

# The Forum.

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JULY, 1892.

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## NECESSITY FOR UNIFORM STATE LAWS.

AMERICANS with slight knowledge of Asiatic castes sometimes describe Brahmins as rule-burdened animals. Oriental politeness restrains Brahmins from making retort that no men are bound by a larger number or greater variety of rules, properly called laws, than the self-styled free men of the American Commonwealth. No impartial American jurist can fail to admit that our law is complex, diverse, and bulky. What are the causes of these qualities in our law? Do these qualities constitute defects in law? If they do, what remedy, if any, is available by us?

The American Revolution was preëminently a conservative revolution. Its leaders, while aiming to destroy the political sovereignty of Great Britain in America, were no less intent upon preserving the English laws regulating private rights in America. Succeeding as those leaders did in securing both objects, America inherited a body of laws. This inherited body of English laws was complex. Sufficient evidence for proof will be suggested by the single fact that when the English colonies in America emerged from the colonial condition into that of independence, the laws by which they were governed consisted, first, of the common law of England, so far as they had tacitly adopted it as suited to their condition; secondly, of the statutes of England or of Great Britain amendatory of the common law, which they in like manner adopted; and, thirdly, of the colonial statutes. This inherited body of English laws was also diverse. The causes which, as early as 1776, had produced this result may be discovered in the varying social, economic, and political conditions of England and America and of

## DOES THE NEGRO PAY FOR HIS EDUCATION?

THREE things are noted as making it hard for the South to support public schools: the large ratio of children to parents, the scarcity of taxable property, and the sparseness of population. Some add a fourth; that is, State debts. Now, the practical question in the mind of every public-spirited Southerner ought, it seems to me, to be: Do these things so fully account for and so unavoidably control the present status of Southern public schools that it is useless to look or strive for better conditions while these four things remain as they are, or are the present starved conditions of these schools due in part to other obstructions removable, but largely overlooked?

Probably the answer comes easiest in regard to State debts. Alabama, poorer in net wealth than North Carolina, and South Carolina, poorer still, both provide better for public education than North Carolina does; while Arkansas, with twice the debt and little better than equal wealth *per capita* of minors, provides twice as well. Mississippi, the State of least wealth in the Union, excels five of the eleven southernmost States in yearly school provision *per capita* of her population, and yet is excelled by Arkansas, almost as poor and with two and a half times as much debt. So, then, State debts do not explain contrasts in school outlays. It may be well, therefore, for those who feel interested to look inquiringly at the other obstacles.

Both in the North and in the South, men whose integrity and generosity are beyond a moment's question have drawn comparisons between very rich and populous States of the North and very poor and thinly-settled States of the South, which have been only the more unfortunate for the Southern States because they flattered them. North Carolina, they say, spent lately in one year a larger ratio of her scant wealth for public education than did Massachusetts, which is seven times as rich per inhabitant. One who has gone no further than this comparison may be surprised to know that Utah, much more like the South in the summing up of her economic conditions than any Eastern State is, spends yearly for schools three and a half times as much *per capita* as the Carolinas, and has provided a public-school

property whose cash value *per capita* of her school attendance is fourteen times that of South Carolina, and nearly one and a half times that of all the eleven southernmost States combined. But such comparisons are unfair, whether they flatter or condemn, because the opposite regions are too dissimilar for close comparisons. Strange that so few seem to have thought of the far greater value of comparing one Southern State with another. Surely this is one good way to find out whether or not the South is "doing all it can" for public education.

Let us see: The Carolinas are about equal in wealth,<sup>1</sup> in outlays for public schools, and in the ratio of children aged from six to fourteen years. Arkansas is poorer, has more children, and is not half as thickly settled. And yet by every proportion Arkansas spends for schools nearly twice as much as either of the Carolinas. Neither Tennessee nor any seaboard State from Virginia to Texas spends so much yearly in proportion to wealth *per capita* as Arkansas, whose wealth *per capita* is the least in the United States. Every one of these States ought to be doing better than Arkansas, or else there are other causes hindering them that ought to be better known. We shall look for these presently. Meantime, is Arkansas a safe standard for other States? Is Arkansas, less than two-thirds of whose two hundred and seventy-five thousand children<sup>2</sup> are enrolled in schools and with less than one-half in daily attendance, doing all she can?

Here we have to look beyond the South for comparisons; but let us look no farther than we must, avoiding violent contrasts in the three conditions already in view, and looking to those Northern States that in these conditions are nearest like the South. These are some four or five large States of the middle West just beyond the Mississippi and surrounding and including Iowa. Iowa has a density of population and ratio of children to adults about the same as that of the Carolinas. Her wealth<sup>1</sup> is twice that of Arkansas, but is less than that of Texas. Yet her annual school outlay<sup>2</sup> is nearly three times that of Texas and over five times that of Arkansas. Kansas is not quite so rich as Iowa. Her ratio of children is about the same. Yet in 1888-89 she spent for public schools seven times as much<sup>2</sup> as Georgia, or the sum total of the *per capita*s of Georgia and the five States by which Georgia is bounded. Other comparisons show similar contrasts; scantiness of population, low ratios of wealth, and high ratios of minors to adults fail to explain why Southern public

<sup>1</sup> *Per capita* of total population.

<sup>2</sup> *Per capita* of population six to fourteen years old.

education stands where it does. Is it not high time to ask what there may be peculiar in the Southern methods of raising school funds? Where do and where should these funds come from in the South?

It sounds trite to say that neither in the South nor elsewhere need one ever expect to find an adequate free-school system that is not mainly supported by taxes on property and recognized by the property-holder himself as an investment so profitable to him that he cannot honestly count it a charity or a sacrifice. But we need to ask, Does this burden rest on the property-holder more heavily or more lightly in Southern than in other States of like population and wealth; and, especially, does property pay an unusually large or an unusually small share of the whole fund? The answer will surprise most readers. It is that in the eleven southernmost States the tax on property furnishes a smaller proportion of the whole free-school fund than it does elsewhere in America. In Kansas or Iowa it is from three to eleven times as heavy<sup>1</sup> as in any Southern State, and rests upon the property-holder with an exclusiveness absolutely unknown in the South. What offsets, we have to ask, are there for this shortcoming?

One, a partial one, is the poll tax. The strong expediency of a poll tax for schools in the South has been recognized by both races and all classes ever since the State constitutions of 1868 established public education. No one has ever opposed it, and the only question has been and is, What part of the whole tax ought the poll tax to be? Massachusetts levies a poll tax; but it is only one-fourteenth of the whole school revenue. A poll tax would hardly be felt if added to or taken from the school funds of Iowa or Kansas; but these States lay no poll tax at all. In South Carolina the whole yearly revenue for public schools is barely two dollars per male adult. The poll tax is one dollar, legally due from every man not a pauper or a vagabond. It goes into the school fund. Duly collected, it ought therefore to make half the present fund. In Alabama the poll tax is one dollar and a half. Thoroughly gathered in, it would make two-thirds the present yearly school outlay. But the whole system of school revenues and outlays is so ordered that in the non-collection of the poll taxes the poorest poor, white and black, are the principal sufferers—by hundreds of thousands. In Alabama and Georgia the State school tax on property is limited by their constitutions to a hopelessly insufficient rate, and the counties are forbidden, except on permission of the legislature, to add to it a local tax. In the towns and cities of al-

<sup>1</sup> *Per capita* of total population,

most all the South this local tax is much resorted to; in the country districts it is not; and in Alabama, for instance, the poor farm tenants' swarms of children get only a *pro rata* of the State's diminutive school tax on property and as much poll tax, distributed not *pro rata*, but strictly within race lines, as their largely destitute, ignorant, crop-mortgaged fathers will pay without much urging. And yet the poll tax collected in Alabama in 1889-90 was nearly half as much as the State school tax on property. The differences in other Southern States are only of degree. Out of the South there is no State whose non-property-holder pays so large a share of the whole school tax as the "poor white" and the Negro pay in the South, or in which, for other men's children, the payer of school taxes on property pays so little.

Now, whether this be wise or unwise, the capriciousness with which the poll tax is here gathered and there left ungathered is certainly unfortunate. In South Carolina, in 1888-89, Charleston, city and county, contributing and consuming one-fifth of the whole public-school fund of the State, collected from among twenty thousand taxable polls only fourteen hundred and twenty-three dollars poll tax. Yet four other counties, two of them with large colored majorities, paid in poll taxes almost half their total school funds, and seventeen others with colored majorities and four with white paid in poll taxes over one-half as much as in taxes on property. In North Carolina the poll tax is two dollars per male adult, and every man, with or without property, who pays his poll tax pays for schools four-fifths of all he would pay if the school tax were wholly on property and he owned the average wealth. We see, then, not only that in the South the very poor man is already paying a far larger share of the expense of public schools than he pays in any other country, but that he would be paying much more than he does if, with general efficiency, the tax were collected which he is legally required to pay. At the same time property is constitutionally protected from the rate of taxation for schools which it cheerfully consents to bear in all other enlightened lands. "According to resources and population, Georgia," says, officially, one of her own school commissioners, "has as small a school fund as any civilized state on which the sun shines." In 1889-90 her total public-school revenue was some \$826,600, not half of which was tax on private property. However, one question still demands a clearer answer: Does the Negro pay for his education? Are these conditions as true, in the South, of the Negro in particular as of the poor man in general? For the Negro, of course, is very poor. White

men, we are told, own ninety-one and one-half per cent of all the taxable property in the South. What, then, does the Negro pay?

One of Georgia's ablest educators and noblest citizens tells us that from 1865 to January 1, 1889, the Southern States paid out over thirty-seven million dollars for the education of the colored race. But, as some one has wittily said, we must not use the numerators of statistics without their denominators. Even though this outlay had been all made within the last fifteen years, it would be only about one dollar and a half yearly *per capita* of the colored school population in the eleven States expending it; less than one-tenth the *per capita* spent by Dakota in the year 1887-88 on her children of school age. If Georgia is a fair example of these eleven States, not half this outlay was tax on property. Though 47 per cent of the people are colored, the colored schools, says her State commissioner, get only about 30 per cent of the yearly school fund. So, then, as half the fund is not tax on property, and the colored schools do not get even one-third the fund, whatever the Negro's education may cost the white man, it costs the white man's private property nothing. But the official reports of Georgia for 1889-90 discover still more:

Thirty per cent of the school fund that year, the share allowed the colored schools, was.....		\$248,000
One item of school revenue was half the rental of a "State railroad." There was also a railroad dividend; the two amounting to \$150,000. Forty-seven per cent of the people of Georgia are colored. In all free countries such earnings of the public wealth as these are regarded as owned by the whole people equally, rich and poor, high and low. They are as truly and largely the products of labor as of capital. Yet if we credit the Negro with but twenty-five instead of forty-seven per cent here, still his share would be.	\$38,010	
The poll tax collected from colored men was.....	101,920	
Their forty-seven per cent of the school revenues from the tax on liquor dealers, hire of convicts, tax on shows, etc., was.	52,640	
The taxes collected on property owned by colored people were..	16,430	
This shows that nearly the whole colored class pay no direct tax on property. But if on account of the partial "mobility" of taxes from landlord to tenant, merchant to customer, etc., we credit the Negro with but one scant twenty-fifth of the State's one and a third million of annual taxes, it suffices to cover his account here, being.....	39,000	
		\$248,000

Thus easily is the account squared. If the Negro does not complain of such bookkeeping, certainly no one else can. The least that

can be said is that in the year 1889-90 the colored schools of Georgia did not really cost the white people of the State, as a whole, a single cent, either in poll tax, tax on property, or any other form of public revenue. In the other ten southernmost States the case is not seriously different. The true explanation of the present melancholy condition of public education in them is not their public debts, nor the slenderness of private wealth, nor their large ratio of children, nor thinness of population, though all these have their partial effects. The true explanation lies in the laws and methods under which their school funds are gathered and disbursed. What is said here is but a hint—one item—of what might be shown; but it may suffice for the time, since it shows that the Negro, so far from being the educational pauper he is commonly reputed to be, comes, in those States, nearer to paying entirely for his children's schooling, such as it is, than any similarly poor man in any other part of the enlightened world.

I beg to offer my recognition of the fact that my having been born in the South and having passed the first forty years of my life there is no sufficient guaranty against my making mistakes about Southern affairs. Probably my chances of error are reduced by the fact that subsequently I have seen and studied every other part of the Union. And yet it may be as well to add that I got all my early schooling in the public schools of a Southern State, that throughout the period of reconstruction and for many years afterward I was a sympathetic and minute observer at close range of the fortunes of public education in the South, and that I am and always have been a careful student of the invaluable annual reports of the national commissioners of education.

I have shown that sparseness of population, scarcity of taxable wealth, the weight of public debts, large ratios of children to adults, and the burden of the Negro as a consumer of school taxes levied on other men's property do not, all together, furnish nearly that full explanation of the forlorn state of Southern free schools they are commonly supposed to do. The Negro pays a larger proportion of his whole school fund than any poor man out of the South in America; while as for the other four drawbacks, Arkansas, the most heavily burdened by them, stands first among the eleven southernmost States in the ratio of her yearly school outlays to her wealth. I propose next more fully to show that a far more potent cause is the peculiar laws and methods under which Southern public-school funds are raised and disbursed, and especially those which almost totally deprive the

country schools of aid from cities and towns and even of the liberty of self-help.

In all lands, cities and towns spend more on the school-child than the country does. Yet not in all items; tuition often costs less. If we instance certain Northern States nearest like the South in population, wealth, and ratio of children to parents, Kansas, for tuition, spends \$9.50 per child in her cities and large towns and \$10.03 in the rest of the State. Iowa shows about the same proportion. But the value, per child, of her school property is about twice as much in her towns of 4,000 inhabitants and over as it is in her lesser towns and the country, and in Kansas it is exactly twice as much. Yet in these States the country pupils enjoy a school property equal in value to about \$30 each.

Now, in Arkansas the cash value of all public-school property<sup>1</sup> is less than one-tenth that of Kansas, one-thirteenth that of Iowa, and one-fifteenth that of Nebraska, and yet more than one-half of it is confined to the use of one-twenty-second part of the school population. Less than 13,000 town children enjoy a provision of nearly \$45 each, while over twenty times that number, in the country, are limited to less than \$1.50 each. In eight Alabama towns, in 1888-89, less than 23,000 children enjoyed the school property of the State at the rate of over \$15 per child, while 352,000 shared the remainder at 42½ cents each. And in the South these States are not exceptional. Or if we look at yearly outlays, we find that in Georgia, for instance, five cities, including Atlanta, raise for public schools nearly eight times as much by local as by State taxation, one result of which is that in 1889-90 over 515,000 country children, between six and eighteen years of age, had to get their year's schooling out of \$1.25 each. Of course, many got nothing; but 35,600 town children got two-fifths of all the year's fund. In Alabama the country children's *per-capita* share of the year's running expenses (1887-88) was less than one-tenth that of the children in the cities and towns.

Even in the cities and towns this extraordinary and unfortunate inequality of distribution continues; but there it is mainly between the two races that make up their populations. In Birmingham, Alabama, 45 per cent of the school-census enumeration, or 39 per cent of the average attendance, is colored; yet the teachers of colored schools get only 22 per cent of the amount paid to teachers. In Montgomery, in 1889-90, the disproportions were still greater. If we

<sup>1</sup> *Per capita* of children of school age.



go back to the country, we find the same inequities of distribution according to race. Southern colored populations of school age generally show larger ratios of non-enrolment and non-attendance than the white. Unequal expenditures themselves induce unequal enrolments and attendance. The forlorn poverty of country school-houses is the commonest complaint of those men between the millstones, the Southern State superintendents. They have never complained or had cause to complain that colored children did not fill any comfortable, well-equipped school-house provided for them, and until they do, the only fair division of school funds between classes set apart by law is *pro rata* of their total populations of school age. But in most, if not all, the eleven southernmost States the equal division, *pro rata*, between the races, of school funds, is limited to the small fraction of it raised by State taxation.

Statistics tell little of any unequal enjoyment of country school property by the separated races. The reason is simple: there is almost no provision, from State funds, of school property for either race. In cities and towns local taxation is the main resource. In the country private subscriptions do the poor little that is done, and the white poor man is generally left largely, the Negro totally, to his own resources; the colored churches are of a sort that even Negro children cannot damage or disorder, and the teacher and the State get them rent-free. But as to the partition of yearly running expenses we have some positive and surprising arithmetic. Some Southern States pay the same average salary to the teachers of colored as of white rural schools. Here, at furthest, the equality ends. In 1889-90 Alabama employed 5,916 school teachers. On the basis of total school population, her white children,  $56\frac{1}{6}\%$  per cent of all, should have had 780 more teachers than the colored children had. But they had these and 1,200 more, besides. If we represent this undue excess in the pay of these teachers, it was a little over ninety thousand dollars. The total undue excess of teachers and teachers' pay allotted to white public schools in the eleven southernmost States, over those given to colored, amounts annually to over a million dollars, or about half a million more than their true share. In fact, most of these States enforce no equal distribution of any school funds, except of the small fraction of them that passes through the State treasuries. Even the poll tax is sometimes, as in Alabama, divided, not *pro rata*, but only in the proportion in which the two races pay it; or, as in South Carolina, its non-payment works disfranchisement. And thus, to the same

spirit that makes this partition by race, the temptation is held wide open to neglect the collection of this tax from the Negro, who in his desire for education first laid it on his own bare head in the days of reconstruction.

And to what advantage anywhere are these inequitable divisions of school funds? If they were all truly shared *pro rata*, the three millions of Southern white children would nowhere be poorer in teachers or schools because the two millions of colored children were made richer. The seeming loss would but enrich all. Who fancies otherwise forgets our common human nature. There has never been a spot in all the South where the Negro's child was so well supplied that the white child was not soon supplied with as good or better. It is black illiteracy that fosters white illiteracy. Whatever school facilities the Negro by any means acquires, the white man will always have something better, and it will as surely be better for all as it will be more noble for the white man, when he maintains his easy superiority with nothing less than a full *pro-rata* distribution of all funds raised for public education. For lack of it, hundreds of thousands of poor children, white and black, are now out of school, and other hundreds of thousands get wretched schooling instead of good.

There is no room here to more than allude to the unfortunate statutes and State-constitutional articles which, after weaning the public school from the State treasury, incite its own county and township to let it starve. Texas has a school-district optional system so framed as to be simply a landholders' option, and as late as 1887-88 only three hundred of the State's three thousand school districts imposed local school taxes. In Georgia, only the legislature can authorize a county or town to make laws to tax itself, on property, for public schools, and "no such laws shall take effect until . . . approved by a two-thirds vote of persons qualified to vote," and "the General Assembly may prescribe who shall vote on such question."

Here, then, is a much larger cause of the poverty of Southern country schools than all the familiarly assigned causes put together. It is the policy of throwing the support of public schools mainly upon local taxation, and then besetting the local taxation with obstructions and interdictions. The first part of it is not exclusively a Southern policy; several Northern States lean more or less upon local taxation. But the practice is much condemned everywhere, and it is acutely bad for present Southern conditions. In States where every county and township looks upon the public school as the corner-stone

of public order and wealth, it makes far less matter whether the public school lives mainly by State or by local taxation. But in the South there is, first, a wide oversight of the great advantage to the rich in the free education of the poor, and, secondly, a wide difference of wealth between the laboring and property-holding classes, a difference due, not to any great wealth of the rich, but to the abject poverty of the poor. Thus the every-county-for-itself policy becomes a policy of every township, every district, and at last of every *coterie* and even family for itself, and in countless vast rural districts of the South the public and the private schools are barely strong enough to throttle each other. The policy becomes a devil-take-the-hindmost policy, and he takes the children of the poll-taxed Negro and white "cracker" and mountaineer by hundreds of thousands.

I believe I am here presenting indisputable facts; and not merely facts, but—what is of far more importance—the truth. Whatever the truth is, I believe it is best to know the truth, best for all, best that all know it, and that all of it is better than any part of it.

G. W. CABLE.