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0.2_ Introductory Material 2

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TABLE OF CONTENTS

Acknowledgements		iii
List of Figures		vii
Note to the Reader		ix
Prologue		1
Chapter One: Each child, every child.....		12
The Common School Ideal.....		18
Chapter Two: A Slow Start for Kentucky Children.....		26
The Minimum Foundation Program.....		67
Chapter Three: The Birth of the Council for Better Education.....		79
Some Powerful Help.....		94
Roles of Key Council Members.....		104
Chapter Four: The Council’s Case.....		134
Efficiency, Adequacy and Equity.....		144
The Corns Decision.....		157
Scent’s Case before the Supreme Court.....		165
Combs and Dawahare’s Case before the Supreme Court.....		175
Chapter Five: The View From the Bench.....		189
Reaction to the Supreme Court’s Decision.....		201
Chapter Six: Aftermath: The Council for Better Education after the Opinion		210
Nurturing the Change		221
Is it Time to Address Adequacy?.....		229
Chapter Seven: Analysis: From Equity to Adequacy.....		237
Epilogue: The Proficient Education of Each and Every Child.....		252
The Achievement Gap.....		256
<i>Rose</i> and the Achievement Gap.....		277
A Modest Proposal.....		289
Appendices: Methodology.....		290
Qualitative Inquiry and Oral History.....		302
Chronology of the Council for Better Education.....		309
Council for Better Education Membership, Chronological.....		319
Council for Better Education Membership, by District.....		323
Council for Better Education Bank Statements.....		326
Council for Better Education Expenses.....		328

Resources:	Primary Sources.....	330
	Council Documents.....	333
	Selected list of School Finance Cases.....	339
	Bibliography.....	345
Author's Vita	359

LIST OF FIGURES

Figure 4.1	Stephens: “There are differences”.....	184
Figure 4.2	Stephens, “Wait a minute”	185
Figure 4.3	Stephens: “accomplish the purposes for which it is created”.....	186
Figure 4.4	Stephens: “responsibility lies with the General Assembly”.....	187
Figure 4.5	Stephens: “But, I won’t say that, Judge”.....	188

NOTE TO THE READER

It is important to note at the outset that this manuscript deals with a case known by three different names at different points in time. The initial action was filed during the gubernatorial administration of Martha Layne Collins as *Council for Better Education, et. al. v. Collins*. When the late Wallace Wilkinson took over the Governor's office, this title was altered under a motion to substitute and became *Council for Better Education, et. al. v. Wilkinson*. The lower court ruling was commonly referred to as "the Corns decision," for Franklin Circuit Court Judge Raymond Corns. The case was appealed directly to the Kentucky Supreme Court in an action styled *Rose v. Council for Better Education, et.al.* Since the Supreme Court ruling the case has also been called the *Stephens Decision* but is most commonly referred to as the *Rose* case. In this manuscript, references to "the Corns decision" refer to the circuit court action. References to "the *Rose* case" refer to the Supreme Court action.

It is also important to clarify three concepts central to this manuscript: *equity*, *adequacy* and *efficient*. All are legal terms of art, but they are also words in common usage. I hope a brief discussion helps clarify how I use these terms.

Since the very beginnings of our nation we have used words that communicated a meaning that was applied only to a part of our society. For example, when Jefferson wrote, "that all men are created equal" the *understanding* at that time was that *all* really meant *all white male landowners*. Early references to the education of *all children* really meant *all white boys*. Later girls were added to that understanding – and even then, the term *all children* excluded African American children deep into the twentieth century.

The arguments advanced in the *Rose* case dealt with inequities among Kentucky school districts after desegregation, but the focus was not on race. It had to do with the support of property-poor districts as compared to more affluent districts. It has only been since the *Rose* case that *all children* has come to mean truly *all children*. Before that time, it was accepted that a significant percentage of Kentucky's students would fail to attain high standards. In this sense I discuss equity, and the lack thereof, as part of Kentucky's historical failure to assure fairness, impartiality and social justice for all.

Equity also refers to a relative balance of the financial resources made available to Kentucky's school districts. Even here, much of Kentucky's historical debate over questions of equity applied to the resources available to city districts, as opposed to rural districts – this to the exclusion of African American students who were educated under a separate system, typically less adequate than the poorest rural district. Efforts to improve Kentucky's schools usually focused solely on schools for white children.

Adequacy is sometimes defined as *bare sufficiency* or *just enough*, but not in this manuscript. In school funding cases, adequacy becomes an issue of whether schools have the resources necessary to meet the goals set by the state. When our expectations are low, bare sufficiency may well provide adequacy. However, Kentucky's assertion that *every child can learn and most at high levels* is no easy standard. In this sense, an adequate education for Kentucky's children is thought of as sufficient in quality and quantity to assure that all schools meet the needs of all students. And this time, *all* means truly *all*.

The heart of the *Rose* case was the court's definition of an *efficient* system of common schools. In common usage *efficient* can be thought of as *productive without waste* but the court went to great lengths to describe it. In just over eight pages the Supreme

Court discussed and enumerated nine characteristics of an *efficient* system of schools. An efficient system is one established and maintained by the General Assembly to be substantially uniform throughout the state, free to all Kentucky children, and one that provides equal educational opportunity regardless of place of residence or economic conditions. An efficient system must also be sufficiently funded, free of waste, duplication, mismanagement, and political influence and it must have as its goal the development of seven specified capacities. These capacities enumerated a substantial set of skills that each student must learn.

Finally, the *ideal* of the common school in Kentucky is expressed in the following adaptation by the author from the Kentucky Constitutional Debates of 1890. The original sources were two delegates to that convention, delegate Beckner and delegate Moore.

A system of practical equality in which the children of the rich and the poor meet upon a perfect level and the only superiority is that of the mind. There is no check upon the aristocracy of wealth so effectual as the equality of knowledge. A people well educated will never be the slaves of tyrants or the tools of demagogues...Common schools make patriots of those who are willing to stand upon a common level. The children of humble mountain homes stand equally high with those from the mansions of the city. There are no distinctions in the common schools but all stand upon one level. The great democratic idea is there taught that you are all equal in that nursery of citizens, and that none are superior.¹

¹ Delegate Beckner, Debates Constitutional Convention 1890 at 4460, 4463; Delegate Moore, *Ibid.*, at 4531.