

COMMENTS ON JAMES S. LIEBMAN AND CHARLES F. SABEL, *A PUBLIC LABORATORY DEWEY BARELY IMAGINED*

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*A Public Laboratory*¹ is a fascinating, rich, insightful essay with many possible points of entry for a commentator. I will focus on one observation: nationwide systemic school reform as described by Liebman and Sabel should not have occurred, according to conventional political wisdom. By the same logic, the further reforms they predict and hope for are unlikely to transpire. But reform did occur and seems to be gaining in momentum; we need to develop a clearer understanding of why it did so in order to share even their cautious optimism.

OBSTACLES TO SCHOOL REFORM

School reforms in the 1990s ranged from the changes in standards and financing that Liebman and Sabel consider, to charter schools, alternative certification programs for new teachers, and state or city takeover of failing school systems. This is an impressive list, and yet powerful forces could have been expected to inhibit change. Parents and other voters, teachers' unions, and elected officials were all at various points arrayed against, or at least not especially enthusiastic about, these reforms.

Most citizens, to begin with, did not see a crisis in the content or pedagogy of schooling. Despite the alarm raised in 1983 by *A Nation at Risk* about a "rising tide of mediocrity,"² on average American schools have arguably been improving or at least holding their own, not getting worse, over the past few decades. Americans get more years of schooling than at any previous point in our history.³ Reading and math scores on the National Assessment of Educational Progress (NAEP) improved and then stabilized over the past thirty

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1. James S. Liebman & Charles F. Sabel, *A Public Laboratory Dewey Barely Imagined: The Emerging Model of School Governance and Legal Reform*, 28 N.Y.U. REV. L. & SOC. CHANGE 183 (2003).

2. See NAT'L COMM'N ON EXCELLENCE IN EDUC., *A NATION AT RISK: THE IMPERATIVE FOR EDUCATIONAL REFORM* (1983).

3. NAT'L CTR. FOR EDUC. STATISTICS, U.S. DEP'T OF EDUC., *DIGEST OF EDUCATION STATISTICS* 2001, tbl.8 (2002) [hereinafter *DIGEST*]. For comparisons with other nations, see *id.*, fig.30, tbl.396.

years, even while the students who generally test least well were staying in school longer and an increasing proportion of students were immigrants from non-English-speaking countries. Black and younger Hispanic students have gained the most.⁴ SAT scores rose for both blacks and whites over the past two decades even though more members of both races are taking the test.⁵ Drop out rates have declined among whites and even more among blacks. College enrollment in all racial and ethnic groups has risen.⁶

Thus the American educational system has not moved into the kind of serious crisis that would mandate an urgent response. Nor do citizens perceive it to be in such a crisis; parents have given a solid B on average to their own child's school throughout the three decades that they have been asked.⁷ Americans may be mistaken in even this lukewarm level of endorsement; nevertheless, one cannot explain a rising level of commitment to educational reform by a flat line of perceptions of school quality.

Some inner city schools and whole districts do indeed provide disastrously poor educational quality and are getting worse. There are many reasons, only some of which can be blamed on the schools; however, they *are* in a crisis and *do* need urgent response. But educational reforms since 1990 often are not targeted on the worst schools, and citizens have resisted reforms that would most deeply affect students in them, such as a major influx of resources, desegregation with suburban districts, or school choice across district lines. So school reform does not track level of need very precisely, and it has arisen in spite of, not because of, citizens' evaluations of the schools.

Americans in any case have very mixed views of the reforms of the 1990s. Most warmly endorse standards, accountability, public school choice, finance equalization, and even high-stakes tests when asked directly about them. Nevertheless, a plurality always agrees that the biggest problem in schools is lack of discipline, violence and gangs, or drugs. Only between two and eight percent express most concern about the "quality of education."⁸ So the public strongly supports systemic reform but places it low on its list of priorities. This is an odd,

4. *Id.* at tbls.112 & 124. The trend for science is not as positive.

5. My calculations from census data and data provided by the Educational Testing Service (ETS).

6. DIGEST, *supra* note 3, at tbls.108 & 184. The situation of Latinos is less positive, but that is substantially caused by high and rising rates of immigration. For a useful compendium of data (although with an interpretation much more pessimistic than mine), see OUR SCHOOLS AND OUR FUTURE: . . . ARE WE STILL AT RISK? (Paul E. Peterson ed., 2003).

7. Americans grade schools in their local community at about a C+, and "in the nation as a whole" at a C. These grades, while low, have also changed little. DIGEST, *supra* note 3, at tbl.22; Jennifer L. Hochschild & Bridget Scott, *Poll Trends: Governance and Reform of Public Education in the United States*, PUB. OPINION Q., Spring 1998, at 79 & tbl.A5; PHI DELTA KAPPA polls since 1998.

8. Every PHI DELTA KAPPA poll (compiled in DIGEST, *supra* note 3, at tbl.23) and virtually all others by other survey organizations. See JENNIFER L. HOCHSCHILD & NATHAN SCOVRONICK, *THE AMERICAN DREAM AND THE PUBLIC SCHOOLS* (2003) (providing more details and analysis).

volatile context for politicians to act in.

Another reason that we should not have expected much reform is that teachers' unions, "one of the most powerful forces in American politics," in the words of the *Economist*,⁹ generally opposed these changes, in practice if not in rhetoric. Albert Shanker, president of the American Federation of Teachers (AFT) called for "rigorous academic standards, assessments based on those standards, incentives for students to work hard in school, and genuine professional accountability,"¹⁰ and the National Education Association (NEA) is also on record in favor of reform. But both recent candidates for the NEA presidency campaigned vehemently against the No Child Left Behind Act of 2001¹¹ (NCLB), calling it variously "another empty phrase" and "little more than Vouchers Lite,"¹² and the AFT was not far behind in its condemnation.

Local teachers' unions consistently fight serious reforms or measures of accountability for schools and educators. A study of alternative schools in New York City, for example, found that "attempts at innovation have met frequent resistance from the teachers' union. The top echelons of the United Federation of Teachers, generally regarded as more liberal than the rank and file, usually praise reforms. At the school level, however, union representatives often respond to innovations by characterizing changes as violations of the union contract and filing grievances that prevent reforms."¹³ If it were really true that "it is only a small exaggeration to describe the Democratic Party as a wholly-owned subsidiary of the teachers' unions,"¹⁴ NCLB should not have passed with overwhelming bipartisan support.

The mystery of deepening systemic reform grows when one considers that elected officials appear to be putting themselves on the line to produce measurable improvements among students. For a century, federal officials, governors, and mayors all built institutional mechanisms and cultivated public expectations (e.g., of schools as the province of nonpartisan professionals) to insulate themselves from responsibility for the outcomes of schooling. That makes very good political sense: politicians who must face reelection almost always seek to avoid measures that will provide strict and clear accountability for the results of complex and only partially controllable social processes¹⁵—and schooling is a notoriously "loosely coupled" phenomenon in which inputs often bear frustrat-

9. *Inching Towards Reform*, *ECONOMIST*, July 6, 2002, at 34.

10. Albert Shanker, Letter to the Editor: *No 'Sea Change' In AFT's View on Reform*, *EDUC. WEEK*, Jan. 31, 1996.

11. Pub. L. No. 107-110, 115 Stat. 1425 (2001).

12. Bess Keller, *NEA Delegates Select Seasoned Union Veteran As Their Next President*, *EDUC. WEEK*, July 10, 2002, at 10.

13. Timothy Ross, *Grassroots Action in East Brooklyn: A Community Organization Takes Up School Reform*, in *CHANGING URBAN EDUCATION* 118, 127 (Clarence N. Stone ed., 1998).

14. *Inching Towards Reform*, *supra* note 9; see also Terry M. Moe, *Reform Blockers*, *EDUC. NEXT*, Spring 2003, at 56.

15. R. DOUGLAS ARNOLD, *THE LOGIC OF CONGRESSIONAL ACTION* (1990).

ingly little relationship to outputs. The Republican Party in particular has argued for decades on behalf of less or even no federal involvement in local schooling. So it is strange that it would rush to mandate tests of district, school, teacher, and student achievement in the context of a stronger, more invasive, and potentially expensive new law. And why did Republicans promote a law that disaggregates students' test scores, so that it will be clear whether those whose achievement levels have proven hardest to budge and whose parents are not Republican voters—poor children, African-Americans, English language learners—actually do better?

PERHAPS SCHOOL REFORM IS ILLUSORY OR WILL NOT PERSIST

One possible explanation for the political anomaly of systemic reform is that there is much less reform than meets the eye, even of observers as astute as Liebman and Sabel. In this view, laws and regulations promulgating standards with accountability are weak; charter schools are small, few, and constrained; and alternative programs for teacher certification or the threat of state takeover are mostly symbolic.¹⁶

Alternatively, laws and programs that started out strong will be greatly weakened as they run into increasing resistance from teachers' unions, parents of failing students, some civil rights advocates, and interest groups or citizens' groups disgruntled by too much or the wrong kind of change. At that point, politicians will back off and turn their attention to some other reform effort. Richard Kahlenberg writes caustically that "today a bipartisan consensus holds that integrated schools are a good thing but we shouldn't do much of anything to promote them."¹⁷ Perhaps school reform will be like that—a goal that everyone recognizes to be admirable but almost no one is willing actually to pursue.

CONFOUNDING CONVENTIONAL POLITICAL WISDOM

However, like Liebman and Sabel, I do not believe that systemic reform was a trick or will prove to be a mirage; too many people have invested too much time, energy, money, and political, personal, or professional capital for the effort to be cynically dismissed.¹⁸ To be sure, the political and social structures in any state will sometimes work at cross purposes, changes in policy will be sporadic and occasionally counterproductive, the electorate will waver, and the vested interests will not. There are no guarantees, and Liebman and Sabel show several of the many ways in which reform could be derailed.

16. As Terry Moe puts it, "after untold billions of dollars and lofty reform packages too numerous to list, very little has been accomplished." Moe, *supra* note 14, at 56. See also OUR SCHOOLS AND OUR FUTURE: . . . ARE WE STILL AT RISK?, *supra* note 6.

17. Richard D. Kahlenberg, *The Fall and Rise of School Segregation*, AM. PROSPECT, May 21, 2001, at 42.

18. James B. Hunt, Jr., *Unrecognized Progress*, EDUC. NEXT, Spring 2003, at 24 (providing a recent, short, and forceful argument to this effect).

Nevertheless, the direction has mostly been forward and *A Public Laboratory* demonstrates how reformers are learning from each other, their own experiences, and their new frameworks for making sense of educational innovation. How have they overcome the formidable political obstacles outlined above?

Here I can only suggest schematic answers. Liebman and Sabel point usefully to business leaders' growing anxieties over an ill-trained workforce in an increasingly global and technological labor market. Former North Carolina governor James Hunt concurs: "Most of the nation's governors have gotten the message: if you aren't pushing hard to set high standards and making considerable progress toward achieving them, your state will not be 'the place' for business to locate and jobs to be created."¹⁹ I find it disturbing that business leaders seem to be the progressive force here, and labor unions the inhibitors of change, but that is what the evidence suggests.

Liebman and Sabel also describe the growing political sophistication of leaders of social movements, citizens' groups, and advocacy organizations. This seems plausible except that it may be tautological; that is, we may "know" that they are increasingly sophisticated because we see that they are increasingly effective in promulgating school reform—but then we cannot explain their effectiveness by pointing to their sophistication. In any case, we need more information about why they have come together; here is more room for research. It would be worthwhile to know, for instance, just what brought business leaders and some civil rights advocates together and how they have maintained their alliance in at least a few cases.²⁰ It is important to learn more about the internal workings of teachers' unions, and to bring them into the academic literatures on advocacy groups and unionization more generally. It would also be valuable if someone pressed elected officials on why they are now willing to violate their own traditional precepts about deniability and avoiding accountability in the educational arena.²¹

Perhaps underlying all of these reasons for reform is Americans' commitment to promulgating our most cherished values through public education. Schools are expected to teach children enough so that they can choose their own vision of success and then to give them the skills they need to pursue that vision—and they are expected to model equality of opportunity and give children the habits and values needed to maintain a democratic government. The American public widely endorses both of these goals. However, the goals sometimes conflict; what is (or seems to be) good for the individual might not be good

19. *Id.* at 26.

20. For a good start to answering this question, see CLARENCE N. STONE ET AL., *BUILDING CIVIC CAPACITY: THE POLITICS OF REFORMING URBAN PUBLIC SCHOOLS* (2001).

21. I would start with the analytic framework provided by Frank Baumgartner and Brian Jones with their metaphor of punctuated equilibrium. See FRANK R. BAUMGARTNER & BRIAN D. JONES, *AGENDAS AND INSTABILITY IN AMERICAN POLITICS* (1993).

for society as a whole and vice versa. Hence there are bitter disputes over school desegregation, redistribution of tax dollars, ability grouping, and the like.²²

Systemic reform holds out the hope that all children may gain and none will lose. No child will be left behind, and all children will achieve high standards—thus middle class parents need not fear sacrificing some of their own children's schooling so that disadvantaged children can be made better off. That is a wonderful vision, worth a major investment of resources and effort. Liebman and Sabel give us reasons to think, so far, that it might even work. I have spent too much time studying school politics and policy really to believe that, since in my view the forces promoting racial and class differentiation are too strong to enable us to take the extraordinary measures over a long period of time that will be necessary to really overcome some children's educational disadvantages. Nevertheless, I share their hopes and admire their dissection of how reformers are converging from many different vantage points on one track—broad but bounded—in pursuit of success for all.

22. My co-author and I develop this argument in HOCHSCHILD & SCOVRONICK, *supra* note 8.