change" in the climate of opinion regarding use of alcohol. Since the report was released, there has been some criticism of the Commission for alleged encouragement of drinking by children. A reading of the report makes such criticism seem unwarranted. What the Commission says is that "the age limit of 21 is currently largely unenforceable"; it notes that over 75 percent of high school students say they have drunk alcoholic beverages more than once during their high school years, and a third state that they drink with some regularity. The Commission argued that a minimum age of 18 for public drinking might be adopted. The report also notes that alcoholism is much less prevalent in individuals from families in which children are exposed to alcohol early in structured situations, where such beverages are consumed mainly with meals, and where distinctions are made between safe and impermissible drinking. This pattern is much more common in a Jewish or Italian-American home than in a Protestant or Irish-American one, the Commission said.

Another attitude change which the Commission advocates is that "Tolerance for abstaining should be increased, with complete social acceptance of those who choose to abstain or drink very little."

### Role of A.A.

The report declares that, even though Alcoholics Anonymous groups have been a great help to many problem drinkers, many others have found it impossible to accept assistance from A.A. The Commission also reported that the existence of A.A. was used at times to justify the absence of professionally directed services for alcoholics. The Commission explored many aspects of alcoholism and concluded that "careful, thoughtful, and well-informed action by the Federal Government is probably the single most important step in creating a better climate for dealing with alcohol problems."

Since completion of the bulk of the Commission's study, the federal government has begun to move more rapidly to control alcoholism. The federal pamphlet *Alcohol and Alcoholism* concludes, "The first big step has been taken."

This Administration has made progress in dealing with alcoholism, but one can hardly argue that it has taken a giant step when one considers that only $6 million has been allotted for an Alcoholism Center to help cope with a problem that affects millions of Americans. One of the members of the advisory council to NIMH said in an interview that an effective program for alcoholism should receive at least ten times the funds it has now. "The goal is to bring alcoholism under the total umbrella of medicine," he said; "The word is there, now we need the deed."

—BRYCE NELSON

# Academic Freedom: Judges Support Student Rights

*By voluntarily entering the university, [the student] necessarily surrenders very many of his individual rights. How his time shall be occupied; what his habits shall be; his general deportment; that he shall not visit certain places; his hours of study and recreation—in all these matters, and many others, he must yield obedience to those, who for the time being, are his masters.*—From an 1891 decision of the Illinois Supreme Court.

Although the paternalistic and authoritarian views expressed above scarcely reflect present-day life on most campuses, the Illinois Court set forth a legal viewpoint which has not yet been clearly repudiated. In fact, even today, when accepted concepts of civil liberties are vastly more liberal than those of just a generation ago, a comprehensive and explicit modern theory of the rights of students in their relations with campus authorities is yet to emerge. Indeed, the opinions handed down recently by federal district judges in two state college cases in Alabama and South Carolina, are believed to be among the first court rulings to strike down certain campus regulations as contrary to the First Amendment guarantees of freedom of speech, press, and assembly. An earlier landmark ruling upholding student rights turned on issues of procedure and due process.

In the view of legal scholars such as William W. Van Alstyne of Duke University Law School, an authority on academic freedom and the law, there is no doubt whatever that academic freedom for students is protected by the Constitution. The fact that constitutional principles are now being applied directly on behalf of student freedoms is considered a significant step forward, however.

Van Alstyne is convinced, moreover, that in time the courts will extend constitutional protection of student academic freedom to many private as well as public institutions. The vast majority of private colleges and universities are now receiving federal support, and some of the most prestigious get more money from Washington than from any other source. Noting this, Van Alstyne believes that private institutions are opening themselves to court actions brought under the 14th Amendment, which assures all persons privileges of due process and equal protection of the laws.

However, this very question is at issue in a current case involving Howard University, a predominantly Negro school in Washington, D.C. Although Howard was chartered by Congress as a private university, it is supported largely from congressional appropriations. Two federal appeals court judges, overriding the opinion of a district judge, have ordered at least temporary relief for some students who claim their suspension from the university violates the 14th Amendment guarantee of due process.

Whatever the ultimate outcome of the specific cases discussed here, it seems clear that a body of case law is developing which may reinforce current attempts by the American Association of University Professors, the National Student Association, the Association of American Colleges, and other groups to win general acceptance for a newly drafted declaration of student rights (*Science*, 4 August). The two recent

cases in which First Amendment rights were successfully invoked arose at Troy State College, a predominantly white college at Troy, Alabama, and at South Carolina State College, a predominantly Negro institution at Orangeburg.

The Troy case involved the censorship of the *Tropolitan*, the student newspaper. Gary Clinton Dickey, editor of the paper, defied the college authorities last spring when he was refused permission to publish a mildly worded editorial he had written defending Frank Rose, president of the University of Alabama. At the time, Rose was under attack by some state legislators for his refusal to censor a student publication. Ralph W. Adams, president of Troy, took the position that the school paper should never criticize the legislature or the governor of Alabama. This so-called "Adams Rule" was, according to Adams, based on the theory that, since the governor and legislature represent the state, the owner of the college, they were immune to criticism.

Dickey's faculty adviser suggested that, in lieu of the editorial defending Rose, he publish one on "Raising Dogs in North Carolina." Dickey, however, had a different and more provocative idea. He had the newspaper printed with the space that was to have carried the editorial left blank except for the title, "A Lament for Dr. Rose," and the word "CENSORED" printed diagonally across the vacant space.

This act of insubordination led the college to refuse Dickey admission to the fall term. Upon Dickey's complaint, Federal District Judge Frank M. Johnson, Jr., ruled that, by refusing to readmit Dickey without granting him a hearing, the college had violated the constitutional guarantee of due process. Here the court was breaking no new ground, for the principle of due process already had been applied in *Dixon* v. *Alabama State Board of Education*, a 1961 case (decided by the 5th Circuit Court of Appeals) which involved the expulsion of students from a state college for ignoring the warning of college authorities against taking part in lunch-counter sit-ins.

Judge Johnson was soon to pass from the procedural to the substantive issues in the Dickey case. The college, complying with the court's ruling, gave Dickey a full hearing before its Student Affairs Committee on a charge of "insubordination," but then again suspended him for the 1967–68 school year. Johnson promptly ordered the suspension lifted. He noted that the First Amendment right of freedom of speech is protected under the Fourteenth Amendment against infringement by state officials.

"A state cannot force a college student to forfeit his constitutionally protected right of freedom of expression as a condition to his attending a state-supported institution," he said. College officials may impose whatever rules are necessary for an orderly and effective program of learning, but those rules, Johnson emphasized, *must be reasonable*. It is clear, he indicated, that the rule invoked against Dickey had nothing to do with the school's educational objectives. Accordingly, he ordered Dickey immediately reinstated.

The South Carolina State College case arose out of a demonstration last February by students protesting certain campus rules, such as the requirement that all students attend Sunday vesper services and the rules restricting the freedom of co-eds. Three of the demonstrators, singled out as leaders, were summoned to appear before the faculty discipline committee on a charge of violating a Student Handbook regulation forbidding celebrations, parades, or demonstrations without the prior approval of the office of the president. They were reminded that in March of 1960 (shortly after the start of the wave of student sit-ins that swept the South) the college's board of trustees had gone on record as disapproving demonstrations that violate laws or disrupt the normal college routine.

After the discipline committee hearing, the students first were notified that they were being suspended for 3½ years, after which their readmission would depend on the committee's unanimous approval. Later they were told that they might reapply for the fall term. The students brought suit, however, and Federal District Judge Robert W. Hemphill ordered that the college be permanently enjoined from enforcing the discipline committee's decision against them.

"The power of the president to oversee, to rule, is an integral part of the mechanism for providing and promoting education at State College," Judge Hemphill said. "Be that as it may, colleges, like all other institutions, are subject to the Constitution. Academic progress and academic freedom demand their share of constitutional protection. Here we find a clash between the rules of the school and the First Amendment to the Constitution of the United States."

Hemphill said that the rule the students ran afoul of was "on its face a prior restraint on the right to freedom of speech and the right to assemble." "The rule," he said, "does not purport to prohibit assemblies which have qualities that are unacceptable to responsible standards of conduct: it prohibits 'parades, celebrations, and demonstations' without prior approval, without any regard to limiting its proscription to assemblies involving misconduct or disruption of government activities or nonpeaceable gatherings."

The judge rejected arguments to the effect that a college campus, as a place of learning, is no more a proper place for demonstrations than is a hospital or the entrance to a jail. The Supreme Court has recognized, he said, that assembling at the site of government for peaceful expression of grievances constitutes exercise of First Amendment rights in their pristine form. "I am not persuaded that the campus of a state college is not similarly available for the same purposes for its students," Hemphill said.

South Carolina State College, now under new leadership, is liberalizing its campus rules, and it has not appealed Judge Hemphill's ruling. However, Troy State College and the Alabama State Board of Education are appealing the decision in the Dickey case. There is the possibility, therefore, that ultimately Judge Johnson's ruling against the college's censorship of the student editor's criticism of state officials will receive the sanction of higher courts, the decision's reach thus being extended.

The alleged violation of due process by Howard University grew out of some campus disorders, which in one instance involved the disruption of a speech by Lt. Gen. Lewis B. Hershey, head of the Selective Service system. Following an investigation of these incidents, the university notified several students that they would not be readmitted in the fall.

The students complained that they were not accorded their constitutional right to receive notice of charges and a hearing. Although District Judge Alexander Holtzoff decided against them, they have been reinstated for the current academic year by order of the Court of Appeals pending its disposal of the case.

Judge Holtzoff held that, whatever the merits of the 5th Circuit Court's ruling in *Dixon* (the 5th Circuit Court's

jurisdiction embraces the Deep South, and its rulings are not necessarily controlling elsewhere), the *Dixon* decision does not apply to a private university such as Howard. Holtzoff cited a Court of Appeals ruling that, despite its dependence on federal funds, Howard is, in fact, a private institution run by a private board of trustees. Moreover, he said, "students entering Howard are formally advised by the university that attendance at the institution is not a right but a privilege. In that important respect, among others, Howard University differs from some state colleges."

"It would be a dangerous doctrine," Holtzoff said, "to permit the government to interpose any degree of control over an institution of higher learning, merely because it extends financial assistance to it . . . In recent years, numerous universities, colleges and technical schools have received government aid of various kinds by being granted funds to carry on scientific research projects. Surely it should not be held that any institution, by entering into a contract with the United States for the conduct of some project of this sort and receiving funds for that purpose, has placed its head in a noose and subjected itself to some degree of control by the federal government.

"Such a result," he added, "would be intolerable, for it would tend to hinder and control the progress of higher learning and scientific research. Higher education can flourish only in an atmosphere of freedom, untrammeled by governmental influence in any degree. The courts may not interject themselves into the midst of matters of school discipline."

The students' appeal from this ruling by Judge Holtzoff, who is one of the more conservative members of the federal bench, was heard by Chief Judge David L. Bazelon of the Court of Appeals for the District of Columbia and by two other circuit judges, J. Skelly Wright and Edward A. Tamm. On 8 September, Bazelon and Wright, in a brief written order, said the students were to be re-enrolled and their request for a reversal of the Holtzoff decision was to be held in abeyance while Howard considered granting the students a hearing. Judge Tamm would have deferred all action pending a complete hearing of the case. Howard University has since asked that the case be heard by the full nine-judge Circuit Court, a request which will have to be voted on by the individual judges.

Without attempting to predict the outcome of any specific case, one may take note of a number of trends which suggest that the courts will be intervening increasingly in favor of student rights. In an article in the Winter 1965 issue of *Law in Transition Quarterly*, Van Alstyne pointed out that higher education is no longer regarded as the prerogative of a small, privileged group but is viewed as something which, in the interest of the nation's economic, social, and political well-being, should be open to all who can benefit from it. Among other changes noted by Van Alstyne were the following. (i) Student academic freedom is now being championed by a number of groups, such as the American Association of University Professors, which 50 years ago took no interest in it. (ii) Today the Supreme Court's concern for constitutional liberties is such that most of its time is taken up with civil liberties cases. (iii) Most students are now enrolled in public rather than private institutions, whereas the reverse used to be true. (iv) The old doctrine of *in loco parentis* is out of date in an age when, at some major institutions, most students are over 21. Clearly, the prospect seems to be for increasing support from the bench for the student who can claim that his right of free speech or other civil liberties are being compromised by his campus overlords.

—LUTHER J. CARTER

# APPOINTMENTS

**Eugene H. Kopp**, professor of engineering, California State College, Los Angeles, to dean of the newly established School of Engineering at the college. . . . **Richard G. Bader**, head of the division of oceanography, Hawaii Institute of Geophysics, University of Hawaii, to associate director, Institute of Marine Science, University of Miami. . . . **John S. Galbraith**, chancellor, University of California, San Diego, to Smuts visiting professor, Cambridge University, England. . . . **Calvert N. Ellis**, president of Juniata College for 25 years, will retire. His successor has not yet been named. . . . **Leonard B. Dworsky**, director, Water Resources Center, Cornell University, to a one-year appointment as senior staff assistant to Donald Horning in the Office of Science and Technology. . . . **Oliver R. Hunt, Jr.**, chief of party and consultant in medical education to the medical faculty, and assistant dean, University of Asuncion, Paraguay, to associate dean of clinical affairs, State University of New York at Buffalo. . . . **Jan A. Rajchman**, director of the Computer Research Laboratory, RCA Laboratories, to staff vice president, Data Processing Research, RCA. . . . **E. Peter Volpe**, professor of biology, Newcomb College, to the newly created position of associate dean, Graduate School, Tulane University. . . . **James T. Jackson**, assistant base dental surgeon and officer in charge, Dental Laboratory, McGuire Air Force Base, to chief, Central Dental Laboratory, Veterans Administration, Washington, D.C. . . . **Walter F. Stafford, Jr.**, associate professor in neurology, State University of New York at Buffalo, to associate dean for academic affairs at the university. . . . **Lloyd Barr**, professor of physiology, Woman's Medical College of Pennsylvania, to associate dean of graduate education at the college. . . . **Einar Lundsgaard**, who has held the chair in physiology, University of Copenhagen for 33 years, will retire. . . . **Donald P. Ling**, executive director, military systems research division, Bell Telephone Laboratories, to vice president for military systems engineering at the laboratories. He succeeds **Hendrik W. Bode**, who will retire after 41 years of service. . . . **Alan R. Longhurst**, coordinator for EASTROPAC, Scripps Institute of Oceanography, University of California, to director of the Fishery-Oceanography Center, Bureau of Commercial Fisheries, La Jolla, California. He succeeds **Elbert H. Ahlstrom** who will return to his research on larval fishes at La Jolla. . . . **Jean P. Smith**, chief, Special Studies Branch, FDA, to director, Division of Drug Studies and Statistics, Bureau of Drug Abuse Control, FDA. . . . **Gerald N. Wachs**, member of the department of clinical investigation, Schering Laboratories, to assistant medical director of the laboratories, a division of Schering Corporation. . . . **Vincent dePaul Larkin**, assistant dean, Downstate Medical Center School of Medicine, to program director, New York Metropolitan Regional Medical Program at the Associated Medical Schools of Greater New York, and **Caldwell B. Esselstyn**, executive director, Community Health Associates, Detroit, to associate program director, New York Metropolitan Regional Medical Program.