

Thomas Hayden

CONTRA: IN LOCO PARENTIS

Several years ago, a number of students at Southern University in Baton Rouge were expelled for demonstrating against local segregation practices. In his letter of expulsion, President Felton Clark invoked Rule 16 in the Southern University Student Handbook. The rule reads:

Lack of University Adjustment. The University reserves the right to sever a student's connection with the University for general inability to adjust himself to the pattern of the institution.

For expelling these students whose fervor for freedom was inadjustable to the university pattern, President Clark was sharply criticized. Indeed, the attack on Negro college presidents generally has increased since student direct action began in 1960. The Negro college president, a recipient of state funds and an agent of the racial status quo, is loudly attacked by integrationists as a tyrant, a moral weakling, and an enemy of the hopes of a struggling generation.

Curiously, the attack on Negro college presidents is concentrated upon the issue of racial integration alone, and not on the issue of education that is also involved in Rule 16. Dr. Clark's actions are symptomatic of an educational philosophy and practice quite as undemocratic as, though less brutal and spectacular than, the philosophy and practice of racial superiority.

What has "general inability to adjust to the pattern of the institutions" to do with acquiring a higher education in a democratic system? Why are our stylish social reformers, many of them college presidents and professors, not as critical of the paternalistic educational habits as they are of the "Uncle Tom" racial practices of President Clark?

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No part of the American university system is revealed more clearly by the Southern incident than the doctrine of *in loco parentis*, the key to an understanding of student extracurricular life. What exactly is this Latin phrase? According to the volume *College Law*, published by the American Council on Education:

The power which the officers of a college may lawfully exert to restrict and control the actions of its students is based upon the fact that, in law, the college stands in the same position to its students as that of a parent—*in loco parentis* (in lieu of parents)—and it can therefore direct and control their conduct to the same extent that a parent can.

In fact, this means the university—that is, the incorporated institution run by the regents or trustees—circumscribes the form and content of student social life and academic pursuit. It is the moral guardian of the young.

The historical origins of *in loco parentis* are ambiguous. Perhaps the doctrine evolved partly from the early English universities where faculty ownership was customary. This form of control, as Dean Kathryn Hopwood of Hunter College suggests, is "quite at variance with the genesis of the European universities, such as the ones at Bologna or Paris, where the students employed visiting scholars to teach them." In America, of course, ownership is removed from the hands of students and faculty, and the university is either a state agency or a private corporation.

If this tends to divest students and teachers alike of autonomy, certain other developments have led to the ascendancy of *in loco parentis*. One of these, perhaps, was the decentralization of educational control and the establishment of a close relationship between home and school. The fact that many early American colleges were dominated by religious orthodoxies and dedicated to specific religious ends is probably relevant, too, in considering *in loco parentis*. Whatever historical events gave rise to the doctrine, it is by now deeply rooted in the American educational system. In one of the early colleges, for example, a master beat a student with a cane and the courts were asked to decide whether canings could go on outside the school buildings as well as within. The court said that the authority of the master extended beyond the limits of the classroom, a legal theory still relevant to the university and social action.

The doctrine of *in loco parentis*, however, is not a closed issue legally, as many deans would like us to believe. One student of higher education, Professor Gordon Klopff, acknowledges that while most legal prec-

edent established the right of universities to serve *in loco parentis* "the real testing of this issue would vary from case to case and court to court." There is some evidence that state-financed universities are not necessarily responsible for the libelous material printed by their student editors. Or again, a recent Supreme Court decision involving Alabama State sit-in leaders indicated that due process is a right every student can demand: and if due process, what other constitutional rights? There are plausible grounds, furthermore, for claiming that first amendment restrictions, such as speaker bans, are not constitutional. These trends help to perforate the solid legal justification of *in loco parentis*.

The fact that *in loco parentis* has any legal base at all is not so much an index of its innate virtue as of university and community approval of the doctrine. When a dean dismisses anti-*in loco parentis* crusades by legalisms, he is evading the moral and educational issues. He is confusing the legally founded "right" of the university to act *in loco parentis* with the legally unfounded "responsibility" to do so. Moral and educational decisions must be made prior to invocation of *in loco parentis*.



It is paradoxically discriminating that our vaunted "educational elite," the people that society places its best hopes upon, are subjected to greater social restrictions than most any persons of comparable age, save imprisoned convicts. To go to college involves a partial surrender of the freedoms of speech, press, and assembly, and often the freedom of privacy. It means arbitrary hours for women students and compulsory functions

for both sexes. It means the "double jeopardy" of receiving punishments from the university for crimes committed in and adjudicated by the city. It means tolerating personal dossiers and students who spy for the dean of men or congressional investigating committees. It means the supervision and regulation of privacy. It means living under threat of punishment for "conduct unbecoming a student" or "inability to adjust to the university pattern." Margaret Mead had commented forcefully on the distinction between the work force and student force in the same age range:

A handful of tugboat employees or flight engineers, because of their admitted rights in a complex system in which they are working members, can hold up a city or a country until their demands are met, but in some states students are not even allowed to vote.

And, unlike parents of students not in college,

parents of studying children must both support them and, correlatively, retain control of their conduct or delegate comparable control to some quasi-parental educational institution. In either case the student is treated like a dependent child.

Needless to say, student extracurricular activities are organized with this dependent status clearly in mind. The philosophy of student activities is articulated by most universities as either the "preparation" theory or the "privilege" theory. The first and most important of these goes like this: college is a "preparatory" period when the student, through incubation, is equipped with the skills he will need later in life. "Preparation" means involving the students in a make-believe laboratory world of student activities where they can safely practice being

a citizen. This process is affirmed by one dean of students in these terms:

I propose a system whereby we use our decision-making processes as teaching tools, allowing students the opportunity to observe, criticize, and question, but not actually to exert direct control. The element of "let's pretend" has some value as a way of teaching.

Is this a serious educational philosophy? It is certainly a feasible way to remove substance from politics. It neatly sterilizes the content of debate and controversy. It is a convenient means of preserving the university status quo, maintaining harmony with legislators, rich alumni, and worried parents. And, nicely enough, all in the name of building democracy!

But does a student really learn from making decisions that can have no certain consequences, that are posed and controlled and subject to veto by the dean of students acting *in loco parentis*? Surely not. For any decision to constitute a useful learning experience, the individual must accept the responsibility for its consequences. And some decisions must affect the local status quo if decision-making is to be distinguished from the boredom of perpetual rehearsal.

Linked to this theory that college life is a preparation for democratic life is the administrative creed that attendance at a university is "a privilege, not a right." This follows the narrow line of argument that the student chooses to attend such-and-such a university, pays his tuition, enters a contractual relation, and must leave at the University's insistence. The student is essentially an outsider, someone who takes what he gets, or else. But if this be one's conception of the relation of the student to his academic community, then the academic com-

munity will hardly obtain certain of its social and educational ends. Socially, the ends will be thwarted by the segregation of the student population (a population of children) from an educational community which should be whole and integrated. Educationally, the ends are thwarted by analogizing the university to a corporation or any form of business enterprise which produces "college graduates." The ideal, and the only ultimately practical, university is composed of a host of scholars, each of them students and each of them teachers to some degree, finding unity in the common task of leading the examined life. To designate some as members by "privilege" and some as members by "right" means that the former group has only a submissive role in the general search for knowledge and values. They can search, but not too boldly; they can inquire, but not into everything; they can participate, but not in the actual governance of the community. They can be forbidden certain associations. Their academic life habits can be regulated without explanation. They can be suspended, or expelled, for at any moment they might find themselves "unable to adjust to the pattern of the institution."

A devastating example of the "pretend" theory of learning can be found in an article in the University of Wisconsin *Daily Cardinal* (11/17/61). The author, in analyzing the student government constitution, finds that "Student Senate shall . . . legislate on any matter aiding in the planning,

supervision, and coordination of student activities *in accordance with University regulations.*" The Senate "can thus vote only to uphold University rules. It is constitutionally mandated to maintain the status quo."

This does not mean that students are shackled completely at the University of Wisconsin. It simply means that they violate the constitution every time they do something creative; this violation gives the administration a "constitutional" excuse for veto every time an "unconstitutional" act is not to their liking. Incredibly, the government of laws coincides with the government of men. How many students in America share the mood of the student journalist's last brief paragraph:

Rather makes the whole thing a farce.

Thus in American universities an anti-educational system of social control is ratified by narrow analogies to family and commerce. However warmly he is treated by the Administration, the student nevertheless is conditioned for continued subservience to the university and other bureaucratic organizations which will shape his life.

CHEKHOV ON THE HOOF

TIP FOR TONIGHT—Richard Boone returns to the Old West in a play, "The Hooligan," adapted from a story by Anton Chekhov on the "Richard Boone Show." Ch. 4, at 9.

—*Boston Globe*, Jan. 14, 1964