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Donald G. Hagman

Institute of Government and Public Affairs

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Donald G. Hagman
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INSTITUTE OF GOVERNMENT
AND PUBLIC AFFAIRS

UNIVERSITY OF CALIFORNIA, LOS ANGELES
THE SERRANO EQUALIZATION PRINCIPLE: 
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I. The Serrano Principle

On August 30, 1971, in Serrano v. Priest, the California Supreme Court held the California school finance system violated the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. Public schools in California, as in many states, are substantially financed by a local property tax. But the ratio of the property tax base to the number of pupils within various school districts of the state is not the same. As a result, some school districts are able to spend large sums of money per pupil though tax rates are very low. Other school districts, despite high tax rates, are able to spend relatively little per pupil. The Serrano principle "[p]lainly put . . . is that the level of spending . . . may not be a function of wealth other than the wealth of the state as a whole."2

Made bold by the California decision, courts throughout the country began applying the Serrano principle. The Minnesota school finance system was held invalid on October 12, Wyoming's on December 14, Wyoming's on December 23. The judicial juggernaut opened the New Year by

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1 Professor of Law and Acting Director, Institute of Government and Public Affairs, University of California, Los Angeles. Professor Hagman's most recent book is Urban Planning and Land Development Control Law, West Publishing Co., 1971.
invalidating school finance systems in Arizona on January 13 and in New Jersey on January 19. But the next day, a New York court refused to hold that state's system of school finance to be unconstitutional. The New York system does not differ essentially from that in the other states. The New York judge merely disagreed that any such system was unconstitutional.

One wonders about the state of mind of the trial judge in New York, sitting in Westchester County, by repute a "silk-stocking" residential suburban area of New York City. One would expect that expenditures per pupil were relatively high and the tax burdens relatively low in Westchester. Was the judge's attitude in part shaped by those of the constituents who elect him? Did the judge realize that his decision was necessary to reverse a principle that if unleashed might be the beginning of the end of the Westchester way of life? Perhaps so, for the Serrano principle carries redistribution of wealth seeds of destructiveness to Westchester-like ways of life.

We will soon know whether the New York judge, who calls the Serrano thesis the "one scholar, one dollar" principle, rightly concluded that similar U. S. Supreme Court cases are precedent for upholding the validity of school finance systems. An appeal from the Texas decision was filed with the Court on April 17, 1972.

II. Acceptance of the Principle

For the Serrano principle to truly have impact on the nation, the U. S. Supreme Court must uphold it, and the Court has not noticeably sided with social change in recent years. But the principle is not
dead even if the Court concludes Serrano is incorrectly decided. States have their own constitutions, and present financing schemes might violate state constitutions, as held in the California, New Jersey and Texas decisions.

Moreover, by the time the U. S. Supreme Court decides the question, the principle might be rampant in the nation in any event—not necessarily because it is constitutionally required, but because it is right. The inequality in school finance has long been regarded as scandalous; declaring it unconstitutional merely provides the stimulus for state legislatures to break through the status quo. Thus, the California legislature has several Serrano-responsive proposals before it, though technically it need not yet respond. The Minnesota legislature has already acted. In its massive study on school finance in New York, the Fleischmann Commission, reporting after both the Serrano and the New York case, made recommendations consistent with the Serrano principle. The President's Commission on School Finance has made recommendations supporting the Serrano principle. The President's proposed $2.5 billion Educational Opportunities Act of 1972 evidences a view coincident with Serrano. In light of its previous pronouncements on the matter, it is a virtual certainty that when the Advisory Commission on Intergovernmental Relations reports to the President on school finance, its recommendations will applaud Serrano principles.

And one does not avoid the thrust of the Serrano principle by substituting other local taxes. While Serrano-like cases deal only with property taxes, that is because local taxes for schools have invariably been property taxes. If a local sales tax or a local income tax was used to finance schools, these would likely also be reflective of
the wealth of the area and be violative of the Serrano principle.

It is therefore highly probable that regardless of what the U. S. Supreme Court does, the Serrano principle will be widely applied to school financing in America, and shifting to other taxes reflective of local wealth will not satisfy the principle.

III. Possible Extensions of the Principle

The impact on city planning and property values and uses shortly to be described will be more massive if the Serrano principle is extended in two possible directions. The two extensions would produce widespread and massive social change not often preceded in America.

Judicial decisions that the quality of all local government services must be unchained from the local wealth base is one possible extension. That possibility will be a major topic of discussion at the annual meeting of the Local Government Section of the American Bar Association in August, 1972. Meanwhile, it appears that the first lawsuit attempting to extend Serrano to other local government entities was filed in California. The trial judge has overruled defendant's demurrer in the lawsuit and the matter will now go on to trial. Extension of the Serrano principle to all local governments would have more massive impact on American planning, land values and uses for several reasons:

1. Revenues and expenditures of local governments in America other than school districts are one and one-half times those of school districts.

2. More than property taxes are involved because local governments other than school districts have substantial alternative revenues.
3. The inequalities in revenues and services among local governments other than school districts are far more pronounced than among school districts. 23

4. Local governments other than school districts control the urban planning system which is frequently responsive to fiscal pressures.

The second possible extension of Serrano is to measure equality not by equal expenditures, but by need. Obviously, in order to maintain a certain standard of governmental service, educational or otherwise, expenditures must be greater in some areas than others because costs are higher. But Serrano does not address itself to needs. That argument was rejected in another case where plaintiffs alleged "only a financing system which apportions public funds according to the educational needs of the students satisfies the Fourteenth Amendment." 24 A major reason for rejecting the argument was that needs are very difficult to measure. If the court could be shown a way to measure needs, perhaps the result would be different.

And a little judicial recognition of the needs argument would go a long way to stimulate a breakthrough to better equalization measured by need because that too is regarded as right 25 even though we have not yet come to recognize such inequalities as unconstitutional. State equalization aid to schools has always recognized need and the responses to Serrano will invariably go beyond strict equality of burden and expenditures and recognize need. In England, which is already some hundred years ahead of America in equalization of all local government revenues and expenditures, the Conservative government has proposed to distribute grants "in such a way that the cost for each local authority of providing a standard level of service [measured by need] should be a
standard amount per head."²⁶

IV. Impact of the Principle

There follow some speculations as to the impacts of the Serrano principle. That the impacts will be as alleged is based on conventional wisdom and hunch rather than on empirical research. For purposes of the speculation, assume that the Serrano principle is extended to the possibilities previously outlined. To the extent it is not extended, many of the impacts will still occur, but the effect will not be as extensive.

The price of real estate on the "right side of the tracks" will decrease in value, while it will increase on the "wrong side of the tracks." Consider Wealthyville and Poorville, two aptly named hypothetical cities in a metropolitan area. Wealthyville is a typical high-quality public services, low tax burden community; Poorville is the converse. Real estate values in both cities are in part determined by the quality of public services received and the burden of property taxes. Therefore, prior to application of Serrano principles, market prices for homes in Wealthyville were higher than they were in Poorville, where services were poor and property tax burdens were high.

Post Serrano, however, services must be of equal quality and burdens must be equalized among the two cities. If the expenditures and burdens are merely redistributed without any change in the amount of expenditures and burdens, suburban Wealthyville will receive poorer services at higher cost, so market values will drop. Poorville, conversely, will receive better services at lower cost, so property values
will increase.

It may be, of course, that the people in Wealthyville will not accept lower quality services. One alternative is to purchase services from the private sector. But such additional payments, just as an increase in property tax burdens, would tend to lower values of property in Wealthyville.27

Greater socio-economic housing integration will result. There is presently considerable wealth and race segregation in housing in most areas of America. If one is both poor and of a minority race, it is likely that he lives in a neighborhood limited to others who are poor and members of a minority race. But Americans move frequently for a variety of purposes, and post Serrano greater socio-economic integration could occur. To return to our Wealthyville and Poorville examples, post Serrano the people in Poorville should be able to acquire homes in Wealthyville at a lesser price with no greater tax burden than in Poorville. Some might choose to do so. Conversely, people in Wealthyville may find that with the higher level of services and lower tax burdens than previously in Poorville, Poorville has become an acceptable place to live. Ultimately, such housing integration is a far more cost-effective answer to educational integration than massive busing.

Low-income housing will be more readily accepted. Cities now use every technique that can be devised by man to exclude low-income housing. Often the exclusion is racially motivated. On the other hand, it is also municipal madness to willingly accept low-income housing when, as is so, it adds very little to the tax base and requires very high service costs. To do a good job at providing low-income housing now invites inundation by the poor from the region. Not only is low-income housing
excluded, but through urban renewal, freeway building programs and the like, low-income housing is removed, often with no replacement housing being furnished. Post Serrano, there will be little fiscal pressure to exclude or remove low-income housing. The state must adjust its system so that the low-income housing can be provided with quality services without imposing such high tax burdens on the community accepting the housing.

More new housing starts in central cities. There are, of course, many reasons for the phenomenon that much land in central cities and older urban communities lies passed-over, underutilized and vacant while land on the suburban fringes is developed with new housing. Perhaps the Serrano principle will help reverse that phenomenon. Everything else being equal, investors in housing will invest where property tax rates are lower. And property tax rates are generally higher in the central cities.

Business and industry will not as readily leave the central cities. In many metropolitan areas, business and industry is relocating in the suburbs. In thirty-nine major metropolitan areas of the country, 85 percent of all industrial and commercial growth, measured by jobs, has taken place in the suburbs. In New Jersey the rate has been 95 percent. There are a number of reasons for such moves, but tax burdens are a factor. In New Jersey, for example, tax rates for schools in five central cities were $2.57 to $3.69. In nine suburban cities the rates varied from $1.16 to $2.05. If tax burdens are equalized, business and industry will have one less reason for moving—two less reasons when services provided in the central cities are also improved because of greater fiscal ability to provide services.
Central cities will resume population growth. Central cities are declining in population relative to the population of the suburbs. The reasons for this increasing imbalance are many. But among the reasons offered is the desire to obtain higher quality public services of a desired sort with lower tax burdens. Suburbs are frequently able to provide such advantages. If the Serrano principle is applied, however, the quality of public services cannot be dependent on local wealth. If such a principle means that a given tax effort must produce sufficient revenues to permit equal expenditures per capita, then suburbs may still retain the capacity to provide a comparatively favorable environment in some metropolitan areas, for to produce an environment of suburban quality in central cities might take more than equal expenditures per capita vis-à-vis suburbia. The suburban growth might well continue if the only advantage suburbia loses is that of the lower tax burden. However, if the test for equality of services comes to be measured by need rather than by equality in expenditures per capita, the overall quality of life in the central cities should be equal to that in suburbia, insofar as local public services can produce it. Suburbia will therefore lose some of its relative advantages and central cities should show greater growth than now relative to suburban growth.

Overzoning will be reduced. While tax exemptions to industrial developers are confined to limited areas of the country, it is no secret that many municipalities compete in a variety of legal, marginally legal and illegal ways to attract tax base, e.g., through industrial development. That same motive, when added to typical landowner pressure to have land zoned for the most intensive land use possible, leads to a common defect of zoning ordinances:
3. Excessive areas or frontages are zoned for the more intensive uses . . . in relation either to: (1) the effective demand for such space, or to (2) the capacity of the streets and utility systems available to serve such districts. 39

Of course, if the gross overzoning of land for intensive industrial or commercial use does not provide a prospective developer with every imaginable option for location within an area, the city is often more than eager to rezone wherever desired, thus disrupting its planning. Overzoning creates a situation where the zoning and the demand for land as zoned are not reasonably related to one another. As a result, land may be unutilized or underutilized as it is unduly held off the market. Intensively zoned land may become lower priced, encouraging disruption by less intensive uses. Generally, overzoning makes it less possible for planning to shape development.

Post Serrano, however, the need to encourage development of industrial and commercial areas to provide tax base will not be as great. Consequently, to the extent overzoning is caused by the need to attract tax base, the pressures for overzoning can be reduced.

Local government revenue demands and expenditures will decrease. Local government expenditures have been an increasing share of Gross National Product. In 1969, local government expenditures were 5.96 percent of GNP while in 1950 they were 4.38 percent. 40 Post Serrano, it will be more costly to use local government to preserve islands of privilege. And the Serrano principle can partially be avoided if, for example, the people in Wealthyville purchase more government-like services from the private sector. Thus, as has been the case where schools were racially integrated or the level of services rendered by public schools was lowered, many affluent parents send their children
to private schools. Such practices dilute the underlying social change intended by Serrano, namely, that the quality of schooling should not so much depend on wealth. Moreover, those persons who purchase their services privately tend to become a constituency against rather than for high-quality public services, so that their tax plus private service purchase burdens can be reduced.

Annexations and exclusions need not be tax motivated. In an ideal system, political boundary lines of local governments might be set to conform to socio-economic geography. But under the system practiced in most American states, municipal growth by annexation or non-growth by refusal to annex, is often motivated by considerations of tax and services burden. As a Texas report points out:

No doubt one of the major causes of annexation activity and, unfortunately of annexation abuse, is intercity competition. It would seem that municipal competition has forced cities to grab huge blocks of land to protect their industries, assure future tax revenues. . . .

As a result of the intercity competition, areas are annexed solely because they contain a facility providing large tax base, such as a major industrial plant. But it might make much better sense for the plant to be in another local government. Often, in order to annex, it is not possible to annex only the tax base, but intervening territory best left outside the limits of the annexing local government must also be annexed to meet typical contiguity requirements. Thus, lands not appropriately included might be added or boundary lines might be erratic and gerrymandered. Both situations may make it difficult and more costly to provide public services both to territory annexed and to that left out.
On the other hand, areas definitely urban and residential and needing the kind of services which could be provided by annexation are often denied annexation or even excluded because of high service costs. For example, no city is eager to annex a low-income housing project.

Post Serrano, much of the tax-service burden need either to annex, to deny annexation or to exclude will be removed. Political and planning considerations more than fiscal considerations can determine what areas should be within what local governments.

Fiscal inducements to governmental fragmentation by incorporation of cities will be reduced. Cities are incorporated for a variety of reasons, but many have been incorporated for fiscal reasons, to provide tax havens variously for residence, industry, commerce and agriculture. For example, by minimizing the amount of residential property in the city, property taxes on business ventures can be kept relatively low. Because of sales tax laws, as in California and Illinois, which provide for a local tax or a state tax returned to the local government within which the sale took place, some cities are incorporated that specialize in retail businesses. Such cities finance themselves not on their own wealth but on the wealth of persons living in other cities—perhaps a double violation of the Serrano principle. In states such as Wisconsin, where a portion of the individual income tax is returned to the local government wherein the taxpayer resides, cities of residential elitism have been formed. By using land use practices which permit only the wealthy elite to live there, the return from the income tax may be sufficient to eliminate any city property tax, and the quality of public services can still be high.
Because of such fiscally motivated incorporations, other local governments in the same socio-economic region, with barely minimal services and desperate for tax base, have skyrocketing tax burdens because the wealth of the region has been captured by these kinds of near-private purpose uses of public government. Post Serrano, when burdens and services must be more equalized, the reason for such havens will cease to exist. The fiscal inducement for the incorporation of further such local governments will be removed.

Reduction in local government fragmentation. Coherent planning is a virtual impossibility in socio-economic regions that are split geographically and functionally by many governmental entities. Special districts are numerically the most rapidly increasing form of local government in America; and they are a double anathema, for they cause both functional and geographical fragmentation at the same time. Most studies of special districts have concluded that they are marginally desirable and that general-purpose local governments are preferable in all but rare instances.

Yet special districts must often be formed because general-purpose governments are financially unable to provide required services because they have reached their tax or debt limits. While such limits might be rationally set considering all local governments as a whole, there is an uneven spread of tax base and uneven demand for services among different localities in the state.

By forming new local governments, debt and tax limits imposed on local government already existing in the area are generally avoided. The new local governments can then provide the needed services. But burdens are not reduced, they are merely imposed by a different type of
local government. And the local government utilized, typically a special district, is not the sort needed. In high-service-demand areas with high population densities and likely a number of local government entities already operative, an entity is needed that has a wide range of powers, managed in a way which can apply resources on a priority basis and coordinate problem solving. Special districts, on the other hand, "do their own thing" without regard to overall needs. Thus, the people in the area pay too much to receive services that do not meet their priority needs.

While Serrano does nothing directly about tax limits and debt limits, Serrano found tax rates constitutionally invalid because the higher rates meant greater burdens without a commensurate increase in services. Since most tax limits are expressed in terms of rates per assessed valuation, an averaging-out of rates should give general-purpose governments more breathing room between their tax rates and their tax limits, thus removing one reason for fragmenting an area into special districts.

Regionalism and regional cooperation will be promoted.

[A consequence of fiscal fragmentation] is the incentive which each local government has to take actions to improve its own tax base at the expense of its neighbors. Fiscal fragmentation has the effect of discouraging intergovernmental cooperation in the Twin Cities area. This in turn results in actions which work against the benefit of the entire area.

So reads the introduction to the Report which led to the innovative tax-sharing plan now in effect in the Twin Cities metropolitan area in Minnesota. Under the plan, new tax base in one governmental area is shared as part of the tax base of the region. The point made in the Report and made frequently elsewhere is that regional planning and
regional cooperation in America is a virtual impossibility when disparities in fiscal capacity make each local government compete vigorously and of necessity to preserve its own tax base. Despite antitrust laws, it sometimes appears there is more cooperation between General Motors and Ford than there is between units of local government within metropolitan regions.

The Serrano principle, on the other hand, operates to make the entire state a fiscal region, thus making it possible for considerations of socio-economic geography rather than fiscal considerations to govern regional planning and cooperation. The very definition of a region is an area with an essentially unitary socio-economic geography. Once fiscal considerations are removed, local political units are free to act in a way which fosters natural socio-economic geography. Unfortunately, the Serrano principle is not judicially applied to require an equalization of burdens and expenditures between the parts of regions lying in more than one state.51 And perhaps it would be better if the burdens and expenditures were equalized within regions rather than within states.52 But in implementing the Serrano principle, the federal and state legislatures can make equalization adjustments that go beyond constitutional and judge-ordered requirements. On the whole, the Serrano principle is a massive step forward in the direction of eliminating excessive localism.

Decentralization will be financially feasible.

Black student: "We would like to incorporate Watts as a separate city."

Hagman: "Where will you get the money to provide city services?"

Black student: "We'll get it from our brothers in Baldwin Hills." 53
Such a conversation was the stimulus for an article outlining a fiscally feasible way of permitting decentralization of government. Decentralization is not the same as fragmentation. The former is done rationally, the latter just happens. But decentralization is not feasible for poor, minority populations when any governmental entity formed has relatively little tax base and, likely, relatively high service demands. Thus, whatever is good about such concepts as home rule, neighborhood government, local control, self-determination and the like, which have produced suburban America, has been denied to large segments of the population who frequently live in large cities, represented by governments run by other than their kind.

Post Serrano such persons could also enjoy the advantages of decentralized government. If a place like Watts were to become a separate local government rather than a place name for an area of the larger city, the Serrano principle would require adequate funding. The quality of services could not be dependent on the wealth of the community.

Equalized state general revenue sharing will be stimulated. The Serrano principle is that the quality of services cannot be dependent on the wealth of the area. The principle calls for some centralized public finance by the state to make up for local tax wealth inequities. If centralized control flowed from centralized finance, the court would likely have been persuaded that there was a compelling state interest in continuing the present inequitable system of school finance. Instead, the Serrano court specifically rejected the argument that centralized finance means loss of local control. As a result, formulas for increasing state aid to the schools in response to Serrano are likely to be
general-purpose, no "strings," rather than special-purpose, with
"strings," grants. That will be no revolution, for in 1966-67, 84.7
percent of state grants to school districts were for general purposes—
general revenue sharing.

Serrano also requires equalization of aid. Obviously, if the
state replaces local wealth with state wealth in a way which leaves
school districts with current disparities in expenditures, the Serrano
principle would not be met. Here again, state grants to schools
have accepted the principle of equalization. In 1966-67, 69.2 percent of
state grants to schools used some type of equalizing factor. Their
inadequacy under Serrano is that they were not equalizing enough.

But if the Serrano principle is extended to other public services,
the change would be of near-revolutionary dimensions. First, state aid
for non-educational functions is only 38 percent of total state aid. Second, local governments other than schools rely much more on their own
sources, disparities in wealth are as great or greater, so expenditure
levels are more unequal. Third, the aid that is available is hardly ever paid under an equalization formula. Richer communities
may well tend to get richer as a result of state aid. Finally, much
more of the aid is categorical (special purpose). Thus, while most
school aid can be used for any purpose by the school district (assuming
certain state minimums are met), general-purpose local governments
(cities and counties) receive aid for such special functions as welfare,
health and highways. Highway aid cannot be used to provide fire pro-
tection, for example, though both are provided by the same general-
purpose government. No "strings" general aid to general-purpose local
governments is a very small portion of local general revenue—some 2.7
percent in 1967. Thus, after full application of the Serrano principle, the system of aid to general-purpose local governments will likely be shifted from one of relatively small amounts of aid, unequalized and categorical, to much more significant amounts of aid, equalized and general. The change would be in the same direction as but be far more radical than Serrano-caused responses in educational finance and would tend to create a state system of equalized general revenue sharing.

The responsibility for funding tax exemptions will be shifted to the state. One of the reasons that tax base is unequally distributed is that tax exemptions are unequally distributed. The matter is most clearly evidenced by property tax exemptions. Suppose city A is a governmental, church, medical, cultural and educational center with much tax exempt property. The total market value of all of its real property is $5 billion. City B also has real property with a $5 billion real property valuation, but it is an industrial center. Because of exemptions, the taxable wealth of City A might be $2.5 billion. The service demands on City A might well be equivalent to those in City B. So if the property tax were the sole source of revenue in both cities, the tax rate in City A would be twice that in City B. The Serrano principle does not allow such a disparity.

Presently, the problem of tax exemption is largely a local one. The state legislatures, disinclined to provide direct subsidies, provide indirect subsidies through tax exemption. Sometimes, though seldom, the state provides in-lieu revenues. Generally, local units of government have only two possibilities with respect to tax exempt property: 1. increase rates on remaining taxable properties, or
2. exclude tax exempt uses. The latter response may be possible as to new tax exempt property; it would be most difficult with respect to property already located within the city.

Post Serrano, however, tax exempt property must be treated as if it is not there when the contribution from non-local sources is computed, so as to equalize tax burdens. It will no longer matter as much to localities whether property is tax exempt. While it still must be serviced, the servicing costs may well be no different than for other kinds of property. It will matter to the state, for every exemption granted will disproportionately lower local tax base, which must then be equalized by some centralized funding.

The problem of providing funds to impacted areas will be shifted to the states. While Alfred Balk does not analyze the data in his book, he has fortunately included appendices containing the results of his survey of university payments to local governments, federal payments in lieu of taxes (PILT) statutes and programs, and PILT programs of states to capital cities of each state. A fair summary of the appendices is that many universities make some payments to local government in their area, there are many federal PILT statutes which authorize payments to states and localities and few states make any in-lieu payments to their capital cities because of tax exempt state property in the capital.

Post Serrano the following changes might occur:

1. Since universities are no longer impacting local governments but are only impacting the state, universities will resist making payments to localities. Since almost all universities serve at least the region and any impact is widely distributed, there is little compelling
about an argument, made with respect to university towns, that universities in fairness should make in-lieu payments to the state.

2. Since federal installations, public lands, public housing and the like will no longer be impacting local governments, payments should be made to the governments impacted, namely the states, or alternatively, to the extent federal property is reasonably evenly distributed throughout the states, no particular state is impacted and federal payments should be ended.

3. In effect, states will have to equalize the tax burdens in capital city areas, as with other areas, so in effect, the state will be paying in-lieu taxes to capital cities.

V. Conclusion

The speculations in this article concerning the impact of the Serrano principle on city planning, land values and use, it may confidently be predicted, do not constitute an exhaustive list. Some of the speculations may be wrong, but surely the status quo will be altered in the ways outlined or in other significant ways by application of the Serrano principle. At this time it is impossible to predict the full development of the Serrano principle. It may well be extended to other local governments than school districts, to all types of locally raised revenues and to equality measured by need rather than equal dollar expenditures. To the extent it is so extended, the radical alteration of the status quo begun by the Serrano case will evolve to impacts of near-revolutionary character.
NOTES


3. Id.


11. "[T]he Advisory Commission on Intergovernmental Relations, in its Tenth Annual Report . . . 1969 . . . warned . . . 'A veritable revolution in local government structure and financing in the United States would ensue if the judiciary should adopt the doctrine that every pupil
should have substantially the same fiscal backing. . . ." Advisory Commission on Intergovernmental Relations, Who Should Pay for Public Schools? 37 (1971).

12. The case was appealed to the California Supreme Court after the trial court sustained defendants' demurrer, a demurrer being a response by a defendant that the plaintiffs' allegation states no legal wrong. The California Supreme court concluded a wrong had been stated if the plaintiffs could prove their case. The case is now back in the trial court for proof.


15. President's Commission on School Finance, Schools, People and Money—The Need for Educational Reform, xii (1972).


17. See note 11, supra.

18. The President has requested the Advisory Commission to make recommendations on school finance. 8 Weekly Comp. Pres. Docs. 92 (1972).

19. In 1966-67, local property taxes for schools were $10.5 billion while other local taxes were only $177 million. Bureau of the Census, U.S. Dep't of Commerce, 1967 Census of Governments, Finances of School Districts, Table 1 (1969).


21. In 1966-67 local governments other than school districts had revenues and expenditures of about $36 billion while school districts had revenues and expenditures of $23 billion. Bureau of the Census,

22. In 1966-67, $13 billion of locally raised revenues came from sources other than the property tax, whereas less than $2 billion of local revenues for schools came from other than the property tax. Bureau of the Census, U.S. Dep't of Commerce, 1967 Census of Governments, Compendium of Government Finances, Table 3 (1969).


24. McInnis v. Shapiro, supra note 9 at 331.


27. Another possibility is that people in Wealthyville would not accept a decrease in public services and would insist that services in Poorville be brought up to the level of those in Wealthyville. That might be impossible as a political matter, because people in Poorville might not want an increase in services up to the Wealthyville level. However, if that hurdle was passed, the burden for improving the services in Poorville cannot be dependent on the wealth of Poorville. So the increase in the quality of services would have to be paid by state funds which means state taxes will increase. Unless the state has a regressive tax system, more of the burden of providing the increased services will fall on the people in Wealthyville. Thus, after
application of Serrano principles, the people in Poorville will enjoy at least equal expenditures for services (measured by need the expenditures may be more than equal in dollar amounts) and, while their burdens may increase somewhat, the tax system would have to be massively more regressive after than before in order to offset the benefits received. Therefore, there will be at least some redistribution of wealth. Whether such a redistribution will show up in a change of the relative values of property in Wealthyville and Poorville depends on a greater knowledge of economics and of patterns of consumption than this author possesses.


29. E. Branfman, B. Cohen, and D. Trubek, Fiscal and Other Incentives for Exclusionary Land Use Controls (1972) dispute the conventional wisdom and argue that fiscal reasons only marginally affect exclusionary practices.


32. Robinson v. Cahill, supra note 7 at __, 287 A.2d at 198.
33. Advisory Commission on Intergovernmental Relations, State-
Local Taxation and Industrial Location (1967).

34. Robinson v. Cahill, supra note 7 at ___, 287 A.2d at 197.

35. M. Clawson, Suburban Land Conversion in the United States
33-37 (1971).

36. Id. at 39-46; D. Ranney, Planning and Politics in the Metropo-


419-20 (W. Goodman and E. Freund, eds. 1968).

40. Computed from tables in Bureau of the Census, U.S. Dep't of
Commerce, Statistical Abstract of the United States, 1971 at 305, 396,
409.


42. For example, a strip annexation might require long extensions
of utility lines and create an island of unincorporated territory
detached from the rest of the county and thus difficult to serve but
too small to be efficiently served by a subcounty center in the
detached area.

43. "In this suit the plaintiffs allege that they are poor, black
residents of the deannexed area. . . . They allege that they and others
living in the area are without sewers, paving, adequate street lights,
fire hydrants, fire and police protection, and garbage collection. . . .
They contend that [by the deannexation] the City discriminated against
them in violation of the Equal Protection Clause of the Fourteenth Amend-
ment. . . ." Franklin v. City of Marks, 439 F.2d 665 (5th Cir. 1971).
44. Between 1942 and 1967, the number of local governments decreased from 155,067 to 81,248. While the number of municipalities increased slightly (0.3 percent from 1962 to 1967), special districts increased from 8,299 to 21,264 between 1942 and 1967 (16.1 percent from 1962 to 1967). Bureau of the Census, U.S. Dep't of Commerce, Governmental Organization, 1967 Census of Governments 23 (1968).


46. In some states as to some local governments as to some purposes for raising revenue, limits may be applied to all governments in a particular area rather than have a separate limit for each local government. But specific limits are more customary. See Advisory Commission on Inter-governmental Relations, State Constitutional and Statutory Restrictions on Local Taxing Powers (1962).

47. Id.


49. Weaver, The Minnesota Approach to Solving the Urban Fiscal Disparity, 45 State Gov't 100 (1972). Minnesota was also the first state to enact a legislative response to court-ordered equalization. Van Dusartz v. Hatfield, supra, note 2 was decided on October 12, 1971.
Legislation embodying Serrano-type principles had been proposed earlier in the Minnesota Governor's Budget Message. See Advisory Commission on Intergovernmental Relations, Who Should Pay for Public Schools? (1971). As a result, the legislation responding to the court decision was also passed in October. See Ward, Minnesota Cuts Property Tax as Others Debate It, The Los Angeles Times, May 15, 1972, Pt. 1, at 1, col. 1.

50. See e.g., Advisory Commission on Intergovernmental Relations, Metropolitan America: Challenge to Federalism 125 (1966); Gissler, Government on Two Levels—Aim of Europe's Big Urban Areas, HUD International, Oct. 18, 1971 at 1, 3; Netzer, State and Local Finance in a Metropolitan Context, in Issues in Urban Economics 435, 442-44 (H. Perloff and L. Wingo, eds. 1968).

51. Under the Equal Protection Clause of the U.S. Constitution, no state shall "deny to any person within its jurisdiction the equal protection of the laws." Since a state has no jurisdiction over area outside of the state, the equal protection clause cannot be applied to provide burden and expenditure equalization between areas of a region in two or more states.

52. Disparities in burdens and expenditures between regions of a state might be acceptable as a matter of socio-economic geography. A region such as northeastern, rural California obviously has different socio-economic geography than the metropolitan Los Angeles area. Yet the Serrano principle, operative on the state level, must treat both areas equally.

53. Baldwin Hills is an area of Los Angeles in which relatively affluent blacks have tended to cluster.
54. See Hagman, supra note 25.

55. See Babcock and Bosselman, Citizen Participation: A Suburban Suggestion for the Central City, 32 Law & Contemp. Probs. 220 (1967).


57. Id.

58. Id. at 4.


60. The Serrano opinion used the Beverly Hills and Baldwin Park school districts as primary examples of school district inequality. Disparities between the respective cities of Beverly Hills and Baldwin Park were greater. In 1969-70, for example, with a lower rate, Beverly Hills property tax revenues per capita were eight times those in Baldwin Park.

61. The city of Beverly Hills spends almost six times more per capita than the city of Baldwin Park.

62. Supra note 58 at 7.

63. In 1969-70 the city of Beverly Hills received $27.21 per capita from the state. The city of Baldwin Park received $17.61 per capita.

64. Supra note 58 at 105. The aid statistic does not include revenues paid to replace losses by state required property tax relief or a local share of state taxes. But these are insubstantial as a percent of total revenue.
65. In 1967, 47.2 percent of property in Boston was tax-exempt. A. Balk, The Free List 19 (1971).


67. Typically local zoning ordinances do not apply to governmental uses. Churches and private schools may not be excludable by zoning. There may be more power to exclude cultural uses. See D. Hagman, Urban Planning and Land Development Control Law 122-35 (1971). "In 1966, when the University of Wisconsin at Milwaukee announced plans to acquire a ten-acre site in the suburb of Shorewood, the village board opposed the move and the village manager suggested that expansion be within Milwaukee's city limits. 'Every inch of land taken off the tax rolls hurts us,' added the village attorney. Whereupon the university reversed itself and announced it would expand only within the city of Milwaukee—at a potential cost to Milwaukee of $6.3 million in taxable property." A. Balk, supra note 65 at 118-19.

68. A. Balk, supra note 65.
69. Id. Appx's 2-7.

70. Id. Appx 2. E.g., the University of Washington is authorized to pay Seattle $60,000 yearly. Fifty-three of 99 universities surveyed made some payment for municipal services.

71. As explained in the previous section, tax exemption no longer matters to localities in a post Serrano era.