

# The Morality of Democratic Citizenship: Goals for Civic Education in the Republic's Third Century

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## ***(Chapter Four) What the Schools Should Teach: The Twelve Tables of Civism***

In his book on cycles in American history, Arthur Schlesinger, Jr. depicts recurrent swings between conservatism and liberal reform, private interest and public purpose, a secular civic republicanism and a religious messianic tradition. He believes, however, that these two "jostling strains" in American thought agree more than they disagree and thus are "indissoluble partners in the great adventure of democracy." In his review of Schlesinger's book in *The New York Times*, Benjamin R. Barber cautions that historians should not try to determine the future and that Schlesinger reveals both the virtues and the defects of American liberalism.<sup>1</sup> Be that as it may, the time is ripe for American education to pay more attention to how much agreement there may now be about the civic values that schools and colleges should be transmitting through serious study, discussion, and debate. No one expects full agreement about outcomes or acceptance of beliefs as a result of such study. I would hope, however, that there might be some agreement about what is worth studying and learning. To this end, I offer a possible agenda in "*The Twelve Tables of Civism*" with apologies to the *decemvirs* of the Roman Republic who presumably drew up the original "Laws of the Twelve Tables" for the early Roman Republic and to Aristotle's paradigm of the later Greek republics.

### **TWELVE TABLES OF CIVISM FOR THE MODERN AMERICAN REPUBLIC\***

(with apologies to the "Laws of the Twelve Tables" of the Early Roman Republic and to Aristotle's paradigm of the Later Greek Republics)

<b>UNUM</b> The Obligations of Citizenship		<b>PLURIBUS</b> The Rights of Citizenship	
Corrupted Forms of Unum	True Forms of Unum	True Forms of Pluribus	Corrupted Forms of Pluribus
"Law and order"	Justice	Freedom	Anarchy
Enforced sameness; conformity	Equality	Diversity	"Unstable pluralism"
Authoritarianism; totalitarianism	Authority	Privacy	Privatism; privatization
"Majoritarianism"	Participation	Due Process	"Soft on criminals"
"Beguiling half-truth; plausible falsehood"	Truth	Property	"Property rights superior to human rights"
Chauvinism; xenophobia	Patriotism	Human Rights	"Cultural Imperialism"
	↘	↙	
Democratic Civism			

\*Adapted from the "Decalogue of Democratic Civic Values" in R. Freeman Butts, *The Revival of Civic Learning* (Bloomington, Indiana: Phi Delta Kappa Educational Foundation, 1980), p. 128.

Figure 1 – Twelve tables of civism

*Why Twelve?* Because that is a parsimonious number of concepts with which to summarize the underlying principles and values of American citizenship that should be studied in school and college. In my 1980 book, *The Revival of Civic Learning*,<sup>2</sup> I identified ten concepts, which, with tongue half in cheek, I labeled "A Decalogue of Civic Values" with apologies to Moses and Aristotle, but when the State of California Framework Committee on History/Social Science picked up the idea in 1981, they added "truth" and "respect for property" to my list.<sup>3</sup> I decided they were right. While they increased the number of concepts from ten to twelve, the list still did not rival the long and disconnected laundry lists so often found in curriculum guides.

*Why Tables?* Because a "table" may be defined as a theme or arrangement of words (or numbers) to exhibit a set of facts or ideas in a definite, compact, or comprehensive form. I hoped the tabular form, especially in parallel columns, would enhance the teaching effectiveness of the concepts by emphasizing the counterpoints between *Unum* and *Pluribus*, between the obligations of citizenship that bind us together as a political community and the rights of citizenship that betoken a democratic polity. I know that calculators have affected the methods of learning the multiplication tables, but I know of no similar short-cut to understanding the tables of civism.

*Why "Civism?"* Although seldom used, "civism" is a perfectly good English word defined in the second and third editions of Webster's unabridged dictionary and in the *Oxford English Dictionary* simply as "the principles of good citizenship." Despite its unfamiliarity in present usage, it echoes the late eighteenth century era of democratic revolution when it was coined in French as "civisme," taken in turn from the Latin *civis*, meaning a citizen. Originally, it implied a favorable disposition toward the new French Republic, but since the English were not particularly favorably disposed toward the French Revolution, they used the term to refer especially to citizenship ideals of the ancient Greek and Roman republics and to the citizen principle in general. I use the term as a shorthand way of referring to the principles, sentiments, and virtues of good citizenship in a democratic republic.

*Why the whole phrase?* I hope "The Twelve Tables of Civism" might evoke a historical allusion to "The Laws of the Twelve Tables" of the early Roman Republic, supposedly the first written codification of the customary law of Rome as of the middle of the fifth century B.C. The tradition is that twelve wooden tablets were produced at the behest of plebeians in order that the common law be formalized in writing and thus prevent patrician judges from interpreting in their own favor the customary legal principles long handed down orally. The Tables were a rudimentary Magna Carta, if you please, although they were far from democratic in a modern sense. They asserted the rights of the father over children, husband over wife, master over slaves, and citizen over alien. But apparently they did begin to codify in writing some of the major elements of Roman law regarding property rights, economic justice, contracts and usury, due process, judicial proceedings, torts, capital punishments, libel, and treason.

Whatever the authenticity of the exact provisions of The Twelve Tables, it seems dear that they provided a "common core" of study in Roman schools for boys, memorized by boys as the basics of civic education for the better part of 400 years. For much of that time, they apparently came to be regarded as the pure fount of authority. At least Cicero thought so in 55 B.C. In one of his panegyrics on the superiority of Rome over the Greeks, he wrote:

...that little book of the Twelve Tables, if anyone looks at the fountains and sources of laws, seems to me, assuredly, to surpass the libraries of all the philosophers both in weight of authority, and in plenitude of utility.<sup>4</sup>

Obviously, I have no intention of urging a return to the Roman Twelve Tables, but if indeed they helped through education to maintain the Roman Republic long after the demise of the Greek republics, it was no mean achievement. For a republic celebrating its 200th anniversary, 400 years does not look so bad. And if civic education can help to stave off some of the "corruptions" suggested by Aristotle's paradigm, we might

have a still better chance of celebrating a tricentennial or even a quatercentennial of the modern American republic. So I offer the studies suggested by Figure I as an agenda for revitalizing civic education in American schools and colleges, a common core of civic values and concepts that are fundamental to the theory and practice of democratic citizenship in the United States.

As I have said, these value claims of the political community are not discrete or mutually exclusive; some often conflict with others; and they are subject to many different interpretations, as all really important ideas are. But I believe they provide significant guidelines to what should be taught in an efficacious program of civic education. I would not argue for a particular order of priority in pedagogical treatment. Teachers may well start at different points or even with different terminology, depending on their sense of appropriateness for the local situation, but it seems to me that a comprehensive civic education program will consider all of them at some point in the school's program – and in relation to each other.

## **Justice**

I start with the concept of justice for several reasons. The basic idea of justice (that which is fair) is pervasive in most social contacts and at most ages. It can be heard in the kindergarten from the child who cries out to the teacher that it wasn't "fair" to be pushed out of a turn at the swing. It can be heard in the streets of San Francisco from the rampaging crowd who shouted "We Want Justice!" in response to a jury's verdict of manslaughter instead of murder for Dan White, the admitted killer of the mayor and a city council supervisor.

But there is also a timely educational reason for starting with the concept of justice. The past two decades have witnessed a remarkable shift of interest in political philosophy to questions of morality, equality, authority, and the obligations of citizenship along with matters of freedom and rights of citizenship. It is a subject where several disciplines intersect: political science, philosophy, law, and religion. Obvious signs of the change in the United States were the publication in 1971 of *A Theory of Justice* by John Rawls, political and moral philosopher at Harvard, and the beginning of the journal *Philosophy and Public Affairs*. Within a decade, a bibliography of works discussing Rawls could fill several hundred pages. Among the most significant challenges to Rawls were *Liberalism and the Limits of Justice* by Michael J. Sandel, also a philosopher at Harvard, and *Spheres of Justice* by Michael Waiter, professor of social science at the Institute for Advanced Study at Princeton. In legal studies Ronald Dworkin, Lawrence Friedman, and Bruce A. Ackerman were ploughing new ground.<sup>5</sup>

The idea of justice as fairness is thus a good starting point for study and discussion in school and college. It can cut across an enormous range of society's activities--from passing laws that are fair and reasonable to making decisions in the quiet courtroom that are fair to persons who disagree or are in conflict, or who have been wronged or injured, or who have been deprived of benefits to which they are entitled. The idea of procedural due process encompasses the processes in civil and criminal justice, courts of law, and the use of juries, legal counsel, punishments, and imprisonment. I have categorized questions of procedural justice and corrective justice under the heading of due process; and issues of fair distribution of social benefits and burdens under the heading of equality.

It is useful to think of Justice as the very moral basis of a democratic society, what Rawls calls the "first virtue of social institutions." It is what must govern the conduct of persons in their relations to one another, if the society is to be self-sufficient and well-ordered. Rawls speaks of a public sense of Justice that produces a well-ordered society in which everyone accepts, and knows that others accept, the same principles of justice. This means that the members of a well-ordered society must develop strong moral sentiments and effective desires to act as the principles of justice require:

If men's inclination to self-interest makes their vigilance against one another necessary, their public sense of justice makes their secure association together possible. Among individuals with disparate aims and purposes a shared conception of justice establishes the bonds of civic friendship; the general desire for justice limits the

pursuit of other ends. One may think of a public conception of Justice as constituting the fundamental charter of a well ordered human association.<sup>6</sup>

What the public sense of justice does is to establish the claims of what is right as prior to the claims of what is good, since what is good is defined differently by individuals and groups according to their particular lifestyles and their particular personal desires. The principles of what is right and what is just thus put limits and impose restrictions on what may be reasonable conceptions of one's own good. A just social system defines the boundaries within which individuals and pluralistic communities may develop their aims and actions.

Rawls defines two principles of justice that set these boundaries, and the first principle must be satisfied before moving on to the second. The first principle is the citizen principle. It is stated as follows:

Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.<sup>7</sup>

What are the "equal liberties" of citizenship? They bear close resemblance to the American constitutional order guaranteed by the Bill of Rights:

The basic liberties of citizens are, roughly speaking, political liberty (the right to vote and to be eligible for public office) together with freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the right to hold (personal) property; and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law. These liberties are all required to be equal by the first principle, since citizens of a just society are to have the same basic rights.<sup>8</sup>

After the citizen principle of equal political liberties is satisfied, then the second principle of justice should come into play. It has to do with the regulation of social and economic conditions on behalf of equality:

Social and economic inequalities are to be arranged so that they are both:

- a. to the greatest benefit of the least advantaged... and
- b. attached to offices and positions open to all under conditions of fair equality of opportunity.<sup>9</sup>

Once the political principle of justice is satisfied, then a just society will move on to distribute income and wealth and develop a design of organization that makes use of differences in authority and responsibility:

While the distribution of wealth and income need not be equal, it must be to everyone's advantage, and at the same time, positions of authority and offices of command must be accessible to all. One applies the second principle by holding positions open, and then, subject to this constraint, arranges social and economic inequalities so that everyone benefits.<sup>10</sup>

The total position elaborated in great detail by Rawls cannot be covered here, and of course it has been severely criticized by some philosophers and social scientists.<sup>11</sup> But his position points unmistakably to the priority of achieving a common civic community based on the citizen principle of justice, which I regard as the prime authority for the purposes of public education.

The philosophical contrast between the roles of equality and freedom in a just society has been sharply drawn in recent years by Rawls on one side and Robert Nozick, also professor of philosophy at Harvard, on the other side. While Rawls argues that only those inequalities are justified that adhere to the benefit of the least advantaged through the action of the state, Nozick argues that justice requires that each individual has full entitlement to what he or she acquires from the state. Limited government and a minimal state are required for full freedom of individual rights. This is bound to result in certain inequalities, because people indeed are unequal in talents, skills, and efforts, but they, not someone else, are entitled to what those talents, skills, and efforts produce. According to a minimalist view like that of Nozick, any equality imposed by government is unjust. And, according to advocates of a liberal welfare state like Rawls, the enforced equality of a totalitarian state of the left is as much a corruption of the principle of justice as is the enforced inequality of a totalitarian state of the right.

Rawls has not elaborated a full scale philosophy of education based on his underlying political and moral

philosophy as John Dewey did. But I believe he has paved the way for philosophers and practitioners of education to restore a profound civic, moral, and political basis to public education, if we but will. Our task is to try to find out if there are common agreements on civic education among academic specialists who differ among themselves on fine or major points of political philosophy. For example, Michael Walzer attacks many aspects of Rawls' position, but he also says that inclusive schools are better than separate schools and that teachers committed to the basic discipline necessary for democratic politics will try to establish a shared knowledge among their students:

The aim is not to repress differences but rather to postpone them, so that children learn to be citizens first, workers, managers, merchants, and professionals only afterward. Everyone studies the subjects that citizens need to know.<sup>12</sup>

When Walzer goes on to say that equal citizenship requires a common schooling, and when he argues against vouchers and tuition tax credits for private schools but is in favor of the state setting common curricular requirements for private schools, these arguments sound as though they coincide with Rawls' citizen principle of justice.

The formulation of a comprehensive role for public education in achieving civic community still lies before us. Recapturing a sense of legitimacy and of moral authority for public education may well rest on the success with which the academic and educational profession can bring about what so many of the American people have hoped for it for 200 years—establishing as a priority the vigorous promotion of the basic values of the American civic community—justice and liberty and equality. It may just be that not only is the future of public education at stake, but the future of the democratic community itself. For there have also been many Americans in our history who have been only too willing to believe that a rough and ready frontier justice of law and order or lynch law is good enough for some people. "Justice" often seemed to be served by "keeping them in their place," and they could call on Plato's *Republic* or even the *Bible* for justification.

More recently, in the 1950s and 1960s, Southern state governors invoked the principle of maintaining "law and order" when they called out the troops or police to prevent black students from attending public schools or state universities on the grounds that angry white crowds would commit violence unless they did so. Fortunately, the Supreme Court, the President, and the Justice Department during the administrations of Eisenhower, Kennedy, and Johnson held that such appeals to local standards of law and order could not be achieved at the expense of the federal constitutional rights of black students. Justice could not be justified in the name of such community standards of law and order.

## **Freedom**

What is most significant about Rawls' theory of justice for my purposes here is his assignment of first priority to the idea of equal basic liberties. The just political community will then be committed to the idea of freedom as well as equality. I view freedom as having at least three elements relevant to civic education.<sup>13</sup> Freedom involves:

- a. the right, the opportunity, and the ability of every human being to live his or her own life in dignity and security and to seek self-fulfillment or self-realization as a person or as a member of a chosen group without arbitrary constraint by others. This is the freedom of the person and of private action.
- b. the right, the opportunity, and the ability of every human being to speak, to read, to inquire, to think, to believe, to express, to learn, and to teach without arbitrary constraint or coercion by others, especially as a means for making deliberate choices among real alternatives on the basis of reason and valid and reliable knowledge. This is the freedom of the mind and of intellectual inquiry.
- c. the right, the opportunity, and the ability of every citizen to take active part in shaping the institutions and laws under which he or she lives in common with others and to do this by making uncoerced choices and by participating through active consent in cooperation with one's fellow citizens; and to do it in such

a way as to promote justice, freedom, and equality for others. This is the freedom of the citizen and of public action.

These are the great freedoms protected by the Bill of Rights and especially by the First, Fifth, and Fourteenth Amendments, but they obviously include more than that. I like the distinction that Alexander Meiklejohn made between public freedoms and private freedoms.<sup>14</sup> [14](#) Public freedoms are those that inhere in the welfare of the democratic political community and that the liberal state is obligated actively to protect from invasion by coercive majorities in the community, or by despotic minorities in the community, or by the state itself.

Meiklejohn believed that the First Amendment guarantees these public freedoms of belief, expression, and discussion to be virtually unlimited. They cannot be abridged, because they are indispensable for the public decision-making process that is essential for the maintenance and improvement of a free and democratic political community. Indeed, the liberal state is obligated actively to safeguard and promote the public freedoms of teacher, learner, and citizen from threats by either majorities or minorities in the community. On the other hand, private freedoms are those that inhere in the individual, but may be limited for the public good under due process of law as guaranteed by the Fifth and Fourteenth Amendments. These limitations can be applied under certain conditions and in the interests of justice to life, liberty, and property.

The idea of freedom is not only fundamental to the very nature of a liberal democratic political community, it is at the heart of the pluralistic elements of diversity, privacy, due process, and human rights as well as property. Tensions between freedom and equality, authority, and personal obligation for the public good become readily apparent when one begins to inquire as to the limits that should be placed on individual freedoms of action that threaten the freedoms of others. Freedom of speech is limited by penalties for libel and defamation of character; freedom to accumulate and dispose of property or advertise it falsely is subject to limitations of fines, taxation, and monopoly; freedom to produce goods is limited by threats to the public interest and to the environment; freedom to discriminate and segregate in public education is limited by the belief in equality and the equal protection of the laws.

I agree with Meiklejohn on the fundamental importance of the continuing study of freedom as a fundamental purpose of civic education. Just as we need a "public conception of justice" as the basis for a well-ordered society, so do we need a "public conception of freedom" that is held sufficiently in common to assure the vitality of a free and democratic political community. Meiklejohn puts it this way:

...[A] primary task of American education is to arouse and cultivate, in all members of the body politic, a desire to understand what our national plan of government is.... [This] is a challenge to all of us, as citizens, to study the Constitution. That constitution derives whatever validity, whatever meaning it has, not from its acceptance by our forefathers..., but from its acceptance by us now. Clearly, however, we cannot, in any valid sense, "accept" the Constitution unless we know what it says. And, for that reason, every loyal citizen of the nation must loin with his fellows in the attempt to interpret, in principle and in action, that provision of the Constitution [the First Amendment] which is rightly regarded as its most vital assertion, its most significant contribution to political wisdom. What do We, the People of the United States, mean when we provide for the freedom of belief and the expression of belief?<sup>15</sup>

And, speaking of "our forefathers," it is well to remember that Madison clearly had in mind that the bill of rights he was proposing would protect individuals not only from abuses by government but would mean that the government itself would protect individuals from abuses of their liberties by other individuals in the community, namely the majority.

Discussion of political and social issues in the classroom are more likely to be freer than they were 50 years ago, but it took the great convulsions of the period following World War II to move as far as they have.<sup>16</sup> For two decades of the post-war period teachers were subjected to four kinds of restrictions under the hammer of many community groups and legislative actions at federal and state levels: special loyalty oaths for teachers; expulsion from teaching on the basis of membership in the Communist party or other subversive organizations; restrictions and censorship on teaching, writing, and discussion of controversial issues; and restrictions

on political activities of teachers.

Details of this long and complicated history cannot be given here, but the constitutional principles of public freedom were eventually formulated by the Supreme Court.<sup>17</sup> One of the clearest statements was given by Justices Felix Frankfurter and Hugo Black in their concurring opinion in *Wieman v. Updegraff*, which struck down the Oklahoma oath law for teachers at the height of the McCarthy era:

The process of education has naturally enough been the basis of hope for the perdurance of our democracy on the part of all great leaders from Thomas Jefferson onwards.

To regard teachers—in our entire education system, from the primary grades to the university—as the priests of our democracy is, therefore, not to indulge in hyperbole. It is the special task of teachers to foster those habits of open-mindedness and critical inquiry which alone make for responsible citizens, who, in turn, make possible an enlightened and effective public opinion....

They [teachers] must have freedom of responsible inquiry, by thought and action, into the meaning of social and economic ideas, into the checkered history of social and economic dogma. They must be free to sift evanescent doctrine, qualified by time and circumstance, from the restless, enduring process of extending the bounds of understanding and wisdom, to which the freedoms of thought, of speech, of inquiry, of worship are guaranteed by the Constitution of the United States against infraction by National or State Government.<sup>18</sup>

Justices Frankfurter and Black might have included that teachers should also be free from repression by community groups as well as from governmental agencies. In fact, Justice William O. Douglas did just that in his dissent in *Adler v. Board of Education*. He argued against the New York Feinberg law, which provided that a teacher's membership in a subversive organization should automatically be grounds for dismissal:

The [Feinberg] law inevitably turns the school system into a spying project.... The principals became detectives; the students, the parents, the community became informers.... The prejudices of the community came into play in searching out the disloyal... there can be no real academic freedom in that environment.... It produces standardized thought, not the pursuit of truth. Yet it was the pursuit of truth which the First Amendment was designed to protect.... The framers knew the danger of dogmatism; they also knew the strength that comes when the mind is free, when ideas may be pursued wherever they lead.<sup>19</sup>

Though this was a dissenting view in the early 1950s, the full Court finally came to agree with it when it struck down the Feinberg law by its decision in *Keyishian v. Board of Regents* (1967).<sup>20</sup> And two years later the Court applied the principles of academic freedom to students as well as teachers. The landmark case was *Tinker v. Des Moines* in which the orderly wearing of black armbands in school by Quaker children to protest the Vietnam war was defined as symbolic speech and thus protected by the First Amendment:

First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate... Students in school as well as out of school are "persons" under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligation to the state.<sup>21</sup>

If these constitutional principles are to be taken seriously as fundamental to the well-being of a democratic political community, and the prime responsibility of public education is to prepare citizens for their civic freedom and their civic obligations, then what of the rights and freedoms of parents and families to control the teaching of their teachers? I believe that public interest groups and community organizations should be as much concerned to demand freedom of thought for teachers and learners as part of their civic obligation as they are concerned to demand parental and familial rights over the teaching and learning process affecting their children. There is much evidence that community demands for censorship of books and teachers have increased again in the past 20 years. They range from efforts to ban materials offensive to conservative-minded parents on matters of sex or religion or politics to materials offensive to liberal-minded parents on matters of biased minority stereotypes or sex role images of women and homosexuals.

"Freedom from whom" thus poses one of the most difficult, sensitive, and inflammatory of the issues facing the inter-relationships of school-community-home, as the bitter struggles over racial and ethnic inequality in segregated schools have illustrated. Without some guidelines, the cherished freedoms can lead to the corruptions of anarchy, license, and unbridled libertarian individualism, as Aristotle and subsequent advocates of a high ideal of citizenship so often feared. The first principle of justice, according to Rawls, requires that each person is to have an equal right to basic liberties but only so far as compatible with a similar system of equal basic liberties for all. Thus we come to the idea of equality.

## **Equality**

Along with justice and freedom, the idea of equality runs throughout the American creed of value claims for a democratic political community.<sup>22</sup> "All men are created equal" is the first of the self-evident truths of the Declaration of Independence. It even comes before the inalienable rights of life, liberty, and the pursuit of happiness. The idea of equality was a counterpoise in the eighteenth-century struggle for democracy against the tyrannies of privilege and the closed orders of aristocracy and hierarchy. But it is also true that ever since then there has been an almost constant contrapuntal discord between the claims of freedom and the claims of equality.

No one would argue that the founders defined with exactitude what they meant when it was declared that "all men are created equal," but the historian Edmund Morgan argues that the creed of equality achieved a kind of consensus during the Revolutionary period that has had a powerful and pervasive influence ever since:

The creed of equality did not give men equality, but invited them to claim it, invited them not to know their place and keep it, but to seek and demand a better place. Yet the conflicts resulting from such demands have generally, though not always, stopped short of large-scale violence and have generally eventuated in a greater degree of actual equality. After each side has felt out the other's strengths and weaknesses, some bargain, some equivalent to a Northwest Ordinance, is agreed upon, leaving demands not quite fulfilled, leaving the most radical still discontented with remaining inequalities, but keeping the nation still committed to the creed of equality and bound to move, if haltingly, in the direction it signals.<sup>23</sup>

There have been two continuing conflicts over the meaning of equality. Basically, does the phrase "all men are created equal" mean that in fact they are equal, or that they should be treated as though they are equal? By and large, Americans have generally put their emphasis on equal rights and equal opportunity rather than on enforcing an equality of condition or income, which has been the stated goal of some extreme egalitarian communities and socialist parties in this and other countries. Enforced conformity or uniformity imposed by totalitarian governments becomes a corruption of the democratic idea of equality.

The Fourteenth Amendment puts the idea in terms of the "equal protection of the laws", but it was not until the civil rights movements of the 1950s and 1960s that positive government action was taken to wipe out long-standing legal restrictions on equality of opportunity in education, housing, voting, employment, and in a wide range of civil rights on behalf of disadvantaged and minority groups. The *Brown* decision of 1954 was a landmark in stressing equality of educational opportunity, followed a decade later by the Civil Rights Act of 1964, the Voting Rights Act of 1965, and much else.

As the First Amendment was the charter for freedom, so the Fourteenth Amendment became the charter for equality. It was soon clear to the civil rights movement that a stronger—not a weaker—government would be required to achieve equal protection of the laws in order to overcome the historic discriminations that had resulted when states and local communities practiced "freedom of choice" by allowing dominant local groups to impose their views on their institutions and their schools.

As we all know, the Supreme Court said in 1954 in *Brown v. Board of Education* that the constitutional command of the national political community on behalf of equality must override the freedom of lesser political communities to institute segregational practices. It is well to recall once again the words of the unanimous

Court:

Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures of education both demonstrate our recognition of the importance of education in our democratic society. It is required in the performance of our basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship... In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms....

We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs... are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.<sup>24</sup>

At the time of the Constitution's Bicentennial, more than 30 years had passed since this fundamental linkage of public schools and the values of the democratic political community was so forthrightly affirmed as a part of the constitutional order. We all know that progress towards its fulfillment has been exceedingly slow and painful. Progress in dismantling the dual system of schools has been ironically slower in the North than in the South, but progress has also been slowed at the federal as well as at the state and local levels. For 20 years the Supreme Court persistently dismissed all kinds of efforts to avoid, obstruct, or undo the decision, even to re-affirming court-ordered busing despite the efforts of Presidents Nixon, Ford, and Reagan to change the effect of the court's rulings by legislation, by constitutional amendment, or by interpretation by the Justice Department itself.

A turning point seemed to arrive in 1974 when the Court, by a 5-4 decision, unparalleled in bitter opinions, ruled that a Detroit plan to achieve a metropolitan solution to school integration was outlawed.<sup>25</sup> For the decade since then, civil rights advocates and black leaders have become increasingly concerned that resegregation may be under way. How much of this is the result of a rising conservative mood, the actual incidence of busing itself as a cause of white flight, or crass political maneuvering is a matter of rancorous debate in public as well as in scholarly circles. A Harris poll in January 1987 reported the startling findings that there had been a dramatic decrease in the proportion of Americans opposed to busing since 1981, especially among younger Americans, namely those who had been bused.<sup>26</sup>

Civil rights advocates had been given a lift by the Supreme Court's decisions in 1979, upholding the orders of lower federal courts to institute large-scale busing in Dayton and Columbus, Ohio to overcome the vestiges of segregation that had existed for 25 years.<sup>27</sup> The Court reaffirmed its 1973 decision on Denver that said that if a board of education intentionally took actions that resulted in segregated schools in one part of its system the presumption was that there was segregation throughout the system.<sup>28</sup> But, meanwhile the hope that desegregation can work if given a fair trial was losing ground. In its report of February 1979 the U.S. Commission on Civil Rights echoed the report of the National Advisory Commission on Civil Disorders (the Kerner Commission) in its prediction that "our nation is moving toward two societies, one black, one white—separate and unequal". A similar refrain was heard in 1988.<sup>29</sup>

The role of the Civil Rights Commission during the Reagan administration would make a vivid story in itself. Its reconstitution in 1983 by appointment of a chairman, a director, and members known to be opposed to busing and to affirmative action led to extreme dissatisfaction among civil rights organizations. Some even virtually advocated its abolishment in preference to its conversion from "watchdog to lapdog", as the headline in *The New York Times* read on October 30, 1985, reflecting the views of Rep. Don Edwards of California, chairman of the House Subcommittee on Civil and Constitutional Rights.

With regard to admissions to graduate and professional schools, the principle that special consideration could be given to race was left ambiguous by the *Bakke* decision in 1978. The Court's decision had it both ways: Bakke had been discriminated against as a white person because the medical school of the University of Cal-

ifornia at Davis had reserved a number of its admission places for qualified blacks and thus excluded him. He was ordered to be admitted, but the Court also said race *could* be taken into account as a “plus” factor in other circumstances. Thus a “Solomon’s decision”.<sup>30</sup>

Such a question involves some of the deepest tensions between the freedom of individuals to make personal choices and the obligations of the community to act through law on behalf of equality. Should the opportunity of access to education, which public authorities have historically provided for qualified majority persons (freedom), be limited in any degree in order that the opportunity for educational access be increased for some qualified minority persons (equality) whose group identity has long denied them such access? Does a democratic political community have the obligation to limit a portion of the private freedom of some in order to achieve a more extensive system of equal basic liberties for all? In order to achieve a more just society? I believe that the answer to these questions is yes.

The Supreme Court began to take this position in a series of decisions in 1986 and 1987. It ruled in the *Weber* case that private employers could give preference to black steel workers by reserving half the places in a special training program in order to eliminate traditional patterns of racial segregation and that the historical context of the Civil Rights Act of 1964 intended just such elimination. And in another case in 1986, the Supreme Court ruled that a Michigan board of education could legally give preference to blacks in *hiring* teachers, but could not lay off white teachers with seniority simply in order to hire blacks.<sup>31</sup> Other cases decided in 1986 and early 1987 began to reject the Justice Department's arguments that any use of racial preferences in hiring and promoting of minorities was unconstitutional in a “color-blind” society.<sup>32</sup> Meanwhile, the argument continued in academic circles as well as in the courts. Laurence H. Tribe of Harvard Law School argued against the Meese Justice Department, saying that it has long been recognized that the Constitution is not simplistically color blind.<sup>33</sup>

Finally, in March 1987 came the first unambiguous decisions in favor of affirmative actions in which employers could apply gender and racial preferences in hiring and in promotion in order to make their work force reflect the makeup of the local labor market or population characteristics, even though there was no proof of past discrimination against women or minorities.<sup>34</sup> In upholding the right of the County of Santa Clara (California) to promote a qualified woman as a road dispatcher rather than a somewhat more qualified man, Justice Brennan, however, did not support rigid numerical quotas nor the use of sex or race as the only criteria in employment decisions. Women's activist groups were delighted by the 6-3 decision, noting that Sandra Day O'Connor voted with the majority even though on different grounds from Brennan's.

Two months later, the Court went still further in broadening the scope of civil rights by upholding the right of ethnic white minorities to sue as a legal remedy for proven discrimination in employment, housing, contracts, and property dealings.<sup>35</sup> Thus, affirmative action toward equal protection of the laws for all kinds of minorities was taken a step further. And this time, the appeal was made to the “original intention” involved in the legislative history of the Congressional framers of the hundred-year-old Civil Rights Act of 1866 and its amendment of 1870.

In one case, the rights of a U.S. citizen born in Iraq and in the other the rights of Jews were protected by the older post-Civil War acts, now part of the U.S. Code, as well as by the Civil Rights Act of 1964. Justice Byron R. White for the Court pointed out that the term “race” as used in the 1860s applied not merely to the three categories of human classification used by modern biologists (Caucasoid, Negroid, and Mongoloid,) but applied also to ethnic distinctions within the Caucasoid race. So Arabs, Jews, Hispanics, and numerous other categories of ethnic heritage or national origin could be protected against discrimination. The Reagan administration's broad attack on affirmative action seemed to be stalled, not just by “liberal activists” on the Court, but also by “strict constructionists” and moderate centrists. In the women's case the dissenters were Justices Scalia, Rehnquist, and White. In the ethnic case, Justice White wrote the opinion for a unanimous court.

And all this happened within three short years after the Reagan administration had won its first significant victory in a civil rights case. In the *Grove City College* case of 1984, the Court had adopted a narrow view of Title IX of the Education Amendments of 1972, which outlawed sex discrimination in educational institutions that receive federal financial assistance. Three previous administrations had assumed that if any part of a college received federal funds, then no part of the college could exercise sex discrimination without losing all federal funds. Instead, the Court now ruled that only the program receiving direct federal aid was covered by the law barring sex bias.<sup>36</sup> Women's groups and members of Congress immediately began efforts to adopt legislation that would clarify Congress's original intention to include a broad interpretation of the affirmative action laws prohibiting discrimination against women in college admissions, athletics, and freedom from sexual harassment. By the end of May 1987 bills in both the Senate and House that would nullify the *Grove City College* ruling had still not been brought to a full vote in Congress.

A very interesting thing has happened to affirmative action. The more the government has been importuned to issue regulations on compensatory education or affirmative action for the benefit of the historically disadvantaged, the more the resistance and litigation have arisen over such regulations; and, the more aggressive the Reagan Justice Department became in opposing affirmative action as “reverse discrimination”, the more defeats it has received from the Supreme Court – so far. The continuing tension between the ideas of justice and equality on one side and the ideas of freedom and diversity and privacy on the other side has escalated in the course of the 1970's and 1980's. So many of these tensions have arisen over education policies and school practices that civic education programs for students and teachers now have great resources for study and inquiry easily at hand and explicitly of interest to teachers and students alike – from desegregation and busing to open admissions and affirmative action. The idea of equality need not be studied in purely abstract terms.

If indeed, “all men are created equal” and are entitled to the “equal protection of the laws”, a society that permits persecution, or segregation, or discrimination on the basis of race, religion, ethnicity, national origin, or gender is to that extent an unjust society. Gender injustice is the latest to receive scholarly attention.<sup>37</sup> This persistent tension between equality and freedom should be faced in civic education programs as directly and as honestly in all its manifestations as possible. In recent years the tension has become especially strained with regard to the values of *diversity*.

### ***Diversity***

I should like to make it crystal clear that I believe respect for diversity and encouragement of a plurality of communities have been among the glories of the best elements of the American political system. Millions of immigrants have been and still are attracted to the United States because of their hope for life in a society that provides greater justice, greater freedom, and greater equality than they knew in their homelands. Of course they hope for greater economic advantage as well. And millions have found their hopes at least partially realized in a country of enormously diverse geography, ethnicity, language, religion, race, and culture.

So, diversity or plurality is one of the major values to be studied, analyzed, and honored in any program of civic education for American schools. This becomes all the more important as large numbers of persons from Latin America, South Asia, and other countries raise the temperature of discussions about bilingual education, making English the official language of various states (as in California) and of the United States. But, like all the other values, diversity has its problems and costs as well as its advantages and benefits. The problem is often simply referred to as the tension between unity and diversity, or order and liberty or the public and the private.

The historical efforts to reckon with diversity have been variously defined: Nathan Glazer refers to the bipolar traditions of inclusivity (welcome all comers) and exclusivity (keep the aliens out or in their place). Robert Wiebe refers to the recurring emphasis on the public and the private in the tradition of social segments in

American life. Milton Gordon defines the various approaches to assimilation as Anglo-conformity (be like us or go away), the melting pot (we will all become something new) and cultural pluralism (we will each maintain our identities). And John Higham identifies two persistent approaches that he calls integrationism (eliminate ethnic boundaries in the search for a greater community of the future based on an equality of individuals) and pluralism (maintain ethnic boundaries in the goal to hold fast to the small communities of the past based on the equality of groups).<sup>38</sup>

In recent years several educational views see great values in the reassertion of pluralism. Others have cautioned against excessive pluralistic chauvinism.<sup>39</sup> For myself, I find merit in views that attempt to arrive at a balanced tension between the values of cultural plurality and political cohesion. For example, John Higham speaks of "pluralistic integration" and distinguishes between ethnic *boundaries* that keep people in or out of groups and ethnic *nuclei* that give identity and sustenance to different groups. In this sense, boundaries are permeable, but nuclei are respected:

In contrast to the integrationist model, it [the pluralistic integration model] will not eliminate ethnic boundaries. But neither will it maintain them intact. It will uphold the validity of a common culture, to which all individuals have access, while sustaining the efforts of minorities to preserve and enhance their own integrity....

No ethnic group under these terms can have the support of the general community in strengthening its boundaries. All boundaries are understood to be permeable. Ethnic nuclei, on the other hand, are respected as enduring centers of social action ....

Many who are concerned about ethnic justice feel pessimistic about the ability of our society to develop the necessary appreciation of diversity. But it is possible... that our greater problem in moving toward pluralistic integration may come in rediscovering what the participants in our kaleidoscopic culture have in common.<sup>40</sup>

The major point of my stress upon civism is exactly to rediscover what political values we have in common as well as redefining the values of plurality. Another view that I believe has merit in threading our way through the tugs between cohesion and pluralism is a distinction posed by Michael Kammen, Cornell historian and winner of the Pulitzer prize for his *People of Paradox*. In his analysis of a plural society, Kammen distinguishes between "stable pluralism" and "unstable pluralism" as follows:

"...plural society" connotes a polity containing distinct cleavages amongst diverse population groups. Often there will be a dispersion of power among groups bound together by crosscutting loyalties, common values, and a competitive equilibrium or balance of power [stable pluralism]. Equally often there will be a conflict between racial, tribal, religious, and regional groups, to such a degree that the whole must be maintained by regulation and force. Because of the role of authority in any system of domination, there is commonly a psychological pressure upon subordinate cultural segments to deny legitimacy to the imposed order, and to reject law and authority as such [unstable pluralism].<sup>41</sup>

Thus, an unstable pluralism occurs when the cleavages in society threaten the very authority of the polity because of the conflict among racial, ethnic, religious, or regional groups, each of which forms its own political party and has its "own faction, each sect its own school, and each dogmatist his own ideology." On the other hand:

Stable pluralism requires a strong underpinning of legitimacy. A plural society is best insured by the rule of law--law made within the framework of an explicit constitution by elected representatives, executed by a partially autonomous administrative staff, and adjudicated by an independent judiciary. Insofar as all of these were created in 1787 and achieved in 1789, those dates do distinguish a genuine watershed in American history.

But stable pluralism in a democracy also requires a strong and lasting inventory of psychological legitimacy: understanding, acceptance, and pervasive confidence in the composite system necessary to make it run smoothly rather than by fits and starts.<sup>42</sup>

The building of a "strong and lasting inventory of psychological legitimacy" is one perceptive way to define the purpose of civic education for the schools of a democracy in which a plurality of racial, ethnic, and religious communities is acknowledged and even welcomed. One need only note the stark contrast between the United States with all its pluralist problems and countries where unstable pluralism either prevents a psychological legitimacy toward government at all (as in Lebanon) or periodically threatens the stability of the polity (as in India, Sri Lanka, Malaysia, Nigeria, Ghana, Uganda, Northern Ireland, or Spain).<sup>43</sup>

An illuminating illustration of the equal protection guarantees of the Fourteenth Amendment as applying to Hispanic children in Texas was drawn by the Supreme Court in 1982 when it declared unconstitutional a Texas law that would have permitted local boards of education to charge tuition for the children of illegal aliens, thus effectively preventing them from obtaining a public education. For a majority of five, Justice Brennan wrote:

Public education is not a "right" granted to individuals by the Constitution.... But neither is it merely some governmental "benefit" indistinguishable from other forms of social welfare legislation. Both the importance of education in maintaining our basic institutions, and the lasting impact of its deprivation on the life of the child, mark the distinction.... We have recognized "the public school as a most vital civic institution for the preservation of democratic system of government"... and as the primary vehicle for transmitting "the values on which our society rests".... In sum, education has a fundamental role in maintaining the fabric of our society. We cannot ignore the significant social costs borne by our Nation when select groups are denied the means to absorb the values and skills upon which our social order rests....

What we said 28 years ago in *Brown v. Board of Education* still holds true.<sup>44</sup>

In his dissenting opinion, Chief Justice Burger agreed that it would be senseless for an enlightened society to deprive any children—including illegal aliens—of an elementary education, but he argued it was not the business of the Court but rather the business of Congress and the political process to make such a decision. He was joined in this argument by Justices Rehnquist, O'Connor, and White.

The Court's majority ruling takes on added significance in view of the major immigration law passed by Congress and signed by the President on November 6, 1986, whereby illegal aliens who entered the United States before January 1, 1982, could obtain citizenship if they resided here continuously since then. The political process desired by the Court's dissenters eventually resulted in Congress approving \$1 billion a year for four years to reimburse state governments for providing public assistance, health care, and education to illegal aliens who gain legal status.<sup>45</sup>

But "the political process" can also lead to the reassertion of a majoritarian nativism that fears or dislikes the inroads of the most recent newcomers. Civil libertarians suspect some such motivations in the rapid expansion of efforts to pass legislation making English the official language in the states as well as in the nation. In the November election of 1986 Californians voted 3 to 1 for an initiative to amend the state constitution prohibiting the legislature from making any law which "diminishes or ignores the role of English" and permitting individuals or groups to bring law suits to enforce the law. Hispanic and Asian and other civil rights groups charged that an organized campaign by USA English played on the fears of voters in such way that it would lead to further distrust and divisiveness in society. By February 1987 some 14 other states were considering such laws, and by June 1987 it was reported that this number had increased to 37 states, with flaring animosities evident in several states.<sup>46</sup>

The rapid influx of immigrants from Asia and Latin America along with a change in the views of the U.S. Department of Education under conservative pressures had led to similar and rancorous debates over bilingual education. Hispanics and others were alarmed that nearly two decades of special attention by the federal government to children whose first language was not English were threatened. In 1968 the Bilingual Education Act was passed to give federal aid to local school districts to enable them to meet the special needs of children of "limited English-speaking ability". For much of the time since then, there has been controversy as to whether the bilingual education programs were the best way to enable children to become proficient in

English or whether it was a device to keep alive the original languages, or both.

In 1974 the Supreme Court ruled that a school system's failure to provide special language instruction for children whose mother tongue was not English denied them equal opportunity to participate in public education programs and was thus a violation of the Civil Rights Act of 1964. In *Lau v. Nichols* Justice William O. Douglas spoke for the Court without dissent in finding that California had to take special affirmative action to enable Chinese-speaking children to profit from their school experience; simply providing the same texts and curriculum to all children alike was not equality of treatment.<sup>47</sup>

But since the advent of William Bennett as Secretary of Education in 1984 there has been fractious controversy between the U.S. Department of Education and professionals in bilingual education over whether the best way to develop fluency in English was by use of the native tongue in the transition to English or by "immersion" in English. The conflicts have been more than a little tinged with politics as well as pedagogy. Disputes over the results of research validating or invalidating different methods of classroom approach spill over into charges and counter-charges about the threats of too much pluralism resulting from unassimilated foreign-speakers versus the need to encourage the cultural values of newcomers whilst they acquire the civic values of American citizenship.<sup>48</sup> At root was the basic issue concerning how active government itself should be in achieving a stable pluralism as well as legitimate authority in a democratic society.

### **Authority**

The role of authority can usefully be illustrated for students at all age levels, ranging from the need for rules on taking turns in the kindergarten to the need for laws on stealing, assault, murder, and treason. At the heart of political authority is the difference between sheer power and legitimate or rightful authority. Power is usually considered to be the ability to exercise control over persons or conditions in such a way as to direct their conduct or influence the outcome of an event desired by those in positions of power. The most common examples of sheer power to control events are military force and money.

On the other hand, power becomes legitimate authority when recognized as such and sanctioned by custom, institutions, law, constitution, or morality. Authority in a democratic polity is thus the exercise of influence and command by those in positions of power when done so within the confines of rules made by the consent of the governed and considered over a period of time as legitimate. Robert M. MacIver, long-time professor of political philosophy and sociology at Columbia University, defined authority as follows:

By authority we mean the established right, within any social order, to determine policies, to pronounce judgments on relevant issues, and to settle controversies, or, more broadly, to act as leader or guide to other men. When we speak of an authority we mean a person or body of persons possessed of this right. The accent is primarily on right, not power. Power alone has no legitimacy, no mandate, no office. Even the most ruthless tyrant gets nowhere unless he can clothe himself with authority.<sup>49</sup>

Mortimer Adler nails down the idea in his felicitous phrase "rightful authority." I would underline the fact that the right of an official to make decisions, to determine policies, and to maintain order derives not from the official's private capacity, but by virtue of a right conferred by the society. So the exercise of democratic political authority ideally should be under the constraint of the values of fundamental justice and fairness as well as functioning to insure the greatest amount of freedom and equal opportunity for the individual under rules of due process and with a fair distribution of privileges and resources in the society. Failing these constraints, authority is corrupted into authoritarianism or totalitarianism. Without authority, freedom degenerates into license or anarchy, pluralism becomes unstable, and individuals can be assured of little privacy or due process. And without the accountability of public officials to explain their actions, to justify them, and to take responsibility for them, as was so often reiterated at the Iran-contra hearings, the constitutional restraints on authority are weakened, and tyranny looms.

I would also underline MacIver's broad definition of authority to include the general right of certain persons

to act as leader or guide to others. Leonard Krieger, university professor of history at Chicago, points out that the idea of authority "as a consciously constituted or legitimate power to command or secure obedience" emerging during the sixteenth and seventeenth centuries led historians to mark the period as the origin of modern times and influencing the modern idea of citizenship in a nation state.

But he also indicates that there was another meaning of authority that originated in Rome, not so much associated with sheer physical power as with an uncoercive authority associated with persons or knowledge whose trustworthiness and responsibility are a warrant or guarantee that their deliberate judgments, convictions, and decisions are worth following as models or examples.<sup>50</sup> An *auctor* in Latin is a trustworthy writer, a responsible person, a teacher, a guarantor, a model whose ideas and judgments are worth following.

It is in this latter sense of authority as trustworthiness that has been so eroded in recent years. Students have revolted against the authority of schools and colleges, against the authority of government officials, against the authority of parents, churches, business, and other institutions that in the past have claimed the right to guide the conduct and behavior of the young. This is what the Yankelovich survey meant when it referred to "deauthorization" as one of the reasons why both the young and their elders have turned to privatism. It is also in this latter sense of authority that the educational profession has been diminished. It has lost some of the capacity to exert leadership in the education of the public as well as of students. In the midst of the Watergate crisis, Archibald Cox called on the legal profession to educate the public regarding the impeachment process. He said:

I am convinced that the legitimacy of the final conclusion in the view of the American people will depend upon the success of counsel and other public men in formulating general standards of conduct fairly applicable to any President, and in educating the people upon their meaning and legal and moral base....<sup>51</sup>

In much the same vein, I believe that the educational profession must take the lead in educating the public in the values and commitments required in the civic mission of education. Much criticism has been levied of late at a narrow and self-serving conception of "professionalism" in education as in law, medicine, and business. So, to reestablish its authority as trustworthy, the educational profession may well learn some of the lessons of leadership being developed anew by John Gardner in his Leadership Studies Program sponsored by Independent Sector. In his introductory monograph Gardner uses the term leadership to refer to

...the process of persuasion and example by which an individual (or leadership team) induces a group to take action that is in accord with the leader's purposes or the shared purposes of all.<sup>52</sup>

Thus, Gardner distinguishes leadership from coercion on one side and from authority as legitimized power of office on the other side. A leader is an active *auctor* who thinks in the longer term, looks beyond the immediate constituency, puts heavy emphasis on the intangibles of vision, values, and motivation as well as political skill.

These are large orders to be sure, but it is noteworthy that the concept of authority both as legitimate power and as trustworthy leadership has become a matter for serious scholarly study in recent years. I have already referred to Richard Flathman's analysis of authority and citizenship along with that of many other scholars. But the concept has also had a revival of interest among those in teacher education. Kenneth Benne's seminal doctoral study of 1943 has been republished and evoked considerable discussion and critical comment.<sup>53</sup> David Nyberg's more recent approach to power and authority is another very useful example.<sup>54</sup>

Even radical spokesmen like Henry A. Giroux have taken up the cudgel to define authority in such way as to make it a tool by which "transformative intellectuals" can join forces with oppressed and exploited groups to achieve emancipation from the kind of authority imposed by conservative educators who would return to traditional moral aims of "promptness, truthfulness, courtesy, and obedience".<sup>55</sup> Critical study of a range of such materials would add zest, if not sting, to the usual academic fare on authority, which is fundamental and necessary but too often is not applied to the theory or practice of civic education.<sup>56</sup> This kind of study would enable the profession and the public to think of authority as more than orderliness or obedience in the "effective classroom".

## **Privacy**

Let me say at the outset that I view privacy as one of the basic pluralist values of a democratic political community along with freedom, diversity, and due process. I distinguish it from the privatism or excessive privatization of public services (including education), which I view as a perversion or corruption of privacy. As freedom includes the right to live one's life in dignity and to seek one's self-development and self-fulfillment, so privacy is the right of individuals and groups to be left alone and to determine for themselves what information about themselves or their actions is communicated to others.<sup>57</sup>

Infringement of this right was one of the most irritating of the eighteenth-century practices that led to the Third Amendment's guarantees against the quartering of troops in private households and the Fourth Amendment's guarantees that the people shall be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. The revelations of the spying activities of the CIA and FBI on American citizens during the Vietnam War and the campus unrest, the Watergate tapes, the Ellsberg trial, and much else have led to new concerns about the protection of privacy. The development of electronic devices has added a 1984 quality to all kinds of business activities (such as computers that keep credit ratings on millions of consumers) as well as those of government agencies. The 1970's gave added bite to George Orwell's inveighing against the invasion of privacy and the unauthorized surveillance by "Big Brother" with attendant "Doublethink," "Newspeak," and "Oldspeak," and the ever present telescreen. The rapid development of technological surveillance led to some of the early scholarly studies of the idea of privacy.<sup>58</sup>

The opening of school and university records revealing grades, test scores, and confidential ratings to the scrutiny of students and their parents are examples of the new concern for privacy in education. The most notable and—as it turned out—controversial legislative protection was the Family Educational Rights and Privacy Act of 1974 sponsored by then Senator James Buckley, Republican of New York, and promoted most actively by the National Citizens' Committee on Education. Reacting to the revelations of Watergate and the unrest of the prior decade, Congress aimed at "opening up institutions," making them more accountable, and protecting the privacy of individuals. The Act denied funds to any school that prevented parents of children under 18 from having access to inspect and review any or all of their school records. Such records may not be released to others without written consent, except to school officials and to certain federal or state officials in connection with application for financial aid.

The primary intent of the law was to prevent abuses whereby careless or incorrect materials damaging to a student's chances in further education or career were left in the files; and to prevent releasing files to banks, credit agencies, police departments, and the like without the knowledge of the students or their parents. However, many college and university associations, led by the American Council on Education, protested vigorously that there were many ambiguities in the Act and that confidential recommendations would no longer be useful if the teachers and professors knew that the students could read them. As a result, a long process of rewriting the regulations in the Department of Health, Education, and Welfare was required.

But the right of privacy has moved much beyond matters of information about a person that should be kept private from government or outside surveillance. It has been applied increasingly to matters of intimate associations that have been deemed beyond the criminal investigation and punishment by law. While "privacy" is a term not contained in the Constitution or Bill of Rights (just as "education" is not), the right of privacy has been brought by the courts and the Supreme Court under the heading of freedom in the First Amendment, of liberty in the Fifth and Fourteenth Amendments as well as under the Fourth Amendment's protection of the person against search and seizure. The most controversial of these issues in the public eye have had to do with sexual relations, abortion, and homosexuality.

For several decades, the right of privacy in intimate relations among consenting adults has been protected by the Supreme Court when it set aside state laws that seek to place the authority of government on the side of certain traditional moral values regarding marriage and sex.<sup>59</sup> These have had to do with choices fundamental

to heterosexual family life involving whether to marry, whom to marry, whether to conceive or bear a child, or have an abortion. The zone of protection of privacy has gradually been widened despite bitter opposition from pro-family, pro-life, and anti-abortion groups. Some believe, however, that the Supreme Court in June 1986 may have stopped the broadening when it made the distinction between heterosexual privacy and homosexual privacy, declaring that states have the right to outlaw private homosexual acts between consenting adults.<sup>60</sup> Some of the most bitter confrontations in the confirmation hearings on Judge Robert Bork arose over his views that the Supreme Court had wrongly ruled that the Constitution protects certain rights of privacy and had overstepped the boundaries of the original intent of the Framers.

While questions of the rights of privacy of students in elementary and secondary schools may once have seemed rather far removed from such constitutional questions, the demands for "teaching values and morality" have proliferated with the rise in juvenile pregnancy and drug abuse among teenagers. And inevitably, the issues of privacy versus authority and moral values versus excellence have spilled over into the schools. More than one federal judge has had to decide whether a student with a high academic record should be denied admission to the National Honor Society on the grounds that she was pregnant and thus morally unfit for the intellectual honor. In Springfield, Illinois, District Judge J. Waldo Ackerman decided in 1984 that such an argument violated her rights under Title IX of the Education Amendments of 1972 prohibiting discrimination on the basis of sex and the equal protection clause of the Fourteenth Amendment.<sup>61</sup>

Still more to the point of student privacy from search and seizure was the celebrated case of *New Jersey v. T.L.O.* in January 1985.<sup>62</sup> The case arose when a vice principal in Piscataway High School searched a student's handbag suspecting that she had been smoking in the girls' lavatory, but found evidence of possible use and sale of marijuana. Were her rights to privacy under the Fourth Amendment's protection against search and seizure superior to the authority of school officials to uphold school rules and laws against use and sale of drugs? In a 6-3 decision, the Court affirmed a middle course. It denied that school officials are acting in place of parents (*in loco parentis*) and thus they do not have all the rights that parents have to control and discipline their children. But it also affirmed that school officials must have "reasonable grounds" for believing that their search of lockers and handbags or persons would provide evidence of breaking the rules or the law.

Students thus do have *some*, but not complete, constitutional rights to privacy, while teachers, not being parents, do have the obligation to apply the Fourth Amendment's protection of privacy to students, and thus they are in effect "officers of the Constitution" – and, I would say, are thus teachers of civism. Starting with such cases that apply directly to students and teachers in school, the theme of good citizenship could surely come alive and then lead to serious study in school, college, and teacher education.

If teachers are indeed to become teachers of civism, they need to know that the history of the meaning of the right to privacy for individuals includes an understanding of the obligation of government as well as of individuals to obey the law. In 1928 the Supreme Court upheld the right of the government to use wiretapping without a warrant to gain evidence against a suspected bootlegger named Roy Olmstead on the grounds, at least partly, that conversations were intangible and thus not material things that could be searched for and seized. Justice Brandeis wrote a classic dissent, which spoke eloquently of the government as "the potent, the omnipresent teacher" and thus must set the example for all citizens by itself obeying the law:

Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means – to declare that the Government may commit crimes in order to secure the conviction of a private criminal – would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face.<sup>63</sup>

This view of the obligation of government to obey the law eventually was upheld by the Court as early as 1967 and then again in the Watergate crimes. Whether it would continue to be upheld during 1987 in the proceedings and investigations surrounding sales of arms to Iran and of diversion of such funds to aid the Contras of Nicaragua remain to be seen as of this writing. It was certainly clear that charges of the "privatization of foreign affairs" were recurrently disturbing to members of the Congressional Investigating Committees. But it was also clear that other matters of due process were also fundamentally involved.

### **Due Process**

While privacy concentrates on a citizen's right to be left alone, due process has to do with the rights of persons who have been accused of wrongs or injuries they have allegedly committed. Due process values center on the Fifth, Sixth, Seventh, and Eighth Amendments with their presumption of an accused person's innocence and their provisions for protection of individual rights in criminal cases and civil suits at law.<sup>64</sup> In addition to the useful articles on due process in the *Encyclopedia of the American Constitution*, many new materials have been developed on the subjects of criminal justice and civil justice designed especially for use in secondary schools.<sup>65</sup>

Of special interest to educators has been the development in recent years of the concepts of due process as applied specifically to teachers, students, and parents. Again, there are excellent materials available. I think especially of the works of Isidore Starr on due process of law<sup>66</sup> and the compilations and interpretations in the books of David Schimmel and Louis Fischer.<sup>67</sup> Study of these materials focusing directly on due process rights for students and teachers would be of immediate interest to them and motivate them to go on to the broader realms of adult citizenship.

For example, I should think that students would be fascinated by the "children's rights" movement, which mushroomed with extraordinary speed in the late 1960's and early 1970's. A survey of 24 states by *The New York Times* in October 1976 revealed that cities in all of those states had active legal groups working for children's rights. It was correctly predicted that aggressive advocacy groups would make this a major concern of federal courts and of the Supreme Court in the following decade in the effort to gain due process rights for children that would be protected by the Constitution just as much as adult rights are protected:

What they hope to do is establish that a child has a right to a safe, stable home, to a reasonable education, to due process of law and to freedom from abuse and neglect. They hope, in other words, to prove that adults and institutions have obligations to the young as well as powers over them.<sup>68</sup>

A landmark case in the Supreme Court was decided in 1967 when the Court ruled that children haled into juvenile courts must be given the same procedural rights that adults have with regard to notice of the charges, the right to a lawyer, the opportunity to confront and cross examine witnesses, and adequate warning of privileges against self-incrimination. This case had to do with a 15-year-old boy who had been sentenced to an industrial school in Arizona without such protection.<sup>69</sup> But in 1971 the Court ruled that trials by jury were not required in juvenile delinquency cases.<sup>70</sup>

During the course of the next decade the children's advocates gathered momentum both in research and in courts. One of the most active research organizations was the Children's Defense Fund of the Washington Research Project, and among the scores of legal groups the American Civil Liberties Union was prominent. State legislatures and the Congress were prodded to take action, notably through the Juvenile Justice and Delinquency Prevention Act, sponsored by Senator Birch Bayh and passed in 1974, and the Education of All Handicapped Children Act of 1975.

The drive to achieve more protection of due process for children's private rights in the juvenile justice system was directed at students in schools as well as out-of-school youth. The key case here was *Goss v. Lopez*, which involved nine high school students in Columbus, Ohio, who were suspended (during racial demonstrations and unrest in 1971) for up to 10 days without a hearing as permitted under Ohio law. The students

charged that the law was unconstitutional under the Fourteenth Amendment because it deprived them without due process of their property (their right to attend school) and of their liberty (by injuring their reputation without a hearing). In January 1975 the Court declared in a five to four decision the law to be unconstitutional and ruled that students in high school were to be granted due process in suspensions. This must include oral or written notice of the charges of misconduct, an explanation of the charges and the evidence against them, and an opportunity to give their side of the story before suspension from school.<sup>71</sup>

The dissent of four justices, all appointed by President Nixon and including Justice Rehnquist, argued that the injury to reputation by suspension was too trivial to constitute deprivation of a constitutionally protected liberty. The decision was an unwarranted intrusion of the federal courts into what was the proper arena of authority for state legislatures and education officials, i.e., school discipline.

But the Court majority held firm when it ruled a month later in an Arkansas case that school board members and educational officials who discipline students unfairly and without due process by claiming ignorance of students' constitutional rights may be liable for damages.<sup>72</sup> The Court argued that school officials must know the basic unquestioned constitutional rights of students. The same minority of four justices argued that this was too harsh a standard for laymen who serve as school board members and who are generally immune from civil suits for their good-faith actions as public officials. When the character of the Court changed with the retirement of Justice Douglas, the new "Burger majority" began to draw back from children's rights, or so it seemed, when the Court decided in April 1977 that even severe paddling of children in public schools was not a "cruel and unusual punishment" under the Eighth Amendment.<sup>73</sup>

I have stressed the due process rights of children and students in this section principally because it may be a subject that would quickly enlist the interest of students, but there is, of course, a vast literature on due process for adults, illustrated by the *Encyclopedia* articles listed in Note 64. Teachers and officials of public schools have now been put on notice that they must be concerned for the due process rights of children as well as their own. They need to be as clear as possible about the relative allocation of power and responsibility among the parents, the child, and the state whose officers they are. It is now clear that children have constitutional rights as well as adults, and that the state may not be too intrusive into the parent-child relationship, but the state also has the obligation to protect children, when necessary for the child's welfare, even against the parents if they neglect or abuse the child. Children do not have all the due process rights that adults have, but they do have more than they did before *Goss*.

## **Property**

The purpose of including property rights as a table of civism is not to suggest that students or teachers must take law school courses in property or contracts, but rather to recognize the concept of property and ownership as a basic element in the forming of the American republic and to know some of the fundamental changes that have taken place during the past two hundred years. The emphasis is here not on a course in economics, or free enterprise, or comparative economic systems. Some excellent materials for school use have been developed along these lines, and California has now required a course in economics as part of its three years of history/social science to be required for graduation from high school.<sup>74</sup> Twenty-seven states now require some form of instruction in economics and 15 states require a separate course.

The emphasis here, I believe, is rather upon the rights and responsibilities of ownership of property in a democratic society, the relationships to ownership of individuals, groups, and the state with regard to matters of justice, freedom, equality, authority, privacy, and due process. Rudimentary concepts of "what's mine," "what's yours," and rules about acquiring, using, transferring, and disposing of tangible properties can be developed in early years of schooling, as the materials developed by Law in a Free Society have shown.<sup>75</sup> Rules against stealing, damaging, destroying the property of others and how arguments should be settled, equity achieved, and by whose authority play a large part in early schooling. The inclusion of intangible property

(such as ideas or benefits or entitlements or labor) along with tangible property then leads to further consideration of the rights and responsibilities regarding property, the scope and limits of ownership, and other major subjects of legislative and judicial concern since the founding of the republic.<sup>76</sup> It is clear that most of the founders believed that property and liberty went hand in hand.

I can only hint at a most complex and controversial subject by referring to a few recent articles that illustrate a range of views. In an article on "The Commercial Republic" Betty Southard Murphy, former chairman of the National Labor Relations Board, recalls how Madison and Hamilton drew from David Hume, Adam Smith, and John Locke to argue that property was a natural right and its security was a primary object of civil society in general and of the new American Constitution in particular.<sup>77</sup> Property was closely allied with liberty; government was to protect property as a means of protecting liberty; but government also needed to regulate commerce and property in the interests of protecting liberty and the common good. She further indicates how the coming of the industrial revolution, capital investment, and corporate monopolies led to the regulatory actions of Congress from the Sherman Antitrust Act of 1890 (really in keeping with the original philosophy of Madison and Hamilton) to the social legislation of the New Deal, a trend that the Supreme Court eventually approved.

Jack P. Greene, historian at Johns Hopkins, emphasizes the preeminence of private concerns in the colonial period emphasizing the "pursuit of happiness" over the pursuit of public office or "even the active occupation of a public space. So government in early America was conceived largely as a means to protect individuals from each other:

Even more Important, it was an agency for the protection of one's individual property in land, goods, and person, one's property in person including the right of striving, of pursuing (as well as protecting) one's interests, of seeking to alter one's place on the scale of economic well-being and social status.<sup>78</sup>

But, Greene points out, the American Revolution wrought a radical change. Prompted by bitter resistance to British regulation of trade and imposition of taxes, the War nevertheless resulted in unprecedented intrusion of the newly independent states into the traditional private realms. Through taxes, war service, restraints on trade among the states themselves, restraints on trade of the states by foreign countries, and lack of a strong central government all led to intrusive interventions by state legislatures that seemed to threaten the security of property, money, credit—and liberty of individuals and minorities at the will of majorities in state legislatures. Thus, the federal Constitution was designed at least in part to free persons and property from intrusion by the state governments.

Charles A. Lofgren follows on by emphasizing how the commercial problems among the states under the Articles of Confederation led to granting of powers to Congress in Article I, Section 8 of the Constitution "to regulate Commerce with foreign nations, and among the several States, and with the Indian tribes". The twist of his argument, not often realized, is that the commerce clause was used by Congress in the Civil Rights Act of 1964 (and subsequently approved by the Supreme Court) to justify the federal government's role in protecting civil rights of interstate travelers regarding segregated accommodations and restaurants.<sup>79</sup>

And Kenneth M. Holland, political scientist at the University of Vermont, carries the argument to the new meanings of property increasingly defined under the welfare state to include social benefits and entitlements (including education). He refers to a formative article in 1964 by Charles Reich who argued that welfare benefits were no longer a charity or government largesse, but a new kind of property embracing rights that cannot be withdrawn or withheld without due process of law.<sup>80</sup> There is, of course, much controversy and debate over such broadening of the conception of property rights, whether justified on grounds of due process, privacy, equality, civil liberties, or justice. All the more reason for students and teachers alike to study these issues along with the other tables of civism. All the better to judge how far we have come from the compromise of the Constitution that regarded slaves as 3/5 of a person and the Dred Scott decision where they were viewed as non-persons, as tangible and exchangeable property belonging to another, the ultimate corruption

of property rights.

James McGregor Burns and Richard B. Morris, co-chairs of Project '87, have included "Property Rights and Economic Policy" as one of the thirteen enduring constitutional issues. Under the heading "*The Constitution and the Economy*," they state:

Can the Constitution be utilized more effectively to provide economic security and promote the well-being of all Americans?

The Constitution was created not in a vacuum, but largely in response to the severe depression which the Articles of Confederation were powerless to arrest. Hence, the charter granted to Congress powers over commerce and taxation and included various fiscal prohibitions on the states in the full-faith-and-credit clause, the export-import clause, and the clause against impairing the obligation of contracts... Thus, from the start the government was a friend of private enterprise. The degree to which the Constitution has been employed to promote business enterprise and yet discipline its abuses has varied with national administrations and the personnel of the federal courts. But the power to promote the general welfare resides in the Constitution, and its use depends finally upon the public conception of its necessary and proper functions, especially in the times of economic crisis. Are we satisfied with its performance today?<sup>81</sup>

This brings us to the role of public opinion and participation.

### **Participation**

The idea of participation has undergone a great deal of modification since the Declaration of Independence asserted that the just powers of government derive from "the consent of the governed" and the Preamble of the Constitution made it dear that "We, the People" are sovereign. Much of the original notion of popular consent and of sovereignty of the people rested on the idea that the citizens would participate directly in the making of the laws and indeed in the making of the fundamental contract known as the Constitution itself. But the idea of citizen participation had to change from the days of a Creek polls with its few thousand citizens or a New England town meeting with its few hundred citizens. Debates over the meaning of democracy as direct participation by the entire body of citizens contrasted to a republic, meaning participation through selected representatives, has continued from the Constitutional Convention and the *Federalist Papers* down to the present time.

I am arguing here that the idea of participation as a key value in a democratic political community should be studied, debated, and discussed by students and teachers along with the practice of participatory experience as illustrated in the citizen participation movement in general and its counterpart in community action programs for students in schools. In addition to political campaigning, voting, and lobbying, "participation" of a more direct and active sort has become increasingly important since the decade of the 1960s. After all, sit-ins, lie-ins, mass demonstrations and marches, freedom rides, and civil disobedience were a critical part of the practice of participation in the civil rights movement. Draft-card burnings, demonstrations, and disruptions on college campuses highlighted "participatory democracy" when it became a by-word of the New Left movements of the 1960's and 1970's. The justification, costs, and benefits of these forms of a more direct participation movement along with those being advanced by thoughtful political scholars should be the subject of careful study and analysis in school and college.

But there is another model of participation that its advocates argue is more appropriate for the conditions of a modern technological society where the issues are so complicated that direct decisions by the masses of citizens cannot be the rule. In other words, a representative model of participation should be revitalized to take better account of the expertise of professionals who, along with elected officials, are held accountable by the public. In the mid-1970's, a good example of this model, along with criticism of direct participation reforms, was given by the late Stephen K. Bailey, political scientist in education and social policy at Harvard. He was reacting to the excesses on the campuses as well as the excesses of Watergate:

Fundamental to the success of a free society is widespread citizen participation in the political process.

This participation may include voting; party and interest-group activities; performing such public functions as jury duty, testifying as a witness, and serving on public boards and commissions; and carrying out honorably the mandates of obeying laws and paying taxes. Beyond this participation, citizens contribute to the polity by keeping informed about public affairs and by sharing their views with other citizens and with elected representatives. An independent press and a rich smorgasbord of information purveyed by television, radio, journals of opinion, and books, are essential to the maintenance of a politically literate society.

Much of the real power of citizens, however, is latent. It lies in the perpetual threat to politicians of retribution at the polls if citizens, otherwise passive, are outraged by the direction or corruption of public life...

For reasons that are understandable in the sociology of reform, the air is filled with romantic half-truths about the possibilities and desirability of extending and increasing direct citizen participation beyond the activities and latencies just listed. Because the nation has recently been burned by abuses of power, some high-minded reformers and concerned educators have developed ("refurbished" is a better word) a democratic litany as superficially plausible as it is operationally specious and even dangerous. Two propositions seem to dominate: first, citizens should, wherever possible, participate directly in all political decision making; second, where they cannot participate directly, the decision processes of their representatives must be open to detailed and continuous public monitoring....

Because of the ultimate capacity of American citizens to make wise fundamental value choices, attempts to induce them into making superficial technical choices are ill-advised. Representative legislators and officials are supported by an educated bureaucracy, informed by myriad interest groups and experts, checked by an independent judiciary and a free press, and held accountable to the larger public through periodic elections, intermittent correspondence, and occasional face-to-face meetings. All this constitutes not only a reasonable apparatus for conducting modern public business in an economically and technologically complex free society like the United States, but also the only reasonable apparatus....

...democracy is meaningless if responsible majorities cannot be formed and given the power to govern. This is why the health of American political parties—the great organizers of pluralities and majorities—is so important. This is why the antiparty sentiments of the American public are so dangerous. America's general ignorance about the significance and the workings of its party system is a defect so serious as to threaten the viability of the entire democratic enterprise.<sup>82</sup>

In this same statement Bailey goes on to put great emphasis on the development of political skills in civic education programs. Here he is close to the civic action programs proposed among many others by Edward Schwartz, city councilman in Philadelphia, and Fred Newmann, professor of education at the University of Wisconsin-Madison. But Newmann has trouble with Bailey's representative approach, which I believe he would call a "pluralist elitist model" of participation.<sup>83</sup> Newmann argues, instead, for more emphasis on what he calls a "participatory idealist model" in which citizens, especially at the local or "micro" level, participate directly with others of like-minded concern for the common good. A sense of community can thus be achieved in ways not possible at the massive "macro" level of national or international issues. Newmann argues for revitalizing the "mediating institutions" (families, neighborhoods, churches, and voluntary organizations) that stand between the individual and the Goliaths of the corporate and governmental bureaucracies.

I am drawn to both of these views and hope that a defensible conception of participation can be worked out to take account of both, i.e., by increasing the role of mediating structures, including more attention to schools as nuclei for such structures at the local level, and by reinforcing the representative accountability of elected officials at the state and national levels. I confess that after living in California and witnessing Proposition 13 in 1978 and a rash of initiatives placed on the ballot since then, I tend to agree with Bailey regarding strengthening the party system and accountability of an open legislative deliberative process. "Direct participation" can be manipulated by special interests, selfish purposes, and massive expenditures as readily as unbalanced lobbying can achieve similar purposes through private pressures on legislators. Initiatives designed to amend constitutions by bypassing the deliberative process in legislatures, special conventions, or

the courts can be as destructive of the public good as a singular reliance on legislative majorities or bureaucracies can be.

But I have also been heartened by a revitalizing of the movement to increase direct involvement of citizens and to increase the effectiveness of direct participation. A growing body of scholarly underpinning for this trend has begun to replace Bailey's undisguised contempt for the "romantic half-truths" of the starry-eyed reformers of the 1960's and early 1970's. One of the most persuasive of the more recent reformers is Benjamin R. Barber, political scientist at Rutgers, whose *Strong Democracy* has received wide attention.<sup>84</sup> He argues that representative democracy is scarcely democracy at all and that a strong form of participatory democracy of genuine self-government is not only compatible with the Constitution but the conditions of modern technological society. Ten of his proposed reforms are listed here:

1. A national system of neighborhood assemblies to stimulate local discussion and deliberation, meeting often, and limited initially to being "talk shops."
2. A national civic-communication cooperative using technology to stimulate discussion of regional and national issues through telecommunication networks.
3. A civic videotext service and civic-education postal act to provide free and equal access of all citizens to TV channels for cable companies to air news, forums, and data, and for the postal service to distribute newspapers, journals, and books.
4. Selective experiments to involve more citizens informally as surrogate judges in the system of deciding minor civil disputes and criminal offenses.
5. A national initiative and referendum process to go beyond polling and discussion and exercise the power to make decisions regarding national issues on a multi-choice basis (not just yes or no) and based on more than one "reading" of such inflammatory issues as abortion and as complex as nuclear freeze.
6. Selective experiments in electronic balloting limited at first to polling rather than final voting.
7. Selective use of election to minor offices by lot, widely used in Greek city-states, used with caution but providing checks on the elitist models that favor wealth and power in election campaigns.
8. Selective experiments with voucher systems to increase choice in schooling and housing, despite the dangers of libertarian privatizing of choice. (I found Barber's warning of the dangers of relying on the invisible market system more persuasive than his suggestion for its use in a voucher system.)
9. Universal citizen service including the option of military as well as non-military training and service, for one or two years for all citizens between the ages of 18 to 26. A particularly interesting aspect of this proposal is a three-month training period including civic education in history, elementary social science, and parliamentary skills in preparation for urban, rural, and international projects (like the Peace Corps). Barber views citizen service as the most vital to strong democracy.
10. Common action programs in the workplace and in the community along the lines of the cooperative movement.

Barber concluded his article in *The Atlantic Monthly* (from which these ten points are taken):

In sum, the potency of the reforms offered here lies in their capacity for reinforcing and balancing one another when implemented in concert. Adopted piecemeal, they would be assimilated into the representative system and used to further alienate, privatize, and disenfranchise citizens. They might even come to undermine the safeguards of liberal democracy. But taken together, these strong democratic institutions would resist the totalitarian temptations of collectivism and majoritarian tyranny no less than they would resist privatism and elite manipulation. They would check one another even as they strengthened participation, and they would reflect the force of traditional constitutional arrangements even as they served to enhance the quality of citizenship. The idea is not to do away with our democracy but to make it work.<sup>85</sup>

Some significant evidences of making democracy work along the lines of public participation are the Nation-

al Issues Forums sponsored by the Domestic Policy Association under the stimulus and leadership of David Mathews, president of the Kettering Foundation. The network of several hundred organizations in DPA includes colleges, universities, and schools; libraries, museums, and historical associations; churches, synagogues and theological centers; community television stations; civic and professional organizations; student groups and senior citizen centers. The Forums are decentralized and autonomous, but they all discuss the same three issues each year, based on issue booklets prepared by the Public Agenda Foundation, which provide a basis for reading and discussion. Members of the Forums then meet at one of the presidential libraries and in Washington to bring the fruits of their discussions to the attention of national policy makers. But schools are not neglected. Especially pertinent here is the cooperative program with the National Council for the Social Studies to bring discussion of public policy issues into the social studies classrooms.

And a crucial long-range aspect of the National Issues Forums is that, since their beginning in 1982-83, they not only discuss such vital current issues as freedom of speech, the trade gap, U.S.-Soviet relations, health care, jobs and joblessness, social security, education, the deficit, environmental protection, nuclear arms, the farm crisis, crime, and immigration, but they also attempt, in David Mathews' words, to

renew in people an understanding of the principles of democracy in a way that will lead to more effective citizenship. Actually, that purpose is more fundamental than knowing about issues. There is reason to believe that it is difficult to understand major political issues without understanding the precepts on which our democracy was founded.<sup>86</sup>

To that end Mathews and his associates at DPA and the Kettering Foundation drew up a very useful publication on the principles and practices of democracy, which is used in the training of teachers as well as the Forum leaders. It not only presents Mathews' views on public participation, public talk, public knowledge, public judgment, public power, and public leadership but also contains a significant collection of extended quotations from historical sources like Pericles, Hobbes, Locke, Jefferson, Mill, Rousseau, and Tocqueville as well as from the new scholarship on citizenship, including Hannah Arendt, Benjamin Barber, Ronald Beiner, Bernard Murchland, Parker Palmer, Kenneth Prewitt, Michael Sandel, and Michael Walzer. Not least in importance are the citations in the bibliography of Mathews' own writings on civic intelligence.<sup>87</sup> And not least in the lexicon of "public talk" is the necessity of being able to have access to and discern reliable and valid knowledge.

## **Truth**

On occasion I speak of "significant" truth in dealing with this table (Figure 1). Truth is truth, isn't it? The reason is that I have long been struck by the phrase as it was used by my former colleague at Teachers College, Lyman Bryson, a most effective leader of adult education discussions in forums, radio, and eventually on TV. After his retirement, Bryson edited a book that only a Renaissance man would attempt. He attracted a stellar group of physical scientists, social scientists, philosophers, and artists and authors to produce nothing less than *An Outline of Man's Knowledge of the Modern World*. In his introduction, Bryson coined the following phrases that have continuing relevance to civic education:

Modern man knows that knowledge is salvation. He realizes that he must learn to distinguish between the significant truth and the plausible falsehood or beguiling half-truth if he is even to survive.<sup>88</sup>

In an earlier section of this book, I tried to illustrate some examples of a "plausible falsehood" and "beguiling half-truths" in dealing with the history of the First Amendment, religion, and education. And we heard much in the Iran-Contra hearings of "plausible deniability." But the point here is that I am especially concerned with the public aspects of truth-telling and its importance for the security of a free society. Bryson's words continue to bear repeating:

It may still be true, as Alexander Pope wrote, that "a little learning is a dangerous thing," but we must also remember that those who are ignorant are always enslaved by those who know. Free men have the re-

sponsibility to choose their own way with the best knowledge they can get.<sup>89</sup>

The dangers of popular ignorance have been clear to see since the decay of the Greek democracies:

The educated classes became more and more learned and more and more alienated from the people. And the people fell prey to superstition, to fears, and to half-knowledge. As will always happen, there were clever and plausible demagogues fully prepared to take advantage of such weaknesses, and the Greek city-states were on their way to destruction. There are always three elements in any such situation in any country. They are the general public, more or less informed; the educated group, more or less aloof; and the politicians who, looking for a way to enrage the people against the "egg heads," take over. It can happen anywhere. And it can happen at any time.

Knowledge, freely available to a people who have the right and the will to use it wisely, is the only real safety this world provides. Freedom of the mind is the foundation of all other freedoms, and if it is lost the others are soon found not worth keeping.<sup>90</sup>

If we accept freedom of access to knowledge as the very basis of a democratic society, then the reliability and the validity of public knowledge become of primary importance. The search for truth becomes one of the major goals of democracy. As Meiklejohn put it:

When men decide to be self-governed, to take control of their behavior, the search for truth is not merely one of a number of interests which may be "balanced" on equal terms, against one another. In that enterprise, the attempt to know and to understand has a unique status, a unique authority, to which all other activities are subordinated.... One might as well speak of a judge in a courtroom as balanced against the defendant. Political self-government comes into being only insofar as the common judgment, the available intelligence, of the community takes control over all interests, only insofar as its authority over them is recognized and is effective.<sup>91</sup>

This "search for truth" and respect for truth should begin with the young child, the parent, and the teacher as they try to distinguish the "small fib" and the "white lie," which, while doing little harm to others, may become the "big lie," which may do irreparable harm to others. Then we come to the distinction between a falsification that arises from ignorance, partial knowledge, or mistake and the falsification that is deliberately undertaken with the intention to cover up one's own actions, to control the actions or beliefs of others, or to do actual harm to others. Thus, the laws against perjury and libel incorporate into the polity the moral sense that truth is better than lying and that deliberate untruths are punishable for the sake of the common good and public welfare.

The study and practice of truth-telling become mandates for civic learning at every stage of education for citizenship, not only on the legal stage of "telling the truth, the whole truth, and nothing but the truth," or the philosophical and scientific stage as defined by Mortimer Adler, preeminent encyclopedic philosopher for 50 years:

Just as the truth of speech consists in the agreement or correspondence between what one says to another and what one thinks or says to oneself, so the truth of thought consists in the agreement or correspondence between what one thinks, believes, or opines and what actually exists or does not exist in the reality that is independent of our minds and of our thinking one thing or another.<sup>92</sup>

In this complex and confusing arena of where, how, and why the truth should be told or not told, I can only hint at two aspects deserving of careful study. One has to do with the rights and responsibilities of citizens in seeking or telling the truth about one another; but even more important is the role of government in revealing or hiding the truth from its citizens.

On the first point, I recommend for starters a book entitled *Speaking and Writing Truth* by Robert S. Peck and Mary Manemann, staff members of the American Bar Association's Commission on Public Understanding About the Law. The book is designed to promote study of such topics as libel, obscenity and pornography, censorship of school library shelves, freedom of assembly and group libel, national security and the press, and legal issues involved in the confidentiality of newspaper reporters' sources. The book suggests var-

ious formats for such study, such as mock legislative hearings, town hall meetings, mock trials, and formal debates. Especially useful are the memoranda stating the latest constitutional interpretations affecting each topic.<sup>93</sup>

The second point is not only fraught with fundamental legal and constitutional principles but the most serious political values involved in the control of knowledge and truth by governments. A vast literature has accumulated, especially since World War II, documenting the ways in which totalitarian nations, both Communist and Fascist, and military dictatorships of virtually every hue have enforced controls over the flow of information and use of falsification and lying when it served the purposes of those in control. Deliberately deceiving the public is the essence of a closed society; every coup is immediately accompanied by closing down newspapers and taking over radio and TV stations. We have learned to expect the strangling of truth by dictatorships of the Left and the Right.

What is even more troublesome and alarming is the mounting concern about lack of truth-telling and “plausible deniability” by the governments of democratic and free societies. Major examples in the United States stem from deceptions about Vietnam emanating from the government under Lyndon Johnson, the attempted cover-ups of Watergate under Richard Nixon, and the still unresolved attempts at “disinformation” over Libya in 1986 and the drawn out investigations about who did and who did not tell the truth about Nicaragua and Iran in 1986 and 1987 under the Reagan administration. When trust in the veracity of the presidency and of major government officials declines, the very foundations of a free society are at risk.

As we emerged from the McCarthy era of slander, falsification, and lying, Waiter Lippmann wrote in 1954:

...there are rules of evidence and parliamentary procedure, there are codes of fair dealing and fair comment, by which a loyal man will consider himself bound when he exercises the right to publish opinions. For the right to freedom of speech is no license to deceive, and willful misrepresentation is a violation of its principles. It is sophistry to pretend that in a free country a man has some sort of inalienable or constitutional right to deceive his fellow men. There is no more right to deceive than there is to swindle, to cheat, or to pick pockets. It may be inexpedient to arraign every public liar, as we try to arraign other swindlers. It may be a poor policy to have too many laws which encourage litigation about matters of opinion. But, in principle, there can be no immunity for lying in any of its protean forms.<sup>94</sup>

It should be said that the principle applies no less to those in government who lie to the citizens than to those private persons who swindle on the stock market or on television. Citizens who cannot distinguish between significant truth and plausible falsehoods, beguiling half-truths, or outright lies cannot retain their freedom. Nor can a government that lies to its citizens continue to serve justice and equality, maintain its legitimate authority, or even expect loyalty from its citizens.

### ***Patriotism***

This is one of the most difficult of the cohesive values to make clear and persuasive to American students and teachers in the light of the traumatic events of the past two decades. Our predecessors from the time of the American Revolution spoke of the individual's obligation for the public good in terms of civic virtue, of military service, and of patriotism and loyalty to the new emerging nation as well as duty, discipline, and obedience to moral and religious commandments. These were powerful sanctions for civic education programs for generations, but they have been weakened in the past 50 years.<sup>95</sup> The military defense of the nation as a reason for civic education probably reached its peak in World War II, when a vast majority of the American people genuinely believed that defense against the Nazi and Fascist aggression and the inhuman persecution of minorities justified war on moral grounds.<sup>96</sup> But the Korean War seemed less immediately critical to the safety and security of the United States; and the Vietnam experience convinced large numbers that it was an immoral war and thus not justified as a reasonable cause for patriotism or military service.

In a quite different way, religious sanctions for civic education have also declined, largely as a result of the

very religious and sectarian diversity that made necessary the secularization of public schools and the withdrawal of direct or devotional religious instruction. And the ideological cold war against world-wide communism as a rallying ground for patriotism and civic education, which was so virulent in the McCarthy era,<sup>97</sup> was somewhat muted during an era in which not only co-existence with the Soviet Union but detente in military competition and efforts to conclude strategic arms agreements took on high priority in foreign affairs of both Republican and Democratic administrations. Opening of cultural relations programs with the Soviet Union, the Peoples' Republic of China, and other communist nations reduced the value of anti-communism as the principal justification for civic education. The international crises over terrorism, Lebanon, Libya, Afghanistan, Nicaragua, and Iran began to stoke anti-communism in the 1980's, but, curiously, this did not become a major stimulus to civic education as it had in the past.

A sense of obligation and responsibility manifested by loyalty, patriotism, discipline, and duty is still needed as a social and political glue if the very structure of the democratic polity is to persist, let alone thrive. The schools, of course, cannot alone instill values of personal obligation and responsibility if and when the other major social institutions are preaching and practicing advancement of self and private interests, an argument so persuasively advanced by Robert Bellah and his colleagues.<sup>98</sup> But this is no reason for the schools not to try, by reassessing what they can do and by seeking the aid of all community and public groups that are committed to the value claims of the democratic polity.

My argument is essentially that loyalty, patriotism, discipline, and duty should be defined in terms of the richest fulfillment of the total set of democratic values in the Twelve Tables of Civism (Figure 1). The qualities of obligation or responsibility, now often thought of as old-fashioned or out-of-date, should be judged by the extent to which individuals seek to put them into practice in their own lives and are ready to defend or promote for others the concepts of justice, freedom, equality, diversity, authority, privacy, participation, due process, significant truth, property rights, and international human rights.

The time is past due for bringing patriotism out of the educational closet. The eminent American historian, Merle Curti, put it much more delicately in the Preface to the reissue in 1968 of his *The Roots of American Loyalty*:

The related ideas of "Americanism," patriotism and loyalty have held a large and important place in our public thought and discussion. When this book was published in 1946 no systematic study had been made of either the roots or the growth of American patriotism and loyalty.... Perhaps the academic world felt that the whole matter of patriotism belonged to the twilight zone of the intellect.<sup>99</sup>

Yet, there are signs of a growing effort on the part of some elements in the academic world to bring patriotism out of "the twilight zone of the intellect" and into the daylight of scholarly analysis as well as public discussion.

This is the major contribution of *The Reconstruction of Patriotism* by Morris Janowitz, Lawrence A. Kimpton Distinguished Service Professor in the Department of Sociology and in the College at the University of Chicago. The book will be viewed with suspicion by some in the educational profession simply because they assume automatically that anyone who believes in patriotism as a political value must be coming from a conservative or reactionary ideology. Some historians of education will find fault with some of his history of citizenship education (as I do). Some social scientists will reject his arguments that behavioral and empirical opinion research has damaged education for citizenship, and many will think, "Here we go for indoctrination again."

But I believe that this book should be carefully read, critically analyzed, and used as a springboard for forthright discussion and research to improve our present understanding of patriotism, what role schools should play in promoting civic knowledge and commitment to democratic values, and what appropriate responsibility rests with those who prepare teachers in colleges and universities.

I believe that his book is also important, because it, like Curti's, makes explicit that any defensible concep-

tion of citizenship in a democracy must take account of the dynamics as well as the dangers of patriotic sentiments and loyalties and must spell out the educational means by which they are nurtured and energized. Curti defined patriotism as “love of country, pride in it and readiness to make sacrifices for what is considered its best interest.”<sup>100</sup>

At the very beginning of his book, Janowitz relates the idea of allegiance and obligation directly to the idea of citizenship and civic education:

A citizen is a person who owes allegiance to a specific government and is entitled to protection from that government and to the enjoyment of certain rights. It is widely recognized that effective citizenship rests on a rigorous and viable system of education which informs the individual of his civic rights and obligations. The long term trend, however, has been to enhance citizen rights without effective articulation of citizen obligations. To restore a meaningful balance between the two is, in my view, the core issue in citizenship and civic education.<sup>101</sup>

The theme of “restoring a meaningful balance” between rights and obligations runs throughout the book. It is a theme that is readily applauded by conservative sources, whether organized on a large scale by politicians in Washington, business, or religion, or whether rising from myriad localities, schools, and families in the call for more discipline, responsibility, hard work, and character. But it is a theme that deserves better than knee-jerk rejection by liberals or mindless acceptance by conservatives.

In the bulk of his book Professor Janowitz deals with the major institutions for civic education: military service as civic education; civic education in school and college; and national or community service as agencies of civic education.

While the sections devoted to schooling may be of greatest interest to educators, it is salutary to be reminded of the role of the citizen-soldier in the American Revolution in which “military service emerged as the hallmark of citizenship and citizenship as the hallmark of political democracy.”<sup>102</sup> Janowitz argues that with the decline of universal, obligatory military service through conscription and the rise of an all-volunteer (or mercenary) force, the contribution of the armed forces to civic education has also declined. With regard to the idea of national service, Janowitz speaks wistfully of the Civilian Conservation Corps and the failure to update the CCC as well as the Job Corps, VISTA, the Teacher Corps, and the Peace Corps.

Perhaps Janowitz was more prophetic than he knew. There are signs today of a revival of enthusiasm for public and community service on college campuses. New interest in youth service is illustrated in a research study completed in 1986 for the Ford Foundation by Richard Dandg and Peter Stanton in which four models are outlined: mandatory school-based programs; a national draft, including an option for military or civilian service; federally supported all-voluntary service (as introduced by Congressman Leon Panetta (Democrat, California) in the 98<sup>th</sup>, 99<sup>th</sup> and 100<sup>th</sup> Congresses); and universal service that could be completed at any age.<sup>103</sup>

Finally, in his chapter on “Academic Frontiers in Civic Education” Janowitz argues that the decisive element in weakening civic education after 1945 was the increasing reliance upon the behavioral sciences and a behavioral science analysis of contemporary society: “In effect, civic education became mainly the study of a series of discrete ‘social’ and ‘political’ problems plus an overview of contemporary patterns of political participation and attitudes;” and “the social science base of civic education increasingly ignored the balance between rights and obligations.”<sup>104</sup>

In summary, Janowitz puts the matter this way:

Social and political realism cannot substitute for self-critical patriotism and enlightened nationalism that is, exposure to the materials of civic education designed to enhance civic consciousness. In short, if civic education is designed to prepare the student for responsible social and political obligations, it must be more than a series of calls for increased political participation.<sup>105</sup>

This is in effect calling for a more normative approach to the idea of citizenship and to civic education. It

represents a growing and, I think, a most important recent trend by liberal as well as conservative journalists and scholars in several of the academic disciplines who are seeking to reformulate a valid normative meaning for citizenship.

I can mention only a few examples of a renewed interest in patriotism across the spectrum of ideological and political points of view: Michael Walzer's course on political obligation at Harvard in the late 1960's; political scientist Duane E. Smith (UCLA) on the case for patriotism in 1973; John W. Gardner on patriotism in his book on *Morale* in 1978; Norman Lear on founding People for the American Way in 1981, exclaiming "Call me a liberal or a moderate or a progressive, but it's my flag too;" Jack Beatty, in 1981 an editor of *The New Republic* and now a senior editor at the *Atlantic*, on "The Patriotism of Values" that are liberal and humane and should not be given away to conservatives; R.W. Apple, Jr. on "New Stirrings of Patriotism" upon returning to the United States in 1983 after seven years in London for *The New York Times*; Republican Senator Onin G. Hatch on "Civic Virtue" as he viewed the founders of the republic; Neely D. McCarter, president of the Pacific School of Religion, calling on the mainline churches of America in 1986 to reaffirm their role in promoting patriotism; and the call by a newly organized Patriotic Majority to enact a patriotic agenda for the 100<sup>th</sup> Congress beginning in 1987.<sup>106</sup>

The patriotic revival associated with President Reagan's appeal in the early 1980's, the invasion of Grenada in 1983, the Olympic Games of 1984, and innumerable campaign speeches in 1984 apparently had given the patriotic edge to conservatives. The direct attack by the Patriotic Majority on the policies and actions of the first six years of the Reagan administration warned that liberals would make a "rebirth of patriotism" a fundamental plank in their agenda for foreign and military policies, economic and environmental policies, civil liberties, and international human rights.

The longer term test, however, will be whether American education can strengthen the sense of community and cohesion among succeeding generations through stress upon civic virtue and personal obligation for the public good without weakening the struggle for freedom, diversity, due process, and human rights. The closet door may be opening a bit in the academic world and in the public press, but the task of reconstructing the idea of patriotism and citizenship is formidable, and the task of designing appropriate educational programs dedicated to "civic consciousness," or "civic intelligence," or "civic learning" is even more monumental. Important as Fourth of July statements may be, useful as scholarly analysis like that of Janowitz and others undoubtedly is, the real burden of carrying out long-term effective programs of civic education rests with professionals in education collaborating with their academic and public counterparts.

The book by Janowitz and the shorter articles mentioned here may help to legitimize debate about patriotism and citizenship in the academic world, but they do not formulate curriculum content or substance for educational programs in the schools, in the colleges, or in teacher education.

### **Human Rights**

Today, the obvious interdependence of the world requires that civic virtue or patriotism should encompass a wider moral element than only the need to defend the American public order when it is threatened from within our national boundaries or from without. It reminds us that the super-jingoistic patriotism, which in the past has often been narrowly conceived as loyalty or obligation to one's own nation, right or wrong, must now be imbued with a broader outlook that honors the world's diversity of peoples but also seeks a new and larger cohesion based upon the concepts of common human rights.

So I come, finally, to a value for American civic education that I believe requires a basic change in our historical views and values of citizenship. The idea of national citizenship must now take account of the vast changes in the world situation that have burst on our consciousness since the end of World War II. Increasingly popular terms to define the set of phenomena that began with Wendell Wilke's "One World" in the 1940's are now "global interdependence," "global perspectives," or simply "global education."<sup>107</sup>

I recognize that the term “global education” has been attacked by political and religious conservatives on the ground that it seeks to denigrate true American values, or that it sees no superior values in the American way of life and thus preaches a kind of “moral relativism” or “moral neutrality.”<sup>108</sup> I hope that no one could read and understand the first eleven of my tables of civism and still think that I see no superior values in the ideals of American citizenship. But in preference to global education I advocate the term “international human rights” or simply “human rights” as a device to broaden civic education for Americans and yet not get overwhelmed by trying to cover all aspects of study of all the world's peoples and cultures.

In fact, I come very close to the definition of global education set forth in the report by the Study Commission on Global Perspectives in Education chaired by Clark Kerr, which outlines what students need to know to function as citizens of the United States in an increasingly interdependent world.<sup>109</sup> In this effort, the United States should not try blatantly to export our “cultural” or “political imperialism” to peoples who have chosen a different way. But if the world is truly interdependent and U.S. citizenship is genuinely devoted to democratic values, then global study should be searching for and preferring democratic answers to global issues as well as simply understanding the reasons for diverse views.

The idea and practice of citizenship itself as conceived in various nations could be a major theme for this study. What does citizenship mean for Christians and Moslems in Lebanon, for blacks in South Africa, for Jews and dissidents in the Soviet Union, for ethnic and language groups in India, Sri Lanka, China, or Nigeria, and for new immigrants to the United States? A greater attention to human rights would give opportunities to address the positive aspects of democratic values and the obstacles or threats to such rights in various national approaches to citizenship. There is not only the danger of trying to do too much in too scattered and superficial a fashion, but there is also the danger of competition in the school curriculum between civic education, global education, and multicultural education. These three efforts to redirect the school curriculum are often carried out independently of one another. There has been too little effort to interweave the three and too little recognition of their natural affinity. Indeed, they are often disparate, and even sometimes antagonistic, in their impacts or pressures upon the schools.

Global education includes a variety of efforts to internationalize the perspectives of American citizens in light of the realities of global interdependence of nation states and the need for a peaceful and secure world community. Multicultural education arose from the pluralist effort to enhance the distinctive cultural traditions of the different ethnic and racial groups that comprise American society. And the revival of citizenship education in the effort to generate greater social and civic cohesion and commitment to the historic democratic political values basic to a common American citizenship has often neglected the other two and been neglected by them. Clearly, these three movements all directly address the national interest; they all three should aim to improve our capacities for living humanely and justly with one another; they all three aim to improve our understanding of intercultural and international conflict and our ability to resolve it.<sup>110</sup>

Civic education for interdependence means that basic civic literacy for American citizenship must include a reasoned awareness and understanding of the varying ways of life in other cultures, the emerging world economic and political system, the role of international organizations in international cooperation, and the intimate ways in which global problems impinge upon American communities, large and small. Basic questions of foreign policy and America's role in the world constitute a major share of the judgments that American political leaders must make and of the judgments that American citizens must in turn make of their political leaders and their policies. For that reason, the effectiveness of American foreign policy can be no better than the political sophistication of the decisions Americans make about their leaders. And the quality of political decisions made by leaders and citizenry alike may well be more important than a single-minded stress on making America competitive in a world-wide economic marketplace.

The historic pluralism of American society is a striking example not only of the international comings and goings of millions of people across the continents and across the seas but of the successes of the United

States in building a genuinely cohesive as well as pluralist democratic society despite persistent racism, nativism, segregation, discrimination, and inequality.<sup>111</sup> While a threefold stress on civic community in the United States, on cultural pluralism, and on the need for world community are important, I believe that we should pay particular attention to building a healthy democratic American polity, serving well the values of cultural pluralism at home and global interdependence abroad.

My principal argument, then, is that these three major drives in American education are rightly interdependent; that keeping these movements separate is essentially artificial and constitutes a distortion of the logic that binds them together; that reasoned awareness of and respect for disparate cultures is increasingly necessary in a world of international conflict; that international security for the United States is inseparably tied to the maintenance of an intelligent, informed citizenry; and that an intelligent citizenry is necessary to the maintenance of a society free of intolerance, racism, sexism, and ethnocentric behavior.

I believe that we should try to select from the almost infinite masses of information those elements of world studies that focus on international human rights and illuminate the other eleven concepts in my table of civic values. Study of international human rights should be linked to questions of justice, freedom, equality, diversity, authority, privacy, due process, truth-telling, property rights, and participation, illustrating how these values are honored or violated in various nations and in the relations among nations.

Examples of the interplay between cohesive civic values and diversifying pluralist values are especially pertinent in the realm of human rights. They can come from the worst examples of genocide culminating in the Holocaust of Hitler's Germany, or the devastation resulting from arbitrary rule in Amin's Uganda, or outbreaks of terrorism all over the world. They can come from positive gains for human rights in Poland, Argentina, and elsewhere. They can come from study of dissidents seeking and being denied freedom and due process in Iran, China, Cuba, or the Soviet Union, or in military dictatorships in the Philippines or Haiti or Chile.

And closer to home, they can be illustrated by the problems for human rights arising from the influx of Cubans to Florida and Mexicans, Vietnamese, and Koreans to California. Historic problems of immigration, nativism, segregation, and integration are all revived in contemporary confrontations over international as well as domestic human rights. In accordance with a law passed by the California Assembly in 1985 the State Department of Education drew up and the State Board of Education adopted in September 1987 a model curriculum on Human Rights and Genocide to be incorporated in existing courses in history/social science for grades 7-12 inclusive. And, I would urge that a complementary study of some of the basic documents that set forth contemporary statements of international human rights should be undertaken for the sake of comparison and contrast.<sup>112</sup>

The twofold aim of such study is to consider how to improve the American political system as well as to consider how the United States could play a more constructive and humanitarian role in the world. Of particular interest and importance would be a study of the Helsinki Final Act of 1975 in which the Soviet Union and its East European Allies agreed with the North Atlantic Treaty Nations to promote human rights. A comparison of the Final Act with the earlier UN formal documents and with later practices as revealed and discussed at general meetings in succeeding years at Belgrade, Madrid, and Vienna and at a special meeting in Ottawa in 1985 would reveal how far short the Communist nations have fallen from the agreement. Yet, the release of Anatoly Shcharansky, Yuri Orlov, and Andrei Sakharov under Mikhail Gorbachev might also reveal that steadfast promotion of the ideals of human rights was having an effect.

If, in addition, the study of international human rights could follow something like the "Journey Among Tyrants" reported by A.M. Rosenthal, formerly executive editor of *The New York Times*, the road to civic learning might lead to "standing up for political freedom" against the tyrannies of both left and right, both at home and abroad.<sup>113</sup> Study of the fate of the twelve tables of civism could enhance understanding of South Korea, Haiti, Indonesia, Chile, and South Africa as well as of the Soviet Bloc, Afghanistan, Nicaragua, or

Cuba.

A concerted revival of this kind of civic learning at all levels of the educational system could most appropriately take place during the decades that begin with the two-hundredth anniversary of the framing and adoption of the Constitution and of America's own blueprint for a Bill of Human Rights.

One of the most extensive and detailed programs that I know about is the two-year course on global studies required in grades 9 and 10 in New York State. The rationale is stated as follows:

The syllabus for grades 9-10 provides students with the opportunity to study other nations and their cultures within a framework that is designed to develop a global perspective. This approach aims to cultivate in students knowledge, skills, and attitudes needed to function effectively in a world characterized by ethnic diversity, cultural pluralism, international and domestic violence, and increasing interdependence.

The two-year program is predicated on the assumption that competency for citizenship in the next century has two elements. The first is that the role of Western Europe in shaping our own values and institutions must not be neglected. For example, the Judeo-Christian values of justice, the Greek and Roman contributions to the idea of citizenship, the Enlightenment attitude of inquiry, and the English definition of civil liberties and the sharing of fundamental powers should be fully explored.

The second is that citizenship education must now transcend its customary limitations to the institutions and societal patterns that characterize Western Civilization....

These citizenship competencies require the acquisition of a baseline of knowledge of the major heritages of humankind and of the historical forces that have shaped them. In this regard, no one culture can serve as a surrogate of another.<sup>114</sup>

The two-year course deals with seven major regions of the world and their interrelationships: Africa, South and Southeast Asia, East Asia, Latin America, the Middle East, Western Europe, and the Soviet Union and Eastern Europe. Five themes are suggested to run through the study of each region: the physical/historical setting; the dynamics of change; the process of nation-building; economic development; and the region within the global context. This regional or area-studies approach contrasts sharply with the chronological world history approach characterizing the California framework. Whichever is chosen, I believe the citizenship theme offers a coherent thread of understanding for students faced with vast amounts of sheer information.

As the United States embarks upon its third century, the role of education is fortunately regarded as a high priority in our national life. There are clamorous demands that education must sharpen the competitive edge of the United States in the world economy. Others argue that the schools should return to the safe harbors of traditional moral and religious values as embodied in the Judeo-Christian heritage and Western civilization. Still others call for piloting the schools through the uncharted shoals of moral choice by means of cultural literacy, intellectual excellence, or critical thinking. These views have their many persuasive advocates, but I believe there is a still more cogent priority.

This book argues for revitalizing the historic civic mission of American education. This means explicit and continuing study of the basic concepts and values underlying our democratic political community and constitutional order. The common core of the curriculum throughout school and college years should be the morality of citizenship. For this goal to be realized, scholarly study of civic morality should be the first priority in the liberal and professional education of the teaching profession. In the long run, the intellectual, moral, and political agenda for American education, its curriculum, its common life, and its governance must rest upon the study and practice of the obligations as well as the rights of democratic citizenship.

### ***Postscript***

As this book was finally going to press in the waning weeks of the 1987 Bicentennial year and in the opening weeks of the 1988 election year, the issues treated here were, if anything, flaring up with increased intensity. Clearly, they would not soon or easily disappear. There is no way that a published book can keep up

with fast-breaking events that bear on the fundamental role of schools in preparing youth for citizenship. Within the scope of a single week in January the Supreme Court sent mixed messages to school officials, teachers, students, and parents regarding their respective rights and authority under the Constitution. In one case, the Court (5-3) said that school authorities could limit the expression of student ideas in newspapers published in journalism courses conducted by the school, because a student newspaper is not “a forum for public expression,” and thus the First Amendment rights of students “are not automatically coextensive with the rights of adults in other settings.” Writing for the majority, Justice Byron R. White stated that this case was different from *Tinker*, where a school simply tolerated non-disruptive student speech; whereas in *Hazelwood* the school properly exerts

Educators’ authority over school-sponsored publications, theatrical productions, and other expressive activities that students, parents, and members of the public might reasonably perceive to bear the imprimatur of the school. These activities may fairly be characterized as part of the school curriculum.... A school must also retain the authority to refuse to sponsor student speech that might reasonably be perceived to ...associate the school with any position other than neutrality on matters of political controversy (*Hazelwood School District v. Kuhlmeier*, 86-836).

In his fiery dissent Justice Brennan claimed the majority was teaching the wrong “civics lesson” on the meaning of the First Amendment in education for citizenship. He argued that the majority has mistakenly distinguished *Hazelwood* from *Tinker* and that the student newspaper was indeed

...a forum established to give students an opportunity to express their views while gaining an appreciation of their rights and responsibilities under the First Amendment to the United States Constitution....

*Tinker* teaches us that the state educator’s undeniable, and undeniably vital, mandate to inculcate moral and political values is not a general warrant to act as “thought police” stifling discussion of all but state-approved topics and advocacy of all but the official position. Otherwise educators could...cast a perverse and impermissible “pall of orthodoxy over the classroom...”

Instead of “teach[ing] children to respect the diversity that is fundamental to the American system” and “that our Constitution is a living reality, not parchment preserved under glass,” the Court today “teach[es] youth to discount important principles of our governments as mere platitudes.” The young men and women of Hazelwood East expected a civics lesson, but not the one the Court teaches them today.

The following week Justice Brennan wrote for the majority (6-2) that school officials did *not* have the authority to expel handicapped children without due process, even if they were disruptive of the school environment (*Honig v. Doe*, 86-728). Both decisions aroused applause from some commentators in the press and TV, and consternation among others. This interplay among the civic values of freedom, justice, equality, authority, privacy, and due process revealed continuing deep cleavages in public and professional opinion as well as in the courts. And the prospect was that still more volatile issues might be working their way up the courts in litigation seeking to prohibit federal funds from going to parochial schools for the education of disadvantaged children or removing tax exemption for church agencies that sought to exert political or educational influence regarding abortion rights of teenagers.

Still other aspects of constitutional rights in education were focusing front page attention on matters of equality, discrimination, segregation, and affirmative action. The Congress was passing the Civil Rights Restoration act specifically designed to overcome the Supreme Court’s decision in *Grove City College v. Bell* regarding the use of federal funds by colleges that practice gender discrimination. And federal judges in Boston, Austin, Oklahoma City, and scores of other communities were deciding whether school integration practices under the orders of the courts had gone far enough to justify lifting their surveillance initiated by the *Brown* decision of 1954 and numerous subsequent decisions of lower and higher courts.

Meanwhile, as the election year warmed up. all the presidential candidates promised their loyalty to improving education, as did candidates for Congress, governorships, and state legislatures. But, only a few were talking about the role of the schools in education for citizenship. Rather strange for a profession that lives on

the suffrage of citizens. "Moral and ethical values" seemed to be food vote-getters, while most candidates stayed away from "religious values" as too touchy.

Still, the expressed concern of political leaders to improve education could be a heartening development, especially if their attention could be focused on elevating education for the "office of citizen," a role which all youth should be prepared to fill. From such a base, perhaps the educational system could not only raise the percentage of eligible voters who actually vote (the U.S. is now lowest among 28 democratic countries), but also increase their informed judgment when they do vote; and in the long term elevate the commitment of increasing numbers of youth to devote themselves to preparation for a career in the public service, as Paul Volker and a number of university presidents have recently urged.

A new and intriguing Gallup study of the electorate was issued by Times Mirror in brief summary form in September 1987, entitled *The People, the Press & Politics*. Arguing that conventional labels of conservative, liberal, Republican, Democrat, or independent no longer reveal the diversity of the electorate's views, the study constructs a new typology. People are classified not only according to party preferences but according to several basic values and orientations, such as religious faith and belief in God, tolerance toward the beliefs of others, attitudes toward the government's obligations to insure social justice, militant anti-communism, alienation and feelings of powerlessness, and attitudes toward the proper role of government and business corporations.

Even more intriguing are the terms of the typology of voters and their estimated percentages in the adult population: Enterprise Republicans (10%); Moral Republicans (11%); Upbeats (9%); Disaffecteds (9%); Bystanders (11%); Followers (7%); Seculars (8%); 60s Democrats (8); New Deal Democrats (11%); The Passive Poor (7%); and The Partisan Poor (9%).

Whatever the merits of the complete Times Mirror study may be upon its publication by Addison-Wesley in 1988, one or two things are clear. A low level and a low quality of education are closely related to a low level (not to judge quality) of education. The Followers, the Partisan Poor, the Passive Poor, and the Bystanders are all identified as "less well" or "poorly" educated. Together, they represent 34% of the adult population. Note particularly the Bystanders: "Young, poorly educated and marked by an almost total lack of interest in current affairs" they are "non-participants in American democracy" (p. 14).

A cynic might say that it is just as well for the poorly educated *not* to be active politically; better to leave politics to the well-educated. But that would be to ignore at our peril Jefferson's warning: "If a nation expects to be ignorant and free in a state of civilization it expects what never was and never will be."

So, beyond the election year of 1988 remains the task of reformulating the guidelines for what the schools should teach in order to prepare the young for citizenship. This includes what the schools should teach by their practices, environment, and governance as well as by their curriculum, textbooks, and ideas. Professionals and academics in education, history, jurisprudence, the social sciences, and the humanities are divided on these matters, as the forgoing chapters reveal. Little wonder that the public is also uncertain and divided.

Some of the leading contemporary cast of characters in these disputes will undoubtedly continue to play leading roles. One cannot predict with certainty which ones will star nor for how long. Chief Justice Rehnquist and Justice Scalia will certainly continue to uphold constitutional doctrines of original intention on the Supreme Court, and judge Bork has resigned his position as an appellate judge in order to continue speaking out in the public forums. Justices Brennan and Marshall will continue their leading liberal roles as long as they remain on the Court in the hope that understudies are ready to carry on their views.

Whether William J. Bennett will continue beyond the election of 1988 as Secretary of Education is not settled, but his speaking and writing will very likely continue to play a part in the professional and public debates regarding the place of history, geography and civics in the social studies as set forth in his *James Madison High School*. Bennett's clear, forceful, and often contentious views have made the content of education a

topic of public and media discussion for beyond the purely professional forums. Not only do historians and social studies professionals enter the fray, but the daily columnists in local and national press continue to have their say. James J. Kilpatrick applauds school authority exerted over school newspapers; Ellen Goodman finds “a scent of authoritarianism” in the *Hazelwood* decision and in *James Madison High School*.

Undoubtedly, such volatile and sometimes inflammatory issues as described in this book will continue to be debated in the public space of the media, legislation, and litigation. But, as I stated in the Preface, the task of revitalizing the historic mission of American civic education requires the sustained attention of the scholarly community, the educational profession, and the public. It will take their combined efforts to stimulate and inform the outlooks of those who do the curriculum-making, the textbook-writing and publishing, and the teaching and administering of schools as well as of those in educational policy-making positions. The heart of the matter is a defensible conception of the morality of American citizenship, a conception that can be transformed into the substance and practices of the educational enterprise.

[http://www.civiced.org/papers/morality/morality\\_ch4a.html](http://www.civiced.org/papers/morality/morality_ch4a.html) acedido em 29 de abril de 2018

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<sup>1</sup> Benjamin R. Barber's review of Arthur M. Schlesinger, Jr., *The Cycles of American History* (Boston: Houghton Mifflin, 1986) in *The New York Times Book Review*, November 16, 1986.

<sup>2</sup> R. Freeman Butts, *The Revival of Civic Learning: A Rationale for Citizenship Education in American Schools* (Bloomington, Ind.: Phi Delta Kappa Educational Foundation, 1980), p. 128.

<sup>3</sup> *History-Social Science Framework for California Public Schools; Kindergarten Through Grade Twelve* (Sacramento, Calif.: California State Department of Education, 1981).

<sup>4</sup> Quoted in Paul Monroe, ed., *Source Book of the History of Education for the Greek and Roman Period* (New York: Macmillan, c. 1901, 1908), p. 345. In the first half of the 20th century, prospective teachers for American schools often studied the history of ancient, medieval, and modern education. See R. Freeman Butts, *The Education of the West: A Formative Chapter in the History of Civilization* (New York: McGraw-Hill, 1973). This book, a successor to my *A Cultural History of Western Education*, 1947 and 1955, has been out of print since 1977.

<sup>5</sup> John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971); Michael J. Sandel, *Liberalism and the Limits of Justice* (New York: Cambridge University Press, 1982); Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983); Donald M. Dworkin, *A Matter of Principle* (Cambridge, Mass.: Harvard University Press, 1985); Lawrence Friedman, *Total Justice* (New York: Basic Books, 1985); and Bruce A. Ackerman, *Social Justice in the Liberal State* (New Haven, Conn.: Yale University Press, 1980).

For curriculum materials, suitable for kindergarten–12th grades, see Law in a Free Society, *Justice* (Calabasas, Calif.: Center for Civic Education, 1979); and *Update on Law-Related Education* (Chicago: American Bar Association, Spring 1987).

<sup>6</sup> Rawls, *Theory of Justice*, p. 5.

<sup>7</sup> *Ibid.*, p. 302.

<sup>8</sup> *Ibid.*, p. 61.

<sup>9</sup> *Ibid.*, p. 302.

<sup>10</sup> *Ibid.*, p. 61.

<sup>11</sup> See, e.g., Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974); and William R. Torbert, "Doing Rawls Justice," *Harvard Educational Review*, November 1974.

<sup>12</sup> Walzer, *Spheres of Justice*, p. 203.

<sup>13</sup> For my views on freedom, worked out in the crucible of the McCarthy era in the 1950s, see R. Freeman Butts, "Freedom and Responsibility in American Education," *Teachers College Record*, December 1952, pp. 117-124; and "The Free Man in the Free Society," Chap. 12 in *What Is the Nature of Man? Images of Man in Our American Culture* (Philadelphia: Christian Education Press, 1959), pp. 146-160.

<sup>14</sup> Alexander Meiklejohn, *Political Freedom; The Constitutional Powers of the People* (New York: Harper, 1948, 1960), pp. 35-36. See Justice William J. Brennan, Jr. "The Supreme Court and the Meiklejohn Interpretation of the First Amendment," *Harvard Law Review*, November 1965.

<sup>15</sup> *Ibid.*, pp. 3-4.

<sup>16</sup> See Robert O'Neil, *Classrooms in the Crossfire* (Bloomington, Ind.: University of Indiana Press, 1980). For an excellent high school text on freedom, see Isidore Starr, *The Idea of Liberty: First Amendment Freedoms* (St. Paul, Minn.: West Publishing Co., 1978). See also several issues of the quarterly published by the American Bar Association, *Update on Law-Related Education*, especially the issues on Freedom, Free Press, and First Amendment, Spring 1985; Fall 1985, and Winter 1986; and special section on "Academic Freedom, Censorship, and the Social Studies," *Social Education*, October 1987, pp. 424-449.

<sup>17</sup> See Leonard W. Levy, Kenneth L. Karst, and Dennis J. Mahoney, eds., *Encyclopedia of the American Constitution* (New York: Macmillan, 1986), articles entitled: Academic Freedom; *Adler v. Board of Education*; Bill of Rights; Civil Liberties; Establishment of Religion; Family and the Constitution; First Amendment; Freedom of Association; Freedom of Petition; Freedom of the Press; Freedom of Speech; Loyalty Oaths; Public Forum; Religion in Public Schools; Religious Liberty; Separation of Church and State; Virginia Statute of Religious Liberty.

<sup>18</sup> *Wieman v. Updegraff*, 344 U.S. 183 (1952).

<sup>19</sup> *Adler v. Board of Education*, 342 U.S. 485 (1952).

<sup>20</sup> *Keyishian v. Board of Regents*, 385 U.S. 589 (1967).

<sup>21</sup> *Tinker v. Des Moines*, 393 U.S. 503 (1969). The ruling of the Supreme Court (5-4) in *Bethel School District v. Fraser*, 54 USLW 5054 in July 1986 may have weakened *Tinker* by asserting that socially inappropriate behavior by students (lewd, indecent, or offensive speech) does not have the same protection as political speech. Still other dimensions to student rights of freedom of speech may appear when the Supreme Court decides a case involving prior restraint on articles planned for a high school newspaper dealing with teenage pregnancy and parental divorces (*Hazelwood School District v. Kuhlmeier*, No. 86-836).

<sup>22</sup> See Levy, *Encyclopedia of the American Constitution*, articles entitled: Affirmative Action; *Brown v. Board of Education*; Children's Rights; Civil Rights; Civil Rights Act of 1964; Desegregation; Discrete and Insular Minorities; Equal Protection of the Laws; Fourteenth Amendment, Incorporation; Racial Discrimination; Racial Quotas; Segregation; Separate But Equal Doctrine; Sex Discrimination. See also American Bar Association's *Update on Law-Related Education*, Spring 1987; Spring 1981; and Fall 1981.

- <sup>23</sup> Edmund Morgan, "Conflict and Consensus in the American Revolution" in Stephen G. Kurtz and James H. Hutson, eds., *Essays on the American Revolution* (Chapel Hill, N.C.: University of North Carolina Press, 1973), p. 308.
- <sup>24</sup> *Brown v. Board of Education*, 347 U.S. 483 (1954). The excruciating tension between the majestic ruling of the Supreme Court and the tugs of local warmth of home, church, tavern, and neighborhood is vividly portrayed in the lives of three families in Boston wrenched by the demands of desegregation; see J. Anthony Lukas, *Common Ground: A Turbulent Decade in the Lives of Three American Families* (New York: Knopf, 1985). After 15 years of intense community turmoil, the U.S. Court of Appeals for the First Circuit on September 29, 1987 overturned District Judge W. Arthur Garraty's orders, beginning in 1974, requiring the Boston School Committee to use racial guidelines in assigning students to the public schools.
- <sup>25</sup> *Milliken v. Bradley*, 418 U.S. 717 (1974).
- <sup>26</sup> See especially Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality* (New York: Knopf, 1976); and Gary Orfield, *Must We Bus? Segregated Schools and National Policy* (Washington, D.C.: Brookings Institution, 1978). The Harris poll was reported in *Education Week*, January 21, 1987, p. 6. For a short recent analysis, see Hugh W. Speer, "The Case of the Century: Brown v. Board of Education of Topeka," in *this Constitution*, Spring 1987, pp. 24-32. For a review of several recent books dealing with the busing question in Nashville, Mecklenburg, North Carolina, and Boston, see Ronald D. Cohen, "To Bus or Not to Bus? That Is the Question," *History of Education Quarterly*, Fall 1987, pp. 379-386.
- <sup>27</sup> *Columbus Board of Education v. Penick*, 443 U.S. 449 (1979) and *Dayton Board of Education v. Brinkman*, 443 U.S. 526 (1979).
- <sup>28</sup> *Keyes v. School District No. 1*, 413 U.S. 189 (1973).
- <sup>29</sup> *The New York Times*, February 26, March 1 and 6, 1978; and "20 Years After the Kerner Report," February 29, 1988.
- <sup>30</sup> For an early judgment of the case, see Joel Dreyfuss and Charles Lawrence, 3d, *The Bakke Case* (New York: Harcourt Brace Jovanovich, 1979). For a later judgment, see Levy, *Encyclopedia of the American Constitution*, article on *Regents of the University of California v. Bakke*.
- <sup>31</sup> *United Steel Workers of America v. Weber*, 443 U.S. 193 (1979); and *Wygant v. Jackson (Mich.) Board of Education*, 106 S Ct 1842 (1986).
- <sup>32</sup> *Local 93 of the International Association of Firefighters v. City of Cleveland*, 106 S Ct 3063 (1986); *Local 28 of the Sheet Metal Workers v. Equal Employment Opportunity Commission*, 106 S Ct 3019 (1986); and *United States v. Paradise*, No. 85-999.
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- <sup>34</sup> *Johnson v. Transportation Agency, Santa Clara County*, No. 85-1129.
- <sup>35</sup> *St. Francis College v. Al-Khazraji*, No. 85-2169; and *Shaare-Tefila Congregation v. Cobb*, No. 85-2156.
- <sup>36</sup> *Grove City College v. Bell*, 465 U.S. 555.
- <sup>37</sup> David K. Kirp, Mark G. Yudof, and Marlene Strong Franks, *Gender Justice* (Chicago: University of Chicago Press, 1986). See also special section on "Women in Education," *Phi Delta Kappan*, March 1986.
- <sup>38</sup> Nathan Glazer, *Affirmative Discrimination; Ethnic Inequality and Public Policy* (New York: Basic Books, 1974), Chapter 1; Robert H. Wiebe, *The Segmented Society; An Historical Preface to the Meaning of America* (New York: Oxford University Press, 1975); Milton M. Gordon, *Assimilation In American Life: The Role of Race, Religion, and National Origins* (New York: Oxford University Press, 1964); and John Higham, "Integration vs. Pluralism: Another American Dilemma," *The Center Magazine*, July/August 1974, pp. 67-73.
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- <sup>44</sup> *Plyler v. Doe*, 457 U.S. 202 (1982).
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- <sup>46</sup> See *Education Week*, June 17, 1987.
- <sup>47</sup> *Lau v. Nichols*, 414 U.S. 563 (1974).
- <sup>48</sup> See a special report on "Bilingual Education: Language, Learning, and Politics," *Education Week*, April 1, 1987, pp. 19-50; also March 18, 1987 and March 25, 1987.
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- <sup>51</sup> *The New York Times*, January 24, 1974.
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- <sup>56</sup> For excellent curricular materials for grades K-12, see Law in a Free Society, *Authority* (Calabasas, Calif.: Center for Civic Education, 1977). For constitutional issues, see Levy, *Encyclopedia of the American Constitution*, articles on Compelling State Interest and Federalism.
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- <sup>59</sup> *Grissold v. Connecticut*, 381 U.S. 479 (1965); and *Roe v. Wade*, 410 U.S. 113 (1973).
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- <sup>61</sup> *Wort v. Vierling*, U.S. District Court for the Central District of Illinois, September 1984; 778 F 2nd 1233.
- <sup>62</sup> *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).
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<sup>106</sup> Michael Walzer, *Obligations: Essays on Disobedience, War, and Citizenship* (Cambridge, Mass.: Harvard University Press, 1970); Duane E. Smith, "The Case for Patriotism," *Freedom at Issue*, May-June 1973, pp. 9-13; John W. Gardner, *Morale* (New York: W.W. Norton, 1978); People for the American Way, *Quarterly Report*, June 1981, p. 1; Jack Beatty, "The Patriotism of Values," *The New Republic*, July 4 and 11, 1981; R. W. Apple, Jr., "New Stirrings of Patriotism," *The New York Times Magazine*, December 11, 1983; Orrin G. Hatch, "Civic Virtue: Wellspring of Liberty," *National Forum*, Fall 1984, pp. 34-38; Neely D. McCarter "The Church and Patriotism," *Pacific School of Religion Bulletin*, Fall 1986; The Patriotic Majority, "Toward a Patriotic Rebirth: A Patriotic Agenda for the 100th Congress," adv., *The New York Times*, January 25, 1987, p. 24.

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