"If Men Were Angels": The Normative Role of Schools in Fostering Civic Virtue

William Bryner
"If Men Were Angels":
The Normative Role of Schools in Fostering Civic Virtue

by
William M. Bryner

The April 1992 riots in Los Angeles, California reemphasized a decline in the American social environment and highlighted the need for new methods by which to remedy this degradation. For a solution to this problem, this paper looks to the Founding Fathers’ conception of civic virtue, the voluntary moderation of one’s self-interest for the good of the community. Further, a functional rethinking of the role of public schools is set forth in which schools play a key role in fostering civic virtue. Finally, a moderate reform of constitutional adjudication is proposed which would enable public schools to more adequately accomplish this task.

I. Introduction

The title of this essay conveys a special and perhaps ironic significance in modern American society. The phrase, first employed by James Madison (writing under the pen name Publius) in Federalist, Number 51 ("If men were angels, no government would be necessary" [Hamilton, Jay, and Madison 1987, 281]) inspires two key observations. First, simply put, men are not angels, as the very existence of government testifies. Second, because of this, one of the necessary functions of government is to guard against man’s imperfections. Angels presumably require no supreme authority to ensure adherence to law; they are entirely self-governing. Error-prone humans, on the other hand, do require just such an authority.

The tragic 1992 riots in Los Angeles have added a fresh meaning to Madison’s words. Perhaps no other event in recent years has verified Madison’s statement more than the spirit of anarchy which overtook and ruled that city before government could restore order. Nowhere were man’s "less-than-angelic" qualities more evident than in the city whose name literally means "The Angels."

The Los Angeles incident raises the question: What can be done to prevent such a situation from recurring? This essay will attempt to answer this question by constructing a theoretical framework within which many of the ills of the socio-political environment would be abated. As the subtitle indicates, the essay will look to the normative power of schools as an instrument to nourish the civic virtue upon which American political institutions rest.

This thesis—that schools can and must play a key role in fostering civic virtue if the social condition is to improve—provides the essay’s basic structure. Part II will attempt to define civic virtue and emphasize its primacy in the American Founding. Part III will then analyze the special potential of schools, assess their unique position which makes them key actors in encouraging virtue, and suggest some specific measures which ought to be considered to enable schools to reach their normative potential. Part IV will offer some general conclusions arising from this discussion.
One important caution must be offered before commencing. This essay does not advocate an approach that fits perfectly within the current conception of the American political structure. Instead, it deemphasizes the positive (what is) and focuses primarily upon the normative (what ought to be). If the events in Los Angeles teach nothing else, they unequivocally indicate that change of some sort is not simply a good idea, but a political necessity. Thus, this approach requires a rethinking of certain positions as well as some accommodations by several parties; yet the price to pay is a minimal one if the nation is serious about improving its social environment.

II. Civic Virtue and the American Founding

The term "founding" captures the essence of our nation's beginnings. "To found" means principally "to lay the base of" something (Guralnik and Friend 1968). In the political sense, the American Founding refers to the way in which the "Founding Fathers" (men such as James Madison, Alexander Hamilton, Benjamin Franklin, and others) "laid the base of" the American form of government, particularly the Constitution. Yet, a "founding" implies a "foundation," or a set of basic principles upon which the superstructure rests. As Professor Martin Diamond has indicated:

"... foundation must be understood quite literally: American institutions rest upon it. Those who wish to improve American life ... must base such improvement upon the American foundation; and this means to come to terms with the "policy" that is an essential part of that foundation. (1986, 95)

This section of the essay will explore civic virtue as a foundational concept for American society. Indeed, virtue was "a theme that was paramount at the time of the American Founding but . . . has since receded from public discourse" (Pangle 1987, 105). It represents the very principle whose absence the Founders believed would doom the American republic to government by "accident and force" instead of by "reflection and choice" (1.2).

A. From Aristotle to America: Civic Virtue Defined

In order to grasp the core of civic virtue in America, one must return to Aristotle's concept of what constitutes virtue. Aristotle argued that "moral virtue . . . is a mean between two vices, one involving excess and the other deficiency" (1963, 41). Thus, the excesses or deficiencies of attributes were considered vices and opposed to one another; but the mean between the two poles opposed both ends and defined virtue. For example, the classic virtue of courage rested at the mean between the vices of cowardice (a deficiency) and recklessness (an excess). In Aristotle's view, "a master of any art or craft shuns excess and defect, but seeks the intermediate and chooses it" (34). Virtue can therefore be viewed as a continuum, and the closer to the midpoint an individual is, the more virtuous that individual will be.

Admittedly, Aristotle and the American Founders differed on many issues, particularly the role of virtue in the polis. For instance, Aristotle saw virtue as the ultimate end for which government existed; to the contrary, the Founders viewed it as a useful means toward good government (Pangle 1987, 110). Nevertheless, the Aristotelian concept of virtue as the midpoint between two poles will be an invaluable component and a recurring theme throughout the remainder of this essay.
Throughout The Federalist, Publius echoes this same sentiment under the title of "moderation." In fact, moderation, or the willingness to compromise and move toward the "middle," provides the latent framework of this commentary on the Constitution. In Number One, Publius contends that:

... we, upon many occasions, see wise and good men on the wrong as well as the right side of questions of the first magnitude to society. This circumstance, if duly attended to, would furnish a lesson of moderation to those who are ever so much persuaded of their being in the right in any controversy. (1.7; emphasis added)

Later, we find him lamenting "that public measures are rarely investigated with that spirit of moderation which is essential to a just estimate of their real tendency to advance or obstruct the public good" (37.2; emphasis added). Finally, he asserts that the "judicious reflections" of The Federalist in themselves "contain a lesson of moderation" (85.18; emphasis added) to those who read them. For example, that Madison and Hamilton, who disagreed greatly on the nature and extent of national power, could set aside their differences to corroborate in writing The Federalist is just such a lesson of moderation.

Aristotle's concept of virtue as a mean and Publius' extolment of moderation are particularly useful in understanding the metamorphosis of ancient virtue to modern American virtue. Richard Vetterli and Gary Bryner, in their comprehensive study of virtue and the American Founding, contend that American civic virtue is essentially a synthesis of the classical virtues (courage, moderation, justice, and wisdom) and the Pauline virtues (faith, hope, charity, and benevolence). Thus, while "[classical] civic virtue ... meant the patriotic subordination of one's person-
al interests to the common welfare" (1987, 20) and the Judeo-Christian virtues dictated that "[people] were to be motivated by a sincere interest and love for others" (1987, 4), what they call "a modern republican virtue" (1987, 4; emphasis added) rested somewhere between the two.

American civic virtue, then, can be seen as the Aristotelian mean between the classical and Pauline poles of virtue, and contains three key components. First, virtuous citizens must, when necessary, temper their individual self-interest when it threatens the public order. Second, virtuous citizens must practice something akin to the biblical Golden Rule, being motivated by a benevolent concern for others (Vetterli and Bryner 1987, 50). Finally, "their . . . self-interest [must] be voluntarily channeled and constrained" (4; emphasis added); government should not take an active role in compelling citizens to be virtuous. In a certain sense, American civic virtue is nothing more than the practical application of Publius' "moderation."

B. "How Firm a Foundation?": The Need for Civic Virtue in a Republic

This concept of civic virtue--restriction of individual self-interest when it threatens public order, benevolence toward others, and a voluntary undertaking of these--provides the essential groundwork upon which American institutions rest. In framing the American system of government, the Founders necessarily assumed that these characteristics existed in sufficient measure to provide a firm foundation for the republic. Simply put, they believed that republican government presupposed a moderately virtuous people.

Publius preceded his aforementioned statement concerning men, angels, and
government with a significant rhetorical question which ultimately guided the Founding: "But what is government itself, but the greatest of all reflections on human nature?" (51.6). If government mirrors the natural characteristics of its citizenry, then to attempt to found a government that is inconsistent with human nature is an exercise in futility. Thus, the Founders' first step was to evaluate the nature of man.

In this assessment of man, the Founders again took the moderate course, adopting a realistic view of man's potential. Individually, man was "ambitious, vindictive, . . . rapacious" (6.2), possessed an "ordinary depravity" (57.16), and often allowed "the clamors of an impatient avidity for immediate and immoderate gain" to suppress "the mild voice of reason" (42.11). In collective bodies, men were not much better. They would often engage in "improprieties and excesses, for which they would blush in a private capacity" (15.15) and would often sacrifice "the great interests of society . . . to the vanity, to the conceit, and to the obstinacy of individuals" (70.12). Clearly, men were not angels; if they were, "no government would be necessary" (51.6).

Publius' grim realism concerning the nature of man must, however, be tempered in order for free government to succeed. Indeed, readers of The Federalist are counseled "to view human nature as it is, without either flattering its virtues or exaggerating its vices" (76.11). While it is true that "there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust," it is also true that "there are other qualities in human nature which justify a certain portion of esteem and confidence" (55.15). Thus, the Founders held a moderate view of human psychology, seeing man as an amalgam of both "good" and "evil."

Such a view of humanity acted as an important catalyst for the structure of government which emerged from Philadelphia. Publius saw "[a] dependence on the people" as "the primary control on the government; but experience has taught mankind the necessity of auxiliary [meaning secondary and supporting] precautions" (51.7; emphasis added) to protect against man's shortcomings. Moreover, while it was "evident that no other form [than a republican government] would be reconcilable with the genius of the people of America [its character and nature]" (39.2), it was also true that "[republican] government presupposes the existence of these [virtuous] qualities in a higher degree than any other form" (55.15). Ultimately, self-government "[implies], that there is a portion of virtue and honor among mankind, which may be a reasonable foundation of confidence" (76.11; emphasis added).

Two salient points emerge from this discussion. First, the institutional arrangements embodied in the American Constitution require a moderately virtuous citizenry. The Founders were emphatic in stressing this necessity. Publius argued that if "there is not sufficient virtue among men for self-government," then, "nothing less than the chains of despotism can restrain them from destroying and devouring one another" (55.15). Later, Madison asked in the Virginia State Ratifying Convention:

Is there no virtue among us? If there be not, we are in a wretched situation. No theoretical checks, no form of government, can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people is a chimerical idea. (McClellan 1989, 280)

Other Founders also supported this position (Vetterli and Bryner 1987, 69-71).

Second, while not glorifying man, the Founders evidently believed that the Amer-
icans of 1787 possessed sufficient civic virtue to make republican government work. Were Americans without government as naturally corrupt as Hobbes saw them, then only a despotic sovereign of the Hobbesian order would be able to control them (Hobbes 1968). Conversely, "[if] men were angels, no government would be necessary" (51.6). Instead, the Founders based American institutions upon a moderately virtuous citizenry. Without a sufficient degree of civic virtue, the republican structure would ultimately crumble.

At this point, the principal question which remains to be answered is how civic virtue can be perpetuated from generation to generation. In opposing the Constitution, the Anti-Federalists argued that civic virtue would actually be undermined in the extended, commercial republic that the Constitution established. Instead, they contended that only an "intimate government" (McDowell 1987, 127) "over a relatively small territory with a homogeneous population" (Storing 1981, 15) would be conducive to virtue. The national government would simply be too distant to foster effectively the virtuous citizens who would voluntarily restrain their self-interest for the good of the republic.

The supporters of the Constitution were in qualified agreement. The extended national government was a political necessity to check the evil nature of man, to control the effects of factions (see The Federalist, Number 10), and to allow "[ambition] ... to counteract ambition" (51.6). However, virtue would instead be fostered by "primary institutions" (Vetterli and Bryner 1987, 52) or "private associations" (Brown 1987, 39) at the state and local level. In fact, if "the state [assumed] the primary directive role" in inculcating virtue "through indoctrination and propaganda, ... it [would] be unable to count upon the genuine spontaneous response of its people over time," and would be obliged "to resort to a high level of administrative direction of society and greater degrees of force and coercion" (Vetterli and Bryner 1987, 53) if public order was to continue. Thus, while the national government was a negative political necessity, local institutions were to play a positive role in fostering the requisite virtue in the citizenry.

This discussion's impact on the current sociopolitical environment should be clear: this foundational aspect of American republicanism has changed little since 1787. A sufficient degree of civic virtue—the voluntary moderation of individual self-interest for the good of others and of society—is still a prerequisite to political success. Events of the last few decades, with the Los Angeles incident being only the most recent, have heightened the need to reemphasize the importance of civic virtue and develop ways to generate it.

How might this discussion help to prevent another situation similar to Los Angeles? In examining the riots, it was evident that the most damage was done by completely self-interested individuals who felt no need (nor desire) to moderate their passions for the sake of public order. In short, such an episode would never have occurred among citizens possessing a moderate degree of civic virtue. Civic virtue, then, represents the fundamental control against such destructive behavior.

III. Schools as Promoters of Civic Virtue

Whether they are known as "primary institutions" (Vetterli and Bryner 1987, 52), "private associations" (Brown 1987, 39), or some other title, families, schools, churches, neighborhoods, and other local
structures carry the principal responsibility for fostering civic virtue. Because of their direct contact with citizens in their formative years, schools in particular can play a unique role in transgenerationally nourishing virtue. Unfortunately, the teaching in public schools of those values which constitute civic virtue has recently fallen into disrepute (Bauer 1986, 24-27; Cannon 1981, 3-7; Hafen 1987, 677-695; Janowitz 1983, ix-xiv; Wildavsky 1991, 46-54).

This section will seek to accomplish three objectives: (1) to examine objections to teaching the values inherent in civic virtue, (2) to submit a functional rethinking of the school’s role in American government, and (3) to propose some recommendations that will allow schools to more fully reach their normative potential. This reevaluation and its subsequent solutions will be founded upon the principle of moderation outlined in Part II.

A. Objections to Moral Education

American civic virtue is, by its nature and definition, value-laden. While teaching the mechanics of American government is a necessary component of nourishing civic virtue, independently it is not a sufficient aspect. Indeed, "the action of one person toward another" is "the central concern of morality" (Heslep 1989, 15). Thus, inculcating civic virtue inherently involves a type of values (or moral) education.

Opponents of moral education object to it on several grounds. Many commonly respond, "'Whose morals are you going to teach?'" (Etzioni 1991, 9); others contend that certain values (i.e., sexual restraint, abstention from drug use, and others) are not as "valuable" as traditionally believed (Bauer 1986, 24); and some argue that values are intrinsically subjective and cannot be verified by empirical testing (Bauer 1986, 24; Bohn 1990).

Underlying all objections, however, is the belief that teaching values is somehow inimical to the First Amendment, particularly the guarantee of freedom of speech and the protection against the establishment of religion. Efforts at moral education, critics contend, inhibit students’ free expression (Bethel School District No. 403 v. Fraser 1986), simply reflect tenets of the Judeo-Christian ethic (Bauer 1986, 24-25; Wildavsky 1991, 47), or both. Invariably, opponents of moral education focus upon individual constitutional rights (a topic which will be taken up in Part III.C.). By doing so, they almost automatically look to the courts for a remedy.

B. Rethinking the Public-Private Dichotomy: Schools as Mediating Institutions

Any legal opposition to moral education that is rooted in individual rights must inevitably focus upon constitutional language, namely, "Congress shall make no law . . ." (Amendment I; emphasis added); and " . . . nor shall any State . . ." deny any person due process of law or equal protection of the laws (Amendment XIV, Section 1; emphasis added). Within this framework, the Supreme Court has recognized an "essential dichotomy" between public and private acts (Flagg Bros., Inc. v. Brooks 1978, 165). Currently, the public-private dichotomy is an all or nothing proposition: if state action is involved, the courts balance the individual rights and government interests involved and render a decision; if the act is private, there is no constitutional limitation and the individual has no recourse (Worthen 1991, 1306). While determining what exactly constitutes state action can be difficult—for example, actions by a private restaurant leasing its
building from a state agency (Burton v. Wilmington Parking Authority 1974) and court enforcement of a private property agreement which discriminates based upon race (Shelley v. Kraemer 1948) are both considered state action; acts of a utility company operating under a state-granted monopoly (Jackson v. Metropolitan Edison Co. 1974) are not—the Court has consistently held that actions by public schools are considered state action (West Virginia State Board of Education v. Barnette 1943; Tinker v. Des Moines Independent Community School District 1969; Everson v. Board of Education 1947; and many others) and that public school teachers perform a government function (Ambach v. Norwich 1979).

By employing this formal framework, the Court is forced to emphasize the dichotomous poles and somehow to draw a line between public, government institutions and private ones. Within this structure, government institutions—including public schools—cannot (and should not) impose value systems upon their members because, as mentioned earlier, to do so would preclude a voluntary reaction of the citizens and would necessitate a greater degree of government coercion to obtain the desired response (Vetterli and Bryner 1987, 53). Therefore, within the public-private dichotomy, such actions are appropriately left entirely to the "private" realm.

The difficulty, however, is that the Court has concurrently recognized the special importance of education as "the very foundation of good citizenship" (Brown v. Board of Education 1954, 493). Moreover, "a State properly may regard all teachers as having an obligation to promote civic virtues and understanding in their classes" (Ambach v. Norwich 1979, 80; emphasis added). Within the polar public-private framework, it seems contradictory to see public schools as promoters of civic virtue (a "private" function) and as a "function of state and local governments" (an obviously "public" task) (Brown v. Board of Education 1954, 493).

Though referring specifically to the normative power of cities and Indian tribes, Brigham Young University law professor Kevin J Worthen² has proposed a resolution to this conflict by advocating a perspective akin to the Aristotelian mean. He argues:

The extent to which modern American organizations are morally justified in imposing norms on their members can be plotted on a continuum. More voluntary organizations, such as purely social clubs, are at one extreme of the continuum, and the federal government is at the other. States are close to the federal government extreme of the continuum, but do not reach it because one can more easily switch states than countries. Local governments, while closer to the states than social clubs, nonetheless fall more to the voluntary side of the continuum than do state governments. Thus, some group value decisions are more appropriate for local governments than for either the federal or state governments. (1991, 1286)
As "public intermediary institutions" (Worthen 1991, 1290), standing between the individual and the state, local governments can play a role in giving "meaningful voice to disparate value systems" (Worthen 1991, 1312) and fostering civic virtue.

Bruce Hafen, former dean of the Brigham Young University School of Law, points out that public schools, like local governments, possess the unique ability to act as "mediating institutions." Hafen argues that, traditionally, "schools have been, at times quite literally, in loco parentis: in the place of the parents" (1987, 673). As an extension of the family, schools were called upon to reinforce the values fostered in the home. Indeed, "the traditional commitment of the schools to teach children such civic and moral virtues as integrity, cooperation, self-reliance, and responsibility remains central to the task of public education" (700).

Nevertheless, Hafen asserts that since Brown v. Board of Education "called upon the public schools to assume the role of direct state agents in the desegregation of society" (674), schools have moved "even further from the localized world of home and family toward the nationalized world of federal policy" (1987, 674). Within the public-private dichotomy, in the last half-century the courts have moved schools firmly onto the public side.

From the perspective of Worthen's functional continuum, however, the Supreme Court has placed public schools somewhere between local governments and purely private organizations. In its 1973 decision in San Antonio School District v. Rodriguez, the Court held that local control over education is a legitimate government interest which can rationally justify certain inequalities in funding public schools. Earlier, in Wright v. Council of City of Emporia, both the majority and dissenting opinions recognized the vital importance of local control of education (1972, 469, 478). Finally, in Wisconsin v. Yoder (1972), the Court acknowledged the critical, role parents play in assessing their children's educational needs and interests, and that such decisions are a matter of individual and family privacy.

In light of these rulings, Worthen's original continuum, extended to its fullest degree, would yield something similar to Figure 1. As mediating institutions, schools and local governments fall at the midpoint--the Aristotelian mean--between the federal government and the family. Consequently, schools and local governments, possessing a moderate normative role, are uniquely suited to promote the moderate degree of civic virtue necessary to preserve the political system. With the continued weakening of the American family, the normative function of schools becomes that much more important.

Ultimately, it is in the public schools where both the Federalist and Anti-Federalist positions converge to make American republicanism possible. Because of the relative homogeneity of schools (Worthen 1991, 1294), they can easily "function as 'little republics'--tiny communities of learning in which all participants have the interactive opportunity . . . of developing those 'habits of the heart' without which there is no larger community" (Hafen 1987, 701; emphasis added). Thus, encouraging schools to function as "small republics" fulfills the Anti-Federalist vision of intimate government and makes the Federalist objective of effective government possible (McDowell 1987, 127).
C. The Other Two "R's": Schools as "Moderators" Between Rights and Responsibilities

In addition to teaching the original three "R's"--"reading, 'riting, and 'rithmetic"--schools also must perform the special task of instructing students in two other "R's": rights and responsibilities. Schools, however, have followed the modern trend of "[enhancing] citizen rights without effective articulation of citizen obligations" (Janowitz 1983, ix). Such a propensity has inevitably shifted the balance toward the federal government end of the spectrum, a move ill-suited to the promotion of civic virtue.

The philosophical liberalism which imbues the language of rights is based upon a key assumption. As illustrated by Michael J. Sandel (1984), in its purest form, the liberal view of rights presumes that there is no overarching purpose or end to any action; "the good" is simply nonexistent. Instead, the grounding principle is the absence of any higher end prior to rights: the right precedes the good. In short, Sandel contends, "what matters above all... are not the ends we choose but our capacity to choose them" (1984, 86).

Values clarification, the approach to moral education currently in vogue (Wildavsky 1991, 46-47; Bauer 1986, 24-25; Heslep 1989, 183-86), and the "behavioralization" of social studies (Janowitz 1981, 145-52) both echo these assumptions of liberalism. Values clarification denies any preset collection of ethics which should guide individual behavior; instead, it privileges the students' abilities to make their own normative decisions. Teachers simply ensure that students' ethical choices are internally consistent. The behavioral approach to social science assumes that people are simply objects in motion who can be understood only through empiricism because there is no volition guiding individual action.

While appealing, in this form the liberal view of rights--with its corollaries of values clarification and behaviorism--is significantly flawed. It ignores the sharing of traditions and community necessary in a world where no individual is self-sufficient. Thus, "[denied] the expansive self-understandings that could shape a common life, the liberal self is left to lurch between detachment on the one hand, and entanglement on the other" (Sandel 1984, 91). At its highest, the language of rights permits no meaningful interaction with others, interaction which dependent individuals require. Ironically, this autonomy, taken to its extreme, destroys even the rights upon which it is grounded; of what benefit, for instance, is freedom of expression without an audience or forum--a community--in which to express one's views?

Robert J. Nash and Robert S. Griffin aptly summarized this position:

> If individuals are only what they choose to be, if they can detach themselves from social and historical roles at will, if they can ignore their embeddedness in those traditions from which they derive identity, and if there is no telos to give life direction and purpose, then society is little more than a collection of strangers, bereft of community and tradition, each pursuing private interests with no restraints or sense of transcendence. *We believe that this is the sum and substance of a life without a sense of civic virtue.* (1987, 561; emphasis added)

As has been true throughout this essay, the fullest value to both individual rights and community sharing can be found at the midpoint between these two ideals. This requires that rights be tempered and balanced with responsibilities. Schools and local governments are both tailored to strike that balance, to teach students effec-
tively the "lesson of moderation" (1.7) which Publius envisioned. Returning to Professor Worthen's continuum, at one end, families and voluntary private organizations can be seen as promoters of responsibility; at the other, the federal and state governments take on the role of protectors of rights. Schools and local governments, once again, lie in the middle and provide the best opportunity for the rights and responsibilities necessary for republican government to coalesce and thrive. With the continuing disintegration of the family, even more of the weight for promoting responsibility falls upon schools and local governments.

Values clarification and behavioralism, however, only serve to place further weight on the rights side of the scale, altogether ignoring the requisite responsibilities (Janowitz 1983, 146). Unless measures are taken to restore the necessary balance, the deleterious effects and overemphasis of rights will continue to be felt throughout the sociopolitical environment. For example, speaking of the need for greater emphasis on responsibility in race relations, Justice Dallin H. Oaks argued, "Instead of exploring new ways to enforce non-discrimination rights, we might be more effective by exploring new ways to win hearts to the proposition that each of us has a responsibility to treat persons on their own merits as children of God, whatever their race, creed, color, sex, or national origin" (1985, 431; emphasis in original). I believe the same can be said of most other aspects of social interaction.

D. Restoring the Rights/Responsibilities Balance: A Proposed Solution

In order to be consistent with the preceding analysis, any solution to the imbalance of rights and responsibilities must be a moderate one, lying at the midpoint between unfettered, individual autonomy and the complete, authoritarian control of education advocated by Plato in Book V of his Republic, where the children were removed from the society and subjected to rigorous paramilitary training (1980, 244-86). Instead, a moderate rethinking of constitutional adjudication would allow schools to perform their function in fostering civic virtue.

One solution which would meet this criterion synthesizes Worthen's proposed approach to local governments with the method Hafen has advanced. Worthen (1991) points out that courts already vary their method of decision making depending upon the right involved--some rights (for instance, freedom of expression) receive more weight than others. He would "merely authorize the same consideration for the nature of the governmental interest" (1991, 1307). Thus, in deciding if a right has been violated, the courts would give additional weight to a local government or school interest involved than it would to, say, a state government because of the greater normative function of local governments and schools.

Hafen's (1987) proposal, though dealing specifically with freedom of expression, could easily be applied to most school situations involving values education. He argues that the courts should recognize an "institutional academic freedom" (1987, 722) for public schools, in which the decisions of educators would be presumed valid unless they go "'beyond the pale of reasoned academic decision-making'" (1987, 723; quoting Regents of University of Michigan v. Ewing 1985, 515). In essence, he would advocate a good faith exception for the institutional decisions of educators. Any constitutional challenge to values education simply must meet a more stringent legal burden in order for the program to be declared
invalid. These two considerations would return enough weight to the responsibility side of the scale and would restore the balance without mortally wounding individual rights.

Under this proposal, school districts, with input from local citizens, would be able to institute programs to teach certain positive values, if they so decide. Values which merely coincide with specific religious tenets would generally be permitted; clear attempts at advancing sectarian doctrine, however, would necessarily meet a higher standard of judicial scrutiny. Nevertheless, through moderate public debate, communities would be able to control what values are being taught in their schools. Such an experience in itself would be an exercise in civic virtue, an activity in which citizens would be able to think through, change, and refine their opinions for the good of community (McDowell 1987, 142). Shared values such as "honesty, justice, integrity, respect for the environment, respect for others, respect for self, compassion, due process, equality of opportunity, peaceful resolution of conflict, loyalty, responsible citizenship--and much, much more" (Wildavsky 1991, 48), as well as community meanings of their practical applications, could be taught and fostered. Moreover, courts would still be able to address those cases in which decisions have not been made in good faith.

The ultimate result of such an approach, however, would be much greater than simply allowing moral education in public schools. The vices linked to the unrestrained self-indulgence which plagues our society--crimes of all types, pornography, irresponsible sexual promiscuity, drug use, gambling, welfare dependence, and many, many more--would all be reduced (Cannon 1981, 3-7; Bauer 1986, 24). A situation such as the Los Angeles incident--in which one perceived injustice was compounded by hundreds, if not thousands of others--would be much less probable. The moderating effects of civic virtue would restrain such individuals from ignoring their internalized value system and engaging in such destructive behavior.

E. Responding to the Objections

Adopting such an approach to moral education would also effectively respond to the aforementioned objections to teaching values. First, the question, "Whose morals?" would no longer carry the weight it now does. Because of our pluralistic society, values and morals would inevitably differ from community to community. Those who disagree with the values of the community in which they live have the option of either persuading others to allow their views to be heard or relocating to a community which shares their values. Pluralism, instead of being stifled, would actually be fostered and strengthened (Worthen 1991).

Second, the current approach could withstand an Establishment Clause challenge because it meets the judicial test set forth in Lemon v. Kurtzman (1971). The moral education programs in the various communities have a "secular legislative purpose" (1971, 612): promoting civic virtue and citizenship, which the Court has already recognized as a legitimate and crucial function of schools. They "neither [advance] nor [inhibit] religion" (1971, 612); and, unless academically unreasonable measures are undertaken, they do not "foster an excessive government entanglement with religion" (1971, 613).

Moreover, though certain religious precepts (such as the Christian concept of the Golden Rule) may be promoted, "the
'Establishment' Clause does not ban federal or state regulation of conduct whose reason or effect merely happens to coincide or harmonize with the tenets of some or all religions" (McGowan v. Maryland 1960, 442).

Finally, the objection based upon the fact-value dichotomy is fatally flawed. Elimination of all biases and preconceptions in any mode of discourse is simply impossible because all use of language has been previously conditioned by individual experience. Professor David Bohn indicates:

Because there is no unconditioned language in which an unconditioned or objective truth could be a possibility, [postmodern philosophers Gadamer and Ricoeur] . . . recognize that the horizon of understanding or tradition of discourse within which we actually do scholarly research could never constitute a "free market" or be characterized as a "neutral space" in which atemporal truth reveals itself within a controlled language of competing theories and against indubitable methodological criteria. For this very reason, . . . every effort to make a distinction between facts and values collapses, for values are necessarily implicit in and a guide to every mode of discursive activity. They are an enabling condition of every exercise of reason. (1990, 3)

Thus, certain values will always be taught, even if by default. The approach advocated here would simply allow a full hearing for all value systems without precluding those that happen to coincide, for example, with the Judeo-Christian ethic.

IV. Conclusion

The American republic was founded upon certain ideals and principles, concepts which gave meaning to our national experience. Unfortunately, some of those tenets--namely, civic virtue and moderation--have given way to a self-indulging and polarized society in which dichotomous thinking prevails. In short, the American foundation is firm in the middle but very weak at the "edges" (no matter which "edge" might be popular at the time).

By shifting the weight of our institutions away from the center of moderation to the outside edges, the structure of our social institutions has begun to crumble under the pressure. As a result, the social environment reflects serious fault lines in American institutions. Unless America learns the "lesson of moderation" (1.7), particularly concerning its public schools, the next generation will continue to learn lessons of self-indulgence from the mass media, youth gangs, or other misguided institutions. By moderating our view of the function of public schools and allowing them to teach that same moderation in the form of civic virtue, we can perhaps return to the firm foundations which our institutions presuppose. Publius makes a final, all-important admonition which may determine our success or failure:

Hearken not to the unnatural voice which tells you that the people of America, knit together as they are by so many cords of affection, can no longer live together as members of the same family; can no longer continue the mutual guardians of their mutual happiness; can no longer be fellow-citizens of one great, respectable, and flourishing empire. (14.14)

Absent some effort to strengthen those "cords of affection" (14.14), the prospects of an enduring American polity seem bleak indeed.
WORKS CITED


Bethel School District No. 403 v. Fraser, 106 S.Ct. 2159 (1986).


NOTES

1. All subsequent references to *The Federalist* will be given parenthetically by number and paragraph, according to the 1987 edition, edited by Michael Loyd Chadwick.

2. I express special appreciation to Professor Worthen not only for his assistance in the research for this essay but also his willingness to act as a sounding-board for my ideas and to review the first draft. But, what is an uncle for (if one can't rely on family, on whom can one rely)?