

Testimony on HCR3 – Doug Hall
House Judiciary Committee
2/19/2021

I am Doug Hall, a retiree, a resident of Chichester for 49 years, and a member of Board of NH School Funding Fairness Project. 30 years ago I was Chair of Division 2 of House Finance Committee responsible for school funding at the time of the Augenblick formula and before the *Claremont* decisions.

After those decisions as Executive Director of the NH Center for Public Policy Studies I researched the history of school funding in collaboration with the NH Historical Society. The paper “What Did They Mean by ‘Cherish’” that I have submitted to this committee is a short version.

HCR3 is based on an erroneous understanding of history. Its text includes statements that are not factual.

While there are numerous mis-statements I will discuss only four.

Page 2, lines 5-6 This statement implies that the Court has defined educational adequacy, determined the cost of educational adequacy, specified how to fund educational adequacy or to provide accountability. This is also stated on page 1, lines 7-8. I would challenge the sponsor to cite those places where the Court has done so. Nothing could be further from the truth. The Court in its numerous opinions on this issue has stated **clearly** that those responsibilities are the domain of the legislature. The Court has stated that whatever decisions the legislature makes, however, must comply with the two constitutional responsibilities to provide education and that tax rates must not vary among tax payers.

Some of what follows in HCR3 is evidently copied from text of HCR 26 of the 2011 session and that was itself copied from other texts written to chastise the Supreme Court for its *Claremont* decisions by those who simply have not liked those decisions.

Page 2, lines 16-18 If you have read the paper I submitted to this committee, you will recognize how this is a complete misunderstanding of those 50 years cited.

During those years it **was this legislature** that set the amount to be raised and spent on schools in every town in the state. There were no school boards. Selectmen (who may or may not have funded schools under the old provincial laws) were told in no uncertain terms by this legislature that they were **required** to raise by taxes the amount

the legislature deemed necessary. Under the new constitution, this was a complete takeover of school funding by the State from what had been a relatively laissez-faire system under earlier law. To make their point even further, the new law stated that any selectmen who did not comply would have the necessary funds for the schools in their towns taken from their personal estates. Later the legislature even doubled the amount to be taken for non-compliance.

Page 3, lines 13-16 HCR3 here cites that important first law and states that that law's "constitutionality was never cast in doubt." So true. But the sponsor of HCR3 never describes what that law did. As I have described - it took control over the funding of schools from local boards of selectmen and gave it to this legislature. Our Supreme Court did not **ignore** the action of the first legislatures as stated. It reminded current legislatures of what those early legislatures understood to be state responsibility and done to uphold that responsibility.

It was only in the 1890-1919 period that local school boards began to supplement the amount required by the legislature. The way schools are now funded, were funded in our generation and in our parents' generation is most certainly not how they were funded before 1900.

Page 3, lines 21-22 If this legislature "finds and declares that the amount of state funding for public education required by the constitution has been and remains zero dollars" as stated in HCR3, it would come as a complete surprise to John Sullivan and John Pickering and others who wrote that constitution and enacted its first school law.

Thank you for the time to set the historical record straight.

If anyone on the committee would like a copy of the longer paper on this subject, please send me an email and I will send you a copy.