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To Get a Diploma or to Get Welfare: Duncan's Dilemma

Nina E. West

To Get A Diploma or to Get Welfare: Duncan's Dilemma

County of Madera v. Carleson[1] denies to a father, who is under the age of eighteen and not exempt from the California compulsory continuation education laws, the right to qualify his family for Aid to Families with Dependent Children—Unemployed Parents Program (AFDC-U), particularly if he has ever held a summer or other part-time job. The California Court of Appeals, Fifth District, held that a seventeen year old high school senior who was enrolled in a vocationally oriented high school program, was not in training *as a result of unemployment*, as required by the Welfare and Institutions Code Section 11201,[2] and that since he had held summer jobs, his continued schooling was not *essential to his future self-support.*[3]

Steve Duncan (hereinafter, Duncan) was seventeen, married, and about to become a father when he applied for AFDC-U. He was scheduled to be graduated from Chowchilla High School in seven months; his classes were designed to prepare him for a career in carpentry. While on vacation from school and on weekends, Duncan had held part-time jobs as a farm laborer and had had some limited experience as a service station attendant. Duncan's application for aid for his family was denied, whereupon he petitioned the Department of Social Welfare for a hearing.[4] The hearing officer made written findings and conclusions, on the basis of which Duncan's petition was denied. Those findings found to be determinative were:

> (1) Claimant has worked part time for the past six years in farm labor and has some experience as a service station attendant.
>
> (2) Claimant's attendance at high school results from voluntary choice to attend school rather than seek full-time employment at the present time. Claimant's high school courses can enable him to learn skills which would assist him to become a carpenter.
>
> (3) Claimant's work experience establishes that he is capable of engaging in gainful occupations other than carpentry.

1. 32 Cal. App. 3d 764, 108 Cal. Rptr. 515 (June 4, 1973).
2. CAL. WELF. & INST. CODE § 11201(a) (West 1972).
3. *Id.*
4. Pursuant to CAL. WELF. & INST. CODE §§ 10950-10958 (West 1972).

(4) Claimant is neither available for nor seeking full-time employment and is in full-time, regular attendance at high school.[5]

Following the hearing officer's denial, the Director of the Department of Social Welfare rendered an "Alternate Decision"[6] (based on the same findings and conclusions). The Director reversed the county and the hearing officer and ordered Duncan's petition to be granted. The county then petitioned the superior court for review of the "Alternate Decision" of the Director, contending that the decision was contrary to the law. The judgment of the superior court set aside the Director's "Alternate Decision," and denied aid to Duncan. Since the evidence compiled by the hearing officer did support the findings of fact, the issue at the appellate level was whether or not Duncan was legally entitled to AFDC-U payments, i.e. was an "unemployed parent" as defined in the Welfare and Institutions Code Section 11201.

In making its determination, the appellate court was faced with the task of deciding the interrelationship of several provisions of the Welfare and Institutions Code. For clarity, these are quoted in pertinent parts here. The provisions are given as they were at the time of Duncan's application. Section 10001, subdivision (b) provides:

> The purpose of the public social services for which state grants-in-aid are made to counties are: . . . (b) To provide timely and appropriate services to assist individuals develop or use whatever capacity they can maintain or achieve for self-care or self-support.[7]

Section 11000 provides:

> The provisions of law relating to a public assistance program shall be liberally construed to effect the stated objects and purposes of the program.[8]

Section 11201 provides:

> For the purposes of this chapter, "unemployed parent" means a natural parent, adoptive parent, or stepparent with whom the child is living, and who:
>
> (a) Is not working but is available for and seeking employment or, as a result of unemployment, has been accepted for or is participating in a training project essential to future self-support, or
>
> (b) Is employed only part-time as determined in accordance with such standards as may be developed by the department in

5. County of Madera v. Carleson, 32 Cal. App. 3d 764, 768, 108 Cal. Rptr. 515, 518 (1973).

6. Pursuant to CAL. WELF. & INST. CODE § 10959 (West 1972).

7. CAL. WELF. & INST. CODE (West 1972).

8. *Id.*

> its rules and regulations, which standards shall be consistent with federal law and regulations governing the payment of federal funds to this state under the Social Security Act and consistent with other provisions of this chapter.[9]

Section 11205 provides:

> It is the object and purpose of this chapter to provide aid for children whose dependency is caused by circumstances defined in Sections 11250. . . .
>
> Those engaged in the administration of aid under this chapter are responsible to the community for its effective, humane, and economical administration.
>
> . . . The employment and self-maintenance of parents of needy children shall be encouraged to the maximum extent and that this chapter shall be administered in such a way that needy children and their parents will be encouraged and inspired to assist in their own maintenance. The State Department of Social Welfare and the State Department of Health shall take all steps necessary to implement this section.[10]

Section 11250 provides:

> Aid, services, or both, shall be granted under the provisions of this chapter, and subject to the regulations of the department, to families with related children under the age of 18 years, except as provided in Section 11253, in need thereof because they have been deprived of parental support or care due to: . . .
>
> (c) the unemployment of a parent or parents.[11]

It should here be noted that Section 11253, referred to above, deals with continuation of payments for children, aged 16-21 who are still in school.

Duncan's basic contentions regarding these statutes were that, in order to effect the purpose of the public social service program embodied in AFDC, a liberal construction must be given to the definition of "unemployed parent" so that he will fall within the definition and be eligible for aid. The appellate court, however, found that Section 10001, the general purpose provision, was qualified by Section 11201, stating, "It is a cardinal rule of interpretation that the specific provisions of a statute control the general provisions [Citations omitted]."[12] The court also negated the applicability of

9. *Id.*
10. *Id.*
11. *Id.* This statute was amended, effective July 1, 1973, to delete the words "service or both" after the introductory word "Aid."
12. County of Madera v. Carleson, 32 Cal. App. 3d 764, 770, 108 Cal. Rptr. 515, 520 (1973).

Sections 11205 and 11250 by finding that Section 11201 expressly defines the qualifications of "unemployed parent" as required by Section 11250 and that Section 11205 does not apply until the applicant meets the eligibility requirements set out in Section 11250. As to Section 11000, the court found that since the statute in question, Section 11201, was "plain, clear, and unambiguous on its face,"[13] there was no necessity for construction at all:

> We find nothing in the legislative history or on the face of the statute that would justify ignoring the plain meaning of the language used in Section 11201. The court cannot ignore the plain words of the statute unless it appears the words used were, beyond question, contrary to what was intended by the Legislature. [Citations omitted][14]

Section 11201 may be plain, clear, and unambiguous on its face, but it seems unjust that it should be applied to Duncan or any other father under eighteen and subject to California's compulsory education laws. The issue of the conflict between Section 11201 and the compulsory education laws was not raised by any party to this case. However, in order for Duncan to qualify under Section 11201, he would have to be in violation of Education Code Sections 12551, 12553, and 12601. Education Code Section 12551 requires all students between the ages of sixteen and eighteen, who are not enrolled in full-time school, to attend continuation education, unless they are exempt. Students who are employed must attend a minimum of four hours per week;[15] unemployed students fall under Education Code Section 12553 which requires a minimum attendance of three hours per day.[16] At the time of this case, an exempt student was defined in Education Code Section 12601 as one, who because of physical or mental handicaps, would be unable to benefit in any substantial way from such a program.[17] Whereas this latter section was repealed and superseded in 1972, and there is now one exemption that might possibly be stretched to include Duncan, the statute in effect at the time clearly did not pertain to him.[18] All high

13. *Id.* at 768, 108 Cal. Rptr. at 519.
14. *Id.*
15. CAL. ED. CODE (West 1969).
16. *Id.*
17. *Id.*
18. CAL. ED. CODE § 12601 was repealed and superceded by the following exemption statute:

"There are exempted from compulsory attendance in continuation education classes as otherwise required by Sections 12551 and 12553, persons who:

(a) Have been graduated from a high school maintaining a four-year course above the eighth grade of the elementary schools, or who have had an equal amount of education in a private school or by private tuition.
(b) Are in attendance upon a public or private full-time day school, or

school districts except those with less than 100 seniors are required to have continuation education classes,[19] so it would seem that Duncan would be required to attend school at least part time. Continuation classes were held during the day and, until Assembly Bill 1679 was signed into law at the end of the 1973 legislative session, adult school classes, usually given at night, were not an acceptable substitute.

By requiring Duncan to leave school prior to graduation and prior to his eighteenth birthday in order to be eligible for AFDC, the court required him to be in violation of the compulsory education statutes of the State of California. Welfare and Institutions Code Section 11201, as applied to Duncan, also contravenes Opinion Number 62-88 of the Attorney General's Opinions, April 24, 1962.[20] That opinion dealt with the question of whether or not a governing board of a high school district could adopt policies that excluded married students from regular daytime high school attendance. Basing his opinion on Article IX, Section 5 of the California Constitution, Attorney General Stanley Mosk concluded that this could not be done. In the opinion, the Attorney General quoted the following:

> Not only does society have a right to require full-time attendance of the child in a public school or a private school but these provisions have been interpreted as granting to the qualified child the correlative right to attend full-time school. [Citations omitted][21]

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satisfactory part-time classes maintained by other agencies.
(c) Are disqualified for attendance upon these classes because of their physical or mental condition, *or because of personal services that must be rendered to their dependents.* (Emphasis added).
(d) Are satisfactorily attending a regional occupational program or center as provided in Section 5952.
(e) Have successfully demonstrated proficiency equal to or greater than standards as established by the Department of Education pursuant to Section 12603, and have verified approval submitted by their parent or guardian."

The italicized portion of this statute might be stretched to apply to Duncan, but the plain meaning of the words is that such person would have to stay at home; it is probably designed for young mothers.

19. CAL. ED. CODE § 5952 (West 1969).

20. 39 OP. CAL. ATT'Y GEN. 256 (1962).

21. 39 OP. CAL. ATT'Y GEN. 149, 150 (1962). (Incorporated from Opinion No. 61-237, Mar. 9, 1962, dealing with whether or not an elementary school child enrolled in a private school must be allowed to attend some public school classes, if desired).

By incorporating this quote into Opinion Number 62-88, it would seem that in the opinion of the Attorney General, a high school aged student also has the *right* to attend school full-time and, by virtue of this opinion, marriage is not a valid reason for disqualifying him. The Education Code gives as valid reasons for exclusion "filthy or vicious habits," "contagious or infectious diseases,"[22] or "physical or mental disability such as to cause his attendance to be inimical to the welfare of other students."[23] Other grounds for exclusion include incorrigible misconduct, vulgarity, abuse of teachers, and other such behavior patterns considered to be detrimental to the other students, the teachers, and the smooth functioning of the school.[24] There is no evidence that these bases for exclusion would apply to Duncan.

By giving Duncan the option of either finishing high school or qualifying for AFDC-U, the instant decision is effectively denying Duncan his right to finish high school because he is married. Had Duncan not married the soon-to-be mother of his baby, he would have had no problem finishing high school. (Not only could the mother have qualified for aid, but she also would have been allowed either to go to school or stay home until the child reached the age of six.)[25] True, he might have had to make child support payments, but this could be done with a part-time job, and the decision in the instant case requires that he be available for full-time employment. If marriage is not an acceptable exclusion for a school district to make, it should not become more acceptable because made by the court, the county, or the Department of Social Welfare.

One would have to conclude that if the court is carrying out legislative intent by applying Welfare and Institutions Code Section 11201 to Duncan, the Legislature has established a situation whereby in order for Duncan to qualify for AFDC-U, he must give up his right to attend school full time, and, in the process, violate the provisions of the Education Code that require him to attend. Article IX, Section 1, of the California Constitution provides:

> A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the

22. CAL. ED. CODE § 10552 (West 1969).
23. *Id.* § 10553.
24. *Id.* § 10602.
25. CAL. STATE DEPARTMENT OF SOCIAL WELFARE MANUAL § 41-407. Included among those exempted from having to be available for and seeking employment are: children under sixteen, full-time students under twenty-one (recipients, not qualifiers), those over sixty-five, those who are incapacitated, and mothers or caretakers of children under six.

> Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

In light of this, the intent of the Legislature as seen by the court contravenes the Constitution. Public policy would undoubtedly be to discourage such young people from having children, but it would not be to discourage them from getting married if children were conceived. It is much more likely that in drafting Welfare and Institutions Code Section 11201, the Legislature simply neglected to realize that the statute would, by its terms, make it impossible for fathers under the age of eighteen to qualify. This is an oversight that should be corrected.

There are two possibilities that now exist for applying the statute to someone in Duncan's position. The first is to disregard the "as a result of unemployment" language when the applicant falls under the compulsory education laws. This would essentially mean either that the Legislature would amend the statute to codify this exception or that judicial interpretation would make the exception. This could easily be accomplished by the recognition that legislative intent was not served by failure to construe Welfare and Institutions Code Section 11201, thereby making Section 11000 applicable. Since it should be apparent that the Legislature, as a matter of public policy, did not intend to exclude fathers under the age of eighteen from AFDC, the court should liberally construe the statute so as to remove the language, "as a result of unemployment," as a condition precedent to participation in a training program for those AFDC applicant fathers subject to the compulsory education laws. The court in *County of Madera v. Carleson*[26] seemed to be concerned that allowing Duncan to qualify would make anyone who voluntarily quit a job to return to school eligible for welfare. Limiting the exception to those who fall under the compulsory education laws would solve this problem.

The second possibility would be to make use of California Department of Social Welfare Manual Sections 41-440.21 and 41-440.22 which say that AFDC cannot be denied or discontinued if the person is assigned to training under the Work Incentive Program (WIN) or *if the person is participating in a program approved by the Director of the State Department of Social Welfare* or a WIN equiva-

26. 32 Cal. App. 3d 764, 770, 108 Cal. Rptr. 515, 520 (1973).

lent under the Economic Opportunity Act, Title I, Elementary and Secondary School Act. (Emphasis added).[27] The Director could simply find that continuation of high school is an approved program so that a person in Duncan's position could not be denied AFDC. This was probably the motivation for the Director's "Alternate Decision," but since he did not appear in court, this is purely a matter of conjecture.

Even if provision were made to ignore the "as a result of unemployment" language, there is another problem in applying Welfare and Institutions Code Section 11201 to Duncan. This problem needs clarifying in order to apply the statute to anyone. "Self-support" has never been judicially defined and needs to be if the eligibility of one in a training program is to be predicated on that training being "essential to his future self-support."[28] The court and the hearing officer appeared to give great weight to the fact that Duncan had had some job experience, yet a definition of self-support and a determination of what would be essential to it were ignored.

Self-support is defined as "the act or capacity for supporting oneself financially without the help of others."[29] That would seem to mean that the training would make one able to earn at least as much as he could on AFDC, including medical benefits and food stamps. The California Department of Social Welfare Manual Section 44-111.125 defines self-support as an "earning pattern over a *reasonable* period of time [that] demonstrates average earnings which are sufficient for self-support and *which are likely to continue.*" (Emphasis added). Duncan's summer work experiences as a farm laborer and service station attendant do not seem to qualify as a reasonable period of time nor do they show any evidence of continuing. People who employ students for summer jobs are not necessarily interested in hiring them as full-time employees and frequently are unable to do so. Although no income data or permanent job prospect information was given in the findings, it is questionable that projections from Duncan's summer employment would lead to a conclusion that Duncan was able to maintain a level of self-support such as that described above. This is particularly true in light of the well-known fact that unemployment rates for recent high school drop-outs are nearly twice as high as the rates for those who have completed high school. The facts state that Duncan had been doing farm labor during summer vacations for

27. Cal. Dep't of Soc. Welf. Manual §§ 41-440.21 and 41-440.22.
28. CAL. WELF. & INST. CODE §11201 (West 1972).
29. THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 1177 (1969-70 ed.).

six years, which would mean he had been so employed since he was eleven. Whatever he was doing could not require any degree of skill. The 1970 Census data for Madera County gives $4,252 as the median farm labor income,[30] and one would assume that unskilled farm laborers would be concentrated in the 50% falling below that income. Even taking the median figure as Duncan's potential annual income, it is questionable that this amount would be defined as "self-support." The *Occupational Outlook Handbook* gives no income figures at all for farm labor because they predict a decreasing employment opportunity in that field, based on a decline nationally from 9.9 million workers in 1950 to 4.5 million in 1970; the predicted decrease is to 3.3-3.5 million by 1980.[31] Apparently, the Department of Labor does not feel that farm labor is a field a young person should plan to enter because the need for future workers is so uncertain, and the trend is downward.

Predicating Duncan's capability for self-support on his limited service station attendant experience is equally tenuous. Once again, there has not been a reasonable period of time in which to judge this capability, and the likelihood of his full-time employment ever starting, let alone continuing, is not shown by the evidence. Chowchilla is by-passed by California Highway 99, one of the major Los Angeles-San Francisco transportation arteries and is not a major population center, so it would not be likely that there would be a large number of service stations. To predicate denial of aid for Duncan on the possibility that he *could* be employed as a full-time service station attendant and, thus, need not complete his high school education is speculative, and without further data, does not support the decision of the court. Furthermore, *Occupational Outlook Hankbook* gives a range for service station attendants of $1.80/hour to $2.91/hour, with the low figure being more prevalent in small towns and rural areas.[32] It further states that in those types of areas, a work week of less than forty hours is not unusual. Even assuming that Duncan would be able to secure such a job and could work a forty hour week for fifty-two weeks per year, his annual income at the $1.80 rate would be

30. U.S. BUREAU OF THE CENSUS, DEP'T OF COMMERCE, GENERAL SOCIAL AND ECONOMIC CHARACTERISTICS, CALIFORNIA, 1970, Table 122 at 1049.

31. U.S. BUREAU OF LABOR STATISTICS, DEP'T OF LABOR, OCCUPATIONAL OUTLOOK HANDBOOK (1972-73) at 579.

32. *Id.* at 547.

only $3,744. Once again, it is questionable that this would be considered "self-support." In the case under consideration, the court seems to be equating self-support with any income-producing occupation or activity. However, if one refers back to Welfare and Institutions Code Section 11201, subsection (b), he will note that one who works part time can fall within the definition of "unemployed parent."

There clearly needs to be a legislative or judicial definition of "self-support" if Section 11201 is not to be applied arbitrarily. One approach is that suggested above. Others might be the minimum wage or the Department of Labor statistics on what constitutes an adequate living wage for a family in a given geographic area. It would seem that any realistic standard employed by the court would make it possible to consistently determine whether or not continuation of or assignment to a training program is essential to one's future self-support. At the present time, as emphasized by Duncan's situation, that simply is not possible.

Had Duncan dropped out of school because of the denial of AFDC benefits, he would have been forced to give up a training program that was, in fact, essential to his being able to earn an adequate income for his family.[33] To become a carpentry apprentice, one must have reached the age of seventeen and be either a high school graduate or pass the high school general education equivalency test.[34] Duncan may have been able to do the latter, but there is no evidence on which to base a conclusion that he could have done so. It would appear that the court decision would require him to enter a field other than carpentry. The median income for skilled labor in Madera County in 1970 was $7,380.[35] Carpentry is one of the higher paying skilled occupations, so Duncan's earning potential would probably have been in the upper 50%. *Occupational Outlook Handbook* gives a national range for carpentry from $4.45/hour to $8.10/hour, with the national average being $6.42/hour.[36] Taking the low figure at a forty hour week fifty-two weeks a year, Duncan could earn an annual income of $9,256.

The only conclusion that can be reached is that if Duncan had opted for AFDC payments rather than finishing high school, he

33. County of Madera v. Carleson, 32 Cal. App. 3d 764, 767, 108 Cal. Rptr. 515, 518 (1973), n.3: All hearings were held subsequent to Duncan's graduation from high school.

34. Information received from the apprenticeship secretary, Carpenter's Council of Orange County. This is standard throughout the state.

35. GENERAL SOCIAL AND ECONOMIC CHARACTERISTS, CALIFORNIA, 1970, *supra*, note 32.

36. OCCUPATIONAL OUTLOOK HANDBOOK, *supra*, note 33, at 384.

would have done so on the basis of a statute that was inapplicable to him, was applied arbitrarily, was in contravention of his right to attend school, was violative of the compulsory continuation education laws, was in opposition to the legislative intent of both the compulsory education laws and the public social service laws, and was probably unconstitutional under Article IX, Section 1 of the California Constitution. In addition, as a trade-off for seven month's welfare payments, the court would have forced Duncan to forego an occupation from which he clearly would have been self-supporting to the extent that he would not need to apply for AFDC again.

If the above are not enough reasons for amending or construing Welfare and Institutions Code Section 11201 so as to allow one in Duncan's position to qualify, there is a serious Equal Protection issue raised by the application of the statute to such persons. In May, 1973, The Supreme Court of the United States handed down its decision in *Frontiero v. Richardson.*[37] In a split decision, four Justices held that classifications based on sex are inherently suspect and must be subjected to strict scrutiny; one Justice concurred; two Justices concurred in the judgment but not in making sex a suspect classification, and one Justice dissented. This case dealt with a married female military officer's right to claim her husband as a dependent even if he was not, in fact, dependent upon her for more than half his support. Male military personnel were able to get dependent's benefits simply by showing they were married. In discussing the Government's admission that such scheme was designed for administrative efficiency, the court said, quoting partly from *Reed v. Reed,*[38] " . . . any statutory scheme which draws a sharp line between the sexes solely for the purpose of administrative convenience, necessarily commands 'dissimilar treatment for men and women who are . . . similarly situated,' and therefore involves the 'very kind of arbitrary legislative choice forbidden by the [Constitution].' "[39]

Applying strict scrutiny to a classification requires determining not only if the classification has a rational basis, if the classification bears a reasonable relationship to a proper governmental purpose,

37. 411 U.S. 677 (1973).
38. 404 U.S. 71, 76 (1971).
39. Frontiero v. Richardson, 411 U.S. 677, 690 (1973).

and if all persons in the class are treated equally, but also if the classification promotes some compelling state interest.[40] Welfare and Institutions Code Section 11201 quite possibly would not withstand such strict scrutiny. It has a rational basis in setting eligibility requirements for benefits under AFDC, clearly a proper governmental purpose. However, not all persons are treated equally, and the difference in treatment is based not only on age and opportunity to qualify but also on sex. The language in the statute refers to "parents," yet the mother of a child under six years of age need not meet these criteria in order to be eligible.[41] Indeed, if Duncan had not married the mother of his soon-to-be child, she could be eligible for AFDC without having to drop out of high school. There would be no requirement for her to be available for and seeking employment. Mothers and fathers are both parents, yet different standards are used to determine their eligibility. This difference in treatment is undoubtedly based on the age-old feeling and tradition that mothers should be home with their young children, yet the United States Bureau of Labor Statistics reported in 1971 that 41.5% of all married women were in the labor force.[42] This statistic, coupled with the modern political concern for an increase in adequate day care centers for the pre-school children of working mothers, would lead to the conclusion that this feeling is no longer coincidental with reality; the tradition has broken down. Therefore, continued adherence to it could only be for administrative efficiency or the result of inertia.

Welfare and Institutions Code Section 11201 also treats fathers under eighteen differently from those over eighteen. It denies them eligibility unless they violate the compulsory continuation education laws and give up their right to attend high school. The State would be hard-pressed to find a compelling state interest in forcing minor males out of high school in order for them to qualify for welfare. Indeed, an AFDC recipient minor of either sex—as opposed to one attempting to qualify his family—is specifically allowed to stay in school until he or she is twenty-one, without having to register for employment, and payments made to the family for the child continue.[43] This would seem to indicate that the State feels it extremely important for such minors to remain in school, even through college, so that they will receive the kind of career training to enable them to be self-supporting. If this is im-

40. Shapiro v. Thompson, 394 U.S. 618 (1969).
41. CAL. DEP'T OF SOC. WELF. MANUAL § 41-407.
42. *See* n.23, Frontiero v. Richardson, 411 U.S. 677, 689-90 (1973).
43. CAL. DEP'T OF SOC. WELF. MANUAL § 41-407.

portant for a single student, it should be all the more important for one who already has a family.

It would seem that although Welfare and Institutions Code Section 11201 is not discriminatory on its face, its application is such that it discriminates on the basis of sex and age.[44] Since sex discrimination appears now to have been held a suspect classification, subject to strict scrutiny, Welfare and Institutions Code Section 11201, as applied, would have to be shown to serve a compelling state interest in making fathers, eighteen and under, ineligible to qualify their families for AFDC without dropping out of school. To show a compelling state interest under these circumstances would not be possible in light of the strong interest in education evinced by the California Constitution and the education statutes. Welfare and Institutions Code Section 11201 must be found to be a denial of Equal Protection under the Fourteenth Amendment and, as such, unconstitutional.

Steve Duncan should not have had his dilemma, and the Legislature and the courts of California should not have one now. Welfare and Institutions Code Section 11201 must be changed.

by NINA E. WEST

44. *See* Yick Wo v. Hopkins, 118 U.S. 356 (1886).