

THE NEW JERSEY CONSTITUTION AND THE 1875 “THOROUGH AND EFFICIENT” EDUCATION AMENDMENT

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The “Thorough and Efficient” education amendment of the New Jersey Constitution has held center stage for more than twenty-five years as the state has struggled to define responsibility for the maintenance, funding, and governance of public schools. Adopted in 1875 in an effort to update the 1844 Constitution, the “Thorough and Efficient” provision endured as part of the 1947 Constitution. Supreme Court decisions in this area, particularly *Robinson v. Cahill* (1972-1976)¹ and *Abbott v. Burke* (1985-1998),² have focused attention on this amendment and elicited various responses from New Jersey’s governors and legislators. These officials have tried to address judicial directives to provide a “thorough and efficient” education for all children.³ A review of the early history of state support for education in New Jersey and the later passage of the education amendment can help provide a useful and enlightening context in which to examine the contemporary implications of this provision.

Seventeenth- and Eighteenth-Century Educational Patterns in New Jersey

New Jersey’s heterogeneous population during the colonial period fostered the development of a variety of private and church-related schools. However, New Jersey residents resisted the notion of supporting common schools for all, paid for through taxation. For example, Bergen County citizens mounted a tax revolt in 1674, protesting a town school tax.⁴ In spite of resistance, the assembly made it possible for local groups to establish public schools when it granted legal provisions in 1682 for general taxation at the local level to pay the salaries of teachers hired “for the public good.”⁵

The state constitution of 1776 did not even mention education. Education was left to local community or private prerogatives.⁶ While examining American schools in 1796, the Reverend W. Winterbotham visited New Jersey and noted that “there are a number of good academies in this

state,” but that “there are no regular establishments for common schools.” He “regretted that ... the legislature [did] not take up this subject, and adopt such method of supporting public schools as has been practiced in some of the New England states.”⁷

With Thomas Jefferson’s election as president, support grew in New Jersey for his belief that public education would erase class barriers and help unify the citizenry. Jefferson proposed an educational system independent from the church, “universal and free at the elementary level,” with at least three grades of instruction for all children.⁸

New Jersey’s Nineteenth-Century “Friends of Education” Set a New Agenda

A group favoring state involvement in providing education for all was formed in the 1820’s. New Jersey’s “Friends of Education” were encouraged by Assemblyman James Parker of Middlesex, who championed the idea of a designated state school fund.⁹ His proposal, “An act to create a fund for the support of free schools in this State,” passed in the 1816-1817 legislative session.¹⁰ An 1820 state law permitted town governments to levy their own taxes to establish local schools “for the education of such poor children as are paupers,” but the Friends of Education deemed this unsatisfactory.¹¹ Despite an 1824 law providing that “one-tenth of all the State taxes ... every year be added” to the fund,¹² no money was disbursed from it to the townships until 1829.

Supporters of common education in New Jersey did not give up. They organized the first convention of the Friends of Education in 1828, and gathered statistics on the need for common schools.¹³ In 1829 the president of Princeton University, the Reverend John Maclean, called for a centralized system of common schools for New Jersey. He urged that all children between the ages of five and fifteen be given at least “the rudiments” of a good education, though he did not define such rudiments.¹⁴

Others shared Maclean’s advocacy for state support for educating children in less affluent communities. Impassioned letters to the editor began to appear. One letter stated that “our legislators need light on this subject.” The letter proposed the concept of “efficient” as desirable for school systems, the idea of “matching funds” from the state to encourage towns to raise funds locally, and the need for this to be a priority.¹⁵ While these letters were not signed, it has been suggested that they were written by the Reverend

Baird and/or Theodore Frelinghuysen.¹⁶

Spurred by these and other calls for common education, state legislators passed a law in 1829 to set up a state system of education. Counties would now receive an annual income from a state fund, and local trustees would monitor schools and send reports to state trustees of the fund who would share these with the legislature. Only those counties that voted to tax themselves for schools could receive funding. Poor townships unable or unwilling to levy such taxes would receive nothing from the state fund. This disappointed reformers as the schools most in need would not be assisted at all. The Perth Amboy Philanthropist Association admonished the state legislators for neglecting education and urged them to do more, saying “the system we have now is worse than none ... and our legislators have quieted their consciences that something has been done.”¹⁷ In 1838, New Jersey’s Chief Justice Joseph C. Hornblower presided over a new convention for common schools organized by the Friends of Education, which proposed that the state move toward a more homogeneous and centralized system.¹⁸

Constitution of 1844 and Beginnings of State Responsibility for Education

New Jersey adopted a new constitution in 1844. This document made education a state responsibility for the first time by providing that the school fund be maintained on a permanent basis. New Jersey was the first state to include a constitutional provision requiring that state school funds be held inviolate and not be used for other purposes.¹⁹ Still, by 1850, only twelve townships, representing six of the twenty-one counties, had free schools.

Between 1845 and the Civil War, efforts continued to expand educational opportunities and to extend state authority for schooling. With increasing industrialization and immigration, it became important to provide education that would meet the needs of business as well as to “Americanize” a diverse population. Support for an increased state role in education now came from business, social, religious, political, and humanitarian groups.

In 1845 the legislature authorized the appointment of a state superintendent for schools to prepare annual reports to the legislature. Superintendent T. F. King’s reports from 1846-1852 became a form of public advocacy for increased state support of schools, with the position “that all the children, without distinction, might receive the benefit of a thorough and substantial education” because the “benefit thus derived would

be a common one.”²⁰ In 1846, “An Act to Establish Public Schools” made it possible for religious groups to receive public funds for their schools, and permitted local authorities to use state funds to build schools and to select books. Because some citizens feared that local zeal for improved public schools could lead to unlimited taxes, it also set a cap on school funding by towns. Still, this provision has been described as the “great common school law of 1846” because it required all towns to spend an amount “at least equal to but not more than double” that drawn from the state.²¹ The state superintendent was required to monitor and send written reports on the conditions of schools to the legislature. The dual system of local and state financing continued and remains to this day.

Development of a State System of Education: 1866-1876

Beginning with the 1866 inaugural address of Governor Marcus L. Ward, in which he called the education of every child “our highest duty,”²² the state legislature tried to establish clear responsibility for the education of the state’s children. This culminated in the drafting and adoption of the “Thorough and Efficient” education amendment in 1876. This period produced pivotal legislation that defined the state’s central role in education.

“A Supplement to the Act to Establish Public Schools” (1866) established a state board of education with the authority to select the state superintendent of schools, who was given more authority.²³ It provided that funds for schools could be appropriated from general revenues (in addition to those from the school fund) and it prohibited state funds from being used for private or parochial schools.²⁴ “An Act to Establish a System of Public Instruction” established state responsibility for the education of New Jersey’s children in a legal and administrative sense in 1867. This law delineated the duties and responsibilities of individuals who would monitor the state’s schools. The comprehensive code that it established to ensure the “perfecting of the school system in this state” remains the basis for New Jersey’s current system of state responsibility for education. Local educational authorities were to be responsible to the state, changing the meaning of local control.²⁵ In 1868, school interests overcame the opposition of private corporate interests when a portion of funds from the sale of tidelands was reserved for the school fund.

Superintendent Ellis A. Apgar’s school report in 1870 stated that, while the new system was showing great improvement, it needed increased funding.

He called for attaining universal education with a focus on efficiency based on a business model that promised to produce more for less money. He urged consolidation of school districts, arguing that “We have too many districts ... officers ... elections,” and that “Our weak districts do not receive the funds they need ... a child cannot attend school outside his own district ... and district taxes cause us trouble.”²⁶

In 1870, the state legislature provided funds to support the state reform school, and in 1871, it abolished tuition rate bills. New Jersey was the last state in the nation to do so. Free high schools, however, were not included. The law instituted a new state property tax for schools of 2 mills on each dollar of evaluation “in lieu of all township school taxes” imposed by the earlier laws. Townships were permitted to raise additional funds (without any caps), making it easier to raise school funds based on locally determined need. While opportunities for schooling could be increased, equality would not result from such a provision.

An 1873 British study of American schools recognized New Jersey’s efforts, noting that the state raised almost twice as much statewide as locally, and more than any other state.²⁷ The author of the study, Francis Adams, held New Jersey as an example of equal assumption of “educational burdens” and “equality of educational advantages,” but faulted New Jersey for the absence of a requirement for compulsory education and the distinction of having the worst record of any state in supplying a sufficient number of schools. Thus, while New Jersey had raised funds, it still did not require all children to attend school nor did it provide a sufficient number of schools so that all the children in the state could attend.

The 1873 Constitutional Commission

By 1873, a revision of the state’s constitution was necessary. Rather than calling for a new constitutional convention, Governor Joel Parker appointed a constitutional commission to make recommendations to the legislature that would then submit them to the voters in a referendum. No specific proposals were anticipated regarding the state’s constitutional obligation for education. Members appointed to serve on the commission included Augustus C. Cutler of Morristown, a state senator who came to be regarded as “the father of the present free school system of New Jersey,” and Jacob L. Swayze of Newton, a lawyer, bank president, and staunch supporter of common schools who had himself been educated in local public schools until he was thirteen.²⁸ As a result of their influence, the commission

proposed an amendment to the provision in the 1844 constitution establishing a perpetual fund for the exclusive use of supporting public schools. The commission proposed to add the following words:

A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the legislature shall establish and maintain public schools for the gratuitous instruction of all persons in this state, between the ages of five and eighteen years. The term "free schools" used in this constitution, shall be construed to mean schools that aim to give to all a rudimentary education, and not to include schools designed to fit or prepare pupils to enter college or schools controlled by or under the influence of any creed, religious society or denomination whatever.²⁹

It is clear that the commission sought to provide a constitutional basis for the actions already taken by the state legislature in establishing a "state system" of schools. It rejected wording that would have restricted school funds from being spent only in the counties where they were raised. This proposal, made by Senator Cutler of Morristown, was designed to help wealthier counties such as Morris. A broader view was ultimately adopted which viewed schools as state-supported institutions. It was agreed that school revenue should be redistributed by the state on the basis of need so that poor counties would be helped by the reallocation of state funds. The commissioners restricted the state's obligation to provide support for free schools at a level to ensure a "rudimentary education." The commission's proposal for an education amendment was sent to the legislature in 1874. It would make constitutional the legislation establishing free public schools supported by the state for all children from ages five to eighteen, including those who were handicapped.

Social and Economic Trends: Influences on Educational Thought

Despite national economic problems in 1873, state funds to schools increased in New Jersey at this time. Indeed, the mood in New Jersey regarding a commitment to improve public education for all belied the financial distress.³⁰ Nationally, the depression impelled educational leaders to heed popular calls for efficiency. Interest grew in applying the Lancastrian method, whereby large numbers of students would be taught by rote under the

supervision of only a few teachers. However, some urged caution lest unwise economies harm the cause of education:

Nothing should be done, for the sake of saving money, which will hurt the schools — which will make them in the judgment of competent persons poorer than they are now ... the very last place to save money is in the education of the children ... for the ultimate object of public economy is to increase the public wealth, and this common weal has its roots in the intelligence, vigor, and morality of the population, qualities which are cherished, trained, strengthened, and disseminated in the common schools.³¹

The Legislature of 1874: Writing of the "Thorough and Efficient" Amendment

On Tuesday, January 13, 1874, the Senate and Assembly convened for the ninety-eighth session of the legislature. This session would decide the fate of the constitutional amendments proposed by the 1873 Constitutional Commission. While the proposed education amendment would be one of the measures considered, it does not seem to have been the only educational interest of the legislators. Responding to the social and economic issues of the period, as well as by a sense of responsibility for educating the state's children in a "state system," the legislators set an ambitious agenda.³²

The 1874 legislature passed the state's first compulsory education law. It consolidated the many state education laws into one comprehensive state code.³³ Continuing the increases in state funding even as other states were retrenching, it revised the state's funding formula in an attempt to help poor districts. It appointed a commission to propose a state program to provide special education for "deaf and dumb" and "blind and feeble minded" children.

On February 3, 1874, the education amendment proposed by the constitutional commission was brought up in the Senate for consideration. Neither the *Senate Journal* nor the Assembly's *Minutes of Votes and Proceedings* for 1874 include the debate about the commission's proposed amendments. However, they were covered by a variety of state and local newspapers.³⁴ The discussions reflect a desire to continue along a progressive path. They were influenced by the need to eradicate illiteracy by providing more democratic access to higher education, by desire to extend schooling to meet the needs of business and industry, and by desire to end Catholic claims for a share of state school funds.

Some legislators, frustrated by statistics detailing the elusive effort to achieve even basic literacy, urged that the state's resources be restricted to providing all children with a rudimentary education. Other legislators, however, wanted state support for public high schools, an interest shared by businessmen, so they could provide opportunities for advanced schooling of all able children, regardless of economic status. Senator Taylor was outspoken in his opposition to limitations on the state to providing merely the rudiments of an education, urging a state interest in supporting not only public high schools, but also teacher training institutions. If the state legislature were to approve the commission's proposed education amendment, Taylor argued, it would be taking a reactionary step that would undo the progress in extending education. When Senator Hopper supported Taylor's view and expressed his own vision of "interminable" problems for the public schools if education were to be limited to the "rudiments," the Senate passed, by a vote of twelve to four, a motion not to require this limit.³⁵ Thus, the legislators rejected the limitations imposed by use of the term "rudimentary."

On February 24, Senator Taylor introduced the wording "thorough and efficient." As Senate president, Taylor moved to complete the work of the legislature and finalize the wording of all the amendments. He proposed to eliminate everything after "the state shall" in the commission's proposal, and to insert "provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all children."³⁶ This wording was eventually revised to: "The legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in this state between the ages of five and eighteen."

Adoption of a "thorough and efficient" standard demonstrated interest in offering the best education available. Well-organized, smooth-running, and successful in achieving goals were seen as synonymous with "efficient."³⁷ The efficiency standard was used as an economic curb on educational spending, with "waste" being frowned upon. A "thorough" education should be one that was not inferior to that offered by a private school.³⁸ Up to then the legislature had steadily increased educational spending, and there is no indication that the legislature of 1874 hoped to reverse that trend. The amendment was approved unanimously in the Senate. On March 25, 1874, the assembly approved all the amendments sent over by the Senate.³⁹

At the same time it approved the "Thorough and Efficient" amendment,

the legislature took several actions to expand the state's obligation for educating "all." On March 21, it passed a law to increase state funds to poor districts where local resources were insufficient in order to correct the imbalance caused by differences in the economies of various parts of the state.⁴⁰ This law proved unpopular in those districts that provided additional taxes for their schools. The law encouraged larger districts (for economy) by providing districts with at least forty-five pupils more funds than those with fewer students.

For the first time a law for compulsory education was also enacted. In 1874 the legislature established a commission to explore creating institutions for the education of handicapped children.

Three constitutional provisions were sent on to the 1875 legislature. First, local governments were prohibited from donating land or money for the use of any society, association, or corporation. Catholic and private schools could be excluded from public funding under this provision. Second, future laws providing for the "management and support of free public schools" would have to be general; no special laws would be passed to build a school, raise school revenues, or conduct school elections. Third, the word "free" was added to "public schools," as well as "thorough and efficient" education for "all" children.

The 1875 Legislature: Endorsement of the "Thorough and Efficient" Amendment

An annual school report was requested from the state board of education by the incoming 1875 legislature. The 1875 school report provided statistics, summaries, and comments about schools from the preceding year and offered a positive view of the progress made. The report stated that the "liberal endowment" provided by New Jersey was "answering, to a great extent, the object sought" in the establishment of the state system. Still, the legislators were reminded that much remained to be done, especially in providing funds for school buildings and maintenance. The Warren County superintendent said that the district tax for schools was becoming unpopular and he urged "in its stead...an increased state tax, so as to do away, as far as possible, with district taxation."⁴¹

Support for the state's central role in education was highlighted by Governor Joel Parker's last annual message to the 1875 legislature. He stressed that "it is clearly the duty of the Legislature, as guardians of the public

funds, to legislate so as to induce full and regular attendance of pupils, so that the money expended for public schools will accomplish the greatest good possible." Encouraging them to adopt all the amendments approved by the 1874 legislature, he made a special plea for the education amendment: "The paragraph which compels the Legislature to provide for the maintenance and support of a thorough and efficient system of free public schools, for the instruction of all the children of the State of legal school age, will commend itself to the friends of education."⁴²

On January 26, 1875 the Senate approved each of the constitutional amendments voted by the previous legislature.⁴³ The education amendment passed by a vote of sixteen to three; the dissenters were Senators Abbett (Hudson County), Blackwell (Mercer County), and Cornish (Hudson County) who unsuccessfully had tried to plead the Catholic cause in the 1874 session. The assembly approved all the amendments on February 16, passing the education amendment unanimously.⁴⁴ The *New York Times* noted the reluctance of the 1875 legislators to make any changes in what had been fashioned the year before "for even the alteration of any one of them was regarded as equivalent of its defeat." It reported that the amendments had been "published throughout the State" and had "encountered but little opposition."⁴⁵

Referendum of 1875: Injection of Church/State Issues

As the September 7 date for the special election on the amendments approached, interest seemed to wane and "it looked as if the constitutional amendments were to be allowed by the indifferent people to carry themselves."⁴⁶ The *Newark Daily Advertiser* urged that citizens come out to vote for the amendments and reminded them that they had been written by "men of high merit, whose propositions have since passed through two successive Legislatures and received their approval."⁴⁷

Both the Catholic Church and the Catholic Union, a lay group that had lobbied unsuccessfully for public support of Catholic schools, sought to publicize their opposition to certain amendments. The Catholic Union distributed a circular letter describing the proposed amendments as abhorrent to both Catholics and Quakers because they would establish "an expensive system of Public Education utterly repugnant to them and which they cannot in conscience use."⁴⁸ The letter's effect was to create more interest in the referendum. The *Trenton State Gazette* argued that Catholic opposition to

the amendments was a genuine threat to “our cherished free school system.”⁴⁹ On the Sunday before the election, Catholics attending mass in Newark were given copies of sample ballots prepared by the Catholic Union with four of the amendments, including the education amendment, crossed out. Church supporters argued that if the Church schools were to close, the state could not provide seats for all the children who would be turned out.⁵⁰ The next day, newspaper articles decried the distribution of these ballots with directions from the Church. The *Newark Daily Advertiser* editorial said that “The Catholic Church has declared open, but not treacherous war” against the free public schools which were “very dear to the American hearts.” The writer of a letter to the editor opposed the interference of the Church and urged “every one entitled to vote, therefore, to come out and vote for this amendment and for the paragraph which calls for a ‘thorough and efficient system of free public schools.’”⁵¹

While only a week before hardly any interest in the amendments existed, now large numbers of citizens felt compelled to vote. In a campaign they compared to Paul Revere’s ride, the *Newark Daily Advertiser* reported that Morris County Republicans had written a newsletter calling upon Protestants to “go to the polls and meet the issue.” While they may not have cared the week before, now “the excitement became intense.... Horses were saddled and ridden half the night to scatter the extras far and wide, and the effect at the polls the next day was astonishing.” The amendments were approved by 400,000 votes.

There was a prompt national response to the events in New Jersey, including statements from President Ulysses S. Grant and editorials from across the country praising New Jersey for supporting the extension of secular schooling and excluding religiously controlled schools from public support.⁵²

While the state had obligated itself to provide a “thorough and efficient” education for all children, it was unclear what this phrase meant. In his first annual message to the legislature following adoption of the amendment, Governor Bedle acknowledged this fact. It would be up to the legislature to define and to carry out the new rules. He also stated that the state courts would play a role in the final determination of meaning of this term.⁵³ For instance, in the 1895 decision *Landis v. Ashworth*, the New Jersey Supreme Court stated that legislators did not have “to provide the same means of instruction for every child in the state,” but that they had to secure the “common rights of all” before any students could receive “special

opportunities for education at public expense.”⁵⁴ But the 1875 amendment did articulate a specific mandate that the state should govern its school system and provide for its support.⁵⁵

Continuing Legacy of the 1875 “Thorough and Efficient” Amendment

In the more than 100 years following adoption of the “Thorough and Efficient” education clause, the amendment has been clearly linked to a number of major educational issues in the state.⁵⁶ Controversies have included: What should be the extent and nature of state financing and control of public schools? Can the state, constitutionally, permit the use of state school funds in local districts which are not equal throughout the state? How should the claims of the Church for a share of public school financing be dealt with? What is the extent of the state’s obligation to provide “thorough” and “efficient” educational opportunities for all children?

The most recent educational issues have their roots in themes raised after World War I when a new group of “Friends of Education,” modeled on their nineteenth century forebears, sought to use the 1875 education amendment to bolster their call for changes in state financing of education. In the 1930’s, the “Friends of Education” described the state system of financing as contributing to inequitable opportunities for the state’s children with “good schools for some of New Jersey’s children and poor ones for others.” They advocated a twofold solution: first, “a change in the method of distributing state school money so that it will go where the need is,” and second, “obtaining state school money from other tax sources than the property tax, and lowering the property tax for school support.”⁵⁷

The lack of equity in the state’s schools has continued to be highlighted. The Federal Writers Project reports on New Jersey identified the same issues.⁵⁸ The Bateman Commission Report in 1968 attracted attention to the problems created by school inequities, concluding that the method of financing the state’s school system had resulted in a situation whereby “the rich counties got richer and the poorer counties became poorer in their ability to support public schools.”⁵⁹ However, neither the governor nor the legislature were ready to confront local forces arguing against new state initiatives. By the 1970’s, Governor Bedle’s 1876 prediction that the state’s courts would play an important role in interpreting the amendment was realized.

Robinson v. Cahill was filed in 1970.⁶⁰ As a result of an initial State Supreme Court decision in 1973, the state initiated its first income tax and adopted the Public School Education Act of 1975. There was much criticism of this law, both for what was considered as excessive paperwork and also because it was not seen as effective in achieving the goals sought by the Education Law Center, which championed the cause of school equity. The Supreme Court ruled in 1976⁶¹ that the new law should be given a chance to work, even while it was being challenged.

Abbott v. Burke was brought in 1981 by the Education Law Center to challenge the constitutionality of the 1975 Education Act. In his 1985 decision, which would be the first of five Supreme Court decisions in *Abbott v. Burke*,⁶² Justice Handler described the difficulties that remained in achieving “equity” under the protection of the state’s obligation to New Jersey’s school children who live in poor districts. State efforts to settle this suit resulted in new decisions in 1990, 1994, and 1997. In 1998, the Supreme Court issued what it said it hoped would be its final decision in this case. It directed the state and its Department of Education to provide parity funding for Abbott districts, necessary supplemental programs, and adequate school facilities. The Court refused to set a dollar amount, indicating that districts would have to ascertain their needs and submit these to the state. In its decision, the Supreme Court said it trusted that the state would do the job and that the Court’s role would now be limited.

Whether this decision will result in greater educational equity for New Jersey’s school children remains uncertain. What remains clear is that New Jersey’s constitutional provision⁶³ to provide a “thorough and efficient” education continues to serve as a compelling force for those who believe that the clause requires the state to fully equalize the educational opportunities of “all” its children.

Notes

1. *Robinson v. Cahill*, 287 A.2d 187 (N. J. Super. L.D., 1972); *aff’d*, 303 A. 2d 273 (1973); *aff’d*, 69 N. J. 449, 355 A. 2d 129 (1976).
2. *Abbott v. Burke*, 100 N. J. 269 (1985) (Abbott I); *Abbott v. Burke*, 119 N. J. 287 (1990) (Abbott II); *Abbott v. Burke*, 136 N. J. 444 (1994) (Abbott III); *Abbott v. Burke*, 149 N. J. (1997) (Abbott IV); *Abbott v. Burke*, 153 N. J. 480 (1998) (Abbott V).
3. “New Jersey. Legislature. Senate.” *Senate Journal of the Legislature* (Newark, NJ, 1874):454.

4. R. B. Allen, *New Jersey Education in the 1600's* (Perth Amboy, NJ, 1931).
5. W. H. Shaw, ed., *History of Essex and Union Counties, New Jersey* (Philadelphia, 1884):646.
6. Nonetheless, Article I, Section 8 made it possible for Congress to pass laws which were "necessary and proper" for the well being of the nation. In addition, the Bill of Rights, adopted in 1792, stated that powers not specifically given to the federal government were "reserved to the states or to the people." Thus, in New Jersey, in the absence of federal or state assumption of responsibility for education, the "people" would continue to have the right to determine the nature and extent of education. However, it also would be possible for education in the new nation to be the prerogative of a state, if it chose to assume such an obligation under the Tenth Amendment.
7. W. Winterbotham, "American Schools and Education. Contemporaneous Account—1796. Extracts from Rev. W. Winterbotham's View of the United States of America" (London, 1796). In H. Barnard, ed., *American Journal of Education* National Series 8 (Entire Series 24):149.
8. Cited in D. Murray, *History of Education in New Jersey* (Washington, DC, 1899):151.
9. James Parker became known as the "father of the school fund."
10. David Murray, op. Cit.
11. R. L. West, *Elementary Education in New Jersey: A History* (Princeton, 1964):17.
12. J. R. Sypher and Ellis A. Apgar, *A History of New Jersey from the Earliest Settlements to the Present Time, Designed for Common Schools, Academies, Colleges, Families, and Libraries* (Philadelphia, 1870).
13. R. D. Bole and L. B. Johnson, *The New Jersey High School: A History* (Princeton, 1964):19; Nelson R. Burr, *Education in New Jersey, 1860-1871* (Princeton, 1942):248.
14. J. A. Maclean, *A Lecture on a School System for New Jersey. Delivered January 23, 1829* (Princeton):12
15. "Education in New Jersey. Extracts From a Letter to the Editor Dated Princeton, N. J., 20 October, 1828," *American Journal of Education* (1857)3.
16. Baird worked with the American Bible Society and Theodore Frelinghuysen was a lawyer educated at Princeton University and the descendent of the colonial Reverend Theodorus Frelinghuysen; he was then attorney general of the state and later a United States senator. Their prominence engendered respect for their support of public education.
17. Perth Amboy Philanthropist Association, Perth Amboy, N. J. *Memorial to the Legislature of New Jersey on Public Instruction* (New York, 1838).
18. Convention for Common Schools, Trenton, *An Address to the People of New Jersey on the Subject of Common Schools* (Burlington, NJ, 1838). (Reproduced by the New Era, Riverton NJ, 1937.)
19. E. O. Cubberly, *Public Education in the United States* (Boston, 1919):180.
20. Cited in C. G. Leech, *The Constitutional and Legal Basis of Education in New Jersey* (Norwood, PA, 1932):11.
21. N. G. Burr, *Education in New Jersey, 1630-1871* (Princeton, 1942).
22. M. L. Ward, *Inaugural Address of Marcus L. Ward, Governor of New Jersey to the Senate and General Assembly. Delivered January 16, 1866* (Trenton, NJ: State Gazette).
23. *1866 N. J. Laws*, Chap. 469.
24. Catholic schools, however, renewed their claim as providers of public schooling and as

being entitled to public funds since they were educating immigrant children who could not be accommodated in district schools.

25. "An Act to Establish a System of Public Instruction, Approved 21 March, 1867," *1867 N. J. Laws*, Chap. 179:360-381.
26. New Jersey School Reports, 1870. In *Documents of the 94th Legislature of the State of New Jersey and the 26th Under the New Constitution, 1870* (NJ Legislature).
27. Francis Adams, *The Free School System of the United States* (London, 1875).
28. F. W. Ricord, ed., *Biographical Encyclopedia of the Successful Men of New Jersey* (New York, 1896).
29. New Jersey. Legislature. Senate. *Senate Journal of the Legislature, 1874* (Newark, NJ):52.
30. "Shall We Have Free Schools?" (1873). *Our Home* 1:236-237.
31. C. W. Eliot, "Wise and Unwise Economy in Schools," *The Atlantic Monthly* (June, 1875), 35 (222):712-720.
32. New Jersey. Legislature. Assembly. *Minutes of Votes and Proceedings of the Ninety-Eighth General Assembly of the State of New Jersey, Convened January 13, 1874*. (Hackensack, NJ, 1874); New Jersey. Legislature. Senate. *Senate Journal of the Legislature* (Newark, 1874).
33. J. Hood, *Index of Colonial and State Laws Between the Years 1663 and 1877 Inclusive* (Trenton, 1877):1098-1100.
34. *Daily Fredonian* 5 February, 1874; *Daily True American* 4 February, 1874, 24 February, 1874, and March 17, 1874; *Newark Daily Advertiser* February 4, 1874; *Newark Morning Register* 4 February, 1874; *Daily State Gazette* 21 February, 1874.
35. "From Trenton." *Newark Daily Advertiser* 26 March, 1874:2.
36. "Legislature of New Jersey. Ninety-seventh Session. Senate." *Daily True American* (Trenton) 25 February, 1874:2; *New Jersey Senate Journal* 1874:454.
37. The terms appear in newspaper advertisements at that time for private schools such as the Newark Academy.
38. For example, Shaw (890-t) notes that the establishment of Montclair's public high school was planned so that it should be "adequate to the demands of the best education preparatory to the college or university."
39. *Assembly Minutes, 1874*:1254.
40. A supplement to the act entitled "An Act to Make Free the Public Schools of the State" (approved March 21, 1867) and a supplement to the act entitled "An Act to Establish a System of Public Instruction" (approved March 21, 1874), *1874 N. J. Laws*, Chap. 355.
41. New Jersey School Reports, 1875. In NJ Legislature, *Documents of the 99th Legislature of the State of New Jersey and the 31st Under the New Constitution, 1875*.
42. Joel Parker, *Annual Message of His Excellency, Joel Parker, Governor of New Jersey, to the Legislature—Session of 1875* (Trenton, 1875).
43. New Jersey. Legislature. Senate, *Senate Journal of the Legislature, 1875* (Newark).
44. New Jersey Legislature. Assembly. *Minutes of the Votes and Proceedings of the Ninety-ninth General Assembly of the State of New Jersey, Convened January 12, 1875* (Hackensack, NJ).
45. "The Constitution of New Jersey," *New York Times* 22 February, 1875:2.
46. William E. Sackett, *Modern Battles of Trenton* (Trenton: Murphy, 1895):116.

47. "The Constitutional Amendments", *Newark Daily Advertiser* 31 August, 1875:2.
48. C. D. Hinrichsen, *The History of the Diocese of Newark, 1873-1901*, Unpublished Ph.D. dissertation (The Catholic University of America, 1963).
49. Henrichsen, *op. cit.*:70.
50. "Constitutional Election", *Newark Daily Advertiser* 8 September, 1875:2-3.
51. "The Public Schools. Shall They Be Maintained?" [Letter to the Editor], *Newark Daily Advertiser* 6 September, 1875:3.
52. Despite the implications of the anti-Catholic vote and the calls for reserving government funds for purely secular schools, Governor Bedle and other state officials supported the reading of the Protestant Bible and prayer in the public schools, to which the Catholics objected. These officials did not see their stance as being in conflict with the position taken by supporters of secular schooling in the state or in the nation.
53. J. D. Bedle, "First Annual Message of Joseph D. Bedle, Governor of New Jersey to the Legislature, Session of 1876 (19 January, 1876)." In *N. J. Legislature, Documents of the 100th Legislature of the State of New Jersey, 1876* (No. 1).
54. *Landis v. Ashworth*, 57 N. J. 509, 31A 1017 (Sup. Ct. 1895)
55. C. G. Leech, *The Constitutional and Legal Basis of Education in New Jersey* (Norwood, PA, 1932):12.
56. See H. L. Sepinwall, *The History of the 1875 "Thorough and Efficient" Amendment to the New Jersey Constitution in the Context of Nineteenth Century Social Thought on Education: The Civil War to the Centennial*, Unpublished ED.D. dissertation (Rutgers University, 1986); Paul L. Tractenberg, "The Evolution of Educational Rights Under the New Jersey Constitution of 1947," *Rutgers Law Journal* 1999, 29:555.
57. Friends of Education in New Jersey, *New Jersey School Ills: Their Cause and Cure* (Somerville, NJ, 1935).
58. Federal Writers Project, *WPA Guide to 1930's New Jersey* (New Brunswick, NJ, 1989). (First Published 1939 by The Viking Press.)
59. New Jersey. *State Aid to School Districts Study Commission. Final Report to the Governor and the Legislature, December 19, 1968* (Trenton, 1968).
60. *Robinson v. Cahill*, 62 NJ 473, 515 (1973).
61. *Robinson v. Cahill* (1976).
62. *Abbott v. Burke I* (1985); *Abbott v. Burke II* (1990); *Abbott v. Burke III* (1994); *Abbott v. Burke IV* (1997); *Abbott v. Burke V* (1998).
63. New Jersey Constitution, 1947, art. 8, sect. 4, par. 1.