

Northern Illinois University Law Review

Volume 17 | Issue 2

Article 6

5-1-1997

Vol. 17, no. 2, Spring 1997: Table of Contents

Northern Illinois University Law Review

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Recommended Citation

Northern Illinois University Law Review (1997) "Vol. 17, no. 2, Spring 1997: Table of Contents," *Northern Illinois University Law Review*. Vol. 17: Iss. 2, Article 6.

Available at: <https://huskiecommons.lib.niu.edu/niulr/vol17/iss2/6>

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Northern Illinois University

Law Review

Volume 17

Spring 1997

Number 2

Articles

The Internet in the College Community

Robert M. O'Neil 191

This article reviews several current issues at the intersection of free expression and electronic communication on the college and university campus. It presupposes the conclusion which a unanimous Supreme Court reached in late June, 1997, in the Communications Decency Act Case — that speech on the internet is as fully protected by the First Amendment as is expression in more traditional and familiar media. The quandry for institutions of higher learning, sharply criticized in this article, is the belief of many regulators, on as well as off campus, that electronic or digital messages pose different risks and may therefore be restricted to a greater degree than print messages.

Panel Discussion: The First Amendment in Cyberspace: Use of the Internet in the College Community 205

Mr. Robert M. O'Neil, Moderator

Mr. George Shur

Rep. David Wirsing

Prof. Thomas Peters

Prof. Lois Self

Ms. Jaime Jordan

Prof. A. Samuel Oddi

Prof. James Thomas

Wide Awake or Half-Asleep? Revelations from Jurisprudential

Tailings Found in *Rosenberger v. University of Virginia* 223

Robert L. Waring

The Rosenberger Court contracted the boundaries of the no funding principle of the Establishment Clause. In so doing, the Court, speaking through Justice Kennedy, ran roughshod over several important tools used in free speech analysis. Rosenberger altered the line between viewpoint and content, clouded the role of strict scrutiny and eviscerated the already weakened limited public forum concept. The article analyzes several post-Rosenberger circuit court holdings in free speech cases. In addition, it discusses the potential impact of Rosenberger - a case limited to the expenditure of student activity funds at public universities - on the future collection of mandatory student activity fees at public universities.

Comments

- Spinning a Tighter Web: The First Amendment and
Internet Regulation 263
Angela E. Wu

*This article examines the First Amendment issues associated with Internet regulation, specifically the Communications Decency Act of 1996 and discusses the district court opinion in *ACLU v. Reno*. The author considers existing legislation in the telecommunications industry and the effect of such legislation on First Amendment rights. In additions, the author contends that the Internet is a revolutionary medium that should remain free of government intrusion. Therefore, due to the impossibility of regulating the Internet and the value that society places on the free exchange of ideas, the CDA should not be upheld by the United States Supreme Court.*

- Blind Leading the "Colorblind": The Evisceration of Affirmative
Action and a Dream Still Deferred 305
Amy L. Knickmeier

The age of race-conscious remedial programs is coming to its demise. This Comment analyzes the application of the Fourteenth Amendment to school desegregation decrees and affirmative action programs in higher education. Furthermore, the Comment addresses the progressively hostile attitude exemplified by the judiciary toward such programs when Constitutional violations are absent. Finally, this Comment argues that racism continues to extensively influence societal views and behaviors. Therefore, until more viable and effective solutions to racism are implemented, race-conscious affirmative action plans must survive. Consequently, the Supreme Court ought to mandate a lenient standard of review to race-based remedial programs in higher education. Doing otherwise would be contrary to the intent and spirit of the Fourteenth Amendment.

Casenote

- Has *Bennis v. Michigan* Made Asset Forfeiture Too Easy? 357
Ronald F. Labedz

*This note examines the historical justifications of asset forfeiture as well as the justifications behind its more recent uses. The note begins by analyzing the rationale of precedents that have upheld asset forfeiture, then that rationale is applied to the facts of *Bennis v. Michigan*. After establishing that the exigencies historically thought necessary to justify asset forfeiture are not present in *Bennis*, the author determines the Supreme Court improperly applied precedent and instead should have conducted a due process analysis. The author argues that had the Supreme Court conducted that analysis, the Court would have held Michigan's asset forfeiture scheme to be irrational and, therefore, invalid. The note ends with a brief discussion on the practical impact of *Bennis*.*