

“THE DEMISE OF *IN LOCO PARENTIS* IN AMERICAN HIGHER EDUCATION:”
CAMPUS RULES AND STUDENT BEHAVIOR AT THE UNIVERSITY OF
MISSOURI, 1866 TO 1975

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The undersigned, appointed by the dean of the Graduate School, have examined the thesis entitled

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Introduction

In the late 1980s and early 1990s, some Americans wondered why college students, twenty years after the campus unrest of the 1960s, were not more politically active.¹ Those that bemoaned the apparent apathy of “modern” students decried the self-centeredness of a new generation. They declared that students in the 1980s were selfishly pursuing financially rewarding careers, and this was leaving them unconcerned about social problems. There were others who voiced optimism about the immediate future (the 1990s), however, and they wrote about signs on campuses that pointed to a more activist decade. Those anticipating a return to activism still condemned the selfishness of a majority of students, but saw signs of hope in the protests against apartheid, the 1991 Gulf War, and unequal social conditions in the United States. Both sides of the conversation agreed that students in the 1980s compared unfavorably to their predecessors in the 1960s that had been more aware of, and involved in, the political battles of the day. These modern students, according to books and articles on the subject, should emulate that older generation and become more involved in the wider world as activists and focus less on becoming financially

¹ There are numerous books and articles that address student activism in the late 1980s and the 1990s. For a few examples, see: Robin Wilson, “Student Leaders from Big 10 Campuses Organize to Revitalize Activism,” *Chronicle of Higher Education* 36, no. 3, (20 September 1989): A40., Philip G. Altbach and Robert Cohen, “American Student Activism: The Post-Sixties Transformation,” *The Journal of Higher Education* 61, no. 1, (January-February 1990): 32-49., Cheryl Russell, “Meet the Next Generation,” *American Demographics* 12, no. 4, (April 1990): 2., Arthur Levine and Deborah Hirsch, “Student Activism and Optimism Return to the Campuses,” *The Chronicle of Higher Education* 37, no. 10, (7 November 1990): A48., Heather Rhodes, “Activism Revives on Campus,” *Progressive* 55, no. 3, (March 1991): 15-17., David Masci, “Student Activism: Are Student Protests Still Alive?” *The CQ Researcher* 8, no. 32, (28 August 1998): 745-760. All details in the first three paragraphs are from the articles listed here.

successful. What these scholars failed to appreciate, however, is that the student activism of the 1960s was a unique event in the history of American higher education. College students during the ninety years following the Civil War were not focused on activism any more than students in the 1980s and 1990s.

The writers of these scholarly works almost exclusively point to two motivating factors for student activism in the 1960s, the Civil Rights Movement and the Vietnam War. According to the authors, civil rights battles had introduced these students to political activism, and the Vietnam War provided the biggest incentive for them to participate in protests against the establishment. With the end of the draft, and especially after the end of the war, those scholars argued that an era of student apathy began that continued through the 1980s. Other factors that they claimed had contributed to this apathy were the economic problems of the 1970s, the decline of student interest in the social sciences, and a view that the activism of the 1960s had failed to achieve any real changes.

The economic boom of the 1980s and the growth of conservative politics during that decade, according to these authors, promoted selfish attitudes among college students that continued student apathy towards political engagement. Students were more interested in pursuing a career that promised financial security and less prone to political idealism. The vast majority of college students had become self-absorbed, and less aware or concerned about social issues such as homelessness, the AIDS epidemic, and homophobia. It is true, they argue, that campuses experienced anti-apartheid demonstrations in the mid-1980s and protests against the 1991 Gulf War, but these were short-lived and did not

contribute to a reawakening of student activism like that seen in the 1960s. The writers of these pieces expressed optimism that a new period of activism was at hand, but by the late 1990s that hoped-for change in student attitudes had still not materialized.

There was a more basic reason that student activism rose in the early 1960s and faded in the 1970s—those were the years of the death throes of *in loco parentis*. The student activism of the 1960s *had* achieved great changes on campus. By the mid 1970s, the legal regime of *in loco parentis*, impossible to administer on the numerically expanded and more diverse student bodies of the early 1960s, had ended in American higher education. *In loco parentis*, a Latin phrase literally meaning “in the place of parents,” was also a legal term that established the relationship between college students and school administrators. Students through the end of the 1950s were subject to school rules that denied them basic constitutional rights, and the bulk of their political activism during the 1960s was an attempt to gain those rights on campus. By the mid-1970s, courts had stripped college administrators of their ability to control students *in loco parentis*, and student activism declined as a result. College students now had freedom of speech, freedom to live and entertain members of the opposite sex where they pleased, and also, thanks to the twenty-sixth amendment, the right to vote.

Vietnam certainly brought together students of all political persuasions in opposition to the war, but the struggle for student rights did so as well, even before the war. Students at the University of Missouri, for instance, protested

dress codes in the early 1960s, and they worked within the system to begin rolling back the rules of *in loco parentis* by the middle of that decade. Some of the largest demonstrations at Missouri in the late 1960s were not in opposition to the war in Vietnam, but for free speech and against intervisitation rules designed to inhibit sexual activity. At Missouri in 1969, a female graduate student was expelled for “indecent speech,” and her subsequent court challenge to her expulsion set the stage for the end of *in loco parentis* rules designed to prohibit obscene speech on campuses around the country. In the wake of her punishment, thousands of students at the University of Missouri marched and gathered for a free speech rally. Students from the political left and right united in their condemnation of the administration’s actions, and called for freedom of speech on campus.

With the demise of *in loco parentis* in higher education, the need for mass political activism in order to change rules on campuses ended. Social commentators calling for a return to 1960s style activism and protest missed this crucial reason for their end in the 1970s. Students no longer ran afoul of school rules by expressing themselves in action or in print. Just as the end of the draft removed a common cause that united students in protest, the end of *in loco parentis* in higher education removed the ultimate common cause uniting students against administrators. Activism on campus after the end of *in loco parentis* thereafter mirrored the activism in American society—individuals and groups were now free to pursue their activities unhindered by officials, and large-scale rallies or protests became rare events. Some students chose to pursue political

activism, while most did not. Authors bemoaning the self-centeredness of college students were instead bemoaning selfish behavior common to a majority of Americans. College students, now recognized as free adults, felt no more need to organize as activists than any other segment of the population.

This Thesis argues that the demise of *in loco parentis* in the 1960s and 1970s was the result of institutional changes in higher education and cultural changes in the United States. The student activism of the 1960s did not occur in a vacuum; college students were reacting to the post-World War II shifts in society and in higher education itself when they began pushing for a relaxation of *in loco parentis* rules on campus. Since 1866 students had objected to school rules, and some even filed lawsuits in an effort to overturn those rules. American colleges and the courts were not yet ready to remove administrators from a position of guardianship over students, however, because Victorian Era Americans did not view college students as free adults. During the first seven decades of the twentieth century, this attitude towards students changed as society changed, and by the early 1970s, college students were viewed as fully adult. Student activism played an indispensable part in this process, but it was by no means solely responsible for the end of *in loco parentis*.

The University of Missouri is a good barometer of the changes in higher education in the period between the end of the Civil War and the 1970s, and many of the specific examples of those changes will come from that institution. The growth in numbers and bureaucracy at Missouri is representative of schools across the country. The attitudes of Missouri students towards themselves and

their place in society tracks nicely with the larger culture as well. Students at Missouri actively worked to reduce the administration's *in loco parentis* role beginning in the early 1960s. The school rules that Missouri students wanted changed were the same ones that students at other schools worked to change. Dress codes, rules against students driving automobiles, and curfews were among the things students of the early 1960s wanted rolled back or eliminated outright. The administration at Missouri initially worked with students to make changes to these *in loco parentis* regulations. By the end of the 1960s, however, administrators and students were at odds at the University of Missouri, just as they were nationwide.

The history of the legal regime of *in loco parentis* in American higher education is really the history of higher education itself. The roots of *in loco parentis* go back to the initial structure of colleges in the United States. Those schools were small and administrators were active members of the faculty.² At the same time, college students were not considered free adults, and administrators viewed themselves as responsible for the moral development of their charges. With intimate contact between students and school administrators, the policing of student behavior was easier than it would be by the early twentieth century. Small student bodies meant that there was almost no opportunity for students to act anonymously on campus, and college presidents were quick to act against bad behavior.

² Christopher J. Lucas, *American Higher Education: A History* (New York: St. Martin's Press, 1994), 123-124.

From the end of the American Civil War through the first years of the twentieth century, courts affirmed the paternalistic role of college administrators into the legal regime of *in loco parentis*. Students did not enjoy due process rights, and this allowed school officials to punish students in any way they saw fit. Students remained financially dependent upon their families as well, and parents had an incentive to transfer guardianship to college administrators in order to protect the financial investment they were making on their offspring. Students saw themselves as dependents, and as evidenced by the campus culture that existed in the latter-half of the nineteenth century, acted in such a way that reinforced society's views of them as needing discipline. The Victorian Era cultural view of sexuality also contributed to *in loco parentis* rules. The newly admitted Female students needed protection from males, so rules evolved to keep them and their reputations safe from their male peers. In the eyes of the courts as well as in the eyes of parents and students, college administrators could act in any way that a parent was free to act towards college-aged Americans who happened to be enrolled in college.

Between 1900 and the end of the Second World War, dramatic changes occurred in both higher education and American culture. Colleges and universities grew at an astronomical rate, and their mission in society changed. College presidents and deans of departments no longer had the ability to devote time to student instruction, as they were busy running expanding educational bureaucracies.³ This new role of colleges called for professional administrators to guide growing organizations, and full-time, professional faculty, to prepare

³ Lucas, 191.

students for life in an increasingly mechanized economy.⁴ At the same time, American sexual mores were changing as well. Sexual attitudes shifted from the Victorian ideal of only within marriage, especially for women, to a more permissive attitude towards female sexuality. Urbanization and a liberation from traditional female roles contributed to an increase in premarital sex by young people in the United States, and college campuses were not immune to this new reality.⁵

College administrators, busily managing growing institutions and physically separated from students, no longer had the ability to police student behavior effectively. Student bodies had grown numerically, and partially as a result of the growth of intercollegiate athletics, which brought working-class males to campus to improve the football team, the demographics of student bodies had changed. A professional faculty found “parenting” students distasteful, and focused instead on purely educational tasks. As a result of this structural change in higher education, the enforcement of *in loco parentis* rules slackened during the first four decades of the twentieth century.⁶ Increasingly, administrators tasked students themselves with enforcing campus rules, and student-controlled governmental bodies proliferated. This *laissez faire* attitude on the part of school officials permitted college students a great deal of personal freedom by the late 1930s, and student publications at the University of Missouri reflect this.

⁴ John R. Thelin, *A History of American Higher Education* (Baltimore, MD: The Johns Hopkins University Press, 2004), 125-127.

⁵ Nancy F. Cott, *The Grounding of Modern Feminism* (New Haven, CT: Yale University Press, 1987), 149-150.

⁶ Lucas, 203.

Following World War II, college administrations began to reassert their *in loco parentis* position. Between 1945 and 1960, the University of Missouri cracked down on sexual activity on campus, beginning with homosexual sex.⁷ School officials at Missouri also began censoring student publications that referenced sexual behavior on the part of students. On the bureaucratic front, the university established the office of Dean of Students and gave one man ultimate authority to police student behavior. That man, Jack Matthews, oversaw the implementation and enforcement of all school rules established under *in loco parentis*, and actively worked to ensure student compliance with those rules. He and his office disciplined students for improper sexual behaviors, the publication of “obscene” materials, and for violations of the myriad other regulations placed upon students by the university in its role as their legal guardian.

Beginning in 1960, students began chafing at these limitations on their liberty.⁸ Student bodies had grown significantly in the post-war era, in numbers as well as demographically. At Missouri, female students would plan a protest against an expanded dress code. At the University of California, students staged the first demonstration for free speech on campus. While mass demonstrations captured headlines and the imaginations of Americans, students began to work through their student governments to roll back some of the rules they lived under. Missouri students successfully lobbied to end curfews for older female students,

⁷ LeeAnn Whites, “Boys Will Be Boys: Panty Raids and Homosexual Rings in the University of Missouri’s Cold War Era” (conference paper, Annual Meeting of the American Historical Association, San Francisco, CA, January 2002).

⁸ Rebecca E. Klatch, *A Generation Divided: The New Left, the New Right, and the 1960s* (Berkeley, CA: University of California Press, 1999), 135.

and gained the right to live in “unapproved” off-campus housing. Far from the limelight, these gradual reductions of *in loco parentis* authority gave students freedom, and undoubtedly emboldened them to push for even more liberty.

Eventually, students came up against the limits of administrators’ willingness to negotiate rule changes. *In loco parentis* remained the guiding principle behind the relationship between administrators and students, and school officials were hesitant to abdicate that responsibility absent court action. There was at least one member of the administration at Missouri that called publicly for a rejection of *in loco parentis* in higher education, but until legal precedent was overturned, his call went unheeded. The court decisions that would ultimately end *in loco parentis* began in 1961, when students’ right to due process was recognized. In the late 1960s, a Supreme Court decision granting students the right of free political speech was forthcoming. At Missouri, graduate student Barbara Papish’s 1969 expulsion for handing out an “obscene” newspaper gave the Supreme Court an opportunity to rule on another facet of free speech for students.

Before the court had an opportunity to rule on *Papish v. Board of Curators of the University of Missouri*, in 1971 the United States ratified the Twenty-Sixth Amendment to the Constitution. The recognition of eighteen-year-olds’ right to vote undercut the basic premise of the *in loco parentis* legal regime. Now recognized as a political constituency, college-aged Americans were legally adults and their constitutional rights could no longer be denied. *In loco parentis* had been established during an era when students were officially still minors in need

of moral guidance, but with the right to vote that understanding was no longer operative. College students now took their place beside other college-aged non-students as free adults no longer in need of a legal guardian.

The 1973 Supreme Court decision in *Papish's* case against the University of Missouri was a final blow to *in loco parentis* in American higher education. Public universities' lack of ability to police student speech, combined with the twenty-sixth amendment, ended any legal justification for *in loco parentis* rules for college students. In 1977, the University of Missouri officially abandoned its role of legal guardianship of students. Beginning with the 1977 academic year at Missouri, the modern university was born. By the mid-1970s nationwide, college students were recognized as adults by American society, and *in loco parentis* in higher education was finished.

Since the end of *in loco parentis*, the unique circumstances of the 1960s that fueled campus activism no longer exist. College students are free to pursue whatever social or political causes they find appealing, but they are no longer united against a single authority by the simple fact that they are students. If that situation ever changes, and they find themselves uniquely affected by an issue or event, the spirit of the 1960s will return. Until that happens, social commentators should expect college campuses to look like American society at large—a diverse population with many different views. Anticipating or expecting anything else is nostalgic longing for a unique time in American history.

The Dawn of the *In Loco Parentis* Era: American Higher Education, 1866-1900

American courts ratified *in loco parentis* in the half-century following the Civil War. Colleges had imposed rules upon and disciplined students since their founding, but in 1866 the courts began to transform administrators' traditional role into a legal regime. Under this legal regime, schools were granted the authority—as well as the obligation—to act as guardians of student character and morality.¹ Between 1866 and the 1910s, courts consistently ruled that college students did not have a constitutional right to due process, and as a result of those rulings schools established regulations that curtailed students' other social and economic rights such as the right to join off-campus organizations and the right to purchase goods and services from outside vendors. The reach of *in loco parentis* extended beyond private colleges into institutions established and supported by governments, a shocking revelation to modern sensibilities. During this same period, children as young as six or seven entered the workforce, and many college-aged Americans were married with children of their own. A twenty-one year-old factory worker or farmer in 1900 was an adult in the eyes of the law, and had the expectation of full constitutional rights and protections. Why then did courts allow, if not require, college administrators to govern eighteen to twenty-two year-old students as though they were children? A mixture of cultural, legal, and financial realities characteristic of the late nineteenth century provide the answer to this question.

¹ Frederick Rudolph, *The American College and University: A History*, (New York: Alfred A. Knopf, 1962), 243.

College students, enjoying an extended adolescence fostered by economic dependency, created a campus culture that reinforced society's conviction that students needed moral guidance. The typical college student in the latter-half of the nineteenth century was drawn from a privileged minority of American families affluent enough to afford higher education for their children.² These students remained financially dependent upon their parents even while in college, and neither society nor they themselves considered college students independent adults. Whereas a twenty year-old non-student who was financially independent was "clearly" an adult, a twenty year-old college student receiving an allowance from his or her parents was certainly not. Parents, because they economically supported their college-student offspring, understandably had a financial incentive to demand school administrators take a custodial role towards their children. Those parents who could afford to send their progeny to college did so in order to insure their children's future social position.³

The paternalistic authority of college administrators, common in post Civil War America, was a holdover from the earliest years of higher education. Student bodies were small and administrators, including the university president, remained instructors in the classroom.⁴ In addition, many mid-nineteenth-century administrators and faculty members were themselves the product of institutions that began as religious colleges. Although they were no longer specifically training students for the ministry, faculty

² Rudolph, 485-486.

³ John R. Thelin, *A History of American Higher Education*, (Baltimore: The Johns Hopkins University Press, 2004), 108.

⁴ Laurence R. Veysey, *The Emergence of the American University*, (Chicago: The University of Chicago Press, 1965), 32.

continued to see moral guidance as an important aspect of their profession.⁵ Their close, everyday contact with students gave them the opportunity, as well as the incentive, to enforce rules of decorum upon their charges. The resulting paternal attitude towards college students by their superiors was the tradition that courts codified into the legal doctrine of *in loco parentis*.

Paternal administrators and faculty sought to control every aspect of their students' lives. At Harvard, for instance, students were not allowed to leave the college on Sundays (and one would assume any other day) without the consent of the administration, or even to "loiter in groups" anywhere on college property. At Columbia, proper student behavior at mandatory daily chapel meetings was the subject of two full pages of the school's manual. Yale's rules forbade "Sabbath profanation, active disbelief in the authenticity of the Bible, and extravagant expenditures."⁶ Yale even required, for a time, that students take a loyalty oath to the administration. President Patton of Princeton expressed a belief that college students do not deserve to be treated as innocent until proven guilty when "common fame [i.e., hearsay] accuses a man of exerting a corrupting influence in the college."⁷ At most American colleges during the latter half of the nineteenth century, school rules allowed faculty to inspect student rooms, on campus or off, at any time.⁸

⁵ Thelin, 108.

⁶ Veysey, 34.

⁷ Veysey, 34.

⁸ Veysey, 33-34.

One factor that motivated the actions of administrators was the belief that college students were fundamentally immature. A college student, in the eyes of school officials, was no longer a child, but neither was he or she a mature adult. It was this understanding of the character of those in their charge that justified strict rules and regulations on behavior. Another motivation was the desire to instill moral and religious principles in students. Veysey goes so far to compare the disciplinary instinct of administrators to the desire of all authoritarian regimes; faculty and administrators demanded students' absolute allegiance and obedience. He argues that college authorities desired confessions of guilt and submission by students. This attitude explains why a college president, like Patton at Princeton, would declare that students do not deserve due process rights.⁹

American courts were also responding to legal and financial realities in codifying college administrators' tradition of policing student behavior. College students in the latter-half of the nineteenth century were not considered adults by parents or college authorities. Using factors like voting age to determine legal adulthood sheds light on society's views of an individual's adulthood, but they do not explain the unique status of college students in relation to school administrators. Financially independent twenty year-old non-students, for instance, did not have the right to vote in 1900, but they did not have a legal guardian limiting their behavior either. The legal rationale for *in loco parentis*, as exemplified in *Isaac Daniels v. Grayson College* (1899), was that a third party had legal standing to seek redress for actions that damaged the morals or reputation of its dependent. Parents or legal guardians had a vested interest in protecting the welfare of their financial dependent (and still do today), and those individuals or institutions

⁹ Veysey, 34-35.

could sue anyone that threatened or violated that welfare. Additionally, a college could suffer its own loss of reputation based upon the actions of its students. In *Daniels v. Grayson College*, the court recognized the financial fortune of the school was directly linked to its ability to enforce rules controlling student behavior. Parents paid the tuition bill, and they would refuse to patronize a college that did not follow through in enforcing those rules.

The court decisions that established the *in loco parentis* legal regime were grounded in these cultural, legal, and financial realities of post Civil War America. College students were forbidden from joining organizations open to any other citizen, and administrators were allowed to forbid otherwise legal activities that they viewed as detrimental to their students or their institutions. This was the essence of *in loco parentis*. Parents of financially dependent college-aged Americans had a right to govern those young men and women as they saw fit, and that same right was extended to institutions of higher learning. Parents were passing their legal guardianship on to those institutions, and the courts recognized this transference of parental authority. Modern scholars usually cite the 1913 decision in *Gott v. Berea College* as the key ruling in the establishment of *in loco parentis*, but that decision followed a string of similar rulings going back to 1866.¹⁰ Five of the most important cases in the history of *in loco parentis*, including *Gott v. Berea College*, are discussed in the following pages. Through these rulings, courts granted both public and private institutions of higher education the same legal rights as parents towards their students. This was not the imposition of a new

¹⁰ Richard L. Morrill, C. Eric Mount, Jr., Richard A. Fass, "In Loco Parentis Revisited?" *Change* 18 (January-February 1986): 34-41.

responsibility upon colleges, but an affirmation of the traditional relationship between administrators and students.

The first court case dealing with the subject of *in loco parentis* following the Civil War upheld the traditional view that college students are not protected by Due Process. In the fall of 1865, Edwin Hartley Pratt enrolled at Wheaton College in Illinois.¹¹ He was apparently committed to the cause of abstinence, as evidenced by his joining of the Good Templars, a secret society devoted to the promotion of temperance.¹² Unfortunately for Pratt, the president of Wheaton College, Jonathan Blanchard, was adamantly opposed to secret societies of any sort—he viewed secret societies as promoters of slavery. Wheaton was a religious institution, and Blanchard was a committed social reformer. Although President Blanchard may have whole-heartedly agreed with Pratt and the Good Templars’ views concerning alcohol consumption, he had forbidden Wheaton students from membership in secret societies of any type. The faculty suspended Pratt from the college “[U]ntil he should express a purpose to conform to its rules.”¹³

In the middle of the nineteenth century, many Americans viewed secret societies as a political threat to the United States, as well as a threat to social reform. Then, as now, the specter of secret societies sparked conspiracy theories about hidden cabals wielding power for the benefit of a few, usually wealthy, individuals or organizations. People eyed groups such as the Freemasons with suspicion, imagining a nationwide or even

¹¹ Sylvain Cazalet, “Edwin Hartley Pratt,” in *History of Homœopathy Biographies*, ed. William Harvey King, <http://www.homeoint.org/history/bio/p/pratteh.htm> (accessed June 24, 2013).

¹² Pratt v. Wheaton College, 40 Ill. 186, 1866 Ill. LEXIS 163 (1866).

¹³ Pratt v. Wheaton College, 186.

global alliance of wealthy, powerful men who influenced governments in order to further their own interests. On college campuses, undergraduate secret societies formed that mimicked their “adult” counterparts, such as Skull and Bones at Yale (founded in 1832). The mid-nineteenth century was also the era that saw the emergence of Greek-letter fraternities on campuses, which many college presidents banned from their schools as secret societies.

Against this backdrop of suspicion directed at secret societies, Edwin Hartley Pratt’s membership in the Good Templars resulted in his suspension from Wheaton College. His father, Leonard Pratt, sought to have his son reinstated at Wheaton by a mandamus from the Circuit Court of Du Page County, Illinois. The court refused to compel the school to re-admit Edwin, and Leonard Pratt appealed the decision to the Illinois Supreme Court. He argued that his son had not violated any law in joining the Templars, and that the school had no legal right to expel Edwin for his membership in that group.

The decision by the Illinois Supreme Court became the cornerstone in the doctrine of *in loco parentis* in American higher education. The justices affirmed the judgment of the circuit court, and clearly spelled out the status of college students in the eyes of the law. Colleges were free to make rules governing their students, including rules against joining secret societies, even if those rules prohibited students from engaging in otherwise legal acts. Justice Lawrence summed up the attitude of the court succinctly, stating

A discretionary power has been given them to regulate the discipline of their college in such manner as they deem proper, and so long as their rules violate neither divine nor human law, we have no more authority to interfere than we have to control the domestic discipline of a father in his family... A person in his capacity as a citizen may have the

right to do many things that a student of Wheaton College cannot do without incurring the penalty of college laws. A person as a citizen has a legal right to marry, or to walk the streets at midnight, or to board at a public hotel, and yet it would be absurd to say that a college cannot forbid its students to do any of these things.¹⁴

The upshot of this ruling was that college students could not rely on the right of due process to protect their rights as citizens. In choosing to attend Wheaton College, Edwin Pratt voluntarily forfeited his rights as an American citizen and agreed to live under the college's rules. Even the fact that his biological parents had no objection to his membership in the Good Templars had no bearing on the school's ability to act *in loco parentis* as it saw fit with regard to secret society membership among its students. Under this legal precedent, a college's right to govern its student body as it saw fit would stand, more or less, for nearly a century.

In 1881, an Indiana court case tested whether this legal precedent applied to publicly funded colleges and universities. Students at Purdue University had established the Delta Delta chapter of the Sigma Chi Greek-letter fraternity in 1875. The school did not officially recognize the organization, and Purdue President Emerson E. White had forced the group underground. The fraternity began initiating new members during the summer in order to avoid violating school rules forbidding the organization's activity on campus.¹⁵ During the summer of 1881, Thomas P. Hawley joined the fraternity, and in September, he arrived on campus to enroll in the university. After Hawley had paid all the required fees, President White presented him with a written pledge that Hawley was

¹⁴ Pratt v. Wheaton College, 187-188.

¹⁵ Purdue Office of Fraternity and Sorority Life, "The Purdue Case," in *Purdue Greeks*, http://www.purduegreeks.com/#_p.About%2FHistory%20of%20Purdue%20Greeks (accessed June, 24, 2013).

required to sign as a condition of admittance to Purdue. In the pledge, Hawley, by his signature, was promising to “disconnect [himself] as an active member of the Sigma Chi fraternity” while a student at Purdue University. He refused to sign the pledge, but promised President White that he would obey all the rules and regulations of the university, except for any rule or regulation that forbade his membership in Sigma Chi or any other “Greek fraternity.”¹⁶ After his refusal to sign, Purdue turned down Hawley’s request for admittance.

Samuel F. Stallard, Hawley’s legal guardian, filed suit against President White and the faculty of Purdue University, arguing that the school could not deny admittance to any able-bodied citizen of Indiana of sound mind because the university was a publicly funded institution. On appeal, Stallard and Hawley won their case, and the right for Hawley to enroll at Purdue, but the decision was also a victory for the doctrine of *in loco parentis* at public institutions of higher education.

Justice Niblack, in the majority opinion, agreed with Stallard that a public university could not deny admission solely based upon a prospective student’s affiliation with a fraternity or secret society. Niblack affirmed, however, that a public institution of higher learning had the right to deny a fraternity or secret society any affiliation with the school, and the right to restrict or prohibit a student’s involvement in a fraternity or secret society while enrolled at the school. The court had affirmed a public institution’s ability to place restrictions upon a student’s constitutional rights in the course of governing its student body. Purdue University, and all public institutions of higher education, could deny students the due process rights guaranteed to other American citizens.

¹⁶ Stallard v. White, 82 Ind. 278, 1882 Ind. LEXIS 123 (1882).

Seventeen years after *Stallard v. White* affirmed that college students had no right of due process, a court expanded administrators' rights under *in loco parentis* to include legal and financial concerns. Isaac Daniels was a bonded retail liquor dealer in Sherman, Texas in 1898. His bond stipulated that he would not sell intoxicating beverages to a minor, or to a student enrolled in "any institution of learning."¹⁷ Daniels was either ignorant of the terms of his bond, or he did not take those terms seriously. When he learned that E.O. Wentzell had enrolled at Grayson College in Whitewright, just a few miles away, he inquired of Wentzell's father why he was sending his son to school at Grayson. The father informed Daniels that he had based his decision upon the fact that young Wentzell would be unable to purchase whiskey in Whitewright, a dry town. Daniels subsequently informed E.O. Wentzell that he would send him whiskey at Grayson College if he wanted it.

Wentzell did indeed want some whiskey, and once at school he wrote to Daniels requesting that he send him half a gallon. Daniels, true to his word, sent Wentzell the whiskey by express mail. Wentzell and three other young men, also students at Grayson College, proceeded to consume the whiskey and became "very drunk."¹⁸ The four evidently caused quite a stir both in town as well as on campus, for their escapades brought the normal business of the college to a standstill for half a day. Grayson College, which advertised the fact that it was a dry school in a dry town as a selling point to parents of prospective students was humiliated, and it feared the damage that this incident

¹⁷Isaac Daniels v. Grayson College, 20 Tex. Civ. App. 562, 50 S.W. 205 (1899).

¹⁸ Isaac Daniels v. Grayson College, 563.

would do to its reputation. The College sued Daniels and his sureties seeking \$500 in damages for breach of bond, and the school won in the County Court of Grayson.

Daniels and his sureties appealed the case, arguing among other things that Grayson College was not an “aggrieved person,”¹⁹ and therefore had no standing to file suit. Daniels and his bond holders had already settled with E.O. Wentzell’s father, paying him \$300, and they argued that they should not be held liable twice for one infraction. The college, in their opinion, did not have any special relationship with its students that gave them a claim to the bond money.

The Court of Civil Appeals of Texas disagreed with Daniels. It upheld the judgment of the county court, and spelled out very clearly why Grayson College had a right to sue Daniels. In the court’s opinion, the school had a moral responsibility to concern itself with its students’ conduct and “the habits formed by them” while in its care.²⁰ This moral responsibility was compared to and equated with that of parents, and the court acknowledged that the school had standing to sue because it acted *in loco parentis* to its students. The court also recognized Grayson College’s need to protect its reputation. The school relied heavily upon its ability to provide an environment free of bad influences, and if it was unable to enforce student conduct it would suffer financial loss when parents invariably stopped sending their children there as students.²¹

By affirming the judgment in favor of Grayson College, the court reaffirmed that schools had not just a right, but also a responsibility under *in loco parentis*, to regulate

¹⁹ Isaac Daniels v. Grayson College, 564.

²⁰ Isaac Daniels v. Grayson College, 564.

²¹ Isaac Daniels v. Grayson College, 564.

student behavior in order to provide moral training. Additionally, the court may be providing a window into society at the turn of the twentieth century when it predicted matter-of-factly: “Let it be known that students of a certain institution of learning have whisky furnished them and drink it to drunkenness, and the institution had about as well close its doors, for the public will give it no patronage.”²² If the court was indeed correct, and colleges would have gone out of business if they did not aggressively police student behavior, the reasoning behind the *in loco parentis* legal regime becomes clear. If the court’s pronouncement was right, society in 1899 did not view college students as adults. It considered those students minors in need of moral guidance, and *in loco parentis* was the legal extension of that belief. Through these cases, the courts had worked out some of the details of *in loco parentis*. The full scope of that legal doctrine would be explicitly spelled out in *Gott v. Berea College*.

The landmark case generally cited in discussions of *in loco parentis* is the 1913 decision by the Court of Appeals of Kentucky in *Gott v. Berea College*.²³ This decision certainly grants sweeping powers over students’ lives to college administrators in unambiguous language, but the court’s reasoning and judgment is consistent with the cases already discussed. In fact, Judge Nunn, writing in the *Gott* opinion, quotes extensively from the written opinion in *People v. Wheaton College*. For nearly half a century society’s view of college students remained consistent. The *Gott* decision is a clear expression of that view, and as a precedent, it would hold sway for almost another fifty years.

²² Isaac Daniels v. Grayson College, 564.

²³ Gott v. Berea College, 156 Ky. 376, 161 S.W. 204 (1913).

J.S. Gott, the owner of a restaurant across the street from Berea College, sued the school after it issued a rule that forbade students from eating at any establishment not controlled by the college, under threat of expulsion. Because Gott's eatery depended upon students for a large percentage of its business, he suffered a financial loss from this new rule and sought to have it overturned. The Madison Circuit Court, which initially heard the case, ruled in favor of the school's administration and dismissed the petition.

Gott appealed the trial court's decision, and the case came before the Court of Appeals of Kentucky. The appellate court, in its opinion, affirmed the trial court's decision. More importantly, however, the justices grappled philosophically with the authority granted to colleges under *in loco parentis*. The court's reasoning is worth reading in full:

College authorities stand *in loco parentis* concerning the physical and moral welfare, and mental training of pupils, and we are unable to see why to that end they may not make any rule or regulation for the government, or betterment of their pupils that a parent could for the same purpose. Whether the rules or regulations are wise, or their aims worthy, is a matter left solely to the discretion of the authorities, or parents as the case may be, and in the exercise of that discretion, the courts are not disposed to interfere, unless the rules and aims are unlawful, or against public policy.²⁴

Berea College was fully within its rights in forbidding students from patronizing an off-campus business. Additionally, it was free to regulate students' behavior as though it were their natural parents.

The one caveat given by the court was that its ruling dealt with a private school, and publicly funded colleges and universities might have more limited authority over their students. A future court decision was required to reaffirm the extent to which *in loco parentis* applied to public colleges and universities. However, in the *Berea* decision,

²⁴ Gott v. Berea College, 379.

the Court of Appeals of Kentucky had established the baseline for *in loco parentis*. College students were not free citizens. Colleges and universities in principle had the same absolute authority over their students as parents did their minor children. Public schools may be limited in way private schools were not, but those limitations were the exception.

Two years later, in 1915, the United States Supreme Court had an opportunity to weigh in on the question of student rights at public institutions. The Mississippi state government in 1912 had outlawed Greek letter fraternities at state schools. The University of Mississippi, complying with the law, forbade membership in forbidden organizations for new students. The university allowed current students who were members of a proscribed organization to continue their membership upon good behavior. An applicant to the university sued, claiming the law and the school's implementation were violations of his Fourteenth Amendment rights of equal protection under the law.

The United States Supreme Court, in *Waugh v. Board of Trustees of the University of Mississippi*, affirmed the ruling of the Mississippi Supreme Court that stated, in essence, that students at a public college or university did not enjoy due process or equal protection rights as guaranteed by the Fourteenth Amendment. The state legislature had banned fraternities, not the university, but the overriding principle remained constant. College students were minors who did not possess full constitutional rights *because* they were college students. The Constitution protected a similarly aged American who was financially independent through employment or marriage, but its guarantees did not apply to students enrolled in institutions of higher education.

In treating college students as immature individuals in need of further moral guidance, parents and administrators reinforced juvenile behavior by students. By 1900, a unique “campus culture” had evolved on American college campuses. A system of rigid hierarchy was enforced among students, with freshmen at the bottom. Students infused a sense of loyalty to organizations, school class, and the college itself through hazing rituals. Class songs and school fight songs bonded students together, while paddle lines and initiation rituals enforced traditional rules of behavior. Enrollment in college at the turn of the twentieth century meant membership in an exclusive group, and familiarity with the rituals of campus culture was a social marker in the minds of those privileged few who were fortunate enough to attend. *In loco parentis* may not have been responsible for the creation of campus culture, but it surely contributed to its continuation. Their non-student peers showed enough maturity to support themselves and their families and were expected to behave in a mature fashion, but college students were viewed as incapable of that same maturity. They were given license for their immature behavior, and turn-of-the-century campus culture was the product of that license.

In the latter half of the nineteenth century, women students had their own particular form of *in loco parentis* supervision to contend with. Females were largely excluded from male-dominated campus culture through segregation into female-only colleges or their exclusion from traditional rituals. By the turn of the twentieth century seventy one percent of colleges in the United States were coeducational, but custom kept women segregated academically and organizationally.²⁵ Wealthy parents, anticipating

²⁵ Thelin, 143-144.

that their daughters would be “ornaments for the rest of their lives,” decided that it would not hurt if a young woman “brushed up on piano and voice culture.”²⁶ Women students found themselves “pigeonholed and thwarted in the curriculum and in campus life,” despite the fact that their enrollments ranged from thirty-three to fifty percent at coeducational colleges.²⁷ The curriculum was divided into “manly” and “feminine” subjects, and barriers were erected to keep females out of traditionally male fields in coeducational institutions. Even at all-female colleges there was a focus on protecting young women from “the dangers and temptations of life.”²⁸ For both male and female students, *in loco parentis* was used as a tool to reinforce traditional gender roles in American society.

At the end of the nineteenth century, when *in loco parentis* was firmly entrenched in the law, college students were not, by in large, primarily focused upon getting an education. Certainly, there were students who were serious about their studies, but they were just as serious about participating in the campus culture of the day. In the decades following the Civil War, student bodies were more homogenous than they would be in the late twentieth century. Enrollments were small (The University of Missouri had 1,038 students in 1900), and students were predominantly the children of affluent parents.²⁹ Enrollments had increased nationwide from less than two percent of eighteen

²⁶ Rudolph, 313.

²⁷ Thelin, 143.

²⁸ Rudolph, 324-325.

²⁹ University of Missouri Registrar’s Office, “Enrollment History of University of Missouri, Columbia.” <http://registrar.missouri.edu/statistics/fall-2003/resources/page73.html> (accessed January 10, 2013).

to twenty-one year olds in 1870 to four percent in 1900.³⁰ College-aged males from affluent families were not yet ready to enter into professional training to become the doctors, lawyers, and accountants of the future, but they were not going to go to work on a farm or in a factory like the majority of their generational peers. Therefore, their parents sent them to colleges and universities in order to receive a classical education, make connections with their socioeconomic peers, and perhaps meet a suitable young woman to marry. Young females from affluent homes were also attending college in increasing numbers by 1900. In 1870 less than one percent of young American women attended college, and this figure had more than doubled to two-and-one-half percent by 1900.³¹ Female graduates from women's colleges pursued advanced studies in law, medicine, and other Ph.D. programs in larger proportions than females from coeducational schools.³² At Missouri they were not there to prepare for professional training, however, although some did. Overwhelmingly, they majored in education and the humanities. Their parents' real concern was most likely the same as that of the parents of young men—the social status and future economic security of their offspring.

The culture that existed on college campuses by 1900 was male-centered and extraordinarily hierarchical. The first loyalty students developed after enrolling in college was to their particular class. College students also divided themselves into Greek-letter fraternities, clubs, and intellectual societies. These groups demanded student

³⁰ Christopher J. Lucas, *American Higher Education: A History*, (New York: St. Martin's Press, 1994), 204.

³¹ Lucas, 156.

³² Thelin, 98.

loyalty and enforced their own traditions and rules of behavior.³³ A students' ultimate loyalty lay with the school, however, and the development of intercollegiate athletics was probably another phenomenon related to late nineteenth century campus culture. Perhaps this system evolved because college students were still completely dependent upon their parents financially and because school administrators strictly policed student behavior, which caused them to seek arenas in which to vie for recognition and prestige. Once "earned," students jealously guarded these honors, sometimes with violence. Under this hierarchical system, a male student would be intimately aware of his standing among his peers, based upon his year in school and the organizations and activities in which he participated.

The behaviors characteristic of campus culture at that time were also markedly adolescent in nature. The overwhelming majority of college students, because of their financial dependence, took advantage of an extended adolescence to postpone maturation into "productive adulthood." In describing campus culture at that time as "markedly adolescent" I do not intend to denigrate it—although to modern sensibilities many of the behaviors of college students around 1900 are worthy of condemnation. Instead, the adjective "adolescent" is used to differentiate the behaviors of college-aged students from that of the vast majority of college-aged Americans around the turn of the twentieth century. Most eighteen to twenty-two year olds in 1900 did not attend college, and many of them contributed financially to their families. These young people lived their lives much like workers of all ages did at the time. They had little in common with college students other than their age. The small percentage of college-aged Americans who did

³³ Thelin, 93-94.

attend institutions of higher learning had a unique culture of their own, however—they were in college “because society had nothing else for them to do.”³⁴ Their campus culture can be described as adolescent because it was a culture of young people that was distinct from, and juvenile in comparison with, the norms of adult life in America at the same time. In contrast, contemporary campus culture is different from “adult” life, but college students make up a large percentage of the eighteen to twenty-two year old demographic and their behaviors are not dramatically different than their non-student peers.³⁵

The author Clarence S. Day, Jr. was a member of the class of 1896 at Yale University, and he kept a diary that gives a glimpse of some of these “adolescent” aspects of campus culture near the turn of the twentieth century. He was the product of an affluent New York family—his father owned a seat on the New York Stock Exchange and operated his own brokerage house on Wall Street. As new freshmen in 1892, Day and his classmates experienced the hazing common to American colleges and universities at the time. First-year students had to march together with their trouser legs rolled up, had their shirt flaps cut off by older students in an act known as being “fruited,” and were given a “beer shampoo” by groups of sophomores.³⁶ Hazing also included a physical aspect, as members of different classes would fight or wrestle, cheered on by fellow class-members. Two different classes would square off and do combat in a “push rush,”

³⁴ Rudolph, *The American College and University: A History*, 485-486.

³⁵ Thelin, 329.

³⁶ Wendy Veevers-Carter, *Clarence Day: An American Writer*, Vol. 1, (Lincoln, NE: iUniverse, Inc, 2006). Chapters 7-12 deal specifically with his years at Yale, and all references here and following, unless otherwise noted, come from those chapters.

which most likely was nothing more than an open-air brawl. Each class at Yale had its own class colors and songs, which students used to build class loyalty and taunt those from other classes. Day and other members of the class of 1896, during their freshman year, attempted several times to hang the '96 flag on campus as a challenge to the sophomores. They planned to attach the flag with nails and smear grease on the flagpole to make it difficult for anyone to remove it. When they were finally able to hang their flag during the middle of the night in May of their freshman year, it took sophomores until 11:30 in the morning to tear it down, and Day rejoices in his diary that the flag had remained on the pole for a record amount of time.

In addition to class loyalty and conflict between classes, the campus culture of the day included active participation by almost all students in campus organizations and activities. Day was a member of the Psi Upsilon fraternity, the chess club, and one of Yale's debating societies. He was also involved in amateur theatrical productions, writing at least one play that students performed. He debated against students from other colleges as a member of the Yale debate team, and in his senior year, he was elected class historian for the class of '96. The class historian spoke at commencement, relating embarrassing stories about members of the class in "inside language" only the graduating students would understand. With 268 graduates, the class of '96 was most likely intimate enough for everyone to be in on the jokes.³⁷ Football games against Harvard and Princeton also appear as prominent events in Day's diary and letters, with students travelling by train en-masse to away games and singing school songs at the games. With

³⁷ Clarence S. Day, Jr., ed., *Decennial Record of the Class of 1896, Yale College*, (New York: De Vinne Press, 1907). Psi Upsilon membership, class historian information, and class graduation size.

class schedules for the most part preordained by the administration, these extracurricular activities were students' only opportunity to pursue their own interests while in school.

A male-dominated, hierarchical social structure prevailed at the University of Missouri at the end of the nineteenth century, just as it did at Yale among Day and his peers. A perusal of the 1896 *Savitar*, the University of Missouri's yearbook from 1891 to 2005, shows that campus life at Missouri in the 1890s was similar to that at Yale.³⁸ A major difference between the two schools was that Missouri admitted women at that time yet women and their activities are notably absent from the '96 *Savitar*.³⁹ Instead, the annual focuses on the male-dominated clubs and organizations and the exploits of the football and baseball teams. Missouri, like Yale, had a hierarchical ordering of each of the four classes of students, and each class had its own "class historian" who chronicled the exploits of his class during the preceding year in the *Savitar*. These histories describe the competitions and "rushes" between the classes in heroic language, recounting the triumphs of the author's own class over the others. Missouri also had a number of academic societies, clubs, and associations that held organized debates and recitations in competition with each other. Loyalty to the University of Missouri bound all of these disparate groups together, however, and this loyalty focused most intensely on the

³⁸ University of Missouri, *Savitar 1896*, (Columbia, MO: Junior Class of 1895, 1895), University of Missouri Archives, Digital Library. Every edition of the *Savitar* is online in its entirety at <http://digital.library.umsystem.edu/cgi/t/text/text-idx?page=home;c=Savitar>, and the yearbooks are fascinating to peruse.

³⁹ The University of Missouri does not have enrollment numbers for female students in 1896, but an unscientific perusal of the 1896 *Savitar* indicates that women comprised between one quarter and one eighth of the student body. The only all-female organization represented in the 1896 yearbook is the YWCA. If this is indeed the only female dominated organization, it explains the male-centeredness of the annual.

school's football team. The 1896 *Savitar* devotes nine pages of text and pictures to the team and recounts the season in detail. Many students traveled with the team to away games in Saint Louis, Kansas City, and Omaha, Nebraska. School "yells" and songs are printed in the *Savitar* that mention specific events from past football contests.

Veysey sums up the student attitude towards academics at the turn of the twentieth century in *The Emergence of the American University*.⁴⁰ He goes so far as to compare the student body of the era to a conscript army, and that "the university existed primarily to keep students in temporary custody amid surroundings which their parents approved."⁴¹ On the other hand, Veysey quite rightly suggests that at the same time, college students were free from real responsibility and found college life full of fun and good friendships. Undergraduates looked forward to the prestige a diploma would afford them and the professional career that surely awaited them upon graduation. As part of an elite minority of Americans, college students around 1900 could and did take for granted that these rewards would be theirs, and therefore their attitude towards their studies was nonchalant. In some colleges, students mocked their peers who worked hard to improve their grades, and the common attitude was exhibited in the motto "Don't Let Your Studies Interfere with Your Education" that hung on the walls in student rooms across the country.⁴² Instead, social distinctions and standing took precedence, and students focused their energies on what today would be called their popularity. Distinct groupings of students, by either their year or the organizations they joined, were cliquish and jealously

⁴⁰ Veysey, 268-294.

⁴¹ Veysey, 269.

⁴² Veysey, 272.

guarded their prerogatives. East coast schools set the standard that western college students emulated, and the result was a distinct campus culture that permeated American colleges.

Trying to decide whether this turn-of-the-century campus culture produced, or was itself the product of the legal doctrine of *in loco parentis* quickly becomes a “chicken or the egg” mental exercise. What does seem clear is that the affluent parents in the late nineteenth century wanted student behavior policed in order to protect the investment they were making in their children’s future.⁴³ Social standing and reputation were of critical importance to the Victorian parents who were able to send their offspring to institutions of higher education, and those parents firmly supported the control exercised by college administrators acting *in loco parentis*. A majority of eighteen-year-old Americans at the time worked as farmers, factory workers, and manual laborers, and contributed financially to a family economy. In fact, most eighteen year olds had been working for many years already, and society and the law treated them as adults. Eighteen year olds from more affluent families, on the other hand, had been in school instead of in the labor force. Financial dependence inspired these students to prolong their adolescence. Their going off to college did not change this dynamic of dependence-inspired adolescence, thus the traditions of late nineteenth century campus culture: freshmen beanies, hazing rituals, and paddle lines. In order to keep their adolescent behaviors and naiveté from adversely affecting these students’ futures, parents and administrators strictly controlled student behavior.

⁴³ Thelin, 108.

At the turn of the twentieth century, therefore, college students were subject to a plethora of rules and regulations that were meant to build up their moral character. Students of both sexes found themselves enrolled in institutions that acted as their legal guardians in the place of their parents. The rules that were imposed upon students were well intentioned, but they limited their freedom of association and action. Some students challenged these rules in court on constitutional grounds, as evidenced by the legal cases already discussed, but American society through the court system rejected their claim to full citizenship. College administrators retained the right to restrict students' association with outside organizations. School officials could also forbid students from patronizing private businesses if they cloaked that prohibition in the mantle of regulating school discipline. Mandatory chapel meeting attendance, curfews, and confinement to campus were imposed upon college students to protect them from their own youthful urges. The evidence is that the vast majority of college students at the end of the nineteenth century accepted these rules without overt protest. Colleges and universities by 1900 were viewed as bulwarks of Victorian American culture, and it appears that students at the time saw no reason to become activists in an effort to change their school or that culture.

During the first three decades of the twentieth century, the legal regime of *in loco parentis* and the adolescent character of campus culture endured. Expanded affluence allowed college enrollments to increase dramatically, but the trappings of college life remained remarkably unchanged. At the University of Missouri, for instance, the number of students would increase from just over 1,000 in 1900 to 4,349 by 1915. Enrollments dropped back into the 2,000s because of World War I, but ultimately climbed to 5,725 in the fall of 1941. In 1925, the first year the Missouri Registrar breaks enrollments down

by sex, females comprised 33.3 percent of the student body. By 1941, the number of females on campus had increased by 259, but they now comprised only 26.2 percent of students.⁴⁴ On the eve of Pearl Harbor, freshmen males at Missouri still wore their beanies, and paddle lines remained a familiar tradition. A moral component remained in student rules and regulations. There were campus dress codes and curfews for female students. Administrators oversaw all aspects of student life, from where students could live to the type of activities in which they could participate. School officials retained the right to discipline students for any breach of the rules, and students had no right of due process in those disciplinary procedures. Despite changes in the curriculum and the addition of modern technology, the campus culture at Missouri would have been familiar to a member of the class of 1896. American culture was changing however, and there were signs by the late 1930s that traditional campus culture was about to change as well. *In loco parentis* still governed the relationship between the administration and students, but the cultural underpinnings of that legal regime began to erode during the first half of the twentieth century.

⁴⁴ University of Missouri Registrar's Office, "Enrollment History of University of Missouri, Columbia," University of Missouri, Columbia, <http://registrar.missouri.edu/statistics/fall-2003/resources/page73.html> (accessed January 10, 2013).

From *In Loco Parentis* to *Laissez Faire*: American Higher Education, 1900-1940

In order to understand how *in loco parentis* evolved during the first four decades of the twentieth century, it is important to examine the dramatic changes that occurred in higher education during that time. Although *Gott v. Berea College* and *Waugh v. Board of Trustees of the University of Mississippi* came after 1900, *in loco parentis* was already the legal regime that governed student life. The practice of enforcing that regime changed between the turn of the century and 1941, however, and it is important to understand how and why. Students at the University of Missouri were still subject to discipline by administrators, but by 1941, students had a voice in some of the rules that governed their lives. The university changed in important ways during this time, just as student bodies did. American culture was changing too, and those cultural changes would find their way into the campus culture. This chapter will explain how those changes effected *in loco parentis* between 1901 and the start of World War II, but also serve as important background for the decades after 1945 that saw *in loco parentis* end in higher education. There were no organized, overt challenges to school authority at Missouri during this time, but the seeds of future conflict were sown by the end of the 1930s.

In the 1900 academic school year, the University of Missouri looked different than it had a decade earlier. Campus had grown physically as a result of the catastrophic 1892 fire, which had completely destroyed Academic Hall. At the time of the fire, Academic Hall was the administration building and the largest, by far, of the two classroom buildings on campus. By 1901, the university consisted of nine buildings, and

planning was underway for the construction of five more. Academic life still centered on the quadrangle, however, which was surrounded by the bulk of the new construction.¹ The student body had more than doubled in the preceding ten years, growing from 428 students to 1038.² Faculty growth kept pace with the increased number of students. The number of faculty increased from thirty-five instructors in 1892 to fifty-nine by 1900.³ Despite this dramatic growth in size and number of students, campus culture at Missouri remained remarkably similar to what it had been in 1880.

There was no overall student government, through which students could influence the rules and regulations under which they lived. Each class had its own elected officers, but these quasi-governmental bodies had no say in school policy or student regulations. Student organizations, be they social, intellectual, or academic clubs, were organized separately by class as well. The classes competed against each other in physical scuffles, known as “rushes,” although each class was aware of its place in student hierarchy. Each class had its own flag, colors, and songs, and employed these as props during inter-class competitions. The appointed “class historian” wrote of their experiences during the year, and these histories appear in the 1901 *Savitar*. Each class history was written in partisan and humorous prose, referring to people and events in veiled language that only those in the know would understand.⁴ They may have been united at football games in support of

¹ University of Missouri, *Savitar 1901* (Columbia, MO: Savitar Board of Editors, 1901), 3.

² University of Missouri Registrar’s Office, “Enrollment History of University of Missouri, Columbia,” University of Missouri, Columbia, <http://registrar.missouri.edu/statistics/fall-2003/resources/page73.html> (accessed January 10, 2013).

³ 1901 *Savitar*, 4.

⁴ 1901 *Savitar*, 13-24.

their team, but they were divided and voiceless when it came to the policies that controlled every aspect of their lives as students.

School administrators continued to govern students in the same manner as they had during the late nineteenth century. At the University of Missouri in 1900, school administrators were also members of the faculty. School president Richard Jesse, as well as the deans of the individual colleges, taught and interacted with students on a daily basis.⁵ Unlike today's universities, faculty administrators each knew a number of students personally, by name, and were in a unique position to police student behavior. The student body at Missouri, even at just over 1,000 students, was still small enough that school officials could intimately know the details of individual students' lives. A medium sized high school today is probably the best comparison to the university in 1900, as students and administrators had a great deal of personal contact and it was difficult for a student to behave or misbehave anonymously. The tradition of administrators as faculty, disciplining their students, was what courts had codified into the legal regime of *in loco parentis*.

During the first four decades of the twentieth century, American higher education underwent a dramatic transformation. This period was the age of "university building," when the smaller, more intimate college atmosphere gave way to large, impersonal institutions of higher learning.⁶ American colleges and universities saw unprecedented growth in their student bodies by World War II. The number of students on campuses increased, and the demographic makeup of students on campus changed as well. During

⁵ 1901 *Savitar*, 4.

⁶ John R. Thelin, *A History of American Higher Education* (Baltimore: The Johns Hopkins University Press, 2004), 154, 155.

those years, school administrators ceased functioning as faculty members. The increasing numbers of students forced a reorganization of campus administration, and bureaucratic process replaced personal contact between students and administrators. Increased enrollments also inspired administrators to turn over some rule-making and disciplinary authority to students out of logistical necessity. School growth also meant an expansion of campus infrastructure; classroom buildings, dormitories, and athletic stadiums went up in large numbers across the United States at colleges during the first half of the twentieth century.⁷

The University of Missouri was subject to this same transformation. The number of students at the university grew by a factor of five between 1900 and 1941. Missouri had long admitted women as students, but those years saw an increase in female involvement in student governance and organizations. In 1941, Missouri's President Middlebush was no longer a member of faculty; he was a full-time professional administrator responsible for overseeing the operations of a large educational bureaucracy. Discipline of students was bureaucratized as well, with two Directors of Student Affairs—a woman for female students and a man for the males—overseeing the implementation and enforcement of student rules. The students themselves were part of the rulemaking process by 1940, with school-wide student government and a specific Women's Self-Government Association participating in the rule-enforcement process. Missouri's campus also expanded exponentially by 1940, with the construction of an

⁷ Thelin, 205-208.

eastern “White Campus,” male and female dormitories, and football and baseball stadiums.⁸

This evolution of higher education in America was driven by new institutional, cultural, and political forces in the United States. These forces transformed the operation of colleges and universities, and increased their visibility and role in the nation. As schools evolved, so did the attitudes and actions of their students. This era did not see widespread student unrest and protest like that of the 1960s, but some events of the 1930s eerily foreshadow those later actions. *In loco parentis* remained in force throughout this period, although the exact meaning of that legal doctrine in large educational institutions would have to adapt to new realities. The forty years leading up to World War II is the beginning of the modern era of higher education. Some of the details of the transformation will help understand why it happened. Examples from the University of Missouri provide evidence for the transformation. This transformation was a continuation of trends begun in the nineteenth century, but this chapter will focus on how those trends expressed themselves in the early twentieth century.

American colleges and universities entered the twentieth century without a clear sense of purpose.⁹ The clearest measure of a school’s mission is the curriculum it provides for its students. Immediately after the Civil War, colleges universally followed the classical model of proscribed curriculum, which standardizes coursework for all students. During the 1870s and 1880s, schools began experimenting with an elective system, which allowed students to choose their classes from a menu of courses. This

⁸ 1941 *Savitar*.

⁹ Thelin, 108-109.

deviation from the traditional model of instruction resulted in a heated academic debate over the role of the college or university in American society. Was the purpose of higher education to produce a standard, classically educated adult prepared for professional training or to allow students to pursue their own interests while enrolled in college? Complicating the discussion was the increasing demand for vocational training to meet the needs of a technologically-oriented society. By 1900, the elective system had won the debate, as colleges and universities nationwide had adopted the system.¹⁰ Schools had moved away from proscribed curricula, but they had not yet found an academic purpose by which to define themselves.¹¹

At the same time, a new role for American universities was evolving that would eventually redefine their mission, although *in loco parentis* would suffer as a result. Industry and governments provided growing universities an opportunity to serve the nation through the direct application of the expertise at their disposal. Universities aided business in the development of new products and manufacturing processes, and collaborated with state governments to study the environment and improve public health. In addition to providing additional revenue for the school through its partnership with business and government, this public service was in tune with the impulses of the Progressive Era desire to improve America by bringing knowledge to bear against societal problems. One result of these new partnerships was the expansion of course offerings to include specialized courses that would train students to meet more of these

¹⁰ Christopher J. Lukas, *American Higher Education: A History* (New York: St. Martin's Press, 1994), 210-212.

¹¹ Lucas, 185.

opportunities for community service. This in turn led to the growth of new academic departments that catered to the demands of non-academic entities.¹²

During the Progressive Era, three new developments within the student bodies arose that had a long-term impact upon the relationship between students and administrators. The first of these developments was the creation of school wide student government organizations. Advocated as a means of training students to become good citizens of a democracy, self-government also began the democratization of campus culture. In addition to self-government, colleges adopted the honor system in an attempt to educate students in good moral principles. Originally developed on campuses in the antebellum south as an informal “gentleman’s code,” the concept spread to schools in the north in the 1890s and the 1900s. It encouraged students to honor and honesty by requiring them to pledge they had not cheated on exams under threat of expulsion. The final Progressive Era development on campuses was the institution of senior honor societies. These societies were designed to encourage the ideals of Progressive America: honor, character, and “wholesomeness.”¹³ It is also possible that they were hopeful attempts to create a sense of college unity on quickly growing student populations.¹⁴ As universities grew in size, these three institutional developments allowed the administrators to push the burden of policing student behavior upon the students themselves, and the carrot of admission to an honor society may have encouraged students to make a habit of good behavior.

¹² Frederick Rudolph, *The American College and University: A History* (New York: Alfred A. Knopf, 1962), 360-365.

¹³ Rudolph, 372.

¹⁴ Rudolph, 369-372.

Student populations were increasing dramatically nationwide and at Missouri during the early years of the twentieth century. In 1900, around four percent of eighteen to twenty two year old Americans went to college; by 1920, that figure had doubled.¹⁵ The University of Missouri's enrollment rose from 1,038 in 1900 to 4,349 in 1915. The United States' preparation for World War I dropped the number of students to 2,643 in 1917, and the student body would not reach 1915's level again until 1937. Beginning in 1918, however, the student population at Missouri climbed steadily until World War II, dropping only briefly during the Great Depression.¹⁶

The rapid growth of student populations early in the twentieth century, combined with the expanding mission of universities in the United States, soon changed the *in loco parentis* relationship between students and the administration. The combination of these two developments in higher education made the eighteenth century model of administrators acting as faculty untenable. The increase in size and scope of universities ushered in the era of professional administration at universities across the country. School presidents had new responsibilities, from institutional ambassadors to the community to managers of large educational bureaucracies.¹⁷ Larger student bodies required an expanded faculty, which in turn created a need for a larger administration. University partnerships with public and private entities further expanded the bureaucracy. This created a demand for professionals who could direct schools in the same way business executives directed large private enterprises. Administrators now had to focus

¹⁵ Lucas, 204.

¹⁶ University of Missouri Registrar's Office, "Enrollment History of University of Missouri, Columbia," University of Missouri, Columbia, <http://registrar.missouri.edu/statistics/fall-2003/resources/page73.html> (accessed January 10, 2013).

¹⁷ Thelin, 154.

all of their time on administrative duties, and they no longer had the close connection to students they once did. The era of the paternalistic university president was over, and bureaucratic mechanisms developed to replace the old system of discipline. *In loco parentis* remained as the legal regime on campus, but the way to enforce school rules had yet to develop fully.¹⁸

College football's growth, abetted by the Progressive Era ideal of "the strenuous life," changed the demographics of growing student bodies. At first, students controlled the game, and undergraduates took on the responsibility of financing, organizing, and coaching college teams.¹⁹ Once football became hugely popular, school officials took control of the sport. Football was also seen as promoting collegiate unity at a time when enrollments were increasing, and the elective curriculum had removed all semblance of common experience among students. Success on the gridiron translated into good public relations for universities as well, and administrators had an incentive to field a winning team.²⁰ As a result, young men were admitted to colleges to play football that would not have had the opportunity otherwise. The game worked to democratize the student body, as evidenced by the sight of thousands of affluent young men and women cheering on their gridiron heroes—many of them the sons of working-class families. These young men received a college education, and their presence on campus went a long way towards erasing class distinctions among college students.²¹

¹⁸ Rudolph, 417-422.

¹⁹ Thelin, 178.

²⁰ Thelin, 208.

²¹ Rudolph, 373-379.

By the 1920s, these institutional changes and enrollment increases in higher education had a significant impact on the practice of *in loco parentis* on campus. College presidents and other administrators no longer taught classes, they were full time professionals hired to manage growing bureaucracies. Because of this, college administrators no longer had personal contact with students—contact which had been essential to the *in loco parentis* relationship. A chasm also developed between administrators and faculty as the mission of universities expanded beyond purely academic pursuits. Faculty members were hired to teach and entered their own professional hierarchy on campus.²² The division between administrators and faculty was crucial in the late 1960s when students challenged administrators' authority under *in loco parentis*. The professionalization of administration resulted in its secularization. No longer were colleges seeking clergy to serve as presidents, they sought administrators to lead bureaucracies. Secular administrators were reluctant to discipline students, and *in loco parentis* rule enforcement took a backseat to organizational management. This *de facto* abdication of authority allowed students a large measure of freedom they had not had before.²³ Higher education, especially at large universities, had become big business, and the relationship between students and school officials had changed.

Perhaps because of their newfound freedom, students in the 1930s became politically aware and active. They protested compulsory chapel attendance and compulsory military training, and participated in peace demonstrations. Many students became active in the labor movement, picketing and organizing unions. The Great

²² Thelin, 154.

²³ Rudolph, 440-441.

Depression also contributed to a new, “serious” attitude of students towards their studies. Many young people attended or remained in college because of a lack of jobs, and growing political awareness inspired them to study economics and political science. Students at Oberlin College protested school investments in the Aluminum Company of America, and charged faculty and students “were guilty of living off the slave wages paid by [that company].”²⁴ This activism by students in the 1930s foreshadows events of the 1960s. Had World War II not intervened, could *in loco parentis* have ended in higher education during the 1940s or 1950s?

Growing student freedom and lax enforcement of *in loco parentis* regulations triggered an attempt by some to reassert authority over students’ lives.²⁵ The threat that the transformation of higher education posed to moral instruction of students was foreseen in the 1870s and 1880s during the curriculum debate. By the 1930s, academic advisors were prevalent on campuses nationwide.²⁶ The elective curricular system prompted fears that students would fail to adequately educate themselves, and the introduction of faculty advisors to assist students in planning their educations helped alleviate those fears.²⁷ Religious groups had established a presence on campuses in response to the growing secularization in higher education as early as 1880, and this trend would continue through the early twentieth century. Colleges became fields for what Frederick Rudolph describes as “a vast missionary movement among the state

²⁴ Rudolph, 467.

²⁵ Thelin, 234.

²⁶ Lucas, 203-204.

²⁷ Rudolph, 460.

universities and the larger private universities.”²⁸ This reengagement in students’ lives was gaining ground by the late 1930s, as evidenced by Columbia University’s requirement for each sophomore to write “a letter to the dean in which he revealed his worries, dreams, fears, likes, dislikes, successes, and failures.”²⁹

The University of Missouri was subject to all of these forces, and a perusal of the *Savitar* from the 1920s and 1930s shows the results were the same there as nationwide. By 1920 at Missouri, the Missouri Students Association had been established, along with other more organization-specific governmental bodies. These governments provided students with a democratic voice in the rules they lived under. The Women’s Self-Government Association, for instance, was responsible for the enforcement of female curfew rules and dress codes. The WSGA policed female behavior and handed out punishments to violators of school regulations. It certainly did not have the authority to change those rules on its own, but this new arrangement for enforcing *in loco parentis* was a far cry from the old paternal system of discipline. The 1939 *Savitar* highlights a religious presence at Missouri, both on and off campus. Three pages of the annual are devoted to The Bible College of Missouri, which was unaffiliated with the university but was housed in a building across the street from the administration building. Many students took classes there, however, and its stated mission was “to round out the educational program of undergraduate students preparing for all vocations and professions by providing for them instruction in the field of religion.”³⁰ Two other

²⁸ Rudolph, 459.

²⁹ Rudolph, 460.

³⁰ 1939 *Savitar*, 178.

student organizations, Burrall and the Jewish Student Organization, allowed interested students to get together for the study of scripture and religious services. The University of Missouri's mission was secular education, but outside groups had established forums for religious teaching and observance on or near campus.³¹

American culture experienced a dramatic transformation during the first four decades of the twentieth century. Sexual habits of middle-class youths changed from nineteenth century norms, and "sex became the central public symbol of youth culture, a fundamental part of the definition that separated youth from age."³² When that change reached student populations, *in loco parentis* began to focus almost exclusively on ways to keep students from engaging in sexual activity. Sharp conflicts between students and administrators at Missouri would occur because of female curfews and prohibition against intervisitation in the decades after World War II, but changes in student attitudes were visible in the 1930s. The cultural changes responsible for this new sexuality were urbanization, changing gender roles, and the sexualization of American culture.

The American population migrated to the cities between 1880 and 1920, changing the way people acted and the way they viewed themselves. As working-class young men and women moved from small towns and farms to urban areas, they became more sexually active.³³ These young people could lead more anonymous lives in a big city, freed from close interaction with their families, churches, and neighbors. This anonymity

³¹ 1939 *Savitar*, 178-182.

³² Beth Bailey, *From Front Porch to Back Seat: Courtship in Twentieth-Century America* (Baltimore: The Johns Hopkins University Press, 1988), 80.

³³ Kevin White, *The First Sexual Revolution* (New York: New York University Press, 1993), 80-84.

allowed for greater freedom of action, including sexual experimentation. Entrepreneurs built dance halls and amusement parks to cash in on the new phenomena of dating, which had replaced traditional courtship.³⁴ These Americans had originally abandoned rural life in search of employment in the city, and those jobs provided them with disposable income to indulge whatever fantasies they had.³⁵ Young working-class men and women were the first to deviate from the Victorian morality of the day, but middle-class college students had adopted these same behaviors by the 1920s.³⁶

Middle-class women for the first time in American history saw the possibility for employment outside the home, which changed younger women's attitudes toward the traditional female role in American society. Women were attending college in greater proportions: in 1890 35.9 percent of college students were women, and that number increased to 47.3 percent by 1920.³⁷ As a result of the advances in women's education came an increase in the number of married females in the workforce, from 13.9 percent of all employed women in 1890, to 29.6 percent in 1940.³⁸ More college educated females entered the workforce as professionals, and they became professional journalists, doctors, and even professors and college administrators. By 1930, one-third of college presidents and professors were women.³⁹ The prospect of financial independence caused

³⁴ White, 82-83.

³⁵ Steven Seidman, *Romantic Longings: Love in America, 1830-1980* (New York: Routledge, 1991), 67-68.

³⁶ White, 146-148.

³⁷ Seidman, 68.

³⁸ Nancy F. Cott, *The Grounding of Modern Feminism* (New Haven, CT: Yale University Press, 1987), 183 Table 6.1.

³⁹ Lucas, 205-206.

female college students to confront the reality of working outside of the home after marriage. Feminists in the 1920s championed expanded economic opportunity for women while recognizing the conflict between work and family life.⁴⁰ These challenges brought about new opportunities for middle-class American females to engage in political activism. More women in professional roles allowed for more interaction and collaboration among women, and professional women were on the front lines in the battles for women's suffrage and other social reforms. Their increased economic freedom gave them the opportunity to move beyond traditional female roles in American culture.⁴¹ These changes in female roles were a dramatic break from Victorian norms—the norms that fostered the *in loco parentis* role of university administrators.

The expanded horizons of female college students caused them to move away from Victorian mores. These young middle-class women developed a new attitude towards sexual behavior—they consciously engaged in sexual activity they knew their parents disapproved of. They smoked, drank, and associated with male students as their sexual equals.⁴² This was terrain heretofore forbidden to “respectable” female college students. American culture was sexualized during the 1920s by the new motion picture industry and advertisers using sexually suggestive images in order to sell consumer goods.⁴³ Men had always sought out sex, but during the late nineteenth century “respectable” women were off limits. If a man wanted to have sex with a woman in the late nineteenth century, he usually had to visit a prostitute. After the First World War,

⁴⁰ Cott, 180-182.

⁴¹ Seidman, 68-70.

⁴² Cott, 150.

⁴³ Beth Bailey, *Sex in the Heartland* (Cambridge, MA: Harvard University Press, 1999), 41.

Alfred Kinsey reports that men turned to prostitutes only half as much as they had before the war.⁴⁴ The increased willingness of middle-class young women to engage in premarital sex is certainly the reason for this decline.⁴⁵ Kinsey's sex survey showed that only 14 percent of women born before 1900 had engaged in premarital sex, while 36 percent of those born after 1900 had been sexually active before marriage.⁴⁶ Accompanying this increase in sexual activity was a rise in the use of birth control. 92 percent of men and 87 percent of women admitted using contraceptives to one researcher.⁴⁷ This widespread premarital sexual activity was publicly known, and alarmed many Americans. College students at the University of Missouri were aware of this cultural shift towards premarital sexual activity, and as their publications show, they wholeheartedly embraced it.

It is probably safe to assume that college students have always been sexually active. The ways that they did or did not express themselves publicly in student publications are a good barometer of society's level of acceptance of their actions. In the 1900 edition of the *Savitar*, Missouri's student yearbook, there are no references to sex, overt or implied. In the "Literary" section, there are a few romantic poems, but they are completely devoid of any descriptions of physical contact, including kissing.⁴⁸ The *Savitar*, written and edited by students, was a university-sponsored publication. The

⁴⁴ Alfred Kinsey et al., *Sexual Behavior in the Human Female* (Philadelphia: W.B. Saunders, 1953), 300.

⁴⁵ White, 148.

⁴⁶ Kinsey et al., 299.

⁴⁷ Seidman, 68.

⁴⁸ 1900 *Savitar*, 168-209.

administration oversaw the content, and that administration was still intimately involved in teaching and discipline. It is impossible to get any indication of students' sexual behavior by perusing its pages at the turn of the century.

In the 1920 *Savitar*, however, there is a dramatic change, most certainly related to the increased sexualization of American culture. The staff of the *Savitar* in 1920 contained both male and female students, so presumably the content reflected both sexes' attitudes toward campus life. The "Literary" section at the end of the book was replaced by a section called "The Jungle," which was dedicated to "minds so narrow that they are unable to appreciate the jokes in the 1920 *Savitar*."⁴⁹ The following pages are replete with allusions to intimate contact between male and female students.⁵⁰ A spoof story, titled "Arguments They Use," is a fictional account of a male "Jazz hound" who interviews "girls" about their sorority houses. One of these "girls" describes members of a rival sorority as "fast" as the reason that the boys pay more attention to them.⁵¹ A page labeled "Our Naughty Page" contains pictures of female students in nightshirts (with their heads cropped off), a picture of another female pulling her skirt up to reveal her leg including her thigh, and a picture of a female who appears to be nude covering herself with a leafy branch.⁵² A story entitled "Kappa House Follies" describes a party in a dark parlor of the Kappa house where the author dances with a "little girl" (a sorority member), and sees several fraternity men sing a song that "were not so good" because

⁴⁹ 1920 *Savitar*, 349.

⁵⁰ 1920 *Savitar*, 348-349.

⁵¹ 1920 *Savitar*, 361.

⁵² 1920 *Savitar*, 360.

“they wuz most of ‘em murdered [drunk].”⁵³ An advertisement for a local soda shop contains a series of drawings entitled “Flossie Freshman’s Ideas of a Real University,” which shows a couple dancing pressed together and another couple embracing and kissing while sitting on a bench.⁵⁴ While there is no explicit reference to sex, it is a racier view of campus life than had been presented by students at the turn of the century. The student publishers of the *Savitar* felt confident enough to publish these stories and images, and the administration did not censor them.

This lack of censorship is understandable in light of the rapid transformation of the University of Missouri’s organizational structure during the first two decades of the twentieth century. Administrators no longer taught in the classroom, and therefore had little contact with students. The university had become big business, and the administration was focused on running the enlarged bureaucracy that had evolved. Younger faculty considered themselves professional educators, and had no time or desire to police student behavior outside of their classrooms. *In loco parentis* still defined the relationship between students and school officials, but the rule-enforcement mechanisms had not yet been established. Rapid growth in students and a dramatic expansion of the university’s mission had to be managed, and something had to suffer if the school was to prosper.⁵⁵ The administration, although not overtly stating the fact, chose to overlook these sexual references in the *Savitar*. It was either a purposeful decision or neglectful oversight, but the end result was the same. Students exercised their newfound freedom,

⁵³ 1920 *Savitar*, 375.

⁵⁴ 1920 *Savitar*, 401.

⁵⁵ Thelin, 221.

and one result of that was they were increasingly comfortable in expressing their sexuality.

Moderately racy content continued in the *Savitar* in subsequent years, and by 1939 sexual references became more overt. Evidently administrators at Missouri continued to neglect *in loco parentis* responsibilities throughout the 1930s. The 1939 *Savitar* contained several cartoons with explicit sexual references. In one, the drawing shows a female student asking her male date how “we’ll be able to see that little [golf] ball at this time of night,” while he holds a blanket behind his back, implying he had more intimate plans than a game of golf. Another drawing is labeled “Kappa Alpha Theta Spring Formal,” and the drawing itself is of a number of cars parked in the moonlight. Evidently the artist thought a number of couples skipped the dance and instead opted to park somewhere and make out (or more).⁵⁶ The book also contains a drawn “map” of Columbia, which points out locations that were familiar to students. An explorer with a rifle and a coonskin cap has just walked through the area of the Hinkson Creek (a popular “date” spot), and is quoted as saying, “I cut my way through a wall of living human flesh—and here I am!”⁵⁷

Additionally, the January 1939 issue of *The Missouri Showme*, the student humor magazine at Missouri, is entitled “What Happened to Margie?” but informally referred to as “The Sex issue.” A story by the editor in that edition says in part:

⁵⁶ 1939 *Savitar*, 351.

⁵⁷ 1939 *Savitar*, 361.

In the last decade sex was coming into its own following the World War, and then people dared mention it in a whisper. Today the prudishness of the Victorian era has gone, and sex is no longer looked upon as something vicious. Following the breakdown of false moral values after the War, sex leapt to the pages of the more sensational newspapers where it now holds forth, proving whatever you would have it prove. Now we may boast of a greater freedom, and in these efforts to secure enlightenment and the death of false modesty and prudery, intelligent people and highly respectable journals and magazines led the way. Ugly sex is no more.⁵⁸

Society's view of sex had changed, and this student editor had noticed. As evidenced by the drawings in the *Savitar* and students' boldness in putting the word "sex" on the cover of the humor magazine in bold letters, students at Missouri were following society's lead. Both of these publications were subject to administration censure, but there is no evidence that school officials objected to them.

Students at the University of Missouri were obviously engaging in some form of sexual activity by 1940. Most telling is that they openly joked about the fact that they were doing so, right under the nose of the administration. The curfews and intervisitation rules created an obstacle to their physical acts, but they overcame that obstacle. These students responded to the freedom they had as a result of the lack of strict enforcement of *in loco parentis* rules. In the latter-half of the nineteenth century, Missouri's campus was a much more intimate place. The sexualization of American culture had not occurred. Premarital sexual activity was still taboo for females, and they risked their reputations if they engaged in it. By 1940, all of these factors had changed. The University of Missouri was a large institution where anonymous interactions could occur. Twenty-five years of cultural shifts had removed the impetus for young women to abstain from sexual behavior. The freedom that these now sexually active students enjoyed from administrative discipline had emboldened them to the point where they were comfortable

⁵⁸ Students of the University of Missouri, *Missouri Showme* Columbia, MO: Students of the University of Missouri, January 1939, 4.

in overtly advertising that they were indeed having sex. They were truly free to engage in these behaviors, and would have felt no need to demand a change in the rules—they were already having a good time.

The history of *in loco parentis* during the first four decades of the twentieth century is really the story of decline. American college students experienced increasing freedoms as universities grew and expanded their role in society. Administrators still operated under the assumption that nineteenth century mores were holding, and their blindness to the changes in the culture, willful or otherwise, permitted them to step back from their role as disciplinarians. Students, on the other hand, were products of the new culture in America, and their actions and views were in direct opposition to Victorian Era morality. It is understandable then, that they would take advantage of the lack of strict oversight and engage in the types of behavior that *in loco parentis* rules were specifically designed to prevent. For administrators, the school year revolved around meetings with staff, budget discussions, and personnel decisions. Their only direct contact with students came at football games, homecoming events, and graduation ceremonies. For students, however, life at the University of Missouri revolved around going to class, attending parties, and dating members of the opposite sex. The rules students operated under were modified versions of those that had been in place for forty years, and those rules failed in the governance of student behavior. It would not be until after the Second World War that administrators would turn to re-imposing *in loco parentis* oversight upon students.

Between 1900 and 1940, higher education in the United States changed dramatically. The old model of the university, where administrators were members of the

faculty, did not survive the expanded mission of American colleges. With the advent of partnerships between schools and industry or schools and government, administrators were forced to spend more time making contact with the outside world. School enrollments increased exponentially during this time as well, which required a massive increase in faculty. American universities became big businesses, and professional administrators replaced education-minded, disciplinarian school presidents. The growth of intercollegiate sports added a new dimension to the function of the university, and allowed for a demographic expansion of the student body. New, professional faculty were too busy producing scholarship or technological advances to concern themselves with the hum-drum activity of “parenting” students they only knew, if at all, from classes. It is understandable then that the focus on student discipline grew lax. As with any business expansion, some aspect of daily operations, usually the least critical, is neglected. In the case of higher education, it was *in loco parentis* that was deemed less important than growing income and expanding the physical campus.

In those same years, American culture changed just as dramatically. Old Victorian cultural norms, which were familiar to early twentieth century administrators, were discarded by a new generation. Dresses and hair got shorter, and women were no longer required to remain chaste to protect their reputations. Females also increased their presence on campus, seeking to enter professions that were now open to them. As is the case with many changes in youth culture, the adults living through it did not recognize that it was happening. The University of Missouri was not immune to these changes, and open sexual activity among students increased throughout the period. These young people began to openly advertise their sexual behavior during the 1920s, and there is no

evidence that the administration tried to suppress them. New sexual norms had arisen, and students embraced those norms. It appears that they received no censure for their actions, so for all practical purposes they were free to do what they wanted to do. Certainly there were rules in place for the express purpose of preventing students from engaging in sex, but those rules were ineffectual. Despite the fact that sexual behavior by students was obvious, administrators did not bother themselves with updating those rules and imposing more rigid oversight over students. In reality, the 1920s and 1930s were the best time to be an American college student during the *in loco parentis* era.

Following World War II, however, the administration at the University of Missouri began reasserting itself in matters of student discipline. In 1950, the office of Dean of Students would be created and filled by a physical education professor, Jack Matthews. Matthews was not a product of the Victorian Era. He had been an undergraduate at Missouri during the 1920s, in fact. He would not have been blind to student behavior—he may have participated in forbidden activities while a student himself. A naïve parent is the easiest to fool, and Matthews was certainly not naïve. The administration, through Matthews, set about to re-instate direct oversight and discipline upon students in the years after the war. They created a bureaucratic division with a single purpose, which is what any large organization does when it is serious about addressing a problem. The office of dean of students would be judged solely on its ability to police student behavior and punish rule breakers. It was adequately staffed and funded, and Matthews had a free hand to accomplish his task. The good times for students would end, but eventually they would openly rebel. It was the reassertion of *in loco parentis* that would ultimately lead to its demise in higher education.

In Loco Parentis Reasserted at Missouri: 1945-1960

Following the Second World War, the University of Missouri reasserted its authority over student behavior. Although the legal doctrine of *in loco parentis* remained in full force throughout the first forty years of the twentieth century, by the late 1930s school officials had noticeably relaxed their oversight over students. Sexually suggestive cartoons and stories appeared in the *Savitar* and *Missouri Showme*, the campus humor magazine, in the late 1930s. It is obvious from these images and accounts that students at Missouri were engaging in premarital sex while attending the university, an activity that *in loco parentis* was expected to prevent. Beginning in the late 1940s, school officials turned their attention to sexual behavior among students, and a decade of censorship and disciplinary action followed. The *laissez faire* attitude towards student behavior that had evolved in the decades leading up to the war changed. Sexual innuendo was censored and sexual behavior by students was punished. To meet the demands of policing a quickly growing student body, the office of Dean of Students was created in 1950. Jack Matthews, a Missouri graduate and long-time physical education professor at the university, was named its head.

Rules enacted by the university under the auspices of *in loco parentis* covered more than sexual behavior. At various times during the *in loco parentis* era, there were regulations at Missouri that prohibited students from driving motor vehicles in Columbia, dictated dress codes for students, and punished students for unexcused absences from class. These rules mirrored those that parents

theoretically enforced upon minor children living at home. Keeping students from getting in trouble with civil authorities and demanding they appear presentable on campus were goals that parents would have appreciated. Making sure students showed up for class, thereby protecting parents' tuition investment was also a priority. *In loco parentis* also protected students legally in the same way a parent/child relationship did. Communications between students and school officials were legally privileged. If civil authorities prosecuted a student, the university did not have to turn over evidence against him or her to the district attorney. In all of these instances, the rules established by the school were designed to protect students and insure that their education was not adversely impacted by "poor" choices on their part.

It is undeniable, however, that the bulk of student rules in place before World War II were designed to "protect" females from the males. They were paternalistic holdovers of the Victorian Era, when women's actions were limited in order to "protect" them, and men were granted more freedom of action. The 1939 edition of the *Savitar* contains a basic history of the University of Missouri in celebration of the institution's centennial year.¹ Women gained admittance to the university in 1869 on a probationary basis, and they became full students in 1872. Women required escorts on campus in those years because "young men frequently 'ganged up' and muttered uncomplimentary remarks."² Apparently, male students were not happy at the integration of the university, and the

¹ 1939 *Savitar*, 17-18.

² 1939 *Savitar*, 22.

administration took precautions to protect women students from any hostility. From the perspective of administrators, these new women students had to be shielded from male hostility, but they also had to be policed in order to keep them from engaging in sex.

A brief overview of the rules that governed female students at Missouri in the years following World War II make it clear the school tried to limit any opportunity for women to engage in sexual activity. Under the *in loco parentis* regime, colleges across the United States developed rules, mostly on women, in order to prevent students from having sex with each other.³ As the university grew in size between 1872 and the Second World War, female students successfully integrated into the student body and became an integral part of campus life. The school, under *in loco parents*, still had a responsibility to “protect” the young women from male students. A number of rules existed to this end, and it is clear what the university (and all other colleges and universities around the country) was purportedly trying to keep women students from doing. From the evidence in the 1939 *Savitar*, they were not doing a very good job of it, however.

To begin with, all students (including men) were required to live in university-approved housing. Whether they resided on or off campus, school officials had the right to inspect proposed living quarters to verify that an adult was present to enforce school rules. For men, the rules were essentially no

³ Beth Bailey, *Sex in the Heartland* (Cambridge, MA: Harvard University Press, 1999), 78-79.

alcohol and no members of the opposite sex in their bedrooms. Male students had no curfew, so presumably they were trusted to make their own decisions about the company they kept during the evening hours. There was much more control exercised over women by the school.⁴

Females, unlike their male counterparts, had a curfew. Rules required them to be in by 10:30 on Monday, Tuesday, and Thursday nights, 11:30 p.m. on Wednesday and Sunday, and 12:15 on Friday and Saturday evening. They had to sign in and out of their residences to verify their compliance with the curfew. If they were going to be getting home past curfew because of an authorized event or job commitment, they had to inform the resident adult ahead of time and provide proof that their lateness was legitimate. For every minute they were late without an allowed excuse, females received a “late minute.” If they accumulated more than 29 “late minutes” in any one semester, they received a formal punishment. The usual punishment for too many late minutes was for a female student to be “campused” for a set number of days. “Campusing” was essentially the same thing as being “grounded” by her parents, and consisted of a female being restricted to her bedroom from 7:00 p.m. to 7:00 a.m. with no phone calls or visitors allowed.⁵

In addition to a curfew designed to limit opportunities for females to engage in sex, there were also rules forbidding “intervisitation,” or men visiting women in their residences. Male and female students were allowed in the

⁴ M Book, 1938, 17-18.

⁵ W.S.G.A. Handbook, c. 1940, 9-10.

common areas of dormitories or Greek houses during specified daytime hours when an adult chaperone was present, but under no circumstances were either sex allowed in the sleeping quarters of the opposite sex. This prohibition also extended to off-campus residences, where the resident adult was responsible for enforcing intervisitation rules.⁶

Events held by student organizations, such as dances or socials, required pre-approval by the administration as well. There were limits on the number of events attended by both sexes, or “mixers,” and those had to have pre-approved adult chaperones of both sexes to police student behavior. One of the chaperones had to be a faculty member. The rules forbade the serving of alcohol, and they forbade the attendance of anyone who had been drinking. All student events except picnics or hayrides had to be held on campus, within the jurisdiction of university officials. Those few off-campus events required approval well in advance and the requisite number of adult chaperones. The university administration had established these rules under the legal doctrine of *in loco parentis* in an attempt to limit opportunities for female students from engaging in sexual activity.⁷

Immediately after the war, a new form of sexual activity came to the attention of administrators that existing *in loco parentis* rules were ill prepared to address—overt male homosexual activity. LeeAnn Whites, in an unpublished essay, describes gay male veterans who felt empowered enough to “come out”

⁶ M Book, 1940, 17-18.

⁷ M Book, 1940, 17-18.

while students at Missouri in the late 1940s. They were open about their sexuality, dying their hair blond and referring to each other as “Mary” and “Jane” in the Student Union. These veterans also formed cliques—or “rings” in administration parlance—that centered on a few professors at the university. One of these professors, E.K. Johnston of the School of Journalism, had been on the faculty for many years. It was well known that he was a homosexual, for he had lived openly with his partner Willy Coots for more than fifteen years. Their apartment, located near campus, was the scene of regular parties that were attended by a number of people in the university community.⁸

Administration officials decided that they needed to act against those “homosexual rings,” and their faculty “organizers.” The Committee on the Discipline of Men began investigating suspected “ring” members, bringing them in for questioning by the committee and threatening them with expulsion if they did not cooperate with the investigation. Future Dean of Students Matthews was a member of the committee—foreshadowing his later action against other students involved in forbidden sexual activity. In the short term, the “homosexual rings” were indeed broken up under this unrelenting pressure, although anti-gay action would remain a staple of administration activity into the 1960s. For his part in the “rings,” Johnston was arrested on sodomy charges in 1948. University President

⁸ LeeAnn Whites, “Boys Will Be Boys: Panty Raids and Homosexual Rings in the University of Missouri’s Cold War Era” (conference paper, Annual Meeting of the American Historical Association, San Francisco, CA, January 2002).

Middlebush fired him immediately, and Johnston received a sentence of four years probation. He never worked in academia again.⁹

Nascent Cold War anti-communist fears may have contributed to this crackdown on homosexuality at Missouri. Many members of the American public were beginning to distrust academia and government, and viewed these institutions as a threat to American values.¹⁰ Homosexuals may or may not have agreed with Communist ideology, but they were considered “moral perverts” and as such, a threat to American values in the late 1940s and through the 1950s.¹¹ In the heightened scrutiny of the era, the “outing” of Johnston as a homosexual would have been a cause of alarm for university administrators. At the same time as Johnston’s firing, the military was actively engaged in a purge of homosexuals from its ranks.¹² The tactics used by the University of Missouri in breaking up its “homosexual rings” were used by the military in the late 1940s, and would be used again by the FBI in civil service purges throughout the 1950s and into the 1960s.¹³

This experience with homosexual activity rattled the administration, and may have been, in part, responsible for the reassertion of *in loco parentis* as it

⁹ Whites, note 14.

¹⁰ Nathan M. Pusey, *American Higher Education 1945-1970: A Personal Report* (Cambridge, MA: Harvard University Press, 1978), 130-131.

¹¹ John D’Emilio, “The Homosexual Menace: The Politics of Sexuality in Cold War America,” in *Passion and Power: Sexuality in History*, eds. Kathy Peiss and Christina Simmons with Robert A. Padgug (Philadelphia: Temple University Press, 1989), 227-228.

¹² D’Emilio, 229.

¹³ D’Emilio, 230.

pertained to student sexuality. Their investigative procedures certainly proved to officials that it was possible to police sexual activity, and open sexual expression of a heterosexual nature was already occurring in campus publications. Throughout the 1950s, administrators including Matthews would work tirelessly to suppress sexual expression by students. Even cartoons and stories similar to those that had been published in the 1930s without drawing official ire received harsh censure. The *laissez faire* attitude of the administration was gone, and *in loco parentis* was back in full force.

Following the Second World War, students picked up the discussion of sex where their peers had left off in 1939. In the later years of the 1940s, a new crop of undergraduates entered college life ready to push the topic of sex further than their predecessors had. The GI Bill provided veterans of World War II with an opportunity to attend college. Many of those who took this opportunity for acquiring higher education would not have been able to do so had it not been for this federal program.¹⁴ These veterans, mostly men, flooded into the University of Missouri, expanding enrollment to 10,366 by 1947 from a pre-war high of 5,046 in 1941.¹⁵ Despite the fact that they were roughly the same age as traditional undergraduates, their military service had matured them beyond typical undergraduate sensibilities, and they were seen as serious-minded and directed

¹⁴ Bailey, 84.

¹⁵ Office of the University Registrar-MU, "Enrollment History of University of Missouri-Columbia," Curators of the University of Missouri-Columbia, <http://registrar.missouri.edu/statistics/fall-2003/resources/page73.html>

students.¹⁶ Many were married with children, and lived in trailer park villages set up specifically for their special circumstances. Single veterans lived either in hastily constructed barracks or among other, non-veteran students.¹⁷ How would *in loco parentis* apply to these men who viewed themselves as fully adult, and who had enrolled in the university to better their lives, and not because of social status?

The campus humor magazine, *Showme*, provided a test case for university control of veteran students. Mort Walker and Bill Gabriel were two of those former service members who enrolled at Missouri in 1946. Walker had been a student at the university in 1942, before being drafted in January 1943.¹⁸ Both he and Gabriel immediately went to work at *Showme*, Walker as Art Editor, and Gabriel as an artist. The humor magazine had suspended publication during the war, and resumed in January of 1946. In his summary of the post-war history of *Showme*, Gerald Smith states “It seems important to remind the reader that the *Showme* revival was orchestrated—not by teens celebrating away-from-home freedom—but by ex-GIs enjoying the taste of independence after unusual and sometimes premature lessons in maturity.”¹⁹ Walker’s maturity may have

¹⁶ Kathleen J. Frydl, *The GI Bill* (Cambridge, MA: Cambridge University Press, 2009), 332-333.

¹⁷ Frydl, 314.

¹⁸ Gerald T. Smith, “Missouri Showme – the Final, FINAL issue: Memories of staff members of the University students’ humor magazine – 1946 thru 1963,” University Archives, University of Missouri, <http://digital.library.umsystem.edu/cgi/t/text/text-idx?sid=7ec4468cd5c2d059a0ed33f8dc75da27;g=;c=show;idno=showintro>, 6-7.

¹⁹ Smith, 6.

inspired him to draw an editorial cartoon for the January 1947 issue showing a roomful of Joe Stalin look-alikes entitled “One Man’s Interpretation of a Government Class at the University,” but when school administrators demanded it be removed, magazine staffers had to rip out the page containing the cartoon prior to distribution.²⁰ Under *in loco parentis*, university officials retained the right to censor students—even the views of more mature ex-service members. These same students would not shrink from discussing sex in print, however.

Showme mirrored the changes in American culture that had taken place since the beginning of the twentieth century in the years immediately after the war. The November 1947 issue of *Showme* was entitled the “Sex Issue.” By this time, Walker had risen to Editor of the magazine, and Gabriel was the new Art Editor. While the 1939 “Sex Issue” had provoked no response from an administration still following a *laissez faire* policy toward students, this new foray into sex on campus caused an immediate stir. The business manager of the *Columbia Missourian*, a daily newspaper produced by the university’s School of Journalism, refused to run an advertisement for the issue because the word “sex” on the cover was “childish.”²¹ The staff of *Showme* was inspired in part by the recently established Kinsey Institute for Research in Sex, Gender, and Reproduction at Indiana University. Staff members discussed distributing a sex survey, such as the one sent out by the Kinsey Institute, but the outrage of the

²⁰ Smith, 6-9.

²¹ Smith, 9

administration at Missouri put a stop to their plans.²² A college dean told Richard Hall, who worked in advertising and circulation at the magazine, to stop selling it on university property. Administrators informed Walker that *Showme* would be shut down after the next issue, and he was suspended as editor. The “Sex Issue” turned out to be wildly popular, however, and officials allowed *Showme* to continue publishing. Walker, following a one-issue suspension, returned to his post as editor.²³

Although tame to modern eyes, the 1947 “Sex Issue” of *Showme* was beyond the pale to administrators at the University of Missouri. Legally, *In loco parentis* still ruled on college campuses in the United States, and even older, ex-military students were subject to official censure. American society and student sensibilities had changed by the late 1940s, but the right to discuss sex in print eluded those enrolled in colleges and universities. The Kinsey Institute was publicly studying the sexual habits of Americans, and *Showme*’s issue devoted to sex on campus proved popular with students, but officials at Missouri deemed the topic off limits in student publications.

Student attitudes of what was acceptable speech or what were acceptable images had begun to diverge from administrators’ attitudes, however. For *Showme* to maintain campus readership, it needed to present material relevant to the students of its day. Walking this tightrope between official condemnation and customer retention led to more confrontations between editors and the

²² Smith, 9.

²³ Smith, 9-10.

administration. School officials were determined to enforce the rules of *in loco parentis*, despite the changing cultural climate in the United States and on the Missouri campus. The 1950s proved a difficult time for the staff at *Showme*. The magazine was closed several times over content, and staff members recalled the conflicts with administrators who remained wedded to the mores of an earlier era.

Three years after the “Sex Issue,” students were bold enough—or naïve enough—to push the envelope once again. The May 1950 issue of *Showme*, titled the “Take Home to Mother Issue,” featured cover art by student cartoonist Terry Rees. The drawing shows a male student frantically cleaning his room, while his parents are seen walking towards his residence outside the window.²⁴ Although the sentiment expressed by the cartoon was certainly familiar to students, administrators took issue with the details of the image. Loren Reid, the chair of the Board of Publications, called now-editor Jerry Smith and artist Rees into his office to discuss the cover.²⁵ Amid the items the cartoon student hastily swept under his bed were beer bottles, nude drawings of women, a bra and panties, and a condom box. Reid told Rees that he needed to “leave *Showme* or leave the university.” Rees quit the magazine.²⁶ Because the magazine was already printed and awaiting distribution, staff members quickly inked over or scratched off the

²⁴ *Missouri Showme*, May 1950, cover.

²⁵ Smith, 21.

²⁶ Smith, 21.

offensive details.²⁷ Reid surely intended the removal of Rees as a warning to other staffers about the dangers of causing the administration displeasure.

In a move that showed the school was serious about reasserting its authority over students, the University of Missouri established the office of Dean of Students in 1950.²⁸ This new dean would operate much the same way as a high school vice principal, in that he dealt with student behavior issues and issued punishments for violations of school rules. In 1950, enrollment at the university stood at 8,756 and was in rapid decline following the “GI bubble.”²⁹ It is unclear if Missouri expected enrollments to return to pre-war levels and gradually increase, or if administrators anticipated the rapid growth that followed in the next two decades. Whichever the case, the new Dean of Students, Jack Matthews, opened his office in Read Hall with fewer than ten staff. He would spend the next 20 years in that office, and his tenure saw dramatic changes at the University of Missouri. The position of Dean of Students did not last beyond his retirement. Shortly after he left as Dean, *in loco parentis* was dead, and the modern university had replaced the old.

Jack Matthews was born in Gower, Missouri, in 1905. He attended the University of Missouri in the 1920s, receiving his degree in physical education in 1927. After graduation, he took a job as physical education teacher and coach at

²⁷ Smith, 52.

²⁸ Author unknown, “Jack Matthews to Be First Dean of Students at M.U.,” *University of Missouri News*, August 1, 1950.

²⁹ Office of the University Registrar-MU, “Enrollment History of University of Missouri-Columbia,” Curators of the University of Missouri-Columbia, <http://registrar.missouri.edu/statistics/fall-2003/resources/page73.html>

Central High School in Saint Joseph, Missouri, and remained there until returning to the University of Missouri in 1935, also to teach physical education. Matthews remained in the physical education department, and earned his Master's degree in physical education at the university in 1938. During the Second World War, he served in the navy at a naval rehabilitation hospital in Seattle, Washington. He returned to the university following the war, and earned his Doctorate in physical education in the late 1940s. In 1950, the university promoted him to Dean of Students as well as full professor of physical education. He also assumed the role of acting Director of Student affairs for men, because the post was vacant at the time.³⁰ Matthews' responsibility as Dean of Students was to "supervise student conduct, the student activities program, and recreation and social programs."³¹ He jumped into the job with gusto, promising to attend every student function to which he received an invitation in an effort to make himself accessible to students. He would come to regret that promise, for invitations poured in and he and his wife, Kathryn, spent several weekend nights going from student event to student event.³²

Jack Matthews' personal and professional papers reveal him as an organized, highly motivated man, a man well liked by friends and colleagues for his devotion to his work and his sense of humor. He read and saved articles on

³⁰ University of Missouri Public Information Office Release, 1950, Jack Matthews Papers, 1942-1985 FF3, The State Historical Society of Missouri, Columbia, MO.

³¹ Author unknown, "Jack Matthews to Be First Dean of Students at M.U.," *University of Missouri News*, August 1, 1950.

³² Jack Matthews essay "Hello, Is Jack There?," 1962, Jack Matthews Papers, 1942-1985 FF94, The State Historical Society of Missouri, Columbia, MO.

administering students, and kept the organizational charts he created for his office.³³ He also found time to pen a humorous story about his experiences as Dean of Students, “Hello, is Jack There?” that appeared in the March 1962 issue of *Missouri Alumnus*.³⁴ Matthews joined local organizations, and took the lead in civic projects from United Way fundraising to the establishment of the Boone County Historical Society. He worked the public address system at Missouri football games from 1954 until the mid-1970s, the Governor of Missouri appointed him to the Academy of Squires, and he wrote letters to the *Columbia Tribune* newspaper (signed “Eeney, Meeney, Miney & Moe on the original copy) in support of legalizing the sale of liquor by the drink in Columbia. He appears to be a man content with his career and active in his community.³⁵

In establishing a bureaucratic arm of the university that was devoted solely to enforcing student rules, the administration showed that it was now taking student discipline seriously. Increasingly, student discipline at Missouri and nationwide became more and more concerned with student sexual behaviors.³⁶ The hands-off approach that had evolved over the first four decades of the twentieth century was replaced with an aggressive strategy for policing student behavior in relation to *in loco parentis* regulations. Matthews as Dean of Students

³³ Major Staff Office Assignments, 1963, Jack Matthews Papers, 1942-1985 FF7, The State Historical Society of Missouri, Columbia, MO.

³⁴ Jack Matthews, uncredited, “Is Jack There?” *Missouri Alumnus*, March 1962, 8-10. See note 32. The story was edited slightly for the *Missouri Alumnus*.

³⁵ Jack Matthews Papers, 1942-1985, The State Historical Society of Missouri, Columbia, MO.

³⁶ Bailey, 49.

would oversee all student organizations and activities on campus. A female administrator, the Director for Student Affairs for Women, and a male, the Director for Student Affairs for Men, would work under his direct supervision.³⁷ Matthews would prove to be a hands-on administrator, always quick to place himself at the scene of any trouble on campus, and ready to mete out punishment for any infraction of the rules. In time, he would come to be called “Blackjack” by students, either as a term of endearment or an epithet, depending upon how recently they had been summoned to his office.

Just two years into his tenure, Matthews would be called upon to handle his first large-scale, sexually themed incident. In the spring of 1952, a series of violent “panty raids” erupted around the nation. There was a longstanding tradition at the University of Missouri and other schools of “serenades,” in which male students would sing to females at night after their curfew. These serenades required preapproval, as did all other student activities, and the female dormitory or sorority house that was the object of the serenade remained off-limits to the male participants. In fact, the door to the residence had to remain closed unless the housemother granted permission to one of the women to be “pinned” by her boyfriend. The panty raids that began in 1952, however, were very different from a traditional serenade. In 1949, women students had begun throwing underwear to the men gathered outside, and in some cases the males, encouraged by female

³⁷ Author unknown, “Jack Matthews to Be First Dean of Students at M.U.” *University of Missouri News*, 1 August 1950.

students, entered the residences. The panty raid was born.³⁸ The first “raid” in 1952 happened in March at the University of Michigan.³⁹ On May 19, it was the University of Missouri’s turn. Students publicized the panty raid ahead of time, putting up posters telling male students where to gather that evening. Because of the publicity, the Columbia police department called all officers to duty that night, but for fear of violence only planned on intervention if someone was threatened. At least several hundred men gathered at the prescribed hour, and the group marched off towards their first target, the women’s dormitories at Stephens College.⁴⁰

The panty raid began peacefully, with male students calling up to the females in the windows and having underwear thrown down to them. Events quickly got out of hand, however, and the men started breaking down doors and climbing into the women’s rooms through windows. They stole lingerie and other items from the Stephens women, and did several thousands of dollars worth of property damage in the process. Female students feared for their safety, and helplessly watched as the men took or destroyed their personal property. From there the mob moved to Christian College (now Columbia College) and began the process anew. When the men began battering down the main doors of one of the dormitories, acting police chief J.L. Parks and several other officers interposed themselves between the building and the crowd. “Boys,” Parks yelled, “you have

³⁸ “Manners & Morals: Americana,” *Time Magazine*, March 7, 1949.

³⁹ “Middlebush Says Probe to be Thorough,” *Columbia Daily Tribune*, May 20, 1953.

⁴⁰ “Troops Alerted as Riot Gets Out of Hand,” *Columbia Daily Tribune*, May 20, 1953.

torn the hell out of Columbia. Now go home and go to bed.”⁴¹ Instead of going home, the men ran around the sides of the building and began climbing up downspouts and into the windows.⁴²

When the men finally went back to the Missouri campus, it was after midnight. They attacked the female dormitories, again breaking in and stealing personal items, and proceeded to do the same at nearly every sorority house on campus. Someone mistakenly called the Columbia Fire Department into the action, and the raiders climbed all over their trucks, forcing the firemen to flee the scene. By this time, the Missouri Governor Forrest Smith had placed a unit of the National Guard on alert, but the panty raid ended before the need to call them to duty. It was after two in the morning before the men went back to their residences and a semblance of calm returned to the city. Every night for the next week, beefed-up police patrols and National Guard troops in riot gear patrolled the streets in order to discourage another raid.⁴³

The police called Dean of Students Jack Matthews as the panty raid took shape, and he walked along with the crowd, writing down the names of students who performed particularly egregious deeds. Two other men from the Dean’s office patrolled different locations, doing the same. Matthews demanded student identification cards from men he did not immediately recognize. He then suggested that they return to their rooms and get some sleep, and told them to be

⁴¹“Troops Alerted as Riot Gets Out of Hand,” *Columbia Daily Tribune*.

⁴² “Troops Alerted as Riot Gets Out of Hand,” *Columbia Daily Tribune*.

⁴³ “Troops Alerted as Riot Gets Out of Hand,” *Columbia Daily Tribune*.

outside of his office at 8:00 a.m.⁴⁴ At the end of the night, he had 21 names on his list. Over the next week, the Judiciary Board, which administered punishment to students who violated the rules, interviewed more than 200 students about the panty raid. In the end, the board disciplined 90 students for their actions. Men received disciplinary probation, suspension, or expulsion in punishment for their part in the panty raid.⁴⁵

The “organizers” of the 1952 panty raid at Missouri emulated a current fad on campuses intended to flaunt curfew and intervisitation rules. The raid was not an attempt to get rules relaxed or repealed, it was an exciting way to violate the spirit of those rules, hopefully in a group large enough to allow individuals to remain anonymous and unpunished.⁴⁶ The raid probably turned destructive because of the perceived anonymity and the example of a few men who had enough confidence to go into the forbidden territory of a female’s room. In addition to a flaunting of the rules, panty raids were an act with sexual overtones. In fact, women viewed it precisely this way at one building, arming themselves with coke bottles and trash cans full of water, and fought the men until they and their housemother were overwhelmed by the raiders.⁴⁷ The “excitement” in forcefully entering women’s living quarters in violation of the rules was the prime motivation for these raids. Panty raids are non-existent at Missouri today because

⁴⁴ “Troops Alerted as Riot Gets Out of Hand,” *Columbia Daily Tribune*.

⁴⁵ “90 Students Punished as Panty-Rioters,” *Columbia Daily Tribune*, May 28, 1952.

⁴⁶ Bailey, 82.

⁴⁷ Whites, “Boys Will Be Boys.”

students no longer need them to interact with the opposite sex in the evenings. The violent aspects of panty raids faded at Missouri after the convulsions of May 19, but the thrill of flaunting sexual taboos did not.

Following the Great Panty Raid, Matthews and the administration turned their focus to censorship of objectionable material in student publications. The campus humor magazine, now known as *Missouri Showme*, continued to challenge the administrations sensibilities. Bill Gabriel had become the editor, and under his direction, the magazine increased in popularity and advertising sales. Stephens College had banned the distribution of *Missouri Showme* on their campus after the November 1949 issue. That issue, titled the “Stephens Issue,” contained the story, “The Lid Was Up” that told a fictional tale of Stephens’ male president sneaking into a girls’ dormitory at night and raising a toilet seat for fun.⁴⁸ In the early 1950s, the magazine continued to tweak the administration and members of the faculty, but avoided any direct confrontation that threatened its existence, although school officials forced the resignation of an assistant editor after a drawing of a condom box appeared on the cover of one issue.⁴⁹

In loco parentis rules became grist for the college humor mill at the same time as the Missouri administration was tightening those rules. Publishing an article about a man sneaking into a girls’ dormitory to raise a toilet seat or putting the drawing of a condom box on the cover of a humor magazine would seem like

⁴⁸ Smith, 18.

⁴⁹ Smith, 21.

juvenile attempts at humor to modern college students. This type of adolescent humor presaged the content of *MAD Magazine*, which debuted in 1952.⁵⁰ *MAD Magazine* devoted itself to satirizing dominant American culture to a youthful audience, and “was designed to corrupt the minds of children” in the words of Al Jaffee, a longtime cartoonist for the publication.⁵¹ “The Lid Was Up,” written in 1949, was very similar to the satire that *MAD* would print beginning in 1952 for an even younger audience, although *MAD* stayed away from overtly sexual topics. Mocking adult mores was a cottage industry in the late 1940s, and would become big business during the next few decades. Young people “got” the irony in a story about a male college president of an all-female school getting drunk and sneaking into a girls’ dormitory, but the humor was lost on earlier generations.

Editors in the latter years of the decade also recalled dealing with administrative oversight. Herb Knapp, editor in 1951 and 1952, complained in *Showme* that the Board of Publications called him in frequently, evidently to discuss the content of the magazine. Adding to the complications of trying to please the readers as well as the administration was *Showme*’s assigned pre-printing censor. Joel Gold, editor in 1952 and 1953, described taking the proposed edition to “censor/sponsor Fred Robbins” to look over. He characterized Robbins as “[not] easily offended, and he was pretty tolerant.” Despite having Robbins sign off on each issue, however, there were times when Gold and the

⁵⁰ Richard Corliss, “The Glory and Horror of EC Comics,” *Time Magazine*, 29 April 2004.

⁵¹ Michael Mechanic, “Cartoonist Al Jaffee, the Original Mad Man,” *Mother Jones*, 24 September 2010.

staff had to edit *Showme* after printing to please the administration.⁵² The difficulty of *in loco parentis* oversight by the 1950s was evident. American culture was changing, and there were no hard and fast rules defining “acceptable” content in student publications. Censorship was a personal judgment call on the part of officials assigned to that task, and hinged upon the whim or current mood of the censoring administrator instead of defined rules. Images or writings that may have been perfectly acceptable in off-campus publications were censored as unacceptable under *in loco parentis*. This problem in interpreting speech would become acute by the late 1960s.

In fall of 1957, the student editors of *Missouri Showme* took another step in the public discussion of sexual topics. The magazine began using nude women—artfully posed in order to conceal the objectionable parts of their anatomy—in advertisements. Magazine sales increased, but when the December issue included risqué pictures of female students on a beach drinking beer, the administration banned the magazine. Nearly all of the copies were shredded, and the staff of students disbanded.⁵³ Noel Thomas, the editor during that time, remarked later that they had been “‘pushing the buttons’ of the Administration” during his four-issue tenure.⁵⁴ Sales had soared among student readers because of the introduction of sexual themes into the pages of *Showme*, reflecting the attitude of college-aged Americans at the time. Although older sensibilities retained the

⁵² Smith, 52.

⁵³ Smith, 40-42.

⁵⁴ Smith, 41.

power to censure, college students were part of a new cultural wave that had no problem with a more frank depiction of sexuality, or even the publication of “nude” pictures in a college humor magazine.

The tale of *Showme* magazine’s run-ins with the administration highlights tensions felt within the larger society. *Playboy* magazine began publication in 1953, a fact not lost on students at the University of Missouri. *Playboy*’s publisher, Hugh Hefner, recalled in later years that through the magazine he was deliberately trying to change American attitudes towards sex.⁵⁵ In order to make *Showme* relevant to students with changing sensibilities, the student editors and writers introduced risqué photographs, along with stories and cartoons laced with sexual innuendo. Throughout the 1950s though, the ultimate judge of allowable content was the university administration acting *in loco parentis*. The First Amendment did not apply to college students, and Jack Matthews forbade publication of sexual material he considered obscene. Interestingly, the University of Missouri now proudly displays every page of every issue of *Missouri Showme* on its university archive’s website, objectionable material and all, for the world to see.⁵⁶ It is difficult to fathom a time when school officials regarded this type of adolescent humor as dangerous, or even a time when it was so popular with college-aged Americans.

⁵⁵ Steven Watts, *Mr. Playboy: Hugh Hefner and the American Dream* (Hoboken, NJ: John Wiley & Sons, Inc., 2008), 107.

⁵⁶ *Missouri Showme*, University of Missouri Digital Library, <http://digital.library.umsystem.edu/cgi/t/text/text-idx?page=home;c=show> (last accessed 20 June 2013).

The most telling aspect of the history of *Showme* after World War II is the fact that students were willing to submit to the administration's censorship. Although they pushed the envelope of what officials considered "decent," they fell in line once the administration demanded the removal of unacceptable content. This willingness to make an effort to appease the university shows that despite changes in American culture and views on sexuality, college students remained unwilling to fight them openly for freedom of expression. Instead of demanding that right, as a later generation did, the students from 1947 to 1960 accepted the reestablished *in loco parentis* order. The former soldiers on campus in the late 1940s and early 1950s may have submitted because they were more concerned with finishing school and starting their careers. For more traditional students before the 1960s, religious beliefs or fear of social ramifications may have prevented open rebellion against the rules.⁵⁷ The staff of *Showme* contented themselves with mocking administrators and the campus culture that was a product of school rules. Although the culture had changed, as evidenced by *Playboy* magazine, an older generation still dominated institutions of higher education, and students eschewed activism.

At the dawn of the 1960s, however, students at Missouri began to chafe under these limitations of their freedom. Since the 1920s at the university, students had been involved with the making of campus rules, even if only in an advisory role. They had also been responsible for policing their own behavior—the Association of Women's Students was responsible for staffing the check-in

⁵⁷ Bailey, 49.

desks for females returning home at night, for example. Student government at Missouri also had a role in recommending changes to student rules. By 1960, they were ready to take a more active role in the rulemaking process, and spoke out in favor of that role and against the *in loco parentis* regime on campus.

On April 27, 1960, a guest column by a former Missouri Students' Association (MSA) President appeared in the campus newspaper, *The Maneater*. The title of the column, "Students Still Kids Officially," shows that at least some college-aged Americans understood the way administrators viewed their charges. He places blame for "juvenile" behavior on the university, which refused to give students a meaningful voice in the rules and regulations that governed their lives. Administrators justified the need for strict governance of student behavior by citing the very juvenile attitude the columnist blamed on *in loco parentis*. The system he decried appeared to be a catch-22—students thought and acted like juveniles because they had no say in the rules, but the rules existed because students thought and acted like juveniles. This unnamed former MSA President did state, however, that, "students would like to have a part in the forming of regulations that govern their day-to-day conduct."⁵⁸ This declaration proved prescient, as over the next ten years students deliberately sought and gained more influence over rulemaking bodies at Missouri. Working within the system, students would successfully lobby for changes in rules dealing with female

⁵⁸ Former MSA President name not provided, "Students Still Kids Officially," *The Maneater* (Columbia, MO), 27 April 1960.

curfews, administration-enforced class attendance, and undergraduates residing off-campus.⁵⁹

The history of *in loco parentis* in the years between the end of World War II and 1960 shows that administrators desired to reassert control over student behavior. In direct contrast to the first part of the century, when school officials increasingly took a *laissez faire* attitude towards student behavior, new mechanisms for enforcement of the rules were established. Seemingly awakened to student sexuality by openly gay veterans on campus, administrators took a proactive stance against all suggestions of student sexuality. In 1950, the university took a step common to large bureaucratic organizations by establishing a new division to deal with a perceived problem. The new Dean of Students office consolidated rule enforcement into a single entity, and Jack Matthews became the man responsible for making sure students obeyed the rules. During the 1950s, student sexuality was the main area of conflict between students and the administration, and officials aggressively censored any publication they found offensive. The lack of objective standards of decency proved the most difficult obstacle to overcome; students could not be sure they were in compliance with administrators moral standards before they acted. This led to frustration on the part of the student body, and by 1960, they were ready to take greater responsibility in the rule making process.

⁵⁹ Judy Haverfield, "Liberalization Killing In Loco Parentis," *The Maneater*, 12 April 1967.

Student Activism and the End of *In Loco Parentis*: 1960-1977

In loco parentis in American higher education reached its high water mark during the 1960s. At the University of Missouri and nationwide, administrators in the early years of the decade tightened their control over students by expanding or more strictly enforcing rules already in place.¹ A new generation of students, raised entirely after the Second World War, did not gracefully acquiesce to these new intrusions on their liberty. To the extent that they could, students worked within the system and made some progress in changing *in loco parentis* rules, but soon reached the limit of officials' desire to compromise. In the middle years of the 1960s, students around the country started actively protesting for their rights, and by the late 1960s they had filed the lawsuits that would strip university administrators of their authority.² At Missouri, the last vestiges of *in loco parentis* disappeared in the middle of the 1970s. In retrospect, granting college students constitutional rights seems like an obvious inevitability, but many Americans at the time resisted taking that step.

The enforcement of *in loco parentis* rules had declined in the decades leading up to World War II. Universities and colleges had grown quickly in size and scope during the first forty years of the twentieth century. As school administrators struggled to manage expanding bureaucracies that came with growth, they ceased direct interaction with the student body. The paternalistic

¹ Beth Bailey, *Sex in the Heartland* (Cambridge, MA: Harvard University Press, 1999), 79.

² Kenneth J. Heineman, *Put Your Bodies Upon the Wheels: Student Revolt in the 1960s* (Chicago: Ivan R. Dee, 2001), 106.

disciplinarian model of college presidents, common in the late nineteenth century, had given way to the professional administrator less concerned with enforcing student rules. By the late 1930s, students, including those at the University of Missouri, had a great deal of personal freedom. Because of this freedom, along with a change in cultural norms, students were more sexually active. They advertised this fact in cartoons and humorous vignettes in student-run campus publications throughout the 1920s and 1930s. Instead of cracking down on these students, administrators exhibited a *laissez faire* attitude towards student behavior.

After the war, administrators at Missouri reasserted their authority over students and their sexual behavior. They rooted out “homosexual rings” of students and faculty, possibly out of Cold War fears of subversive behavior, even firing a long-time professor whose homosexuality was known by many years before the war.³ Simultaneously, school officials began censoring the campus humor magazine for publishing material similar to what had been published—without censure—in the late 1930s. The university also consolidated student discipline into a single office, that of the new Dean of Students, Jack Matthews. By making one man responsible solely for policing student behavior, the school showed it was ready to take enforcement of *in loco parentis* seriously again. Matthews proved a hands-on administrator, and over the next twenty years he was on hand during every major incident on campus.

³ John D’Emilio, “The Homosexual Menace: The Politics of Sexuality in Cold War America,” in *Passion and Power: Sexuality in History*, eds. Kathy Peiss and Christina Simmons with Robert A. Padgug, (Philadelphia: Temple University Press, 1989), 227.

Ultimately, the courts would decide the fate of *in loco parentis* in American higher education. Beginning in 1866 courts had consistently ruled that college students were not legal adults, their rights were not guaranteed by the United States Constitution, and school administrators had the same rights over them as did their parents. Legal precedent had entrenched the legal regime of *in loco parentis* in colleges and universities, and court reversals of those rulings were needed to overturn that legal regime. In *Pratt v. Wheaton College* (1866), the Illinois Supreme Court had ruled that college students did not have due process rights under the constitution. The denial of due process was the bedrock upon which *in loco parentis* was built. In 1960, a federal court would overturn ninety-four years of precedent and give college students that constitutional right.

Aptly enough, a Civil Rights protest by college students in Alabama was the beginning of the end of *in loco parentis* in American higher education. It was the Civil Rights Movement that inspired student movements on campus later in the decade of the 1960s.⁴ On February 25, 1960, twenty-nine students from Alabama State College, a school for African Americans, entered a publicly owned lunch grill in the basement of the county courthouse in Montgomery, Alabama. They were denied service because they were black and the grill was closed, but the students remained inside in protest of the segregated restaurant. Police arrived and ordered the students out, and their protest continued in the corridor for an additional hour. The next day, several hundred students of the college attended the perjury trial of a fellow student in the courthouse (unrelated to the events on the 25th), and after the trial was over the students marched through town on their

⁴ Heinman, 6.

way back to the school. On the 27th, several hundred students of the school staged protests in Montgomery and Tuskegee, Alabama. All of these actions were part of the nationwide “sit-in” movement that began in Greensboro, North Carolina, on February 1.

The students were not violent, but by staging a “sit-in,” they were challenging the racial status quo. Alabama Governor John Patterson, apparently concerned with the protests, had called Dr. Trenholm, president of Alabama State College, after the lunch-grill incident on the 25th. As governor, Patterson was the chair of the State Board of Education, and Dr. Trenholm could not ignore his advice. The governor advised Dr. Trenholm to investigate the courthouse incident, and suggested, “If he were in the president’s position he would consider expulsion and/or other appropriate disciplinary action.”⁵

Under the legal precedents that had established *in loco parentis*, these students were not guaranteed due process, and they did not receive it. On March 4, Dr. Trenholm heeded Governor Patterson’s words and expelled six students by letter. All six had been involved in the sit-in at the courthouse lunch grill, and some or all of them may have participated in the subsequent activities. He did not provide the students with a specific reason for their expulsion, nor did he allow them a hearing in which to defend themselves. The six students sued the Alabama State Board of Education, claiming a violation of their constitutional right to due process. The United States District Court for the Middle District of Alabama, Northern Division, upheld the expulsion. Citing *Waugh v. Board of*

⁵ Dixon v. Alabama State Board of Education, 186 F. Supp 945 (1960).

Trustees (discussed above), the judges determined that attendance of a publicly funded college or university is not a constitutional right. Under the regime of *in loco parentis*, which was still fully in place in 1960, this ruling made legal sense. A college or university could police and discipline its students as it saw fit, including expulsion from the school. Students were not adults with constitutional rights, and their attendance at an institution of higher learning was voluntary and a privilege. These ideas were the foundation upon which *in loco parentis* rested.

The six students appealed, however, and the United States Court of Appeals for the Fifth Circuit overturned the lower court's ruling.⁶ In a departure from precedent, the court found that students at a public college or university *do* have the right to due process before expulsion. Administrators must notify students of the specific reasons for their dismissal, and they have a right to a hearing wherein they can defend themselves. This decision alone did not invalidate the entire doctrine of *in loco parentis*, but it established a legal precedent—college students have constitutional rights—that future courts would build upon over the next two decades. The rules established by schools would soon be subject to constitutional scrutiny, and this would result in the demise of *in loco parentis* in public higher education.

In 1960, young people in America began to organize themselves politically. Students from both ends of the political spectrum formed activist groups in order to push their political agendas forward. On the left, students organized the well-known Students for a Democratic Society (SDS) to speak out against the hypocrisy in America—a lack of civil rights for African Americans in

⁶ *Dixon v. Alabama State Board of Education*, 294 F.2d 150 (2d Cir. 1961).

a nation that espoused the sentiment “all men are created equal,” for instance.⁷ Students on the right organized as well, forming the lesser-known Young Americans for Freedom (YAF) that stood for free markets and constitutional government, and against communism.⁸ Although politically in opposition to each other much of the time, the two groups did stand together in several instances to protest limits on student speech.⁹

This organizing activity points to a wider phenomenon that began to occur among college students in the early 1960s—organized protest against established authority. The “sit-ins” by students across the south in 1960 to protest segregated lunch counters provided a model for civil disobedience in the face of injustice. Armed with this tactic provided by the Civil Rights Movement, college students throughout the decade would protest school rules. Sometimes the protest was as peaceful as a “teach-in” in lieu of class to protest the Vietnam War, and sometimes it was more confrontational as when students took over buildings on their campus. The methods used to oppose *in loco parentis* on campus were largely peaceful, however, and were inspired by the Civil Rights Movement. The idea of peaceful resistance to *in loco parentis* was seen on the University of Missouri campus first in 1961 over the dress code.

The dress code found in the 1950 *AWS Handbook* lists two classifications of attire: “school clothing” and “casual clothing.” “School clothing” was

⁷ Nathan M. Pusey, *American Higher Education 1945-1970: A Personal Report* (Cambridge, MA: Harvard University Press, 1978), 145.

⁸ Heineman, 6.

⁹ Rebecca E. Klatch, *A Generation Divided: The New Left, The New Right, And the 1960s* (Berkeley: The University of California Press, 1999), 118-119.

required attire for women nearly everywhere on campus or while they were in downtown Columbia. Acceptable school clothing included skirts, sweaters, and dresses, although they could wear slacks if temperatures dropped below freezing. “Casual clothing” consisted of slacks, Bermudas, and shorts. The only place casual clothing was permitted was in their dormitories, while on a picnic or a hike, or during physical education class. The dress code had certainly adapted to modern dress (women did not wear shorts in 1880, for instance), but the university retained the right to determine what constituted appropriate clothing for female students while on campus or off.¹⁰ The Association of Women Students (AWS) ostensibly set and enforced the dress code, but the fact that all females were automatically members of AWS, and that dress codes were ultimately enforced by the Dean of Students’ office show that all rules originated under the imprimatur of the administration. Many female students, however, were adamantly in favor of the dress code at Missouri and other institutions.¹¹ This situation is akin to parents soliciting input from their children in what constitutes appropriate attire. Children are free to wear whatever they want, as long as it conforms to their parents’ definition of appropriate.

A decade later, this dress code was still in place for females at the university. In the autumn of 1961, the Director of Female Residence Halls, Jan Simmons, observed female students in line for breakfast in their dormitory on a Sunday morning in curlers, Bermuda shorts, and bathrobes. Despite the fact that

¹⁰ Association of Women Students, *AWS Handbook 1950-51* (Columbia: University of Missouri, 1950), 34.

¹¹ Bailey, 88.

no men were present, she determined that this was unacceptable dress for young women appearing “in public.” She introduced a new rule, effective immediately, that females must dress in “school clothing” in all public areas of their dormitories at all times.¹² It is unknown whether the wearing of curlers and shorts to breakfast constituted a change from the past, but Simmons unilaterally declared it inappropriate and ruled that it must stop.

Some female students greeted this new rule with outrage. They planned a protest wherein as many women as possible should show up for breakfast in Bermuda shorts. Someone tipped Simmons off to the plot, and she proceeded to hunt down its organizers, promising punishment for the leaders of the plan.¹³ The protest never materialized, and the new rule stood.¹⁴ It does not appear that any students received punishment for their intended rebellious act, but the seeds of future conflict are evident. Later in the decade, students openly disobeyed and protested rules that they considered violations of their freedoms, and welcomed the clash with administrators they knew would follow. In 1961, however, they had not yet found the courage to publicly protest against what they saw as encroachments on their personal freedom.

In 1964, students at another institution would chafe under rules that restricted their freedom during a time of expanded freedom throughout the United

¹² Editorial, “Last Word on Curlers,” *The Maneater*, September 27, 1961.

¹³ “University Discovered Plan: Women Cancel Demonstration Against Dress Regulations,” *The Maneater*, October 11, 1961.

¹⁴ “Senators Offer Resolution on Women’s Dress Rules,” *The Maneater*, October 18, 1961.

States.¹⁵ On October first and second of that year, the “Free Speech Movement” for college students began at the University of California’s Berkeley campus. In September, the administration had informed students that their politically themed information tables could no longer occupy a strip of university-owned land at the corner of Bancroft and Telegraph Streets.¹⁶ The California state constitution prohibited political or religious groups from proselytizing on campuses in the University of California system, and the Board of Regents had established rules controlling all manner of political and religious speech.¹⁷ A unique set of circumstances at the Berkeley campus sparked a confrontation between students and administrators that culminated in the October 1 mass demonstration. College students from across the political spectrum rallied behind the free speech movement at Berkeley.¹⁸

Before 1958, the Sather Gate marked the southern entrance of the Berkeley campus. The sidewalk immediately south of the gate was not university property, and in the 1930s, a tradition of political speeches and activity began at that location. Partisan political activity was forbidden on campus, but speakers often addressed crowds of students just outside Sather Gate, and political fundraising became commonplace on the public sidewalk there. In 1958, the university purchased the land beyond Sather Gate in order to construct a new student union. Political activity then moved south one block to the intersection of

¹⁵ Pusey, 146.

¹⁶ Max Heirich, *The Beginning: Berkeley, 1964*, (New York: Columbia University Press, 1968, 1970), 60-61.

¹⁷ Heirich, 24.

¹⁸ Klatch, 118-119.

Bancroft and Telegraph in adherence to the state constitution and university rules. The new gate and wall that supposedly delineated the southern boundary of campus was actually thirty-six feet north of the property line, however. Political activity, although outside the wall, was occurring on university property in violation of the law.¹⁹ Over the next six years, students became accustomed to using this space outside the south gate for political purposes, not realizing that they were technically still on campus.²⁰ When students were told that they had to cease their political activity in this area, they protested for free speech rights.²¹

The willingness of students to confront university administrators directly and lobby for a change in school rules spread to campuses across the United States over the next five years. At the heart of the Free Speech Movement was the college students' rejection of their traditional relationship with school officials. The legal doctrine of *in loco parentis* defined that relationship, and made college administrators the *de facto* guardians of the young men and women attending their schools. In October of 1964, college students still did not have a guaranteed first amendment right to free political speech, but they no longer accepted the university's authority over how and where they expressed themselves. They had only just won the constitutional right of due process in

¹⁹ Heirich, 27-29.

²⁰ Heirich, 29.

²¹ Christopher J. Lucas, *American Higher Education: A History* (New York: St. Martin's Press, 1994), 257-258.

1961, with the federal court decision in *Dixon v. Alabama State Board of Education*.²²

The emergence of the Free Speech Movement was a watershed moment in student self-identity. Up to 1964, students at Berkeley showed a willingness to obey campus rules that denied them the right to political speech. Once their traditional forum for political speech was threatened, they initially attempted to negotiate a compromise with administrators that would have allowed them to continue political activity on school property.²³ This decision to fight for their rights showed a desire on the part of students to engage in the world beyond the boundaries of their college or university. Instead of meekly acquiescing to official demands to cease their activity on campus, Berkeley students demanded a change in the rules. Detractors have called their motivation and their tactics into question, declaring that the students were either political radicals or spoiled children.²⁴ They were not acting like spoiled children, however. The students at Berkeley in 1964 initially attempted to work within the system for change. When that route failed, they protested. Their actions on October 1 and 2, although shocking to the public at the time, were the result of righteous frustration at a system that refused to give students a voice in the rules that governed their lives.

²² *Dixon v Alabama State Board of Education*, 294 F.2d 150 (2d Cir. 1961).

²³ Heirich, 63-65.

²⁴ David Horowitz, *Radical Son: A Journey Through Our Times*, (New York: The Free Press, 1997), 406. Horowitz calls this incident “The first radical takeover of an American Campus. Jeffery Kahn, “Ronald Reagan launched political career using the Berkeley campus as a target,” 8 June 2004, http://berkeley.edu/news/media/releases/2004/06/08_reagan.shtml, (accessed 25 March 2013). Reagan is quoted as saying of student dissidents at Berkeley “Throw them out. They are spoiled and don’t deserve the education they are getting.” This quote is evidently from Reagan’s gubernatorial campaign in 1966, and surely references all campus unrest in addition to the Free Speech Movement.

Students defied the rules and set up their “illegal” tables on October 1. When police came to arrest them, a crowd gathered, and the two-day protest had begun.

Throughout the middle years of the 1960s, students at the University of Missouri effectively worked, *sans* protest, within the system to affect change. In 1964, senior women at the University of Missouri gained the right to “Key Privileges” in their dormitories and sorority houses. This meant that they could check out a key in the evening and did not have a set curfew.²⁵ This practice had begun at the University of Kansas in 1960 for seniors there, and it was the dean of women who had worked to get it approved.²⁶ In 1966, that right was extended to all twenty-one year old female students. The February 15, 1967 edition of the student newspaper, the *Maneater*, reported that the administration was contemplating granting junior women this same privilege.²⁷ These ideas did not spring from officials, however. Student residence-hall associations recommended these changes in curfew rules to administrators, and officials responded favorably to their suggestions.

Students also began to pressure the administration to change the intervisitation rules, and allow members of the opposite sex in student rooms. The 15 February *Maneater* contained the results of a survey of students living in residence halls concerning intervisitation rules. The survey found that three-fourths of the men and women residing in dormitories favored intervisitation

²⁵ “Residence Halls Support Coed Visitation Privileges,” *Maneater*, 15 February 1967.

²⁶ Bailey, 90.

²⁷ “Residence Halls Support Coed Visitation Privileges,” *Maneater*, 15 February 1967.

rights. The students did not demand an immediate end to all rules, however. Forty-one percent approved of rules that would require dormitory room doors fully open during visits from the opposite sex, while fifty-one percent only wanted rules to state door had to be “partially open.” Only seven percent demanded rules allowing closed doors.²⁸ The Men’s Residence Hall Association (MRHA) took up the issue, and proposed a new rule allowing intervisitation between 2:00 p.m. and 5:00 p.m. on Sundays.²⁹ An editorial in the *Maneater* opined that intervisitation would provide “real life experience” to students, preparing them for living on their own after graduation.³⁰ These arguments echoed the Kansas SDS’s “Student Responsibility Movement” that couched the issue in terms of student maturity instead of sexual freedom.³¹ The Women’s Residence Hall Association (WRHA) requested intervisitation rights the following week.³² Students working within their governing bodies deliberated these issues, and submitted their proposals to the administration.

Students saw the small changes to rules, such as gaining key privileges, as progress they could build upon. In the April 12, 1967 *Maneater*, an article titled “Liberalization Killing In Loco Parentis” discussed the changes that had already occurred. Negative hours, a punishment that subtracted credit hours from a students’ total for unauthorized absences, had been abolished. Junior women had

²⁸ “Residence Halls Support Coed Visitation Privileges,” *Maneater*, 15 February 1967.

²⁹ “MRHA Hears Proposals for Visitation,” *Maneater* 22 February 1967.

³⁰ Editorial, “Inter-Visitation,” *Maneater*, 22 February 1967.

³¹ Bailey, 91-94.

³² “WRHA Requests Visitation,” *Maneater*, 1 March 1967.

gained key privileges. Sophomore and older students now had the right to live off-campus in unapproved housing. In the eyes of students, real progress had occurred, both in rules changes as well as in the hearts and minds of some administrators. In that same article, however, Dean of Students Matthews expressed his opinion that those changes did not mean the end of *in loco parentis*. He stated that the University of Missouri was the “most liberal [university] in the Big 8 [athletic conference],” and that parents approved of the small changes in school rules.³³ It was Matthews’ job to enforce *in loco parentis* rules, and his statements surely put a damper on student optimism. A final blow came when the university administration refused to make any of the student-proposed intervisitation rule changes. If working within the system did not produce results, the students would take another route to gain their rights.

During the same semester students were pushing for rules changes, another protest with the potential to change the direction of the student rights movement at Missouri occurred. On March 26 1967, three young men were part of a group of people sitting on the University of Missouri campus, in front of the Fine Arts building. Two of the three were Missouri students, and the third was a student at Lincoln University in Jefferson City.³⁴ A city police officer witnessed them writing in chalk on the sidewalk, and arrested the three for violating a city ordinance “prohibiting sidewalk defacement.”³⁵ At the trial in early April,

³³ “WRHA Requests Visitation,” *Maneater*, 1 March 1967.

³⁴ “Two Students Sentenced to 45 Days,” *Columbia Daily Tribune* (Missouri), 9 April 1967.

³⁵ “Students Draw 45 Days For Chalking Sidewalk,” *Maneater*, 12 April 1967.

photographs of their handiwork showed phrases such as “Free Love,” “The Marine Corps builds Oswald,” and “Support the NLF [National Liberation Front, the political arm of the Vietcong].” A partially chalked-over obscenity also appeared in the pictures.³⁶ The two Missouri students, Robert Burnside and Vernon Urban, received forty-five day jail sentences. James Black of Lincoln University received thirty days. The judge added fifteen days to the sentence of Burnside and Urban because they had attended a protest on campus the day before trial.³⁷ Judge Roger Hines offered to stay their sentences if they promised to stay out of trouble. He also offered them the option of serving their sentences by working at the police station, but all three refused the alternatives and chose jail.³⁸ After spending a weekend behind bars, however, all three reappeared before Hines and requested the option to work at the police station instead so they would not lose class credit for the semester.³⁹ The judge granted their request, and ordered them to report at the Columbia Police Department at 7 a.m. on each of the next four Saturdays where they would work until noon.⁴⁰

Many students and some members of the faculty on the Missouri campus immediately spoke out against the arrest and punishment of these three. The school’s chapter of Students for a Democratic Society (SDS) held a “student rights” rally on April 12 in Memorial Union. It appears the three arrested students

³⁶ “3 Ask Work Instead of Jail Terms,” *Columbia Daily Tribune*, 10 April 1967.

³⁷ “Two Students Sentenced to 45 Days,” *Columbia Daily Tribune*, 9 April, 1967.

³⁸ “Two Students Sentenced to 45 Days,” *Columbia Daily Tribune*, 9 April, 1967.

³⁹ “Students Draw 45 Days For Chalking Sidewalk,” *Maneater*, 12 April 1967.

⁴⁰ “3 Ask Work Instead of Jail Terms,” *Columbia Daily Tribune*, 10 April 1967.

were members of SDS.⁴¹ Associate Professor of History William Allen, who spoke at the rally, organized a “chalk-in” at the Boone County Courthouse for April 17, 1967 to protest the arrest and “severe” sentencing of the students.⁴² Between 1,000 and 1,500 people, depending upon the source, showed up at the courthouse for the chalk-in, and proceeded to chalk slogans on the sidewalk around the building.⁴³ At least six faculty members also participated in the protest.⁴⁴ MSA President John Leet called the chalk-in “the beginning of a new direction for the student rights movement at M.U.—one that has strong student support in many factors of the campus population.”⁴⁵ Students and some faculty, probably correctly, saw the arrests as specifically directed at known student activists. To the protesters, the decision to charge the three students with “sidewalk defacement” for chalk writing was an unjust application of the city ordinance.

The chalk-in had its detractors, however, both in the university administration as well as among the public. An editorial in the *Columbia Daily Tribune* on April 16 declared the chalk-in was “out of hand.”⁴⁶ Letters to the editor in the same edition of the newspaper overwhelmingly opposed the protest, and one of the letters, from a University of Missouri student, claimed Professor

⁴¹ “Students Draw 45 Days For Chalking Sidewalk,” *Maneater*, 12 April 1967.

⁴² Vici Casana, “Chalk-in Attracts 1,500 Students,” *Maneater*, 19 April 1967.

⁴³ “1,000 Students Attend Courthouse Demonstration,” *Columbia Daily Tribune*, 18 April 1967.

⁴⁴ “Weaver Censures ‘Chalk-In’,” *Maneater*, 10 May 1967.

⁴⁵ Casana, “Chalk-in Attracts 1,500 Students,” *Maneater*, 19 April 1967.

⁴⁶ Editorial, “The Chalk-In,” *Columbia Daily Tribune*, 16 April 1967.

Allen had declared himself a socialist on the first day of a history class.⁴⁷ University President John Weaver censured the chalk-in in May, and stated that mail he received about the incident “has carried a considerable amount of heartfelt, even bitter criticism of those who participated in the recent so-called chalk in in Columbia.”⁴⁸ Weaver also distanced himself from the faculty who participated in the protest, stating, “The faculty members involved in this demonstration were small in number and were almost uniformly persons who had already made a decision to leave the university.”⁴⁹ President Weaver did not appreciate the alliance between faculty and students that threatened the principles of *in loco parentis* that were at the heart of the administration’s authority.

Meanwhile, one senior administrator at the time, although he did not weigh in on the chalk-in, was having second thoughts about the role of the university in its students’ lives. Robert Callis, Dean of Extra-Divisional Administration at Missouri, wrote an article that appeared in the July 1967 edition of *The Journal of College Student Personnel* titled “Educational Aspects of *In Loco Parentis*.” In this essay, Callis argued that the main mission of universities should be education, and that colleges should not act *in loco parentis* towards students. He concluded by saying “My plea, then, is for us to forget about being substitute parents and start being educators in a most real and challenging sense of

⁴⁷ “Letters to the Editor,” *Columbia Daily Tribune*, 16 April 1967.

⁴⁸ “Weaver Censures ‘Chalk-In’,” *Maneater*, 10 May 1967.

⁴⁹ “Weaver Censures ‘Chalk-In’,” *Maneater*, 10 May 1967.

the word.”⁵⁰ Earlier, in April 1967, Callis spoke at a Human Relations Council meeting in support of student involvement “on student-faculty committees where many of the policies are hammered out,” and that students should use “established mechanisms for change...if change is needed.”⁵¹ Callis was voicing his support for greater student involvement in the making and enforcing of *in loco parentis* rules while they existed, but if he had his way those rules would not exist at all.

The university remained an arbiter of what was “appropriate,” however, despite the musings of Dean Callis. Less than two years later, the university itself came under fire by students and faculty for what they considered an inconsistent application of rules related to speech. In early 1969, the University of Missouri still exercised its prerogative under *in loco parentis* by controlling the distribution of non-student publications on campus. The school allowed SDS to distribute literature and its newspaper, *New Left Notes*, at a table set up in Memorial Union.⁵² Another publication, *Free Press*, had permission to be sold anywhere on campus.⁵³ Publications such as these were not truly free to distribute any content they so chose, however, as events in February 1969 would show. As the final events in students’ push for freedom of speech as Missouri played out, the hypocritical and subjective application of censorship on campus was exposed. Students refused to acquiesce to official interpretations of indecency as their

⁵⁰ Robert Callis, “Educational Aspects of *In Loco Parentis*,” *The Journal of College Student Personnel* 8 no. 4, (July 1967): 231.

⁵¹ Marge Holler, “Callis: Seek Changes Legally,” *Maneater*, 26 April 1967.

⁵² Betsey Barnette and Marsha Weinstein, “SDS ‘Obscenity’ Provokes Eviction,” *Maneater*, 14 February 1969.

⁵³ “Free Press May Be Sold At Any Campus Location,” *Maneater*, 12 April 1967.

predecessors had in earlier years. One student would file suit to defend her right to free speech on campus. The lasting impact of the events in 1969 at the University of Missouri was a significant United States Supreme Court ruling striking down administrators' ability to censor "obscene" speech on college campuses.

On February 12 1969, student members of SDS stood at their approved booth in Memorial Union, handing out copies of *New Left Notes*. Dean of Students Jack Matthews, accompanied by Union Director A.C. Stotler approached the students, and ordered them out of the building, citing "vulgar language" in the January issue of *New Left Notes* as the reason.⁵⁴ At issue was a headline on page two, "Motherfucker Acquitted."⁵⁵ The SDS members packed up and left.⁵⁶ The next day, SDS returned to their booth in Memorial Union, and officials allowed them to hand out other literature, but not *New Left Notes*. SDS members also organized a demonstration at the union on February 13, protesting the action taken against their organization by Matthews.⁵⁷ Because of the "obscene" content distributed on campus, six members of the SDS Board received

⁵⁴ Bernette and Weinstein, "SDS 'Obscenity' Provokes Eviction," *Maneater*, 14 February 1969.

⁵⁵ Ibid Bernette and Weinstein, "SDS 'Obscenity' Provokes Eviction," *Maneater*, 14 February 1969. The actual words were not used in the article.

⁵⁶ Bob Richardson, "SDS Right in Leaving," *Maneater*, 14 February 1969.

⁵⁷ Bernette and Weinstein, "SDS 'Obscenity' Provokes Eviction," *Maneater*, 14 February 1969.

summonses to a meeting with the Student Faculty Committee on Student Organizations, planned for 2:30 p.m. on February 21, for possible discipline.⁵⁸

Adding fuel to the fire, on the morning of February 19, Barbara Papish and three other individuals appeared on the sidewalk in front of Memorial Union, selling copies of *Free Press Underground*. Papish was a thirty-two-year-old journalism graduate student at the university, and one of the writers for *Free Press Underground*. On the second page of the issue distributed that day, the objectionable headline and article from the previous week's *New Left Notes* appeared in its entirety.⁵⁹ When Matthews learned that the offensive material was again on campus, he confronted Papish and her associates in front of the union. Someone summoned the Columbia Police, and the four were arrested for "possession and attempting to distribute obscene literature."⁶⁰ Matthews agreed to meet with student and faculty representatives at 3 p.m. that afternoon to discuss the events of the prior week. The meeting resolved nothing, however, and afterwards "several hundred" students angrily confronted Matthews about censorship on campus.⁶¹

In the days following February 19, administrators acted firmly to punish those involved in the two incidents. Although the Student Faculty Committee on Student Organizations recommended that no action be taken against SDS, Chancellor Schwada banned the organization from campus for the rest of the

⁵⁸ "Demonstration Planned," *Maneater*, 21 February 1969.

⁵⁹ Chris Cubbison, "Free Speech Issue Still Unresolved," *Maneater*, 21 February 1969.

⁶⁰ Cubbison, "Free Speech Issue Still Unresolved," *Maneater*, 21 February 1969.

⁶¹ Cubbison, "Free Speech Issue Still Unresolved," *Maneater*, 21 February 1969.

term.⁶² Matthews expelled Papish from school, which was the basis for her ultimately successful court case against the University of Missouri. Schwada also issued a statement in which he asserted, “Society has a right to expect decency and dignity” from its public institutions of higher education.⁶³ Matthews commented that the “silent majority need to assert ethical standards,” and people should “never encourage the disruptions of campus militants.”⁶⁴ He even lamented, “[I] never thought I would see the day when I would welcome a good old fashioned panty raid.”⁶⁵

Government officials in Missouri responded negatively to student free-speech activists. Governor Warren Hearnes recommended the expulsion of “disrupters” on campus.⁶⁶ Representative Richard Marshall of Webster Groves submitted a bill that provided for state government to investigate student dissent. He proposed a committee to investigate the use of student activity fees to pay campus speakers “who openly and publicly urge and advocate violence, riots, draft evasion, insurrection and revolution.”⁶⁷ State Senator Richard Southern proposed that the Missouri Legislature censure SDS activity on campus, and

⁶² Editorial, “Overreacting to the SDS,” *St. Louis Post-Dispatch*, 20 March 1969.
“Schwada Veto Shows Hard-Line,” *Maneater*, 25 February 1969.

⁶³ “Speech Freedom Excludes Filth, Dr. Weaver Says,” *Maneater*, 25 February 1969.

⁶⁴ “Deans ‘Ideals’ Bring Free Press Action,” *Maneater*, 4 March 1969.

⁶⁵ “Deans ‘Ideals’ Bring Free Press Action,” *Maneater*, 4 March 1969.

⁶⁶ “Hearnes: Disrupters Should Be Expelled,” *Maneater*, 21 February 1969.

⁶⁷ “Bill Asks House to Investigate Student Dissent,” *Maneater*, 21 February 1969.

expressed opposition to the free speech demonstrations while supporting the administration.⁶⁸

The public also responded to the situation on campus, although many of them conflated the issues at stake. Jack Matthews received many letters from students, parents of students, and Missouri citizens, praising him for his stance against student protesters on campus. Many of them saw this as a political issue, although Matthews had not acted against SDS on political grounds. The issue at hand was freedom of speech, even if that speech was considered obscene by the administration. On February 21, a letter copied to Matthews, President Weaver, and local media outlets arrived in Matthews' office. It was signed by 135 students of the School of veterinary medicine, and stated "that we fully support the actions of Dean Jack Matthews and the Administration in the current controversy with S.D.S. on our campus."⁶⁹ Matthews replied to the students (as he did with many of the other letter writers), thanking them for their support and calling them part of the "silent majority," a term used by President Nixon to identify the "majority" of Americans who ostensibly opposed protesters, that needed to "speak out on important issues and problems."⁷⁰ A mother of a student at Missouri wrote him, saying, "I was furious to find that no action would be

⁶⁸ Stan Stevens, "Legislature May Censure SDS Activity," *Maneater*, 4 March 1969.

⁶⁹ Undersigned Students of the School of Veterinary Medicine, University of Missouri-Columbia to Jack Matthews, Et. Al., 21 February 1969, Matthews, Jack (1905-1993), papers, 1942-1985, FF 13, C4061, State Historical Society of Missouri, Columbia, MO.

⁷⁰ Jack Matthews, Dean of Students to Undersigned Students of the School of Veterinary Medicine, University of Missouri-Columbia, 22 February 1969, Matthews, Jack (1905-1993), papers, 1942-1985, FF 13, C4061, State Historical Society of Missouri, Columbia, MO.

taken [?] to prevent the distribution of pink literature by the SDS.”⁷¹ The Base Commander of the Missouri Air National Guard located at Rosecrans Memorial Airport in St. Joseph, Missouri, said in his letter to Matthews, “I feel that firm measures are going to have to be taken against the dissidents. Please know that the vast majority of people in this state are solidly behind you.”⁷² The outpouring of support undoubtedly stiffened Matthews’ resolve to continue the fight against “obscene” speech on campus.

Many students and faculty, on the other hand, responded with equal outrage against censorship. In the February 18 issue of *The Maneater*, columnist Bill Aitken published a letter he had written to Matthews on February 16, expressing shock at the censorship of SDS.⁷³ An editorial in that same issue, the writer called for Matthews’ resignation as Dean of Students.⁷⁴ A number of faculty members expressed their support for students, as reported by *The Maneater*.⁷⁵ The History Graduate Students’ Association passed a resolution, calling for reform in the makeup of disciplinary and student-organization oversight committees.⁷⁶ On February 24, a reported 2,500 students gathered

⁷¹ Mrs. Frank Fitzgerald to Jack Matthews, 4 March 1969, Matthews, Jack (1905-1993), papers, 1942-1985, FF 13, C4061, State Historical Society of Missouri, Columbia, MO.

⁷² Colonel John B. Logan to Dr. Jack Matthews, 28 February 1969, Matthews, Jack (1905-1993), papers, 1942-1985, FF 13, C4061, State Historical Society of Missouri, Columbia, MO.

⁷³ Bill Aitken, “Quite Frankly, Jack...,” *Maneater*, 18 February 1969.

⁷⁴ Editorial, “Resignation,” *Maneater*, 18 February 1969.

⁷⁵ “Situation at a Glance: Faculty Comment on Dispute,” *Maneater*, 25 February 1969.

⁷⁶ History Graduate Students’ Association, “A Proposal For Reform By The History Graduate Students’ Association,” n.d., circa February 1969, University of Missouri-Columbia,

outside Memorial Union in a demonstration supporting freedom of speech on campus, and signed a petition asking University President John Schwada to amend article V, Section B of the Curator's By-laws that gave administrators the right to censor student speech.⁷⁷ In May, the faculty of the College of Arts and Science at the University of Missouri voted to oppose censorship, taking a stand with students and against the administration.⁷⁸ Both sides in the free speech conflict at Missouri dug in, determined that they were right.

In loco parentis, which had evolved in a time of relatively universal views of middle-class morality, did not fit the student/administration relationship of the modern university. American society had changed following World War II, and there no longer existed any semblance of common moral understanding. History Professor William Wiecek, addressing the Student-Faculty Committee on Organizations, Government, and Activities, asked a question that penetrated the heart of the problems of campus censorship, and exposed the hypocrisy of the administration's position. Evidently, *Playboy* magazine was available for students to purchase on the Missouri campus, and Wiecek asked school officials, "How can you sell *Playboy* and punish students?"⁷⁹ His question did not receive a convincing reply, as it could not. The University of Missouri was a large, diverse institution, and the administration could not be a parent to every one of its

Free Speech Controversy, Papers, 1969, FF 1, Box 1, C3312, State Historical Society of Missouri, Columbia, MO.

⁷⁷ "2,500 Persons Demonstrate For Free Speech," *Maneater*, 25 February 1969.

⁷⁸ "A&S Opposes M.U. Censorship," *Maneater*, 16 May 1969.

⁷⁹ "Wiecek Wins a Point," *Maneater*, 28 February 1969.

students. *In loco parentis* was no longer a practical or relevant disciplinary regime. It was unsuited to the need of a modern university.

In 1969, the United States Supreme Court ruled on a case that had been winding its way through the system for four years that would begin to address free speech rights for students. Back in December 1965, a group of high school and junior high students in Des Moines, Iowa planned to wear black armbands to school as a protest against the Vietnam War. When school officials heard about the planned protest, they prohibited black armbands in school facilities and threatened to suspend any student who wore one. Three students wore armbands despite the new rule, and were suspended from school until they returned, *sans* armbands. The three students filed suit in federal court, claiming the school district had infringed upon their free speech rights by suspending them for wearing armbands.

The United States District Court for the Southern District of Iowa, Central Division ruled in favor of the school district.⁸⁰ On appeal, the United States Court of Appeals for the Eighth Circuit upheld the lower court's verdict.⁸¹ The district court cited the responsibility of school districts to maintain rules that promote a disciplined atmosphere and the broad discretion schools had in making those rules. This language was consistent with the doctrine of *in loco parentis*, and followed legal precedent going back to *Pratt v. Wheaton College* in 1866.

⁸⁰ *Tinker v. Des Moines Independent Community School District*, 258 F. Supp 971 (1966).

⁸¹ *Tinker v. Des Moines Independent Community School District*, 383 F.2d 988 (2d Cir. 1967).

The United States Supreme Court reversed the lower courts in 1969, extending free speech rights to students.⁸² This case, *Tinker v. Des Moines Independent Community School District*, dealt specifically with students in elementary and secondary educational institutions, but the ruling applied to students in institutions of higher education as well. Schools no longer had broad discretion in rule making; the rules could not violate the constitutional right to freedom of speech for students of any age.

For publicly funded colleges and universities, the test of student rights came almost immediately following the *Tinker* case. Students' constitutional rights to free speech, as well as their rights of assembly/association would be decided by the courts within the next four years. Additionally, the question of citizenship for college students would be settled by the passage of the Twenty-Sixth Amendment to the U.S. Constitution in 1971, granting those 18 years of age or older the right to vote. The subsequent court decisions, along with the passage of the Twenty-Sixth Amendment, would end the century-old legal regime of *in loco parentis* in public higher education.

In October 1969, students at Central Connecticut State College formed a local chapter of Students for a Democratic Society (SDS), and applied for official recognition as a campus organization.⁸³ The president of the college, F. Don James, rejected the students' application. President James denied recognition for

⁸² *Tinker v. Des Moines Independent Community School District*, 89 S. Ct. 733 (1969).

⁸³ *Healy v. James*, 445 F. 2d 1122 (2d Cir. 1971).

the reason that SDS's philosophy was "antithetical to the school's policies."⁸⁴ The students filed suit against James in the United States District Court for the District of Connecticut, and that court upheld James' and the college's right to deny official recognition.⁸⁵ On appeal, the United States Court of Appeals for the Second District affirmed the lower court's decision.⁸⁶ The courts' rulings were consistent with the doctrine of *in loco parentis*, but the Supreme Court would have the final say.

The Supreme Court heard arguments on *Healy v. James* in March 1972, and issued its decision in favor of the students on June 26, 1972.⁸⁷ That decision placed sweeping limitations on college and university administrators' ability to limit students' first amendment rights. Quoting from the decision:

State colleges and universities are not enclaves immune from the sweep of the First Amendment. Neither students nor teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate...Among the rights protected by the First Amendment is the right of individuals to associate to further their personal beliefs...Once a student group files an application for recognition in conformity with the requirements, the burden is upon the college administration to justify its decision of rejection...a "heavy burden" rests on the college to demonstrate the appropriateness of that action.⁸⁸

Students' constitutional rights to freedom of speech and association, long limited by *in loco parentis*, were now absolutely protected by the courts. The days of college and university administrations complete, parent-like control over their

⁸⁴ *Healy v. James*, 92 S. Ct. 2338 (1972).

⁸⁵ *Healy v. James*, 319 F. Supp 113 (1969).

⁸⁶ *Healy v. James*, 445 F. 2d 1122, 1122.

⁸⁷ *Healy v. James*, 92 S. Ct. 2338, 2338.

⁸⁸ *Healy v. James*, 92 S. Ct. 2338, 2338.

students' activities and organizations were over. One final challenge remained, however. Could schools continue to limit obscene or indecent speech on campuses?

The Papish case from the University of Missouri, which had worked its way up to the supreme court over three years, settled that question once and for all. On March 28, 1973, the Supreme Court ruled against the university, and ordered that it reinstate Papish as a student. On the issue of indecent or obscene speech, the court said

State colleges and universities are not enclaves immune from the sweep of U.S. Const[itutional] amend[ment] 1. The mere dissemination of ideas—no matter how offensive to good taste—on a state university campus may not be shut off in the name alone of conventions of decency...U.S. Const[itutional] amend[ment] 1 leaves no room for the operation of a dual standard in the academic community with respect to the content of speech.⁸⁹

College and university students had the same right as all other adult citizens to express ideas, and school administrators could not limit their speech on grounds of obscenity or offensiveness. As a legal regime, *in loco parentis* was now defunct in American higher education.

In the 1977 academic year, the University of Missouri finally eliminated all of its rules established under the *in loco parentis* legal regime.⁹⁰ The modern university that students at Missouri are familiar with today had come into existence. *In loco parentis*, which had evolved through court rulings beginning in 1866, had been unraveled by court rulings in the 1960s and 1970s. College

⁸⁹ Papish v. Board of Curators, 93 S. Ct. 1197 (1973).

⁹⁰ *M Book*, 1977.

students were now recognized as adults with constitutional rights that no public institution of higher learning could infringe upon. The history of college administrators standing in the place of parents, with all of the rights and responsibilities of legal guardianship, had lasted just over a century. It ended when it did because of a combination of cultural, institutional, and legal changes in American society. A legal regime designed to work in Victorian Era America was unsuited to the modern world. From the beginning, *in loco parentis* was challenged by changes in society and higher education itself, but institutional inertia allowed it to outlive its relevance.

Conclusion

In April of 1975, Donald Bradshaw, a sophomore at Delaware Valley College in Pennsylvania attended his class' annual picnic at an off campus park. Class funds, held by the school, had been released by a faculty advisor to the underage class president to pay for the event, and a part of those funds were used to buy kegs of beer. After the event, Bradshaw hitched a ride back to campus with a classmate, Bruce Rawlings. Rawlings had consumed enough of the beer at the picnic that he later could not remember the details of what had happened after he left the picnic. While driving back to campus, he lost control of his vehicle and struck a parked car. In the accident, Bradshaw suffered a broken neck and became a quadriplegic. A day of fun had turned tragic, and a young man was paralyzed for life because of a series of poor choices and illegal actions. Who bore responsibility for Bradshaw's injuries?

Bradshaw filed suit against Rawlings and several other parties, including Delaware Valley College, claiming they were financially liable for the accident. The United States District Court for the Eastern District of Pennsylvania ruled that all parties, including the school, were at fault in the incident. According to the legal doctrine of *in loco parentis*, the decision to hold the college responsible made sense.¹ The ruling by the District Court, however, had failed to take into account the legal changes that had occurred in regard to *in loco parentis* in higher education over the past fifteen years. Delaware Valley College appealed the

¹ Bradshaw v. Rawlings, 464 F. Supp. 175 (1979).

decision, and the United States Court of Appeals for the Third Circuit reversed the lower court's ruling against the school. In the opinion, Justice Aldisert provides a fitting epitaph for *in loco parentis*, and his reasoning bears repeating in full:

Our beginning point is recognition that the modern American college is not an insurer of the safety of its students. Whatever may have been its responsibility in an earlier era, the authoritarian role of today's college administrations has been notably diluted in recent decades. Trustees, administrators, and faculties have been required to yield to the expanding rights and privileges of their students. By constitutional amendment, written and unwritten law, and through the evolution of new customs, rights formerly possessed by college administrations have been transferred to students. College students today are no longer minors; they are now regarded as adults in almost every phase of community life. For example except for purposes of purchasing alcoholic beverages, eighteen year old persons are considered adults by the Commonwealth of Pennsylvania. They may vote, marry, make a will, qualify as a personal representative, serve as a guardian of the estate of a minor, wager at racetracks, register as a public accountant, practice veterinary medicine, qualify as a practical nurse, drive trucks, ambulances and other official fire vehicles, perform general fire-fighting duties, and qualify as a private detective. Pennsylvania has set eighteen as the age at which criminal acts are no longer treated as those of a juvenile, and eighteen year old students may waive their testimonial privilege protecting confidential statements to school personnel. Moreover, a person may join the Pennsylvania militia at an even younger age than eighteen and may hunt without adult supervision at age sixteen. As a result of these and other similar developments in our society, eighteen year old students are now identified with an expansive bundle of individual and social interests and possess discrete rights not held by college students from decades past. There was a time when college administrators and faculties assumed a role *In loco parentis*. Students were committed to their charge because the students were considered minors. A special relationship was created between college and student that imposed a duty on the college to exercise control over student conduct and, reciprocally gave the students certain rights of protection by the college. The campus revolutions of the late sixties and early seventies were a direct attack by the students on rigid controls by the colleges and were an all-pervasive affirmative demand for more student rights. In general, the students succeeded, peaceably and otherwise, in acquiring a new status at colleges throughout the country. These movements, taking place almost simultaneously with legislation and case law lowering the age of majority, produced fundamental changes in our society. A dramatic reapportionment of responsibilities and social interests of general security took place. Regulation by the college of student life on and off campus has become

limited. Adult students now demand and receive expanded rights of privacy in their college life including, for example, liberal, if not unlimited, partial visiting hours. College administrators no longer control the broad arena of general morals. At one time, exercising their rights and duties *In loco parentis*, colleges were able to impose strict regulations. But today students vigorously claim the right to define and regulate their own lives. Especially have they demanded and received satisfaction of their interest in self-assertion in both physical and mental activities, and have vindicated what may be called the interest in freedom of the individual will...society considers the modern college student an adult, not a child of tender years.²

In loco parentis, the legal regime that had established the relationship between college students and administrators was no longer in effect. Justice Aldisert recognized that college students had gained full citizenship as adults in the United States, and that administrators were no longer responsible, as legal guardians, for their students. He told Donald Bradshaw, in effect, that students had successfully fought for their right to be free of *in loco parentis* rules, and therefore he could not hold the school accountable for his actions.

There had been a time, however, when a college administration was responsible for the moral guidance and protection of their students. In the decades following the Civil War, courts had codified the traditional role of college authorities as the guardians of students as legal minors. For the most part, nineteenth century students were financially dependent upon their parents, and those parents demanded that school presidents regulate the behavior of their offspring. To do so, colleges had imposed rules upon their students limiting their freedom of action. At that time, student bodies were small, and administrators including the president acted as faculty, and were in constant personal contact with students. The young men and women enrolled in colleges during that era

² Bradshaw v. Rawlings, 612 F. 2d 135 (2d Cir. 1979), 138-140.

accepted their status as minors, and the mores of the Victorian Era that permeated middle-class society kept student behavior in check.

During the first four decades of the twentieth century, however, higher education in the United States underwent a substantial transformation that limited administrators' ability to police student behavior. The number of students enrolled at colleges and universities increased to the point that schools were forced to develop educational bureaucracies and remove administrators from their faculty roles. The mission of higher education in American society changed as well, as universities began partnerships with private industry and government agencies. This Progressive Era development saw higher education take on the role of research and development for the betterment of the nation by using their expertise to tackle complex technological problems facing society. This acted to further separate students from the administration, as colleges and universities sought professional managers instead of educators to run their growing institutions.

American culture had changed as well during those years. The Victorian Era ideas about sexuality had changed, and college students were no longer restrained from sexual behavior on purely cultural grounds. Middle-class females could increasingly engage in sex without tarnishing their reputations, and sexual activity among college students, the prevention of which had been a bedrock of the *in loco parentis* regime, increased. At the University of Missouri, student publications testify to this increased sexual behavior. Photographs and cartoons in the student yearbook leave no doubt that students were sexually active. The

campus humor magazine went so far as to condemn as prudes those who clung to earlier ideas about sex. Despite the fact that *in loco parentis* was still fully in place in the late 1930s, there is no sign that administrators acted to curtail student sexual behavior. The rules in place to prevent students from engaging in sex were easily skirted, and Missouri students advertised that fact openly in print.

On the eve of World War II, colleges like the University of Missouri were big businesses, and college students enjoyed a measure of freedom unprecedented in the history of higher education in the United States.. School presidents had to devote the bulk of their time to managing the educational bureaucracy and performing public relations for their schools. Deans had replaced the president in matters of student discipline, and the evidence at Missouri shows that enforcement of the spirit of campus rules, if not of the rules themselves, had suffered. During the late 1930s, college students across the country were becoming politically active. Had the war not intervened, there is a possibility that *in loco parentis* may have ended sooner than it did.

During the Second World War, American universities strengthened their ties to the federal government while working to support the war effort. In return, they were rewarded for their service, albeit indirectly, by the passage of the GI bill that sent a massive influx of students and money to colleges and universities following in the late 1940s and 1950s. These veterans were a new breed of student, more mature as a result of their wartime experiences, and diligent in their studies. Along with their increased role in American society came higher scrutiny by the public. With the advent of the Cold War, “traditional” American values

became sacrosanct, and schools like the University of Missouri felt the need to rid themselves of perceived threats to their reputation. At Missouri, this initially took the form of a campaign against open homosexual behavior. Homosexual male students were investigated and dismissed, and an openly gay faculty member was fired.

This increased discipline of sexual morality was soon after extended to heterosexual expression. The student humor magazine, *Missouri Showme*, was censored for essentially the same type of content it had published before World War II. The administration's vigilance toward student behavior increased, and a new bureaucratic arm of the university was established in 1950, the office of Dean of Students. Jack Matthews was promoted to head this new office, and quickly immersed himself in students' lives. The pre-war *laissez faire* attitude towards student behavior was replaced by aggressive policing of *in loco parentis* rules. Matthews earned the sobriquet "Blackjack" because of his stern disciplinary record. Throughout the 1950s and 1960s, Matthews was seemingly omnipresent whenever students broke campus rules. Whether it was a panty raid or an obscene publication being distributed, he was on the scene to punish those in violation of *in loco parentis* regulations.

By the late 1960s, students were increasingly radicalized against *in loco parentis* rules nationwide, and the courts began to side with them against university administrations. Students had gained the constitutional right to Due Process in a 1961 case, and the right to free political speech by 1969. The case that would determine their right to organize political groups on campus was

moving through the courts by the end of the decade. The landmark *Papish v. Board of Curators*, which arose from Matthews' expulsion of a graduate student for distributing "obscene" literature at Missouri in 1969, would ultimately deny university administrators the right to determine obscenity rules for their campuses. The end result of the massive increase in student populations and the corresponding diversity of those populations was the demise of *in loco parentis* in higher education. The University of Missouri no longer needed an office limited to student discipline, and when Matthews retired in 1970 he was not replaced. There are private colleges today that enforce *in loco parentis* style rules on their campuses, but students at public institutions are regarded as mature adults with full constitutional protections—or are they?

In the aftermath of the court decisions that ended *in loco parentis* by the mid-1970s, speech codes have arisen on college campuses that challenge students' free speech rights. These codes have taken three forms: (1) the banning of "fighting words," or speech that is meant to provoke a physical confrontation. (2) A ban on "racial harassment," or speech that intends to intimidate or humiliate students on account of race, color, or national origin. (3) The banning of "discriminatory harassment," or speech that targets individuals or a group that "discriminatorily alters the conditions' for participation in the activities of the university, on the basis of race, color, and national or ethnic origin."³ The first of these, a ban on "fighting words," seems logical for a university environment, which thrives on a peaceful exchange of ideas. The last two however, regardless

³ Martin P. Golding, *Free Speech on Campus* (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2000), 2.

of how in tune to current sensibilities they appear, could be broadly applied to stifle free speech. A student or faculty member that is offended by the speech of another person in the campus community could claim that the speaker was racially or discriminatorily harassing them, despite the intent of that speaker.

These types of speech codes, no matter how well intentioned, are a return to *in loco parentis* style limitations on speech and actions at universities. Campus rules in the 1950s and 1960s outlawed certain types of student expression based upon unknowable and shifting standards of “decency,” and these modern rules are no different. They create an environment of uncertainty in which an innocent comment or action can be used to threaten or destroy the career of anyone charged with their violation. Students have been sanctioned for expressing political opinions and for making innocuous comments about race in the classroom.⁴ Administrators at Berkeley in 1964 and Matthews at Missouri in 1969 operated with the best of intentions in limiting political or “obscene” speech by students. They could claim that they were merely upholding the law or the cultural mores of their times. The effect then was the same as it is today, however. The free exchange of ideas is threatened when it is taboo for students to verbalize their opinions.

Those who desire that today’s students be as politically active as their 1960s counterparts may get their wishes answered over campus speech codes. Groups such as the Foundation for Individual Rights in Education (FIRE) nationally, and the various committees on academic freedom at individual

⁴ Donald Alexander Downs, *Restoring Free Speech and Liberty on Campus* (New York: Cambridge University Press, 2005), 54.

campuses have developed to hold administrators accountable for the abuses of speech code enforcement.⁵ The majority of students may acquiesce to the impositions on their free speech rights by campus speech codes, but those of an activist bent have been fighting for their liberty, just as protesters did in the 1960s. If groups like FIRE are able to successfully challenge the most egregious violations of student rights, a mass movement of students may not be necessary to overturn this new iteration of *in loco parentis* style regulations on college campuses.

The tension that exists between freedom and the messy realities of everyday life is sure to continue on campus, just as it has always existed in American society. The traditional legal doctrine of *in loco parentis* in higher education, however, is no longer in effect. Students in the 1960s successfully fought in the courts and in the minds of the public to have it overturned. Continued vigilance is necessary to insure student rights, but this state of affairs on campus is similar to that of American society in general. Students of today owe a great debt to their predecessors, and it is incumbent upon each new generation of collegians to guard their hard-won liberty. There will always be those who try to impose their personal values on others, and therein lies the challenge to freedom. The legacy of the 1960s is that students of today have legal standing as adults and full citizens to confront any challenge to their rights on campus.

⁵ Downs, 94.

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