violations.117 The ISDs also argue that the Intervenors lack standing. The Intervenors include individual students who have standing because they are allegedly suffering directly by enduring an education provided by an unconstitutional system." (28)

1.3. Ripeness:

"Finally, the State argues that the Plaintiffs' claims, including the state property tax claims under Article VIII, section 1-e, are not ripe because school financing has changed over time. In particular, the State argues the evidence introduced in the first phase of the trial relating to the funding cut was superseded by the 83rd Legislature's decision to restore most of the funding in 2013. We have not previously addressed a ripeness argument of the sort the State now presents, but we reject it as well. Generally, the ripeness doctrine concerns whether there is sufficient development of the facts and issues to ensure that the court's judgment is not based on contingent or uncertain events. Some of the evidence presented to the trial court might have been mooted by subsequent events, including the restoration of some of the funding. But as the Plaintiffs correctly point out, the trial court reopened the evidence and made new findings. The State argues that the legislative changes considered when the evidence was reopened were so new that

[1] All numbers in parenthesis after a quote refer to page numbers in the Morath Texas Supreme Court ruling.
[2] West Orange Cove II

relevant data on their effectiveness was unavailable. Trial court findings based on the new evidence may not be as persuasive as the earlier ones, but the changed circumstances do not render the entire trial court proceeding unripe.

"The State's advocacy for a strict application of the ripeness doctrine would mean school finance cases could never be entertained, because the facts relating to funding, test scores, tax rates, property values, etc., are always changing to some extent. This is not to say that changed circumstances are not problematic for the Plaintiffs, for reasons discussed below. But the inevitable changes in relevant factual circumstances do not place school finance cases completely beyond the decision-making reach of the courts; again, holding otherwise would effectively overrule our longstanding recognition that the courts play a legitimate, constitutionally authorized role in these disputes." (29)

2. Adequacy:

"The school system is constitutionally adequate if it achieves a general diffusion of knowledge."

2.1. Trial Court's Reliance on Spending Levels:

"The trial court held the system was unconstitutional because spending was below the "adequacy estimates" of these experts." (33)

> "By focusing so heavily on the input of spending, attempting to decide a fundamental question that remains unresolved in the social sciences, relying on a misinterpretation of this Court's jurisprudence, and relying on what the court deemed "best practices," the trial court erred in assigning a minimum dollar figure as constitutionally necessary to achieve a general diffusion of knowledge. This error infected the entire adequacy analysis, influencing the trial court over and over, and rendering its ultimate conclusion that the school system is constitutionally inadequate hopelessly flawed." (41)

2.2. Trial Court's Focus on Other Inputs and "Best Practices:"

"The trial court made many findings and conclusions that can only be characterized as findings of inadequate inputs, relating to class size, tutoring, interventions for special needs students, nurses, security guards, etc." (41)

> "We have never held that constitutional adequacy requires the State to employ what are, in the view of one expert or another, the "best practices" recognized by a segment of the expert community. Funding questions aside, the trial court strayed by repeatedly looking to "best practices" regarding pre-k programs, school size, dual language classes, class size, providing for the needs of ELL (English Language Learner) and economically disadvantaged students, and so on, and holding that a failure to implement such practices "could be considered arbitrary and unconstitutional." (parenthesis added)

> "But the Legislature is not constitutionally required, under an inputs approach to adequacy we have rejected, to assure that districts statewide impose specific inputs in the form of myriad best practices." (42-43)

2.3. The State's Failure to Calculate Education Costs:

"Continuing their input-based approach, the Plaintiffs argue that the educational system is inadequate because the State has failed to make its own calculations of the funds needed to meet its performance standards or to obtain a general diffusion of knowledge." (43)

> "A failure to comply with what is arguably a creative accounting requirement does not shift the burden of proof and create a presumption that the underlying system is, as a constitutional matter, failing to provide an adequate education to Texas students." (45)

2.4. Statutory Weights & Adequacy Claims to Subgroups:

"The trial court separately held that, due to inadequate funding, the school finance system was constitutionally inadequate and unsuitable as to ELL and economically disadvantaged students. We must decide whether the courts should entertain Article VII, section 1 claims as to subgroups, as urged especially by the Edgewood ISD Plaintiffs. They point to troubling findings as to economically disadvantaged and ELL students, such as performance gaps that are large and growing. They argue the State must target more funding toward bridging these gaps." (46)

> "If the Plaintiffs are arguing that economically disadvantaged and ELL students are entitled to a greater share of funding because performance gaps by themselves demonstrate a constitutional violation, we reject this argument. The financial efficiency doctrine requires a rough equality of access to district funding for similar tax effort. Its aim is equality of opportunity, not equality of results. We have never interpreted our Constitution, under the adequacy requirement, to mandate equality of student achievement by district or student subgroup.*** Equality of educational achievement is a worthy goal of government, and society at large, but it is not a constitutional requirement." (54-55)

2.5. Test Scores & Other Outputs:

"Because the adequacy standard "is plainly result-oriented," the proper focus of a constitutional adequacy analysis should be on outputs that measure student performance. The trial court considered these outputs, concluding in its judgment that "[a]ll performance measures considered at trial, including STAAR tests, EOC exams, SATs, the ACTs, performance gaps, graduation rates, and dropout rates among others,

demonstrated that Texas public schools are not accomplishing a general diffusion of knowledge due to inadequate funding." We disagree with this legal conclusion." (55-56)

> "At the outset, we must consider whether the system, as the Legislature has designed it, is adequate to meet the constitutional requirement to provide a general diffusion of knowledge. As explained above, the Legislature need only act "reasonably" in making these policy decisions. "[N]o one would dispute that a public education system limited to teaching first-grade reading would be inadequate." But "few would insist that merely to be adequate, public education must teach all students multiple languages or nuclear biophysics." Somewhere between such extremes, the Legislature must determine and define the "required curriculum" that, in its view, the education system should provide. Once it has done so, our review is "very deferential," and we must uphold the Legislature's determination unless it is arbitrary and unreasonable." (56)

> "Despite those difficulties, we also noted improvements in some test scores and held that the system was constitutionally adequate. Likewise, today, we conclude that the performance of the system as measured by the outputs we describe does not establish a violation of the adequacy requirement. While Texans may desire a public education system that produces even "better" results or better results more quickly, their remedy lies in the Legislature and thus in the privilege and duty that all Texans have to elect the legislators who will implement the policy choices they desire. The Constitution, meanwhile, requires only a system that produces a "general diffusion of knowledge," and we cannot say that the Legislature has acted arbitrarily or unreasonably in its efforts to produce that result." (64-65)

2.6. Conclusion Regarding Adequacy:

> "Our decision on the adequacy requirement is largely driven by our standard of review, the legal lens through which we examine this issue. In *WOC II*[3], we said that "it remains to be seen whether the system's predicted drift toward constitutional inadequacy will be avoided by legislative reaction to widespread calls for changes." It is safe to say that the current Texas school system leaves much to be desired. Few would argue that the State cannot do better. But our function is limited to reviewing the constitutionality of the system under an extremely deferential standard, one that places the burden of proving the system constitutionally inadequate on the party challenging it. The Plaintiffs did not meet that burden." (65)

3. Suitability:

"This court has never held the school system constitutionally unsuitable. Such a defect appears to be reserved for some fundamental and insurmountable structural flaw, especially where the system is succeeding in efficiently providing an adequate education for Texas students" (67)

"Our prior decisions offer some insights on suitability. We have stated generally that "if the Legislature substantially defaulted on its responsibility such that Texas school

[3] West Orange Cove II

children were denied access to that education needed to participate fully in the social, economic, and educational opportunities available in Texas, the 'suitable provision' clause would be violated." We have also stated that the suitability requirement "refers specifically to the means chosen to achieve an adequate education through an efficient system." The provision "requires that the public school system be structured, operated, and funded so that it can accomplish its purpose for all Texas children."" (66)

> "The trial court held the school system was unsuitable because it was underfunded, essentially tying the suitability analysis to its flawed conclusion that the system is constitutionally inadequate because it is underfunded, a conclusion we reject above. The Plaintiffs failed to prove that the school system is unsuitable." (68)

4. Financial Efficiency:

"The trial court held the current school finance system violated the "financial efficiency" requirement of article VII, section 1. On this issue, the ISD Plaintiffs part company. CCISD sides with the State in arguing that the system is financially efficient" (69)

> "Our basic framework for deciding this issue has not changed since *Edgewood I*, where we held that "districts must have substantially equal access to similar revenues per pupil at similar levels of tax effort." And in *Edgewood II*, we said, "To be efficient, a funding system that is so dependent on local ad valorem property taxes must draw revenue from all the property at a substantially similar rate." Exact equality of funding among districts has never been required.
>
> "The State's duty to provide equal access to funding applies only to the amounts necessary to provide for a general diffusion of knowledge. Once the system provides for a general diffusion of knowledge, the Legislature "may, so long as efficiency is maintained, authorize local school districts to supplement their educational resources if local property owners approve an additional local property tax."" (69)

"Since the *Edgewood II* decision in 1991, we have not found a violation of the financial efficiency requirement. Since then, the system has used recapture among other mechanisms to equalize funding.

"In analyzing this issue, our prior decisions considered various metrics. In making comparisons to prior decisions, we particularly focus today on ratios, because financial efficiency turns not on absolute tax rates or levels of funding, but the relative differences between wealthier and poorer districts that can be presented mathematically with ratios." (70)

> "There is no single magic number or ratio that determines financial efficiency. However, as our discussion above shows, the ratios in today's case are in the range of those from prior cases where we found the system constitutionally efficient, and well below ratios where we found the system constitutionally inefficient. We accordingly conclude that the system does not violate the financial efficiency requirement of article VII, section 1." (79)

5. Qualitative Efficiency:

"The Intervenors argue the school system is qualitatively inefficient because it does not provide for a general diffusion of knowledge with little waste. They contend the system is structurally unsound, wasteful, and unproductive of results. They complain of constant unproductive litigation. Alleged structural inefficiencies include establishing school districts as near monopolies, a cap on the number of charter schools, and a failure of the system to determine the cost of educating a child. The Intervenors further complain that the system is too top-down and mandate-driven, teacher tenure and compensation rules are inefficient, and class-size limits add to inefficiency. Conflicting evidence was presented as to whether these rules contribute to student achievement. The Intervenors ask the Court to "declare the system unconstitutional because its structural inefficiencies impair its ability to produce educational results with little waste."" (79-80)

> "We have difficulty imagining conditions so structurally unsound as to violate a separate qualitative efficiency standard where the system is constitutional under an adequacy review. Since both standards, as well as the suitability standard, are all concerned with whether the State is providing a general diffusion of knowledge, the case would be rare where a plaintiff fails to prove constitutional inadequacy or unsuitability, but nevertheless succeeds in proving that the Legislature has acted arbitrarily and unreasonably with regard to qualitative inefficiency. We do not rule out completely such a showing, nor does the State, but we are convinced the Intervenors did not make one here.
>
> "The Court has never found a constitutional violation due to qualitative inefficiency." (81)

6. Charter Schools Don't get Enough:

"The Charter School Plaintiffs complain that charter schools receive at least $1,000 less per weighted student than other schools largely because they receive no funding for facilities. They also complain that they are not subject to certain adjustments in the FSP (Foundation School Program) formula available to other schools, and therefore do not receive extra funding they deserve." (85) (parenthesis added)

"The trial court held that because the ISD Plaintiffs established that the level of school funding was constitutionally inadequate and because charter school funding is based on state averages of ISD funding, the Charter School Plaintiffs prevailed on their claim that funding for open-enrollment charter schools was constitutionally inadequate." (85-86)

> "But charter schools, having no tax base, do not have to raise taxes at all. In a sense, they receive a better bargain because school district funding from the State comes largely in the form of matching funds under the two tiers of the FSP. But it is all essentially free taxpayer money for charter schools, requiring no matching effort on their part.
>
> "Conceivably a difference in the way similarly situated charter schools and other schools are funded might render the system constitutionally inefficient, inadequate, or unsuitable. The standard is whether this difference in treatment is arbitrary." (87)
>
> "Again, the Charter School Plaintiffs have not shown a difference in treatment so arbitrary as to rise to a constitutional violation.
>
> We accordingly reject all the claims of the Charter School Plaintiffs, except that we remand their claim for attorney fees along with all other claims for such fees, as discussed below." (89)

7. Statewide Ad Valorem Tax:

"The trial court held the current system imposed a statewide ad valorem tax in violation of article VIII, section 1-e. We disagree.

"Article VIII, section 1-e provides: “No State ad valorem taxes shall be levied upon any property within this State.” We explained in *Edgewood III*: “An ad valorem tax is a state tax when it is imposed directly by the State or when the State so completely controls the levy, assessment and disbursement of revenue, either directly or indirectly, that the authority employed is without meaningful discretion.” In *Edgewood IV*, we warned of a future where “some districts may be forced to tax at the maximum allowable rate just to provide a general diffusion of knowledge.” If the cap set by the Legislature “were to become in effect a floor as well as a ceiling, the conclusion that the Legislature had set a statewide ad valorem tax would appear to be unavoidable because the districts would then have lost all meaningful discretion in setting the tax rate.”

Analysis of this issue does not submit to simple rules or formulae. “Each case must turn on its own particulars.”307 “Meaningful discretion” in this context “is an admittedly imprecise standard.”" (89-90)

"In deciding this issue, the trial court held that the ISDs as a whole had "lost meaningful discretion to set their M&O[4] rates" and "the ISD Plaintiffs collectively have also established a systemic violation" of article VIII, section 1-e. The court considered the number of districts taxing at or above $1.04, finding that over 90% tax in this range. The court looked to the $1.04 rate because under current law a tax rollback election (TRE) is required to increase the rate above $1.04, and "a constitutionally adequate education cannot be left to the discretion of voters." The ISD Plaintiffs also argue the $1.04 rate should be used in analyzing this issue because taxing above this rate is politically difficult for various reasons; for example, revenues raised by taxing above this rate are sometimes subject to recapture." (91)

> "We do not agree with this reasoning. Article VII, section 3(e) of the Constitution states in part: "[T]he Legislature may authorize an additional ad valorem tax to be levied and collected within all school districts for the further maintenance of public free schools, and for the erection and equipment of school buildings therein; provided that a majority of the qualified voters of the district voting at an election to be held for that purpose, shall approve the tax." The Legislature's decision to require a TRE is consistent with article VII, section 3(e)'s provision for a local election to approve such ad valorem taxes, and with its stated intent to leave such decisions to local as opposed to state authorities." (91-92)
>
> "In *WOC II*[5] we also considered the system's "capacity," citing evidence that districts as a whole were spending over 97% of the revenue that would be available if every district taxed at the cap. The evidence was apropos to whether districts had lost meaningful discretion in setting the tax rate. The trial court in today's case also looked to several measures of capacity, but we find the analysis unconvincing. First, the trial court analyzed capacity based on what the system could raise if districts taxed at the $1.04 rate and comparing that amount to measures of the costs of an adequate education. Again, we think the $1.04 rate has no special significance in this context.
>
> "The trial court also considered what the system could raise if districts taxed at $1.17. But here we see a second problem with the trial court's capacity analysis. It measured the taxing capacity of the system against what it had decided was the amount needed to fund an adequate system under the "cost-of-adequacy" views of experts Odden and Moak. As discussed above with respect to the adequacy issue, we do not agree that the trial court properly calculated the dollar cost of an adequate education based on the views of these experts. As with the financial efficiency analysis, this problem again bleeds over into another issue." (93)

"The Plaintiffs make varied arguments to the effect that the current system imposes a statewide ad valorem tax claim as to individual districts. Much of this argument, more or less, restates the arguments that the current system is not meeting the adequacy

[4] Maintenance & Operations
[5] West Orange Cove II

requirement, arguments we have rejected above. In *WOC I*[6], we held that "a single district states a claim under article VIII, section 1-e if it alleges that it is constrained by the State to tax at a particular rate." The trial court in today's case did not actually hold that article VIII, section 1-e was violated as to any particular district." (95)

"In *WOC II*, we held that a systemic violation of article VIII, section 1-e had been established, although in the course of our analysis we noted evidence of "focus districts" struggling to meet accreditation requirements. We do not foreclose the possibility that a violation of article VIII, section 1-e can be established by a single district. But to establish such a claim, a single district would have to show that it has no meaningful discretion but to tax at or near the State-imposed cap simply to provide a general diffusion of knowledge (which, under the Legislature's current scheme, means meeting State-imposed accreditation or other requirements). Some spending on optional enrichment programs might not necessarily defeat the claim. As we stated in *WOC II*, "The State cannot provide for local supplementation [by statute], pressure most of the districts by increasing accreditation standards in an environment of increasing costs to tax at maximum rates in order to afford any supplementation at all, and then argue that it is not controlling local tax rates." We also noted a distinction between a lack of meaningful discretion and a lack of any discretion whatsoever. But we think it follows from our precedents that if a district has meaningful discretion to spend money on optional enrichment programs and is in fact exercising that discretion, that district has not made the requisite showing. In this case, the Plaintiffs point to no district or districts that both (1) are taxing at or near the cap of $1.17, and (2) established that they had been forced to forgo most or all desired enrichment expenditures and were instead compelled to spend all or nearly all their resources to meet accreditation requirements or other State-imposed mandates." (95-96)

> "Determination of this issue is difficult and does not lend itself to simple numerical solutions. But it is, ultimately, a question of law we must decide. We therefore hold the current system does not impose a statewide ad valorem tax." (97)

[6] West Orange Cove I

8. Conclusion of Texas Supreme Court:

> "Our Byzantine school funding "system" is undeniably imperfect, with immense room for improvement. But it satisfies minimum constitutional requirements. Accordingly, we decline to usurp legislative authority by issuing reform diktats from on high, supplanting lawmakers' policy wisdom with our own.
>
> "The Texas Legislature, the center of policymaking gravity, is not similarly bound. And smartly so. Our Constitution endows the people's elected representatives with vast discretion in fulfilling their constitutional duty to fashion a school system fit for our dynamic and fast-growing State's unique characteristics. We hope lawmakers will seize this urgent challenge and upend an ossified regime ill-suited for 21st century Texas.
>
> "The trial court's judgment is affirmed in part and reversed in part. We remand the issue of attorney fees to the trial court. We render a take-nothing judgment on all of the Plaintiffs' and Intervenors' other claims." (99-100)

9. Observations by Avery:

9.1. Jurisdiction:

There is another doctrine that applies in this case related to jurisdiction which was not addressed, I presume because it was not plead. It has been understood that constitutions protect the rights of citizens not government. The plaintiffs are mostly all subdivisions of the state which do not have constitutional rights but rather constitutional duties. They may seek declaratory relief from a court to learn their correct duty but they cannot claim their constitutional rights have been violated, as they have none. Only living citizens have constitutional rights to sue others including government for violation and damages. There were some parents of some students in this suit and they should have been the only real parties in this case. But they were more like tokens with the state subdivisions than separate plaintiffs with separate causes of action.

9.1.1. School Districts Like Pirates:

School districts, don't sue for their own guidance but for a bigger piece of the pie. The state subdivisions are like pirates and the court is like the Isle of Tortuga. The pirates meet in Tortuga to argue with Black Beard (the state) for a bigger share of the plunder. We don't see school districts suing the state to make them stop providing some courses because they are unlawful. You don't see the state subdivisions suing the state to completely stop ad valorem property taxes because they are unlawful.

9.1.2. Fictions granted Constitutional Rights, Denied to Citizens:

Even lawful governments and their subdivisions are fictions created by the people and do not have constitutional rights but rather constitutional duties. Citizens have constitutional rights that the state, they created for the protection of their property, have a duty to defend and prosecute. But now, it is all reversed! When a citizen sues the state or the school district on better grounds claiming that property taxes are unlawful and much of the curriculum is as well, the courts will dismiss their case on the grounds that the citizen cannot show a "unique injury" separate from all his peers.

The courts throw the citizen out in the street and tell them to vote in a new legislature. What chance is there for that? And why do that if legislation is not presently unlawful? Why bother with electing a new legislature if the old one is not passing legislation that is unlawful? The courts will only allow a citizen to bring a suit against the state when the constitutional violation injured the plaintiff in a unique way, which is a rare occurrence indeed.[7] This action by the courts also violates Article 2 Section 1:

> "The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted."

The individual citizen is not required to go to the Legislature with a violation of the Constitution to repeal it, but rather, the Judiciary is required to act separately and alone in determining if a person and all their peers have been injured by unlawful legislation. To abrogate their duty, is to join the Legislature to defend it against those they have injured.

9.2. Purpose of Public Education Ignored:

Even though the Texas Supreme Court mentioned the real purpose of public education in Texas twice, they did not employ it in the determination of the school system's performance, presumably because none of the plaintiffs brought the claim against the state. This shows the potential difference between a citizen claim and state subdivision claims:

---

[7] *Avery v. Murphy*, No. 04-07-00244-CV (Tex. App. 9/5/2007) http://sueit.org/a-pt-frame.html Scroll to the bottom of the page and read the part on the "Unique Injury" rule.

> "A general diffusion of knowledge being **essential to the preservation of the liberties and rights of the people**, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools."[8] (bolding added)

The obvious purpose of public education is to equip the student with ability to preserve the liberties and rights of the people. So why are the school districts complaining so much about not being able to provide a general diffusion of knowledge if that knowledge is not the type that will preserve the liberties and rights of the people? The Plaintiffs and the State and the courts dissect what constitutes "general diffusion of knowledge" with great precision but then totally ignore what the purpose for the general diffusion of knowledge is. How can they even consider the general diffusion of knowledge if they don't even test for its purpose? There is no test on liberties and rights and how to preserve them. The student graduates without property and does not know he owns any and does not know how to obtain it, defend it, or even think about it.

9.2.1. Excessive Diffusion of Knowledge Unrelated to Purpose:

Owning property, land, buildings, and goods is just one form of property. The other two forms are life and liberty. So why is the student so ignorant of those things upon graduation? It is because they are burdened with an excessive "diffusion of knowledge" that is unrelated to the object of "preserving liberties and rights."

Why is pubic education so expensive? Because it has exceeded its constitutional purpose to teach all things to all people and to alter society and promote "alternate lifestyles" confusing students about their sex and which "bathroom they identify with" and isolating them to compete alone in the "global economy" with all other individual slaves.

9.2.2. Shootings Result of Diffusion of Knowledge Opposing Purpose:

Why are there shootings in schools now? Because the student does not identify with other students and there is no consensus about who the individuals are or what state or nation they belong. A cohesive society with common values is demonized and there is no respect for property because no one owns any. All people are mere creatures of the state

[8] Article 7 Section 1 Texas Constitution.

and they rent all their possessions from the state and they too are mere slabs of meat belonging to the obscure inhuman global state.

Even the teachers know nothing about what their purpose. We need a complete reorganization of public education. It should be centered on the *principles of property* promulgated by John Locke in his *Second Treatise of Government* that regulate every aspect of lawful government including its lawful creation, limits of authority, means of lawful support and defense and conditions of its complete dissolution. Thomas Jefferson said all of the ideals of American Liberty come from Algernon Sidney in his *Discourses of Government* and John Locke's *1st and 2nd Treaties of Government*. No graduate knows much of anything about these two giants of civilized society forming the foundation of our nation and states.

9.2.3. No School Testing for Purpose of Public Education:

All public school teachers should be tested on both of these men and all public supported education should be focused on those *principles of property* and compared to all other more inferior doctrines so that people know the social failures of the past and can redeem themselves from the failure of this society. No student should be able to graduate without a full understanding of the principles of property upon which all lawful nations and civilized societies are built. No such test exists now in America or Texas.

As I showed the courts in *Avery v Guadalupe County Appraisal District,* All lawful governments are limited in authority based upon the limits of individual authority:

> "All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient."[9]

But what is not said there is that the authority of the individual is limited and therefore all lawful government is limited in authority as all their authority comes from the individual. And we individuals don't have the authority to educate our neighbors' children about everything in the world. But we do have the authority to protect our property by the education of the children and citizens around us about how we own our property so they

[9] Article 1 Section 2 of the Texas Constitution 1876.

will respect it and not transgress or trespass against it. Therefore all public education is limited in scope and purpose, unlike private education which may teach whatever they like. All this I showed the courts in *Avery v. Murphy*.

9.2.4. Failure of Purpose is Unsuitable and Inefficient:

The courts have swallowed the camel and are straining at gnats. The SCOT has written over one hundred pages in each of seven lengthy trials, costing millions of dollars each, trying to determine constitutionality of the public education system and its funding. But we all have a gut feeling that public education and its finance is a complete failure by the degenerate condition of our society.

The Supreme Court of Texas has defined *suitable* and *efficient* only in terms of a *general diffusion of knowledge* without regard for the *purpose* of that knowledge which limits the kind of knowledge that should be *generally diffused*. The high court even acknowledges that the public school is not required to teach nuclear biophysics to all students. So what is the parameter around the knowledge that should be diffused? It is that which is related to the *preservation of the liberties and rights of the people*, which includes their right to own possessions with an allodial title which cannot be aliened for the performance of any vassal duties including the payment of "taxes."

What does football, cosmetology, auto mechanics, tennis, shop or swimming, etc., have to do with preservation of liberties and rights? The facilities for these things are exceedingly expensive and have nothing to do with the purpose of public education. And their importance cannot justify the confiscation of everyone's property and attachment of feudal duties to pay for their construction. To do so destroys the purpose of public education with the means of paying for it. That is an absurdity that must be stopped.

However, it appears that the way other more academic material is presented is also irrelevant to the purpose of public education as none of those things mentioned above would prevent one from learning about their liberties and rights if taught in the other subjects. Therefore all the educational materials are inadequate for fulfilling the purpose of public education in Texas.

When no student graduates knowing they own property (consisting of their life, liberty and possessions) with an allodial title that cannot be aliened for the performance of anything, then the public school system is a complete failure and is unsuitable and most definitely inefficient with its exceeding high cost.

How can the student "participate fully in the social, economic, and educational opportunities available in Texas" when they can't own a home, business, land or personal possessions, but rather, must rent them from the state? No one can participate in a lawful economy if they can't own property, and why participate in a society that does not acknowledge that you own property? If you can't own property you can't sustain your life or liberty as all three are dependent upon the other. This violates the *suitability* requirement of Article 7 Section 1. The sole purpose of earning money is to purchase and own property with an unalienable title to secure and protect ones life and liberty and rights. All this is lost if the people cannot own unalienable property.

9.2.5. We All Experience the Failed Test of Public Education:

How can we think for one moment that any Texas students are obtaining the purpose of public education when neither they nor their parents own property? If the students were learning the object of public education, "property tax" would not exist, as that is the feudal system which is unlawful in Texas and every other state in the union.

I have showed the courts that the state cannot acquire authority from any source including the constitution, the people, or preexisting common law, to alien the property of the people for the performance of anything including the payment of "taxes" for any purpose in the creation or support and maintenance of the state.[10] The feudal system is unlawful! The ownership of land, homes, businesses and personal possessions is essential for the defense of all forms of property including life and liberty. The purpose of public education is entirely lost if the people do not own property with an allodial unalienable title. And they do not own it now, but should.

It's time for a pubic education revolution as it is a complete failure in achieving its purpose as shown by the undeniably decadent condition of society!

[10] Avery v. Guadalupe Cnty. Appraisal Dist. (Tex. App., 2017) http://sueit.org/avgcad.html