The Role *of the* State *in* Education

RICHARD A EPSTEIN

THE SIR RONALD TROTTER LECTURE

1995

NEW ZEALAND BUSINESS ROUNDTABLE

First published in 1996 by
New Zealand Business Roundtable,
PO Box 10–147, The Terrace,
Wellington, New Zealand

ISBN 1–877148–06–7
ISSN 1173–8081

Design and production by *Ruth Munro,*
Daphne Brasell Associates Ltd, Wellington
Printed by *Astra DPS, Wellington*

Contents

The Sir Ronald Trotter Lecture

SIR RONALD TROTTER was the first chairman of the New Zealand Business Roundtable in its present form, a position he held until 1990.

Among his many other roles he has been chief executive and chairman of Fletcher Challenge Limited, chairman of the Steering Committee of the 1984 Economic Summit, a director of the Reserve Bank of New Zealand, chairman of the State-Owned Enterprises Advisory Committee, chairman of Telecom Corporation, chairman of the National Interim Provider Board, a chairman or director of several major New Zealand companies, and chairman of the board of the Museum of New Zealand.

He was knighted in 1985 for services to business.

This lecture has been instituted by the New Zealand Business Roundtable to mark Sir Ronald Trotter's many contributions to public affairs in New Zealand. It will be given annually by a distinguished international speaker on a major topic of public policy.

The inaugural Sir Ronald Trotter lecture was given by Professor Richard A Epstein at the Parkroyal Hotel, Wellington, on 18 December 1995.

Richard A Epstein

RICHARD A EPSTEIN is the James Parker Hall Distinguished Service Professor of Law at the University of Chicago, where he has taught since 1972. Previously, he taught law at the University of Southern California from 1968 to 1972.

He has been a member of the American Academy of Arts and Sciences since 1985 and a Senior Fellow of the Center for Clinical Medical Ethics at the University of Chicago Medical School. He served as editor of the Journal of Legal Studies from 1981 to 1991, and since 1991 has been an editor of the Journal of Law and Economics.

His books include *Bargaining With the State* (Princeton, 1993); *Forbidden Grounds: The Case Against Employment Discrimination Laws* (Harvard, 1992); *Cases and Materials on Torts* (Little, Brown, 5th ed, 1990); *Takings: Private Property and the Power of Eminent Domain* (Harvard, 1985); and *Modern Products Liability Law* (Greenwood Press, 1980).

Professor Epstein has written numerous articles on a wide range of legal and interdisciplinary subjects and taught courses in contracts, criminal law, health law and policy, legal history, property, real estate development and finance, jurisprudence and taxation, torts, and workers' compensation.

His latest book, *Simple Rules for a Complex World* (Harvard, 1995), grew out of a series of lectures and seminars given in New Zealand and Australia in 1990.

Introduction by Douglas Myers, chairman, New Zealand Business Roundtable

IT IS MY VERY PLEASANT TASK to welcome you all here this evening. This is a very special occasion for the New Zealand Business Roundtable. We are honouring tonight two exceptionally distinguished individuals and friends.

Sir Ronald Trotter was the first chairman of the Business Roundtable in its present form. He assumed that office in 1985, when New Zealand was taking its first steps in a very different economic direction.

On the basis of his business achievements over the previous 10 or 15 years, Ron was unquestionably New Zealand's leading business figure. He rose to that position in what we now call old New Zealand. What I personally admire so much about Ron is that he was one of the first to realise that the economic and business environment had to change—for the good of business and the country.

As chairman of the Business Roundtable he led us in embracing the changes of the 1980s and standing fast in support of a programme of economic liberalisation through a very testing period. The role was not without its share of criticism but it helped immensely in putting the country on a more secure footing.

At the same time Ron served:

- as a director of the Reserve Bank;
- a chairman of Telecom;
- in the implementation of part of the health reforms; and
- on the board of the Museum of New Zealand, which he has recently rejoined as chairman.

When Ron retired recently as chairman of Fletcher Challenge, the prime minister, Mr Bolger, made a point of saying that no business leader had done more to help and advise New Zealand governments and to put himself at the service of the country.

Ron's name has been synonymous with ability, integrity and vision in business and national life. He is an honorary member of the Business Roundtable—the only person to be given that status—and will remain so as long as he wishes.

Sir Ron, we salute your achievements and thank you for everything you have done.

To commemorate Ron's contributions, the Business Roundtable has instituted this Sir Ronald Trotter lecture. It will be given annually by an outstanding international speaker on a major topic of public policy.

We are exceptionally privileged to have as our inaugural speaker Professor Richard Epstein, James Parker Hall Distinguished Service Professor of Law at the University of Chicago. Richard, it is a real pleasure to welcome you back to New Zealand.

Richard Epstein has been called the Hayek of our times. That is a big statement.

Hayek was the author of the 1944 book *The Road to Serfdom*, a 1974 Nobel prizewinner, and the scholar who did more than perhaps any other this century to demolish the case for socialism and central planning. He lived just long enough to see the collapse of the Berlin Wall and the birth of an era of freer economies and more open societies.

For many years Hayek's ideas were seen as radical and impractical. The same can be said of the initial reactions to much of Richard Epstein's work.

A scholar in the Hayekian tradition, but working from a law and economics perspective, he has carried forward the inquiry into the principles of government and the good society, including that most basic of political questions, the relationship between the individual and the state.

Just over five years ago in this very room, Richard delivered a lecture entitled *Simple Rules for a Complex World*. This year an expanded version of that lecture appeared in the form of his latest book of the same name. The book is an extraordinarily powerful and original analysis of the mischief of the modern regulatory state, and it sets out a programme for undoing it. Will we look back on it in 40 years' time as the work that has outlined for us the road away from serfdom?

Professor Epstein has already made pathbreaking contributions in an astonishing range of fields. His work on labour law helped us in thinking about the kind of reforms that have been implemented in this country. His next book will be on health.

To my knowledge, Richard has not yet written at length on education. There is no topic that is more important in the current work programme of the Business Roundtable, and to our national efforts to become a clever, productive, civilised and tolerant society. I am sure tonight's lecture will stimulate us all to think in fresh ways about education and, who knows, we may see a book on the subject five years down the track.

Please welcome Professor Richard Epstein to give the Sir Ronald Trotter Inaugural Lecture on *The Role of the State in Education*.

The Role of the State in Education

AFTER AN INTRODUCTION like the one delivered by Douglas Myers, sometimes the safest thing to do is to sit down. It has been five and a half years since I last visited here, and I am happy to report that the changes in the mood that I have seen in New Zealand, and in its physical surroundings, have been palpable. When I arrived last time I found a sense of unease and despondency. Now people seem to be much more confident and assured about their future. Instead of talking about higher taxes they are talking about the coming tax reductions. Even Sir Geoffrey Palmer tells me that he is proud this country is now running a budget surplus. I think that the reforms already instituted have stood you in good stead not only at home but also internationally.

Broad First Principles and Ad Hoc Transitions

What you have asked me to do today is to talk about education, a subject very close to my heart, and indeed to my own professional career. I have written the odd piece about it, but not done as yet any sustained analysis of this complex area. The question is: how does one think about this topic in a comprehensive way? Here, as with all major problems of social organisation, essentially you have to take two bites

at the apple. The first of these is to ask yourself what kind of world you would design if you could start with a clean slate. In other words, the question is how, in the original position or the state of nature, you would want to organise education if you were not obliged in some fundamental sense to first accept and then undo the mistakes that had been made by previous generations. This is not an easy task but I think one can delineate some fairly clear principles and at least shape in a coherent fashion the relevant alternatives.

The second question that you have to face, however, is one on which someone from outside New Zealand cannot advise you in any concrete detail, and it always involves a journey with unpleasant twists and turns. That is the issue of how you get from wherever you happen to be now to wherever you would like to go tomorrow. The question of transition requires both a strong compass which sets the direction, and a large amount of acrobatics and practical politics to avoid the looming perils of Scylla and Charybdis. I think I know something about using an intellectual compass to set our goals. It will, however, require some inspired local leadership to deal with the vexing issues of transition.

I shall tackle these two questions in sequence. First I shall talk about the state of nature and then consider the state of the world as it is today. Even if we can understand where we have come from and what we have done, I don't think we will find it easy to recreate some ideal state of affairs—in education or anything else. By the same token, however, I think that nobody ought to spurn incremental improvements. If we can make a piston engine run at 80 percent efficiency instead of 30 percent efficiency we have made a vast improvement and done a great service to mankind, even though there is 20 percent waste which turns out to be unavoidable. That is, I think, an inherent characteristic of all social institutions: we are never going to get to utopia, but that doesn't mean that we ought to give up trying to make matters better.

Education without the State

The first question then is: what might be an ideal theory of education in a world in which we have no encumbrances, no vested interests and no predilections? We could have a very short talk on the topic of the role of the state in education, and come up with the answer that there is no role whatsoever for the state in the education of its young. Education would be provided by other institutions in other ways. We would have a short lecture and a rather pithy conclusion. And it seems to me that we could make a credible case for such an outlandish statement.

The first point we have to stress is that the young themselves have to be cared for by somebody, and normally they have parents who perform this task. We assume that parents have very strong incentives to engage in a limited and focused form of redistribution towards their own children. We trust them to engage in a great deal of educative activity before their children enter formal schooling. There are many people, indeed, who believe that what takes place in the first three or four years of a child's life is far more important in forming character and intellect than anything any school system can do. If we allow parents to control these critical early years without licensing or certification, why is it that parents become totally unable to deal with education as their children grow older and begin to think for themselves? Parents have a pretty good set of incentives most of the time; they have pretty good knowledge of the strengths and weaknesses of their children; and they are routinely charged with tasks that clearly spill over into education. So why should anyone assume they are not fully competent to make decisions about how, when, and by whom their children should be educated?

An explanation for this change of heart might stem from the problems parents have in financing education. But on this point I think it is very instructive to recognise that education poses problems quite different from those faced in the area of health care. Educational

expenses tend to be predictable and constant over time; they don't arise in a low probability/high cost context, which might threaten catastrophic ruin to prudent persons of moderate means. Educational expenses can be handled within ordinary budgets, so long as the inputs purchased by parents are produced in a relatively efficient fashion.

You might argue that one special problem does require some attention: that is the non-diversification of your portfolio. By this I mean that you only have two parents, so that if disease or accident should wipe them out, the youngsters will be without anybody to take responsibility for them. What will you then do? In earlier times, when these contingencies were not uncommon, other relatives or various charitable institutions often stepped in to pick up the slack. While parents may be a first line of defence, they are not the only line: children need an appropriate social safety net. But it doesn't necessarily follow that this critical function has to be discharged by the government, when other alternatives are available.

I never tire of mentioning that, in the United States at least, the height of charitable activity in all areas of life took place at the height of laissez-faire. People were well able to understand that the exchange mechanism of the market was not the ideal way to treat a three-year-old child. They were therefore willing to move into the gift mode and to do so with the same imagination, enterprise and determination that they applied to their commercial activities. I also like reminding people that most of these activities have been displaced by state functions, and have been allowed to atrophy. One dull bulb has replaced a thousand points of light. To the extent that we have to evaluate and do the accounting for our modern reforms, we have to see the decline of the charitable sector as one of the regrettable by-products of the socialisation of education.

So in a state of nature you effectively have three layers of education—parents, extended family and charitable support. You have here a whole variety of institutions which are nimble enough and well-

intentioned enough to handle this particular problem in an intelligent fashion. How might it happen?

One of the major issues in the nineteenth century was child labour. A common arrangement in places such as mills was for children to work at the machines for part of the day and receive education and custodial care for the remainder, in effect paying for their tuition in part by their own labour. This scheme should be understood to be a real advance in the welfare of children at that time. Before industrialisation took place, children were engaged on the farm where it was all work and no education whatsoever, without any kind of protection. Even in today's over-romanticised times, we have to remember that farm labour is still the single most dangerous occupation on the face of the globe. The movement from the farm to the city, the movement from work in very dangerous circumstances to child labour and employment, should be seen as an empty glass becoming half filled with respect to education.

We can still find similar mixes today. One story I like to tell is about children who have to get up in the early hours of the morning to engage in arduous work before dawn, walking alone on dangerous streets where they could be set on by stray animals. They manage to avoid these multiple perils on a regular basis in order to deliver the morning newspaper before they go to school. We should not be so overly sentimental about education as to assume that children have no resources, by way of labour or intelligence, to apply on their own behalf. Rather, we should understand that these early private responses to child education and care were appropriate to situations where the levels of scarcity were generally far higher than we have today. One reason we know they were sensible is that we know why some of them failed. They failed in part because there were very active political movements to ban them, led mainly by the churches of the time. They of course ran rival schools but did not use the same system of labour. Just as we worry today about how competitors can be legislated out of

business, so too we have to remember that these same forces explain some of the difficulties and frustrations of nineteenth century education debates.

So one asks: in the abstract could this system of pure private education work in our own time? The answer seems to me that it could. We are seeing today—at least in the United States—a vast increase in the number of private educational institutions, often under religious auspices. They now have a rather different view of the world, for they no longer enjoy any dominant political influence and thus must resist legislation rather than promote it. They succeed with very large numbers of students at a fraction of the cost of public education. Not only do they flourish without the assistance of the state, but often over its active opposition in the form of licensing or accreditation laws, sneak inspections, building codes and a thousand other obstacles that are strewn in their path to try to shore up the privileged status of the public system as a monopoly provider.

The Failures of Centralised Education

Having spoken of education outside the state, one would then want to ask whether anything other than naked protectionism could explain the decline of this uneasy mix of education and labour that existed in the state of nature as I have described it. Here there tended to be two kinds of arguments, often interchangeable and heavily overlapping, which were thought to clinch the case for heavy public involvement in the educational system.

The first of the arguments is that, in providing education, you are not simply trying to train young people to learn some kind of trade. Rather you are educating citizens—people who would need and indeed be obliged to participate in public life. Thus to the extent that an education is an important kind of public good, you could make a standard economic argument that education will be underprovided if left to the voluntary and private resources of ordinary individuals. Accordingly, you would argue that you need to find some way to

subsidise and enhance the system; and that the way to do that is through public taxation and support.

The second argument ties in with the first and concerns a feature that I have alluded to already, namely the possibility that under certain circumstances parents might fail, the extended family might not take over, and charitable education might come up short. There was thus the feeling that if you treated education as a private function only, you would not be fulfilling a responsibility to the next generation, when some children fell through the cracks and reached the age of maturity without the benefit of education. Often it is said—and I think with a certain degree of force—that the goal of achieving reasonable equality of opportunity in a democracy requires some equalisation of the inputs children receive during their upbringing. It is too much to expect certain children to overcome the set of obstacles they face through no fault of their own if they receive no schooling, while others born of more privileged circumstances receive far greater educational benefits.

However, one then has to consider how these two arguments have been translated into policy. The tendency has been to create a state monopoly in education, where the state levies taxes on the one hand and provides services to parents for their children on the other. In this process the element of choice was effectively eliminated since the system operated essentially on a strict territorial basis, with children assigned to local schools. The educational benefits that children received were to some extent coupled with an obligation to receive them, and the levels of choice on matters of type and place of education were sharply circumscribed.

In the United States at least, we now know the long-term consequences of this system. Such a system can survive, I think, fairly well for a period after its inception but, like most systems of social control, it becomes progressively more encrusted with barnacles with the passage of time until it is hardly able to function at all. In the United States we have seen the deficiencies of Medicare 30 years after its birth, and other state-run systems often follow a similar pattern.

Hayek—a thinker for whom I have immense respect—predicted when he was at the University of Chicago in 1950 that socialist systems (of which Medicare is one) would last no more than two generations. Speaking with reference to the Soviet bloc, he said such a policy might work for a while on the back of the enthusiasm of its founders, but as it moved into the second and third generation it would be unable to regenerate itself. The ideological fervour would be lost, and the practical difficulties would overwhelm the rest—which is what happened in Eastern Europe and the old Soviet Union.

So what has happened in the American education system can be described by looking at two lines. One is a line that measures performance over time. If I had a blackboard I would have that line starting high before 1965 and sloping down by any conceivable measure to 1995, for education at all levels. A decline of that sort raises the question of its cause. That question brings forth a second line, which moves consistently upward from 1965 to the present. This line represents the amount of public funds per pupil spent on education. Judging purely from the line you would assume, since all of these expenditures are purposive in their intention, that the purpose of the state is not to fill the gaps that persist in my state of nature, but rather to hammer home the fact that the more we spend the more harm we can do to the next generation. I don't believe anyone thinks that is the actual intention of these public expenditures, but the unmistakable correlation is there. There is simply no level of improvement in education over the last 30 to 35 years, at least in all the advanced western democracies, which can be attributed to the massive increase in expenditures on education. You will see some elements of this pattern across the board. It may differ in extent from one country to another, but I doubt that you will find many examples of a decline in the level of public expenditures on the one hand and an increase in the effectiveness of those expenditures on the other—which of course is the result that you would crave in this area, as in any other.

Just why we have these problems is a point which warrants a good

deal of debate. Let me offer a couple of comments.

First, whatever the problems of a system with too little government intervention, they must be traded off against a system that invites too much. The dangers raised by the nationalisation or centralisation of education into the hands of a single authority, which has the power to tax, to hire teachers and to distribute the various education services, turn out to be very great. What are some of the perils?

We may start with the very perils that this system was supposed to avert. We were told, in effect, that one of the reasons for public education was to create the so-called public good associated with citizenship and public participation in the affairs of the day. When you try to apply that strategy to young children, however, the project can go very badly astray. The great danger that I see, at least in the American system, is that centralised education makes it open season for any group—and that includes those that for some reason might agree with me—to try to take over the operation of the political system in order to convert the educational experience from one designed to promote public citizenship to one that promotes narrow forms of indoctrination. Any political system always runs the risk that the majority will be able to impose its will on a minority. When you are dealing with education you are never quite sure how that majority will assert itself politically, or what interest groups will form which coalitions. But it is very clear in the United States that there is pressure to get various forms of political correctness into the curriculum at a state-wide level, to prescribe what can be taught in the school systems, and to specify what books are to be used and what viewpoints should be conveyed. The writings of the American educational philosopher Amy Guttman show how easy it is for a complete inversion of a rational educational process to take place. The first priorities are not reading, writing and arithmetic—the kinds of things that parents might want their children to be taught—but topics such as gender equity and public participation, which may in fact alienate both students and parents if they are pushed in a sufficiently dogmatic fashion.

It is not that I am necessarily opposed to some of these ideals, and indeed in some cases I might champion them. But I would like at least to have some say in the way they are articulated and advanced to the population at large. This means that if—as I happen to think, for example—biological determinants play an important role in shaping individual personality and sexual identity, I do not want any lobby for public education and public participation to place that position off limits as a way of organising and understanding the curriculum, or helping young boys and girls assume the richest and most powerful identities in their adult life. The danger with public participation is that it can lead to decisions to subsidise a public good that is 'good' only in the sense that it is created and supported by the state. It could easily be regarded as a public 'bad' to the extent that it allows individuals with one point of view to take over the system at large.

In the American curriculum this has resulted in some incredible distortions. The Council of Seneca, which was a gathering of an Indian tribe which established a form of government in the eighteenth century, is now elevated by some to an importance that begins to rival the Declaration of Independence. It is treated as having had more influence in the founding of the United States than the works of such people as Thomas Hobbes and John Locke, who are downgraded to the status of minor English political philosophers who have long since disappeared from the face of the earth without so much as a trace of their writings being left behind. These transformations in view can happen easily when education is under the control of the state. The sober moral: whenever you accept centralisation of state power, in education or anywhere else, you run such risks.

In addition to the risks of ideological capture, centralisation creates other kinds of dangers. Here I revert to a subject that I addressed in Auckland some five years ago, namely how the operation of the labour market ties in with the provision of competitive services. The moment you have national funding of education, or more specifically national funding of government-owned schools, you have usually bought into

a system that has a single purchaser of labour. That purchaser of labour is an easy target for unionisation, particularly if the political language in favour of public participation is thought to mean that all forms of private capitalist acts are viewed as inappropriate for individuals in the formative stages of their lives. If this is the way you tend to think about your system, you will move away from the philosophy of President Calvin Coolidge, which I warmly embrace, who said with respect to public sector unionism: "no way, ever". (Coolidge was a very laconic fellow and didn't regard this stance as needing any more justification.) Now states such as my own state of Illinois require various local school districts to accept unionised collective bargaining in the educational sector, no small change in policy. The net effect is to take additional tax revenues and to use them not to benefit students but to bump up wages from competitive to monopolistic levels, the opposite of what any government should do.

I well remember the late Mayor Richard J Daley, just before he died, pleading until he was red in the face for a state funding increase for the education budget of the city of Chicago. He had caved in to heavy union demands and insisted that the new Chicago funds were only for the benefit of the children. When the dust settled, however, the union demands were met by taking the entire funding increase and giving it to existing teachers, while also laying off non-union staff (including parent teacher aids) who worked for lower wages. The interests of the intended beneficiaries were overlooked, to say the least. If organised groups have clout, they will exercise it and education will not be different from other activities in this regard. If there is a monopoly rent to be obtained, the way to guarantee somebody will secure it is to create as a matter of law a monopsony buyer of goods or services.

The third feature one needs to consider in any education system is how it handles redistribution between rich and poor. This is an extremely ticklish problem in the United States, and I dare say there are great complexities elsewhere. To the extent that you are dealing with educational systems that are funded locally, the amount and

quality of education that you will have in the community will be dependent not only on your wealth but also on that of your immediate neighbours. This means that the well-to-do suburbs will have fine schools and poor inner city communities will have rather poor ones. The issue which then arises is whether or not there could be a system of state or nationwide equalisation in order to distribute the educational opportunities more evenly. At least in the American context, the result of such enterprises has been uniformly negative. Typically the moment funding is equalised across districts, and is derived not from local tax revenues from the real estate base but from general revenues, the support the school system gets from parents seems to disintegrate. It is impossible to get people to make additional contributions by way of labour or capital if those contributions are then spread throughout the entire state; they are feasible only to the extent that the moneys in question are spent at the local school to which the parents send their own children. The older system of redistribution which says "I will help your kids while I am helping my own" is effectively frustrated by a system in which funding takes place at a state or national level. Well-to-do parents often remove their children from the public schools, and the bottom line tends to be diminished support for them. They end up being very inefficient, high labour cost operations where the possibilities for innovation are extremely low and the opportunities for political intervention are extremely great.

Which Way Out?

Thus we appear to be seeing a major failure of policy for education at this level. What can be done about it? The first thing that has to be recognised is that there are serious political obstacles that stand in the path of any reform. One number which captures the situation in the American system is that around one-in-eight delegates to the national Democratic Party convention at the time of the last elections were members of one of our two major teacher unions. The strongest unions in the United States are those covering public sector employees, and

among them the most powerful are those involved in education. For a whole variety of reasons, these unions are often deeply resistant to any kind of change in the structure of education. Changes threaten to expose the weakness of their cartel stranglehold and diminish their economic power. We have a classic public choice explanation of the unions' behaviour. The ideals of citizenship and public participation unfortunately recede into the background.

Notwithstanding these political difficulties, which I am sure are replicated in New Zealand, let us consider a range of potential reforms that might be introduced. I shall start with some relatively modest ones, and then look at some more far-reaching possibilities.

No educational unionisation

One reform which I regard as very modest, but which I am sure would bring down the house if proposed in parliament tomorrow, is in effect to reverse the policy with respect to labour unions and the public sector and return to the wisdom of Calvin Coolidge. In effect we would say that to the extent that the government is involved with education, it should dedicate its efforts to the interests of children—not those of teachers as such. The government should therefore establish a competitive market in labour and not tolerate unionisation at a nationwide level. Individual schools might have collective contracts if they so chose, but the government would not agree to national awards.

The advantage of this, of course, is that it would allow greater flexibility in staffing schools as well as in the hiring and firing of teachers and in managing the curriculum. It would create a shift from the present public service environment to a world in which the performance of a teacher would determine pay and promotion within the system. It would also, I think, free up the opportunities for curriculum change and development, and for testing, since teachers in a monopolistic environment will always be resistant to anything which measures the value and the quality of their outputs. To the extent that there is a decline in student performance in the United States, the dominant response is to shoot the messenger and argue that, while the tests may

have been reliable in 1948 or 1964, advances in testing mean that they are completely unreliable today. So rather than acknowledging what the data say about education performance, we have re-engineered the tests so that it becomes almost impossible, using current standards, to compare the relative performance of a 1995 student and a 1948 student. Our standard college board scores, which have gone down so badly, have been calibrated on a different number scale so as to make direct comparisons much more difficult. If you can't live with the past you are obliged to bury it, so that the last traces of the damning evidence of the past will be hard to assemble and interpret.

Decentralisation of government power

So changing union policies is one way of tackling the problem. What are others? Another consequence of decentralisation, separate from the labour market advantages, is simply to reduce the diseconomies of scale. The city of Chicago tries to teach around 500,000 students a year. The city of New York tries to teach two or three times that number, and to do so with a single hierarchical structure that has a superintendent at the top, various administrative layers and finally teachers at the bottom. The optimal size of a private school, as best I can figure out, is probably something under 2000 students, and it will generally have its own board and its own trustees. Thus we are clearly running public units that are far too large relative to their educational mission.

One strategy for dealing with that problem is the type of decentralisation adopted in the Chicago programme. This involves the establishment of local boards whose membership is drawn from people in the various neighbourhoods. These boards assume the governance role for the schools in their particular locality, with the power to hire and fire principals. Therefore they have a little more leverage over curriculum and employment arrangements within the school. The hope is that, by having local input, parents' preferences at the grass roots level will be more clearly reflected in the system than under an aloof and complicated administrative structure. There is no doubt something to be gained by this mode of decentralisation, but on balance it turns out to be a serious disappointment.

The reason why this approach fails is very clear. The degree of choice that is given to parents in the way in which they raise and educate their children is minimal. They are now faced with a local monopolist operating in Hyde Park or Oakwood rather than a city-wide monopolist for the whole of Chicago. They still only have a single provider of education for their children. If they disagree with school policies, there is no way they can exercise their exit rights, pack their bags, find some other school which is more to their liking, or change the reforms in question—unless they pick up and bodily move. Moreover, this effort at localisation, at least if it is done simply through elected representatives, opens the field up not to parental control but to community control, which is a very different matter. There is typically less than a 10 percent turnout at elections, and any determined group with a very skewed agenda can take over the entire school board, simply because of the inattention and indifference of everybody else. I know of one case where several members of the same family all secured election to a single board. Thus by running the system through localised school boards you do not necessarily put the power into the hands of the individuals who care most about their children—the parents. You put it into the hands of those who can cobble together a coalition of sufficient size to pursue the same kind of monopolistic, majoritarian policies that are characteristic of our larger political systems. Such a form of decentralisation therefore amounts only to a small change, and on some occasions one for the worse. It fails to deal with the fundamental issue of how to introduce some degree of competition into a system which tends to be stifling on matters of values, curriculum and labour relationships because of its concentrated and centralised power.

Vouchers

So then the issue is whether we can think of any other system which will be more effective in handling the political dimension of government education. The option that is most attractive, and which is worth considering in some detail, is the idea of using a voucher system.

This is a proposal which is often attributed to Milton Friedman who

proposed it in his 1963 book *Capitalism and Freedom*, so it comes with impeccable libertarian credentials. Milton Friedman is an economist and I am a lawyer. He tends to see the strength of the system at the grandest level while I tend to see the rather smaller and obnoxious kinds of difficulties that often subvert a great concept. It is perhaps an open question as to whether or not the powerful implicit logic of the voucher scheme can overcome the sorts of practical obstacles that will arise with its implementation. This may well depend on local circumstances: I would give it a better chance in New Zealand than I would in the city of Chicago, for a whole variety of reasons. But let me first go over the proposal, and then try to indicate what some of the difficulties are.

The concept of a voucher is to separate two domains of state activity, the funding operation on the one hand and the direct provision of education on the other. The state would tax its citizens as it does now and then give a voucher—which is money for a restricted purpose—to parents to spend at any school of their choice on the education of their children. The state would therefore no longer be responsible for the direct provision of education, but simply for its funding. The parents may not spend their voucher on a trip to the Caribbean, but they can spend it at any school, at any place, offering any style of education that they value. They will now be armed with the dollars that will allow them to make the kinds of choices, exits, compromises and judgments about schools that will require public and private schools alike to be highly responsive if they want to attract and retain the dollars in question.

There is no doubt that, as a matter of principle, such a voucher system should lead to major improvements in the provision of education if it could be made to work. For example, it would eliminate the risk that citizenship can turn into indoctrination. It would be much more difficult for radical or committed groups of any persuasion to take over a school system if it turned out that, every time they took over a school, the school lost parents who were more interested in the fundamentals

of education than in some abstruse points of modern political theory. Such tendencies would be constrained by parental power, and diversity in educational approaches would be encouraged.

Vouchers would also, I think, eliminate some other serious tensions. For example, one of the extremely difficult problems in education is what to do with people who speak two languages, typically English as the common tongue and next the language of their national origin. Under the current system of bilingual education in the United States, the state funds local languages and in California over 100 languages are now taught. Dual instruction is required, at a cost to the system of around US$2–3 billion per year, for discernible benefits that have yet to be identified by anybody.

Let me make it clear that I am not arguing against bilingual education. But a system would work far better if a Latvian school could be set up for Latvian pupils, and if parents through the use of voucher dollars could decide how much Latvian and how much mathematics would be taught at any given time. The problem would be handled in a decentralised fashion instead of some voting majority or even minority group forcing its views on a large population who were very unwilling to provide the funding. Diversity is thereby fostered, as it is in other markets. In the early days of telecommunications, before the Federal Communications Commission regulated the allocation of broadcast licences, numerous stations essentially sublet their time to people who spoke so many different languages that it was impossible to keep track of them. There were stations that would give 30 minutes to the Croats and 30 minutes to the Serbs and 30 minutes to the Bosnians and 30 minutes to the Lithuanians, and so forth. Many of the frequencies were resold in those kinds of units. A market allows populations to be subdivided so that the preferences of some can be met without forcing everybody else to share them. But then the government blocked these time-sharing arrangements by requiring the licensee to exert direct control over the programming, which defeats the entire purpose. Education has the same dynamic: private decentral-

isation leads to innovation which government control effectively stifles. Once we break away from the dogmatic view that there is one standard curriculum, then some schools can be designed to train students for vocational skills, others to teach fine arts, others to deal with children who have disabilities, still others to cater for gifted students—and so on down the line.

As a theoretical matter, the separation of the provision and funding of education seems to me very attractive. It also, I think, deals effectively with the whole question of labour unions. It would be quite wrong, once diversity had been introduced, to ban unionisation of any school. If a school is happy to accept a union role in its operations, God bless it; since it is now in a competitive environment it will have to find reasons apart from cartelisation for doing so. The best reasons are that the union will offer the school benefits in terms of labour arrangements, so that it achieves higher productivity to offset whatever administrative inconvenience unionisation brings in its wake. If it turns out that the unions try to cartelise amongst themselves, the schools they cartelise will cease to be competitive. They will fail, and teachers and capital resources will be redeployed in other schools or outside education. It is for that reason, of course, that there is powerful union opposition to vouchers, because unions understand full well that only monolithic organisations can be unionised. It is very difficult to organise in any way, shape or form firms that are born today and can die tomorrow if they do not satisfy consumers better than the competition do.

So on that score, too, vouchers ought to work fairly well. The question is: how well will they work politically? Let me mention some of the serious issues that arise at the level of implementation.

The first point exposes some nagging difficulties. Who gets the vouchers in question? The starting point is to propose that every child gets the same voucher, regardless of family income, education disabilities, whether or not they are English speakers or have some additional cost associated with learning another language, and so forth. This

proposal has very powerful appeal at one level. Its simplicity has a great deal to commend it. It turns out, however, that it is very complicated at another level. Some will get a voucher which will buy them a very good education because their school does not have to cope with students with learning disabilities. There will be other students whose allocation from the state does not cover their needs. So people will immediately say: "we must give a voucher of greater value to students with, say, learning disabilities". If the experience with special education in the United States is duplicated anywhere else, the moment a special voucher is provided to handle learning disabilities, the number of individuals with such disabilities will mushroom in very short order. One of the regrettable consequences is that well-to-do parents with the resources to test their children for disabilities will be best able to take advantage of the system. Different levels of payment could lead to a major redistribution in favour of rather wealthy families—those who in all likelihood could afford to pay for private education on their own if the state never stepped in at all. Figuring out what these redistributions are—whether they are uniform or variable, whether they differ by location or not—is a complex task and one that doesn't have to be faced with my simple proposal of having parents and charities take responsibility for education.

The second issue in assessing whether vouchers will work is the problem of regulation. This is an extremely touchy matter in the United States, and I dare say that in one way or another it will arise anywhere else. What is the way to undermine a grant? The answer is to give $1000 with one hand and impose a condition which costs $200 to meet with the other. Now it is an $800 grant. With four other similar conditions the recipient would lose money by accepting grants, and such a strategy could therefore stop the entire voucher movement in its tracks. It is quite clear that initiatives to implement vouchers have generated responses of this sort in order to dull their effects.

One limitation on vouchers could doom the programme from the outset. President Clinton has long flirted with a voucher system in

the United States, but only for use in public schools. The proposal therefore freezes out all parochial and private schools, and does nothing to undermine the state monopoly on the provision of service, which the voucher programme is intended to do. There is no principled reason for imposing this restriction on vouchers, save for the fact that it prevents all forms of new entry into the market place, which may be good for unions and government officials but is bad for parents and children.

Even if this condition is dropped, other rules and conditions could be imposed in order to make private and religious schools look more like public ones. Some of these conditions could seem innocuous at first. The rules stipulate that the only schools that are eligible for vouchers are those that meet certain educational and financial standards. Next some government bureaucracy must certify these standards. It turns out that recently-created private schools do not meet them whereas well-established public schools always do, on the grounds that they performed satisfactorily over, say, the previous five years. Any new entrant will struggle to meet the formal criteria, so over time differential compliance costs will slowly materialise, but always in favour of incumbent institutions. Entrenched institutions, often with public funding, will have an advantage over their private rivals.

Other conditions could bring about similar effects. One very important condition could prohibit the use of public funds on religious schools. Thus, for example, the relatively efficient Catholic school system in the United States would be off-limits for vouchers, on the grounds that church and state must be separated. This means that churchgoers are taxed but don't receive any educational benefits from the taxes they pay. There is no separation on the exaction side, but there is strict separation on the benefit side, which defeats any fair distribution of educational opportunity through a system of vouchers.

The differences in efficiency between school systems can be very large. A famous anecdote is told about the size of two educational establishments in the city of New York some 10 years ago. A study

was conducted to look at the number of administrative staff relative to the number of teaching faculty in the different school systems. The researcher called the city Board of Education responsible for the public school system for information on that issue. The answer was that it would take about six months to accumulate the data, and that when they were available they could be used only for limited purposes, and so on.

The researcher then called the Catholic school system and asked: "how many people do you have in central administration?". The woman who picked up the telephone replied: "wait a second, I will have to check". She stood up from her desk, looked around the room, and counted aloud Gladys, Herman and five others and answered: "seven". It turns out that the ratio of teaching to administrative staff in the Catholic system is far lower than in the public system. The former has learned how to decentralise and plan through budgets whereas the other system works on a command and control basis. If the rules do not permit vouchers to go to certain providers because of their religious orientation, some of the natural and most efficient sources of private education in the United States would be excluded from the system. It is not a prospect that New Zealand should rush to embrace.

A third kind of condition is tightly bound up with the anti-discrimination laws. Generally speaking, there are powerful private preferences in education to cater for homogeneous groups. One school is set up for Latvian students, another for Hebrew students, another for black students, and so forth. In my view citizenship could be taught in such environments very well, so long as the schools have the right kind of values. But in the United States today a proposal to organise a school by race or by sex would immediately give rise to howls of protest that vouchers could not be used at such a school. There was, for example, a tragic situation recently in Detroit where it was finally realised that the only way to get black male students from the inner city schools to work effectively in school was to enrol them in sex-segregated schools. The proposal was to have a school which would

take only boys, with other schools in the system taking both boys and girls. This had the support of 95 percent of parents, who understood exactly the hormonal and social conditions existing in their schools, and believed separation offered a way to reduce some of the pressures and distractions found in co-education. Support was unanimous except from the American Civil Liberties Union and similar groups, which promptly sued in Federal court and had the initiative blocked as a violation of the anti-discrimination laws and the constitutional guarantees of equal protection.

This episode shows just how oddly these statutes can work, because they invoke some earlier model of invidious discrimination associated with Jim Crow laws and other ugly statist regimes, and extend the same logic to voluntary arrangements to which the argument simply does not apply. But one of the risks with vouchers is that conditions will be laid down as to who can be accepted by the school, and the private nature of the institution may be destroyed in the name of the public obligation not to discriminate. Moreover, the overseeing bureaucracy will often have more discriminatory motives than the private institutions it regulates.

An ultimate irony is the establishment of a condition specifying that the only kind of private institution that qualifies for a voucher is one which agrees to the unionisation of staff, which takes us back to where we started. Indeed, when vouchers were placed on the recent ballot in California, the situation was so tense over the key issue of conditions that the initiative was beaten decisively. It was defeated not because people were opposed to vouchers in the abstract, but because they so feared the kind of conditions that would be imposed upon schools by various state laws—some of which were in existence and some of which might be introduced afterwards—that they felt there was no guarantee that the independence of the private institutions that received the vouchers could be sustained over the long haul.

It is easy to identify some perfectly good reasons to entertain those fears. The experience with Medicare provides an analogy. When Medicare began, people were told not to worry about the risks of regulation. The payer of the bills would not impose any conditions, they were assured. But it turns out that when a bureaucracy is paying the bills, there are very great pressures to impose conditions, not necessarily in the form of licensing a provider or a practice but perhaps on the amount of subsidy available to service certain kinds of patients.

Over and over again the American experience has been that a series of conditions is attached to grants, and the fear associated with vouchers is that it would spell the end of the private school movement. Private schools might be subject to conditions which would restrict their freedom to the paltry levels found in the public school system. In my judgment it is an empirical question, which depends heavily upon local culture, local institutions and local parliamentary will, as to whether the problem of conditions is great enough to nullify the benefits of vouchers. Yet any way the issue is approached, the point is one that nobody worried about implementation can ignore. It is quite clear that a fine idea can be destroyed utterly by such devices. One of the great advantages of my original state of nature proposal, in which there is parental and familial support on the one hand and charitable gifts on the other, is that the state's intrusion is sufficiently small that the risks of invidious conditions, and of ensuing system degeneration, are tightly cabined. Considered over the long haul, oddly enough it seems to me that our old friend the state of nature is probably better than the voucher system, even though I think it is largely unattainable in the current political environment.

Privatisation

Finally, let me discuss another alternative to the current system which I think should also be actively under consideration, and indicate how difficult I think its implementation will be. The idea is to devise a programme to privatise public schools. Instead of having boards of trustees responsible through charters for managing government-owned schools, they would be divested to groups which would operate them as private institutions.

Privatisation works very well with most ordinary businesses. Once privatised they can charge for their product, and their success or failure can be measured by ordinary market mechanisms. The ultimate test of success is whether the shareholder who invests in the private firm will be able to realise a return on the investment, either through profits in the form of dividends or capital gains or through sale of the assets or upon liquidation. The great difficulty with education is that it turns out to be extremely difficult, both at the secondary and the tertiary level, to invent a set of policies that permits a combination of the best features of profit-making institutions with the best forms of school organisation.

My concern can be summarised in a single sentence: you can never persuade parents or charitable institutions to make contributions to an organisation that can simply declare a dividend of all the moneys it happens to receive from outside sources. One of the reasons why the academic structure of secondary and tertiary institutions assumes its baroque form is to woo contributions from charitable institutions on the one hand and parents on the other.

My wife Eileen is a fundraiser in a private school, and she spends a lot of time with parents and alumni. Over and over again, the overriding thing that she has to assure them is that the University of Chicago, which partly owns the school, will not siphon away the additional funds that parents are prepared to contribute to it. Since the University of Chicago is a private university whose administrators keenly understand this point, a set of credible commitments to that effect can be maintained.

With a profit-making operation, not only can you not give that assurance, but you have to assure investors exactly the opposite—that there will be a return on their investment—in order to get the original contribution of capital. This means that privatisation of an organisation which is to retain a non-profit status will have to be handled in a different way. It will be necessary to find ways of giving assets away rather than selling them, and to resolve the difficult problem of deciding who is a worthy recipient for the assets. The only way to start a

new private institution, I think, is to find a benefactor who in effect will make such a large contribution up front that the school can live off the endowment until an alumni and parent base of support is established. I think that it is quite unlikely that private schools could start simply by purchasing the oversized physical plants that now house public institutions. Most of those should be sold off to the highest bidder, who may well use them for non-educational purposes.

I may be wrong in making this judgment. There is no reason to prevent the creation of for-profit schools, and I am in the prediction business, not the banning business. However, recent American efforts in this direction by the Edison company appear to have ended in failure. The explanation seems to be that such ventures can't get the inputs from parents, supporters, the community, the local McDonalds and so on, which are necessary for the successful operation of a private school.

What does that suggest? It suggests that when you are dealing with a public, non-profit institution, the introduction of the benefits of private enterprise will have to take place in a more piecemeal fashion. The task is not to privatise the whole institution, but to identify particular services the institution supplies and privatise those, without privatising the core academic mission. Thus a school would ask itself the question: "do we have to run a boarding facility or have our own caretakers to look after the grounds, or could we find someone to supply these things under contract who will give us better quality at lower price?". And it would ask the same question with respect to food services, cleaning services, security services, the purchase and acquisition of supplies, maintenance and so forth. That is, the school would search for ways of placing as many direct operational responsibilities as possible in the hands of private profit-making providers of services. In my own university, which has faced extraordinary financial pressures in the last several years, we have adopted exactly this strategy. We don't run a book store any more. The book store on campus is now run by Barnes and Noble, which somehow managed to convert a large annual loss into a large annual gain, and in the process provided better

service to our students. With similar determination, we are going through the entire university operation—from food services, to student registration, to computer services—trying to find ways in which we can keep control of the core educational functions as a private non-profit institution, while contracting out everything else to commercial suppliers.

If I were running the public school system, with or without vouchers, with or without unions, I would engage very aggressively in that kind of strategy. But I would still not forget my state of nature, and let me end on this note.

There is one educational market in the United States which has not been surrendered to state control. This is the market for the education of students between the ages of two and four. It is a very active market because the circumstances of modern American family life are such that many mothers must join their husbands in the work place in order to support their children and put them through school. The money spent on the education of small children in many families is a very large element in the household budget—perhaps not equal to the home mortgage, but certainly not trivial. I am happy to report that in my own community and throughout the nation, the greatest choice and the best value in educational services are in this niche market. The schools that service that market range from ones with four kids in the back of a room to larger establishments run by religious organisations and schools run by private businesses. This educational market is relatively unlicensed, unregulated and non-unionised, and it is relatively cheap. I believe we ought to try to work up from there. I think that in the final analysis the best system that we ever had is the system which seems today to be politically inconceivable. I think that if we were to privatise the entire system we would do far better, and by privatisation I mean no government involvement whatsoever. Whether we can get there, of course, is something which I think will take one or two generations to talk about and debate, but I hope at least we will start down that road.

Questions

John Stuart Mill believed, as you do, that the state should have nothing to do with the provision of education, but he did think that the state should require children to be educated. How could the state require children to be educated if it withdraws from the business of providing it?

John Stuart Mill was usually right in his instincts but typically he tended to waver in the clinches. I want every child to have some degree of education, but the last thing I would do is lay down requirements to this effect, because they become the thin end of the wedge for much more comprehensive systems of examinations and controls. I would just disagree with John Stuart Mill on this particular point and get rid of the element of state compulsion, because I think parents are pretty much aware of what happens to a child who doesn't receive an education. One of my favourite statistics, quoted to me by Ed Crane of the Cato Institute, is that the level of literacy in the United States in 1840, before the rise of compulsory public education, was higher than it is today. That is a frightening figure, and is in part due to the fact that we have made education compulsory. To me the hard issue, given all the expectations that have been built up, is that it would be extraordinarily difficult to make the transition to the stateless educational system cold turkey. It may be that vouchers would be the appropriate route. Hopefully, as in the Marxist vision of the state, the vouchers can wither away, so that in the early years they cover the full costs of education and every year they get reduced until in the end there is nothing left to them at all. Mill was right about a lot of things, but on this point he may have erred. The effort to devise requirements can easily be ratcheted up to the point where certain kinds of institutions can no longer meet them. Licensing rules have always been the point of entry for a monopoly, and it seems to me that Mill was not sufficiently attuned to the risks which public choice theory has

taught us to anticipate. He still had this vision of the virtuous British public service administering everything, including competitive examinations, and didn't see the dark side of government power.

I worry about the bureaucracy involved with a voucher system. With vouchers you need teams of people to check things, approve them and make payments. I am reminded of the experience after the Second World War in Britain. The government decided that every child in the country would have a banana. Every child had to be allocated one coupon for one banana, but adults valued the coupons more than the children and they all got sold on the black market.

That is what I worry about too. I only used a slightly different label. I talked about conditions whereas you talk about bureaucracy. I don't think printing and distribution is the dominant question. Let me give you another option for improving the situation which I neglected to mention in my speech, but which I think is important. We could simply allow parents to deduct some portion of the education expenses of their child in their tax return. That way there would be no vouchers and less bureaucracy. You could have the amount of the deduction fall with higher incomes. A deduction could be allowed in full up to a certain income level, after which it reduced and at a certain point disappeared altogether. A tax deduction is in many ways preferable to a voucher system, because it allows education to be subsidised with less in the way of conditions or bureaucratic intervention. The difficulty is in the case of people with no income. Compared with vouchers, this system works well for people who pay tax but does not work well in the case of children whose parents are unable to earn anything, or are receiving various forms of social assistance. So at the bottom end you have to supplement a system of tax deductions with a system of direct grants. This means a smaller bureaucracy but nonetheless it reintroduces some degree of peril.

The hard part is this: in an earlier age I think charitable impulses

could have been relied on to look after people in need. In the United States charitable giving was simply enormous. There were charitable schools in most communities and their supporters gave their total commitment to the enterprise, regardless of who was attending them. Can you recreate that kind of civil society after it has become regarded as unfashionable? Today when all the hard cases—health and education being the leading two—are debated, policy analysts will not put the charitable alternative on the table. I am not sure that once the watch is broken it can easily be put back together.

For this reason I am not completely comfortable with any of the alternatives, including going back to the state of nature. I would hope that the Ministry of Education would look more favourably on tax deductions than on direct grants, because I think they pose fewer of the dangers that you mention. And remember this: legislative reforms are not only for today but for the next generation. It is foolish to argue that "vouchers are okay because a wise administrator is in charge". The relevant question is what happens when a successor comes into office. The danger of political deterioration and disintegration is very great, and must always be guarded against.

Under vouchers, how do you get the best school on this side of town to take at least some kids from the lower socio-economic group on the other side of town?

You don't make it compulsory. The political pressures in favour of redistribution, which you see every day at a governmental level, do not disappear when you move to a world of private schools. I think the difficulty in practice is exactly the opposite. How do you make sure that pressures for affirmative action or redistribution within private schools are not so great as to override other parts of the educational mission? This is one problem which will surely take care of itself. Another way to see this is to ask what would happen in the United States if we were to repeal, as I would do, the anti-discrimination laws

tomorrow. Affirmative action would not disappear. It would change in nuance and focus and extent, and become more efficient in form and structure, but the impulses behind such ideas don't simply disappear in an unregulated private sector. So I would feel exactly the same way as I felt about the first question on requirements. If you try to mandate conditions as to the mix of admissions, you will make it impossible for schools to operate under the bureaucratic mandates that you create in good faith. You have to rely on community attitudes. There may be the odd school that won't adopt a policy of mixed enrolments, but that is not a concern so long as others do. We have discovered in our own fundraising efforts at the University of Chicago that if you put no weight on diversity you can't get money from the established white upper middle class. Most parents understand full well that their children are going to have to live in a diverse multicultural world, and they want to make sure their children start learning to cope with such a society at an early age. So I think that common sentiments will quite neatly take care of the problem you pose.

I applaud the principle of parents having the opportunity to send their children, whatever their ability, to a school of their choice, but this requires a population base. It is very difficult for a Latvian child to have an education in Latvian in a small rural town. Where you have a small population, how do you encourage diversity to develop?

I don't want to encourage it. Let me give you an illustration. If somebody decides to live on a remote farm, I don't see a case for giving them a telephone service at a price below its real cost. I would argue that people should face the costs involved when they make their locational decisions, and that the community should not subsidise their choices. One of the reasons ethnic communities typically arise in large cities is precisely because geographical closeness is important to their members. They understand that for religion, for language and for shared custom there is a need for some kind of critical mass. If that is what they want,

they will configure themselves in suitable locations. The last thing I would want to do is to tell the lone Latvian who happens to live in Montana that there is an enormous state subsidy available to hook up by the Internet to a Latvian school somewhere else. I see no reason why people should be able to have it both ways on those kinds of questions.

Vouchers are part of a paradigm in which the current expenses of schools come from the current income of the government. You mentioned endowments. It seems to me that schools that are really doing well are ones that have had the good fortune to have a good endowment. I suggest the government should endow all schools rather than provide vouchers. Admittedly there would still be problems with conditions.

There is also a problem of what you do with new entrants. One of the difficulties with a state endowment is that existing schools would have an enormous head start and all new schools would have to compete at a great disadvantage. The second point, which I can vouch for being married to a fundraiser for a private school, is that these endowments don't just happen to appear. They have to be created at great effort out of your donor base, your alumni base, your foundation base and so forth. The reason why some schools have done well with endowments is that they are able to give potential donors the confidence that the institution which they support today is not going to be transmogrified beyond all recognition tomorrow. The moment you give a state endowment, all discipline on institutional behaviour will disappear. You are now just creating lump sum subsidies for a favoured few instead of trying to create a system where vouchers offer choice on relatively even terms to everyone. This form of aid could then be married with a system of contributions from interested alumni and friends and foundations so that multiple sources would develop, and hopefully over time the vouchers could be allowed to wither and die. Whether that is politically feasible I cannot tell, but it seems to me that a combination of

declining tax benefits and declining vouchers is at least one viable transitional arrangement. In principle there is nothing about education that requires massive subsidies or regulation. I say this not because I think there are no public good benefits from citizenship but because it is ludicrous to claim that good citizenship is typically learned in American public schools if one observes how they operate in practice on a day to day basis.

You mentioned the problem of providing large endowments to set up institutions and also talked about contracting out functions that can be supplied commercially. It seems to me that the test of whether or not a system is working is whether the right investment decisions are being made. In the examples you used, the important point seems to be whether the group of core academic staff are still in charge of the franchising of the institution, if I can put it that way. After you have contracted out the cafeteria and so on, are you in a position to be able to spread that franchise and use it to set up a new institution? There seems to be quite a lot of difficulty in doing that. Those of you who are left running the University of Chicago, with everything else stripped away, still seem not to find it easy to spread that franchise somewhere else. We don't see a lot of franchising of educational services around the world. There is some, in Canada for example, where IBM is involved in partnering provincial governments in building schools using the IBM brand name as a mark of credibility. In general, however, it seems there is a problem about reputation and building new educational institutions.

I think there is a real difference between secondary and tertiary education with respect to franchising and other issues. For schools, the importance of endowments shouldn't be exaggerated. They were relevant for the great private schools 400 years ago, but the little schools I described for the two-to-four-year-old sector often have very little in the way of endowments. Often they just operate with leased equipment and premises. Universities cannot start that way, because they have a much larger research component which requires an endowment. You

cannot expect students to fund that out of tuition, and an institution not devoting the same resources to research would compete away what would effectively be rents.

Universities have not franchised well, but I think that is beginning to change. The University of Chicago is now starting up in Japan with a masters programme. The trend of having summer programmes of collaborative ventures in Europe, to which American students go on a regular basis, is becoming stronger. The reason it hasn't gone the whole way is that the quality control associated with the university, at least in its research work and its degree work, is very intensive. The span of control of supervision is extraordinarily demanding. My president sitting in Chicago has a large enough problem worrying about a medical school and a physics laboratory and a law school located within a few hundred yards of each other. The thought of trundling over to Barcelona and managing a separate institution that way may just not be feasible, especially if you have to hire faculty locally. The risk is that if you try to run such franchises you will fail at the periphery, and therefore depreciate the brand name associated with the core. But there is no question with the MBA programme and others that such developments are taking off. The University of Chicago business school has a branch in Barcelona and other comparable business schools also have branches overseas, but almost invariably they have to send people from the home office to supervise programmes, and they are restricted to teaching functions. None of the basic research takes place in satellite institutions. All the control functions—in terms of tenure, hire and review—take place at the core, because that is the only way to maintain the quality associated with the institution.

IBM doesn't face that difficulty. Your point, I think, is a very important one. In the United States today, given the failure of secondary education, private employers in many cases in effect supply more education in terms of dollars per child than the public sector. The problem of just getting young people into a job, and then making sure they know enough about reading and writing so they can follow a

manual, has led many firms to internalise education. It seems to me there are some real lessons to be learnt here. A parent who has a 14-year-old child might well think that the old nineteenth century solution—to send him to work and send him to school at the same time—isn't so bad if it is a case of IBM institutions teaching him something about computer programming. I think that these combined work-study programmes, particularly for teenagers who are generally restless within the standard academic setting, ought to be actively encouraged. Whether the mechanism for doing this is vouchers or tax credits, anything which gets young people out of the public warehouses we call schools and into environments of this kind has to be a good thing.

I don't question for one moment the robustness of your arguments, but I am curious as to why, in possibly the freest nation on earth, there is, as far as I am aware, only one small voucher scheme in Milwaukee which enables poor families to send their children to private schools, although the Congress recently passed legislation to allow a similar scheme in Washington DC. Why, given the compelling logic for vouchers, are parents not demanding them?

Parents are, but it is not the freest country on earth, I am sorry to say. The situation in the United States is very complicated. We have freedoms in some dimensions and powerful regulations in others. In the New Deal revolution in 1937, essentially what we said was that the state's interest in regulation was so powerful that the ordinary attributes of common law protections in relation to property—the right to exclude, the right to use, the right to dispose of property as you see fit, as long as you don't harm others—were by and large pushed to one side. At the present time, the most powerful forces in education in the United States are a constellation of academics who don't all agree with me—I think that is an understatement—coupled with a heavy union constituency, which is dominant in one political party and is not

unheard of in the other. When you have that situation, free entry is very difficult to come by. In Milwaukee, Polly Williams, a remarkable left-wing, radical black legislator, finally figured out that the wool was being pulled over her eyes by an education bureaucracy and teacher unions who were promoting their own interests, not those of poor inner-city families. In Chicago it is very hard to get such a movement going. There are some who are pushing it at the think tank level. In most places, however, the concern is with inequalities as opposed to excellence, and that means more transfer payments, more redistribution and more centralised control. I think we will only learn what we should be doing as we continue to fail, but it is going to take another five years of failure before things fundamentally start to turn around.

There is a lesson here. Whenever somebody tells you that something is special, remember that the history of government failure is littered with arguments that this, that or the other thing is special. We had labour unions in the industrial sector because it was special; we had Medicare in health because it was special; we had subsidised public housing because housing was special; we had price controls in agriculture because it was said to be special. It turns out that there is nothing special about anything. A few central principles consistently applied will tell you the appropriate scope for individual choice on the one hand and for government action on the other. Education is not a case of overgrazing of a common. It is not a case of negative externalities from pollution. It is not a case of a man who has to have access to a dock in order to escape a raging tide or sea. Education is the stuff of ordinary transactions, which should be as routine as we could possibly make them if only we had the wit to allow our imaginations to run wild with our schooling instead of with engineering our social arrangements.