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ABSTRACT

This paper reviews various court decisions, especially West Virginia State Board of Education v. Barnette, regarding the right of public school students to refuse to participate in mandatory patriotic school exercises and discusses the attitudes of teachers regarding mandatory participation. In Barnette, the Supremee Court, by a six-to-three majority, ruled that it was unconstitutional for public school officials to require students to salute and pledge allegiance to the flag at the risk of expulsion from school. Three conclusions drawn from literature on attitudes are: educators' attitudes about the legal rights of public students have been found, in some instances, to be positively related to the treatment of students in a manner that complies with existing legal precedent; teachers should serve as role models for students during their formative years by setting an example for interpreting the meaning of civil liberties; and an important part of fulfilling teachers' leadership function lies in establishing and maintaining attitudes supportive of students' legal rights. A sample of 57 preservice and 33 inservice teachers in an undergraduate foundations of education course reported their opinions of a statement that public school students should be required to participate in the Pledge of Allegiance and flag salute ceremony. A total of 54 percent of preservice teachers and 39 percent of inservice teachers agreed with the statement; 77 percent of all subjects perceived their knowledge of this area of the law to be low; and the majority had received no training. Recommendations are made for further studies in areas regarding students' legal rights. (Contains 63 references.) (CK)

Analysis Of And Educators' Attitudes Toward The Right Of Public School Students Regarding Mandatory Participation In Patriotic School Exercises

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> In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. 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 obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. Tinker v. Des Moines Independent Community School District, 393 U.S. 503, 511 (1969).

Introduction

States generally provide for the public schools to teach and instill patriotic and democratic principles. The practices of saluting the flag of this country and reciting the Pledge of Allegiance are common school activities aimed at reaching that end. As Schimmel and Fischer (1975) point out:

> In thousands of schools children stand each morning and, with hands on their chests, recite: "I pledge allegiance to the flag of the United States of America and to the Republic for which it stands; one nation, under God, indivisible, with liberty and justice for all." This is a relatively simple, routine type of patriotic exercise, less than what is expected of public school children in most countries of the world. (p. 113)

Remmlein and Ware (1970) state that the flag-salute requirement in the public schools swept this country during World War I through local school board rules and policies, state department of education regulations, and state laws. The original voluntary nature of such patriotic school exercises was soon lost, and student and teacher participation in these ceremonies became mandatory. The constitutionality of such activities was never questioned nor challenged until the 1930s.

Reutter and Hamilton (1976) and Reutter (1982) point out that during the 1930s courts were generally divided on the legality and constitutionality of the requirement that public school students

salute the nation's flag and recite the Pledge of Allegiance. The U.S. Supreme Court, after previously declining the opportunity to review various cases on the issue, in 1940 finally accepted such a case. It held, by an eight-to-one majority in Minersville School District v. Gobitis [Gobitis], that mandatory participation in patriotic school exercises could be required. The Court ruled that a local school board regulation requiring students and teachers alike to participate in the flag salute ceremony was not a deprivation of an individual's constitutional right to religious freedom. This particular case involved a group of Jehovah's Witnesses who claimed that saluting the flag was equivalent to worshipping an image contrary to a fundamental tenet of their system of beliefs.

These same authors also state that this decision by the High Court was subjected to much scholarly criticism and was used as a rationale for various types of persecutions of Jehovah's Witnesses. Two years later in another case involving this same religious group and violations of an anti-peddling ordinance, Jones v. Opelika (1942), three of the eight Justices comprising the Gobitis majority indicated in dissent that they had come to believe that the 1940 landmark ruling had been incorrectly decided. Thus, the stage was set for a reconsideration of this issue, especially since another Justice who had voted with the Gobitis majority had been replaced and another new Justice was also appointed to the Court in the meantime.

The Barnette Decision

In West Virginia State Board of Education v. Barnette [Barnette] (1943), students were expelled from school for insubordination due to their failure to participate in a flag salute ceremony. These children, who were members of Jehovah's Witnesses, peacefully refused to comply with a state board of education's regulation calling for mandatory participation on the part of both students and teachers alike. The regulation called for the following penalties for noncompliance on the part of pupils:

> Failure to conform is "insubordination" dealt with by expulsion. Readmission is denied by statute until compliance. Meanwhile the expelled child is "unlawfully absent" and may be proceeded against as a delinquent. His parents or guardians are liable to prosecution, and if convicted are subject to fine not exceeding

$50 and jail term not exceeding thirty days. (p. 629)

The children maintained that such compliance conflicted with their religious beliefs and amounted to an unconstitutional denial of religious freedom, freedom of speech, and equal protection. They did, on the other hand, offer to recite the following pledge in place of the officially prescribed one:

> I have pledged my unqualified allegiance and devotion to Jehovah, the Almighty God, and to His Kingdom, for which Jesus commands all Christians to pray. I respect the flag of the United States and acknowledge it as a symbol of freedom and justice to all. I pledge allegiance and obedience to all the laws of the United States that are consistent with God's laws, as set forth in the Bible. (p. 628)

The constitutionality of conditioning public school attendance on compliance with mandatory participation in a flag salute ceremony was subsequently challenged in the federal courts. In particular these students brought suit seeking an injunction to prevent enforcement of the regulation against them. A federal district court restrained enforcement of the regulation, and the issue was eventually appealed to the U.S. Supreme Court.

The High Court, by a six-to-three majority, reversed its previous position in Gobitis and ruled that it was unconstitutional for public school officials to require students to salute and pledge allegiance to the flag at the risk of expulsion from school. In arriving at this ruling, the Court first took note of the fact that the noncomplying behavior of these pupils was conducted in a peaceful and orderly fashion and did not infringe upon the right of other students to participate in these patriotic exercises. The High Court then went on to reason that because refusal to salute or pledge allegiance to the flag was an expression of opinion and belief that did not constitute a present and substantial danger to legitimate state interests it was, therefore, entitled to First Amendment protection. The Court stated as follows:

> It is also to be noted that the compulsory flag salute and pledge requires affirmation of a belief and an attitude of mind. It is not clear whether the regulation contemplates that pupils

> forego any contrary convictions of their own and become unwilling converts to the prescribed ceremony or whether it will be acceptable if they simulate assent by words without belief and by a gesture barren of meaning. It is now a commonplace that censorship or suppression of expression of opinion is tolerated by our Constitution only when the expression presents a clear and present danger of action of a kind the State is empowered to prevent and punish. It would seem that involuntary affirmation could be commanded only on even more immediate and urgent grounds than silence. But here the power of compulsion is invoked without any allegation that remaining passive during a flag salute ritual creates a clear and present danger that would justify an effort even to muffle expression. (pp. 633-634)

Furthermore, religious convictions alone were not seen as central to the major issue confronted in this case.

> Nor does the issue as we see it turn on one's possession of particular religious views or the sincerity with which they are held. While religion supplies appellees' motive for enduring the discomforts of making the issue in this case, many citizens who do not share these religious views hold such a compulsory rite to infringe constitutional liberty of the individual. It is not necessary to inquire whether non-conformist beliefs will exempt from the duty to salute unless we first find power to make the salute a legal duty. (pp. 634-635)

In rejecting the argument that mandatory participation in such exercises was a proper vehicle for fulfilling the public school's legitimate mission of instilling patriotism and fostering national unity, the High Court emphasized:

> If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us. (p. 642)

Finally, in light of the circumstances of this case the Court concluded:

> We think the action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control. (p. 642)

Justice Frankfurter, who formerly wrote the majority opinion in Gobitis, stated what is commonly regarded as a forceful and eloquent dissent in this case. First, he shared his concerns regarding the judiciary's limitations with respect to the right of the state to exercise legislative power and action concerning what occurs in its public schools.

> We are told that a flag salute is a doubtful substitute for adequate understanding of our institutions. The states that require such a school exercise do not have to justify it as the only means for promoting good citizenship in children, but merely as one of diverse means for accomplishing a worthy end. We may deem it a foolish measure, but the point is that this Court is not the organ of government to resolve doubts as to whether it will fulfill its purpose. Only if there be no doubt that any reasonable mind could entertain can we deny to the states the right to resolve doubts their way and not ours. (pp. 661-662)

Second, Justice Frankfurter went on to explain his views concerning the proper relationship between church and state within the constitutional framework of religious freedom.

> Religion is outside the sphere of political government. This does not mean that all matters on which religious organizations or beliefs may pronounce are outside the sphere of government. Were this so, instead of the separation of church and state, there would be the subordination of the state on any matter deemed within the sovereignty of the religious conscience. Much that is the concern of temporal authority affects the spiritual interests of men. But it is not enough to strike down a non-discriminatory law that it may hurt or offend some dissident view. It would be too easy to cite numerous prohibitions and injunctions to which laws run counter if the variant interpretations of the Bible were made the tests of

> obedience to law. The validity of secular laws cannot be measured by their conformity to religious doctrines. It is only in a theocratic state that ecclesiastical doctrines measure legal right or wrong. (p. 654)

According to Schimmel and Fischer (1975), a close reading of the Barnette decision indicates that the dissent relied upon the "reasonableness" test to uphold the state board of education's regulation requiring mandatory participation in the Pledge of Allegiance and flag salute ceremony, whereas the majority opinion employed the "compelling interest" standard since a preferred or fundamental right under the First Amendment was involved.

In summary, the U.S. Supreme Court ruled in Barnette that public school officials may not require students to salute and pledge allegiance to the flag since doing so was in violation of the First Amendment. The Court found the mere passive refusal to salute the flag, by itself, does not create enough danger to the state which would thus allow it the right to punish pupils by means of expulsion from school. In reversing its previous decision in Gobitis, the High Court held that while the state may teach history and the organization of government, which may inspire patriotism and help build national unity, it may not compel a student to publicly declare a particular belief or sentiment.

Moreover, the Court also pointed out that the Fourteenth Amendment, as applied to the states, protects the citizen against the state and that which it creates for carrying out its wishes, including boards of education.

> The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures - Boards of Education not excepted. These have, of course, important, delicate, and highly discretionary functions, but none that they may not perform within the limits of the Bill of Rights. That they are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes. (p. 637)

Unfortunately, the manner chosen by the state board of education in West Virginia to achieve national unity in this instance, i.e., mandatory participation in a flag salute ceremony, was impermissible and exceeded the limits of the Constitution.

It is important to keep in mind two points when reading the decision in Barnette. First, although the students' reason for not saluting the flag was based upon religious convictions, the ruling of the High Court indicated that reasons other than those based on religious grounds, e.g., true conscientious objections, might be acceptable. Thus, the Court's decision barring mandatory participation in flag salute ceremonies within the public schools was not limited to only those individuals who asserted religious reasons for nonparticipation (Reutter, 1981). In fact, Harpaz (1986) contends that although the High Court ruled in favor of the plaintiffs, the majority opinion delivered by Justice Jackson focused not on the religious claim but, more generally, on a right to intellectual individualism inherent in the right to freedom of expression. McMillan (1984) states that the presence of religious conviction was not the issue in Barnette. The issue, instead, was whether government is empowered to force the expression of opinion or political attitude from its citizens.

Second, nothing in the Barnette decision should be construed as the U.S. Supreme Court declaring patriotic exercises unconstitutional or as restraining schools from including such exercises within their programs or routines (Reutter, 1981; Spurlock, 1955). For instance, in Sherman v. Community Consolidated School District 21 of Wheeling Township (1992) a federal appellate court concurred with the ruling of a federal district court that a voluntary Pledge of Allegiance requirement in public elementary schools did not represent an endorsement of religion and that recitation of such a pledge by students was patriotic rather than religious in nature. Furthermore, this requirement did not violate the First Amendment since the state statute in question did not require all students to recite the pledge nor did it punish those who chose not to do so.

Significance Of The Barnette Decision

Hazard (1971) believes that the Barnette decision demonstrates that individual rights under the Constitution can be protected

without restricting the rights of the majority. However, the point of view expressed in the dissent of Justice Frankfurter would seem not to be in total agreement with such an analysis.

> That which to the majority may seem essential for the welfare of the state may offend the consciences of a minority. But, so long as no inroads are made upon the actual exercise of religion by the minority, to deny the political power of the majority to enact laws concerned with civil matters, simply because they may offend the consciences of a minority, really means that the consciences of a minority are more sacred and more enshrined in the Constitution than the consciences of a majority. (p. 662)

LaPati (1975) states that while legal experts and educators, for the most part, had overwhelmingly denounced the decision in Gobitis, they endorsed, on the other hand, the Barnette decision as a more accurate expression of the rights of individual conscience within a democracy. Moreover, he sees Barnette as serving notice of the supremacy of religious conscience within the spheres of educational policy and practice. Thus, it is not within the province of school boards and state legislatures to define the meaning and implications of a religious ceremony. Rather, it is the province of the individual and his conscience to do so within the scope and purpose of the First Amendment.

Nolte (1983) views the decision in Barnette as underscoring the thought that our rights under the Constitution are not voted to us by a majority, but are rather for the defense of a minority of one. The following statement from the case illustrates this perspective:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections. (p. 638)

Reutter (1982) is of the opinion that the aforementioned quote

is one of the most eloquent statements regarding the necessity for the U.S. Supreme Court not to be swayed by political majorities of the moment. He feels that although the Court should be cognizant of the changing social, economic, and political environment, its steadfast role is to apply the Constitution as it was intended by its framers and as it has been interpreted by the High Court's decisions over the years. The fact that the Barnette decision came in the darker days of World War II, when nationalism and the intensity of patriotic activities were running high and various types of persecutions of Jehovah's Witnesses were occurring with alarming regularity, makes this decision by the Court all the more impressive from his perspective.

Strahan and Turner (1987) regard the decision in Barnette as serving as a forewarning of things to come regarding the erosion of the "in loco parentis" doctrine, the demise of the times when school administrators had strong judicial support for unlimited use of autocratic authority, and a judicial trend that established student rights on campus. They also contend that this case also reflected a continuous and a permanently unresolvable trend of conflict among religious practices, the religious clauses of the First Amendment, personal conscience, and the various acts of state legislatures.

Moshman (1989) sees the Barnette decision as extending the mandate in Pierce v. Society of Sisters (1925) that children not be construed as "mere creature(s) of the State" to conclude that not only may they not be required to attend only public schools but, if they do, such schools must respect their intellectual liberties. He also points out that this classic case in the area of forced expression in public schools acknowledged that while government may legitimately present ideas and attempt to convince students "by persuasion and example" to share American values, it may not require belief. That is, government may inculcate up to a point but may not coercively indoctrinate its people.

Finally, the decision in Barnette has also had a far-reaching effect since it has been used as legal precedent in other federal and state litigation involving both teachers and students and revolving around the issue of mandatory participation in patriotic school exercises. For instance, in Holden v. Board of Education of the City of Elizabeth (1966), the New Jersey Supreme Court ordered a school

board to reinstate Black Muslim students who had been excluded from public schools because of their refusal, based upon religious convictions and conscientious scruples, to salute and pledge allegiance to the flag of the United States. In Banks v. Board of Public Instruction of Dade County (1970), a federal district court ruled in favor of students who were suspended from public schools as a result of their refusal to participate in or to stand quietly during the flag salute and Pledge of Allegiance ceremony pursuant to state statute and school board policy regulation. The suspension of these students under such circumstances was seen as being in direct conflict with First Amendment protections. Finally, in Russo v. Central School District No. 1 (1972), a federal court of appeals ruled that the job dismissal of a probationary high school art teacher for silently refusing to participate in her school's daily flag salute and Pledge of Allegiance ceremony was a violation of her First Amendment rights. The court held further that the teacher's actions were a matter of conscience and not disloyalty.

The Nature Of Attitudes

Conceptualizations regarding the term attitude are plentiful in the literature. Allport (1935) sees an attitude as a mental and neural state of readiness organized through experience, exerting a directive and/or a dynamic influence upon the individual's response to all objects and situations with which it is related. Horney (1945) perceives an attitude as a tendency to move toward, against, or away from a person, object, or situation. Cronbach (1963) states that an attitude consists of the meanings that one associates with a certain object or abstraction and that influences his/her acceptance of it. Travers, Elliott, and Kratochwill (1993) define an attitude as a relatively permanent way of thinking, feeling, and behaving toward something or somebody. Finally, Kubiszyn and Borich (1993) view an attitude as a fairly consistent and stable way that people feel, behave, and are predisposed to feel and behave when in the presence of various stimuli.

Throughout the various definitions of an attitude is the notion that this concept refers to a relatively stable and enduring personality trait of an individual. Terms such as tendency, state, inclination, predisposition, and mental set underscore this point. In addition, an attitude is seen as being deterministic of behavior

(Skeel, 1995; Vargas, 1977), based upon values and personal beliefs (Jarolimek & Parker, 1993), evolved from personal experience (Lang, McBeath, & Hebert, 1995), and the product of learning (English & English, 1958).

Furthermore, an attitude is evaluative in nature for it predisposes one to look upon and act toward "attitude objects" in a favorable/positive or unfavorable/negative manner (Davidson & Thomson, 1980; Gudykunst & Yun Kim, 1992). An attitude is not directly observable, and its presence must be inferred from overt behavior, like through the expression of opinion (Travers, 1973) on a scale typically measuring both attitudinal direction and intensity (Anastasi, 1988).

Attitudes are generally conceptualized as being comprised of three interrelated components: cognitive, affective, and conative (McGuire, 1969). The cognitive component involves one's beliefs about the attitude object. According to Rokeach (1968), a belief is a simple proposition, whether conscious or unconscious, that is inferred from what a person says or does and that is capable of being preceded by the phrase "I believe that." The affective component entails one's emotional or evaluative reaction toward the attitude object. Thus, according to McGuire, this component refers to one's subjective evaluation of the positive or negative aspects of the attitude object. Finally, the conative component involves one's behavioral intentions toward the attitude object.

Regardless of one's conceptualization of the term, a major goal of education remains the shaping of attitudes so that students will make responsible choices throughout their lives (Reiser & Dick, 1996). It is further argued that attitude learning or development is the most important kind of learning for schools to foster and that a great deal of educators' work is or should be directly related to the development of desireable attitudes (Morse & Wingo, 1962; Skinner, 1959), whether at the K-12 level or beyond.

Definition Of Student Rights Attitudes

Gaffney (1991) defines attitudes toward student rights as general predispositions to perceive and evaluate in a particular manner the legal rights of public school students. Furthermore, he

views the term favorable student rights attitudes as referring to those mental sets, beliefs, or personal points of view that are regarded as supportive of the maintenance or expansion of public school students' legal rights. On the other hand, he sees the term unfavorable student rights attitudes as referring to those mental sets, beliefs, or personal points of view that are regarded as supportive of the curtailment or abolition of public school students' legal rights. Moreover, one's attitudes toward the legal rights of public school students are perceived as falling along a favorable-unfavorable continuum and vary according to the right involved.

The Importance Of Attitudes Toward Student Rights

Educators' attitudes about the legal rights of public school students have been found, in some instances, to be positively related to the treatment of students in a manner that is in compliance with existing legal precedent (Boivin, 1983). In fact, attitudes toward students' civil rights may be as influential as or more so than knowledge in determining how educators behave toward students and how they respond to court decisions regarding the legal rights of public school students (Menacker & Pascarella, 1984). Furthermore, legal understanding alone may not lead to compliance with the law, and attitudes may be the important elements in the link between knowledge and legally defensible action (Childs, 1976; Eveslage, 1981).

Moreover, teachers, in particular, should serve as role models for students during their impressionable and formative years by setting an example for interpreting the meaning of civil liberties (Spring, 1994). In fact, a basic function of the teaching profession is passing on to students the American heritage and assisting them to both appreciate and improve our way of life within a government of laws (Reutter, 1958). It is the opinion of the present authors that when it comes to the legal rights of public school students, teachers must operate in a manner that is in compliance with the letter and spirit of the law in their daily interactions with students. Likewise, it is believed that teachers must be sure that their behavior, which is often an outgrowth of their attitudes, serves as an example for students of the importance of acting in a legally responsible manner, especially when it comes to the law regarding controversial issues like mandatory participation in patriotic school exercises.

Furthermore, the manner in which students are treated is the primary professional responsibility of the teacher (Sametz, 1983). While the actions of school board members and school administrators in relationship to the legal rights of public school students are vital in establishing an institutional atmosphere supportive of and in compliance with such rights (Carr & Faber, 1982), the present authors contend that the attitudes of teachers, because of their daily interactions with and immediate proximity to pupils, constitute a crucial variable in making a school and a classroom reality out of any administrative policy or directive concerning students' legal rights.

Finally, the present authors argue that teachers should be aware of the law so that they can assume roles of leadership in the protection of the legal rights of public school students. In fact, teachers have an obligation and duty to protect such rights (Spring, 1994). The present authors feel that an important part of fulfilling this leadership function lies in establishing and maintaining attitudes that are supportive of and favorable toward students' legal rights. In light of the apparent conservative stance the courts, especially the U.S. Supreme Court, have taken in relationship to the promulgation and delineation of student rights since the mid-1970s and the reemergence of the "reasonableness" test as the standard for guiding educator-student relationships (Flygare, 1985; Mawdsley & Mawdsley, 1988; McCarthy & Cambron-McCabe, 1987; Rose, 1988; Zirkel & Richardson, 1989), the present authors are of the opinion that a more vigilant and steadfast protection of these rights on the part of educators in general, and teachers in particular, seems to be in order.

An Examination Of Preservice And Inservice Teachers' Attitudes Toward Mandatory Participation In Patriotic School Exercises

Saluting this nation's flag and saying the Pledge of Allegiance are commonly occurring activities conducted by teachers with students each day in the public schools of this country. Thus, these educators start out the school day with a routine that has far-reaching constitutional implications. Therefore, the remainder of this paper concentrates upon an examination of preservice and inservice teachers' attitudes toward the right of public school students regarding mandatory participation in patriotic school exercises.

Sample

The sample consisted of students taking an undergraduate foundations course in education at a public postsecondary institution situated in Florida during the 1995 fall and the 1996 spring semesters. A total of 90 subjects comprised this sample. All the students enrolled in the course elected to participate on an anonymous and a voluntary basis. It was conveyed to these subjects that their participation in this investigation would have no bearing upon their final evaluation within the course. The overall sample was made up of the following two major subsamples.

There were 57 preservice teachers majoring in special education (6%), secondary education (9%), and elementary education (85%). In terms of college class, 14% of this subsample were freshmen, 41% were sophomores, 31% were juniors, and 14% were seniors. Twenty-six percent (26%) of these subjects reported doing previous field experience primarily at the elementary school level (93%). The vast majority of these subjects were planning to someday teach at a public school (96%) and at the elementary school level (86%). Most of these subjects were female (89%), and the average age of this subsample was 27. Forty-seven percent (47%) of these subjects had previously earned an associate degree. Finally, this subsample represented different local teacher education programs.

There were 33 subjects who were presently inservice teachers. In terms of school level, 31% of these subjects worked in an elementary school, 53% in a middle school, and 16% in a high school. Seventy-nine percent (79%) of this subsample were employed in a public school setting. Their years of teaching experience ran from a low of less than 1 year to a high of 11 years with the average number of years of professional experience being 3 years. The majority of these subjects were female (68%), and the average age of this subsample was 32. Finally, in terms of highest educational level attained 81% of these subjects had earned a bachelor's degree, while 19% of them had earned a master's degree.

Instrumentation

The following statement, based directly upon the Barnette decision, was used as the paper-and-pencil, self-report measure to

assess preservice and inservice teachers' attitudes toward the right of public school students regarding mandatory participation in patriotic school exercises:

> Public school students should be required to participate in the Pledge of Allegiance and flag salute ceremony.

This statement was part of a 22-item instrument aimed at measuring these subjects' attitudes toward 22 different issues addressed by the U.S. Supreme Court regarding the area of students' legal rights. This instrument was administered by the primary author at one of the class sessions during the fall and the spring semesters.

Previously this statement, along with the majority of the other statements on the 22-item instrument, was subjected to scrutiny and verification of content validity by a panel of judges (n=5) holding doctoral degrees in the field of educational leadership with previous course work, teaching experience, and/or publications in the area of school law. These judges were working as university faculty and were selected for their acknowledged expertise in the area of school law. They were in unanimous agreement that this statement (1) represented the central issue addressed by the High Court in rendering its decision in this landmark case and (2) was clearly worded in a manner that was unfavorable toward the right of public school students regarding mandatory participation in patriotic school exercises.

Subjects responded to this statement using a Likert-type scale with the choice-options of Strongly Agree (5 points), Agree (4 points), Undecided (3 points), Disagree (2 points), and Strongly Disagree (1 point). The theoretical mean for this statement was 3.00, with scores above this value regarded as demonstrating unfavorable attitudes and scores below this value as exhibiting favorable attitudes toward this particular student right. For purposes of individual and group comparisons, the lower the score on this statement then the more favorable one's attitude toward a student's right to refrain from mandatory participation in patriotic school exercises. Likert scales, such as this one, have become one of the most widely used methods of attitude assessment and are regarded as providing direct and reliable measurement of attitudes when they are well-constructed (Kubiszyn & Borich, 1993). This statement was

accompanied, at the time of its administration, by a demographic checklist.

Major Findings

In response to the statement regarding mandatory participation in patriotic school exercises, preservice teachers had a median score of 4.00 and a mean score of 3.37 with a standard deviation of 1.27. Individual scores ran from a minimum value of 1.00 to a maximum value of 5.00 for a range of 4.00. Concerning this item, 21% of these subjects responded Strongly Agree, 33% responded Agree, 16% responded Undecided, 21% responded Disagree, and 9% responded Strongly Disagree. Thus, 54% of this subsample were in agreement with this statement to some degree.

On the other hand, in response to this same statement inservice teachers had a median score of 3.00 and a mean score of 2.88 with a standard deviation of 1.43. Once again, individual scores ran from a minimum value of 1.00 to a maximum value of 5.00 for a range of 4.00. Regarding this item, 18% of these subjects responded Strongly Agree, 21% responded Agree, 12% responded Undecided, 28% responded Disagree, and 21% responded Strongly Disagree. Thus, 39% of this subsample were in some sort of agreement with this statement.

When comparing preservice and inservice teachers' scores with each other on this statement, the value of the t-statistic for a two sample independent means t-test was 1.67 (df=88). This t-ratio was found not to be statistically significant at the .05 level for a two-tailed test. Therefore, there was not in evidence a significant difference between preservice and inservice teachers in their attitudes toward the right of public school students regarding mandatory participation in patriotic school exercises.

Ancillary Findings

In terms of ancillary findings, concerning the statement on the demographic checklist, "How Would You Rate Your Present Level Of Knowledge About The Legal Rights Of Public School Students?", 0% of preservice teachers responded Very High or High, 23% responded Average, 52% responded Low, and 25% responded Very Low. Thus,

77% of this subsample perceived their present understanding of this area of the law to be low to some degree. Regarding college class, 60% of freshmen, 71% of sophomores, 84% of juniors, and 67% of seniors indicated that their current level of knowledge about the legal rights of public school students was Low or Very Low.

On the other hand, regarding that same statement 6% of inservice teachers responded Very High, 3% responded High, 49% responded Average, 30% responded Low, and 12% responded Very Low. Thus, 42% of this subsample felt that their present understanding of this area of the law to be less than average. In terms of type of school setting, 63% of elementary school teachers, 33% of middle school teachers, and 57% of high school teachers indicated that their current level of knowledge about the legal rights of public school students was Low or Very Low.

Regarding the statement on the demographic checklist, "Have You Received Any Formal Instruction Or Training In The Legal Rights Of Public School Students?", 7% of preservice teachers and 27% of inservice teachers responded in the affirmative. For the majority of subjects (70%) who indicated that they had received such training, the major source for it was through inservice education. The remaining 30% stated that such instruction had taken place within other course work, primarily at the graduate school level. Of those preservice and inservice teachers who responded that they had received this type of formal instruction or training, 9% perceived their present level of knowledge about the legal rights of public school students to be better than average, 64% saw their current level of understanding to be average, and 27% felt their present level of knowledge to be below average.

Discussion

Although no statistically significant difference was found between preservice and inservice teachers concerning their attitudes toward a student's right regarding mandatory participation in patriotic school exercises, the use of descriptive statistical analyses reveals some interesting characteristics about both of these subsamples. For instance, preservice teachers demonstrated unfavorable attitudes in general and less favorable attitudes than inservice teachers toward this particular student right. Furthermore,

while inservice teachers exhibited favorable attitudes overall toward this student right, a sizeable proportion revealed unfavorable attitudes. In light of the significance of the landmark decision rendered in Barnette, the everyday occurrence of the Pledge of Allegiance and flag salute ceremony throughout this country's public schools, and the constitutional implications of this type of patriotic school exercise, the present authors find the large percentage of preservice and inservice teachers with unfavorable attitudes troublesome indeed. It is felt that such "mental predispositions" are potentially conducive to teacher actions that could result in encroachments of this well-established area of public school students' legal rights.

In addition, the vast majority of preservice teachers indicated that their present level of knowledge about the legal rights of public school students was either Low or Very Low. Not one subject felt that they were either High or Very High in terms of their understanding about this area of the law, regardless of whether they were a freshman or a senior. In fact, within each college class the majority or vast majority of subjects indicated low to very low understanding. This is not surprising when one takes note of the fact that only a very small proportion of these prospective teachers stated receiving any formal instruction or training in the legal rights of public school students.

Maybe one of the major reasons why these preservice teachers demonstrated less than favorable attitudes toward a student's right regarding mandatory participation in patriotic school exercises revolves around a lack of familiarity with the law regarding this issue. There is some evidence to suggest that a positive relationship exists between knowledge and attitudes about student rights (Gaffney, 1991; Pulley & Black, 1984). Some authorities have called upon teacher preparation programs to put greater emphasis upon exposing preservice teachers to contemporary school law in general (Hazard, 1977; McCarthy, 1976; Menacker & Pascarella, 1983) and student and children's rights in particular (Henson, 1979; Sametz, Mcloughlin, & Streib, 1983). However, at least with this subsample this does not appear to be taking place. Perhaps future research should focus on what local institutional factors contribute to this current situation. Furthermore, maybe the local teacher education programs in question should reexamine their priorities and efforts

regarding inclusion of and emphasis upon school law and the legal rights of public school students within their preservice curriculum, either in the form of a specific course or a set of modules integrated throughout the various undergraduate course offerings.

While a slight majority of inservice teachers perceived their present level of knowledge about the legal rights of public school students to be at least, and predominantly, average in nature, there also existed among them a substantial proportion that rated their level of understanding regarding this area of the law as being Low or Very Low. This was especially true for those subjects that currently teach in either an elementary or a high school setting. Such a situation seems inevitable when one considers that the vast majority of these subjects also reported not receiving any formal training or instruction in this area of the law, despite working as teachers, on the average, for about three years and having gone through at least a four-year college/university program of study. While inservice education was the most frequently indicated source for such training, apparently it is either not widely available at the district level and/or not commonly taken advantage of by most inservice teachers. Both possible scenarios warrant further investigation in future studies. In addition, school districts should reexamine and reconsider their current policies and efforts regarding the offering of inservice education concerning the legal rights of public school students. Menacker and Pascarella (1983) contend that information on school law should become a regular part of inservice education for all educators.

Furthermore, the fact that the vast majority of subjects in this study who indicated that they had received formal instruction or training in the legal rights of public school students perceived their present level of knowledge about such rights to be at least average should represent some encouraging information for preservice and inservice program development and should be examined further in future investigations. Moreover, research should be carried out to see whether the tendency for inservice teachers to have more favorable attitudes, when compared to preservice teachers, toward a student's right regarding mandatory participation in patriotic school exercises holds true with other inservice teachers throughout the state of Florida and the country as a whole and is due to their apparent greater exposure to formal instruction or training in the legal rights

of public school students or to some other factor(s).

Finally, experimental studies, involving both preservice and inservice teachers, should be conducted regarding the effects of school law instruction on attitudes toward this area and other areas of students' legal rights. It is the opinion of the present authors that a major goal of teacher preservice and inservice programs should be the development or fostering within teachers of attitudes that are at least supportive of, if not favorable toward, decisions by the judiciary regarding the establishment and/or maintenance of public school students' legal rights so that these educators will be in a better position to make legally responsible and defensible decisions and to serve as law-abiding role models for pupils. In conclusion, it is further felt that all of the aforementioned suggestions regarding research and policy made in this and the preceeding paragraphs deserve special attention, especially during these litigious times. when the public school settings that teachers are working in, or preparing to someday work in, have become increasingly complex and precarious legal environments (Hartmeister, 1995; Ogletree, 1985).

Dedication: This paper is dedicated to the primary author's brother and distinguished lawyer and legal consultant, Francis M. Gaffney, who passed away on January 8, 1996 following a long and heroic battle with cancer. He was involved in the preliminary and initial stages of this undertaking. May God Bless!

Note Bene: The primary author welcomes any comments or inquiries regarding the contents of this paper. Please direct all correspondence to:

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