

A HISTORY OF *IN LOCO PARENTIS* IN AMERICAN HIGHER EDUCATION

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ABSTRACT

From the establishment of institutions of higher education in Colonial America until the 1970s, college administrators have acted *in loco parentis*, or as legal guardians of students “in the place of parents.” Under the legal regime of *in loco parentis*, society and the legal system required school administrators to look after the educational, moral, and behavioral growth of students. In order to fulfill their obligations to students *in loco parentis*, administrators put in place curricular requirements and campus rules, and they were granted the disciplinary leeway of students’ natural parents or guardians to enforce those requirements and rules. Through a series of court cases in the 1960s and 1970s, the legal requirements imposed upon administrators was removed and students enrolled in colleges and universities were granted legal adulthood.

Through research of primary and secondary sources, this dissertation examines the history of *in loco parentis* in American higher education. It discusses the evolution of the role college administrators played *in loco parentis* over three centuries, and how higher education itself evolved as American society changed. As schools grew in size and expanded in scope, administrators retreated from, or were stripped of, their *in loco parentis* responsibilities. By the mid-1970s, American college students were seen by the courts and society as legal adults with constitutional rights, and *in loco parentis* in American higher education was dead.

Introduction

From the founding of Harvard College in 1636, the first college in what would become the United States, school administrators and faculty acted *in loco parentis* to their students. Translated literally from the Latin as “in the place of parents,” the phrase *in loco parentis* is also shorthand for the legal regime that began as early as the Middle Ages. Originally in Britain and then in the American Colonies, *in loco parentis* as a legal concept applied to the relationship between masters and their young apprentices or household servants who typically moved into the master’s household at thirteen years of age. Authorities recognized that the actual parents of those young people had an expectation the master would provide for the physical, emotional, and moral well-being of their child while living with him, and the *in loco parentis* legal regime codified the responsibilities the master towards those young people. *In loco parentis* also granted masters the power to discipline and control the lives of the young people living with them as the Latin phrase states, in the place of their parents. The primary purpose of *in loco parentis* was to protect the young man or woman from physical harm or immoral activities, and to that end it held the master to a high standard when it came to how he governed the life of the young people living in his household. He was their legal guardian and expected to treat them with the same care and consideration he would give to his biological offspring.

Over the next three centuries, even as higher education in America went through a series of transformations, society continued to see college students as young people in need of oversight and guidance. During the early nineteenth century state governments

began establishing colleges and universities that emulated earlier schools in curricula and student rules. Those early public institutions continued to act *in loco parentis* to their students in order to enforce cultural norms and Protestant morality on the young people in their care. For most of the nineteenth century, a majority of educational authorities in the United States rejected the idea that college students were mature enough even to choose a course of study for themselves. When women's schools were established, they followed the same pattern as older colleges in their relationship with students. The curricula for young women was "feminized" to fit the social conventions of the day, but otherwise school officials treated them the same way male-only schools treated young men. The *in loco parentis* legal regime persisted into post-World War II America even though colleges had become universities and the number of students attending college had grown exponentially. As late as the 1960s, school officials and society-at-large did not see college students (with the possible exception of veterans of World War II) as independent adults, but as young people who needed the oversight of a legal guardian. How is it possible then, that in just over a decade American courts overturned three centuries of tradition and cultural attitudes towards college-aged people?

In this dissertation I argue that college students, in many cases supported by administrators and faculty, waged a deliberate campaign to free themselves from *in loco parentis* rules and regulations. In fact, the student movement against *in loco parentis* should be included in the roster of civil rights movements of the post-World War II era. In 1960, the legal regime of *in loco parentis* still governed the relationship between college students and administrators, and that legal regime explicitly defined college students as minors in the eyes of the law. *In loco parentis* not only granted college

officials the right to regulate all aspects of students' lives, it obligated them to do so by making those officials legally liable for those students. If schools did not have rules in place in an effort to prevent things like excessive alcohol consumption, financial irresponsibility, and sexual behavior on the part of students, they could be held liable legally by students' actual parents or guardians. Many people during (and since) the 1960s view *in loco parentis* rules simply as the product of overzealous deans of students or college presidents obsessed with enforcing an outdated moral code on the younger generation. Some administrators were indeed overzealous in their *in loco parentis* role, but by the 1960s their zeal was focused stifling politics they did not like rather than policing morality. In fact, school officials who did not want *in loco parentis* responsibility any longer and students used to more freedom than previous generations negotiated away many of the rules meant to enforce morality over the course of that decade. It was school officials shutting down political activity on campuses that created the conflicts between students and institutions of higher education that ultimately led to the demise of *in loco parentis* in the courts.

The academic literature that discusses the *in loco parentis* era in American higher education downplays the central role of that legal doctrine when talking about the relationship or conflict between college students and administrators. Books detailing the history of higher education in the United States either make it appear that *in loco parentis* was wholly the invention of college officials, or worse—they fail to mention *in loco parentis* at all, even when writing about rule-breaking and student discipline on college campuses.

In his seminal 1962 work, *The American College and University*, Frederick Rudolph used the term *in loco parentis* late in the book but implies that *in loco parentis* rules and discipline had ended by the turn of the twentieth century.¹ Rudolph's argument is that American colleges had developed a system—the collegiate way—as a result of the more rural settings of American schools which necessitated students living on the campus. His collegiate way idea dominated the thinking of historians of higher education from that time on. He argues college presidents organically adopted paternalism both as a way to keep students in line, and as an institutional attitude that fostered social, moral, and academic growth, all as part of the broader “collegiate way” in American higher education.² Although Rudolph is correct that colleges used paternalism to accomplish those things, his assertion that college presidents adopted this system on their own overlooks the centuries of *in loco parentis* as a legal tradition in Europe. If American colleges had indeed purposefully adopted a system of paternalism as Rudolph suggests, it explains why he argues that *in loco parentis* had ended by the early twentieth century. If schools had voluntarily adopted paternalism, they of course could voluntarily choose to abandon paternalism and the rules and regulations that went along with it. The 1913 *Gott v. Berea College* court decision explicitly contradicts this interpretation of *in loco parentis*. In the *Gott* decision, the Appeals Court of Kentucky stated that “college authorities stand in loco parentis concerning the physical and moral welfare and mental training of the pupils.”³ This ruling reinforced the responsibility schools had for their

¹ Frederick Rudolph, *The American College and University: A History* (New York: Random House, Inc., 1962), 441.

² Frederick Rudolph, *The American College and University: A History* (New York: Random House, Inc., 1962), 88-89.

³ *Gott v. Berea College*, 156 Ky. 376, 161 S.W. 206 (1913).

students. Paternalism/*in loco parentis* was not a system developed by college presidents, it was a recognized legal relationship between school officials and students. Despite Rudolph's assertion that the system of paternalism had ended, *in loco parentis* remained the guiding legal doctrine in American higher education.

Laurence Veysey's *The Emergence of the American University*, published in 1965, also operated on the assumption that *in loco parentis* was a strategy adopted by American college presidents in order to deal with uniquely American issues on college campuses. He argued that in the years following the Civil War, a debate developed over paternalism on campus between "college disciplinarians" on one hand, and educational reformers on the other. Although Veysey included policing student behavior in his explanation of the paternal role administrators chose play, his discussion of reforms focused primarily on curricular changes.⁴ He ended up making the same assertion about campus rules and regulations that Rudolph did, that by the end of the nineteenth century administrators had decided to reject paternalism when it came to campus rules and that the era of paternalism was basically over. Veysey does suggest that "older attitudes toward student supervision" remained and "the pendulum was to swing back" after 1900, but the impression he leaves the reader is that the shifts in paternalism on campus were done on the whim of whichever faction was governing the campus at the time.⁵ Veysey's explanation of curricular change as an abdication of the academic role schools played *in loco parentis* is spot on. His explanation of paternalism and its role in regulating student

⁴ Laurence R. Veysey, *The Emergence of the American University* (Chicago: The University of Chicago Press, 1965), 32-56.

⁵ Laurence R. Veysey, *The Emergence of the American University* (Chicago: The University of Chicago Press, 1965), 66-67.

behavior, however, overlooked the fact that society through the courts had placed college administrators in an *in loco parentis* role as evidenced by the *Gott* case. Reformers could not simply abandon their role as legally responsible guardians of students unless the courts released them from that role.

Other, more recent histories of higher education in the United States treat paternalism/*in loco parentis* in much the same way as Rudolph and Veysey. Christopher Lucas in his 1994 *American Higher Education: A History* states that in the early nineteenth century “most college authorities were determined to attempt control over student life in all of its particulars,” as though student discipline and campus rules were discretionary choices made by administrators who had some irresistible urge to regulate the student body.⁶ John Thelin’s 2004 *A History of American Higher Education* embraced Rudolph’s idea of a “collegiate way” that had developed early in higher education. He points out the tensions that developed in early American colleges because of disciplinary actions taken by school officials, but like other historians of higher education he implies that rules and discipline were wholly at the whim of humorless presidents.⁷ All four of these histories of higher education in the United States offer the reader an in-depth and informative history of American colleges and universities, but the true nature of *in loco parentis* as it governed the relationship between students and administrators is missing.

⁶ Christopher J. Lucas, *American Higher Education: A History* (New York: St. Martin’s Press, 1994), 126-129.

⁷ John R. Thelin, *A History of American Higher Education* (Baltimore, MD: The Johns Hopkins University Press, 2004), 21-22.

Without an understanding of *in loco parentis* it is impossible to understand the relationship between students and college administrators prior to the 1970s. Many people, including academic writers, interpret campus rules and disciplinary actions as simply the product of a desire by school officials to impose their will upon students. A true understanding of *in loco parentis*, however, shows that the administrator/student relationship was a complex one. At the heart of the misunderstanding that people have about *in loco parentis* is the simple fact that it was a responsibility imposed upon colleges and universities by the courts. Certainly, there were school officials who took perverse pleasure in controlling students and punishing their misdeeds, but they were not in the majority and even they were working within a legal framework defined by judges. Reading the thoughts and speeches of a great number of college officials tasked with implementing *in loco parentis* during the nineteenth and early twentieth centuries makes it clear that these were thoughtful men and women who truly had the best interests of their students at heart. The organization and mission of colleges and universities changed over time, but during each era school administrators took their roles seriously. The courts, parents, and society-at-large expected schools to prevent students from participating in certain behaviors and held colleges responsible if they failed to do so. The behaviors society expected colleges to prevent changed over time, but the underlying legal requirement to prevent those behaviors did not. It is telling that whenever the courts or the culture loosened those requirements, schools quickly dropped the rules governing that behavior. For instance, once Americans “decided” that young men had become “too feminized” at the end of the nineteenth century and changed the cultural expectations about masculinity, campuses eliminated curfews for male students and gave them more

freedom. At the dawn of higher education in what would become the United States, college officials treated young men much differently.

Early colleges in the American Colonies admitted students, exclusively young men, some as young as thirteen years of age, and society treated this arrangement as an extension of the apprenticeship system used to teach a trade or profession. Colonial colleges like Harvard (1636) and Yale (1701) were established by religious communities, or like William and Mary (1693), they were established directly by the crown. The purpose of these early institutions was to train society's next generation of elite, for either aristocratic leadership or a role in the established church. At the age in which other young men were sent off to a master in order to learn a trade or profession, the young men who were sent to college in colonial America were sent there to learn theology and to receive a classical Western education. That classical Western education, in which students read works of antiquity in Greek or Latin, was designed to turn out an educated class of men who shared the same intellectual foundation. It was accepted by society at the time that most young men in society were not intellectually capable of attending college. With few exceptions, college education was reserved for the sons of the aristocracy or the socially elite. Instead of learning carpentry or blacksmithing as a trade, these young men of the middle-and upper-class were learning the things intellectuals of their day thought deemed important. They were taught by a different kind of master, a master of the arts or sciences.

The process of learning the intellectual arts followed a pattern similar to that by which an apprentice learned a craft or trade. Because the relationship between the master and a college student was analogous to the master/apprentice relationship, it was also

held to the *in loco parentis* legal standard. A college student's life was strictly regimented, just like the life of a tradesman's apprentice. Masters dictated the hours the student worked, the specific tasks the student was required to complete, and then judged the student on his progress. Socially, students' lives were regulated with curfews, bedtimes, and limits on travel away from the college. Students were held to a high moral standard, and they could expect to be disciplined for violating the master's rules. Apart from the nature of the work they were doing, lives of college students and apprentices were remarkably similar. The curriculum dictated by the college master served the same purpose as the course of instruction a master craftsman followed in teaching his apprentices. Unlike a modern college or university, early colleges imposed a set curriculum to be followed by all students of the school. The purpose of the college was not to teach students specific professions or give them a specialized education, but to graduate a man who had a broad education across many disciplines. Other than what was he was taught and the social class from which he came, a college student in seventeenth century Great Britain or colonial America was living a nearly identical life to an apprentice learning a trade. His master, the college president, strictly controlled his life, he left his parents' home to live with his master, and he was expected to conform completely to the rules on the threat of dismissal. The implied reward for both the apprentice tradesman and the college student was higher social status and financial success upon completion of his studies.

After the founding of the United States, American colleges continued on in the British mold up through the Civil War. Colleges in the new nation were still mostly exclusive enclaves of the social elite, but with a veneer of egalitarianism that matched

republican sensibilities. With very few exceptions, one being Thomas Jefferson's University of Virginia, American colleges continued educating thirteen-to eighteen-year-old young men in the classical Western tradition, eschewing specialized professional training. College faculty and administrators defended their prescribed curricula by arguing that their role in society was to turn out educated future leaders. As calls for elective classes and specialized courses of study increased during the antebellum period, school officials held onto the old model of education as well as continuing the *in loco parentis* legal relationship with their students. During the first half of the nineteenth century the old British model of college education persisted, but it came under increasing pressure from the republican society that it now served as well as changes occurring in the American economy.

With the passage of the Land-Grant College Act in 1862, higher education in America began to move away from the British model and the idea of a broad-based classical Western education. The evolution into the modern American university took place during the half-century following the Civil War and was characterized by specialized instruction and an emphasis on original scientific research. Instead of seeing their role as providing a well-rounded elite ruling class, colleges began to see themselves as training grounds for professionals and incubators of scientific advancement. This shift in the landscape of American higher education took fifty years to complete because of the resistance of older, more conservative school officials who held onto the earlier model of college education. By the 1920s, higher education in the United States had abandoned the

elitist ideals of British colleges and embraced German universities' elective curricula and focus on research.⁸

During the transition period to the German model, however, the *in loco parentis* relationship between students and college administrators was reiterated by the courts. The educational role of the American college may have been changing, but the attitude towards college student discipline remained the same. In a series of court cases beginning in 1866, federal, state, and local courts ruled that college officials retained a great deal of power over students' lives. The language of the courts specifically stated that colleges had the same authority over students as a parent had over a child, and in the early twentieth century a court in Kentucky used the phrase *in loco parentis* in 1913.⁹ The view that college students at the beginning of the twentieth century still needed strict oversight was probably the result of many factors; there were still students as young as thirteen and fourteen enrolling in the last decades of the nineteenth century, and a growing number of campuses were now admitting women students. The history of immature behavior on campuses also reinforced the view that administrators needed to control students, and institutional inertia should not be dismissed as an impediment to adaptation to changing circumstances in higher education. Whatever the reasons, American society (through the courts and legislatures) and American colleges were not yet ready to discard *in loco parentis* in higher education.

During the first quarter of the twentieth century as college enrollments expanded and the growth of primary and secondary education increased the age of college students

⁸ Frederick Rudolph, *The American College and University: A History* (New York: Random House, Inc., 1962), 333-334.

⁹ *Gott v. Berea College*, 156 Ky. 376, 161 S.W. 204 (1913).

to the now familiar eighteen-to twenty-two-year-old range, *in loco parentis* in higher education underwent a transition. The most obvious change to *in loco parentis* during these years was the elimination of many campus rules for men, while continuing to enforce them for women. Not all rules for men were eliminated, but many of the strict controls on behavior were done away with. For instance, most colleges did away with curfews and the rules designed to punish “immoral behavior” like pool playing and drinking alcohol. There is a good argument to be made that these rules were discarded because of the impression many white Americans had at the end of the nineteenth century that the nation had become too feminine. As masculinity was redefined after the 1890s, society’s desire to strictly control young male college students was replaced by a desire to encourage them to act like men as defined by a new masculine ideal. By the 1920s, manhood for young men was defined by physical prowess (exemplified on campus by college football players), social prowess (the Big Man on Campus), and sexual prowess (dating and engaging in “petting” or more with a progression of partners).¹⁰ Officials relaxed Campus rules to reflect these changing societal expectations of college men and gave males on campus the freedom to embrace the new masculinity. Curfews and rules designed limit sexual activity remained in effect for women, but by the Flapper Era of the 1920s administrators had loosened many of the strict *in loco parentis* regulations on women. Young women had rejected many of the older standards of femininity and adopted newer ones, and officials modified dress codes and behavioral rules for women to reflect the students’ changing beliefs.

¹⁰ Julie Des Jardins, *Walter Camp: Football and the Modern Man* (New York: Oxford University Press, 2015), xi.

At the same time as colleges and universities were relaxing the *in loco parentis* rules on campus, a new, highly ritualized campus culture was taking root. Hazing rituals like freshman beanies, paddle lines, and violent inter-class competitions became standard at institutions of higher education nationwide. Intricate codes of conduct, drafted by the students themselves, dictated student behavior and laid out the punishment students would receive for breaking these rules. The purpose of these student-originated rules was to enforce a social hierarchy with upperclassmen at the top, and to transmit a campus culture to new students at the school. Upper class students would enforce these hazing-style rules by subjecting violators of either sex with “gender appropriate” punishments. First-year men would typically receive a paddling from older male students, and older females barred first-year women from wearing makeup for a time. Administrators allowed student-driven campus rules and punishments, because school officials operated on the assumption that students were immature adolescents. Allowing this harmless fun, in their minds, was giving their students an outlet for immature urges—which would hopefully preclude them from engaging in even more destructive or dangerous behaviors.¹¹ The fact that students went along with this type of campus culture and engaged in these behaviors also served to reinforce the administrators’ original assumption that their students were immature adolescents.

Following World War II colleges and universities went through another era of change as enrollments increased dramatically and a new type of student appeared on campus. The late 1940s and early 1950s would large numbers of military veterans on

¹¹ Frederick Rudolph, *The American College and University: A History* (New York: Vintage Books, 1962), 369-372.

campus as a result of the GI Bill. These ex-soldiers changed the adolescent nature of campus culture by refusing to participate in its rituals. Combat veterans enrolled as Freshmen proved resistant to upperclassmen paddling them for refusing to wear a colored beanie, or for walking on an arbitrarily chosen patch of grass.¹² Much of the prewar campus culture that had endured for decades disappeared quickly after the end of World War II because of the ex-GIs attending school paid for by the GI Bill. In addition to dramatically changing campus culture, the presence of veterans on campus changed the view of administrators towards this crop of students. School officials saw the GI Bill students as mature adults on the basis of their wartime experience. These students were exempted from many aspects of *in loco parentis* oversight, primarily because of their perceived maturity, their serious focus on classwork, and, in many cases, by the fact they were married.¹³ In addition, the sheer number of students in those years and the strain they placed on institutions of higher education overwhelmed the ability of administrators to closely police student behavior.¹⁴

Once the GI Bill bubble of the late 1940s and early 1950s had passed through higher education, administrators reasserted *in loco parentis* oversight upon the generation entering college in the 1950s. Partially as a result of Americans' concern over the perceived epidemic of juvenile delinquency in the 1950s, teenagers were viewed as a potential threat to society. College administrators reacted by cracking down on many

¹² Alvin Kernan, *In Plato's Cave* (New Haven, CT: Yale University Press, 1999), 11-12.

¹³ In Kernan's memoir *In Plato's Cave*, he discusses his off-campus living quarters while attending Columbia University and the relative freedom he and his veteran peers had relative to non-veteran men, and his descriptions of fraternity life at William's College (p. 28-30) describe behaviors that would not be allowed just a few years later.

¹⁴ *The Veteran and Higher Education*, p. 2; Charles J. Andersen, et al., *1989-90 Fact Book on Higher Education* (New York: Macmillan, 1989) 5-9, 133-145.

types of behavior that would have received a slap on the wrist at worst a decade before or dismissed as “boys-will-be-boys” if perpetrated by the ex-GI students. The first panty raid recorded was in 1949, and campus officials dismissed it as no big deal. Within five years, students were being expelled for participating in panty raids on campuses all across the country. In addition, officials censored student publications such as campus humor magazines for content that had not raised any eyebrows before the war. Behaviors once considered harmless became feared as threatening to the United States during the Cold War. During the 1950s *in loco parentis* became a tool for shutting down “radical” political views on campus, and administrators used it to stifle student participation in political battles from the Civil Rights Movement of the 1950s to the Anti-War Movement during Vietnam. By the 1960s, a new generation of college students would push back against *in loco parentis* on campus precisely because it had become primarily a justification for censorship.

The decade of the 1960s also saw the first cohorts of a new generation enrolling in institutions of higher education. Americans had a positive view of this new generation, the Baby Boomers, possibly in reaction to the juvenile delinquency hysteria about the preceding generation. As the beloved babies of the post-war years matured into the “good kids” of the affluent 1950s, Americans expressed increasing optimism about the future because of the good behavior, academic achievement, and moderate politics of the members of the Baby Boom Generation as they grew up in the late 1950s and early 1960s. Political and intellectual leaders predicted great things from the college students of the 1960s, and looked forward to the calm their generation was going to bring to

campus.¹⁵ The government put educational programs in place to expand the availability of higher education in the late 1950s, and these programs took effect just as the 1960s began.¹⁶ The Baby Boom Generation, as a result, became the best-educated generation in American history by enrolling in colleges and universities in larger numbers than any previous generation.¹⁷ Much to the consternation of the prognosticators, however, the Baby Boom Generation did not live up to the predictions of moderate calm, especially on campus.

Because of the social perception of the Baby Boomers as “good kids,” school administrators were quick to relinquish a host of *in loco parentis* rules and regulations when students pressed them for changes in the early 1960s. Throughout that decade, students and officials negotiated the rolling-back of curfews for women, housing restrictions, and a myriad of other aspects of *in loco parentis*. As a result of the student body growth brought on by the large size of the Baby Boom Generation and their increased enrollment numbers, higher education in the United States entered a sustained period of growth and prosperity akin to the GI Bill bubble. The result in terms of administrators in the 1960s wanting to enforce *in loco parentis* was similar to that of the GI Bill years. School officials tasked with student discipline began to question the need to act *in loco parentis*, and many of them determined it was no longer necessary.¹⁸ The perception that these were “good kids” moved administrators to reduce rules, but so did

¹⁵ Clark Kerr, *Uses of the University: Fifth Edition* (Cambridge, MA: Harvard University Press, 2001), 96-102.

¹⁶ The *National Defense Education Act of 1958*, for example, will be discussed in a later chapter.

¹⁷ U.S. Bureau of the Census, *Statistical Abstract of the United States: 1976 (97th edition.)* (Washington, D.C.: Bureau of the Census, 1976), 112.

¹⁸ Donald A. Strickland, “In Loco Parentis—Legal Mobs and Student Morals,” *The Journal of College Student Personnel* 6 no. 6, (November 1965): 339.

administrators' shift to a purely educational model for the modern university. To a growing number of college officials in the 1960s, institutions of higher education no longer had any responsibility for moral training. Education had become highly technical and universities needed to focus on teaching, not on trying to instill standards of morality.¹⁹ At the same time, however, school officials continued to use their *in loco parentis* authority to stifle unwelcome political speech and activity on campus.

It was not just that administrators sought to end their *in loco parentis* responsibilities in the 1960s; college students in that decade filed lawsuits in an effort to get out from under *in loco parentis* control and political censorship, and the courts ruled in their favor. Beginning with *Dixon v. Alabama State Board of Education* in 1961 which granted college students the right of due process in disciplinary actions against them, American courts limited the legal authority administrators had under the *in loco parentis* legal regime. Following the *Dixon* ruling on due process, courts extended constitutional rights to college students in a series of cases through the early 1970s. The Supreme Court ruled that the First Amendment protected students' political speech in *Tinker v. Des Moines Independent Community School District* in 1969. In 1971 the Supreme Court expanded students' first amendment rights to include the right of assembly and association on college campuses in *Healy v. James*. In still another first amendment case, in 1973 the U.S. Supreme Court threw out all remaining vestiges of *in loco parentis* in *Papish v. The Board of Curators of the University of Missouri*. The *Papish* case has been cited in the years since as the precedent-setting decision granting college students their

¹⁹ James F. Penney, "Variations on a Theme: *In Loco Parentis*," *The Journal of College Student Personnel* 8 no. 1, (January 1967): 22; Robert Callis, "Educational Aspects of *In Loco Parentis*," *The Journal of College Student Personnel* 6 no. 4, (July 1967): 231.

legal adulthood and constitutional rights in their relationship with administrators. After 1973, colleges and universities across the country quickly repealed the *in loco parentis* rules and regulations that had governed campus life for decades.

Chronicling the history of *in loco parentis* in American higher education is in many ways the chronicling of the history of higher education itself. The story of *in loco parentis* on college campuses threads its way through historical changes in American society. Those historical changes not only changed the nature of *in loco parentis*, they also changed the self-perception, mission, and societal role of higher education in the United States. Archival records going back to the early nineteenth century such as annual reports and student handbooks from a number of different colleges and universities have been invaluable in understanding colleges' understanding of their role in society, as well as the curricula and campus rules those schools instituted in order to fulfill that role. In addition to these regular school publications, published speeches and reports of college administrators give the modern reader insight into the issues school officials were grappling with during eras of change. The *Report on a Proposition to Modify the Plan of Instruction in the University of Alabama Made to the Faculty of the University* from 1855, for instance, presents a strong defense of a classical prescribed curriculum in the face of increasing calls to add elective courses.²⁰ Newspapers, student publications, and court records have been helpful in seeing how those outside of college administration viewed higher education and give a different perspective to the conflicts between colleges and students in changing times. For the most part, these primary sources are available for

²⁰ University of Alabama Faculty Committee, *Report on a Proposition to Modify the Plan of Instruction in the University of Alabama Made to the Faculty of the University* (New York: D. Appleton & Co., 1855), 23-30.

public and private colleges, male-only and female-only schools, and coeducational institutions of all sizes and types.

The one instance where I was unable to access archival material was the history surrounding the *Dixon v. Alabama State Board of Education* case. I assume that because of historical funding limitations, Alabama State College, now Alabama State University, has no contemporary materials in its archives related to the *Dixon* case or the incidents related to it. Alabama State University was not the only Historical Black College that had limited archival material from the *in loco parentis* era. It is unfortunate, especially in the case of *Dixon*, that the perspective of students and administrators on the conflicts over *in loco parentis* is not available. Hopefully primary source materials in the *Dixon* case and the sit-ins that led to it will surface at some point. Luckily, however, many college catalogs, student handbooks, and annual reports from Historically Black Colleges are in the collections of other university libraries and available to examine. What they show are that *in loco parentis* rules and regulations at African American institutions of higher education were identical to those at white colleges and universities. When it came to life on campus and the relationship between students and administrators, the college experience was remarkably consistent in every corner of the United States regardless of students' race.

I relied on several monographs for an overview of the history of American higher education. The most notable of these was Laurence Veysey's *The Emergence of the American University*, published in 1965. Veysey's book does a good job describing the evolution of higher education in the decades after the Civil War and the social and economic factors that drove the changes of those years. He also provides many anecdotes

of campus life that show how campus life changed during the final century of the *in loco parentis* era. Other books on the history of higher education in the United States provided insight into other facets of the changes colleges and universities experienced and how those changes affected their institutional structure and mission. Still other books focused in detail on a single institution or a single aspect of collegiate history. All of these were important in helping me understand the changes in colleges and universities over the past two-and-a-half centuries. Without an understanding of the overall history of higher education, and the dramatic changes that American colleges and universities have gone through, it would be difficult to come to grips with the history of *in loco parentis* in the United States and why it was ultimately discarded in the late twentieth century.

CHAPTER ONE

The End of Educational Paternalism: *In Loco Parentis* Meets the Elective Curriculum

During the first half of the nineteenth century, American colleges and universities oversaw and regulated every aspect of their undergraduates' lives because students were considered immature and in need of discipline. Students were confined to campus, subjected to curfews and dress codes, and barred from membership in clubs or organizations at the whim of their schools' administrators. At some schools, college officials also controlled things as mundane as students' personal spending.¹ Colleges and universities took their *in loco parentis* role seriously, and acted in ways designed to guide their students' moral and intellectual growth along with enforcing rules that were in place to protect undergraduates from their own misbehavior. Higher education in the United States, both public and private, operated paternalistically because of the prevailing attitude towards college students. As a group, college students were overwhelmingly young men from wealthier households, and they were expected to take a leading role in society as they progressed through adulthood. Possibly because they grew up in relative affluence, they were considered immature and in need of oversight and guidance in their transition into adults. The fact that the largest institution of higher learning in the United States prior to the Civil War had fewer than 1,000 students made this paternalistic system of oversight feasible.² As the country changed in the years after the Civil War and

¹ The President and Fellows of Yale College, *The Laws of Yale College* (New Haven, CT: Printed at the Journal Office, 1825) gives a good overview of college rules during the first half of the nineteenth century. The rules and regulations at Yale were typical of colleges in the United States at the time.

² R. Freeman Butts, *The College Charts its Course: Historical Conceptions and Current Proposals* (New York: McGraw-Hill Book Company, 1939), 134.

enrollments increased dramatically, colleges adapted to these changes by reducing some of the rigid control they had exercised historically.

One of the key features of *in loco parentis* in antebellum America was the prescribed curriculum. From their founding, American colleges had copied British university curriculum, which focused on learning classical works of antiquity, rhetoric, dialectics, and philosophy.³ Following this model in the first half of the nineteenth century, American colleges dictated the classes undergraduates took during each term of their college career. There were no specialized degrees or an opportunity to choose a major field of study. Faculty assigned all students the same coursework depending on their class year, progressing through four years of schooling, and then awarded graduates a degree of bachelor of arts.⁴ The purpose of a college degree, according to educational philosophers at the time, was to give young men an intellectual and moral foundation for life. Elective classes and specialized degrees were fine for trade or professional schools, but the men educated therein, however successful in their careers, were incapable of broader service to society.⁵ A college-educated man, in contrast, was the recipient of a broad-based education and prepared to take a leadership role in his community.

Educational philosophers defended the curricula used at American colleges and universities as the best way to create a group of “educated men” who could serve society

³ Louis Franklin Snow, *College Curriculum in the United States* (New York: Teachers College, Columbia University, 1907), 22-30.

⁴ Louis Franklin Snow, *College Curriculum in the United States* (New York: Teachers College, Columbia University, 1907), 120-140.

⁵ University of Alabama Faculty Committee, *Report on a Proposition to Modify the Plan of Instruction in the University of Alabama Made to the Faculty of the University* (New York: D. Appleton & Co., 1855), 23-30.

in a multitude of ways. A graduate might go on to become a professional or a business owner, but his college education made him into an intellectual jack-of-all-trades instead of a specialist in one field who was ignorant outside of his chosen career.⁶

The curricula used in colleges and universities in the years before the Civil War were designed by administrators to teach students how to think and were the basis of the rigorous work that would build up students' mental faculties. Schools used the authority given to them under *in loco parentis* in order to teach what they thought was important for students to learn. The result was the prescribed curriculum that dominated higher education until the late nineteenth century. Although the curricula varied in minor detail from college to college, the educational philosophy behind them was the same everywhere. In modern terms, the stated goal of American colleges and universities was to create "lifetime learners" and mentally disciplined "self-starters" who would be successful in life. The young men who entered institutions of higher education during that period had been screened to ensure they were prepared for college educationally as well as temperamentally. The curriculum had been constructed to push students mentally, and the courses that were required demanded constant and consistent effort. If incoming students did not meet the minimum educational requirements they would fail, no matter how much effort they put forth. If students did not have the self-discipline to keep up with their (substantial) coursework, they would fail no matter how smart they were. When college presidents and faculty laid out the curriculum for their school, they intentionally made it difficult and demanding as a way to exercise their students' intellect

⁶ University of Alabama Faculty Committee, *Report on a Proposition to Modify the Plan of Instruction in the University of Alabama Made to the Faculty of the University* (New York: D. Appleton & Co., 1855), 30-31.

and to instill a strong work ethic in those students.⁷ Administrators viewed intellectual training much like modern coaches view the physical training and development of athletes.

Just as competitive athletes today go through tryouts and prove they have already attained a certain level of physical skill in order to make the team, prospective college students had to demonstrate they had the required educational level to be admitted. Entrance exams were given to weed out those that did not have the basic knowledge required to succeed. Beginning in their freshman year, for instance, students would be reading classical works in the original Greek or Latin and were expected to have a working knowledge of both of those languages before admittance. The same was true of the other areas of study—incoming students were expected to have a basic understanding of advanced mathematics, formal writing, public speaking, and even world geography.⁸ If they failed their entrance exams, they would not be admitted. During the nineteenth century, some colleges began to offer introductory courses for promising young men who did not have the required educational background, but anyone taking those courses was not considered a student of the college until they had passed the entrance exams.⁹ College admittance was difficult to obtain, and therefore higher education was almost exclusively

⁷ Louis Franklin Snow, *College Curriculum in the United States* (New York: Teachers College, Columbia University, 1907), 143.

⁸ Louis Franklin Snow, *College Curriculum in the United States* (New York: Teachers College, Columbia University, 1907), 118-119. Every college publication from the early nineteenth century that discusses admission lays out what prospective students will be expected to know. From the College of New Jersey, 1803: “In order to enter the Freshman class it is necessary to have read the Evangelists, or other equivalent portions of the Greek Testament, and to be acquainted with the Latin authors usually read in the schools as far as the Aeneid of Virgil.” *College Curriculum*, 119.

⁹ Trinity College (Hartford, CT), *Statement of the Course of Study and Instruction Pursued at Washington College, Hartford, Connecticut: With a Catalogue of the Officers and Students, January, 1835* (Hartford, CT: P. Canfield, 1835), 9.

limited to the scions of social elites and those children who had the luxury to spend their youth reading and learning instead of doing manual labor. This fit in nicely with the educational philosophy of the day, which saw colleges as the training ground for the next generation of social elites. To educators of that time, a college education was not attainable by a vast majority of the population. Just as people today view the possession of certain physical requirements needed for participation in high-level competitive sports as a matter of genetic luck, the possession of the intellectual requirements necessary for a college degree was limited to the lucky few who were born with them.

After passing their entrance exams and enrolling in a college or university, students were faced with a daunting amount of coursework in subjects and classes that were mandatory for all students. The curriculum was laid out by the administration of each school, and spelled out, down to the specific assignments, the classes and the work required of each student through four years of undergraduate study. Just as a biological parent had the right to stipulate the work a child had to perform at home, under *in loco parentis* college officials had the right to dictate the academic work required of students. There were no elective courses offered, since students were not declaring a major field of study that required specialized teaching. College was a time of rigorous intellectual training, and the curriculum was tailored to exercise students' minds. Letting students choose their own courses would defeat the entire purpose of a college education in the eyes of faculty and administrators. If students were in charge of the curriculum, the thinking went, they would choose the least demanding classes and miss the main benefit of higher education, which was teaching mental discipline and perseverance.¹⁰ In order to

instill these traits, the curriculum was combined with a demanding schedule of recitations to assess student progress on a daily basis. At each recitation, the student appeared before a professor or a group of professors and demonstrated through an oral examination that he grasped the assignment for that day. A schedule of three recitations per day, Monday through Friday, appears to have been the most common procedure for schools in the United States through the late nineteenth century.¹¹ Each recitation was graded as pass or fail, and the results were tallied at the end of the term to determine if a student was ready to advance to the next level of classes in the following term. As students moved through their four years of study, the curriculum was designed to build upon the previous term's work and the work became more demanding.

The study and use of classical languages in college courses was seen as a universal requirement in education by administrators and faculty.¹² Beginning in their first term, students were assigned works of antiquity in the original Greek or Latin as a means of perfecting their understanding of those two languages. At Princeton University in 1822, for instance, first-term Freshmen were required to read Ovid, Livy, and Xenophon in the original Latin and Greek. This type of reading, combined with a continued study of grammar, would continue and become progressively more demanding throughout their college career. By their Senior year, students were expected to read and

¹⁰ University of Alabama Faculty Committee, *Report on a Proposition to Modify the Plan of Instruction in the University of Alabama Made to the Faculty of the University* (New York: D. Appleton & Co., 1855), 24-27.

¹¹ Louis Franklin Snow, *College Curriculum in the United States* (New York: Teachers College, Columbia University, 1907), 111.

¹² Trinity College (Hartford, CT), *Statement of the Course of Study and Instruction Pursued at Washington College, Hartford, Connecticut: With a Catalogue of the Officers and Students, January 1835* (Hartford, CT: P. Canfield, 1835), 6.

write both languages. This focus on classical languages served two main purposes according to the educational philosophy of the day. The first benefit was the development of the student's intellect through the sheer mental exercise of memorizing and learning a foreign language. The second benefit was that the readings would expose these future leaders of society to the authors and works that were considered a part of the foundation of Western culture.¹³ To be considered educated in the Western world in the early nineteenth century required a knowledge of Latin and Greek and a familiarity with classical writings. The main benefit of learning these languages to educators of that day, however, was what students gained through the process of learning them. The same philosophy held for the other areas of study as well; the primary goal of a college education was to expand the intellect through mental exertion. A student would most likely forget the Latin and Greek languages over time, but the benefit of hard work and the process of learning those languages would stick with that student for a lifetime.

The study of mathematics was based upon this same principle. An 1835 defense of including advanced mathematics as part of an undergraduate education should be familiar to anyone who had to take math courses and argued that they would never need to know trigonometry or algebra once they were out of school. In the *Statement of the Course Study and Instruction Pursued at Washington College*, the administration and faculty's defense of the educational philosophy behind the school's curriculum, the author lays out the reasons why the study of math is necessary beyond its practical uses.

The author asks and answers the question:

¹³ Trinity College (Hartford, CT), *Statement of the Course of Study and Instruction Pursued at Washington College, Hartford, Connecticut: With a Catalogue of the Officers and Students, January 1835* (Hartford, CT: P. Canfield, 1835), 6-7.

“But is the study [of mathematics] therefore superfluous? It is true that the knowledge acquired in this department is rarely put in requisition; but the intellectual vigor, the habit of patient induction...*are* pre-eminently useful in professional life; and, by ordinary minds, can be attained only by long exercise in the severer studies.”¹⁴

The author went on to assert that the mental exertions needed to successfully understand and solve mathematical problems was how students strengthened their “reasoning faculties.”¹⁵ According to the educational philosophy of that time, the work exerted during the process of learning was just as important as *what* students learned. Colleges were tasked with training their students how to learn and helping them gain mental acuity, and they had determined that continuous mental exertion was the way to accomplish those goals. In math recitations, students at Washington College (now Trinity College) had to write out and solve mathematical problems as well as explain the practical uses of formulas in understanding the natural world.¹⁶ Even if students forgot the specific formulas and theorems they were taught, the mental exertions that were required to learn them was where the real intellectual growth occurred.

In addition to classical languages and mathematics, students studied English grammar, natural sciences like geography and astronomy, writing, and oratory. Although these courses may seem familiar to modern students, the actual coursework was much more focused on doing a large quantity of work and memorization. The recitation format

¹⁴ Trinity College (Hartford, CT), *Statement of the Course of Study and Instruction Pursued at Washington College, Hartford, Connecticut: With a Catalogue of the Officers and Students, January 1835* (Hartford, CT: P. Canfield, 1835), 5.

¹⁵ Trinity College (Hartford, CT), *Statement of the Course of Study and Instruction Pursued at Washington College, Hartford, Connecticut: With a Catalogue of the Officers and Students, January 1835* (Hartford, CT: P. Canfield, 1835), 5.

¹⁶ Trinity College (Hartford, CT), *Statement of the Course of Study and Instruction Pursued at Washington College, Hartford, Connecticut: With a Catalogue of the Officers and Students, January 1835* (Hartford, CT: P. Canfield, 1835), 5-6.

for student evaluation, even if it was not designed specifically for that purpose, required students to memorize rules, places, and names and provided opportunities for writing assignments and public speaking. Some of these subjects were designed to be of practical use throughout life, but the more immediate effect of subjects like composition and oratory was the exercise of the mind. Speech and debating societies were common on college campuses well into the twentieth century most likely because public speaking and debate were required components of a college education until the evolution of the curriculum during the last-half of the nineteenth century. The prominence of these student societies declined at the same time as recitation was being phased out as the way students were graded.

A big component of the *in loco parentis* educational philosophy that hard work was the best way to instill mental discipline was the belief that college students were still children who needed to be broken of their youthful laziness. Educators of that era saw their role as a modern personal physical trainer would see theirs. It was their responsibility to get students into mental and intellectual shape, and to get them to stick with the exercise routine they had to in turn encourage, cajole, push, and even shame these young men for their own good. College faculty and administrators took this responsibility seriously, and promoted themselves to the parents of prospective students by stressing their desire to act as guardians of their offspring in the place of the parents themselves.¹⁷ The college, as a collection of experts in intellectual fields, would take young people from their parents and improve them intellectually with concern for their

¹⁷ Trinity College (Hartford, CT), *Statement of the Course of Study and Instruction Pursued at Washington College, Hartford, Connecticut: With a Catalogue of the Officers and Students, January 1835* (Hartford, CT: P. Canfield, 1835), 11.

wellbeing and growth. This academic oversight went together with their commitment to the moral improvement of their students and was a result of the responsibility they had been given under the legal doctrine of *in loco parentis*. Schools and society at large held to the belief that college students were immature and needed to have moral and intellectual discipline imposed upon them. Because of that attitude, it is easy to see the appeal of a prescribed curriculum and a focus on making students exert themselves intellectually.

Although most undergraduates prior to the Civil War were male, the early nineteenth century saw the first true opportunities for women to obtain a college degree. At least three different institutions claim to have awarded the first bachelor's degree to a woman: Mississippi College in 1831, Georgia Female College (Now Wesleyan College) in 1840, and Oberlin College in 1841.¹⁸ Oberlin, a coeducational college, is the only one of the three that awarded an arts degree to female students requiring the same curriculum as male college students. Most of the female-only colleges that opened in the early nineteenth century adopted a curriculum for female education that differed from the curricula at male schools. The expansion of higher education to include women, however different the curriculum, demonstrated the antebellum view of colleges as training grounds for future adult citizens. Whereas young men were educated so they would be prepared for a leadership role in society, young women were educated so they would be prepared for their role in the home as a wife and mother. Under their *in loco parentis* responsibilities, colleges were performing this role of preparing more affluent young men

¹⁸ Elbert Vaughan Wills, *The Growth of American Higher Education: Liberal, Professional, and Technical* (Philadelphia, PA: Dorrance & Company, 1936), 132-143.

and young women for their roles as adults. Before this era, the commonly held belief was that women were incapable of the same level of scholarship as men, and that college education would be wasted on women since their fate was marriage and motherhood.¹⁹ By the 1850s, a few schools offered women college degrees, but the curriculum was dictated by the administration just as it was for men. To overcome any reluctance on the part of their prospective students' parents, women's colleges marketed themselves as "finishing schools," where an already morally upright young woman would learn the social graces required to attract a good husband. As the wife of a successful man, she would be expected to act as his hostess and with an ability to carry on pleasant conversations with the successful men her husband socialized with.²⁰

Antebellum educational philosophers considered young men, on the other hand, in need of rigorous mental training to learn necessary self-discipline—and relied upon the *in loco parentis* authority colleges were granted to instill that self-discipline. Young men would only achieve intellectual growth and success through the strict adherence to a prescribed curriculum. Early apologists of the prescribed curriculum defended it as laying a foundation for all subsequent learning. They believed that there were specific "branches of study" that college students needed to follow that would train their minds for all subsequent learning. Incoming undergraduates needed guidance through these foundational elements of knowledge, such as mathematics, logic, and classical languages, so that their minds would become disciplined enough to succeed in whatever occupation

¹⁹ Elbert Vaughan Wills, *The Growth of American Higher Education: Liberal, Professional, and Technical* (Philadelphia, PA: Dorrance & Company, 1936), 132.

²⁰ Charles F. Thwing, *A History of Higher Education in America* (New York: D. Appleton and Company, 1906), 335-337.

they chose upon graduation. It was not the place of universities to teach a trade or a profession. College, according to these educational philosophers, was the place to educate qualified young men through a regimen of hard mental labor.²¹ New students all had some degree of laziness, lack of discipline, and immaturity that four years of college would correct. College administrators, who at that time also served as members of the faculty, acted *in loco parentis* to fulfill their responsibility to these young men. Unlike young women who just needed some “finishing,” young men were little better than barbarians that required civilizing.

In a time-honored tradition, college faculty in the early nineteenth century complained about the laziness of their undergraduate students. If the curriculum allowed students to pick their own course of study, they would naturally choose a path that required the least amount of effort. Administrators saw these young college-aged Americans as boys, not men. If students were left to their own devices, they would leave off studying to spend time with their friends and indulge themselves in pleasant distractions. It was the responsibility of the college, acting *in loco parentis*, to train students to work hard and instill in them the habit of doing so.²² Administrators in the antebellum era defended the prescribed curriculum as the best remedy for overcoming students’ natural propensity for laziness. The truth of the matter may have been that students acted out and failed to keep up with their schooling because coursework was difficult just for the sake of being difficult. What faculty interpreted as the natural

²¹ Committee of the Corporation and the Academical Faculty, *Reports on the Course of Instruction in Yale College* (New Haven, CT: Hezekiah Howe, 1828), 4-6.

²² University of Alabama Faculty Committee, *Report on a Proposition to Modify the Plan of Instruction in the University of Alabama Made to the Faculty of the University* (New York: D. Appleton & Co., 1855), 86-90.

laziness of young men may have simply been a human reaction to confronting a never-ending progression of repetitive tasks that seemed to have no discernable purpose.

In addition to thinking they were lazy, faculty considered students undisciplined when it came to their college careers. Even students who were willing to work hard at their studies had a propensity to want specialized training in a trade or profession instead of the foundational knowledge that colleges sought to teach them. Students evidently complained about the lack of relevance of Latin or Greek or advanced mathematics to their post-degree lives, because faculty were constantly defending these aspects of the curricula. This attitude of students towards their courses was in direct opposition to college administrators' belief that a liberal education, as laid out in the prescribed curriculum of the day, was more profitable for students in the long run. A mere professional education, along the lines of German universities in the early nineteenth century, would not benefit American society like a cadre of broadly educated elites. To an undisciplined mind, as defined by academics, the shortcut to professional or business success that an elective system would facilitate was preferable to four years of learning dead languages and ancient works of history and philosophy. College faculties and administrators, however, considered ancient languages and writings as the bedrock of Western civilization and intellectual life. As they saw it, it was their responsibility to lift students out of their want for immediate gratification and into a life of intellectual pursuits. Students could learn any occupation they wanted after graduation, and in fact

they would be much more successful in their lives if they took the time to build a foundation of knowledge that would allow them a deeper understanding of the world.²³

These traits of laziness and lack of discipline when it came to intellectual pursuits are the reasons educational philosophers in the antebellum period saw college students as immature and in need of the paternal guidance *in loco parentis* of the young men in their charge.²⁴ The traditional prescribed curriculum that had been in place for centuries going back to colleges in England was irreplaceable when it came to educating the next generation of leaders. The rise of an industrial economy, to antebellum intellectuals, was just the newest development that posed a challenge to an intellectual education. To these college faculty and administrators, it would be short-sighted to change a centuries old system of education and replace it with what they saw as nothing more than a trade school. They staunchly defended the prescribed curriculum against the calls for elective courses by immature students and short-sighted reformers who could not see the value in traditional ways of education. These intellectuals did not oppose newer learning, but they argued that the old curriculum must continue so that students would continue to receive a true education, and not just professional training.²⁵

A prescribed curriculum was the universal plan of instruction in American colleges and universities through much of the nineteenth century. Regardless of the

²³ University of Alabama Faculty Committee, *Report on a Proposition to Modify the Plan of Instruction in the University of Alabama Made to the Faculty of the University* (New York: D. Appleton & Co., 1855), 88-93.

²⁴ Trinity College (Hartford, CT), *Statement of the Course of Study and Instruction Pursued at Washington College, Hartford, Connecticut: With a Catalogue of the Officers and Students, January 1835* (Hartford, CT: P. Canfield, 1835), 11.

²⁵ University of Alabama Faculty Committee, *Report on a Proposition to Modify the Plan of Instruction in the University of Alabama Made to the Faculty of the University* (New York: D. Appleton & Co., 1855), 92-100.

geographic location or sectarian affiliation of the institution, schools shared a common educational philosophy regarding methods of instruction and they all agreed that they had a paternal responsibility towards their students. The faculty commonly understood that their role in society was to push students to develop their intellectual powers through mental exercise. Students were universally seen as merely immature at best, and to some degree lazy and undisciplined when it came to academic pursuits. It was the faculty's responsibility to guide these youths to enlightenment, and because students were not mature adults, they had to do so *in loco parentis*, using the same methods of instruction and discipline utilized by parents. Moral instruction was an important part of this process as well, and most colleges included courses in biblical studies and some form of mandatory chapel attendance. Administrators saw college students as the best of the younger generation, but believed these young people were going to need stern guidance to realize their full potential as members of the small minority of society's elite. The only path to success was through strict control of students' academic development through the prescribed curriculum. Whether a student went to one of the old colleges in the Northeast, a newly-founded sectarian school, or one of the state-funded universities established throughout the nineteenth century, the type of classes and manner of instruction was remarkably similar.

At Harvard, Yale, Columbia College (now University), and Princeton, curriculum in the early nineteenth century reflected the generally-held ideas of instruction of that era, and exemplified the patriarchal attitude *in loco parentis* responsibility inspired. Beginning in their freshman year, students read works of antiquity in the original Greek or Latin, and by their Senior year faculty expected them to be able to write and speak

those languages competently.²⁶ In the sciences, the curriculum advanced students from algebra in their freshman year through mechanics, chemistry, and astronomy in their senior year. Other subjects included in the curriculum were English composition, rhetoric, logic, and a smattering of other courses such as surveying, metaphysics, and political economy. These curricula varied in specifics from school to school and changed incrementally over the years, but the core philosophy behind them remained consistent. The faculty at these old institutions stressed classical languages and literature above all else because ancient authors and philosophers remained the foundation of Western philosophy and ethics, and they believed that the sheer mental effort it took to learn Latin and Greek was the kind of mental exercise that benefitted students intellectually. The curriculum was difficult by design, because young people could only mature mentally through exertion of their intellectual faculties. This educational philosophy was shared by all institutions of higher education in Antebellum America, not just at elite schools like Harvard or Yale.

Washington College (now Trinity College) in Hartford, Connecticut, was founded by the Protestant Episcopal Church in 1823. In 1835 the school published *Statement of the Course of Study and Instruction Pursued at Washington College*, in which it laid out its curriculum and the reasons for the course of study chosen by the faculty. The curriculum is like any of the older schools' courses of study. Washington added a couple of theological courses in the senior year, Natural Theology and Evidences of Christianity, but other than those overtly religious studies, the classes prescribed each year fit right in with the prevailing educational philosophy of the early nineteenth century. In addition to

²⁶ Louis Franklin Snow, *College Curriculum in the United States* (New York: Teachers College, Columbia University, 1907), 78-154.

listing the specific curriculum, Washington College explained the reasoning behind the specific classes required, and that explanation echoes the philosophical reasoning laid out by the other schools' administrators from the era. The emphasis is on "train[ing] the mind to the investigation of truth...improv[ing] the intellectual faculties."²⁷ The procedure for accomplishing these goals was spelled out in the *Statement of Course of Study* as hard work and mental exertion, which is facilitated by daily assignments and recitations that require students to demonstrate proficiency in each course. The school also lists, perhaps as a selling-point to parents, that administrators act "in the place of parents" to guide them in their intellectual and moral development.²⁸

State universities also followed the same basic curricular model as private and religious schools during the nineteenth century. The University of Alabama addressed Alabamans that were calling for more elective courses in an 1854 publication that laid out a defense of its current curriculum. Although the document does not list the specific curriculum for that year, the course catalog from Alabama for the 1841-1842 school year was remarkably like those from other American colleges in the period. Alabama's defense of its curriculum used the same reasoning as the explanations offered by the other institutions, but it expands upon that reasoning in detail. The author argued that the purpose of a college education is to instill intellectual discipline in students, which will prepare them to be, "the men to whom the less fortunate majority look for counsel and

²⁷ Trinity College (Hartford, CT), *Statement of the Course of Study and Instruction Pursued at Washington College, Hartford, Connecticut: With a Catalogue of the Officers and Students, January 1835* (Hartford, CT: P. Canfield, 1835), 4.

²⁸ Trinity College (Hartford, CT), *Statement of the Course of Study and Instruction Pursued at Washington College, Hartford, Connecticut: With a Catalogue of the Officers and Students, January 1835* (Hartford, CT: P. Canfield, 1835), 11.

guidance in difficulties, for collected calmness in periods of excitement...for judicious opinions as to the results of measures of policy,” which could only be accomplished by a college education of the traditional kind. The author also makes it clear that any change to the curriculum that amounted to professional education or that turned the university into a trade school, both derided as “practical education,” was not a college education at all.²⁹ The purpose of a college education was ultimately to give students a broad base of knowledge upon which they could then add any specialization they chose.³⁰ The curriculum that the author argued was best for a broad education was one that focused on classical languages and mental exertion in all classes to teach self-discipline and impart intellectual ability in students.³¹

Reading the proponents of the classical curriculum, it is evident why they argued for such a rigid and rigorous course of study in colleges; college students were youths still in need of parental-style control to guide them into adulthood. In both internal reports and public statements, faculty and administrators stressed the youthfulness and immaturity of students. This attitude surely comes in part from the age of students who were admitted in the early years of the nineteenth century, which in some states was legally fixed at fourteen and older. Yale College admitted fourteen-year-olds in 1827, and

²⁹ University of Alabama Faculty Committee, *Report on a Proposition to Modify the Plan of Instruction in the University of Alabama Made to the Faculty of the University* (New York: D. Appleton & Co., 1855), 92.

³⁰ University of Alabama Faculty Committee, *Report on a Proposition to Modify the Plan of Instruction in the University of Alabama Made to the Faculty of the University* (New York: D. Appleton & Co., 1855), 88.

³¹ University of Alabama Faculty Committee, *Report on a Proposition to Modify the Plan of Instruction in the University of Alabama Made to the Faculty of the University* (New York: D. Appleton & Co., 1855), 95-96.

in a report of the Committee of the Corporation by Connecticut Governor Gideon Tomlinson in that year admittance of even younger students was discussed.³² In an era when adulthood was defined by actions such as financial independence and marriage, a college student still under the authority of parents or school administrators was understandably not considered an adult. Even a twenty-one or twenty-two-year-old college senior was more child than adult. Someone else—in most cases their parents—paid students' tuition and took a keen interest in the mental development of the student while at school. College administrators were cognizant of parents' expectations and made it a point through the years to stress that they understood their role in students' lives.

In 1754, the brand-new King's College (now Columbia University) introduced itself to parents of prospective students by stressing it was ready to “teach and engage the Children...to train them up in all virtuous Habits, and all such useful Knowledge as may render them creditable to their Families...Ornaments to their Country, and useful to the public Weal in their Generations.”³³ Young people seeking admittance had to be educationally prepared: they had to be able to read and write, know arithmetic, have the ability to read Latin and Greek, and be able to give a summary of a listed group of classical writings in the original language.³⁴ The advertisement reassured parents that administrators would respect their sectarian Christian beliefs, and religious instruction would focus on the basic principles of Christianity. Students would be required to attend

³² Louis Franklin Snow, *College Curriculum in the United States* (New York: Teachers College, Columbia University, 1907), 152.

³³ Louis Franklin Snow, *College Curriculum in the United States* (New York: Teachers College, Columbia University, 1907), 57.

³⁴ Louis Franklin Snow, *College Curriculum in the United States* (New York: Teachers College, Columbia University, 1907), 57.

worship services on Sunday, but parents would have a say in which church their sons attended. A college career was a transaction between the institution and parents, not between administrators and students. This general attitude persisted through the first-half of the nineteenth century in the United States.

At Washington College in 1835, the *Statement of the Course of Study* stresses to parents that the school is dedicated to moral discipline in the place of parents and guardians.³⁵ This overt reference to *in loco parentis* is certainly meant as a selling point for the school, and is understandable since boys as young as 15 were admitted to the college.³⁶ The understanding that these students were seen as immature children by the school is highlighted in the rule that students were not allowed access to money while in school. Any spending money for student use was to be given to the college bursar by the parents or guardians, and the bursar would “superintend their expenses with a parental discretion.”³⁷ If students were caught with any money not given to them by the college bursar, they could be dismissed from the school. Just like at King’s College in the 1750s, the admittance and governance of students was transacted between the administration and parents or guardians. College students had no say in this transaction once the decision to attend school was made.

³⁵ Trinity College (Hartford, CT), *Statement of the Course of Study and Instruction Pursued at Washington College, Hartford, Connecticut: With a Catalogue of the Officers and Students, January 1835* (Hartford, CT: P. Canfield, 1835), 14.

³⁶ Trinity College (Hartford, CT), *Statement of the Course of Study and Instruction Pursued at Washington College, Hartford, Connecticut: With a Catalogue of the Officers and Students, January 1835* (Hartford, CT: P. Canfield, 1835), 21.

³⁷ Trinity College (Hartford, CT), *Statement of the Course of Study and Instruction Pursued at Washington College, Hartford, Connecticut: With a Catalogue of the Officers and Students, January 1835* (Hartford, CT: P. Canfield, 1835), 24.

In the 1850s at the University of Alabama, we see this attitude of students as children continued in the school's defense of its plan of instruction. In addition to describing the nature of young men enrolled in college as lazy, undisciplined, and as tending to seek the least amount of work in their studies, the author went on to describe how he saw the addition of elective courses working in practice if they were offered. Instead of students having the maturity and foresight to wisely plan their college career if given a choice in the curriculum, the author argued that parents would exercise that choice for them because of the immature nature of students. If the college abdicated its parental role, the students' actual parents would step in and provide the needed guidance. The author did state that possibly at twenty-one a student might have the maturity to handle electives, but, ultimately, he argued that the current prescribed curriculum remained the best system for educating college students.³⁸ As late as the 1850s the prescribed curriculum's defenders were advocating against elective courses based upon the understanding that college students were under the authority of the school in the place of parents or guardians. Academic *in loco parentis* would come under pressure to change in the years following the Civil War, but in the decade before the War, the prescribed curriculum was in use by an overwhelming number of institutions of higher education.

Alternative systems to the classical prescribed curriculum in the United States began in the late eighteenth century and did make some inroads in higher education during the first-half of the nineteenth century. This retreat from *in loco parentis* in an educational context foreshadowed the retreat from disciplinary *in loco parentis* that

³⁸ University of Alabama Faculty Committee, *Report on a Proposition to Modify the Plan of Instruction in the University of Alabama Made to the Faculty of the University* (New York: D. Appleton & Co., 1855), 89-90.

administrators would desire in the years after World War II. In most schools where they were offered, elective classes were added in the senior year of undergraduate education, while the freshman through junior classes adhered to the prescribed model. One impetus for adding electives came through the exposure of American intellectuals to models of higher education on the European continent following independence. Another impetus was the demand for more technical and specialized training because of the growth of industrialization. The new nation, in building the institutions that would sustain it as a constitutional republic, looked to France and Germany's universities with their focus on individual growth and scientific studies as examples. English colleges, seen as bastions of class division, lost their luster in the eyes of Americans fully dedicated to enlightenment ideals of equality and progress. The first tentative steps towards an elective-based curriculum were championed by Thomas Jefferson, first at the College of William and Mary, and finally at the University of Virginia, which was founded by Jefferson according to his views on higher education.³⁹

In 1779, when Jefferson held a seat on the Board of William and Mary College as Governor of Virginia, he made changes to the curriculum with the intent of turning that school into a true university.⁴⁰ The changes he implemented were a step away from the traditional American college's adherence to a classical education. William and Mary dropped the study of Latin and Greek and closed its school of divinity. Jefferson pushed for these courses to be deleted so that more practical studies could take their place. More

³⁹ R. Freeman Butts, *The College Charts its Course: Historical Conceptions and Current Proposals* (New York: McGraw-Hill Book Company, 1939), 77-95.

⁴⁰ Philip Alexander Bruce, *History of the University of Virginia, 1819-1919* (New York: The Macmillan Company, 1922), 51.

scientific and political courses were added to the curriculum, and modern languages were taught in the place of the classics.⁴¹ Jefferson's goal was the transformation of William and Mary into a university like those on the European continent, specifically those in France and Germany. For Jefferson, the practical advantages of a university education which focused on research and useful learning were just as important as an education devoted to mentally taxing students. When two opportunities arose in the 1780s and 1790s to plant a European university in Virginia, Jefferson worked—albeit with some reservations in each case—to bring those projects to fruition. Both of those plans fell through, but he continued to develop his own ideas about education in Virginia.⁴²

Jefferson envisioned a statewide system of public education beginning at the elementary level and culminating with state university attendance for those with the intellectual ability. His educational scheme, introduced as a bill in the Virginia Legislature in 1817, provided for the education of all Virginians. All people would receive a basic elementary education so they could read, write, and do basic arithmetic. Following elementary school, those not of the laboring classes would move on to a “general school,” or “college,” for more advanced education, much like that received at other American colleges at the time, which retained a prescribed curriculum and a wide range of foundational courses that would produce an intellectual elite in Virginia. After a college education, Virginians that were going into a profession would then move on to a University where they would get practical training in their chosen field.⁴³ The ages and

⁴¹ Philip Alexander Bruce, *History of the University of Virginia, 1819-1919* (New York: The Macmillan Company, 1922), 52.

⁴² Philip Alexander Bruce, *History of the University of Virginia, 1819-1919* (New York: The Macmillan Company, 1922), 55-64.

⁴³ Thomas Jefferson, “A Bill for Establishing a System of Public Education” (Virginia, 1817).

years spent in each level of education is not spelled out, but it appears that the age cohort attending the colleges of Jefferson's educational plan correspond roughly with students in modern high schools, while his university corresponds with modern college and university students. *A Bill to Establish a System of Public Education* passed the Virginia legislature and became law in February of 1818, but the lawmakers had modified Jefferson's original vision into something less ambitious.⁴⁴ The public education bill that passed in Virginia merely allotted \$45,000 a year to elementary schools that would subsidize tuition for poor students; it did not meet Jefferson's idea of free public education for all Virginians.⁴⁵

The bill also allotted \$15,000 per year to fund a state university, and Jefferson threw himself into the building of that institution. When the University of Virginia opened to students in 1825, the curriculum reflected his desire for a true university. However, certain concessions had to be made in the absence of the numerous colleges proposed in the bill, which he had desired as preparatory academies for the university. Instead of focusing solely on professional training, which was Jefferson's original idea for the university, general studies in higher education were included in the course offerings. For example, the ancient languages (Latin and Greek) were included in the curriculum of the first of the eight separate colleges that comprised the University of Virginia. The other seven schools were Modern Languages, Mathematics, Natural

⁴⁴ Philip Alexander Bruce, *History of the University of Virginia, 1819-1919* (New York: The Macmillan Company, 1922), 72-91.

⁴⁵ Philip Alexander Bruce, *History of the University of Virginia, 1819-1919* (New York: The Macmillan Company, 1922), 92.

Philosophy, Natural History, Anatomy and Medicine, Moral Philosophy, and Law.⁴⁶

Incoming students were required to choose three of these schools, but they were not bound to a four-year course of study prescribed by the school as in other colleges. The result was that students entering the University of Virginia had the freedom to choose an educational path that was tailored to their future ambitions. Jefferson had not completely discarded the idea that rigorous intellectual drills were profitable to the development of young minds, but he thought that teaching practical skills to undergraduates was just as important. Jefferson was looking at college students in a new light—these were young men who were mature enough to be trusted to make decisions about their education. His educational scheme was not without its detractors though. As tame as his new curriculum appears to modern sensibilities, it was viewed as a radical move in the early nineteenth century.

A furious debate ensued between the backers of newer models of higher education and defenders of traditional curriculum, and that debate was centered around the attitude Americans had about the level of maturity of college-aged males and females. None of the antagonists involved in the debate argued that college-aged Americans were fully mature adults, and nearly all of them explicitly expressed that their ideal for higher education was to prepare the next generation for life under a republican form of government. In fact, the debate may have been the result of the incomplete implementation of Jefferson's educational plan. By eliminating his general schools, the institutions between elementary school and the University of Virginia, students as young

⁴⁶ Philip Alexander Bruce, *History of the University of Virginia, 1819-1919* (New York: The Macmillan Company, 1922), 322-323.

as fourteen were enrolling in the university.⁴⁷ Jefferson originally intended for the university to operate as a graduate school, and the general schools to play the part of the college. Because the state legislature did not fund general schools, the university ended up playing the role of both out of necessity. Instead of enrolling eighteen-year-old or older students who had completed their college-style education when they were from fourteen to eighteen years old, those younger students were attending the University of Virginia. To accommodate them, Jefferson's plan for the university had to include college-level courses in each of the eight colleges that comprised the school.⁴⁸ The early conflicts over elective curricula in higher education, therefore, could be described as an accident of circumstance. Some of the defenders of prescribed curricula acknowledged this in their writings. The main arguments in defense of the traditional model of higher education centered on the immaturity of students, the need to prepare them for a leadership role in society, and the benefit of demanding coursework in training young minds.

Historically, American colleges—modeling their British counterparts—had routinely enrolled students as young as fourteen and had structured themselves to deal with this youthful cohort. The paternal character of college presidents and faculty had developed long before the first schools were chartered in the United States, and *in loco parentis* rules and regulations were accepted as the norm in higher education through the colonial era. After the American Revolution, new ideas about individual rights and

⁴⁷ Philip Alexander Bruce, *History of the University of Virginia, 1819-1919* (New York: The Macmillan Company, 1922).

⁴⁸ Philip Alexander Bruce, *History of the University of Virginia, 1819-1919* (New York: The Macmillan Company, 1922), 332-333.

responsibilities in a republic founded on the idea that all men are created equal began to alter social institutions. These ideas, like the revolution itself, were ultimately a product of the Age of Enlightenment. American colleges took up a new role in society and moved away from the sectarian religious identity that had guided them since their founding. Instead of training future “Christian gentlemen,” American colleges began seeing their role as training future citizens of a republic.⁴⁹ Although the focus on training clergy waned, the animating spirit behind the educational philosophies of the day did not. The young men who enrolled in colleges were viewed as immature and in need of strict guidance. When it came to the curriculum, the guiding principle of the day was reflected in the phrase “mental discipline.”⁵⁰ According to the defenders of a prescribed curriculum, the time-tested and proven way to educate young minds was through a challenging and time-consuming workload. Learning Latin and Greek, being drilled in mathematics, and reciting for professors three or more hours per day, the argument went, produced a disciplined mind. Professional or occupational training, as suggested by the reformers, was not the job of colleges.

Traditionalists also argued that a republican society needed a group of educated elites who could step up and take a leadership role in the nation or their communities. Colonial colleges had played this role in educating the future magistrates and clergy in the American Colonies, and now their responsibility was to educate the future leaders in the American Republic. The defenders of the prescribed curriculum argued that a broad

⁴⁹ John R. Thelin, *A History of American Higher Education* (Baltimore: The Johns Hopkins University Press, 2004), 23-28

⁵⁰ Laurence R. Veysey, *The Emergence of the American University* (Chicago: the University of Chicago Press, 1965), 21-25.

education was the best way to accomplish the goal of preparing the next generation for leadership. Exposing students to a wide range of subjects and having them work relentlessly at those subjects gave them a good foundation of understanding with which to deal with any issue that they may face in their adult lives. Not only would they have a wide-ranging base of knowledge after completing their college studies, more importantly they would have learned how to think and solve problems because of the challenges they had faced getting through a difficult series of courses.⁵¹ A highly trained lawyer or doctor may have been excellent in their chosen career, but without a college degree they were viewed as one-dimensional and unequipped to lead in society. They were not prepared to handle issues that would confront their community outside of their narrow field of knowledge, unlike someone who received a college education before embarking on their career of choice.⁵² Focusing on professional training, as the University of Virginia was doing, would not fulfill their role in society. A republican form of government needed a broadly-educated elite in positions of leadership and creating highly-specialized professionals without a traditional college education would rob the nation of anyone fit enough to lead.

Defenders of a prescribed curriculum could also show the successes of their educational model, either by listing the notables who had completed college and gone on to serve their nation or by displaying the oratorical prowess of graduates at

⁵¹ Louis Franklin Snow, *College Curriculum in the United States* (New York: Teachers College, Columbia University, 1907), 142-145.

⁵² University of Alabama Faculty Committee, *Report on a Proposition to Modify the Plan of Instruction in the University of Alabama Made to the Faculty of the University* (New York: D. Appleton & Co., 1855), 30.

commencement exercises.⁵³ The leading lights of the founding generation, John Adams (Harvard), Alexander Hamilton (King’s College, now Columbia University), and Thomas Jefferson (William and Mary) were the products of a traditional college curriculum and had been the authors of the founding documents of the United States. Their ability to grasp a wide range of issues, it could have been argued, was the result of the broad-based education of their college careers. These were the models for good republican citizens that Americans aspired to emulate, and their achievements were good arguments for keeping things as they were. College graduations were used to showcase the intellectual power of graduating seniors, both to their parents who had paid for the degree as well as to the public at large. Speeches in Latin, public addresses on the scientific issues of the day, and recitations on religion and secular learning characterized commencement week at King’s College in 1758, and prompted a newspaper writer covering the proceedings to urge citizens to “promote so useful, so well-regulated an institution.”⁵⁴ To the defenders of the prescribed, traditional curriculum, the college system worked, and would continue to turn out truly educated people who were prepared for whatever challenges they would face in life.

The proponents of the classical model of college education held out through the nineteenth century, but the following generation of administrators and faculty had largely abandoned the prescribed curriculum for an elective system by the first decades of the twentieth century. One of the driving forces behind the shift to the elective system was

⁵³ John R. Thelin, *A History of American Higher Education* (Baltimore: The Johns Hopkins University Press, 2004), 18-20.

⁵⁴ John R. Thelin, *A History of American Higher Education* (Baltimore: The Johns Hopkins University Press, 2004), 19.

the growing number of state universities, particularly in the West. Another was the growing industrial economy that demanded specialists in scientific fields, which lessened the value of a broad-based classical degree. A final reason for the shift to the elective curriculum was the desire to democratize American higher education and increase the number of students who attended college. There were many reasons for the push to expand student bodies, from an altruistic belief in the benefits of education for large numbers of people to a desire for the financial rewards and growth in prestige that larger numbers of undergraduates would surely bring to the school. These factors worked together to shift higher education away from its traditional paternalistic model of education to a system in which the student became an educational consumer, shopping around for the education that would best fit his or her aspirational needs. As the United States moved away from its rural agrarian past and into the urban industrial age, colleges and universities were forced to evolve to survive. Arguments over the curriculum continued throughout the second half of the nineteenth century, but during the first half of the twentieth, there was an almost universal shift to the elective system.

The educational philosophers in the United States who challenged the old order, beginning with Thomas Jefferson, had many reasons for wanting to move away from the strict prescribed curriculum. A point that all of them would have agreed with was that the traditional college, despite its impressive record of intellectual achievements, was becoming irrelevant to the changing society around it. Some of these administrators truly were visionaries (which can be said with the benefit of hindsight), some were motivated by a desire to expand educational opportunities to more Americans, and some were

simply reacting to the forces that threatened their institution's survival.⁵⁵ Whatever the reasons for the adoption of the elective system, the result was the same. College students were given more freedom to make educational decisions for themselves. The paternal *in loco parentis* model, when it came to the curriculum, was replaced. Over the course of the nineteenth century an educational marketplace developed, and success in that marketplace depended upon a college's ability to attract students. The selling point for a college education became the very thing traditionalists disdained—a focus on practical education. To compete, schools had to offer technical and professional degrees that students could use to secure employment in the industrial economy. Fluency in Latin and Greek was impressive to be sure, but prospective students—as well as their parents—demanded an education more relevant to their immediate needs.

Jefferson was an early proponent of practicality in higher education, and he saw the role of the university as instruction in “branches of useful science.”⁵⁶ As a member of the Board of Visitors of the College of William and Mary in 1779, he pushed for a shift in the curriculum towards “modern studies,” such as law, medical courses, chemistry, and modern languages.⁵⁷ He put emphasis on technical training for students in many fields, including agriculture, horticulture, veterinary surgery, military science, and architecture, through which the state would receive a practical return on its investment in higher

⁵⁵ Philip Alexander Bruce, *History of the University of Virginia, 1819-1919* (New York: The Macmillan Company, 1922), Laurence R. Veysey, *The Emergence of the American University* (Chicago: the University of Chicago Press, 1965), R. L. Duffus, *Democracy Enters College: A Study of the Rise and Decline of the Academic Lockstep* (New York: Charles Scribner's Sons, 1936), 34-44.

⁵⁶ Thomas Jefferson, “A Bill for Establishing a System of Public Education” (Virginia, 1817).

⁵⁷ Herbert B. Adams, *The College of William and Mary: A Contribution to the History of Higher Education, With Suggestions for its National Promotion in Circulars of Information of the Public Bureau of Education* (Washington, D.C.: Government Printing Office, 1887), 38-39.

education. Additionally, despite the traditionalists' claims to the contrary, Jefferson believed that his educational reforms would make colleges and universities the best training ground for future adult citizens of the American republic.⁵⁸ He was not completely opposed to the prescribed curriculum in all cases, for he saw the benefit of rigorous study imposed upon students to train their minds. In his scheme, however, this mental training would take place at a younger age before entering the University of Virginia.⁵⁹ Later generations of reformers would agree with Jefferson that technical training, or a focus in higher education on teaching practical knowledge, was the role of the university. Charles W. Eliot, the President of Harvard University from 1869 to 1909, called this focus on practical education a way to “grapple” with “the problems of real life.”⁶⁰ David Starr Jordan, President of Stanford from 1891 to 1913, declared that “the whole tendency of the university movement is toward reality and practicality,” and that the defenders of traditional colleges were nostalgic for a system of study that “no part of which...was related in any way to their lives.”⁶¹ It was this younger generation of scholars who, upon entering positions of authority in the late nineteenth century, moved colleges and universities towards practical and elective curricula. They had gone through

⁵⁸ Philip Alexander Bruce, *History of the University of Virginia, 1819-1919* (New York: The Macmillan Company, 1922), 325-330; Louis Franklin Snow, *College Curriculum in the United States* (New York: Teachers College, Columbia University, 1907), 75-76.

⁵⁹ Philip Alexander Bruce, *History of the University of Virginia, 1819-1919* (New York: The Macmillan Company, 1922), 323-324.

⁶⁰ Laurence R. Veysey, *The Emergence of the American University* (Chicago: The University of Chicago Press, 1965), 62.

⁶¹ David Starr Jordan, *The Voice of the Scholar, With Other Addresses on the Problems of Higher Education* (San Francisco: Paul Elder and Company, 1903), 45-46.

the prescribed curriculum as undergraduates earlier in the century, and they found its utility wanting in the modern era.

There were also educational reformers who believed that higher education should be practical in order to expand the student body both numerically and demographically. Thomas Jefferson, in his plans for the curriculum at the University of Virginia, intentionally avoided prescribed curriculum by year in school, because he did not want to limit university education to a set time or age. Students could take as long as they wished to complete their studies and receive a diploma, and receive a diploma from as many of the eight colleges as interested them.⁶² He did not envision the university limited to a specific age cohort, which meant that educationally the school would potentially be dealing with mature, developed minds instead of immature and unruly youths who had to be controlled by the administration *in loco parentis*. Andrew S. Draper, President of the University of Illinois, declared that universities “must put away all exclusiveness and dedicate themselves to universal public service,” they should not “try to keep people out,” but “help all who are worthy to get in.”⁶³ E. E. Brown, education professor at the University of Michigan argued in 1902 that there should be no aristocracy of learning in the United States, and that “the common people should set the tone of action;” colleges should follow the lead of the citizens instead of holding themselves up as an elite minority.⁶⁴ These philosophers were advocating for a practical and vocational college

⁶² Philip Alexander Bruce, *History of the University of Virginia, 1819-1919* (New York: The Macmillan Company, 1922), 326-327.

⁶³ Andrew S. Draper, “The American Type of University” *Science*, XXVI (1907), 37, 40.

⁶⁴ Laurence R. Veysey, *The Emergence of the American University* (Chicago: The University of Chicago Press, 1965), 64-65.

curriculum that would serve the needs of society in a tangible way. These men had been through the older model colleges as well and did not think the prescribed curriculum focused on mental discipline was the most useful role for higher education in the late nineteenth and early twentieth century.

Some of the educational philosophers that were advocating for practical elective curricula in higher education were not doing so for purely altruistic reasons; they were fighting for funding to survive and thrive in the educational marketplace. President Frederick Augustus Porter Barnard of Columbia College (now University) responded to declining numbers of students by making the case that enrollment should be opened to women and African-Americans, arguing for more financial aid for needy students, and pushing for the adoption of some electives.⁶⁵ Jordan, as Stanford's first President, presided over a university that had a diverse student body out of necessity. When it came to the curriculum offered, Latin and Greek were dropped, and the elective system was adopted. Students would graduate after study that included vocational specialization. The university also used its technical expertise to aid the local community, such as when Jordan held lectures for local fruit growers about insects.⁶⁶ Columbia, an old established institution, reformed its educational philosophy for the sake of attendance and survival, and Stanford, a new university, adopted the educational philosophy that necessity demanded. These reformers too had come of age in traditional colleges with prescribed, classical curricula, but found themselves in circumstances where the older model was not

⁶⁵ Laurence R. Veysey, *The Emergence of the American University* (Chicago: The University of Chicago Press, 1965), 99.

⁶⁶ Laurence R. Veysey, *The Emergence of the American University* (Chicago: The University of Chicago Press, 1965), 107.

working. In the process of adapting to the realities of their situations, these men, Barnard especially, joined the ranks of the reformers who would ultimately dismantle the paternalistic prescribed curriculum in American higher education.

By the 1920s, American colleges and universities had almost universally adopted some form of elective curriculum. At Harvard in the Fall of 1920, for instance, students could choose from different schools of specialization, such as Engineering, Architecture, Landscape Architecture, Divinity, Law, Medicine, and Dental School.⁶⁷ Some type of prescribed coursework was still required, as it is today at many schools, but the days of mental discipline as the chosen purpose for colleges was over. College administrators and faculty no longer saw themselves as *in loco parentis* to students in an educational sense. The shift away from the classical prescribed curriculum ultimately occurred because of the changing nature of American society and the American economy during the nineteenth century. The centuries-old model of higher education that the United States had imported from Great Britain beginning in the seventeenth century did not go down without a fight, but the realities of life in a modern industrial nation strained that older model and forced it to change. In other, non-academic areas of campus life, university administrators still held to their paternalistic *in loco parentis* relationship with students, but educationally students had been liberated. The administrators who did the liberating did so, by-and-large, voluntarily and gladly. The faculty went along with the adoption of electives and the numerical growth of student bodies because this freed them up to specialize in areas that interested them and increased the demand for their services as faculty numbers increased to match the rise in student numbers.

⁶⁷ Harvard University, *Catalogue of Names 1920-21* (Cambridge, MA: Harvard University, 1920), v.

The arguments made in defense of the prescribed curriculum beginning in the early nineteenth century had the logic of history behind them. Colleges had operated in the same fashion for centuries and had a track record of success in turning out an intellectual elite. In the pre-industrial age, especially in the feudal Middle Ages, their focus on classical languages and writings made sense in a world where a tiny number of European intellectual elites communicated across language and ethnic borders. In the pre-modern era generalization, not specialization, was more highly prized. The college had been born in an era when, because the number of literate people even in the aristocracy or clergy was low relative to the population, educated social elites were called upon to deal with every issue. A broad-based general education was required, since that small group was expected to rule and lead in a variety of situations. The traditionalists who fought to preserve the prescribed curriculum in the nineteenth century could not see how much American society would be transformed by the Industrial Revolution. Industry would demand increasing numbers of specialists as the century progressed, and colleges were forced to adapt to this educational demand. High rates of literacy and a growing middle-class also put pressure on colleges as enrollments began to increase in the decades following the Civil War. As in the case of most institutions, change came hard and was resisted by people invested in the way things were, either out of nostalgia or a lack of vision.

The educational reformers won in the end because they were on the side, wittingly or not, of the social changes in the nineteenth century. Some, like Thomas Jefferson, had developed a well-thought out educational philosophy. Others were moved to reform out of a belief that a greater number of Americans should have access to a

college education. These folks were surely spurred to this desire by the fact that an increasing number of Americans had the ability and the disposable income with which to pursue a college degree. They were also aided in their efforts at democratization of campuses by the growing need for educated specialists in industry. Those reformers who were simply reacting to events played a crucial role in the transformation of American higher education as well. Their implementation of new ideas paved the way for additional reforms, showing other reformers that change was possible as well as profitable for institutions of higher learning. The reforms made during the nineteenth and early twentieth centuries ended the paternal, *in loco parentis* relationship between students and the colleges in an educational sense. Students were now free to choose their major and the classes that they took, but they were still told where they could go, what time they had to be home, what they could wear, and what they were allowed to say while enrolled as college students. The end of *in loco parentis* in their intellectual lives did not free them from that legal regime when it came to campus rules and discipline.

CHAPTER TWO

Parents and Children: The Courts Reaffirm *In Loco Parentis*, 1866-1900

In the Fall of 1865, fifteen-year-old Edwin Hartley Pratt enrolled at Wheaton College in Wheaton, Illinois. Pratt would spend less than a year at Wheaton, going on to the Old University of Chicago, a Baptist college, in 1866. He earned an LL.D. from Chicago in 1871 and went on to Hahnemann Medical College where he received an M.D. in 1873 at the age of 23, graduating as valedictorian of his class. He enjoyed a long career as a surgeon in Chicago, authored at least two books on the topic of surgery, and edited a medical journal that he started, the *Journal of Orificial Surgery*. Per the evidence available, Pratt was a driven young man who was dogged in his determination to succeed. He appears to be the type of young man that any college administrator would have sought to recruit and enroll from an academic standpoint. In addition to his impressive academic abilities, Pratt at a young age was also devoted to the cause of abstinence, one of the premier social movements of his day. His father, Leonard Pratt, a doctor and surgeon, had joined The Good Templars, a secret society that was dedicated to promoting abstinence. His son joined the Good Templars soon thereafter during his first year as a student at Wheaton College.¹

Edwin Hartley Pratt's decision to join the Good Templars put him at odds with Wheaton College's President, Jonathan Blanchard, and ultimately Pratt was expelled from Wheaton for his membership in that secret society. Despite the drive and

¹ Sylvain Cazalet, "Edwin Hartley Pratt," in *History of Homæopathy Biographies*, ed. William Harvey King, <http://www.homeoint.org/history/bio/p/pratteh.htm> (accessed December 3, 2016); *Portrait and Biographical Record of Cook and Du Page Counties, Illinois*, (Chicago: Lake City Publishing Company, 1894), 418-421. All information about E.H. Pratt and his father from these two sources.

determination to succeed that Pratt's later academic record suggests, he was summarily kicked out of school. President Blanchard, based upon his own personal political views, had forbidden any student at Wheaton from joining secret societies. He, like many other Americans in the nineteenth century, viewed secret societies as anti-Christian, a political threat to the United States, and a threat to social reform efforts. 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.² People eyed groups such as the Freemasons with suspicion, imagining a nationwide or even global alliance of wealthy, powerful men who influenced governments to further their own interests. The fact that the Good Templars were dedicated to abstinence, a cause close to Blanchard's heart, did not dissuade Blanchard and Wheaton's faculty from suspending Pratt from the college "until he should express a purpose to conform to its rules."³

Pratt's father filed suit in the Circuit Court of Du Page County, Illinois, trying to get his son reinstated at Wheaton. 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 Good Templars, and that the school had no legal right to expel Edwin for his membership in that group. At the heart of the case was the question of whether a college could deny its students their due process protections guaranteed by the Constitution. The decision by the Illinois Supreme Court

² Jonathan Blanchard himself co-authored a short book along with the Reverend David MacDill and Edward Beecher, D.D., that argues secret societies are anti-Christian and a threat to civil society called *Secret Societies: A Discussion of their Character and Claims* in 1867, <https://www.bencourtney.com/ebooks/secrets/> (accessed 20 November 2019). Religious groups issued their own warnings against secret societies and the threat they posed.

³ *Pratt v. Wheaton College*, 40 Ill. 186, 1866 Ill. LEXIS 163 (1866).

became the cornerstone in the doctrine of *in loco parentis*, or colleges acting in the place of a student's parents, 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.⁴

The result of this ruling was that college students could not rely on the Constitution 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 regarding 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, with few legal changes, for nearly a century.

In *Pratt v. Wheaton College* and other cases, American courts ratified *in loco parentis* in the half-century following the Civil War. Colleges had imposed rules upon

⁴ *Pratt v. Wheaton College*, 187-188.

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.⁵ 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, twenty percent of urban children were in the workforce, as both boys and girls labored in the mills and factories of industrial America.⁶ That twenty percent figure does not count the large number of children engaged in farm work on the family farm in rural America. A college-aged 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, and not only allow, but require, college administrators to govern college 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.

College students, enjoying an extended adolescence fostered by economic dependency, created a campus culture that reinforced society's conviction that students

⁵ Frederick Rudolph, *The American College and University: A History*, (New York: Alfred A. Knopf, 1962), 243.

⁶ Hugh D. Hindman, *Child Labor: an American History* (Armonk, New York: M.E. Sharp, 2002), p. 5, 31., And Katharine DuPre Lumpkin and Dorothy Wolff Douglas, *Child Workers in America* (New York: Robert M. McBride & Company, 1937), p. 17.

needed moral guidance. The typical college student in the latter-half of the nineteenth century was drawn from a minority of American families affluent enough to afford higher education for their children.⁷ The typical college student around the turn of the twentieth century had attended school from a young age through high school graduation while a large percent of his or her peers went into the workforce in order to augment their family's income. College 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 to insure their children's future social position.⁸

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.⁹ In addition, many mid-nineteenth-century administrators and faculty members were themselves the product of institutions that began as religious colleges.

⁷ Rudolph, 485-486.

⁸ John R. Thelin, *A History of American Higher Education*, (Baltimore: The Johns Hopkins University Press, 2004), 108.

⁹ Laurence R. Veysey, *The Emergence of the American University*, (Chicago: The University of Chicago Press, 1965), 32.

Although they were no longer specifically training students for the ministry, faculty continued to see moral guidance as an important aspect of their profession.¹⁰ 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."¹¹ 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 did 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."¹² 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.¹³

¹⁰ Thelin, 108.

¹¹ Veysey, 34.

¹² Veysey, 34.

¹³ Veysey, 33-34.

College administrators imposed this paternal control over their students' lives because of 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 as to compare the disciplinary instinct of administrators to the desire of 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 did not deserve due process rights.¹⁴

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

¹⁴ Veysey, 34-35.

of their financially dependent offspring (and still do today), and those individuals or institutions 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 that 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 had the authority 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 *Pratt v. Wheaton College* in 1866.¹⁵ 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 responsibility upon colleges, but an affirmation of

¹⁵ Richard L. Morrill, C. Eric Mount, Jr., Richard A. Fass, "In Loco Parentis Revisited?" *Change* 18 (January-February 1986): 34-41.

the traditional relationship between administrators and students going back to English Common Law.

In 1881, an Indiana court case tested whether the legal precedent established in the *Pratt* decision applied to publicly funded colleges and universities as well, not just to private schools like Wheaton College. 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 to avoid violating school rules forbidding the organization's activity on campus.¹⁶ 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 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."¹⁷ After his refusal to sign, Purdue turned down Hawley's request for admittance.

¹⁶ 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).

¹⁷ *Stallard v. White*, 82 Ind. 278, 1882 Ind. LEXIS 123 (1882).

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. Hawley would be allowed to enroll at Purdue with the understanding that he was not allowed to actively engage in the fraternity's activities while on campus. 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 governing the student body. Purdue University, and therefore all public institutions of higher education, could deny students the due process rights guaranteed to other American citizens.

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."¹⁸ Daniels was either

¹⁸*Isaac Daniels v. Grayson College*, 20 Tex. Civ. App. 562, 50 S.W. 205 (1899).

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."¹⁹ 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 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," and therefore had no standing to file suit.²⁰ Additionally, 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

¹⁹ *Isaac Daniels v. Grayson College*, 563.

²⁰ *Isaac Daniels v. Grayson College*, 564.

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.²¹ 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.²²

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 student behavior and 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."²³ If the court was indeed correct, and colleges would have gone out of business if they did not aggressively police student

²¹ *Isaac Daniels v. Grayson College*, 564.

²² *Isaac Daniels v. Grayson College*, 564.

²³ *Isaac Daniels v. Grayson College*, 564.

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 as 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*.²⁴ This decision certainly granted 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, quoted extensively from the written opinion in *Pratt 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.

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 sued to overturn it. The Madison Circuit Court, which initially heard the case, ruled in favor of the school's administration and dismissed the petition.

²⁴ *Gott v. Berea College*, 156 Ky. 376, 161 S.W. 204 (1913).

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.²⁵

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, 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.

²⁵ *Gott v. Berea College*, 379.

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 essentially stating 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 and not the university itself had banned fraternities on campus, but the overriding principle remained constant. College students were minors in the eyes of the law 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 the late nineteenth century, a unique "campus culture" had evolved on American college campuses. A system of rigid hierarchy was enforced among students, with freshmen at the bottom. Through hazing rituals, students infused a sense of loyalty to organizations,

school class, and the college itself. 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. Students' 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 gender-specific form of *in loco parentis* supervision to contend with. At that time, women 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.²⁶ Wealthy parents, anticipating 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.”²⁷ 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

²⁶ Thelin, 143-144.

²⁷ Rudolph, 313.

percent at coeducational colleges.²⁸ The curriculum was divided into “manly” and “feminine” subjects, and barriers were erected to keep female students 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.”²⁹ 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 academic pursuits. 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 and students were predominantly the children of affluent parents. College enrollment had increased nationwide from less than two percent of eighteen to twenty-one year-olds in 1870 to four percent in 1900.³⁰ College-aged men 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 to receive a classical education, make connections with their socioeconomic peers, and perhaps meet a suitable young woman to marry. Young women from affluent homes were also attending college

²⁸ Thelin, 143.

²⁹ Rudolph, 324-325.

³⁰ Christopher J. Lucas, *American Higher Education: A History*, (New York: St. Martin’s Press, 1994), 20.

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 Graduates of women's colleges pursued advanced studies in law, medicine, and other Ph.D. programs in larger proportions than women from coeducational schools.³² For the most part women 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 graduation-class cohorts. College students also divided themselves into Greek-letter fraternities, clubs, and intellectual societies. These groups demanded student 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

³¹ Lucas, 156.

³² Thelin, 98.

³³ Thelin, 93-94.

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.” Describing campus culture at that time as “markedly adolescent” is not intended 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 the behaviors of non-student 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.³⁴ 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 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.”³⁵ 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

³⁴ David Nasaw, *Children of the City: at Work & at Play* (Garden City, New York: Anchor Press/Doubleday, 1985), p. 42.

³⁵ Rudolph, *The American College and University: A History*, 485-486.

demographic and their behaviors are not dramatically different than the behavior of their non-student peers.³⁶

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.³⁷ 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,” which was nothing more than an open-air brawl. Each class at Yale had its own class colors and songs that 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

³⁶ Thelin, 329.

³⁷ 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.

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.³⁸ 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 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 state colleges at the end of the nineteenth century, just as it did at private institutions such as Yale among Day and his peers. A perusal of the 1896 *Savitar*, the University of Missouri's yearbook,

³⁸ 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.

shows that campus life at Missouri in the 1890s shared much in common with Yale.³⁹ 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*.⁴⁰ Instead, the school 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 many academic societies, clubs, and associations that held organized debates and recitations in competition with each other. Loyalty to the University of Missouri bound these disparate groups together, however, and this loyalty focused most intensely on the 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.

³⁹ 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.

⁴⁰ 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.

Veysey sums up the student attitude towards academics at the turn of the twentieth century in *The Emergence of the American University*.⁴¹ 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.”⁴² 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.⁴³ 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 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.

⁴¹ Veysey, 268-294.

⁴² Veysey, 269.

⁴³ Veysey, 272.

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 to protect the investment they were making in their children’s future.⁴⁴ Social standing and reputation were of critical importance to the Victorian parents able to send their offspring to institutions of higher education, and overwhelmingly those parents firmly supported the control exercised by college administrators acting *in loco parentis*. Most college-aged 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.⁴⁵ 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.⁴⁶ 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. To keep their adolescent behaviors and naiveté from adversely affecting these students’ futures, parents and administrators strictly controlled student behavior.

The Victorian concept of childrearing was strict and explicit rules enforced through swift punishment. Adults in the last half of the nineteenth century considered self-control one of, if not the most important character traits for “civilized” people to

⁴⁴ Thelin, 108.

⁴⁵ David Nasaw, *Children of the City: at Work & at Play* (Garden City, New York: Anchor Press/Doubleday, 1985), p. 42.

⁴⁶ Viviana A. Zelizer, *Pricing the Priceless Child: The Changing Social Value of Children* (Princeton, New Jersey: Princeton University Press, 1994), p. 5.

develop. Self-control was what separated civilized Americans from what they saw as uncivilized, barbarian, and savage peoples in places like Africa and the Far East. Americans thought the best way to teach children self-control was to impose restraints on their behavior and keep them busy with work of some kind, the idea being that they would learn to work and be productive if children's natural laziness and proclivity to misbehave could be overcome.⁴⁷ For Victorian parents, instilling self-control/self-discipline in their children was the best way to ensure their ultimate success in life. One way to instill self-control was to teach children to deny their natural urges under the threat of punishment or through the use of forced restraint. Parents and medical experts worked to combat masturbation in both boys and girls on moral grounds, but they also believed that masturbation led to psychological problems for those who engaged in the practice.⁴⁸ Affluent American parents went to great lengths to teach their children how to exercise self-discipline, and they delegated that responsibility to college administrators who acted in their place when their offspring went away to school.

The prescribed curriculum was another stratagem that reflected the late-nineteenth century attitude towards young people. Its use was defended as the best way to instill intellectual self-discipline in students that school officials were legally responsible for. College administrators viewed their students as intellectual adolescents as well as adolescents in behavior. The curriculum was designed to function as a mental exercise for

⁴⁷ For college students, that work would be intellectual in nature, see Louis Franklin Snow, *College Curriculum in the United States* (New York: Teachers College, Columbia University, 1907), 143. For working children, that work would be through wage-labor, see Marjorie E. Wood, "Emancipating the Child Laborer: Children, Freedom, and the Moral Boundaries of the Market in the United States, 1853–1938" (Ph.D. diss., University of Chicago, 2011), p. 32, 42.

⁴⁸ Ronald Hamowy, "Medicine and the Crimination of Sin: 'Self-abuse' in 19th Century America," *Journal of Libertarian Studies*, Vol. 1 (1977), 229, 243.

the mind, increasing students' mental abilities and combating laziness. Hard work was emphasized and required of students, not for the purposes of mastering a specific subject, but for the benefits, such as acuity of thought and increased reasoning ability, that educational philosophers had ascribed to the process. The college curriculum was not designed to teach as much as it was designed to train students how to pursue and acquire knowledge.⁴⁹ This style of education at the undergraduate level was the way college administrators chose to mature the adolescent intellects in their care and teach them mental self-discipline. It followed closely with the paternalism that dominated the *in loco parentis* legal regime that was established to police student behavior and was a product of the same cultural ideas about childrearing that informed parents in their relationships with their offspring. The prescribed curriculum did not go out of use until the early part of the twentieth century as market forces changed to demand more specialized education and the cultural attitude about raising children became less rigidly focused on self-control.

The curriculum was also tightly controlled by the administration to conform to the dominant religious view held by most affluent Americans at the time, Protestant Christianity. Alternative religious views and atheistic works were kept out of courses to reinforce the Protestant morality of elite society. Administrators took their role as moral instructors seriously, and wanted to impart intellectual strength as well as religious belief to their students.⁵⁰ This was a legacy of the religious roots in American higher education, to be sure, but it was another aspect of the responsibility placed upon college administrators by *in loco parentis*. Schools would be failing in their duty if they allowed

⁴⁹ Veysey, 23-24.

⁵⁰ Veysey, 26-30.

ideas hostile to Protestant Christian beliefs to undermine the moral development of the students in their care. The strict divide in gender roles and differing expectations of behavior between young men and young women are the clearest examples of areas where colleges felt a responsibility to intervene *in loco parentis* in students' lives. Women and men were both held to strict standards of behavior, but the unique rules for each sex were designed to reinforce the dominant Protestant ideas about the different roles expected of each in American society. Men were subjected to the traditional classical curriculum that was believed to prepare them for public leadership roles, while at most coeducational institutions women studied music, poetry, and social etiquette in lieu of Greek, Latin, and mathematics.

The ultimate objective of a tightly controlled fixed curriculum and campus rules was to prepare college students mentally and morally to be good citizens as defined by the dominant American culture. Administrators took *in loco parentis* responsibilities seriously, whether that responsibility was to police student behavior or train students intellectually. Upon graduation from college, students would enter the adult world, and it was the college administrations' job to make sure they were ready to do so. Male college graduates of the latter-half of the nineteenth century were destined, for the most part, for a profession, a life in business, or a career in academia. Females were destined for marriage and motherhood but were expected to be an asset in support of their husbands' advancement up the social ladder. The academic and behavioral discipline that they received as undergraduates was designed to serve these graduates in their future pursuits as members of the American ruling class. They had entered college as immature adolescents, and the administrators these young people were entrusted to by parents and

society were given the responsibility to mold them into men and women that would perpetuate the Victorian American nuclear family in perpetuity. The *in loco parentis* legal regime gave colleges the tools they needed to accomplish this legal and moral responsibility.

In the years following the Civil War, therefore, college students were subject to a plethora of rules, regulations, and curriculum constraints that were meant to build up their moral character and mental discipline. 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. A fixed curriculum was used to guide students' moral and mental development as each college saw fit. The evidence is that most college students at the end of the nineteenth century accepted these constraints without overt protest. Colleges and universities during the latter-half of the nineteenth century were viewed as bulwarks of Victorian American culture, and it appears that students at the time saw no reason to try and change their school, or that culture.

CHAPTER THREE

Little Ladies and Big Men on Campus: Gender and *In Loco Parentis*

During the Fall semester of the 1927-28 school year, students at the University of Missouri in Columbia eagerly anticipated each weekend and the football game of their beloved Tigers. Missouri had been Missouri Valley Conference champions in 1924 and 1925 but had stumbled in 1926. Following a 5-1-2 1926 season and a third-place conference finish, the Tigers started the 1927 campaign strong, winning their first three games. On October 22, Mizzou would face Southern Methodist University in Dallas. Missouri fans were hopeful for a win, given they had fought the Mustangs to a 7-7 tie the previous year in Columbia—a year in which SMU had not lost a game and had outscored opponents 229 to 47. To accommodate fans wanting to travel to the game, a special train chartered on the Missouri, Kansas, and Texas Railroad took students and boosters to Dallas. If enough people purchased tickets, the travelers would only pay about half-price for sleeping accommodations on the overnight trip. It is not clear how many went on the trip or if they got the reduced rate for sleeping berths, but it appears from subsequent accounts that quite a few Mizzou fans, in addition to the band, cheerleaders, and team, were on hand that Saturday in Dallas.¹

¹ Special train and rates, “Minimum Expense for Dallas Trip to be About \$30,” *The Missouri Student*, October 18, 1927. Expectations about the game and accounts of the trip, “Tigers Lose to Mustangs by Big Score,” *The Missouri Student*, October 25, 1927.

Missouri lost to the Mustangs by a score of 32 to 9, disappointing students' high hopes for a win. Students who had made the trip to Dallas recounted their experience in the campus newspaper, *The Missouri Student*. Despite the defeat, the trip was a fun excursion for the students who had travelled *en masse* to and from the game. The accounts in the October 25th edition of *The Missouri Student* make it clear that despite the 87-degree heat which greeted the fans already accustomed to cooler Fall weather, Missouri fans had a good time in Dallas that Saturday. The students spent a third of the weekend trip on the train—an eighteen-hour trip from Columbia to Dallas and a seventeen-and-a-half-hour return—as they were only in Dallas from seven o'clock Saturday morning until eleven o'clock Saturday night.² Any modern readers who at some point have taken a “road trip” with friends can imagine the experience of those Mizzou students in the fall of 1927.

Just a week later, on October 29, the Tigers were playing another out-of-town game, this time against Northwestern University in Evanston, Illinois. A special train would take Missouri fans from Columbia to Chicago, again with reduced fare and sleeping berth rates, because organizers expected at least five hundred students and fans to purchase tickets. The train would arrive in Chicago at 7:30 Saturday morning, and an article in the student newspaper promised students they would have plenty of time to shop and explore Chicago before the two o'clock kickoff that afternoon. After the game, the paper advised students that they could see a show, sightsee, or visit friends in Chicago before the train left on its return trip at 12:30 Sunday morning. The prospect of visiting

² 87-degree heat, “Minimum Expense for Dallas Trip to be About \$30,” *The Missouri Student*, October 18, 1927. Details of trip times, “Tigers Lose to Mustangs by Big Score,” *The Missouri Student*, October 25, 1927.

Chicago surely accounted for the large number of students planning on making the trip. So many fans had already made reservations that four Pullman sleeper cars had been set aside for different groups of the Mizzou contingent.³

A designated sleeping car reserved for a large group traveling together allowed for comfortable, secure, and familiar atmosphere. Members of the group traveled together in the same car, surrounded by people they knew, and therefore slept more securely. The fifty-piece university band, a student pep club known as the Razzers, and faculty members/townspople were three of the four groups mentioned as having a reserved sleeping car. The fourth group, “girl students,” also had a car reserved for their trip to Chicago. Not only did they have a car reserved for them, the university required them to travel in that railcar if they wanted to travel to Chicago. In addition, there were other regulations placed upon the female undergraduates that they had to agree to follow before the Dean of Women would issue them a permission slip that allowed them to go on the trip to see the Tigers play against Northwestern.⁴

In the October 11, 1927 issue of *The Missouri Student*, the Dean of Women’s Office had published the requirements for out-of-town travel to football games for women. Female students already had to secure permission from the Dean of Women to travel out of town as a matter of course. Even being absent from their residence for one night, to stay with friends in town for instance, required permission from the Dean of Women’s office. Granting permission for overnight absences was entirely at the

³ Details of train to Chicago, “Expect 500 on Northwestern Special Train,” *The Missouri Student*, October 25, 1927.

⁴ “Expect 500 on Northwestern Special Train,” *The Missouri Student*, October 25, 1927.

discretion of the Dean of Women's office, and they could place any requirements they chose upon the student applying for the privilege. In the case of out-of-town travel for football games, females had to first get the consent of their parents before even applying to the Dean's office.⁵

The official notice that ran in the campus newspaper on October 11 went into greater detail about the rules for female students and travel to games that year. They first had to submit permission from a parent or guardian to travel to the game, and that permission had to specify the mode of travel, how long the student was going to be travelling, and where the student would be staying while away from campus. If the student was staying away overnight while travelling for the football game, she had to travel with a chaperone. For the game against Northwestern, the university had arranged for a Pullman car, and a female faculty member would accompany the women as a chaperone. The administration required students to travel to the game on the special Pullman car reserved for women and were under the charge of that chaperone while on the trip.⁶ Regardless of whether the student was an 18-year-old freshman or a 22-year-old senior, the university assumed her to be under the authority of her parents, and she was most definitely under the authority of the administration. Male students, on the other hand, did not have these restrictions placed upon them as they travelled to the out of town games. The university required them to apply for an out-of-town absence from the dean

⁵ University of Missouri, *Student Handbook 1925-26* (Columbia: University of Missouri, 1925), 10.

⁶ The Office of the President, "Official Bulletin: From the Office of the Dean of Women," *The Missouri Student*, October 11, 1927.

of their respective school, but the rules made no mention of parental approval or chaperones for the men.⁷

At least one student in the Fall of 1927 voiced her displeasure at these regulations, objecting to the special rules that applied to women students. In anonymous letters to the editor of *The Missouri Student* on October 18 and 25, the special rules for women were mocked and protested on the basis that they were more restrictive than those governing their male peers. On October 18, a “Miss Up-To-Date” writes that the rules made her “squirm a bit underneath the yoke of super-propriety thrust upon me and upon all those of the female persuasion,” and asked, “must we always wear Eve’s indiscretion for a millstone?” To her, the regulations were an intrusion into her privacy and indicated an assumption on the part of the Dean of Women that she and others were inevitably going to engage in sexual behavior if not restrained. Writing that “the Pullman regulations for women are as insinuating as the cameramen who rushed behind the Tiger goal...when Nebraska was on our five-yard line,” the author makes it clear what she believed the Dean thought was going to happen on the train. The photographers were there to capture an inevitable touchdown, and the Pullman regulations were there to thwart inevitable sexual activity by the women.⁸

In a letter the following week on the 25th signed “Aunt Susie,” another student lambasted the travel rules, disagreeing with the assumptions, as she saw it, that the rules were based upon. After mocking the rules satirically as possibly not going far enough (“Might it also not be proper to demand that no girl can leave town to attend a football

⁷ Student Handbook 1925-26, 9.

⁸ Letter to the Editor, “But It’s Not for Research,” *The Missouri Student*, October 18, 1927.

game unless she has with her her high school diploma and also an Award of Faithful Attendance at Sunday School...?”), she addressed the assumptions the rules are based upon. She asked whether “Perchance, the Dean [of Women] is not afraid that ‘her dear girls’ will wander from the straight and narrow?” and sarcastically stated, “Surely, [the Dean of Women] knows that girls who go on football trips go to see the game.” She also uttered the question that students asked in some form nationwide throughout the Twentieth Century when criticizing *in loco parentis* rules, “Are [students] grown ups or are they still tied to Mama’s apron strings?”⁹ This second letter, like the first, took offense at the implications of the special rules for women students pertaining to out-of-town travel to football games. According to the author, the rules implied that female students were too young and irresponsible to control their behavior, and that the Dean of Women thought that women students were only interested in traveling out of town to engage in forbidden behavior.

An anonymous letter to the editor signed “Law Student” responded to “Aunt Susie” in the November 1 edition of the newspaper and dismissed her complaints about the rules. The letter-writer asked “Aunt Susie,” “Did not your parents send you to Mizzou to abide by rules and regulations?” And said, “I doubt you are the finished product you think you are” in addressing “Susie’s” question about whether she was a grown-up. When it came to the assumptions behind the special rules for women students on the out-of-town trips, “Law Student” argued that there were “some [girls at Missouri] with manners and some without,” and wondered “what kind of manners a person has who will publicly call the Dean of Women a wet nurse behind the mask of ‘Susie.’” The last paragraph of

⁹ Letter to the Editor, “Aunt Susie Has Her Say,” *The Missouri Student*, October 25, 1927.

“Law Student’s” letter attacks “Aunt Susie” directly: “You wanted to know if the girls who went to the games didn’t go to see them. Granted, too, that girls who study astronomy see the stars—but from what angle? I fear you are chafing under the fact that someone has prevented you from seeing the stars.” According to “Law Student,” a grown-up female student was one who follows the rules. Any questioning of those rules was an indication of bad manners and belied the assertion that the questioner was just going to see the game. And what behavior does “Law Student” accuse “Aunt Susie” of wanting to engage in? Seeing the stars from a certain angle reads like a sexual reference in this context. “Susie” may have wanted to see the game, but what she really wanted, according to “Law Student,” was to engage in sexual behavior.¹⁰

By the late 1920s, college and university administrators had tightened up campus rules and regulations for women students to keep them from sexual activity. There had always been gender-specific rules on coeducational campuses, but by the 1930s the rules for men had loosened up quite a bit compared to those for women students. The increase in the number of colleges and universities that admitted both sexes in the years following the Civil War was a dramatic change for American higher education, and the rules established for each sex on campuses reflected society’s preferred gender roles. By the time of the Great Depression, an evolution in the perceptions of masculinity and femininity had taken place in the United States were reflected in campus rules and regulations. Male students had much more freedom of action on and off campus, while female students were policed heavily to limit their behavior. Administrators, acting as responsible guardians under *in loco parentis*, sought to keep females sexually chaste. The

¹⁰ Letter to the Editor, “Reply to Aunt Susie,” *The Missouri Student*, November 1, 1927.

underlying assumption about female sexuality by the late 1920s, if the dialog at Missouri about out-of-town travel is any indication, was that women students were actively seeking to engage in sexual behavior. The rules that were in place, from that point of view, were there to protect women students from their own desires. This was a shift in attitude from the Victorian-Era assumption that women were the “Angel in the house,” and a check on male misbehavior.¹¹ The shift was most noticeable towards young women of the “Flapper” generation that older Americans saw as morally promiscuous.¹²

In contrast, administrators had loosened campus rules and regulations for male students by the time of the Great Depression, giving them much more freedom than they had in the years immediately after the Civil War. During the early years of coeducational institutions, it was common for both male and female students to be restricted to campus, have evening curfews, be required to attend a daily chapel meeting on campus, and be required to attend church services on Sundays.¹³ During the last-half of the Nineteenth Century, however, there was a “crisis of masculinity” that changed attitudes towards male undergraduates. Young men, specifically college students of the upper classes, were seen as weak and effeminate by older generations, and this weakness was considered a threat to the future of the republic.¹⁴ Because of this shift in societal views towards masculinity,

¹¹ Anne Hogan and Andrew Bradstock, *Women of Faith in Victorian Culture: Reassessing the Angel in the House* (New York: St. Martin’s Press, Inc., 1998), 1-5.

¹² Judith Mackrell, *Flappers: Six Women of a Dangerous Generation* (New York: Sarah Crichton Books, 2013).

¹³ For campus rules in the 1870s and 1880s, see University of the State of Missouri, *Catalogue and Announcements for the Year Ending June 29, 1870* (Jefferson City, MO: Horace Wilcox Public Printer, 1870), 40-41.

¹⁴ Julie Des Jardins, *Walter Camp: Football and the Modern Man* (New York: Oxford University Press, 2015)

administrators loosened the rules for male students at the same time as they were tightening the rules for female students. Tracing the evolution of campus rules over the sixty-year period between 1870 and 1930 shows this divergence of attitudes towards college-aged men and women. Both sexes were still subject to *in loco parentis* oversight by administrators, but in practice that oversight looked quite different for males than it did for females.

Coeducation at American colleges and universities began in earnest in the years after the Civil War. The push for coeducation reflected the dramatic growth of student bodies and the changing role of higher education during the last half of the nineteenth century. As universities moved away from classical education and into professional training, administrators pushed for more democratic campus environments. Part of this democratization of higher education at many schools was the introduction of coeducation. On the East Coast, many institutions remained single-sex, either male or female, most notably the schools of the Ivy League and the affiliated Seven Sisters Colleges.¹⁵ Coeducation was not a panacea of equality for women students, as early on women were restricted in most places to certain degree programs (usually education in a normal school), and precluded from some specific fields such as law and medicine. Despite the early restrictions placed upon women students, the seventy-odd years following the Civil War saw females integrated into coeducational institutions and thriving at all-women schools.¹⁶ By the 1920s, there were many women in faculty positions at coeducational

¹⁵ Laurence R. Veysey, *The Emergence of the American University* (Chicago: University of Chicago Press, 1965), 81-85, 99, 332-333.

¹⁶ John R. Thelin, *A History of American Higher Education* (Baltimore: The Johns Hopkins University Press, 2004), 97-98, 226-228; Charlotte Williams Conable, *Women at Cornell: The Myth of Equal Education* (Ithaca, NY: Cornell University Press, 1977).

state schools, and women were represented in all academic departments on their campuses. By 1930, nearly one-third of college presidents and faculty in the United States were women, and almost one-half of undergraduates were female.¹⁷

Campus rules and regulations for men and women were remarkably similar during the early years of coeducation and the growth of women's colleges. At the University of Missouri in 1872 for instance, there was no separate listing of rules for male and female students. Both sexes were required to get the university president's permission to leave town for any length of time during the school year, required to attend daily chapel services, to observe daily study hours in which they were confined to campus, and to attend church services of their choice on Sunday. Both sexes were forbidden from, among other things, using profane language, drinking alcohol, yelling out of windows, smoking on campus, and vandalizing university property.¹⁸ Indiana University, another state school, had similar rules for its students, both male and female. Students were cautioned against "immoral, disorderly, or dishonorable conduct, or habitual neglect of duty," with the threat of expulsion from the university.¹⁹ Although there was no numbered list of forbidden behaviors, the university let students know that they would not be allowed to travel out of town, except in extraordinary cases, during the school year. Students were also required by the administrators to attend their daily

¹⁷ Christopher J. Lucas, *American Higher Education: A History* (New York: St. Martin's Press, 1994), 204-207.

¹⁸ University of the State of Missouri, *Report by the Curators to the Governor Containing Catalogue, Announcements, and Other Matter Pertaining to the University, Year Ending June 26, 1872* (Jefferson City, MO: Regan & Carter, Printers, 1872), 86-89.

¹⁹ *Annual Report of Indiana University Including the Catalogue for the Academical Year MDCCCLXX---LXXI* (Indianapolis: R. J. Bright, State Printer, 1871), 30.

recitations unless they were sick. There were also daily “religious services” in the mornings, and a mandatory weekly chapel lecture “every Sabbath afternoon” that students were required to attend.²⁰ The state-funded Tuskegee Normal School (later commonly known as The Tuskegee Normal and Industrial Institute, or simply The Tuskegee Institute) in its 1886-87 catalogue spelled out similar rules for its African-American students. The use of alcohol and tobacco was prohibited by the administration, and students were required to attend church services and “Sabbath school.”²¹

The rules at Yale in 1877 were spelled out in detail in the published *Laws of Yale College*. Yale would remain a male-only school until 1969, but the rules and regulations that undergraduates were required to adhere to were like those at Missouri and Indiana. Students were required to attend daily chapel services and Sunday church services, and the rules stated that they had to behave properly on “the Lord’s day.”²² Absences from daily recitation and other academic exercises were punished by admonishment, or if habitual, by suspension or expulsion. Yale also forbade students from being absent from the school during the academic year, from leaving New Haven without permission, and from acting in a theatrical production. Betting, throwing anything on campus including snow, and expressing disbelief in the Bible were all proscribed by the administration. Yale was also proactive in policing its students’ behavior in their residences, whether on-campus or off. Undergraduates were required to get approval in advance for their living

²⁰ *Annual Report of Indiana University* (1871), 30-31.

²¹ Booker T. Washington, *Catalogue of the Tuskegee State Normal School, at Tuskegee, Alabama for the Academic Year 1886—87* (Tuskegee, AL, 1887), 20, 23.

²² *The Laws of Yale College, in New Haven Connecticut, for the Undergraduate Students of the Academical Department, Enacted by the President and Fellows* (New Haven, CT: Tuttle, Morehouse, & Taylor, University Printers, 1877), 5.

arrangements while enrolled from an appointed officer, and any member of the faculty could search a student's room at any time. Among other things, students were also forbidden from "contract[ing] matrimony...blasphemy, fornication, theft...fighting, intoxication, wearing disguises or female attire...lying."²³ In addition to facing punishment for behavior during the school year, students were also held accountable for "vicious, scandalous, and immoral conduct" while at home during school vacations.²⁴ Yale was a private college with a strong religious heritage, so in retrospect these rules may not seem as strange as those at state universities to a modern reader, but during the latter-half of the Nineteenth Century, the idea of moral guidance was the driving force behind *in loco parentis* rules in higher education.

These types of rules and regulations were common in institutions of higher education across the United States in the decades immediately following the Civil War. Those years were the end of the era where discipline was viewed as imposed restraint.²⁵ School officials governed students by laying out standards of behavior and imposing immediate punishment for violating those standards. Many adults in that era were subjected to workplace rules imposing restraints on their behavior that would seem out of place in the modern world. Noah Porter, the future president of Yale University, wrote in 1870 that even the "ruling minds" of the United States were not "reflective and self-directing," and many of those men lacked "reverence for truth," and had "small

²³ *The Laws of Yale College* (1877), 10.

²⁴ *The Laws of Yale College* (1877), 11.

²⁵ Lulu Holmes, *A History of the Position of Dean of Women in a Selected Group of Co-Educational Colleges and Universities in the United States* (New York: Bureau of Publications, Teachers College, Columbia University, 1939), 76.

confidence in principles.”²⁶ In Porter’s view, since even adults in positions of authority in American society were, to paraphrase, lazy, lying, and unprincipled, what could be expected of college students? Many educational philosophers of that era shared Porter’s assessment that discipline was best imposed by authorities, and thought that by creating a tightly-regulated environment on campus students would learn the value of hard work and moral principles.²⁷ This paternal attitude towards college students is doubly understandable considering the outright religious influences that influenced higher education in that era. The academic culture of the United States was still guided by the old-line, denominational colleges such as Harvard and Yale. The presidents and faculty of all institutions of higher learning were dominated by graduates of these schools, and had been steeped in the belief that Orthodox Protestant Christianity was the foundation of any worthwhile education.²⁸ College education, like religious instruction, was about imposing discipline upon a rebellious people through hard work and moral guidance. In short, college students, like most of the population, did best when given rules that were enforced by duly-appointed and qualified authorities.

In the decades following the Civil War, courts supported this view of college students as minors under the guardianship of college administrators who acted in the place of their parents. In *Pratt v. Wheaton College* and *Stallard v. White*, school officials were granted the authority, to be exercised at their sole discretion, to limit students’ association with political, religious, or social groups. In *Isaac Daniels v. Grayson*

²⁶ Noah Porter, *The American Colleges and the American Public* (New Haven, CT: Charles C. Chatfield & Co., 1870), 143-144.

²⁷ Veysey, *The Emergence of the American University*, 35.

²⁸ Veysey, *The Emergence of the American University*, 25-28.

College, the court recognized administrators' responsibility for students' moral development. *Gott v. Berea College* recognized that college officials' authority over their students' lives was absolute. In the *Pratt* and *Gott* decisions, the courts explicitly stated that administrators had the same rule-making power as parents.²⁹ The only limit on their authority was that it had to be lawfully exercised. Outside of that exception, school officials could establish any rules and regulations governing students' behavior that they deemed necessary. The *in loco parentis* relationship between a college and its students was to be understood literally—school officials were the parents of their students in every respect except biologically.

These decisions were the legal basis for *in loco parentis* rules and regulations on college and university campuses and reflected American society's wider views of college students' maturity and the best way to keep order on campuses. The courts had granted administrators a great deal of latitude in establishing campus rules and regulations. In equating school authorities' legal standing with the rights held by natural parents or a legal guardian, there was almost no limit to the control those authorities could exercise over students. As discussed above, schools used this authority to try and instill a moral code in their students. In an era that believed it was necessary to impose discipline through rules and swift punishment for violations, the regulations established on campuses across the country were well-intentioned attempt to provide students with the tools to live productive lives. Educational philosophers of the mid-to-late-Nineteenth Century took their responsibilities towards students seriously, and the campus rules

²⁹ *Gott v. Berea College*, 156 Ky. 379, 161 S.W. 204 (1913); *Pratt v. Wheaton College*, 40 Ill. 187-188, 1866 Ill. LEXIS 163 (1866).

reflected the conventional ideas of morality and good behavior embraced by a large swath of contemporary American society.

College students of that era, by and large, appear to have accepted the rules and regulations that governed their lives on campus. This may be because most students were from middle-and-upper-class American families who were raised according to the social norms of the day. For most of these young people, going away to college meant more freedom than they had at home, and the opportunity to have a great deal of fun. Yes, there were many rules governing student behavior, but it appears that administrators did not monitor student behavior as stringently as the rules suggested it would be monitored. Even Noah Porter, the great proponent of imposing discipline, left students to their own devices much of the time and did not punish every violation of the rules.³⁰ College in the last half of the nineteenth century was enjoyable for students, and characterized by campus culture that emphasized having a good time. One Yale student of the late 1890s bragged that he did not study more than fifteen minutes a day in his last two years of college, and a common motto found hanging in student rooms during those years was “Don’t Let Your Studies Interfere with Your Education.”³¹ College populations, although still small by modern standards, grew exponentially in the years before 1900. The spread of coeducation also put young men and women together in new ways that were unimaginable two generations earlier. In 1900 there were 237,592 undergraduates in the

³⁰ Veysey, *The Emergence of the American University*, 35-36.

³¹ Veysey, *The Emergence of the American University*, 269-273.

United States, of which about forty percent were women.³² For these students, going to college was eagerly anticipated and valued as a source of prestige throughout their lives.³³ By the end of the nineteenth century attending college was also seen as a rite of passage for affluent young Americans, filled with opportunities to socialize and pursue extracurricular activities.

The rules governing male and female students diverged during this era as the concept of masculinity changed. If mothers dominated parenting and had feminized society and middle-class boys in that role, perhaps it was time for less *in loco parentis* on the part of college administrators towards male students. Young men needed to face danger and prove themselves to meet the evolving standards of masculinity, but they could not meet that challenge if campus rules did not give them the freedom to do so. It appears that, consciously or not, this is the reason rules for male students eased in the late 1800s and early 1900s. By the 1930s most campuses had eliminated curfews and dress codes for young men, and no longer confined them to campus or its immediate environs during the school year. Femininity and gender roles for women changed as well, but administrators continued to restrict and police female behavior while loosening rules on males. The evidence suggests that this is the case because of the need to control the sexual behavior of young women while under *in loco parentis* supervision by school officials. This was in part the due diligence required of administrators as the legal guardians of their female students, but it was also an effort to enforce the widely-accepted standards of femininity in that era. The social taboo towards premarital sexual

³² Veysey, *The Emergence of the American University*, 268-269.

³³ Veysey, *The Emergence of the American University*, 269.

activity on the part of young women remained in place throughout this era, even as it became more acceptable among young people themselves. Because of the threat of pregnancy, it took until the wide availability of effective birth control in the 1960s for society to abandon that taboo. Since the college or university could be held legally responsible for neglecting its role *in loco parentis* if it did not make at least an effort to prevent female sexual behavior/pregnancy, curfews and rules governing intersexual interactions remained in place.

During the decades around the turn of the twentieth century, as Victorian conceptions of masculinity and femininity were breaking down, the American middle class feared a “crisis of masculinity,” and this fear prompted a change in the relationship between colleges and male students. Theodore Roosevelt, in 1899, criticized those of his own generation who he deemed “milksops, sissies, pampered weaklings—effeminate and ineffectual men...mollycoddles.”³⁴ To Roosevelt, American men had lost something when compared to the generation that fought the Civil War. That generation, in Roosevelt’s estimation, had proved its manhood by stepping up and fighting for the Union even though shrinking from that fight would have been less costly in blood and tears. Roosevelt warned his own generation, the sons of the veterans of that war, that they had gotten soft by comparison, and that disaster would come to the United States if men did not step up and embrace the “strenuous life” in all aspects of their being.³⁵ He also laid out his vision of manhood to American boys, and the path to becoming a “good

³⁴ Julie Des Jardins, *Walter Camp: Football and the Modern Man* (New York: Oxford University Press, 2015), xi.

³⁵ Theodore Roosevelt, “The Strenuous Life,” in *The Strenuous Life: Essays and Addresses* (New York: The Century Co., 1902).

American man.” He stressed physical strength and diligence as the hallmarks of a man, and noted with pleasure the growth of sports in the United States over “the last few decades.”³⁶ To Roosevelt, all types of strenuous physical activity were praiseworthy if balanced with strenuous mental activity, but there seemed to be a special place in Roosevelt’s heart for college football. Roosevelt feared urbanization and industrialization were weakening middle-and-upper-class men by denying them the benefits of physical labor, and college football was a good way to counter this in the rising generation, in his eyes.³⁷ When college officials and legislators threatened college football because of injuries and deaths on the field, Roosevelt came to the defense of the game: “We cannot afford to turn out college men who shrink from physical effort or from a little physical pain,” he said to reporters.³⁸ On college campuses around the country, football grew and prospered in the midst of these discussions of what constituted manhood, and changed campus culture for male students.

There were many factors driving the fear that American men were becoming weak in the last-half of the Nineteenth Century. The economy rapidly industrialized during those years, and the demand for labor increased exponentially. New industries and manufacturing plants were overwhelmingly located in cities, and consequently the percentage of Americans living in cities grew at the expense of small towns and rural areas. Industrialization also allowed for increased productivity in food production, and

³⁶ Theodore Roosevelt, “The American Boy,” in *The Strenuous Life: Essays and Addresses* (New York: The Century Co., 1902), 155.

³⁷ Frederick Rudolph, *The American College and University: A History* (New York: Vintage Books, 1962), 376-378.

³⁸ Julie Des Jardins, *Walter Camp: Football and the Modern Man* (New York: Oxford University Press, 2015), 179.

the demand for agricultural workers dropped throughout those years. As an increasing number of young American men moved to cities for work, the perception of people like Theodore Roosevelt was that these young men were leaving behind healthy country life filled with physical labor and self-sufficiency for the dirt and grime of the city and indoor wage-labor.³⁹

Large numbers of immigrants to the United States from Ireland, Italy, and eastern Europe also caused Protestant Anglo-Saxon America angst about the future. The very industrialization that was pulling American boys into the cities was enticing immigrants from lesser-developed areas of Europe to those same cities. This wave of immigrants was overwhelmingly Catholic and Jewish, and nativist fears of losing political and cultural power grew steadily throughout those years. Immigrant families worked physically demanding jobs, had large numbers of children, and retained cultural traits from the old country that White, Anglo-Saxon, Protestant Americans found unpleasant at best. By contrast, the native Protestant families were shrinking in size, heightening the fear that the Anglo-Saxon race was committing what Theodore Roosevelt called “race suicide.” Roosevelt’s prescription for this situation was for middle-and-upper-class Protestant Americans to embrace the afore-mentioned “strenuous life.” College football became, to Roosevelt, the field of battle upon which succeeding generations of American men would be tempered in preparation for a lifetime of exertion.⁴⁰

³⁹ Theodore Roosevelt, “The American Boy,” in *The Strenuous Life: Essays and Addresses* (New York: The Century Co., 1902), 155.

⁴⁰ Theodore Roosevelt, “The Strenuous Life,” in *The Strenuous Life: Essays and Addresses* (New York: The Century Co., 1902).

These fears were, in large part, an unanticipated consequence of the gender roles adopted by Protestant America during the early years of the Republic. Society expected women to take on the role of custodian of home life, which revolved around the nurturing and teaching children. Men, on the other hand, were to provide materially for the family by competing in the outside world. Over several generations, American families organized themselves in this fashion, and the gender roles of the Republican Era held sway in a largely rural United States. With the advent of the industrial era following the Civil War, people like Roosevelt thought that American culture had become feminized because of the cultural power given to women in their role as keepers of the home and teachers of the next generation. Middle-class Protestant boys growing up in the cities were not masculine enough because of the feminization of the culture and a lack of physical pursuits in urban life. The movement towards realism in art and literature was a reaction to this feminized culture, as was the growth and popularity of competitive team sports for men. For Roosevelt, it was time that Americans stopped coddling young men. Intercollegiate football demanded physical prowess, mental endurance, and toughness in young middle-class men. A new view of masculinity took shape that included these attributes and encouraged young men to incorporate risk and adventure into their lives. Relatively few would play college football, but any young man could throw himself into a pursuit that demanded those same physical and mental traits.

Additionally, the traditional view of male college students as “boys” who needed discipline under the earlier *in loco parentis* regime imposed upon them shifted during the last decades of the nineteenth century. This shift is seen in Roosevelt’s essay “The American Boy” when he advised boys on how to develop into men. Roosevelt did not

direct these boys to listen to and obey authority figures. Instead, he encouraged them to push themselves in all areas of their lives—sports, academics, and work. If they developed their own character, and acted with courage, they would be on the path to becoming “a good American man.” When he praised the “love of athletic sports” that had arisen “during the last few decades” as having “an excellent effect in increased manliness,” he was encouraging the affluent young men he was addressing to find it within themselves to continue this trend.⁴¹ In fact, young men acting on their own initiative is what started college football in the first place. The sport increased in popularity and profitability, often despite the animosity of university officials, and it was the students themselves that had brought intercollegiate football about. In 1873, President Andrew White of Cornell refused to allow thirty male students to play a football game against Michigan in Cleveland, saying, “I will not permit thirty men to travel four hundred miles merely to agitate a bag of wind.”⁴² Students organized, managed, and found funding for football teams in those early years, and by the 1890s had grown the game to the extent that college administrations began collaborating in regulation of the game.⁴³ Football quickly grew in popularity and many of the *in loco parentis* rules that policed male students’ behavior were eliminated or weakened.

While intercollegiate football was growing in popularity at the end of the 1800s, new figures also emerged on campus—students who had earned respect by serving and bringing honor to their academic class or to the school. This phenomenon was the

⁴¹ Roosevelt, “The American Boy.”

⁴² Kent Sagendorph, *Michigan: The Story of the University* (New York: E. P. Dutton & Co., 1948), 150.

⁴³ Rudolph, *The American College and University*, 374.

product of the campus culture at Yale, “Yale’s democracy,” that was emulated by schools around the country. Football players certainly were part of this group, but so were editors of campus literary magazines, members of the glee club, and other high-profile students. Another group of campus celebrities were the “Big Men,” those students who managed student organizations such as honor societies, and secret societies like Skull and Bones. The effect of this “college system” as it was called, was to channel the ambitions and efforts of students into service to the student body. Being chosen for a secret society during their senior year was the ultimate reward for years of dedicated service.⁴⁴ The “college system” was not imposed from above on students, it grew out of individual students’ desire to win the admiration of their peers. Female students would gain access to the rewards of the “college system” in the first part of the Twentieth Century, but early on it was male students that reaped the rewards of that system.⁴⁵

Campus rules for female students in the years following the Civil War also reflected the social expectation that a woman’s role was that of wife and mother. During the first half of the nineteenth century, the feminine ideal of Republican Motherhood had dominated among the middle and upper classes in the United States. This was by in large an urban phenomenon, and as the country urbanized and industrialized in the last decades of the 1800s during the Victorian Era, this ideal shifted under the pressure of social changes. The two roles available for women at the beginning of the Republican Era were marriage or spinsterhood. Women were expected to marry at a young age and devote

⁴⁴ John R. Thelin, *A History of American Higher Education* (Baltimore, MD: The Johns Hopkins University Press, 2004), 166-168.

⁴⁵ Thelin, *A History of American Higher Education*, 182-186.

themselves to family life as helpmates and mothers. The tradition of collecting household goods in anticipation of marriage—a hope chest—reinforced this expectation. A young woman who failed to marry at an appropriate age was looked down upon or pitied as having failed in some way. To modern ears, the term “spinster” conjures an image of an older, bitter woman, much like Miss Gulch in *The Wizard of Oz*, who is a threat to social tranquility. In the first half of the nineteenth century, however, “spinster” was the legal term for any single woman of marriageable age—a woman who had somehow failed to fulfill her social role.⁴⁶

To this end, during the early part of the 1800s, young women did not attend colleges; if they participated in higher education at all, it was at a female seminary or boarding school. Boarding schools were institutions tasked with preparing affluent young women for marriage. Instead of rigorous intellectual studies, school officials acted in their *in loco parentis* role and focused female student studies on music and the arts which were viewed as appropriate training for feminine young ladies. Seminaries only offered basic academic courses, like mathematics, that would help in managing a household.⁴⁷ Women were constitutionally unable to pursue an intellectual life, according to the scientific consensus of the day. Scientists believed that brain size, which was determined by measuring the skull, correlated with intelligence and intellectual ability. The belief was that attempting to educate young women in the same way as young men would harm young women psychologically. Gender roles, to Republican-Era Americans, were set by

⁴⁶ Berend, Zsuzsa. “‘The Best or None!’ Spinsterhood in Nineteenth-Century New England.” *Journal of Social History* 33, no. 4 (2000): 935-57.

⁴⁷ Gail Collins, *America's Women: Four Hundred Years of Dolls, Drudges, Helpmates, and Heroines* (New York: Harper Collins Publishers, 2003), 106-108.

God and reflected in physiology.⁴⁸ Although this “scientific” way of looking at women changed over the last-half of the nineteenth century, the underlying assumptions of a woman’s role persisted. Women started to attend colleges in the 1830s, but it took nearly a century for them to gain academic equality to men. Women who increasingly pushed against the limits imposed upon them by wider society provided the empirical evidence that the earlier assumptions were wrong. The lives of three women illustrate the evolution of women in American higher education and society: Catherine Beecher, Margaret Fuller, and Martha Carey Thomas.

Catherine Beecher was a staunch believer in many of the Republican-Era assumptions of gender roles, but her views helped pave the way for female intellectual equality and changed the focus of campus *in loco parentis* control of female college students. She was born in 1800, the eldest child of Lyman and Roxanne, and sister to Harriet Beecher Stowe and Henry Ward Beecher. As a child, she spent a great deal of time with her father, a famous preacher and revivalist in New York and Connecticut. She was educated at home, and formally, from age ten, at school in Litchfield, Connecticut after her father moved the family there. She developed a love learning from her father and educated visitors that frequented the family home. She was engaged at twenty-two, but after her fiancé died in a shipwreck she never married. Almost immediately after his death, she decided to spend her “spinsterhood” educating young women by opening a school for girls in Hartford, Connecticut. Throughout her teaching career, she dedicated herself to preparing women for marriage and family life, but she also encouraged women

⁴⁸ Cynthia Eagle Russett, *Sexual Science: The Victorian Construction of Womanhood* (Cambridge, MA: Harvard University Press, 1989), 155-169.

to pursue teaching and nursing. She thought that more rigorous education of young women would elevate these pursuits, believed to be a natural part of the female sphere. Beecher thought that society had progressed, and that women were beginning to benefit from the mental discipline that came from a traditionally male education. Studying mathematics would help women develop investigative and reasoning skills and studying the sciences would provide them with useable information. While she believed that a woman's primary role was still that of wife and mother, she thought that it would be better for society if the "fainting, weeping, vapid, pretty play-thing"-type woman were replaced by one that education had made "virtuous, useful, and pious."⁴⁹ Well into old age she wrote and spoke about female education for the betterment of the nation and encouraged the establishment of teaching schools for young women. Although she still saw gender roles as fixed by God, her views on female education were progressive for the era in which she lived.⁵⁰

Margaret Fuller, only ten years younger than Beecher, challenged the idea that gender roles were an immutable fact of nature, and argued that imposing those roles produced dysfunction in both men and women who strictly adhered to them in violation of their own natures. To Fuller, both sexes should dispose of social conventions that restrained the human spirit. As a child she received a classical education from her father Timothy Fuller and resented the rigor and stress of that experience and the fact that it deprived her of a "natural childhood." This experience of discipline and mental exertion

⁴⁹ Barbara M. Cross, *The Educated Woman in America: Selected Writings of Catherine Beecher, Margaret Fuller, and M. Carey Thomas* (New York: Teachers College Press, 1965), 68-70.

⁵⁰ Barbara M. Cross, *The Educated Woman in America: Selected Writings of Catherine Beecher, Margaret Fuller, and M. Carey Thomas* (New York: Teachers College Press, 1965), 3-13.

at such a young age set her on a course of questioning all rules that society imposed upon individuals. Fuller rebelled against the traditional role of wife and mother and instead became a part of the Transcendental movement, joining Ralph Waldo Emerson, Henry David Thoreau, and Frederic Hedge in seeking human self-fulfillment. Highly educated, she taught for a while, but gave it up after less than two years because it made her feel “vulgarized, profaned, forsaken.” Instead, she turned her intellectual efforts to starting a series of “conversations” with women that examined the deeper motivations, desires, and thoughts of her contemporaries.⁵¹ Many of the participants were authors themselves, and these dialogues spurred writings on a wide range of subjects. Fuller chose the topics of conversation (Greek mythology was the first topic) and guided the discussion towards a search for truth and beauty through inquisitiveness, encouraging participants to avoid the bland, conventional, and “safe” in their contributions. For her, not only were women capable of an intellectual life as Beecher had argued, they were denying their very humanity by blindly adhering to traditional gender roles that betrayed them and kept them dependent and subjugated.⁵²

The third woman, Martha Carey Thomas, was born in 1857, had the largest direct impact on American higher education for women, spending her entire adult career working to educate the “new woman,” as an equal partner for the college-educated American man. Thomas was the oldest daughter of a prominent Quaker family in Maryland, and from an early age resented the privileges granted to her younger brothers

⁵¹ Barbara M. Cross, *The Educated Woman in America: Selected Writings of Catherine Beecher, Margaret Fuller, and M. Carey Thomas* (New York: Teachers College Press, 1965), 112-116.

⁵² Barbara M. Cross, *The Educated Woman in America: Selected Writings of Catherine Beecher, Margaret Fuller, and M. Carey Thomas* (New York: Teachers College Press, 1965), 13-30.

and other males simply because of their sex. She also despised the gender roles society enforced upon her upper-class female peers and was determined to avoid living the scripted life of wife and mother that seemed laid out for her. When her mother died of breast cancer when Thomas was thirty-one, she blamed childbearing and breastfeeding for her mother's "mortal wound." Whereas her father, like all men, were free to pursue their ambitions, women lived forced lives of servitude that wasted their talents. For Thomas, who ultimately earned a Ph.D. and became the president of Bryn Mawr College, women deserved the same opportunity to pursue education and a career as men. Upon ascending to the presidency of Bryn Mawr at 37, she devoted herself to the cause of female education and equality. Rejecting traditional "female courses" designed to make young women more interesting to potential mates, she instead set about making sure her students received the same rigorous education provided by the most demanding male schools.⁵³ She welcomed conflict with male intellectuals who argued that educating women threatened the American family and the survival of the race. Throughout the last decade of the Nineteenth Century and the first two decades of the Twentieth, Thomas worked hard at Bryn Mawr to win acceptance of the "new woman," a woman that was free to choose her own path in life.⁵⁴ She even utilized *in loco parentis* to maximize Bryn Mawr's influence on her students: undergraduates had to reside at the college with only limited, short vacations to keep them away from the negative influence of their "society

⁵³ Barbara M. Cross, *The Educated Woman in America: Selected Writings of Catherine Beecher, Margaret Fuller, and M. Carey Thomas* (New York: Teachers College Press, 1965), 145-154.

⁵⁴ Barbara M. Cross, *The Educated Woman in America: Selected Writings of Catherine Beecher, Margaret Fuller, and M. Carey Thomas* (New York: Teachers College Press, 1965), 158-169.

mothers.” By the time of her retirement in 1922, the “college woman” was a familiar figure on campuses nationwide and in popular culture.⁵⁵

By the 1930s, young women had integrated into American higher education and at least in theory had the same opportunities as young men. The efforts of reformers like Beecher, Fuller, and Thomas worked over the course of a century to dissipate much of the prejudice against women as it related to education and intellectual ability. Women were now free to pursue any course of study, but there were still social pressures that limited that choice in practice. Young women were encouraged to prioritize marriage over career, and in many industries married women were frowned upon or even forbidden from working. Society still characterized certain professions in gendered terms—jobs like primary school teacher or nurse were considered female domains, for instance—and that influenced the degrees females pursued.⁵⁶ Great strides had been taken towards educational and intellectual equality, but campus rules and regulations were not the same for male and female students by the 1930s.

The differences in the rules for men and women on campus in the 1930s were the result of several factors. The tradition that women needed protection as the physically weaker sex undoubtedly headed the list of reasons for rules requiring chaperons to mixed-sex events and evening curfews for female students. Under the *in loco parentis* legal regime, colleges were responsible for the well-being of students, and making sure that young women were watched over and kept indoors at night was a simple way to

⁵⁵ Barbara M. Cross, *The Educated Woman in America: Selected Writings of Catherine Beecher, Margaret Fuller, and M. Carey Thomas* (New York: Teachers College Press, 1965), 30-45.

⁵⁶ Gail Collins, *America's Women: Four Hundred Years of Dolls, Drudges, Helpmates, and Heroines* (New York: HarperCollins Publishers), 294-295.

fulfill that responsibility. For young men, the shift in the concept of masculinity demanded that males not be sheltered, and that they engage in behavior to toughen them up. Individual parents may not have wanted their own son to participate in certain behaviors, but as a whole society thought it was important not to emasculate young men by overprotecting them from every potential danger. Femininity, on the other hand, did not equate to risk-taking and toughness. Society defined masculine young men as tough and street smart; feminine young women were defined as chaste and innocent. In many ways, college students of both sexes had been freed of many campus rules and given a great deal of liberty during the 60-odd years following the Civil War, but societal expectations still guided administrators in exercising *in loco parentis* control over students.

By the 1930s, the *in loco parentis* rules that would govern campus life until the 1960s were in place. There were rules in place for both sexes that sought to maximize the educational opportunity college provided. Mandatory class attendance and notifying parents of grades applied to both men and women equally, for instance. There were also rules in place that attempted to limit sexual contact between students. It was against the rules for students to visit the other sex's sleeping rooms or to stay together overnight off campus. The difference was that there were a set of rules that applied only to women under *in loco parentis*. Public and private colleges and universities all had rules establishing curfews for females during the academic year. Curfews protected young women from physical harm as well as making it more difficult for them to engage in sexual behavior. Dress codes for female students codified social expectations of the feminine, generally requiring skirts and sweaters or blouses on campus, and sexually

modest apparel off campus. When it came to leaving campus during the school year, as the story at the beginning of this chapter highlights, colleges and universities placed more restrictions upon young women than it did young men, using the same logic that was behind the curfew and chaperone rules.⁵⁷

Women had made great strides in higher education by the 1930s, but the realities of social expectations still shaped the *in loco parentis* rules that governed student behavior on campus. Fairness of the rules was not the priority; the priority was fulfilling the legal responsibility of the college or university for students on campus. Interestingly, it does not appear that there was any large-scale protest or resistance to campus rules of any kind in the years prior to World War II. *In loco parentis* rules adapted slowly over the years to the changing social norms and had loosened for both sexes by the late 1930s to allow for greater freedom in many ways. Where once all students were restricted to campus and were required to attend daily chapel services, by the 1930s most of schools had dropped those rules. The shift towards the belief that relying upon students' self-control was preferable to trying to micromanage student behavior contributed greatly to the relaxation of many campus rules and regulations, and to the growth of student governments by which students passed rules and policed them themselves. As foreign as the *in loco parentis* rules of the 1930s seem to modern readers, they fit right in with the expectations of most college students of both sexes. College-aged Americans in the 1930s did not have the same expectations about, or experiences with, the freedoms of young people two generations later. Yes, there were students who expressed their

⁵⁷ Various student manuals and rule books of many different types of colleges and universities attest to the consistent gender divide in campus rules. Not sure how much specific detail would be profitable in the chapter.

unhappiness with certain rules, but this was always the case. Pratt sued Wheaton College over rules that he was not happy about in 1866. The force for change in the *in loco parentis* relationship between students and administrators remained consistent. It was the changing of social norms and expectations that established the boundaries of the *in loco parentis* on college campuses, and it was only through the changing of those social norms and expectations that the rules changed. “Aunt Susie” complaining to the editor of the student newspaper in the Fall of 1927 may have been voicing the frustration of many female students at Missouri, but the wider society either disagreed strongly with her or was indifferent to her protestations. The result was that gender-specific rules would stand for another forty-odd years at institutions of higher education in the United States.

CHAPTER FOUR

Rebels Without a Cause: *In Loco Parentis* in 1950s Postwar America

In the Fall of 1946, the student body president of the University of Georgia addressed 3,000-odd incoming freshmen. When he announced that the first-year men would be required to wear a beanie on campus, one member of the audience reacted strongly. A booming voice rung out, “I’ll be goddamned!” Jim Betts, an eighteen-year-old freshman in attendance that day, recalled the voice “was so powerful you could feel the vibration.” Many in the crowd signaled their approval of the outburst in opposition to the mandatory beanie wearing with a roar. Freshman beanies disappeared on the Georgia campus that year.¹ That tradition, along with many others common on American campuses since the latter-years of the Nineteenth Century, would disappear entirely over the next decade. What had been embraced (or endured) as one facet of the adolescent hazing rituals that characterized higher education in the United States before World War II was rejected in an instant at Georgia. Other traditions that sound either quaint or abusive to modern ears fell out of practice for the same reason across the country in the immediate aftermath of the war—veterans attending college in large numbers thanks to the Servicemen’s Readjustment Act of 1944, better known as the GI Bill.²

Not all veterans rejected the hazing on campuses, but enough did that college life was irrevocably changed as a result of their refusal to accept humiliation at the hands of

¹ Stephen Ambrose, *Citizen Soldiers: The U.S. Army from the Normandy Beaches to the Bulge to the Surrender of Germany* (New York: Simon and Schuster, 1998), 477-78.

² Stella Suberman, *The GI Bill Boys: A Memoir* (Knoxville: The University of Tennessee Press, 2012), 209.

“older” students.³ They either ignored the rituals of pre-war campus life or resisted them, sometimes violently, when they were subjected to the more odious of those rituals. Such resistance ended Oberlin College’s tradition of humiliating members of the freshman class by forcing them to dress in bedsheets while subjecting themselves to the mocking of upperclassmen. On the day appointed for the ritual in the Fall of 1946, veteran freshmen showed up in their military-issued fatigue jackets instead of bedsheets. The upperclassmen, who had shown up in anticipation of lording it over their inferiors, “quickly got the point.”⁴ There would be no jeering that day. In March of 1948 at the University of Missouri, when Agriculture School students paddled veteran students for “walking on the grass,” per campus tradition, several hundred ex-GIs stormed the building where the paddles were stored and used them to fuel a bonfire in the once-sacred grass.⁵ A freshman veteran at New York University was caught on a campus walkway traditionally reserved for Juniors and Seniors by a paddle-wielding enforcement committee of juniors, who must have regretted picking on that particular trespasser. He left the juniors “strewn about the violet beds,” in his wake.⁶ In numerous events such as these on campuses across the country, GI Bill students ended traditions that had defined college life for at least two generations of students. Longer-term, they also began the process of changing society’s impression of college students. By the 1960s, the public’s

³ Alvin Kernan, *In Plato’s Cave* (New Haven, CT: Yale University Press, 1999), 11-12.

⁴ Geoffrey Blodgett, “Oberlin and the GI Bill: 40 Years Later,” *Oberlin Alumni Magazine*, Spring 1987.

⁵ Sue Salzer, “Home Fires,” *Mizzou: The Magazine of the MU Alumni Association*, Fall 1995, 31-32

⁶ Sgt. Bill Davidson, “Bill of Rights Education Draws GIs,” *Yank*, February 26, 1945.

image of college students as adolescent pranksters had transformed into an image of politically active youth who were engaged with the issues facing the nation.

The veteran students who attended college in large numbers via the GI Bill were the vanguard of the huge student bodies of the future. In the 1950s and 1960s more and more middle-and-working-class youth would swell enrollments two to three times their pre-war levels. Much like the veteran students of the late 1940s and early 1950s, these new types of students were more focused on getting an education than in perpetuating campus traditions from the era when colleges were almost the exclusive enclave of American social elites. As students became more serious about academics, administrators began to question their *in loco parentis* role. Thirty years after the end of World War II, campus rules and regulations governing students' lives were done away with. The process that began after the Civil War of colleges shifting from the model of classical education to that of practical or occupation-based education, reached its conclusion in the post-war era. Students became true consumers of higher education during the 1950s and 1960s, as a college degree became a prerequisite for entrée into middle-class adulthood in the United States. As an increasing number of Americans enrolled in colleges and took their studies seriously, administrators questioned the necessity and logistics of policing student behavior as the *in loco parentis* regimen required. The ultimate end to *in loco parentis* was coming, but during the 1950s and 1960s colleges and universities began to use that legal regimen much more arbitrarily. Ultimately *in loco parentis* became a tool to keep unwelcome political and social activity off of campus under the guise of anti-Communism and decency. In the meantime, students, including veterans, chafed under

some of the rules but ultimately, they did not actively work to end *in loco parentis* rules and regulations on campus during the 1950s.

Veterans attending college in the decade following the Second World War changed many aspects of campus life, not just the hazing traditions. The GI Bill was responsible for increasing enrollment numbers at nearly every college and university in the United States. In 1950 there were 2.3 million college students, compared to 1.3 million in 1940.⁷ As a result of this immediate influx of students, campuses faced the same housing shortages felt across the nation after the war. School administrators resorted to military-surplus prefabricated buildings provided by the government, quickly-constructed dormitories, and even mobile homes to house students.⁸ GI Bill recipients were provided with a monthly stipend of \$65 (later \$75) in addition to having their tuition paid by the government, and many used this for off-campus housing.⁹ Partly because of their status as veterans, and partly because of the overwhelming amount of work it would have required to oversee them, administrators took a more hands-off approach to these students. The assumption seemed to be that these mostly young men were more mature than the traditional college-aged students, and because of this those students were spared much of the *in loco parentis* oversight that non-veteran students were subject to.¹⁰ A

⁷ United States Housing and Home Finance Agency, "The College Housing Program: The What and Why of Title IV Housing Act of 1950," September 1952, 2.

⁸ United States Director of War Mobilization and Reconversion, "The Veteran and Higher Education: A Report to the President," May 20, 1946, 17-20.

⁹ Kernan, *In Plato's Cave*, 4-5.

¹⁰ In Kernan's memoir *In Plato's Cave*, he discusses his off-campus living quarters while attending Columbia University and the relative freedom he and his veteran peers had relative to non-veteran men, and his descriptions of fraternity life at William's College (p. 28-30) describe behaviors that would not be allowed just a few years later. Suberman in *The GI Bill Boys* describes her experiences as the wife of a GI Bill student and their friends (also married couples), and as at other schools the married ex-GIs were

substantial number of the veteran students were married, some even with children.¹¹ As far as administrators were concerned, veterans were a temporary, one-time phenomenon to be endured until campus life could return to normal.

Academically, the veterans were a welcome addition to campus life. Faculty were impressed with the seriousness and aptitude these students applied to their studies. One reason for this was the fact that the veterans were interested in completing their degrees as quickly as possible.¹² In fact, their focus on academic success was seen by the non-veteran students as a threat to campus life because the veterans did not participate in extra-curricular activities in large numbers.¹³ Alvin Kernan, a GI Bill recipient and future professor of English at Yale and Princeton, reflected in his memoirs that the faculty who taught the veterans “looked on the late forties and early fifties as the golden age of college teaching” because they were serious about their studies.¹⁴ The veterans attending college were indeed a temporary phenomenon, but in their wake came a new generation of students who were no more interested in many of the immature aspects of campus culture than the veterans had been. These middle-class students, particularly in the 1960s, saw their college years as an opportunity to prepare for a career and/or work for social changes to American society. The era of freshman beanies and paddle-lines was coming to an end.

allowed complete autonomy outside of coursework. By the early 1950s, traditionally-aged students were back under *in loco parentis* oversight.

¹¹ “The College Housing Program,” 2-3.

¹² Kernan, *In Plato's Cave*, 18-21.

¹³ Helen Lefkowitz Horowitz, *Campus Life: Undergraduate Cultures from the End of the Eighteenth Century to the Present* (New York: Alfred A. Knopf, 1987), 185.

¹⁴ Kernan, *In Plato's Cave*, 18.

The campus culture of the half-century preceding the Second World War was itself the result of the shift in *in loco parentis* enforcement in the decades following the Civil War. During the early years of American higher education, college presidents and faculty focused on discipline as the college's primary purpose. Academic discipline was learned through a demanding curriculum, and behavioral discipline was learned through a regimen of strict rules and regulations. Since many students entered college at thirteen or fourteen years of age in the late eighteenth and early nineteenth centuries, the reliance upon strict rules is understandable. As the nineteenth century wore on, however, the typical age for entering college rose to eighteen. The number of students enrolling in college also expanded in the years after the Civil War. Much like the post-World War II era, the size and demographics of the typical student body changed dramatically in the last-half of the 1800s. The pages of detailed rules governing student behavior on campus gave way to a less stringent disciplinary regime.¹⁵ Instead of trying to manage a student's every waking hour, rules began to focus more on listing proscribed behaviors. As the curriculum shifted to multiple major areas of study and electives, so too were students granted more freedom on campus to organize their increasing free time. It was during this era that student governments were granted a greater role in establishing and policing rules of behavior on campus.¹⁶

One of the results of allowing students to make campus rules was the codification of hazing rituals and year-based traditions that would persist until the 1950s. Many of

¹⁵ Laurence R. Veysey, *The Emergence of the American University* (Chicago: The University of Chicago Press, 1965), 33; 277-278.

¹⁶ Frederick Rudolph, *The American College and University: A History* (New York: Vintage Books, 1962), 369-372.

these had been practiced for many years, but once student governments began to legislate them and print them in student handbooks, erstwhile campus traditions proliferated in number and grew more intricate in detail. At Washington University in Saint Louis, for instance, the *Freshman Bible*, a handbook for incoming students in the Fall of 1941, lists a number of required and forbidden behaviors for first-year students. The “most important” requirement for first-year men, according to the *Freshman Bible*, is that they must wear their green and red beanie “at all times.”¹⁷ Some of the other rules that applied to both male and female students included a requirement to learn the “Alma Mater” by heart, a prohibition from walking on the grass of the Quadrangle, and mandatory attendance at the annual tug-of-war contest with the sophomore class.¹⁸ Both sexes could be punished on the spot by “upperclassmen” for violating these and other rules. Women students were punished by forbidding them from wearing makeup and/or a requirement to wear black stockings for an unspecified period of time. Males were made to “crawl on hands and knees” between two buildings, be subject to “corporal punishment,” or be referred to the Dean of Men’s Office for punishment.¹⁹ Those rules were made by the students themselves, the punishments were enforced by the students, and existed separate from the administration’s rules required by their *in loco parentis* role. Colleges and universities across the country had similar student-enforced rules/traditions like those at Washington University, creating a fairly uniform campus culture across the United States.

¹⁷ Charles French and Edward Scallet, eds., *Freshman Bible of Washington University vol. 35*, September 1941, 38.

¹⁸ *Freshman Bible of Washington University vol. 35*, 39.

¹⁹ *Freshman Bible of Washington University vol. 35*, 39.

The age of students and the educational philosophy of college administrators have dictated campus rules throughout history. From their founding and through the early nineteenth century, American colleges enrolled students as young as thirteen or fourteen years old, the age associated with a high school freshman in the twenty-first century. In those early years of higher education college presidents and administrators sought to teach students self-discipline through a regime of strict rules governing student behavior, the imposition of an academically challenging standardized curriculum, and the management of nearly every waking hour of a student's day.²⁰ Juvenile antics were common on campuses during the early years of the nineteenth century, most likely from a combination of students' ages and a natural inclination to rebel against an overbearing, monotonous system of rules imposed upon those students. Students fought each other, disrupted public meetings, and snuck out of their dormitories at night in violation of their curfew.²¹ By the late nineteenth century, the standard age of college or university admission was eighteen, student bodies had grown from double to triple-and-more digits in size, and the shift to an elective curriculum was well underway. Students thus found themselves with more free time and fewer rules governing their behavior. Since those students around the turn of the twentieth century were still by-in-large the offspring of more affluent homes and had spent their adolescence under the watchful eyes of their parents, going away to college provided them with their first experience of independence. Their parents were footing the bill for this experience, however, and expected school

²⁰ John R. Thelin, *A History of American Higher Education* (Baltimore: The Johns Hopkins University Press, 2004), 63-67.

²¹ Rudolph, *The American College and University*, 96-98.

administrators to act *in loco parentis* in order to protect their children from their own misbehavior. Although campus rules had loosened, there were still rules in place.

Campus rules that emanated from school administrations during the first-half of the twentieth century reflected the evolution in *in loco parentis* thinking towards college students. Curfews remained in place, but gradually came to apply exclusively to females on a majority of campuses. Males were allowed more freedom to travel off-campus without prior permission, and as long as their behavior did not break the law or embarrass the school, they could do as they pleased. Females did gain more freedom over time during this era, however. As long as they reported to their residence by curfew, their free time became less controlled as the twentieth century progressed. Formal dress codes persisted for females but were liberalized to adhere to the fashions of the day. Modesty and the current cultural ideal of “ladylike” were the guiding principles behind the rules governing women’s wardrobe restrictions. Male students did not have a formal dress code, but photographs taken on campuses during the first three decades of the twentieth century show a fairly uniform style of dress for college men. The slacks, oxford-style shirts and ties, sweaters and jackets that they wore appear to be guided by unwritten cultural rules that dictated what was acceptable dress for a young man during those years. Apart from specific rules imposed by administrators in their *in loco parentis* role, however, campus officials retained the right (and obligation) to intervene in situations where students strayed from what was considered normal social behavior. Although the *in loco parentis* rules were relaxed to coincide with the changes in American society, the legal responsibility of administrators to act in the place of parents to college students remained in place. Deans of students could and did step in and impose penalties for any

behavior they thought inappropriate, and the legal doctrine of *in loco parentis* continued to treat them as the legal equivalent of a parent.²² Apart from the formal rules and regulations imposed by campus administrators during this era, students themselves began to codify and police campus rules and regulations governing student behavior.

Towards the end of the nineteenth century, administrators began to allow students to set up student governments with the stated goal of teaching them about self-government. There was also a practical consideration to this arrangement—students would become responsible for policing student behaviors that school officials no longer had the ability or desire to police.²³ All rules devised by student government were subject to administrative approval, and in many cases were dictated in general terms by administrators, but as time passed student governments gained more real authority. On coeducational campuses, female students had their own governmental body which dealt with rules specific to women. Women students' governing bodies, for instance, generally set the specific details of dress code and curfew rules for female students. Men used student government to implement rules like those at Washington University—beanies for freshmen, where each chronological class was allowed to congregate or smoke, and who was allowed to walk on the grass in certain areas of campus.²⁴ Many of these class-based hazing rules had been practiced for decades, but in the years around the turn of the twentieth century they were codified by student governments. To early twenty-first century Americans these regulations appear childish or adolescent, but these rules reflect

²² Thelin, *A History of American Higher Education*, 217-218.

²³ Rudolph, *The American College and University*, 369-372.

²⁴ Thelin, *A History of American Higher Education*, 161-168.

the perception that society as well as the students themselves held of those enrolled in college. To Americans in the early part of the twentieth century, college students *were* immature.²⁵ It was the responsibility of administrators to reign in the worst aspects of the adolescent behaviors everyone expected from students, while allowing those students space to act out in the childish ways that had come to define campus culture. The rules of behavior instituted by student governments during that era reinforced campus culture, and acclimated new students into the traditional life of each college or university.

These types of student-imposed rules are foreign to modern college students but played an important part in campus life for generations of students. During the *in loco parentis* era when all students were equally considered minors in the eyes of the law by the simple fact that they were college students, a hierarchy of increasing privileges was the “reward” for success. Freshmen were socialized and assimilated into campus culture, while juniors and seniors got to exercise authority over them simply because they were upperclassmen. The campus culture of Clarence Day at Yale in the 1890s was completely changed in the twenty years following World War II, first by ex-servicemen who had no time for adolescent pranks, and finally by a new generation of students concerned with Civil Rights and the threat of nuclear war. These two groups changed the popular perception of college students. Prior to the war, college students were portrayed as immature children of affluence.²⁶ By the mid-1960s, the portrayal of college students had

²⁵ Veysey, *The Emergence of the American University*, 277-278.

²⁶ Veysey, 278; Popular entertainment such as films like *College Scandal* (1935), Works of fiction like *Stover at Yale* (1911) depict the campus fads of the early 20th century as adolescent in nature, often pointless other than to establish social hierarchy.

shifted—they were now shown as more mature, middle-class participants in the political debates of the day.²⁷

The two decades following World War II were also the years in which certain *in loco parentis* rules and regulations became tools for many college and university administrators to use in an effort to silence some students politically. As this new generation of students became more active in the social issues of the day, administrators found themselves under pressure from state governments and the public to censor viewpoints that challenged the status quo. Campuses became Cold War battlegrounds with the advent of loyalty oaths and the purges of homosexual faculty and students. The pressure to conform to cultural norms as reflected in *The Man in the Gray Flannel Suit* and *The Organization Man* was felt in institutions of higher education. *In loco parentis* rules, originally seen as tools to protect students from the possible consequences of bad behavior and instill self-discipline, would become a partisan weapon during the American political debate over the Cold War. This shift in the focus of *in loco parentis* enforcement occurred during the 1950s and early 1960s, after the GI Bill bubble had passed through campuses. The shift was driven by Cold-War Era fears of subversive behavior, which came to be defined as any behavior that did not conform to the conservative social standards of the day.

College and university enrollment grew at an unprecedented rate from 1945 to 1970, changing the demographics of campuses nationwide. In 1946 there were about 1,600,000 students enrolled in higher education in the United States; by 1970, that

²⁷ Movies like *Take Her She's Mine* (1963) and *Guess Who's Coming to Dinner* (1967) both show young people enlightening the older generation in both comedic as well as dramatic ways. By the 1960s, college student involvement in the Civil Rights Movement and antiwar protests led society to take them seriously—even when they disagreed with the students' message.

number had grown to 8,500,000 students. Into the early 1950s a large part of this growth was supplied by the GI Bill veterans of World War II, but the number of traditional college-aged students climbed exponentially throughout the post-war years.²⁸ In 1970 52 percent of all high school graduates attended college, up from less than 20 percent in 1940.²⁹ This growth was not an unexpected development—it was anticipated, encouraged, and planned for by the federal government. In May of 1946, the director of the Office of War Mobilization and Reconversion issued a report on the impact of veteran enrollment in higher education as a result of the GI Bill. In addition to cataloging the stresses colleges and universities would face in the short term from veteran enrollment numbers, the report looked ahead to the decade of the 1950s and the prospect of a larger percentage of high school graduates going on to college.³⁰ The author outlines several federal programs that would contribute to that growth, from housing to financial support. The report also recommended that the federal government, state governments, and the institutions themselves increase the capacity of schools to handle the “shift to mass education” the report predicted.³¹ American colleges and universities followed the advice given in the report and grew in size and scope during the next twenty years.

The new generation of students that entered college during the 1950s not only accounted for larger student bodies, they were also of the generation older Americans

²⁸ *The Veteran and Higher Education*, p. 2; Charles J. Andersen, et al., *1989-90 Fact Book on Higher Education* (New York: Macmillan, 1989) 5-9, 133-145.

²⁹ Jon Savage, *Teenage: The Prehistory of Youth Culture: 1875-1945* (New York: Viking Adult, 2007) 362-365.

³⁰ *The Veteran and Higher Education*, 37-39.

³¹ *The Veteran and Higher Education*, 38-39.

feared was uniquely susceptible to “juvenile delinquency.” The author Jon Savage, in his book *Teenage: The Prehistory of Youth Culture 1875-1945*, discussed how teenagers became a separate category of young people during the Second World War. Advertisers saw them as a consumer market rising in affluence, but many social scientists and government officials feared Americans under eighteen had become especially immoral and violent during the war.³² To many of their critics, familial breakdown, the war itself, and the forms of popular culture consumed by teens, such as movies, music, and comic books, contributed to a rising juvenile delinquency. In the eyes of a number of academics and policy makers, the youth of the nation had become violent, obsessed with sex, and in many cases psychopathic. Warnings from the FBI’s J. Edgar Hoover about the “deadly peril” adolescents posed to the nation, the Senate’s Pepper Committee hearings focused on juvenile delinquency, and psychologist Robert Lindner’s 1944 book, *Rebel Without a Cause: Hypnoanalysis of a Criminal Psychopath*, stereotyped American teens of the era as a threat to society.³³ When they got to college in the late 1940s and early 1950s, this negative assessment of their generation influenced the way school administrators treated them as students. Instead of turning a blind eye to the adolescent behavior on campus as they had before the war, deans of students ramped up the enforcement of *in loco parentis* rules in an effort to keep “delinquency” under control. Behaviors that administrators were willing to overlook when they were done by a few students became out of control incidents of serious rule-breaking when perpetrated by several thousand.

³² Jon Savage, *Teenage: The Prehistory of Youth Culture: 1875-1945* (New York: Viking Adult, 2007) 455, 406.

³³ Savage, *Teenage*, 406-408.

In the years following World War II, a widespread public perception was that juvenile delinquency had reached epidemic levels in America. Physicians, psychiatrists, and eventually the United States Senate laid the blame for this epidemic at the feet of popular culture—specifically the magazines, movies, and radio programs that were marketed to young people.³⁴ Comic books were singled out as particularly bad because they sensationalized crime and sex. Some schools held comic book burning events in an effort to combat their influence.³⁵ There appeared to be a rise in juvenile crime that was inspired by reading comic books. Young people who committed suicide or were caught in violent and/or criminal acts were reported to have been avid consumers of comic books.³⁶ The fears about juvenile delinquency and its causes permeated American society in the late 1940s and 1950s. Academic journals and mass circulation magazines published articles about juvenile delinquency, a film genre developed that explored the topic of juvenile delinquency, and local organizations were founded to combat it. It is difficult to say whether these fears were borne out by crime statistics or if they were an overreaction to a perceived problem, but in the 1950s especially, juvenile delinquency was seen as an epidemic by many Americans.³⁷ Over fifty cities banned or censored comic books, state governments passed legislation regulating their publication, and the Senate twice held hearings into the comic book industry in 1950 and 1954.³⁸ The result of this legal activity

³⁴ Bradford W. Wright, *Comic Book Nation: The Transformation of Youth Culture in America* (Baltimore: The Johns Hopkins University Press, 2001), 86-108, 165.

³⁵ Wright, *Comic Book Nation*, 86.

³⁶ Wright, *Comic Book Nation*, 90.

³⁷ James Gilbert, *A Cycle of Outrage: America's Reaction to the Juvenile Delinquent in the 1950s* (New York: Oxford University Press, 1986) 63-68.

³⁸ Wright, *Comic Book Nation*, 98-104, 165.

and political pressure was that producers of media aimed at juveniles were compelled to censor themselves in order to remain in business.³⁹

Campus humor magazines faced the same type of scrutiny as comic books during the late 1940s and 1950s at the hands of administrators exercising their *in loco parentis* authority. Humor magazines were popular publications on campuses nationwide during the first sixty years of the Twentieth Century. They were such a staple of college culture that although the number of humor magazines had dropped from several hundred in 1940 to 40 during World War II, by November of 1946 the number had risen again to two hundred.⁴⁰ Censorship of campus humor magazines was not a new development, but school officials were quicker to shut down controversial content in the two decades following the war. At the University of Missouri, for example, the January 1939 issue of *Missouri Showme*, the student humor magazine, was titled “What Happened to Margie?” but informally referred to as “The Sex issue.” A story by the editor in that edition said in part:

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.⁴¹

³⁹ Gilbert, *A Cycle of Outrage*, 162-177.

⁴⁰ “Yes, We Are Collegiate,” *Time Magazine*, November 11, 1946

⁴¹ Students of the University of Missouri, *Missouri Showme* (Columbia, MO: Students of the University of MO, January 1939) 4.

Society's view of sex had changed by 1939, and *Showme*'s student editor had noticed. Students boldly put the word "sex" on the cover of the issue, and although the magazine was subject to censure by the administration, there is no evidence that any officials objected to the issue in any way. However, when *Showme* published its new "Sex Issue" in November 1947 there was an immediate outcry by faculty and administrators over the word "sex" on the cover. To modern eyes the 1947 issue is no more "obscene" than the 1939 issue, but to school officials it was beyond the pale. The editor-in-chief of *Showme* was suspended for an issue and *Showme* was told it would be shut down. Officials backed ultimately backed off and allowed *Showme* to continue publishing, but the reaction in 1947 in comparison to the reaction 1939 is telling.⁴²

Humor magazines on every major campus dealt with censorship during the 1950s, and many of them suffered consequences for publishing material that violated some standard of decency. *Showme* staff had to ink over the hand-drawn cartoon cover of the May 1950 issue that contained images of beer bottles, nude drawings of women, and a condom box.⁴³ In the same month of May 1950 the Michigan *Gargoyle* published an issue called "*The Smooth Gargoyle*" which contained several "racy" articles and jokes. The administration withdrew university funding from the magazine and kicked the publication off of campus on May 20.⁴⁴ In October 1950 the Harvard *Lampoon* was fined

⁴² 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>, 9-10.

⁴³ Smith, "Missouri Showme—the Final, FINAL issue," 21.

⁴⁴ "Lack of Taste, and Low Quality of Humor," Bentley Historical Library, University of Michigan, <https://bentley.umich.edu/news-events/news/lack-of-taste-and-low-quality-of-humor>.

\$100 by Middlesex County Superior Court for “selling and distributing obscene pamphlets.”⁴⁵ The *Lampoon*’s crime was republishing cartoons that had already appeared in midwestern college humor magazines. Judge Arthur P. Stone called the issue “filthy, obscene, and licentious.”⁴⁶ The University of Wisconsin’s *Octopus* was suspended for a time in 1954, and the Dean of Students sent a letter to the student censors in 1959, warning them to be careful in their upcoming issue, “Blayboy Parody.”⁴⁷ These are just a few of the many examples of censorship, threats of censorship, and shutting down of campus humor magazines during the 1950s at the same time mass market magazines and books aimed at young people were being scrutinized and censored for similar content. College students were emulating comic books, *Mad Magazine*, and ultimately *Playboy*, to the consternation of campus administrators.

Between the end of World War II and the 1960s, *in loco parentis* policing progressively became more arbitrary. Under the legal regime of *in loco parentis*, school officials had the right as well as the responsibility to set behavioral standards and enforce them, including censoring humor magazines. *In loco parentis* as a legal doctrine was supposed to be a tool used to teach college students—generally living away from their parents for the first time—the proper way to behave in adult society. This mission of civilizing the next generation of America’s elites was supported by students’ parents and by society as a whole. By the late 1940s colleges and universities faced the impossible challenge of managing the rapid growth of their institution and policing a larger student

⁴⁵ “Court Levies \$100 Fine For Lampoon’s Parody,” *The Harvard Crimson*, December 12, 1950.

⁴⁶ “Lampoon Called ‘Obscene’; Voo Doo Editors Jealous,” *The Tech* (MIT), November 3, 1950.

⁴⁷ E. David Cronon, John W. Jenkins, *University of Wisconsin, a History 1945-1971: Renewal to Revolution* (Madison, WI: University of Wisconsin Press, 1999) 425.

body at the same personal level that they had done prior to the war. By the mid-1950s there were so many students on most campuses that it was impossible for deans of men and deans of women to know the students they were responsible for personally. Instead of guiding and correcting students in the place of parents, the officials tasked with that role became impersonal administrators policing rules.

The biggest problem for administrators in acting *in loco parentis* to a large, socioeconomically diverse community was the lack of a universally agreed to standard of acceptable behavior. Before the war, administrators and students were generally from the same social strata. Deans in charge of discipline, much like parents, trusted that they knew what the students in their care thought and how they would act. A certain level of transgressive behavior was winked at, probably nostalgically, as typical college behavior. After the Second World War, not only was it impossible for those deans to know the students personally, there was a cultural divide between administrators and students that created tension between the two groups. The struggle over censorship of campus humor magazines in the late 1940s and 1950s exemplifies this tension. There could be no explicit, easily understood standards for what was acceptable content that both students and school officials understood. What a middle-aged dean of men considered “racy” was out of sync with a generation raised reading *Mad Magazine* and, after 1953 *Playboy*, thought was inappropriate. Even if an individual campus official judged content to be “racy,” there was no universally accepted standard to guide his or her reaction. Should they just shake their head and laugh? Should they give the students a stern talking to? Or should they shut down the publication entirely? All of these outcomes were possible, and all had happened over similar content. Young people had always pushed at the

boundaries of the rules, but in larger student populations, administrators did not have the personal contact necessary to act as a parent. Enforcement of campus rules and regulations became reactionary and subject to the whim of the official on the scene. Harvard *Lampoon*'s student editors were arrested and hauled before the court for republishing content that did not rise to the level of censorship at several other schools. The arbitrary nature of censoring humor magazines created an adversarial relationship between students and administrators. Students, not knowing what any number of officials might take offense to, made a game out of trying to sneak blatantly inappropriate content into the magazines.⁴⁸ Arbitrary rules, arbitrary enforcements, and arbitrary punishments increased as time went on. The purpose of *in loco parentis* transformed from acting as a surrogate parent into a tool for shutting down groups and ideas that more conservative officials opposed.

The rapid growth of college enrollment numbers occurred in the midst of the concern over juvenile delinquency in the 1950s. High school attendance and graduation rates doubled during the Great Depression, partially as a result of federal policy aimed at keeping young people in school and out of the job market. After a drop in high school graduation rates during the Second World War, the graduation rate climbed again in late 1940s.⁴⁹ On the heels of the large enrollments during the GI Bill bubble, colleges and universities welcomed increased enrollment rates of traditional college-aged youth that resulted from more people graduating from high school. College administrators of the

⁴⁸ There are many interviews given by humor magazine editors and writers confirming their attempts to sneak content into the magazines that they knew school officials would disapprove of. The Smith interview about his time at *Showme* in the 1950s goes into the desire to “tweak” the administration.

⁴⁹ Savage, *Teenage*, 393-394.

early 1950s were thus faced with a larger student body made up of more traditional college-aged students immediately after dealing with a mass of older, generally more mature veterans.

The GI bubble had severed the students' institutional memory on campus, so the traditional socialization/hazing rituals that students had used to police their own behavior were no longer in place. Rules for incoming freshman, such as beanies, acceptable dress on and off of campus, and restricting where they were allowed to walk/congregate, had served a purpose—new students were initiated into the campus culture, and older students had an incentive to police them. These informal campus rules had evolved to acclimate an adolescent population of eighteen-year-olds and mature them gradually as their college career progressed. Veterans attending college on the GI Bill were, for the most part, more serious about their studies and more mature because of their ages or wartime experiences. They violently rejected attempts to shame them or control their behavior, and in doing so they ended the student body's ability to introduce new members to campus culture.

The cohort of traditionally aged college students who entered campuses in the early 1950s was not only numerically larger than pre-war cohorts, it also exhibited more disregard for rules than earlier generations. At the same time, administrators and society at large were concerned with the new social pathology of juvenile delinquency. Campus officials viewed the veteran students of the late 1940s as *men* and granted them unprecedented freedom. They viewed the traditional students coming on to campus in the early 1950s as immature *boys* whose behavior could pose an existential threat to the institution if not rigorously controlled. Discipline on American campuses changed in the

early 1950s because of this view. Not only was campus different than it had been during the GI bubble, it was also different than it had been in the 1930s. The panty raid craze that began in the late 1940s/early 1950s exemplifies the changes on the post-war campus, both in size as well as in the behavior of the men and women who participated. Campus officials' responses to those panty raids during and after the GI Bill students' tenure on campus highlight their changed perception of traditional college students.

Panty raids became part of college culture in the two decades following the Second World War. *In loco parentis* rules of the time included curfews for female students, prohibitions against entering the residences of students of the opposite sex, and a requirement for chaperones at public functions where both sexes were present. These rules were in place to prevent sexual contact between male and female students, reducing the school's liability in the case of pregnancy or moral corruption—situations a college or university could be held legally accountable for during the *in loco parentis* era. Panty raids developed in this environment of sexual segregation as a way for students to flaunt campus rules governing interactions between the sexes. Some panty raids included criminal trespass and destructive vandalism on the part of male students as they forced their way into women's dormitories and sorority houses to steal undergarments against the wishes of the females. In many cases, however, the women voluntarily participated in the "raid" by welcoming men into their residences and/or willingly throwing their garments to the males gathered outside. Panty raids persisted well into the 1960s on campuses in the United States, and only died out once the curfews and intervisitation rules were relaxed or done away with in the 1970s.

The Panty Raid was such a ubiquitous part of college culture that even a decade after panty raids ended, movies depicting college life included panty raid scenes. 1984's *Revenge of the Nerds*, set in 1984 but more reflective of campus life in the early-to-mid 1960s, shows the "nerd" fraternity conducting a panty raid on a sorority on campus. One of the two writers of the movie, Jeff Buhai, drew upon his experiences at the University of Missouri in the 1960s in writing the movie.⁵⁰ Although panty raids were a thing of the past by the 1980s, in popular culture the Panty Raid was still considered part of the collegiate experience by those not currently in college. For students in the post-*in loco parentis* era, the Panty Raid is perplexing. It either represents a tradition from a more innocent era, or an expression of patriarchal violence against females.⁵¹ Both interpretations can be correct, depending upon which type of panty raid is referenced. The Panty Raid, whether violent and destructive or done in good fun with the consent of the women being raided, was an artifact of the era of *in loco parentis*. Beginning in the early 1950s, the public generally condemned panty raids, and campus administrators were quick to label the raids as riots and punish the men involved. At the beginning, however, there was a boys-will-be-boys attitude towards the male students who organized and executed them.

The first recorded instance of a panty raid occurred at Augustana College in February 1949 during initiation week for the fraternities on campus. Approximately 250 male students wearing paper bags over their heads entered a female dormitory in the early

⁵⁰ Nicole Aritzmeni, Jeff Buhai Alumni Page, University of Missouri School of Journalism, <https://journalism.missouri.edu/alum/jeff-buhai/>.

⁵¹ Alexander Nazaryan, "The Fraternity No Longer Belongs on the American College Campus," *Newsweek*, February 4, 2015.

morning hours of February 25, and for ten minutes they ransacked the building. They began the raid by sending four four-man squads into the dormitory through heating tunnels. These squads proceeded to cut off the power to the building and disconnect the phone lines, lock the house mother in her room, and then open the doors to the larger group of men waiting outside.⁵² It was reported in the *Chicago Tribune* that they turned over beds, soaked mattresses, emptied out drawers, and threw some women into the showers. At least one woman fought back against the men and hit one of the participants over the head with a chair. The *Tribune* described the male students as “a night prowling squadron,” who “invaded” the dormitory. The story goes on to quote police who called it a “young riot, to be expected,” and reported that “college authorities lamented the prank and mentioned disciplinary action.”⁵³ Despite the military-inspired rhetoric used in the *Tribune*’s report, the story goes on to report that some of the girls were “hysterical,” but others were leaning out of windows yelling “Help! Police! Isn’t this wonderful?”⁵⁴ *Time Magazine*, in more light-hearted terms, described the raid as “stimulated by the approach of spring,” and reported that “the girls seemed delighted.”⁵⁵ Senior Lois Taylor is quoted as saying, “It was more fun than anything else...in fact, we had an inkling they were coming”⁵⁶

⁵² “Students Don Masks; Raid Co-Eds’ Dorm,” *Chicago Daily Tribune*, February 26, 1949.

⁵³ “Students Don Masks; Raid Co-Eds’ Dorm,” *Chicago Daily Tribune*, February 26, 1949.

⁵⁴ “Students Don Masks; Raid Co-Eds’ Dorm,” *Chicago Daily Tribune*, February 26, 1949.

⁵⁵ “Americana: Manners and Morals,” *Time Magazine*, March 7, 1949.

⁵⁶ “Americana: Manners and Morals,” *Time Magazine*, March 7, 1949.

None of the reporting indicates if any or all of the male students were veterans, but their methodical planning and execution indicates some experience in this type of operation. Later panty raids did not include those types of tactics. The military language used in the *Tribune's* report may also be a clue that the men involved were veterans. They are described as an “army” which sent four “squads” into the building first to prepare the way for the “main assault force” waiting outside. The expertise shown by the infiltrating squads in cutting off the power and phone lines may also indicate some experience beyond that of a typical eighteen-year-old college freshman. When the police showed up, retreat was sounded on a trumpet and the men “vanished as quickly as they had come.”⁵⁷ Whether or not any of the men were veterans, the tone of the reporting indicates that this raid was not taken too seriously by the police or the college administration, most likely because of the overall view of veterans as mature and serious about their schoolwork. The dean of men at Augustana is reported at the end of the article to have said this incident should be termed a “prank,” not as “a near riot.”⁵⁸

By the early 1950s, panty raids that included men breaking into women’s residences and acting in a similar fashion *were* described as riots. In some cases, national guard troops were alerted to assist police, and anti-riot measures were taken against the crowds of male students.⁵⁹ The different levels of response may be related to the size of the crowd—by the early 1950s some panty raids were carried out by over a thousand men—but the language used by the press to describe the raids was definitely not light-

⁵⁷ “Students Don Masks; Raid Co-Eds’ Dorm,” *Chicago Daily Tribune*, February 26, 1949.

⁵⁸ “Students Don Masks; Raid Co-Eds’ Dorm,” *Chicago Daily Tribune*, February 26, 1949.

⁵⁹ “2000 Invaders Cheered on by Some University Women, Fought at Girls Schools,” *St. Louis Post-Dispatch*, May 20, 1952.

hearted. Administrators did not downplay the raids as merely pranks, either. Students were expelled and suspended from college for participating in panty raids during the 1950s and 1960s, and some students were made to pay restitution for the damage they did to buildings and personal property.

In the early 1950s, for instance, there were a number of panty raids across the country beginning in the Spring semester of the 1951-52 year and continuing into the following school year. This “epidemic” of “pantie raids” was described by *Time Magazine* as “making the night hideous at 52 different colleges and universities.”⁶⁰ At the University of Washington, a “raiding mob” broke windows to get into a sorority house.⁶¹ At the University of Michigan a large group of men broke into the women’s dormitories and stole “items of lingerie as souvenirs,” despite the women’s attempts to keep them out by locking the doors.⁶² At Penn State on April 8, a crowd of men two-thousand strong gathered outside of the women’s dormitories as the women inside cheered and threw their underwear from the windows.⁶³ On May 19 at the University of Missouri more than two thousand male students broke into dormitories and sorority houses at three campuses in Columbia, doing up to \$20,000 in damage to school and personal property.⁶⁴ At Princeton University in the Spring of 1953, the men raided the women’s dorms at nearby

⁶⁰ “Epidemic: Manners & Morals,” *Time Magazine*, June 2, 1952.

⁶¹ “Epidemic: Manners & Morals,” *Time Magazine*, June 2, 1952.

⁶² *Detroit News*, March 22, 1952

⁶³ Michael Bezilla, *Penn State: An Illustrated History* (State College, PA: Penn State University Press, 1991)

⁶⁴ “MU Will Punish Guilty Raiders, Curators Report,” *St. Louis Post-Dispatch*, May 25, 1952.

Westminster Choir College.⁶⁵ In most of these raids, there were some number of women students who welcomed the male raiders, just as they had done at Augustana College in 1949.⁶⁶ In fact, a “caravan” of automobiles containing “squealing females...invaded” Georgetown University in 1952 bringing the panty raid with them to campus.⁶⁷ Administrators responded quickly and aggressively against men involved during this run of panty raids. Police riot squads were called out, and tear gas was used against some of the raiders.⁶⁸ Students were arrested and expelled at some of the schools—at the University of Missouri, for example, three male students were expelled, eleven were suspended from school, and three were placed on probation for their part in the May raid. Other students remained under investigation at Missouri even after these preliminary punishments were handed out, and the faculty recommended that ninety more students be expelled or suspended in addition to those already punished.⁶⁹ The perception of the Panty Raid had changed by 1952 into one of violence and danger for female students.

Administrators and others began looking for ways to prevent panty raids from occurring. At Washington University, for instance, when women got word that the men had a panty raid planned for the evening of May 21, they took matters into their own hands. Instead of trying to lock themselves into their residences, they threw a party in the gymnasium on campus which they decorated with paper panties. The female students

⁶⁵ “The Rites of Spring,” *Time Magazine*, May 11, 1953.

⁶⁶ “Epidemic: Manners & Morals,” *Time Magazine*, June 2, 1952.

⁶⁷ “Epidemic: Manners & Morals,” *Time Magazine*, June 2, 1952.

⁶⁸ “Epidemic: Manners & Morals,” *Time Magazine*, June 2, 1952.

⁶⁹ “Faculty Group at MU Urges Punishment of 90 Panty Raiders,” *St. Louis Post-Dispatch*, May 28, 1952.

wore their pajamas to the party “to keep the men from feeling cheated,” and they performed a strip-tease of a mannequin on the gym’s balcony for the men. One of the female organizers said they held the party to show how “silly” the panty raid craze was, and that all women had to do to thwart the men was “handle them right.”⁷⁰

Panty raids continued into the 1960s and raiders were punished harshly by administrators. After the riots that accompanied James Meredith’s enrollment at the University of Mississippi in 1962 as the first African-American student at that school, eight students were placed on campus probation for taking part in the violent uprising. The year before, however, three students had been *expelled* from Ole Miss for participating in a panty raid.⁷¹ Campus officials cracked down on students through stricter enforcement of *in loco parentis* rules for behavior that in 1949 was considered a prank. As with the issue of censorship of campus humor magazines, discipline in the wake of a panty raid was arbitrary. The number of students involved had increased since 1949, but the specific behaviors of the raiders—breaking into female residences—had not changed. Even the response of female students remained consistent. In all cases some women welcomed the men, while some fought back against the invaders in self-defense. What had changed, however, was the way American society perceived its young people. Instead of shrugging off panty raids and other adolescent behaviors, administrators and society saw these actions by college students as the result of a change for the worse in young Americans. In the context of the Cold War, this threat was taken seriously by

⁷⁰ “‘All You Have To Do Is Handle Men Right,’ One Of Hostesses Chortles,” *St. Louis Post-Dispatch* May 22, 1952.

⁷¹ “Life on the Campus,” *Time Magazine*, November 9, 1962.

adults—youths in the 1950s constituted a “deadly peril” to the nation, a threat to society.⁷² *In loco parentis* rules and regulations were the tool utilized by campus administrators in an attempt to head off the danger posed by the generation in college during the 1950s. The first warnings about these young people had been sounded in the 1940s over their consumption of “degenerate” comic books and magazines. Their bad behavior, now classified as a plague of juvenile delinquency, was seen as an existential threat to the United States. Intellectuals like Robert Lindner warned society about this threat in academic writings, and popular culture picked up on this theme in movies such as *Rebel Without a Cause* (titled after Lindner’s book) and *Blackboard Jungle*, both of which were released in 1955 to critical acclaim. Both received Academy Award nominations and finished in the top fifteen films of the year in terms of box office success. To college administrators in the 1950s, the Panty Raid was a symptom of the threat posed by their student bodies—students were out of control for no good cause, and campus was on the precipice of becoming the higher education version of a blackboard jungle.

The explicit *in loco parentis* campus rules and regulations remained relatively constant throughout the 1950s, however. By the end of the decade, most of these explicit rules centered on women and the relationship between the sexes. The rules and regulations were remarkably the same at every college and university in the country. Rules enacted by schools under the auspices of *in loco parentis* did cover more than sexual behavior, however. At various times during the *in loco parentis* era, there were regulations that prohibited students from driving motor vehicles while living at school,

⁷² Savage, *Teenage*, 406-408

rules requiring students to clean their room, and rules governing class attendance. These rules mirrored those that students had experienced growing up in their parents' 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 prosecuting attorney. In all of these instances, the rules established by the school were designed to protect students and ensure that their education was not adversely impacted by "poor" choices on their part. Under *in loco parentis*, campus officials were also generally notified if a student got into trouble off campus. If the student received a traffic ticket, the police would notify the administration, generally the dean of students' office, of the citation. If a student passed a bad check to a local business, the business could send the bad check to the school and the administration would deal with the student to make sure the business was paid. As the legal guardians of their students, administrators could become deeply involved in every aspect of a student's life if they determined it was necessary.

It is undeniable, however, that the bulk of explicit *in loco parentis* rules in place at the end of the 1950s were designed to limit the sexual activity of female students. These rules were rooted in the late nineteenth century campus rules, when students' actions were limited in order to "protect" them. By the late 1950s, male students had been given almost unlimited freedom of action when they were not required to be in class,

while female students still were still controlled by curfews and dress codes. As long as *in loco parentis* was the court-enforced legal relationship between college administrators and students, these rules were prudent steps taken to limit the school's exposure to liability. Under *in loco parentis*, administrators could be held liable if a female student became pregnant, for instance, unless they could show they had made a good-faith effort to prevent their daughter from engaging in sexual behavior.

A brief overview of the rules that governed women students on college campuses by the late 1950s make it clear that schools 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 aimed at women, designed to prevent students from having sex with each other.⁷³ As the number of co-educational institutions grew and the number of women on campuses increased, female students successfully integrated into the student body and became an integral part of campus life. Colleges and universities, under *in loco parents*, still had a responsibility to "protect" the young women from male students, however. A number of parietal rules existed to this end in 1960, and it is clear what administrators were attempting to keep students from doing.⁷⁴

To begin with, all students were usually required to live in housing approved by the administration. 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 alcohol and no members of the opposite sex

⁷³ Beth Bailey, *Sex in the Heartland* (Cambridge, MA: Harvard University Press, 1999), 78-79.

⁷⁴ Every campus published and distributed a student guide each year that listed the rules and regulations that governed student behavior. The rules discussed here common to every campus in some way. Rules specific to women students, such as dress codes for on and off campus, also were published each year by the women students' governing body.

in their living quarters. Male students at most schools 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 schools.

Female students, unlike their male counterparts, had a curfew at every college or university in the United States. Rules required them to be in their residence hall, sorority, or off-campus residence by a certain time each evening. Generally, they were allowed to stay out later on the weekends than on school nights. Complying with the curfew, they had to sign in and out of their residences each time they left. A resident adult was responsible for making sure students were abiding by curfew rules. If a woman was going to get home past curfew because of an authorized event or job commitment, they had to get permission from the resident adult ahead of time. For every minute they were late without an allowed excuse, women received a “late minute.” If they accumulated more than a specified number of “late minutes” in any one semester, they received a punishment from a campus official. 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 woman being restricted to her bedroom when not required to be in class, and she was not allowed to have any visitors or any phone calls, unless talking to her parents.

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

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.

The explicit *in loco parentis* rules governing female students would be gradually rolled back during the decade of the 1960s. Through negotiation between women and school officials, dress codes, curfews, and school-approved residences were mostly gone by the end of the 1960s. Colleges and universities became less and less interested in acting *in loco parentis* as the 1950s and 1960s went on, and they were receptive to the students’ requests to scale back these rules as long as their parents were on board with the changes. By the 1960s parents were more inclined to allow their daughters more freedom on campus. In fact, many women found campus life as a college student more restrictive than their life at home during high school in the 1960s. The other explicit rules that governed student life under *in loco parentis* were phased out as well, either through

negotiation or through a unilateral decision by an administration that had no desire to continue acting as a legal guardian. This is the untold story of college students gaining their rights during the 1960s.

What most Americans remember about the 1960s, either personally or culturally, are the dramatic student protests on campuses during that decade. Some of these protests were expressly about Civil Rights or ending the war in Vietnam, but many of them were protests against the arbitrary enforcement of rules on campus. The Free Speech Movement that began at the University of California, Berkeley in 1964 and spread across the country is a prime example of a protest movement against arbitrary rule enforcement.

These changes were for the future, for a new generation of college students who escaped the juvenile delinquent label. School administrators and society at large viewed the generation that entered college in the early 1960s—in contrast to their immediate predecessors—as “good kids.” They were not an existential threat to the nation during a Cold War, they were the harbingers of a brighter, more prosperous future for America. College and university administrators seemed eager to treat this new generation as more mature. They saw them as serious students. Unlike the kids of the 1940s and 1950s who needed strict oversight and control, this new generation of college students was appreciated and listened to by campus authorities. There were violent clashes between students and administrations, but for the most part the students were not interpreted as juvenile delinquents, or rebels without a cause. A great number of people in the country did not agree with their causes, but it was undeniable that this new generation had them.

CHAPTER FIVE

We Are Not Children: The End of *In Loco Parentis*

In May 1961, former president Harry S. Truman was interviewed by David Susskind at the Truman Presidential Library in Independence, Missouri. In that interview, Truman discussed a wide range of topics, from his exercise routine to the threat posed by the Soviet Union. Susskind treated Truman as the elder statesman of American politics and asked his opinion of many aspects of life in the United States in 1961. The first serious question Susskind posed to Truman in the interview is about young people in America. Noting that Truman had been touring the country and speaking to student groups, Susskind asked the former president about his “impression of the youth on the campuses and the high schools.” Truman responded immediately and emphatically, “they’re the finest that there is in the world.” He went on to recount his experiences on the campus lecture circuit, where he had spoken to over a quarter of a million college students and interacted with many of them face-to-face. Truman praised these young people for asking intelligent questions and seeking to inform themselves about the events of the world. He was adamant that he was not worried about the future, because these young people were curious about ways in which they could make a contribution to society. “They’re just the finest people in the world,” Truman declares.¹

In the interview, Truman also addressed the view many in American society held about young people during the 1940s and 1950s—that there was a plague of juvenile delinquency that threatened the future of the country. Susskind did not ask Truman about

¹ David Susskind Interview of Harry Truman, *The David Susskind Show: Give ‘em Hell Harry*, DVD (Sherman Oaks, CA: S’more Entertainment, 2012).

this widely-held belief, but Truman confronted it directly. “They talk about this juvenile delinquency,” he said in a scornful tone, “there isn’t any more in proportion to the population than there was when I grew up, only we couldn’t cover it up, there wasn’t so much reporting as there is now.” When Susskind responds with the question, “there isn’t a despair, or a pessimism?” Truman replies, “not the slightest in the world.” His comments on juvenile delinquency make it sound like he believed the concern about it was overblown to begin with (which it was, as fears about young people generally are), but his positive assertions about American youth in 1961 reflected a growing opinion that the current crop of young people were exceptionally good in comparison to previous generations. Although this was an overreaction in the opposite direction from the fears of juvenile delinquency, the new consensus about these “good kids” would have long-lasting effects on higher education and *in loco parentis* as a legal regime.

It is not a coincidence that this new assessment of American youth took hold in the early 1960s; those were the years in which the earliest cohort of the Baby Boom generation entered college. Although 1946 is popularly accepted as the first birth-year of the Baby Boom generation, a good argument can be made that the generational boundary should be a few years earlier. William Strauss and Neil Howe in their book *Generations* put the first year of the Baby Boom generation at 1943 because those born in that year had more in common experience-wise with Americans born after 1943 than with those born earlier.² If the Vietnam War is used as a benchmark for determining who should be considered a part of the Baby Boom generation, the 1969 draft lottery that included those

² William Strauss & Neil Howe, *Generations: The History of America’s Future, 1584 to 2069* (New York, NY: Quill William Morrow Co., 1991), 299-316.

born on or after January 1, 1944 suggest that year as a good first birth year.³ If large-scale political activism—which became a defining characteristic of Baby Boomers—is used as a benchmark, the Sit-In Movement and the formation of the Student Nonviolent Coordinating Committee (SNCC) in 1960 suggest those born in 1942 have a claim to membership in the Baby Boom generation.⁴ Regardless of the exact boundaries of the Baby Boom generation, however, there was a marked increase in student activism in the early 1960s evidenced by the foundation of campus groups focused on political and social action. For Americans like Truman, political engagement was a big reason that these young people were “good kids,” although as campus protests became more common as the decade went on the “good kid” label would tarnish in the eyes of many. As the 1960s progressed, college students became known for their high-profile political activism—but that activism began early in the decade over an issue that is not as well-known as those that ultimately came to define the sixties on American campuses.

Big issues in the 1960s like the Civil Rights Movement and the Vietnam War became touchstones for those who were college students during that decade, but the lesser-known National Defense Education Act (NDEA), passed in 1958, changed campuses ahead of those popularly-known events. The NDEA provided the funding that would allow Baby Boomers to attend college in higher numbers than any previous generation, and in so doing further increased the demographic diversity of student bodies

³ Exec. Order No. 11497, 3 C.F.R. (1969).

⁴ Clayborne Carson, *In Struggle, SNCC and the Black Awakening of the 1960s* (Cambridge, MA: Harvard University Press, 1981); In 1960 college students began to organize nationwide on the left and on the right. SNCC and YAF were both founded in 1960. There was an explosion of these groups in the wake of 1960: the Student Peace Union (founded in 1959 in Chicago-area high schools, on college campuses in 1960), the Northern Student Movement (1961), Students for a Democratic Society (1962), the Southern Student Organizing Committee (1964), and the National Youth Alliance (1968) to name a few.

beginning in the 1960s. The NDEA was passed in response to the fear of many Americans that the United States was lagging behind the Soviet Union educationally, especially in the hard sciences like mathematics. With the launch and orbit of *Sputnik* in 1957, the federal government acted with the intention of increasing college attendance numbers and guiding students into fields of study where Americans had seemingly fallen behind the Soviets.⁵ The 1958 NDEA greatly increased the involvement of the federal government in higher education by providing scholarships and student loans for particular fields of study, grants to state governments for the purpose of increasing education spending, and by providing money for fellowships for post-graduate work and research in the sciences. The financial effect was immediate: federal spending on education increased over twenty percent between 1959 and 1960, from \$183 million to \$222 million.⁶ Beginning in 1960 the percentage of high school graduates attending college increased, from 45.1 percent in 1960 to 51.8 percent in 1970.⁷ The sheer size of the Baby Boom generation, in conjunction with the increase in attendance, swelled enrollments from 3.2 million students in 1960 to 7.1 million by 1970.⁸

Not only did the NDEA stimulate an increase the number of students in higher education, the Act itself motivated college students to become politically engaged in

⁵ Arther S. Trace, *What Ivan Knows that Johnny Doesn't* (New York: Random House, 1961).

⁶ John Stephan Schwegler, *Academic Freedom and the Disclaimer Affidavit of the National Defense Education Act: The Response of Higher Education*, Dissertation (New York: Teachers College, Columbia University, 1982).

⁷ National Center for Education Statistics, "College Enrollment Rates of High School Graduates, by Race/Ethnicity: 1960-1997," (Washington, D.C.: United States Department of Education, <https://nces.ed.gov/programs/digest/d98/d98t183.asp> (accessed November 11, 2019)).

⁸ Clark Kerr, *Uses of the University: Fifth Edition* (Cambridge, MA: Harvard University Press, 2001), 143.

ways they had not been in the 1950s. The original Act required a beneficiary to sign an affidavit swearing that “he does not believe in, and is not a member of and does not support any organization that believes in or teaches, the overthrow of the United States Government,” and take the following oath: “I do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic.”⁹ Administrators, faculty, and students protested the inclusion of these two provisions from the start, and by 1962 thirty two schools refused NDEA funding including Harvard, Yale, and Princeton even though the act was typical of Cold War legislation aimed at confronting Communism. The NDEA was sold politically as necessary for national defense, but many in academia saw it as a governmental intrusion upon academic freedom and a threat to political liberty. Students liked the opportunities the law afforded them in their academic career, but like administrators and faculty members they feared the precedent the law would set for future federal education legislation. The Baby Boomers, having come of age in the era of McCarthy, blacklists, and the struggle for African-American civil rights, entered college more cautious of governmental power, and more actively engaged politically than previous generations. Amid the protests against the affidavit and the loyalty oath requirements, President Kennedy eliminated them in 1962.¹⁰

⁹ *National Defense Education Act of 1958*, Public Law 85-864, *U.S. Statutes At Large* 72 (1958): 1580-1605.

¹⁰ Brent D. Maher “Divided by Loyalty: The Debate Regarding Loyalty Provisions in the National Defense Education Act of 1958.” *History of Education Quarterly* 56, no. 2 (2016), 301–330.

This newfound political activism of young people and college students contributed to the shift in perception of American youth from rebels without a cause to, in Harry Truman's words, "the finest people in the world." Both sides of the political spectrum, Left and Right, could find reasons for optimism when it came to college students at the beginning of the 1960s. For the Right, the formation of Young Americans for Freedom (YAF) as a campus-based student movement in 1960 provided hope that these good kids of the next generation opposed Communism as much as the older generation of Conservatives. For the Left, student involvement in the Civil Rights Movement and the formation of Students for a Democratic Society (SDS) in 1962 was an encouraging sign that young people would continue working for Progressive reforms. Early in the decade, the Left feared that there was a wave of Conservatism sweeping campuses—David Susskind voiced this concern in his interview with Truman when he asked him if this was indeed true. Truman responded by positing that these students came from the "Conservative class," but that their views were changed by the education they received in college.¹¹ Later in the decade, as if to prove Truman correct, it would be the Right that feared what was happening on campuses in the United States.

Clark Kerr, President of the University of California (1957-1967) and one of the most respected voices in higher education during the last-half of the twentieth century, viewed the upcoming generation with some concern left over from the 1950's fear of conformity in American society but did not see them as an existential threat to the United States. In 1959 while speaking at a discussion about college students led by the

¹¹ David Susskind Interview of Harry Truman, *The David Susskind Show: Give 'em Hell Harry*, DVD (Sherman Oaks, CA: S'more Entertainment, 2012).

Sociologist David Riesman, Kerr suggested that perhaps young people were what was needed in the modern economy:

“Perhaps [college students] aren’t what we ideally would like to see them. They are not independent and individualistic, but they do fit the needs of our emerging industrial society. They are a kind of pre-Organization man. I can just see, having done arbitration in the industrial scene, that the employers will love this generation, that they are not going to press very many grievances, there won’t be much trouble, they are going to do their jobs, they are going to be easy to handle. There aren’t going to be riots. There aren’t going to be revolutions. There aren’t going to be many strikes.”¹²

It must be noted that Kerr was talking about how he saw this generation in their work lives after college, not how they were going to act on campus in the coming years, but it is evident that he was not anticipating a future of social disruptions from these young people. Although he did not give them the full-throated praise that Truman had expressed to Susskind, Kerr was obviously not worried about them in the same way that Americans had been concerned with the previous generation during the 1940s and 1950s. In his view members of this generation were not “rebels without a cause.” In his forecast he did not see them as rebels at all, in fact he believed they would be extremely loyal and conforming. He reiterated this general theme in 1963 in *Uses of the University*, so much so that in later editions of that book he pointed out how wrong he had been in light of the disruptions on campus by the mid-1960s.¹³

¹² *Spotlight on the college student; a discussion by the Problems and Policies Committee of the American Council on Education; led by David Riesman, Philip E. Jacob [and] Nevitt Sanford*. Edited by Margaret L. Habein. American Council on Education. Washington. [c1959], pages 40-41.

¹³ Clark Kerr, *Uses of the University: Fifth Edition* (Cambridge, MA: Harvard University Press, 2001), 96-102.

The positive perception of college students on the part of by the early 1960s contributed to the erosion of *in loco parentis* during that decade, and the final end of *in loco parentis* as a legal doctrine by the courts in the 1970s. Since students were “good kids,” administrators were willing to acquiesce to them in rolling back many *in loco parentis* rules. When students’ political activism lined up with that of the administration and faculty, they were encouraged in their efforts and defended against their critics. Over the decade of the 1960s many campus rules that had been in place for decades were pared back or eliminated entirely. This retreat of *in loco parentis* rules and regulations differed from campus to campus in specifics but was remarkably uniform throughout the country. Women’s curfews were gradually replaced by key privileges, dress codes were eliminated, and mandatory ROTC and physical education were done away with at the behest of students. College students in the early 1960s began to see themselves as adults deserving of more freedom on campus, and inspired by the Civil Rights Movement, they worked to gain that freedom.

Many of the changes that were made to *in loco parentis* rules during the 1960s were made in negotiations initiated by students. Some of the changes were made unilaterally by administrators no longer wanting to be in the *in loco parentis* role. Ultimately, however, for *in loco parentis* to end in higher education the courts had to release colleges and universities from their responsibility as legal guardians of their students. Because students in the 1960s were politically and/or socially active and perceived as “good kids” by both sides of the political spectrum for that activism, the courts did end *in loco parentis* in American higher education through a series of decisions by the mid-1970s.

Beginning in 1866 the courts had consistently ruled that college students were not legal adults, that their rights were not guaranteed by the United States Constitution, and that school administrators had parental authority over them while enrolled in college. Society's view of college students as adolescents in need of strict oversight during the last half of the nineteenth century played a large part in the perpetuation of *in loco parentis* at American colleges and universities. In *Pratt v. Wheaton College* (1866), the Illinois Supreme Court reiterated the long-held understanding 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. Administrators under *in loco parentis* had the same rights as parents or legal guardians in punishing students or enforcing campus rules. Just as parents are not legally required to provide evidence or hold a hearing before punishing their children, administrators could unilaterally hand down punishments ranging from probation to expulsion, and students had no legal right to defend themselves. In 1961, however, a federal court would overturn the ninety-four-year-old *Pratt v. Wheaton College* decision and grant college students due process rights guaranteed to adult citizens in the Constitution.

A series of civil rights related protests by college students in Alabama signified the beginning of the end of *in loco parentis* in American higher education. The African-American Civil Rights Movement inspired student activism on campuses throughout the 1960s, and it is fitting that the first ruling granting rights to college students happened as a result of that movement.¹⁴ On February 25, 1960, twenty-nine students from Alabama

¹⁴ Kenneth J. Heineman, *Put Your Bodies Upon the Wheels: Student Revolt in the 1960s* (Chicago: Ivan R. Dee, 2001), 6.

State College, an historically black school, conducted a sit-in at the segregated lunch grill in the basement of the county courthouse in Montgomery, Alabama. They were denied service at the taxpayer owned and operated establishment because they were black, and in response to the protest the grill was closed. The students, undaunted, continued their protest inside of the restaurant. Police arrived and moved the students out of the grill, although their protest continued in the corridor for an additional hour. The next day, several hundred students attended the perjury trial of a fellow student (unrelated to the events of the previous day) in the courthouse, and after the trial was over the students marched through town on their way back to campus. Two days after the initial sit-in, on the 27th, several hundred students of Alabama State College took part in sit-ins in Montgomery and Tuskegee, Alabama. All of these actions were part of the nationwide Sit-In Movement that had begun in Greensboro, North Carolina, on February 1.

The students were not violent, but by staging sit-ins, they were challenging the racial status quo in the South. Although support for racial segregation was still strong in southern states, nationwide the public sentiment was growing hostile to it. Alabama Governor John Patterson, concerned about the protests, 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 that, “If he were in the president’s position, he would consider expulsion and/or other appropriate disciplinary action.”¹⁵ The rationale for *in loco parentis* authority had always been that students needed moral guidance as part of their education,

¹⁵ *Dixon v. Alabama State Board of Education*, 186 F. Supp 945 (1960).

but the governor's reaction to the protests was not concerned with the moral guidance of students at Alabama State College. Patterson was clearly reacting to the political challenge the sit-ins posed to the racial status quo in Alabama as well as to the larger issue of civil rights for African Americans. Although this was certainly not the first time *in loco parentis* authority had been used to silence political views unpalatable to those in authority, this Civil Rights Era example of *in loco parentis*-as-political tool gave the courts an opportunity to weigh in on the basic rationale that supported *in loco parentis* as a legal regime.

Under the legal precedents that had established *in loco parentis*, the students of Alabama State College 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 from the school. 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. Trenholm did not provide the students with a specific reason for their expulsion, nor did he allow them a hearing in which to defend themselves. In following the directive of Governor Patterson, he was not exercising his *in loco parentis* authority as a concerned guardian of the students in his care, he was acting as an agent of the state to punish them for political activity. His personal views about their expulsion are unknown—it is tempting to speculate that he sided with the students—but his action at the governor's behest was fully within the authority granted to college administrators under *in loco parentis*.

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 Trustees—a 1915 Supreme Court case that upheld the State of Mississippi’s right to regulate students’ lives since attending a public college is a voluntary choice—in their decision, the judges determined that attendance of a publicly funded college or university is not a constitutional right, and that administrators had the authority to discipline students as they saw fit.¹⁶ Under the *in loco parentis* legal regime, which was still fully in place in 1960, this ruling made legal sense. A college or university, acting as the legal guardian of students, held the same rights as parents in disciplining them, which included expelling them from the school without due process. 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, and the court was merely upholding a legal doctrine that had been in place for centuries.

The six students appealed, however, and the United States Court of Appeals for the Fifth Circuit overturned the lower court’s ruling. In a departure from precedent, the court found that students at a public college or university did 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.¹⁷ 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 fifteen years. This initial battle in the fight over *in loco parentis* rules and regulations occurred during the fight for African American civil

¹⁶ *Waugh v. Board of Trustees of University of Mississippi*, 237 U.S. 589 (1915).

¹⁷ *Dixon v. Alabama State Board of Education*, 294 F.2d 150 (2d Cir. 1961).

rights and as attitudes towards racial segregation were changing in the United States. The *Dixon v. Alabama* ruling, although not directly dealing with segregation or civil rights, was nonetheless a product of the Civil Rights Era. Had the students been expelled for legitimate criminal behavior instead of participation in political protest, it is doubtful that the same court would have ruled in their favor.

These six students at Alabama State College were, to a growing number of Americans, some of the “good kids” that Truman was referring to in his interview. Many—if not a majority—of the residents of Alabama certainly did not see them as good kids, but even this disapproval was different in nature to the juvenile delinquency scare of the previous two decades. The students’ expulsion was a political action in the fight over civil rights, not a good faith response to illegal or immature behavior. As political activity by college students increased beyond the Civil Rights Movement over the course of the 1960s, *in loco parentis* authority would be used in attempts to silence unpopular views. Although administrators were willing to negotiate with students over some *in loco parentis* rules, such as dress codes and curfews, they were quick to use *in loco parentis* to shut down political speech they did not like. In the wake of the Civil Rights Movement, however, the courts were growing hostile to this kind of governmental action, and judges were ready to expand constitutional rights to many groups who had been denied those rights historically. College students were one of the many groups of Americans that would be granted constitutional protections during the Civil Rights Era. The fact that a large number of Americans viewed them as Truman did, as “good kids” who were engaging with and trying to better society, was one of the reasons that the courts would rule in their favor over the next decade-and-a-half.

By 1960 the majority of the *in loco parentis* rules on college campuses were in place to reinforce traditional femininity and to limit the opportunity for sexual behavior by women students. There were still rules, regulations, and policies that applied to all students and dealt with the more traditional campus issues—forbidding students from operating motor vehicles, mandatory attendance policies, and administrators punishing students for passing bad checks for instance—but a growing desire to roll back gender-specific rules encouraged students to protest and/or open negotiations with the administration. Dress codes and curfews for women students were two categories of *in loco parentis* rules that prompted both protest and negotiations, and two categories of *in loco parentis* rules that had largely disappeared by 1970 nationwide as a result of protest and negotiations. The success women students had in eliminating dress codes and rolling back curfews was related to the view of that generation as “good kids” who could be trusted with more freedom, but it also had to do with a shift in administrators’ thinking. By the 1960s, campus administrators who were tasked with enforcing *in loco parentis* were ready to get out of the business of parenting students altogether. Those two factors were certainly intertwined—the view of the students as “good kids” led administrators to treat them as mature adults and being treated as mature adults prompted students to act more maturely. This attitude by administrators became so prevalent that even before the courts finally ended *in loco parentis* in the 1970s, schools had gotten rid of many of the rules that put them in the place of parents.

Dress codes for women students were common at colleges and universities in 1960.¹⁸ The rules governing the clothing women were allowed to wear were similar nationwide and stipulated what could be worn both on campus as well as off campus during the school year. Women were required to wear skirts and blouses or sweaters on campus. They were allowed to wear slacks on campus in the winter at most schools, generally when the temperature dropped below freezing. This dress code reinforced traditional femininity; it was not considered proper for women to dress “like a man” in public. The allowed length of the skirt was also generally spelled out in inches above or below the knee, or just with the stipulation that it had to touch the floor when kneeling in order to enforce traditional standards of female modesty. In previous generations these conventions of female dress were nearly universal and did not prompt protests, but by the 1960s traditional standards of dress had changed. Dress codes for women on campus generally ended with a whimper during that decade, but there was pushback against rules females viewed as unreasonable. At the University of Missouri in 1961, a large number of women students did push back against an unreasonable expansion of the dress code.

The dress code found in the 1950 Association of Women Students (AWS) Handbook at the University of Missouri listed two classifications of attire: “school clothing” and “casual clothing.” “School clothing” was 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,

¹⁸ Dress codes for women are present in every student handbook circa 1960 that I have looked at, and all dress code rules were remarkably uniform. A perusal of images from any American college campus from the 1950s shows how uniform college women’s dress was. Dress codes made sure of it.

and shorts. The only places women were permitted to wear casual clothing 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 in allowing shorts to be worn in certain situations, but the university retained the right to determine what constituted appropriate clothing for women whether they were on or off campus.¹⁹ The AWS, the women's self-government organization at Missouri, ostensibly set and enforced the dress code by vote. The fact that all female students were automatically members of AWS and that dress codes were enforced by the Dean of Students' office, however, is evidence that the women did not have the leeway to change the rules on their own. Many female students were adamantly in favor of the dress code at Missouri and other institutions for various reasons, but there is no evidence that the rules were fully debated prior to the 1960s.²⁰ The situation at Missouri and other schools in regard to female dress codes was akin to the apocryphal quote of Henry Ford about the color of the Model T—the women were free to wear whatever they wanted, as long as it conformed to the administrators' definition of appropriate.

A decade later, this dress code for females was still in place at Missouri, and there is no evidence that a perceptible number of women students opposed it. When they were threatened with an arbitrary expansion of the dress code that they considered ridiculous, however, they reacted strongly. In the Fall semester of 1961, the Director of Female Residence Halls, Jan Simmons, appeared in the dining hall of the women's dormitory on

¹⁹ Association of Women Students, *AWS Handbook 1950-51* (Columbia: University of Missouri, 1950), 34.

²⁰ Beth Bailey, *Sex in the Heartland* (Cambridge, MA: Harvard University Press, 1999), 88.

a Sunday morning. She observed female students in line for breakfast wearing curlers, Bermuda shorts, and bathrobes. Despite the fact that no one other than herself and the women residents of the dormitories were allowed in the dining hall, Simmons determined that this was unacceptable dress for young women appearing “in public.” She introduced a new rule, effective immediately, that women must dress in “school clothing” in all public areas of their dormitories at all times.²¹ It is not known if wearing curlers and shorts to breakfast was a longstanding practice or a new development, but Simmons unilaterally declared it inappropriate and ruled that it must stop.

Some female students greeted this new rule with outrage. In 1961, they were undoubtedly used to more casual dress not only when they were in their parents’ home, but even in public places. Nineteen-sixties America was a more casual place in terms of dress than it had been even two decades earlier. These students were not challenging the dress code rules in their entirety, they were opposing expansion of the dress code into the resident-only areas of their dormitory. They planned a protest of these new rules wherein as many women as possible should show up for breakfast on a given day in Bermuda shorts. Someone tipped Simmons off to this plot, and she proceeded to hunt down its organizers, promising punishment for the leaders of the plan to violate her new rules.²² The protest never materialized, and the new rule stood.²³ It does not appear that any students were punished for the intended rebellious act, but in retrospect this was an indication that these “nice kids” were not going to be as “easy to handle,” in the words of

²¹ Editorial, “Last Word on Curlers,” *The Maneater*, September 27, 1961.

²² “University Discovered Plan: Women Cancel Demonstration Against Dress Regulations,” *The Maneater*, October 11, 1961.

²³ “Senators Offer Resolution on Women’s Dress Rules,” *The Maneater*, October 18, 1961.

Clark Kerr, as many were expecting when it came to campus rules they found arbitrary or too restrictive. Later in the decade students would openly disobey rules they considered illegitimate and they seemed to welcome the inevitable clash with administrators. In 1961, however, they were still hesitant to follow the example of the Civil Rights Movement and engage in an act of civil disobedience as innocent as wearing shorts to breakfast. By the middle of the decade, however, the women at Missouri and elsewhere would no longer be subject to dress codes. They would also have more freedom as a result of their efforts to roll back another gender-specific rule on American campuses.

In 1956 Dr. Emily Taylor became the Dean of Women at the University of Kansas. A strong proponent of women's rights, Dean Taylor used her position as advisor to the Associated Women Students (AWS) at Kansas to help women students gain equality and greater educational opportunities. As part of that effort, in 1958 she guided AWS in setting up the Commission on the Status of Women (CSW), an organization that focused on educating women about career and job opportunities available to them and changing the way society viewed women. The first organization of its kind on a college campus, the CSW under Dean Taylor's guidance stressed the new responsibilities these women faced in their lives as they moved away from the traditional role of homemaker and into the professional workforce. According to Dean Taylor, some of those new responsibilities were taking their education seriously and making deliberate decisions about their lives instead of allowing society's expectations to determine their future. In an era where a large percentage of young women saw college primarily as a place to meet a suitable husband, the CSW initially appeared to be fighting a losing battle and Dean Taylor in a 1971 interview spoke about how frustrating those early years were. Her main

frustrations lay with young women who “could not understand the value of opportunities available to them after graduation.”²⁴ Another aspect of her work with AWS and the CSW was the rolling back of *in loco parentis* rules on campus, specifically the curfews that only applied to women students. The argument for eliminating curfews was that curfews were, in essence, infantilizing women. Allowing them to decide when to return home was a key part in the effort to teach these women to take personal responsibility for their own lives.²⁵

In the Fall of 1960, the efforts of AWS and Dean Taylor succeeded in making Kansas the first major university in the United States to grant senior women “key privileges,” and thereby the ability to opt out of the curfew rules. At the start of 1960 the University of Kansas had a curfew on senior women of 11:00 p.m. Sunday through Thursday nights, and 1:00 a.m. Friday and Saturday night. In the upcoming year seniors would have the opportunity to check out a key to their residence, giving them the ability to return home whenever they chose. This was not a blanket lifting of curfews for senior women at Kansas; *In loco parentis* was still the legal regime that defined the relationship between colleges and students. Administrators remained the legal guardians of their students according to *in loco parentis*, so there were liability issues that had to be addressed in giving keys to women. First and foremost, a woman had to get written permission from her parents in order to participate in this “senior privilege plan.” Once she had that written permission, she was then able, during that semester, to check out a key for one night at a time in order to stay out past curfew. In checking out her key, she

²⁴ “The Women’s View from Mount Oread,” *The University Daily Kansan*, May 1971.

²⁵ “Senior Privilege Plan and Stipulations,” *The University Daily Kansan*, Oct 11, 1960

also had to disclose where she was going to be, who she was going to be with, and an approximate time she would return to her residence. If she lost the key or failed to return it by 8:00 a.m., she immediately lost her senior key privilege.²⁶

Although the senior key program did not truly end curfew rules, even for senior women, the seniors themselves were given full control of the plan's implementation and management. The seniors in each residence determined whether their dormitory or sorority would participate and set up their own organizational structure to handle the distribution and collection of keys.²⁷ According to the description of the plan, it does not appear that a woman could be refused a key if she had parental permission, so theoretically she could check one out every night. Despite the fact that curfews remained in effect on campus, even for other senior women, the key privilege plan signified a break in how administrators viewed women students which had been foundational in the establishment of *in loco parentis* rules like curfews. It had been several decades since men had been subject to curfews on college campuses—for years they had been seen by society and by administrators as mature and competent enough to determine when to go home for themselves. The key program at Kansas was the first step in college-aged women's quest for equality with their male counterparts. For the plan to be put into effect, the administration at the University of Kansas had to be persuaded that senior women were mature and responsible enough to handle staying out after curfew. AWS, with the help of Dean Taylor, was successful in convincing the administration they were mature enough to give the plan a try.

²⁶ "Senior Privilege Plan and Stipulations"

²⁷ "Senior Privilege Plan and Stipulations"

For Dean Taylor and the AWS, the senior privilege plan was the first step in granting key privileges to all women students, and ultimately ending curfews for women altogether. Seniors first had key privileges in 1961, and in 1964 the AWS voted at their Rules Convention to eliminate closing hours for senior women. With this rule change, senior women had no curfew beginning in 1965. In 1967 closing hours were eliminated for junior women, and in 1968 they were eliminated for sophomores. In 1969, freshmen women, with permission from their parents, had the choice of living in a residence hall with or without closing hours. In fact, by 1969 there were two co-educational dormitories at the University of Kansas, which would have been unthinkable in 1960. All of the changes to curfew rules at Kansas were the result of Dean Taylor pushing the women of AWS to work for those changes, and her advocating on behalf of the women students to the administration to get curfew rules changed. The Commission on the Status of Women summarized the history of the elimination of curfew rules at Kansas in 1972:

“...changes evolved gradually, through continued dialogue and cooperation between the AWS and the Office of the Dean of Women. The changes occurred as a result of increasing awareness that restrictions which apply only to women are discriminatory and violate any policy of equality.”²⁸

Certainly, the impression of the new generation as “good kids” played a part in the university agreeing to give the key plan a try. The women students at Kansas were able to leverage that goodwill into an opportunity to show that they were as mature as the men on campus, and that *in loco parentis* curfew rules were not only discriminatory, they were

²⁸ “The History of Elimination of Restrictions for Women in Organized Housing at the University of Kansas,” Commission on the Status of Women, University of Kansas, Lawrence, KS, March 1972.

unnecessary. Negotiation between students and the administration worked to roll back *in loco parentis* rules at Kansas over curfews, but sometimes students and administrators were unable to negotiate, and conflict arose between the two.

In October 1964, students in California lived under rules that restricted their freedom to engage in political speech.²⁹ What would come to be known as the Free Speech Movement (FSM) for college students began at the University of California's Berkeley campus as a result. In September of that year, 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.³⁰ 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.³¹ A unique set of circumstances at the Berkeley campus sparked a confrontation between students and administrators that culminated in a mass demonstration on October 1. The conflict was sparked by a "left-wing" political issue, the Civil Rights Movement, but college students from across the political spectrum rallied behind the free speech movement at the Berkeley campus.³² The University Young Republicans and the Young Democrats worked together to set up

²⁹ Nathan M. Pusey, *American Higher Education 1945-1970: A Personal Report* (Cambridge, MA: Harvard University Press, 1978), 146.

³⁰ Max Heirich, *The Beginning: Berkeley, 1964*, (New York: Columbia University Press, 1968, 1970), 60-61.

³¹ Heirich, 24.

³² Rebecca E. Klatch, *A Generation Divided: The New Left, The New Right, And the 1960s* (Berkeley: The University of California Press, 1999), 118-119.

meetings with President Kerr in an effort to reach a compromise.³³ In wider American society, however, the conflict over free speech for college students on campus was divisive. The impression of the Baby Boom generation as “good kids” earlier in the decade faded in the eyes of many Americans, and attitudes about college students divided along political lines. Ronald Reagan, running for governor of California in 1966, used student protesters as a foil for conservative voters saying, “Throw them out. They are spoiled and don’t deserve the education they are getting.”³⁴ As the 1960s went on and campus protests increased this social divide widened. Much like at Alabama State College, *in loco parentis* authority was not exercised at Berkeley in 1964 in order to provide for students’ moral development, it was exercised to suppress unpopular political speech. As college and university administrators proved unwilling to find a compromise that granted all students the freedom to express themselves politically, the courts would be called upon to decide the matter later in the decade.

Before 1958, Sather Gate, the area of contention at Berkeley, had marked the southern entrance of the campus. The sidewalk immediately south of the gate was not university property, and in the 1930s, the area began to be used for political speeches and activity. 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

³³ Warren L. Coats, Jr., written statement on the beginnings of the Free Speech Movement at Berkeley, December 6, 1964, University of California Archives, CU 309, 3:5.

³⁴ 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 5 June 2019).

moved south one block to the intersection of 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 of the wall, was occurring on university property in violation of the law.³⁵ 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.³⁶ After school officials recognized this error in 1964 when tables promoting activism in the Civil Rights Movement set up along with table of other, more traditional student organizations, students were told that they had to cease their political activity in this area. The Free Speech Movement began when students protested this action and demanded free speech rights.³⁷

The willingness on the part of students to confront university administrators directly in an attempt to change school rules spread to campuses across the United States over the next five years. When the students at Berkeley tried to negotiate with the administration, as students had over the issue of curfews at Kansas and other universities, school officials refused to compromise. At the heart of the Free Speech Movement was 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

³⁵ Heirich, 27-29.

³⁶ Heirich, 29.

³⁷ Christopher J. Lucas, *American Higher Education: A History* (New York: St. Martin's Press, 1994), 257-258.

political speech, but they no longer were willing to accept the university's authority over how and where they expressed themselves. They had only just won the constitutional right of due process in 1961, with the federal court decision in *Dixon v. Alabama State Board of Education*. It would take more court rulings before college students would win the rest of their constitutional rights.

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.³⁸ 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.³⁹ 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 in October 1964, 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. 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

³⁸ Heirich, 63-65.

³⁹ David Horowitz, *Radical Son: A Journey Through Our Times*, (New York: The Free Press, 1997), 406.

protest launching the campus Free Speech Movement had begun. Although this incident at Berkeley did not directly end *in loco parentis*, students across the country used the protest at Berkeley as a rallying cry in fighting for freedom of speech on their own campuses.

The experiences in Kansas and California illustrate the dichotomy college students faced in navigating the *in loco parentis* environment in the 1960s. On the one hand, such as in the rolling back of curfews, students were given increasing freedom by administrators who were at least tacitly agreeing that they were more mature than the *in loco parentis* regime assumed. On the other hand, as at Berkeley, they were being implicitly told that they were acting like children by demanding freedom of speech. In an earlier age, this dichotomy would not have arisen. The reason it appeared in the 1960s was because the view that this was a generation of “good kids,” who displayed a refreshing level of maturity. It also appeared because of the changing nature of higher education. The increased enrollments caused by the National Defense Education Act and the demographic changes those increases brought with them, as well as the increased emphasis on scholarship and research by colleges and universities, caused administrators to sour on *in loco parentis*. The change in and elimination of curfew rules in a short period of time with minimal resistance on the part of school officials is an indication of this change of heart towards *in loco parentis* by colleges and universities. By the middle of the 1960s, administrators were openly debating whether *in loco parentis* should be reinterpreted in modern higher education, or whether school officials should even be in the business of parenting students at all.

In March of 1965, the *Journal of College Student Personnel* carried an article by Clarence J. Bakken, an attorney who worked in the Dean of Students office at California State College at Long Beach. The *Journal* was published by the American College Personnel Association, an organization for those that worked directly with students in higher education. Bakken's article, "Student Rights as Seen by a Lawyer-Educator," opened what would become a discussion among administrators about *in loco parentis* as a guiding principle for colleges and universities. Bakken began by criticizing the talk he had been hearing "during the past few years...about the rights of students."⁴⁰ Bakken reiterates the foundational belief that underlaid the doctrine of *in loco parentis*, that "the university is responsible for the health, welfare, morals, and education of its students."⁴¹ Instead of arguing about their rights, Bakken believed students should focus on the responsibilities they had agreed to by voluntarily enrolling in college. He acknowledged that higher education in the United States had changed, but administrators still needed to exercise *in loco parentis* control for the good of their students. The relationship between the administration and students was a contractual one, according to Bakken, that made the school responsible for educating students in a safe, healthy, and morally correct environment. Students, on the other hand, had a responsibility to pay their tuition, obey campus rules, and focus on their studies.⁴² In criticizing the increased talk of student rights instead of student responsibilities, he was essentially calling the students immature

⁴⁰ Clarence J. Bakken, "Student Rights as Seen by a Lawyer-Educator," *The Journal of College Student Personnel* 6 no. 3, (March 1965): 136.

⁴¹ Bakken, "Student Rights as Seen by a Lawyer-Educator," 141.

⁴² Bakken, "Student Rights as Seen by a Lawyer-Educator," 138-144.

at best, albeit in scholarly language. Bakken laid out the arguments in support of *in loco parentis* that were reiterated for the remainder of the decade.

In November, Donald Strickland of Purdue University issued a rebuttal of Bakken's assertion that colleges were *in loco parentis* when it came to the moral development of students. It was the role of the college or university to teach, and the role of the student to learn. In the past, when colleges were small, church-controlled institutions, morality was part of the curriculum, according to Strickland, but now institutions of higher learning were tasked with dispensing professional and technical knowledge. College personnel were highly trained experts in their particular specialty, and not qualified or inclined to dispense moral guidance to their students. Strickland went on to argue that making college administrators responsible for the moral development of students, "would be positively detrimental because it distracts institutions of higher learning from their main purpose and subverts their moral and dignity."⁴³ The relationship between the administration and students was strictly an educational one, according to Strickland, and even if schools did have a right to regulate student morals, it was not sound policy for them to do so in the modern age given the technical nature of education, and the fact that American college students were then generally considered emancipated adults by most people. These were, essentially, the arguments for ending *in loco parentis* that would be used for the remainder of the 1960s. In 1967 another spate of articles appeared on the subject of *in loco parentis* in the *Journal*, that were all critical of the traditional model supported by Bakken in 1965. Bakken makes another appearance in

⁴³ Donald A. Strickland, "In Loco Parentis—Legal Mots and Student Morals," *The Journal of College Student Personnel* 6 no. 6, (November 1965): 339.

the *Journal* that year defending *in loco parentis*, but the other articles argue that that legal standard is no longer useful in higher education, and that colleges and universities should focus on education, not waste time trying to be substitute parents.⁴⁴ The fate of *in loco parentis* would not be resolved by an academic debate, however. A final determination on *in loco parentis* could only be decided by the courts which had established it as a legal doctrine originally, and which had reiterated it in the years following the Civil War. In the coming years the courts would have an opportunity to do that, as students continued to clash with administrators over *in loco parentis* rules that limited their ability to express themselves politically.

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 Students for a Democratic Society to distribute literature and its newspaper, *New Left Notes*, at a table set up in Memorial Union.⁴⁵ Another publication, *Free Press Underground*, had permission to be sold anywhere on campus.⁴⁶ Publications such as these were not truly free to distribute any content they chose on campus, however, as events in February 1969 would show. As the final push for freedom of speech for college students played out, the hypocritical and subjective application of censorship based upon “standards of decency” on campus was exposed. Students refused

⁴⁴ James F. Penney, “Variations on a Theme: *In Loco Parentis*,” *The Journal of College Student Personnel* 8 no. 1, (January 1967): 22; Robert Callis, “Educational Aspects of *In Loco Parentis*,” *The Journal of College Student Personnel* 6 no. 4, (July 1967): 231; Clarence J. Bakken, “Legal Aspects of *In Loco Parentis*,” *The Journal of College Student Personnel* 6 no. 4, (July 1967): 234.

⁴⁵ Betsey Barnette and Marsha Weinstein, “SDS ‘Obscenity’ Provokes Eviction,” *Maneater*, 14 February 1969.

⁴⁶ “Free Press May Be Sold At Any Campus Location,” *Maneater*, 12 April 1967.

to acquiesce to official interpretations of indecency as their predecessors had in earlier years. One student at Missouri would file a lawsuit 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. That ruling would finally declare that college students were adults, and that public college officials must treat them as such.

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. At issue was a headline on page two, "Motherfucker Acquitted."⁴⁷ The SDS members packed up and left.⁴⁸ The next day, SDS members were allowed to return to their booth in Memorial Union and hand out other literature, but not *New Left Notes*. In response to having their newspaper banned from campus, SDS members organized a demonstration at the union on February 13 protesting the action taken against them by the Dean of Students, Jack Matthews.⁴⁹ Because of the "obscene" content they had distributed on campus, six members of the SDS Board received summonses to a meeting with the Student Faculty Committee on Student Organizations, planned for 2:30 p.m. on February 21, for possible discipline.⁵⁰

⁴⁷ Bernette and Weinstein, "SDS 'Obscenity' Provokes Eviction," *Maneater*, 14 February 1969.

⁴⁸ Bob Richardson, "SDS Right in Leaving," *Maneater*, 14 February 1969.

⁴⁹ Bernette and Weinstein, "SDS 'Obscenity' Provokes Eviction," *Maneater*, 14 February 1969.

⁵⁰ "Demonstration Planned," *Maneater*, 21 February 1969.

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.⁵¹ 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."⁵² 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.⁵³

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 term.⁵⁴ 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

⁵¹ Chris Cubbison, "Free Speech Issue Still Unresolved," *Maneater*, 21 February 1969.

⁵² Chris Cubbison, "Free Speech Issue Still Unresolved," *Maneater*, 21 February 1969.

⁵³ Chris Cubbison, "Free Speech Issue Still Unresolved," *Maneater*, 21 February 1969.

⁵⁴ Editorial, "Overreacting to the SDS," *St. Louis Post-Dispatch*, 20 March 1969; "Schwada Veto Shows Hard-Line," *Maneater*, 25 February 1969.

education.⁵⁵ Matthews commented that the “silent majority need to assert ethical standards,” and people should “never encourage the disruptions of campus militants.”⁵⁶ He even lamented, “[I] never thought I would see the day when I would welcome a good old fashioned panty raid.”⁵⁷

Government officials in Missouri responded negatively to student free-speech activists. Governor Warren Hearnes recommended the expulsion of “disrupters” on campus.⁵⁸ 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.”⁵⁹ State Senator Richard Southern proposed that the Missouri Legislature censure SDS activity on campus, and expressed opposition to the free speech demonstrations while supporting the administration.⁶⁰

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

⁵⁵ “Speech Freedom Excludes Filth,” Dr. Weaver Says,” *Maneater*, 25 February 1969.

⁵⁶ “Deans ‘Ideals’ Bring Free Press Action,” *Maneater*, 4 March 1969.

⁵⁷ “Deans ‘Ideals’ Bring Free Press Action,” *Maneater*, 4 March 1969.

⁵⁸ “Hearnes: Disrupters Should Be Expelled,” *Maneater*, 21 February 1969.

⁵⁹ “Bill Asks House to Investigate Student Dissent,” *Maneater*, 21 February 1969.

⁶⁰ Stan Stevens, “Legislature May Censure SDS Activity,” *Maneater*, 4 March 1969.

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."⁶¹ 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."⁶² A mother of a student at Missouri wrote him, saying, "I was furious to find that no action would be taken to prevent the distribution of pink literature by the SDS." 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." The outpouring of support undoubtedly stiffened Matthews' resolve to continue the fight against "obscene" speech on campus.

At the same time as the events at the University of Missouri were unfolding, the United States Supreme Court ruled on a case that had been winding its way through the

⁶¹ 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.

⁶² 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.

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.⁶³ On appeal, the United States Court of Appeals for the Eighth Circuit upheld the lower court's verdict.⁶⁴ 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.

The United States Supreme Court reversed the lower courts in 1969, extending free speech rights to students when it came to political speech.⁶⁵ 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

⁶³ *Tinker v. Des Moines Independent Community School District*, 258 F. Supp 971 (1966).

⁶⁴ *Tinker v. Des Moines Independent Community School District*, 383 F.2d 988 (2d Cir. 1967).

⁶⁵ *Tinker v. Des Moines Independent Community School District*, 89 S. Ct. 733 (1969).

making; the rules could not violate the constitutional right to freedom of political 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 adulthood 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.⁶⁶ The president of the college, F. Don James, rejected the students' application. President James denied recognition for the reason that SDS's philosophy was "antithetical to the school's policies."⁶⁷ 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.⁶⁸ On appeal, the United States Court of Appeals for the Second District affirmed the lower court's decision.⁶⁹ The courts' rulings were consistent with the doctrine of in loco parentis, but the Supreme Court would have the final say.

⁶⁶ *Healy v. James*, 445 F. 2d 1122 (2d Cir. 1971).

⁶⁷ *Healy v. James*, 92 S. Ct. 2338 (1972).

⁶⁸ *Healy v. James*, 319 F. Supp 113 (1969).

⁶⁹ *Healy v. James*, 445 F. 2d 1122, 1122.

The Supreme Court heard arguments on *Healy v. James* in March 1972 and issued its decision in favor of the students on June 26, 1972.⁷⁰ 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.”⁷¹

Students' constitutional rights to freedom of political 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 students' activities and organizations were over.

The *Papish* case from the University of Missouri, which had worked its way up to the supreme court over three years, settled the fate of *in loco parentis* 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.”⁷²

⁷⁰ *Healy v. James*, 92 S. Ct. 2338, 2338.

⁷¹ *Healy v. James*, 92 S. Ct. 2338, 2338.

⁷² *Papish v. Board of Curators*, 93 S. Ct. 1197 (1973).

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.

By the late 1970s, colleges and universities finally eliminated all of their rules established under the *in loco parentis* legal regime. The modern university that American college students are familiar with today had come into existence. *In loco parentis*, which had evolved from English Common Law tradition in the American Colonies and was reiterated in the United States by court rulings beginning in 1866, had been unraveled by court rulings in the 1960s and 1970s. College students were now recognized as adults with constitutional rights that no public institution of higher learning could infringe upon. The history of college administrators legally 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. The legal regime of *in loco parentis*, a product of 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 decision, and the United States Court of Appeals for the Third Circuit reversed the lower court's ruling against the school. In the opinion,

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

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.

The idea that college students were adults in the eyes of the courts and society, and that school administrators had no responsibility to protect them represented a dramatic break from over three hundred years of tradition and legal practice in colonial America and the United States. The *Bradshaw* ruling in 1979 would not have happened as recently as 1965, fewer than fifteen years earlier. From the foundation of Harvard in 1636, society and the courts assumed that students were not adults and that school officials acted in the place of their parents as legal guardians. The relationship between college and student had been defined since at least the Middle Ages by the same legal regime that governed the relationship between master and apprentice, or master and servant. College presidents, acting as surrogate parents, had a responsibility to protect students from harm and provide moral guidance. If they failed in this responsibility, a student's natural parents or legal guardian could hold those officials accountable in court for their failure. In order to carry out this grave responsibility, the legal system granted

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

administrators a great deal of power over students, such as the power to punish them for any violation of school rules designed to protect them without any guarantee of due process. A college education was a privilege, and students had no expectation that they would be treated as an independent adult while enrolled.

The *in loco parentis* role played by school officials did not end with regulating student behavior and administering discipline. Colleges in the early years of American higher education also viewed their educational responsibility through that same lens. A college, in the eyes of administrators, was meant to train young men to be responsible adults immersed in Western European Civilization. In order to provide such an education, administrators imposed a rigid curriculum, remarkably similar from institution to institution, that all students were required to follow. The standard educational philosophy of pre-Civil War colleges was that hard work—and a lot of it—not only increased students' knowledge, it also instilled them with the mental discipline American society prized. To this end, instructors gave students hours of reading and work to do each day, made them read and memorize ancient Greek and Latin texts, and gave them weekly oral exams to test their recall of the subjects studied. Administrators saw students as unruly and immature, and considered it their duty to teach those students self-control while they worked to mature them morally and intellectually. The idea that a college student was an adult with protected rights would have been alien to administrators and society at large in the colonial era and antebellum America.

After the Civil War, as colleges grew in size and as their educational mission expanded, schools gradually decoupled their educational philosophy from *in loco parentis*. Industrial America required a growing number of specialists in a wide variety of

fields, and college curricula evolved to meet that need. The emphasis of teaching shifted from self-discipline to practical knowledge in one of many specific fields of study.

Another development of these years was the widespread adoption of the university model in higher education. If schools were to turn out trained professionals in specific fields, colleges had to become universities comprised of several different schools, each devoted to a single discipline. Training doctors, lawyers, and engineers required practical teaching and application of skills, not just memorization and rote recitation of information.

Although many older administrators resisted this change in higher education, the realities of a changing economy drove the transformation towards elective curricula and major fields of study. In adopting electives and majors, school administrators were admitting—or at least acquiescing to—the idea that students were mature enough to plan their own educational path. Once administrators saw students as capable of making these kinds of decisions, the reasoning behind *in loco parentis* when it came to educational philosophy no longer made any sense. By the first decades of the twentieth century, higher education had changed dramatically in the United States, and so had the understanding of schools' *in loco parentis* role in their students' lives.

Along with the changing educational role of colleges and universities during the last-half of the nineteenth century came another change in higher education—the increasing number of women enrolling in colleges and the growing number of coeducational institutions nationwide. Women students at formerly male-only schools presented new challenges for college and university officials. The initial concern was for the women's safety in the first years they were on campus, and new rules kept them segregated from the potentially dangerous men. Once it became clear that the men were

not going to physically assault women students, campus rules everywhere quickly settled into a regime of separate rules for males and females. The restrictive rules governing male behavior loosened during the late-nineteenth and early-twentieth century, but those restrictions remained in place for females. On most campuses, women continued to have nightly curfews and tight controls restricting their movements off campus. When women did receive permission to travel off campus, which typically required written parental permission, they had to be supervised by an approved adult to keep them from misbehaving. In situations where men and women would be in contact socially during extra-curricular activities, campus rules mandated the presence of adult chaperones to discourage unwanted sexual contact. Men, on the other hand, did not typically have curfews or restrictions against off-campus travel by the 1920s. College administrators assumed they could/would take care of themselves, which was in line with the new view of masculinity in the early twentieth century. Males were still subject to many campus rules and still subject to punishment without the formalities of due process, but officials and society no longer saw them as the completely immature students of previous generations. These official campus rules that were in place by the 1930s would remain in effect until the 1960s and the start of the dismantling of *in loco parentis*.

By World War II, in addition to the official campus rules that constituted the *in loco parentis* regime, college students had codified rules designed to perpetuate each campus's unique culture that had grown up in the previous decades. These rules singled out first-year students in particular and required certain behaviors from them, such as the wearing of beanies or restrictions on where they could walk or congregate. Punishments for violating these rules varied from physical paddling to public humiliation, which older

students administered. Although these “campus culture” rules and punishments were the work of the students themselves, administrators allowed them and would help enforce them in many cases. The reason school officials allowed this type of hazing behavior was because they saw it as a safe outlet for any juvenile impulse students may have. Having students themselves police first-year students in the name of campus culture also freed administrators from having to police some types of behaviors—if older students were keeping freshmen under their thumb and deferential it would cut down on other, less desirable juvenile behaviors.

Following the Second World War, the influx of GI Bill-funded veterans into higher education ended the student-authored campus rules regime. Many of these veterans were older than traditional first-year college students, and for a variety of reasons were uninterested in participating in the campus hazing traditions of the pre-war era. The military had served to mature them by giving them responsibilities the average college-aged American did not have, and, especially for combat veterans, a lack of patience with superfluous rules that they saw as unnecessary distractions from their goal of a college degree. The fact that many of them were married, some with children, also contributed to their rejection of the juvenile behavior reflected in pre-war campus culture. Either by ignoring these rules or by physically assaulting students trying to enforce them, the GI Bill students very quickly altered campus culture. College students continued to engage in juvenile behaviors, but the highly structured campus culture with its elaborate hazing rituals ended in the late 1940s. By the mid-1950s, the GI Bill bubble had finished passing through the higher education pipeline, and *in loco parentis* entered its final years in American colleges and universities.

By the late 1960s, students had become increasingly radicalized against *in loco parentis* rules and regulations, and the courts sided with them against university administrators. Students had gained the constitutional right to Due Process in the 1961 *Dixon* court ruling, and the right to free political speech in the 1969 *Tinker* decision. The case that would determine their right to organize political groups on campus, *Healy v. James*, was moving through the courts at the end of the decade. The landmark *Papish v. Board of Curators*, which arose from the expulsion of a graduate student for distributing “obscene” literature at the University of Missouri in 1969, would ultimately deny university administrators the right to determine obscenity rules for their campuses. The end result of these court cases, combined with the growing reluctance on the part of school officials to police other aspects of student behavior, was the demise of *in loco parentis* in higher education. The recognition of students as legal adults with constitutionally protected rights did not end conflict on campuses, however.

Since the mid-1970s, college administrators, students, and judges have been working out the post-*in loco parentis* relationship between students and school officials. The end of *in loco parentis* has not resulted in the end of conflicts between students and campus administrators. The courts and state legislatures have had to intervene in those conflicts as part of the process of figuring out that new relationship. In the wake of the *in loco parentis* era, colleges have put rules in place that restrict speech on campus through speech codes. They have also tried to limit or restrict student membership in some organizations that operate on campus but operate independent of administrative control. Schools have continued to expel students for disciplinary reasons. School officials have argued that these actions are necessary in order to preserve a campus environment that is

conducive to their educational mission, while students have argued that in some cases these actions violate their constitutional rights as adults. The ending of *in loco parentis*, in other words, means that conflicting claims to rights in higher education are now subject to the same process of adjudication as conflicts in other areas of American society. Students and administrators have been equal claimants in this process since the end of *in loco parentis*. For publicly funded schools, the courts have stepped in in order to mediate disputes and establish legal precedents that will govern the student/school relationship going forward.

Public colleges and universities put speech codes in place in the post-*in loco parentis* era in an effort to protect the educational environment on campuses. 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 college campus, which thrives on a peaceful exchange of ideas. In some cases, however, students have successfully challenged the last two types of rules as unconstitutional.⁴ During the *in loco parentis* era, administrators had

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

⁴ Federal courts have ruled consistently since the 1980s that prohibitions against offensive or harassing speech on campus are violations of the first amendment. See *Doe v. University of Michigan*, 721 F. Supp. 852 (E.D. Mich. 1989), *UWM Post v. Board of Regents of University of Wisconsin*, 774 F. Supp. 1163 (E.D. Wis. 1991), *Dambrot v. Central Michigan University*, 55 F. 3d 1177 (3d Cir. 1995), and *DeJohn v. Temple University*, 537 F. 3d 301 (3d Cir. 2008).

absolute authority to police student speech according to any standard they deemed appropriate. Now, the right of a college to police campus speech in an attempt to preserve an atmosphere conducive to learning must be weighed against students' first amendment rights.

Public institutions have also refused to officially recognize religion-based student organizations that violated campus rules against exclusionary policies and have refused to provide student funding to religious student organizations on the ground that funding would violate the Establishment Clause of the First Amendment. School officials issued these types of administrative decisions in a good-faith effort to adhere to their constitutional limitations as it related to constitutional prohibitions against the establishment of a religion by government actions. Students affected by these prohibitions successfully sued on the grounds that these decisions violated their constitutional right of freedom of assembly.⁵ Under the *in loco parentis* legal regime, school officials had the right to deny any organization official recognition or funding for any reason, but now that *in loco parentis* no longer governed higher education the courts needed to clarify administrators' authority when it came to student organizations.

Administrators at publicly funded universities continue to utilize expulsion as a disciplinary tool when dealing with students who have engaged in particularly egregious behavior. In a large number of cases expulsion is the result of accusations of sexual assault, and administrators understandably defend their decision to kick a student off of campus as a student safety issue. In the wake of the clear ruling in *Dixon v. Alabama*

⁵ See the Supreme Court rulings in *Rosenberger v. University of Virginia*, 515 U.S. 819 (1995) and *Christian Legal Society v. Martinez*, 561 U.S. 661 (2010).

State Board of Education in 1960 and students' right to due process, school officials have issued written policies and procedures to govern disciplinary actions taken at the school. In the *in loco parentis* era administrators had the same authority as a parent when it came to discipline, and students did not have any due process protections. Since the courts have struck down *in loco parentis*, however, some students have successfully challenged their expulsions on due process grounds.⁶ Federal courts continue to require colleges and universities to abide by their own published due process policies, and to make sure that those policies adhere to recognized standards of due process such as the right of the accused to cross examine their accuser.

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 on the part of students is necessary to ensure their rights, but this state of affairs on campus is similar to that of American society in general. The legal system considers college students of today as adults with constitutional rights, and since the mid-1970s the courts have continued to recognize students' rights in conflicts with administrators. Those conflicts will continue, just as they do in every other area of life in the United States, but since the end of the *in loco parentis* era college students have had equal standing to school officials in the courts. College students are no longer minors in the eyes of the law who require parental oversight by

⁶ For the most recent federal court rulings on due process, see the Foundation for Individual Rights in Education's "Campus Due Process Litigation Tracker," <https://www.thefire.org/research/campus-due-process-litigation-tracker/> (accessed 12 January 2020).

schools officials acting *in loco parentis*, they are considered adults that are capable of governing their own lives.

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