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**Inequality, enshrined**

The General Assembly is busy making lots of changes: new gun laws, an end to Lee-Jackson Day, and ratification of the Equal Rights Amendment.

However, the proposal that would make the most substantial change — at least in terms of the number of people affected — has received scant attention.

It was introduced with no fanfare on Martin Luther King Jr.’s birthday, perhaps a symbolic choice by the sponsor.

The most radical part of this measure consists of just three words, which on the surface seem quite innocuous but would have far-reaching ramifications — particularly in rural Virginia and the state’s biggest cities.

It’s a proposed constitutional amendment that would require the state to provide “equal educational opportunities” for all students. That requirement might seem so basic that you’d think it would already be in the state constitution. It’s not, though, and that’s why courts have allowed the vast disparities that exist between the course offerings in the state’s poorest schools and its most affluent ones.

Now, for the kicker: This proposed constitutional amendment doesn’t come from some social justice warrior on the left; it comes from one of the state’s most conservative legislators — state Sen. Bill Stanley, R-Franklin County. In the past two years, Stanley has emerged as the biggest — and to some, the most unlikely — champion of addressing the disparities in Virginia’s public schools. For this, he has been met by a stunning bipartisan silence. A year ago, Stanley proposed a state bond referendum to spend $3 billion on school construction to address the “crumbling schools” that Gov. Ralph Northam — a Democrat — bemoaned in his inaugural address. Crumbling is not a rhetorical overreach, either. A few years ago in Northam’s home city of Norfolk, a 750-pound chunk of the ceiling collapsed during a band concert at Maury High School — a building now more than a century old. Last year, the Senate Finance Committee spent just three minutes killing Stanley’s bond proposal by a vote of 14-2. This year, he’s back with the same proposal. Will it fare any better? We’ll see. He’s also introduced a bill to establish minimum standards for Virginia’s school buildings. There are standards for lots of things, but not the buildings — one reason that state government simply shrugs at antiquated facilities that struggle to handle modern technology.

One reason Richmond does so is because schools are seen as a local responsibility. The fact that many localities can’t afford to pay for them is considered irrelevant. That’s where Stanley’s proposed constitutional amendment comes from. When Virginia adopted its present constitution, it specifically avoided guaranteeing an equal education to all its students. The original draft called for public schools of “high quality.” At some point, the phrase was amended to read that the state “shall seek to ensure that an educational program of high quality is established and continually maintained.” The key phrase there is not “high quality,” it’s “shall seek to ensure” because that doesn’t mandate anything. That provoked a debate in the 1969 General Assembly that temporarily united the state’s most prominent liberals — Democrats such as Henry Howell and George Rawlings — with Republicans from western Virginia — legislators such as Caldwell Butler, Pete Giesen, Clyde Pearson and James Turk. Rawlings said he was “shocked” by the loophole: “We can be ‘seeking to’ and ‘striving to’ for the next 30 years. We should, in this Constitution, establish an absolute dedication to high quality education.” Rawlings was wrong only in his time estimate; 51 years later, we’re still “seeking to.” The conservative Democrats who then ran the General Assembly voted down this coalition of upstarts 70-23 in the House, 28-10 in the Senate. By those votes in March 1969 Virginia enshrined school disparity in its constitution.

In the 1990s, a group of mostly rural school systems — including Radford and Pulaski County — sued Virginia over unequal school funding. In 1994, the Virginia Supreme Court ruled against them for the very reasons that Rawlings and other legislators had once warned about: The constitution’s language isn’t a mandate, it’s merely an aspiration. If students in Northern Virginia are afforded educational opportunities that students in rural Virginia aren’t, that’s just too bad. And let’s not kid ourselves: There are very real disparities. In Arlington, $20,460 is spent on every student. In Norton, just $9,219 is. Now, there’s an obvious difference in cost of living between the D.C. suburbs and the coalfields, and money isn’t everything. But it does translate into some things — Arlington can offer classes and equipment that Norton can’t. And Norton can’t afford to make up the difference — not when its median household income is about $27,000 and Arlington’s is more than $122,000. That, of course, is why the conservative Democrats who ran the legislature in 1969 didn’t want to guarantee an equal education for everyone — they feared it would be too expensive. Merely “seeking to” is rhetorically rich and fiscally cheap.

In the aftermath of the 1994 court decision, there was an effort in 1995 to amend the constitution. That measure drew 23 patrons — both Democrats and Republicans, mostly but not exclusively from rural Virginia. It was an issue that once again united some of the most liberal members of the legislature (such as Louise Lucas, D-Portsmouth) with some of the most conservative (such as Terry Kilgore, R-Scott County). It also died in a curious way. It was “passed by” in the House Rules Committee, a nice way of killing the measure. Strangely, five members were recorded as absent — an unusually high number. That allowed for a 3-2 vote against the amendment. Knowing the legislature like we do, it sure looks like five legislators simply “took a walk” so they wouldn’t have their fingerprints at the scene — knowing that the legislators left would vote down the amendment. Those three “no” votes, by the way, all came from Democrats — House Speaker Tom Moss, Alan Diamonstein and Bob Ball. All, notably, came from the state’s urban crescent.

Stanley’s proposed amendment is more emphatic than the 1995 version. That would have required “substantially equal educational opportunities.” His version flat-out calls for equality. In 1969, liberal Democrats joined with western Republicans to insist that the state guarantee equal schools. In 2019, they have the opportunity to do so again. Will they?

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**Disparity, perpetuated**

A curious thing happened in Richmond this week.

On Monday, teachers rallied at the state Capitol to call for more school funding. State Sen. Jennifer McClellan, D-Richmond, held a news conference to endorse that: “Every child, regardless of their ZIP code, regardless of the block they live in, deserves a free high quality public education. We have promised them that in our constitution.”

Actually, she’s wrong and as both a lawyer and a longtime legislator she surely knows she’s wrong: Virginia’s constitution promises no such thing. Instead, Virginia’s constitution says that the General Assembly “shall seek to ensure that an educational program of high quality is established and continually maintained.” That phrase “shall seek to” is a loophole that constitutes an aspiration, not a mandate. This is not some arcane legal reading; it was the subject of a quite-famous Virginia State Supreme Court ruling in 1994.

The next day, McClellan — and other legislators — had an opportunity to close that loophole. But they didn’t. Instead, the Senate Privileges and Elections Committee took all of 29 seconds to punt until next year a proposed constitutional amendment that would require Virginia to provide “equal educational opportunities” to all students. The vote was 10-0 — and McClellan was one of the 10.

We single out her only because she singled herself out the day before. In reality, there is plenty of blame to go around here and we intend to make sure that blame is fully distributed.

First, let’s recap why this is even an issue. In 1969, Virginia — emerging from the shameful era of segregation — set about writing a new constitution more fitting for the modern day. The first draft called for the state to guarantee equal schools. The conservative Democrats who ran the state took that out. Instead, they inserted the weaselly “shall seek to” language. That prompted a robust debate that saw an odd-couple coalition of liberal Democrats and western Republicans who tried to restore the equality guarantee. They were outnumbered, and Virginia proceeded to enshrine school disparity in its constitution behind the high-sounding but deceptive language of “shall seek to.”

No one should be surprised how that worked out: Students in affluent localities have better schools than those in central cities and rural areas. The teachers may not be better — we’d argue that they’re not — but the buildings are certainly better and the course offerings are certainly more diverse. In the early 1990s, a group of mostly rural school systems — including Radford and Pulaski County — sued. And lost. The state Supreme Court pointed to the aspirational, not mandatory, nature of the so-called “guarantee” in the state constitution. In 1995, a group of mostly western legislators introduced a proposed constitutional amendment to change that. The House Democratic leaders at the time killed it. This year, state Sen. Bill Stanley, R-Franklin County, introduced another proposed constitutional amendment. And, as we’ve seen, the legislature has put it off.

In practical terms, carrying the measure over has no real effect. Under Virginia’s rules for amending the constitution, the amendment would have to pass either this year or next year — and then again in the legislature that convenes in 2022 after next year’s elections. Even if the General Assembly had passed this amendment this year, nothing would happen unless and until it passed again in 2022. So a year’s delay doesn’t change things; 2020 is as good as 2021 for the first vote. Symbolically, though, this delay sends a signal and it’s not a pretty one. We don’t know what legislators intended when they carried this over — there was no debate, just a vote — but the message received here is that they simply don’t care about this issue. It’s easier to stand in front of a rally of teachers and proclaim a commitment to equal education than to actually vote for something that would guarantee that. The new Democratic majority in Richmond is busy passing lots of other things to signify that there’s a new day in Virginia — somehow, though, guaranteeing equal education isn’t part of their agenda. What gives? Why aren’t Democrats rushing to co-sponsor this amendment instead of shuffling it off to next year — where we fully expect them to kill it outright?

We said there was plenty of blame to go around, so let’s get started. Democrats ran the General Assembly all through the ‘70s, ‘80s and ‘90s. They could have fixed this at any time. They didn’t. On the contrary, their leadership killed the only attempt. Republicans ran the legislature through most of the 2000s. They could have fixed it, too. They didn’t. Now Democrats are back in charge and we don’t see them interested, either. Why not? They certainly talk a good game; they just don’t follow through. Gov. Ralph Northam bemoaned “crumbling schools” in his inaugural address. Why wasn’t he getting behind this amendment? Lt. Gov. Justin Fairfax and Attorney General Mark Herring and possibly even McClellan all want to run for governor. Where were they? Democrats have shriveled up in rural Virginia; this might be a way to get some of them back. Likewise, for any Republican who wants to run statewide — why didn’t they endorse this? Democrats like to paint Republicans as anti-education; backing this would sure put the lie to that. In any case, Democrats are back in charge so they’re the ones responsible now. Here’s what it looks like to us: Democrats are now anchored in the wealthiest part of the state. They’ve got theirs. Why bother with the rest of us? They know rural Virginia won’t vote for them, and they know voters in central cities will no matter what. Their commitment to equal education is only conditional.

You know who else is to blame, though? We all are. Where is the public clamor for equal schools? We also don’t see the business community demanding them. Chambers of Commerce rush to endorse road-building, but they don’t decry school disparities. We didn’t see those teachers chanting for this amendment, either. Why not? We’ve also seen what happens when ordinary people in rural areas get upset about something — they show up by the thousands to object to proposed gun laws. But they haven’t held similar rallies to object to school disparities that already exist — and which hurt their part of the state more than any other. Neither party feels any pressure for their constituents, their party activists or their donors. That’s why until more people stand up to demand a change, Virginia’s schools will remain separate and unequal.

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**A casino is not Amazon**

The General Assembly is merrily going about legalizing casinos in the state. It’s understandable why the legislature is doing so: Casinos would bring in a lot of tax dollars for some economically-distressed localities which, taken together, conveniently involve a politically-useful odd couple coalition of urban Democrat and rural Republicans.

It’s less understandable — indeed, it’s downright mystifying — why the General Assembly has allowed itself to be so bedazzled by casinos that it’s going to allow licenses to be issued on a no-bid basis.

When Democrats took over the General Assembly, you might have thought we’d have a legislature of business-skeptic liberals eager to wield the heavy hand of government regulation. Instead, when it comes to casinos, many of these same Democrats (and seemingly a lot of Republicans) are eager to engage in some old-fashioned crony capitalism. No-bid contracts for casinos? *Sure! What could go wrong?*

It’s not as if the legislature hasn’t been warned. Its own auditing arm — the Joint Legislative Audit and Review Commission — issued a report late last year on the economic impact of casinos and specifically recommended that any casino contracts be issued through the regular bidding process. “Virginia could use a competitive process to maximize the financial and economic value of casino licenses and minimize risks to the state, localities, and the public,” the sober-minded auditors recommended. Instead, the legislature is doing *exactly the opposite*.

Casino advocates, who tout the tax riches that will flow from gaming, should want bids so they can squeeze even more money out of casinos. Instead, Virginia is prepared to leave money on the table, so to speak. Voters from across the ideological spectrum might want to ask why. There might be 1.7 million answers to that question – that’s how many dollars the casino interests have spread around in campaign contributions. One developer left on the outside by the casino bill has complained that Virginia has a “coin-operated government” and it’s hard to say he’s wrong. Once the casino bill finally gets to his desk, Gov. Ralph Northam will have an opportunity to send down an amendment to correct this loophole. If he doesn’t, we can guarantee this: Years from now, when something goes wrong with one of these operators, the stories about the resultant scandals will likely mention his name for ultimately signing off on a no-bid process.

The bright lights of casinos have led the legislature astray in other ways, inducing proponents to overstate their benefits in preposterous ways. Exhibit A: “This bill passing would be like our Amazon,” longtime casino advocate state Sen. Louise Lucas, D-Portsmouth, recently told one committee. No, it would not. On the contrary, a casino would be exactly the opposite of Amazon’s HQ2 — “exactly the opposite” being both our favorite phrase of the day and the legislature’s operating principles here.

Yes, casinos would create a lot of jobs — about 1,000 people in each of the five favored locations (Bristol, Danville, Richmond, Norfolk and Portsmouth). That’s a big number and legislators are understandably eager to bring jobs to their communities. However, here’s the key way in which casinos are most certainly not Amazon: The Amazon jobs in Arlington pay *above* the prevailing local wages in one of the most affluent parts of the country — casino jobs would pay *below* the prevailing local wages in some of the poorest parts of the state.

That’s one of the more inconvenient findings of the JLARC casino study: The projected median wage of $33,000 is lower than the median wages in all five cities under consideration. This is the devil’s bargain of casino: Yes, they will create a lot of jobs, but they will lower the median wages of every locality they’re in. The concern about Amazon HQ2 — for those who had concerns — was that it would drive up housing prices in Arlington. Here, legislators who vote for casinos are doing, yes, exactly the opposite — they’re voting to make some poor communities even poorer. Casinos are not Amazon in any way, shape or form. The promise of Amazon HQ2 in Arlington is that will help solidify Northern Virginia’s status as a high-tech capital — a kind of Silicon Valley East. But casinos will not turn Bristol, Danville, Richmond, Norfolk and Portsmouth into Las Vegas. Indeed, the JLARC report specifically said the economic impact of casinos would be “small relative to local economies.” There’s no need to quote scripture to oppose casinos — merely the state’s own auditors.

As with actual scripture, there are also things in the same JLARC report that can be read in a more favorable light. There is an argument to be made for casinos, but it’s not that they’re the next Amazon. The argument is simply one of tax revenue. The JLARC study estimated potential state tax revenues at anywhere between $154 million and $571 million, depending on what tax rates are set. Once administrative costs are factored in, along with expected reductions in lottery sales, JLARC estimated the net gain at somewhere between $81 million and $510 million a year.

Casinos would also generate local taxes – estimated at $3.7 million a year in Bristol, $4.5 million a year in Danville and on up to $8 million a year in Richmond. Those are not insignificant numbers, especially in Bristol – which from 2017 until 2019 was officially declared by the state auditor to be one of the state’s most fiscally distressed localities.

The question for these localities is whether the trade-off is worth it: Lower the community’s median wages but gain a new revenue stream that could be used for schools and other services — which might help make the community more economically attractive in years to come. That will up to voters in each locality to decade.

Meanwhile, here’s one big reason why proponents should refrain from making outlandish claims about how casinos will transform local economies, other than the fact that they clearly won’t: There’s the great danger that once it allows casinos, the General Assembly will think it’s done all it needs to do to fix the broken economies of Southwest and Southside Virginia. *Why do you need more state funding for [insert name of project]; we gave you a casino!*

We’ll admit: We’re not gamblers in any sense of the word. Have a casino if you want one, but don’t bet anybody’s future on them. And for goodness’ sake, don’t liken them to Amazon.