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## A Suggested Seminar in Student Rights

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## A SUGGESTED SEMINAR IN STUDENT RIGHTS

WILLIAM W. VAN ALSTYNE \*

The decade now passing away from us has bubbled with significant change in law school curricula, especially from the heat of recent developments in constitutional law. We have, for instance, shaped new courses in criminal procedure, the law of poverty, rights of privacy, race relations, church-state relations, and reapportionment. As the decade draws to a close, still another social development has begun so significantly to modify an area of the law that it, too, may warrant renewed attention in some of our law schools. This particular development affects many of us more directly than others. It embraces the mini-revolts by students whose seemingly contradictory demands for more independence and greater participation and whose rambunctious political action have placed unbearable strains on the tidy body of law which traditionally mediated occasional disputes between students and their colleges. Whether the trend is welcome or not, increasing numbers among the millions of college students are testing and battering legal models once used so steadfastly against them to discourage their claims.

A few decades ago, Columbia University could expel a student merely for peaceful participation in an off-campus political rally wholly unconnected with the university itself, and then be complimented by a state court for its exercise of patriotic paternalism.<sup>1</sup> More recently, on the other hand, even highly volatile on-campus political demonstrations have received some judicial protection,<sup>2</sup> student editors have been secured in their right to publish criticism of their own college presidents,<sup>3</sup> and campus speaker bans have fallen in California, New York, North Carolina, Louisiana, Mississippi,<sup>4</sup> Alabama, Illinois.

Earlier, students were expelled on the strength of casual fatherly interviews regarding their alleged indiscretions and the courts sided with the college as *alma mater*, acting *in loco parentis*.<sup>5</sup> More recently, courts as widely separat-

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<sup>1</sup> *Samson v. Trustees of Columbia University*, 101 Misc. 146, 167 N.Y.Supp. 202 (1917). See also *Zarichny v. State Bd. of Agric.*, *mandamus denied*, Jan. 13, 1959, *rehearing denied*, Feb. 28, 1949, Mich.Supp.Ct. (unreported), *cert. denied*, 338 U.S. 816 (1949), described in 17 U.S.L.Week 3374.

<sup>2</sup> See, e. g., *Hammond v. South Carolina State College*, 272 F.Supp. 947 (D.S.C. 1967).

<sup>3</sup> *Dickey v. Alabama State Bd. of Educ.*, 273 F.Supp. 613 (M.D.Ala.1967). See also *Pickering v. Board of Educ.*, 391 U.S. 563 (1968), holding that a teacher may not be fired because of partially false statements, critical of the trustees, which appeared in a letter to the editor published in a regular newspaper and which concerned an issue of general public interest.

<sup>4</sup> *Danskin v. San Diego Unified School Dist.*, 28 Cal.2d 536, 171 P.2d 885 (1946); *Buckley v. Meng*, 230 N.Y.S.2d 924 (Sup.Ct.1962); *Dickson v. Sitterson*, 389 F.Supp. 486 (M.D.N.C.1968); *Student Liberal Action Federation v. Louisiana State University*, Civ. No. 68-300 (E.D.La., Feb. 13, 1968); *Stacy v. Williams*, cause no. WC 6725 (N.D.Miss. June 30, 1967); *Brooks v. Auburn University*, 296 F.Supp. 188 (M.D. Ala.1969); *Snyder v. Board of Trustees of Univ. of Illinois*, 286 F.Supp. 927 (N.D.Ill. 1969).

<sup>5</sup> *North v. Board of Trustees*, 137 Ill. 296, 27 N.E. 54 (1891); *Gott v. Berea College*, 161 S.W. 205 (1913); *Stetson University v. Hunt*, 102 So. 635 (1925); *Anthony v. Syracuse University*, 231 N.Y.S. 435 (App.Div.1928).

ed as California and Alabama have explicitly repudiated family and contract models in the adjudication of student claims,<sup>6</sup> moving toward requirements of procedural regularity nearly as formal as those observed by federal regulatory agencies in adjudicative proceedings.<sup>7</sup> Indeed, the pace of judicial response has quickened to such an extent that university presidents are sounding the alarm against alleged judicial intrusions on the autonomy of academic institutions.<sup>8</sup>

It seems certain, moreover, that as the courts' more favorable disposition toward student claims becomes better broadcast among the students themselves, we can expect even more challenges to be made. Especially may this be so in view of two phenomena which are well calculated to occupy colleges in court for some time. The first derives from the fact that the law of student-college relations was inert for so very long that it is a natural target for judicial reform. The situation is, in this respect, not unlike the status of criminal law just a few years ago when renewed professional interest, stimulated by constitutional innovation, suddenly reopened the field. The second phenomenon is the activism of the students themselves, pushing against the walls, belligerently challenging practically everything (or seeming to do so), demanding an ever-expanding freedom, and pressing into extramural social change as well.

The legal turmoil, like the campus turmoil it mirrors, will probably be fairly short-lived. After some new rounds of litigation, the subject will almost surely settle itself once again even if the settlement scarcely resembles the older arrangements which were accurate even five years ago, but which already are clearly out of date. In the meantime, however, there may be room in certain law schools for professional consideration of this subject in a seminar fashion. At least it may be said that there currently exists a substantial demand for some consideration of the subject as attested by the several dozen conferences within the past year and a half, each sponsored by administrative associations, house counsel associations, student organizations, or individual colleges simply wanting to review the shape of the law. More than a dozen major studies have appeared within the past twelve months representing lengthy reviews by joint university committees, researching and redoing their own institutional arrangements. Several dozen cases have been matched by at least an equal number of law review articles, all in all providing an ample basis of departure for a respectable treatment of the subject.

On the chance that some may wish to try their hand with materials which have not as yet been put together or even referenced in one place, one version of a course outline and bibliography is offered here. The organization should be virtually self-explanatory, but I would be pleased to correspond with anyone wishing to follow through. (It may well be, of course, that a seminar of this sort has already been offered elsewhere—in which case I would be grate-

<sup>6</sup> *Goldberg v. Regents of University of California*, 57 Cal.Rptr. 463, 469 (1967); *Moore v. The Student Affairs Committee of Troy State Univ.*, 36 U.S.L. Week 2750 (June 4, 1968).

<sup>7</sup> See, e. g., *Dixon v. Alabama State Bd. of Educ.*, 294 F.2d 150 (5th Cir.), cert. denied, 368 U.S. 930 (1961); *Esteban v. Central Missouri State College*, 277 F.Supp. 649 (W.D.Mo.1967); *Woody v. Burns*, 188 So.2d 56 (Fla.Ct.App.1960); *Schiff v. Hannah*, 282 F.Supp. 381 (W.D.Mich.1966).

<sup>8</sup> Perkins, "The University and Due Process," ACE reprint of address, Dec. 1967. But see Byse, "The University and Due Process: A Somewhat Different View", Proceedings of 54th Annual Meeting of A.A.U.P., April 26, 1968.

ful for impressions of its strengths and weaknesses.) The outline and bibliography were organized for a seminar offered at The University of Mississippi Law School this past summer, with support provided by The Ford Foundation.

## Course Outline—The Emerging Law of Student Rights

### I. Traditional Legal Conceptions of Student-College Relationships

(A review of the relationship as one of private contract heavily influenced in its interpretation by the authority of the college to act *in loco parentis*.)

People *ex rel.* Pratt v. Wheaton College, 40 Ill. 186 (1866).

North v. Board of Trustees, 137 Ill. 296, 27 N.E. 54 (1891).

Gott v. Berea College, 161 S.W. 205 (1913).

Barker v. Trustees of Bryn Mawr College, 278 Pa. 121, 122 Atl. 220 (1923.)

Stetson University v. Hunt, 102 So. 635 (1925).

Anthony v. Syracuse University, 231 N.Y.S. 435 (App.Div.1938).

State *ex rel.* Ingersoll v. Clapp, 81 Mont. 200, 263 Pac. 433, *cert. denied*, 277 U.S. 591 (1927), *appeal dismissed*, 278 U.S. 661 (1928).

People *ex rel.* Bluett v. Board of Trustees of the Univ., 10 Ill.App.2d 207, 134 N.E.2d 635 (1956).

Robinson v. University of Miami, 100 So.2d 442 (Fla.Ct.App.1958).

### II. Critical Analysis and Modern Trends Respecting the Relationship as Contractual or Familial.

(A review in two parts, beginning with conventional contract issues, *e. g.*, contractual capacity, acceptance, mutuality, consideration, interpretation, illusory promises, forfeitures, burden of proof respecting conditions precedent and subsequent, moving through recent contract trends, *e. g.*, contracts of adhesion, unconscionable bargains, unconscionable provisions, to a re-examination of the relationship itself.)

Campbell Soup Co. v. Wentz, 172 F.2d 80 (3rd Cir. 1948).

Siegelman v. Cunard White Star, 221 F.2d 189, 204 (1955).

Henningsen v. Bloomfield Motors, Inc., 161 A.2d 69 (1960).

Willard Van Dyke Productions v. Eastman Kodak Co., 189 N.E.2d 693 (1963).

Egan v. Kollsman Instrument Co., 287 N.Y.S.2d 14 (Ct.App.1968).

American Home Improvement v. MacIver, 201 A.2d 886 (1964).

In re Elkins-Dell Mfg. Co., 253 F.Supp. 864 (E.D.Pa.1966).

Williams v. Walker-Thomas Furniture Co., 350 F.2d 445 (D.C.Cir.1965).

Drucker v. New York University, 293 N.Y.S.2d 923 (Civ.Ct.1968).

Excerpts from Dixon v. Alabama State Bd. of Educ., 294 F.2d 150 (5th Cir.), *cert. denied*, 368 U.S. 930 (1961).

Goldberg v. Regents of Univ. of Calif., 57 Cal.Rptr. 463 (1967).

Moore v. The Student Affairs Committee of Troy State Univ., 36 U.S. L.W. 2750 (June 4, 1968).

Soglin v. Kauffman, Opinion No. 67-C-141 (W.D.Wis., Dec. 11, 1967).

Periodical Literature References:

Scattered sections in multi-volume Corbin treatise on Contracts.

UCC sections 2-302, 2-719.

Llewellyn, Book Review, 52 Harv.L.Rev. 700 (1939).

Kessler, *Contracts of Adhesion—Some Thoughts About Freedom of Contract*, 43 Colum.L.Rev. 629 (1943).

Meyer, *Contracts of Adhesion and the Doctrine of Fundamental Breach*, 50 Va.L.Rev. 1178 (1964).

Seavy, *Dismissal of Students: "Due Process"*, 70 Harv.L.Rev. 1406 (1957).

Goldman, *The University and the Liberty of Its Students—A Fiduciary Theory*, 54 Ky.L.J. 613 (1966).

Note, *Private Government on the Campus—Judicial Review of University Expulsions*, 72 Yale L.J. 1362 (1963).

Van Alstyne, *Procedural Due Process and State University Students*, 10 U.C.L.A.L.Rev. 368; *The Student as University Resident*, 45 Denver L.Rev. 582 (1968).

Goldstein, *The Scope and Sources of School Board Authority to Regulate Student Conduct and Status: A Nonconstitutional Analysis*, 117 U. Pa.L.Rev. 373 (1969).

### III. Related Theories and Problems.

(A brief review of other theories applicable to private colleges, *e. g.*, fiduciary, administrative status, and of ordinary problems of administrative decisions which may be *ultra vires*.)

### IV. The Determination of Whether a University Is Subject to the Bill of Rights or the Fourteenth Amendment.

(A review of factors or connections which may subordinate college authority to constitutional norms protecting personal liberty; the so-called "state action" problem.)

#### A. Selected background decisions:

Food Employees Local 590 v. Logan Valley Plaza, Inc., 391 U.S. 308 (1968).

Reitman v. Mulkey, 387 U.S. 369 (1967).

Evans v. Newton, 382 U.S. 296 (1966).

Burton v. Wilmington Parking Authority, 365 U.S. 715 (1961).

Pennsylvania v. Board of Truants, 353 U.S. 230 (1957).

Griffin v. Maryland, 378 U.S. 130 (1964).

Terry v. Adams, 345 U.S. 461 (1953).

Shelley v. Kraemer, 334 U.S. 1 (1948).

Eaton v. Grubb, 329 F.2d 710 (4th Cir. 1964).

Ethridge v. Rhodes, 268 F.Supp. 83 (M.D.Ohio 1967).

## B. Recent College State Action Cases:

Powe v. Miles, 407 F.2d 73 (2d Cir. 1968).

Grossner v. Trustees of Columbia University, 287 F.Supp. 535 (S.D.N.Y.1968).

Sweetbriar Institute v. Button, Civ.No.66-C-10-L (W.D.Va.1967).

Commonwealth v. Brown, 370 F.Supp. 782 (E.D.Pa.1967), *aff'd*, 392 F.2d 120 (3rd Cir. 1968), *cert denied*, 391 U.S. 921 (1968).

Guillory v. Administrators of Tulane University, 203 F.Supp. 855 (E.D.La.1962), *judgment vacated in part*, 212 F.Supp. 674 (E.D. La.1962).

Green v. Howard University, 271 F.Supp. 609 (D.D.C.1967), case on appeal and t.r.o. issued to reinstate students, Civ.No.1949-67, (D.C. Cir., Sept. 8, 1967).

University of Miami v. Militana, 184 So.2d 701 (D.C.A.Fla.1966).

Carr v. St. John's University, 231 N.Y.S.2d 403, *reversed*, 231 N.Y.S.2d 410 (App.Div.1962).

Parsons College v. North Central Ass'n, 271 F.Supp. 65 (M.D.Ill. 1967).

## C. Periodical Literature References:

Comment, *Racial Discrimination in "Private" Schools*, 9 W. & M. L.Rev. 39 (1967).

Miller, *Racial Discrimination and Private Education* (1957).

Note, *Private Government on the Campus—Judicial Review of University Expulsions*, 72 Yale L.J. 1362 (1963).

Horowitz, *Fourteenth Amendment Aspects of Discrimination in "Private" Housing*, 52 Calif.L.Rev. 1 (1964).

Lewis, *The Meaning of State Action*, 60 Colum.L.Rev. 1083 (1960).

Silard, *A Constitutional Forecast: The Demise of the "State Action" Limit on the Equal Protection Guarantee*, 66 Colum.L.Rev. 855 (1966).

Van Alstyne and Karst, *State Action*, 14 Stan.L.Rev. 3 (1961).

Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 Harv.L.Rev. 1 (1959).

## V. Procedural Due Process and Student Discipline

(Consideration of the general availability of procedural guarantees in non-criminal, adjudicative proceedings; problems concerning the status of the student as a "right" or as a "privilege;" consideration of procedural due process as a graduated phenomenon; a specific assessment of the extent to which particular features of procedural due process may or may not apply in student disciplinary adjudications.)

## A. The General Availability of Procedural Due Process in Non-Criminal Adjudications:

Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 123 (1951).

Greene v. McElroy, 360 U.S. 474 (1959).

Hannah v. Larche, 363 U.S. 420 (1960).

In re Gault, 387 U.S. 1 (1967).

Local 473, Cafeteria Workers v. McElroy, 367 U.S. 886, *rehearing denied*, 368 U.S. 869 (1961).

Thorpe v. Durham Public Housing Authority, 386 U.S. 670, 674 (1967).

plus selected readings in administrative due process from K. C. Davis, Jaffe, Gellhorn and Byse.

B. Whether It Makes Any Difference That There is No Duty To Provide Publicly-Supported Opportunities in Higher Education:

MacAuliffe v. Mayor of New Bedford, 155 Mass. 216, 29 N.E. 517 (1892).

Scopes v. State, 154 Tenn. 105, 289 S.W. 363 (1927).

Frost & Frost Trucking Co. v. R. R. Comm'n, 271 U.S. 583 (1926).

West Virginia Bd. of Educ. v. Barnette, 319 U.S. 624 (1943).

Wieman v. Updegraff, 344 U.S. 183 (1952).

Slochower v. Bd. of Higher Educ., 350 U.S. 551 (1956).

Tinker v. Des Moines Independent Community School Dist., 393 U.S. 503 (1969).

Dixon v. Alabama State Bd. of Educ., 294 F.2d 150 (5th Cir.), *cert. denied*, 368 U.S. 930 (1961).

Knight v. State Bd. of Educ., 200 F.Supp. 174 (M.D.Tenn.1961).

Goldberg v. Regents of Univ. of Calif., 57 Cal.Rptr. 463 (1967).

Moore v. Student Affairs Committee of Troy State Univ., 284 F. Supp. 725 (M.D.Ala.1968).

plus selected readings from periodical literature

Reich, *The New Property*, 73 Yale L.J. 733 (1964).

Linde, *Constitutional Rights in the Public Sector: Justice Douglas on Liberty in the Welfare State*, 40 Wash.L.Rev. 10, 76 (1965).

O'Neil, *Unconstitutional Conditions: Welfare Benefits with Strings Attached*, 54 Calif.L.Rev. 443 (1966).

Van Alstyne, *The Demise of the Right-Privilege Distinction in Constitutional Law*, 81 Harv.L.Rev. 1439 (1968).

C. Particular Procedural Rights in the Adjudication of Student Infractions.

1. Requirements Respecting Specificity and Notice of Rules and Charges—

a. Selected Background Decisions

Keyishian v. Bd. of Regents (and cases cited therein), 385 U.S. 589 (1967).

Giacco v. Pennsylvania, 382 U.S. 399 (1966).

Connally v. General Construction Co., 269 U.S. 385 (1926).

Lanzetta v. New Jersey, 306 U.S. 451 (1939).

Nash v. United States, 229 U.S. 373 (1913).

United States v. Petrillo, 332 U.S. 1 (1947).

plus selected readings from periodical literature

Amsterdam, *The Void for Vagueness Doctrine*, 109 U.Pa. L.Rev. 67 (1960).

Collings, *Unconstitutional Uncertainty—An Appraisal*, 40 Cornell L.Q. 195 (1955).

b. College Cases

Hammond v. South Carolina State College, 272 F.Supp. 947 (D.S.Car.1967).

Dickson v. Sitterson, 280 F.Supp. 486 (M.D.N.C.1968).

Scoggin v. Lincoln Univ., 291 F.Supp. 161 (W.D.Mo. 1968).

Snyder v. Board of Trustees of Univ. of Illinois, 286 F. Supp. 927 (N.D.Ill.1968).

Esteban v. Central Mo. State College, 277 F.Supp. 649 (W.D.Mo.1967), 290 F.Supp. 622 (W.D.Mo.1968).

Buckley v. Meng, 230 N.Y.S.2d 924 (Sup.Ct.1962).

Soglin v. Kauffman, Opinion No. 67-C-141 (W.D.Wis. Dec. 11, 1967), 295 F.Supp. 978 (W.D.Wis.1968).

Goldberg v. Regents of Univ. of Calif., 47 Cal.Rptr. 463 (1967).

Cornett v. Aldrich, 408 S.W.2d 935 (Tex.Ct.App.1966).

Morris v. Novotny, 323 S.W.2d 301 (Tex.Ct.App.1959).

Jones v. State Bd. of Educ., 279 F.Supp. 190 (M.D.Tenn. 1968).

Dunmar v. Ailes, 348 F.2d 51 (D.C.Cir.1965).

Buttny v. Smiley, 281 F.Supp. 380 (D.Col.1968).

Zanders v. La. State Bd. of Educ., 281 F.Supp. 747 (1968).

Barker v. Hardway, 283 F.Supp. 228 (S.D.W.Va.1968).

Albaum v. Carey, 283 F.Supp. 3 (E.D.N.Y.1968).

2. Requirements Respecting A Hearing (*e.g.*, appearance, representation by counsel, confrontation, cross-examination, witnesses, exclusion of certain evidence, selection of panel, public hearing, transcript, burden of proof.)

(Dixon, Knight, Esteban, Goldberg, Dunmar, Buttny, Barker, *supra*).

Barker v. Hardway, 283 F.Supp. 228 (S.D.W.Va.), *aff'd per curiam*, 399 F.2d 638 (4th Cir.1968), *cert. denied*, 394 U.S. 905 (1969).



- Madera v. Bd. of Educ., 267 F.Supp. 356 (S.D.N.Y.1967), *rev'd*, 386 F.2d 778 (2d Cir. 1967).
- Goldwyn v. Allen, 281 N.Y.S.2d 899 (Sup.Ct.1967).
- Cosme v. Bd. of Educ., 270 N.Y.S.2d 231 (1966).
- People v. Overton, 273 N.Y.S.2d 143 (1967), *rev'd*, 20 N.Y. 2d 360, *judgment vacated*, 37 U.S.L.Week 3157 (1968).
- Moore v. Student Affairs Committee, 284 F.Supp. 725 (M.D. Ala.1968).
- Woody v. Burns, 188 So.2d 56 (Fla.Ct.App.1966).
- Woods v. Wright, 334 F.2d 369 (5th Cir.1964).
- Wright v. Texas Southern Univ., 277 F.Supp. 110 (S.D.Texas, 1967) *aff'd*, 392 F.2d 728 (5th Cir. 1968).
- Due v. Florida A. & M. Univ., 233 F.Supp. 396 (M.D.Fla. 1963).
- Wasson v. Trowbridge, 383 F.2d 807 (2d Cir.1967).
- Connelly v. Univ. of Vermont, 244 F.Supp. 156 (D.Vt. 1965).
- Zanders v. La. State Bd. of Educ., 281 F.Supp. 747 (W.D.La. 1968).
- Schiff v. Hannah, 282 F.Supp. 381 (W.D.Mich.1968).
- Scoggins v. Lincoln University, 291 F.Supp. 161 (W.D.Mo. 1968).
- Marzette v. McPhee, 294 F.Supp. 562 (W.D.Wis.1968).
- Stricklen v. Regents of Univ. of Wisconsin, 297 F.Supp. 416 (W.D.Wis.1969).

Selected Readings from Periodical Literature

- Developmental Note, *Academic Freedom*, 81 Harv.L.Rev. 1045, 1128 (1968).
- Blackwell, *Can a Student Be Expelled Without Due Process?* College and Univ. 31 (1961).
- Byse, *Procedures in Student Dismissal Proceedings: Law and Policy*, Proceedings 170-87, 44th Anniv. Conf. Nat'l Ass'n of Student Personnel Administrators (1962).
- Jacobsen, *The Expulsion of Students and Due Process of Law*, 34 J. Higher Educ. 250 (1963).
- Johnson, *The Constitutional Rights of College Students*, 42 Texas L.Rev. 344 (1964).
- Monypenny, *University Purpose, Discipline and Due Process*, 43 N.D.L.Rev. 739 (1967).
- Murphy, *Educational Freedom in the Courts*, 49 A.A.U.P. Bull. 39 (1963).
- Van Alstyne, *Procedural Due Process and State University Students*, 10 U.C.L.A.L.Rev. 368 (1963).
- Williamson, *Do Students Have Academic Freedom?* College and Univ. 466 (1964).

- Note, *Expulsion of College and Professional Students—Rights and Remedies*, 38 Notre Dame Law. 174 (1963).
- Note, *The College Student and Due Process in Disciplinary Proceedings*, 1962 Ill.L.F. 438.
- Comment, *The College Student and Due Process in Disciplinary Proceedings*, 13 S.D.L.Rev. 87 (1968).
- Comment, *School Expulsions and Due Process*, 14 Kan.L.Rev. 108 (1965).
- Comment, *The Constitutional Rights of Students*, 40 Phil.L.J. 587 (1966).
- College Disciplinary Proceedings*, 18 Vand.L.Rev. 819 (1965).
- Due Process and Dismissal of Students at State-Supported Colleges and Universities*, 3 Ga.B.J. 101 (1966).
- Due Process and Dismissal of Students at State-Supported Colleges and Universities*, 10 St. Louis L.J. 542 (1966).
- Are the Rights of Students Expanding?*, 38 Okla.B.J. 1585 (1967).
- Degree of Discretionary Authority Possessed by University Officials in Student Disciplinary Matters—The Availability of Mandamus*, 21 S.W.L.J. 664 (1967).
- Due Process in Public Colleges and Universities—Need for Trial-type Hearings*, 13 How.L.J. 414 (1967).
- Comment, *Judicial Intervention in Expulsions or Suspensions by Private Universities*, 5 Willamette L.J. 277 (1969).
- Note, *Reasonable Rules Reasonably Enforced—Guidelines for University Disciplinary Proceedings*, 53 Minn.L.Rev. 301 (1968).
- Note, *The Scope of University Discipline*, 35 Brooklyn L.Rev. 486 (1969).

## VI. Emerging Limitations on the Scope and Content of University Regulations

### A. Rights of Students in Free Speech and Political Action

#### 1. General Background Decisions

- West Virginia Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943).
- Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968).
- Lamont v. Postmaster General*, 381 U.S. 301 (1965).
- DeJonge v. Oregon*, 299 U.S. 353 (1937).
- Kunz v. New York*, 340 U.S. 290 (1951).
- Terminiello v. Chicago*, 337 U.S. 1 (1949).
- Edwards v. South Carolina*, 372 U.S. 229 (1963).
- Cameron v. Johnson*, 36 U.S.L.W. 4619 (1968).
- Kovacs v. Cooper*, 336 U.S. 77 (1949).
- Poulos v. New Hampshire*, 345 U.S. 395 (1953).

Cox v. Louisiana, 379 U.S. 559 (1965).

Schneider v. State, 308 U.S. 147 (1939).

Selected Periodical Literature

Kalven, *The New York Times Case: A Note on "The Central Meaning of the First Amendment,"* 1964 Supreme Court Rev. 191.

Emerson, *Toward a General Theory of the First Amendment,* 72 Yale L.J. 877 (1963).

Alfange, *The Balancing of Interests in Free Speech Cases: In Defense of an Abused Doctrine,* 2 Law In Trans.Q. 35 (1965).

2. College Cases

Tinker v. Des Moines Independent Community School Dist., 258 F.Supp. 971 (S.D.Iowa 1966), *aff'd mem. by equally divided court*, 383 F.2d 988 (8th Cir. 1967), *rev'd*, 393 U.S. 503 (1969).

Burnside v. Byars, 363 F.2d 744 (5th Cir. 1966).

Hammond v. South Carolina State College, 272 F.Supp. 947 (D.S.Car.1967).

Dickson v. Sitterson, 389 F.Supp. 486 (M.D.N.C.1968).

Dicky v. Alabama State Univ. Bd. of Educ., 273 F.Supp. 613 (M.D.Ala.1967).

Brooks v. Auburn University, 296 F.Supp. 188 (M.D.Ala. 1969).

Snyder v. Bd. of Trustees of Univ. of Illinois, 286 F.Supp. 927 (N.D.Ill.1968).

Scoville v. Bd. of Educ. of Joliet, 286 F.Supp. 988 (N.D.Ill. 1968).

Soglin v. Kauffman, 295 F.Supp. 978 (W.D.Wis.1968).

Esteban v. Central Mo. State College, 290 F.Supp. 622 (W.D. Mo.1968).

Evers v. Birdsong, 287 F.Supp. 900 (S.D.Miss.1968).

Grossner v. Trustees of Columbia Univ., 287 F.Supp. 535 (S.D.N.Y.1968).

Student Liberal Action Federal v. La. State Univ., Civ.No.68-300 (E.D.La., Feb. 13, 1968).

Danskin v. San Diego Unified School Dist., 171 P.2d 885 (1946).

Buckley v. Meng, 230 N.Y.S.2d 924 (S.Ct.1962).

Buttny v. Smiley, 281 F.Supp. 280 (D.Col.1968).

Zanders v. State Bd. of Educ., 279 F.Supp. 190 (M.D.Tenn. 1968).

Jones v. State Bd. of Educ., 279 F.Supp. 190 (M.D.Tenn. 1968).

Blackwell v. Issaquena Cty. Bd. of Educ., 263 F.2d 749 (5th Cir. 1966).

In re Bacon, 49 Cal.Rptr. 322 (Cal.App.1966).

Goldberg v. Regents of Univ. of Calif., 57 Cal.Rptr. 463 (1967).

Barker v. Hardway, 283 F.Supp. 228 (S.D.W.Va.1968).

### 3. Periodical Literature References

Hook, *Freedom to Learn But Not to Riot*, N.Y. Times Mag. 8, Jan. 3, 1965.

Pollitt, *Campus Censorship: Statutes Barring Speakers from State Educational Institutions*, 42 N.C.L.Rev. 179 (1963).

Van Alstyne, *Political Speakers at State Universities: Some Constitutional Considerations*, 111 U.Pa.L.Rev. 328 (1963).

*The Judicial Trend Toward Student Academic Freedom*, 20 Fla.L.Rev. 290 (1968).

Comment, *Mississippi's Campus Speaker Ban: Constitutional Considerations and the Academic Freedom of Students*, 38 Miss.L.Rev. 488 (1967).

Symposium, *Student Rights and Campus Rules*, 54 Calif.L.Rev. 1-174 (1967) (a collection of five articles plus bibliography at pp. 177-78).

Legislative Note, *State's Right to Abrogate First Amendment Guarantees in Regulation of State University Speaker Programs*, 42 Tulane L.Rev. 394 (1968).

*Campus Free Speech: Notes On A Puzzling Poll*, 19 Coll. & Univ.Bull.No.1, p. 3, Nov. 1, 1966.

Developmental Note, *Academic Freedom*, 81 Harv.L.Rev. 1045, 1128 (1968).

Note, *Private Government on the Campus—Judicial Review of University Expulsions*, 72 Yale L.J. 1362 (1963).

## B. Rights of Students in Personality and Social Freedom.

### 1. General Background Decisions

Griswold v. Connecticut, 381 U.S. 479 (1965).

Waugh v. Board of Trustees, 237 U.S. 589 (1915).

Meyer v. Nebraska, 262 U.S. 390 (1923).

### 2. College Cases (or related school cases)

Ferrell v. Dallas Indep. School Dist., 261 F.Supp. 545 (N.D. Tex.1966), *aff'd*, 392 F.2d 697 (5th Cir. 1968), *cert. denied*, 393 U.S. 856 (1968).

Finot v. Pasadena Bd. of Educ., 58 Cal.Rptr. 520 (1967).

Leonard v. School Committee of Attleboro, 212 N.E.2d 468 (Mass.1965).

Zachry v. Brown, Civ.No.66-719 (N.D.Ala. June 30, 1967).

Breen v. Kahl, 68-C-201 (W.D.Wis. Feb. 20, 1969).

- Meyers v. Arcata Union High School Dist., 1 Civ. 24453 (Cal. App. Feb. 10, 1969).
- Davis v. Firment, 269 F.Supp. 524 (E.D.La.1967).
- Mitchell v. McCall, 143 So.2d 629 (1962).
- Sigma Chi Fraternity v. Regents of Univ. of Colorado, 258 F. Supp. 515 (D.Col.1966).
- Cornette v. Aldrich, 408 S.W.2d 935 (Tex.Ct.App.1966).
- Moore v. Student Affairs Committee of Troy State University, 284 F.Supp. 725 (M.D.Ala.1968).
- People v. Overton, 273 N.Y.S.2d 143, *rev'd*, 20 N.Y.2d 360, *judgment vacated*, 37 U.S.L.Week 3157 (1968).

### 3. Selected Periodical Literature

- Plasco, *School Student Dress and Appearance Regulations*, 18 Cleveland Marshall L.Rev. 143 (1969).
- Note, *Public School Authorities Regulating the Style of Student's Hair*, 47 N.Car.L.Rev. 171 (1968).
- Comment, *A Student's Right to Govern His Personal Appearance*, 17 J.Pub.Law 151 (1968).
- Comment, *The Personal Appearance of Students—The Abuse of a Protected Freedom*, 20 Ala.L.Rev. 104 (1967).
- Note, *The Right to Dress and Go to School*, 37 U.Col.L.Rev. 492 (1965).
- Note, 19 Mercer L.Rev. 252 (1968).
- Van Alstyne, *The Student as University Resident*, 45 Denver L.Rev. 582 (1968); *The Rule-Making Powers of Public Universities*, 2 Law In Trans.Q. 3 (1965).
- Note, *College Searches and Seizures: Privacy and Due Process Problems on Campus*, 3 Geo.L.Rev. 426 (1969).
- Comment, *The Dormitory Student's Fourth Amendment Right to Privacy: Fact or Fiction?*, 9 Santa Clara Law. 143 (1968).

## VII. Possible New Dimensions of Student Rights

(A brief consideration of overlapping town-gown jurisdiction and double jeopardy, new ways of considering equal protection, privacy, additional procedural safeguards, based on projections of recent constitutional developments in related areas.)

## VIII. Nonlegal Aspects of Student Power

(As time permits, an examination of student demands to participate in institutional decisions and of their interest to utilize educational institutions for purposes of social impact; a review of ways and means in the assessment of campus disorder and the accommodation of new interests on campus.)

University and Association Reports of General Interest

The Joint Statement of Student Rights and Freedoms (AAUP, NSA, AAC, ACE, NASPA, NAWDC, 1968).

- ACLU, *Academic Freedom and Civil Liberties of Students in Colleges and Universities*, (1961), reprinted in 48 A.A.U.P.Bull. 110 (1962).
- Statement on Government of Colleges and Universities*, 52 A.A.U.P.Bull. 375 (Winter, 1966).
- ACE, *Statement on Confidentiality of Student Records*, 20 J. Legal Educ. 229 (1967).
- Report of the Committee on Academic Freedom to the Berkeley Div. of the Univ. of Calif., Academic Senate (Jan. 5, 1965).
- Report of the Student Commission on University Governance, *The Culture of the University: Governance and Education*, (Univ. of Calif., Berkeley, Jan. 15, 1968).
- Critique of a College*, pp. 399-427 (Report of the Special Committee on Student Life), Swarthmore College, Nov. 1967.
- Report of Ad Hoc Committee on The Role of Students in the Government of the University (Univ. of Wisconsin, Feb. 6, 1968).
- Report and Recommendations of the Senate Advisory Committee on Student Affairs (Univ. of Ky., Dec. 9, 1966).
- Proposed Codes with Commentary on Student Conduct and Discipline Proceedings in a University Setting (N.Y.Univ., May 31, 1968).
- Report of the Advisory Committee on Student Conduct (Brown Univ., May, 1967).
- National Commission on the Causes and Prevention of Violence, Statement on Student Unrest, N.Y. Times, p. 30, June 10, 1969.
- A.A.U.P., Interim Guidance Memorandum, July 17, 1969 (bibliography of materials on Restructuring of College and University Government).