The Case of Dixon v. Alabama: From Civil Rights to Students' Rights and Back Again

PHILIP LEE

University of the District of Columbia

Background/Context: *Legal scholars have cited the Fifth Circuit's ruling in Dixon v. Alabama State Board of Education (1961) as the beginning of a revolution for students' rights that ended the in loco parentis relationship between colleges and their students. But little has been written about the students' activism that led to this seminal case.*

Research Question: *Students' rights, in general, benefited from the Dixon precedent. But how did the student activists who brought the case personally benefit? None were able to tell their stories in court in a way that challenged separate but equal laws. None of them took advantage of the due process that the Fifth Circuit ruled that Alabama State College must provide. None re-enrolled at the college after the case was over. And segregation was still alive and well in Alabama after Dixon was decided. So what did they win?*

Research Design: *This study presents a historical analysis of the student activism that led to the Dixon case, the case itself, and its interplay with future civil rights activism.*

Conclusions: *Despite the divergence of interests between the student activists and the lawyers, both the sit-in and the litigation empowered students all over the country to engage in the civil rights struggle.*

> "We don't know how your life was changed by what happened fifty years ago, but we do know how our lives were changed by what you did. St. John Dixon. James McFadden. Joseph Peterson. By the authority vested in me by the Board of Trustees of Alabama State University, I confer upon you the Bachelor of Liberal Arts honoris causa degree." (Joly, 2010, p. 29)

With these words from university president William H. Harris on May 8, 2010, these former students of Alabama State College received honorary degrees.[1] Dixon, McFadden, Peterson, and six other students were summarily expelled in 1960 for conducting a sit-in protest at a segregated lunch room at the Montgomery County courthouse.[2] The students brought a legal challenge to their expulsions in federal court that culminated in the *Dixon v. Alabama State Board of Education* (1961) case in the Court of Appeals for the Fifth Circuit. They ultimately prevailed.

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Legal scholars have cited *Dixon* as the beginning of a revolution for students' rights that ended the *in loco parentis* relationship between colleges and their students (Bickel & Lake, 1999; Kaplin & Lee, 2006). But little has been written about the students' activism that led to this seminal case. Why did they choose to sit in? Were their stories heard in court? How did the ruling further their agenda as activists? Using archival materials from Alabama State, documents contained in the *Dixon* case file, an autobiography of the attorney for the students, and legal texts on education law, I show how the motivations of the students to engage in their protest diverged from the legal significance of *Dixon*. I argue that despite this divergence, both the sit-in and the litigation empowered students all over the country to engage in the civil rights struggle.

THE STUDENT SIT-IN

On February 22, 1960, in the wake of the sit-ins at a Woolworth's Whites-only lunch counter in Greensboro led by North Carolina A&T students, Dr. Martin Luther King Jr. said in an interview that the sit-in movement "gives people an opportunity to act, to express themselves, to become involved on the local level with the struggle" ("King Expects 'Sitters,'" 1960). King anticipated more sit-ins occurring soon in other southern states. Within 36 hours, they arrived in Alabama.

Located in Montgomery, Alabama State College (now Alabama State University) is a historically Black institution that was founded in 1867. On Thursday, February 25, 1960, 35 Alabama State students conducted a sit-in at a segregated lunch room located in the Montgomery County courthouse (Hines & Ingram, 1960a, February 26). They were protesting the Whites-only policy in place at the lunchroom—a practice that was particularly galling given the eatery's location in a building that was supposed to be dedicated to dispensing justice. The students arrived at the first-floor lunch room shortly before noon and sat at nine tables. After they asked for service, the eatery was closed and the police were called. The students then left to stand in the courthouse hallway. Sherriff Mac Sim Butler told the group that because the courthouse was public property, they would be allowed to remain in the hallway as long as they did not block access to the corridor. About an hour and a half after their arrival, the students left the building. Not a single student was arrested or cited for any crime.

Shortly after the sit-in, Alabama Governor John Patterson, a Democrat and staunch segregationist, called the president of Alabama State, Harper Councill Trenholm, and demanded that he expel any student involved in the sit-in and added, "[if] action is not taken to expel them by the college then I will call upon the State Board of Education to take such action"

(Hines & Ingram, 1960a). Patterson later told Trenholm in a conference, "The citizens of this state do not intend to spend their tax money to educate law violators and race agitators and if you do not put a stop to it you might well find yourself out of public school funds" (Hines & Ingram, 1960a). Despite this threat, Trenholm did not immediately expel the students.

The day after the sit-in, February 26, Alabama State students staged another demonstration (Kovarik, 1960a). This time, 250 students arrived at the courthouse at 8:50 a.m. to show support for Harold Marco Stoutermire, who attempted to register to vote by intentionally providing incorrect information. He was charged with falsely telling the board of registrars that he had never been turned down for voter registration before. The students left around 10 a.m. after Stoutermire pled guilty for attempting to commit perjury and was fined $100. The students then marched two miles back to campus and held a mass rally attended by 500 students.

The protests continued to the third day. On Saturday, February 27, 1960, around 300 Alabama State students marched to the Negro First Baptist Church for a four-hour mass meeting (Coombes, 1960; Kovarik, 1960b). The Reverend Ralph D. Abernathy, pastor of the church and president of the Montgomery Improvement Association, said the students were allowed to meet there after President Trenholm asked them to discontinue their campus meetings.[4] During this meeting, Alabama State student Bernard Lee emerged as one of the leaders of the student protests. After the meeting, Lee sent a petition and telegram to Governor Patterson. Lee stated in his petition that the segregated lunch room "is a symbol of injustice," and the governor's decision to force President Trenholm to expel the students "is out of tune with the spirit of true Americanism" (Lee, 1960a, p. 32). Lee's petition concluded, "We are reasonable and considerate. We may be crushed, but we will not bow to tyranny" (Lee, 1960a, p. 33). Lee's accompanying telegram requested a meeting with the governor so "representatives of the student body are given an opportunity . . . to discuss our grievances" (Lee, 1960b, p. 34). Unfazed, Patterson refused to meet.

Later that day, groups of White men—numbering from 15 to 20—armed with baseball bats patrolled downtown Montgomery on the sidewalks and outside local shops. Reverend Abernathy advised the students and others to stay away from the area because "a real state of terror had developed down there" (Coombes, 1960). The situation was becoming dangerous for any African Americans unlucky enough to be walking in downtown Montgomery that afternoon. A 22-year-old African American woman, not a student, was hit in the head with a baseball bat by a White man after an alleged bumping (Coombes, 1960). A reporter from the *Montgomery Advertiser* described the assault: "[The assailant] dealt the girl a blow on the right side of the head with a crack that could be heard a half a block

away. Although blood gushed from the wound, the girl was not knocked unconscious" (Jenkins, 1960). The police made no arrests. Montgomery police commissioner L. B. Sullivan later claimed that he was not aware of this attack because he received no complaint regarding the incident ("Sullivan Receives No Report," 1960). Three African American women reported that they were slapped by White men, and a 14-year-old African American teenager said that two White men hit him in the face. Further, hateful signs were posted in public view around the Montgomery area. One sign read, "Be satisfied, Nigger. Remember Africa"; another read, "White folks, fire your nigger workers" (Kovarik, 1960b).

By Saturday evening, Reverend Abernathy demanded that city officials stop the unjustified violence and suggested an economic boycott if the brutal intimidation did not cease. Abernathy said that the African Americans in Montgomery "view with outrage and alarm the vicious and unprovoked attacks of bat-carrying White men upon Negro shoppers Saturday" ("Abernathy Telegrams Urge Officials," 1960).

After the third day of protests, President Trenholm faced a difficult dilemma—was he to protect these students from expulsion, or was he to protect the financial interests of the institution? He attempted to reach a compromise in which he would plead to the board of education for leniency in punishing the student protestors, while publicly urging all the students to "think clearly and have concern that there not be any type of further involvement by any identified student of Alabama State College" ("Dr. Trenholm Asks," 1960). At the same time, free of the constraints of being a president at a historically Black college, Martin Luther King told students across the country, "Fill up the jails of the South. Arouse the dozing conscience of the nation" ("King Urges Demonstrators," 1960). The students were to follow King's example of continuing activism.

In statements to the press on the following Monday, February 29, Governor Patterson said that his demand for expulsion of Alabama State College students was aimed primarily at the "ringleaders" of the protests and stated that some of the activists were "very young and possibly there are mitigating circumstances" (Castleberry, 1960). Patterson suggested that some of the students may have been unduly influenced by Martin Luther King, Reverend Abernathy, and other civil rights leaders. He commended the Montgomery authorities for doing "a mighty good job" and praised White residents of the city for their "tolerance and restraint" (Castleberry, 1960).

On March 1, 1960, about 720 Alabama State students marched to the state capitol for a peaceful demonstration in support of the students' desegregation efforts ("Hymn-Singing Students," 1960). It was the fourth public gathering since the courthouse sit-in. The day after the rally at

the capitol, March 2, the Alabama State Board of Education voted to determine the fates of the students identified as participants in the courthouse lunch room sit-in. President Trenholm recommended that all students involved be put on probation ("Student Ouster," 1960). Ignoring Trenholm's request for leniency, the all-White board of education members, led by Governor Patterson, who served as chairman of the board, unanimously voted to expel nine students and place 20 on probation. The nine expelled students were Bernard Lee, St. John Dixon, James McFadden, Joseph Peterson, Edward English Jones, Leon Rice, Howard Shipman, Elroy Emory, and Marzette Watts.

The board ordered Trenholm to send letters to the students notifying them of the board's decision (*Dixon v. Alabama State Board of Education*, 1961). The letters indicated, and Patterson would later claim, that the board was relying on the state regulation that provided that students may be summarily expelled from state colleges "For Conduct Prejudicial to the School and for Conduct Unbecoming a Student or Future Teacher in Schools of Alabama, for Insubordination and Insurrection, or for Inciting Other Pupils to Like Conduct" (*Dixon v. Alabama State Board of Education*, 1960, p. 152, uppercase in original). This rule was published in the college catalog and distributed to all students before enrollment. It acknowledged Alabama State's *in loco parentis* role by allowing the college broad discretion to determine what constituted conduct unbecoming a student or future teacher. Consistent with *in loco parentis*, the students received neither notice nor hearing nor other opportunity to be heard as the college exercised its discretion in applying the rule.

On the same day of the board of education's meeting, the lunch room at the Montgomery County Courthouse was reopened. County officials instituted a new policy in which service was restricted to court employees and their invited guests ("Courthouse Grill Limited," 1960). The few African American employees who worked in the building would be allowed to order food at the counter but would be required to take their food outside. African Americans—even court employees and invited guests of court employees—were not allowed to dine inside. Jim Crow remained firmly in place.[3]

After a mass student protest on the campus of Alabama State on March 3 in response to the board of education's disciplinary actions, Bernard Lee issued a press statement (Hines & Ingram, 1960b; Lee, 1960c). This statement was the clearest public statement of the students' motivations behind the sit-in. Lee first provided a summary of the nonviolent student activism that occurred from Thursday, February 25 to Monday, February 29. He then stated that the students had engaged in protest to challenge the racially segregated public spaces, and this was consistent with the democratic ideals

that the students were learning at the college. He concluded by calling on students and community members for support (Lee, 1960c).

Support arrived. On Friday evening, March 4, 1960, 900 Alabama State students gathered at Beulah Baptist Church in Montgomery for a mass rally. Dr. Martin Luther King addressed the students, telling them that they must be willing to "struggle, suffer, sacrifice and even die" until segregation was destroyed (Ingram, 1960). Bernard Lee also urged the students to stage a campus walk-out the following week, stating, "Let us remember Monday morning that we are not little children to be spanked on the behind and sent back to the classrooms" (Ingram, 1960). Lee's indirect challenge to the college acting *in loco parentis* was to be formalized in a coming court challenge. A few months after the board's disciplinary decision, some of the students decided to challenge their summary expulsions in court.[5]

THE LEGAL CHALLENGE

The expelled students who brought the *Dixon* lawsuit protested at the courthouse in order to challenge Jim Crow. However, the litigation did not focus on the illegality of segregation; instead, the courtroom battle centered on students' rights at state colleges. A number of legal scholars, all former civil rights attorneys, have argued that lawyers have a way of alienating the interests of those whom they intend to protect (Alexander, 2012; Bell, 1976; Guinier, 1998). Lani Guinier (1998) explained how this can happen:

> We defined the issues in terms of developing legal doctrine and establishing legal precedent; our clients became important, but secondary, players in a formal arena that required lawyers to translate lay claims into technical speech. We then disembodied plaintiffs' claims in judicially manageable or judicially enforceable terms . . . We not only left people behind; we also lost touch with the moral force at the heart of the movement itself. (p. 222)

This alienation, therefore, arises from the normal operation of the legal process. Lawyers are trained to fit their clients' claims into existing legal frameworks, even if these frameworks do not accurately overlap with their clients' motivations and desires. In the *Dixon* case, the students engaged in the sit-in as part of their struggle for racial justice. However, the court case was framed as a battle for student due process rights and significantly downplayed the state-mandated segregation that the students were challenging. Even though this was a sound legal strategy to protect the students' rights to continue attending Alabama State, in the remainder of this article, I wish to explore the implications of this strategy.

The students hired Fred Gray, Alabama State alumnus and civil rights advocate, as their attorney. Gray (1995, p. 175) recalled that he took the case to challenge the college's power to expel its students without a hearing. He was assisted in the case by Derrick A. Bell Jr., a young staff attorney for the National Association for the Advancement of Colored People (NAACP) Legal Defense Fund who would later become the first tenured African American law professor at Harvard Law School. On August 22, 1960, the students' case was tried before Judge Frank M. Johnson Jr. in the United States District Court for the Middle District of Alabama. The state defendants were represented by Alabama Attorney General MacDonald Gallion, Alabama Assistant Attorney Generals N. S. Hare and Gordon Madison, and Robert P. Bradley, who was legal advisor to Governor Patterson. A few highlights of the trial are worth noting because they elucidate Fred Gray's legal strategy.

The only Alabama State student witness Gray called was St. John Dixon. On Gray's direct examination, he asked Dixon to explain his motivation for sitting in:

> Q. Why did you go into the lunch counter there?
>
> A. Well, I knew that the Montgomery County Court House was [a] State building [i.e., public], and I felt I was right in my going down to get service there.
> (Transcript of Proceedings, 1960, pp. 107–108)

Gray then moved to the next topic, asking Dixon questions about the sit-in itself and emphasizing the peaceful nature of the protest. Dixon recalled that the students complied with the lunch room employee's mandate to leave. He also remembered that the students obeyed the police officer's instructions in the courthouse hallway not to block foot traffic in the corridor. Gray proceeded with the following exchange:

> Q. Now, on that day—from February 25 until the date that you received your letter of expulsion, which you have already identified, will you tell the court whether any person at the College gave you any official notice that your conduct was unbecoming as a student of Alabama State College.
>
> A. No.
>
> Q. Did the president or any other person at the College arrange for any type of hearing where you had the opportunity to present your side prior to the time you were expelled?
>
> A. No.

> Q. Now, prior to the 25th of February, had any officials at the College informed you that you were not supposed to request service at the Montgomery County Court House?
>
> A. No.
> (Transcript of Proceedings, 1960, p. 109)

Restricted by the scope of the due process claims that the plaintiffs were pursuing, St. John Dixon did not explain in any detail why he or any of the others engaged in the protest. The college's procedural violations were more relevant than the students' motivations to challenge separate but equal practices at the courthouse. The focus of the trial, therefore, was on disciplinary procedural issues and not on challenging segregation.

Alabama Assistant Attorney General Gordon Madison called a number of witnesses for the defense, including Governor Patterson and other members of the Alabama State Board of Education. Gray's cross-examination of these state witnesses was masterful because he demonstrated that in expelling the students, the board members relied on different reasons that were not consistent with its rules on expulsion.

After Governor Patterson stated on direct examination that the board members voted to expel the students because they violated a state regulation by engaging in "conduct prejudicial to the school and for conduct unbecoming a student or a future teacher in the schools of Alabama, for insubordination and insurrection, or for inciting other pupils to like conduct," Gray saw an opening for attack (Transcript of Proceedings, 1960, p. 132). On Gray's cross examination, he questioned Patterson's reliance on this regulation:

> Q. Now, Governor, would you tell the court exactly what was wrong with these students requesting service at the Court House?
>
> ***
>
> A. Well, when twenty-nine students from a State College come downtown and create an incident which brings—brings discredit upon the College, that is what concerned us.
>
> Q. Now, there—none of your reports indicated they were disorderly, I mean no loud talking, no cursing, or anything like that?
>
> A. You see, we knew—we knew the very moment that we got a report from the Court House that was going on that Alabama finally was going to have what the Carolinas and Virginia and Tennessee had been having for a couple of weeks.

> Q. Just a moment, your Excellency, and if you will, as much as possible answer my questions, I would appreciate it; what I am trying to get is like for you to tell us what was wrong with these students asking for service at the Court House?
>
> A. Well, I think that twenty-nine—when twenty-nine students who should be out at the College attending to their studies are downtown doing something calculated to provoke a riot or to create some disorder, then I think this is wrong. And that was—and that was the way I felt about it. They didn't come down there, as you well know, to get a cup of coffee and a sandwich; they came down there to provoke a disorder of some kind, and I think that—
>
> Q. Would you—
>
> A. –as the State Board of Education we certainly have a right to require that the students who are under our charge and control behave themselves and don't take—don't do things which would bring discredit to the School or create violence and disorder, and that is the reason behind the action of the State Board of Education.
> (Transcript of Proceedings, 1960, pp. 143–144)

Patterson's responses evidenced his understanding that Alabama State acted *in loco parentis* with its students. In Patterson's view, the board of education could demand that "the students who are under our charge and control behave themselves" or else suffer the consequences (Transcript of Proceedings, 1960, p. 144).

In Gray's cross-examination of the other members of the state board of education, he demonstrated that the reasons for the board member's decision to expel the students were inconsistent with and even contradictory to Patterson's testimony regarding the violation of the state regulation. In his questioning of board member Harry Ayers, the following exchange occurred:

> Q. Mr. Ayers, did you vote to expel these [N]egro students because they went to the Court House and asked to be served at the White lunch counter?
>
> A. No, I voted because they violated the law of Alabama.
>
> Q. What law of Alabama had they violated?
>
> A. The separating of the races in public place of that kind.
>
> Q. And the fact that they went up there and requested service, by violating the Alabama law, then you voted to have them expelled?
>
> A. Yes.

> Q. And that is the reason why you voted?
>
> A. That is the reason.
> (Transcript of Proceedings, 1960, p. 165)

Therefore, unlike Patterson, who cited the board's regulation on expelling students, Ayers admitted that he voted for expulsion because the students violated state segregation law. Ayers was the only board member to concede that he was punishing the students for breaking state segregation law—not for conduct prejudicial to the school or unbecoming a student or other reason specified in the expulsion regulation—but for a per se violation of the Whites-only rule at the lunch counter.

On Gray's cross-examination of superintendent of education Frank Stewart, the following clarifying exchange took place between Judge Johnson and Stewart:

> The Court: What rule had been broken, is the question, that justified the expulsion . . . ?
>
> A. I think demonstrations without the consent of the president of an institution. (Transcript of Proceedings, 1960, p. 205)

Rather than echoing Patterson's and Ayer's explanations, Stewart cited a different prohibition altogether in reaching his decision to expel the students—a purported restriction on demonstrations without prior consent of the college president. Stewart was unable to locate this prohibition in any state law or board regulation. Gray, through his questions of these board members, was establishing that the decision to punish the students was not consistent with the board's own rules on expulsion and, thus, appeared arbitrary and capricious.[6]

Despite Gray's formidable courtroom skills, the students lost in the federal district court. Judge Johnson found that due process was not necessary "as long as the dismissal is not arbitrary and falls within the classes specified for preserving . . . moral atmosphere" (*Dixon v. Alabama State Board of Education*, 1960, p. 951). *In loco parentis* prevailed in the trial court. For purposes of student discipline at state colleges, constitutional restrictions simply did not apply. Gray appealed to the Fifth Circuit. This time, he was joined by NAACP lawyers Jack Greenberg, James Nabrit III, and Thurgood Marshall, who would later become the first African American U.S. Supreme Court justice. Judges John Minor Wisdom, Richard Rives, and Benjamin Franklin Cameron heard the appeal. In an opinion by Judge Rives, with Judge Cameron dissenting, the Fifth Circuit overruled the District Court.

The Fifth Circuit first acknowledged the importance of the right involved:

> The precise nature of the private interest involved in this case is the right to remain at a public institution of higher learning in which the plaintiffs were in good standing. It requires no argument to demonstrate that education is vital and, indeed, basic to civilized society. Without sufficient education the plaintiffs would not be able to earn an adequate livelihood, to enjoy life to the fullest, or to fulfill as completely as possible the duties and responsibilities of good citizens. (*Dixon v. Alabama State Board of Education*, 1961, p. 157)

As Scott Gelber (2014) discusses in the first article of this special section, the court's acknowledgment of a right to remain at a public college differed from a number of prior cases that identified this interest as a mere privilege. After recognizing this right, the Fifth Circuit held that "due process requires notice and some opportunity for hearing before a student at a tax-supported college is expelled for misconduct" (*Dixon v. Alabama State Board of Education*, 1961, p. 158). In the instant case, such process would require, at a minimum:

1. The students should be given notice containing a statement of the specific charges and grounds which, if proven, would justify expulsion under the regulations of the Board of Education;
2. The students should be given the names of the witnesses against them and an oral or written report on the facts to which each witness testifies;
3. The students should be given the opportunity to present to the Board, or at least an administrative official of the college, their own defense against the charges and to produce either oral testimony or written affidavits of witnesses on their behalf; and
4. If the hearing is not before the Board directly, then the results and findings of the hearing should be presented in a report open to the students' inspection.

(*Dixon v. Alabama State Board of Education*, 1961, pp. 158–159)

For the first time in the history of American law, students at a state institution were afforded constitutional due process protection by a federal court. The state defendants subsequently appealed their loss to the U.S. Supreme Court. On December 4, 1961, the Supreme Court denied review. The case was over. The students had won.

THE SIGNIFICANCE OF *DIXON*

Legal scholars hail *Dixon v. Alabama State Board of Education* (1961) as the beginning of the demise of *in loco parentis* between colleges and their students (Bickel & Lake, 1999; Kaplin & Lee, 2006). Specifically, if students were to be afforded constitutional protections, the colleges would no longer be able to discipline them as parents. Instead, state colleges would have to comply with due process restrictions as set forth by the Fourteenth Amendment, just like all other state actors. Indeed, 50 years after *Dixon*, Alabama State provides detailed procedures for adjudicating student disciplinary cases, which include rules governing (1) adjudication of student misconduct; (2) sanctions; (3) an appeals process; (4) organization misconduct; (5) summary suspension; and (6) a grievance procedure against university officials (*The Pilot*, 2008–2010, pp. 66–74). Similar procedural protections are commonplace on college campuses across the country. Without the *Dixon* case, these protections may have never materialized in the manner that they did. The U.S. Supreme Court would even refer to *Dixon* as a "landmark decision" in student due process rights (*Goss v. Lopez*, 1975, p. 576). Students' rights, in general, benefited from the *Dixon* precedent. But how did the student activists who brought the case personally benefit? None were able to tell their stories in court in a way that challenged separate but equal laws. None of them took advantage of the due process that the Fifth Circuit ruled that Alabama State must provide. None reenrolled at Alabama State after the case was over. And segregation was still alive and well in Alabama after *Dixon* was decided. So what did they win?

For the student activists, the outcome of the litigation was not the most important thing; instead, it was the very process of their resistance in the face of such brutal hostility that was meaningful. Christopher P. Loss (2014) argues in the second article of this special section that *in loco parentis* had a caring, nurturing side. This was true perhaps everywhere but the segregated South, where *in loco parentis* melded with Jim Crow policies to strengthen white supremacist ideology. In their protest at the courthouse, the students took a stand against separate but equal at a time that any perceived act of resistance to the Jim Crow racial order could have resulted in extreme violence. In the same time period, Martin Luther King's house in Montgomery was bombed in 1956. Four African American girls were killed in a bombing in 1963 at the16th Street Baptist Church in Birmingham. James McFadden recollected, "We grew up in circumstances that led us to participate in the sit-in. Emmett Till [a 14-year-old African American who was mutilated and murdered in 1955 for allegedly whistling

at a White woman] was assassinated near my hometown; so, I always believed that if there was injustice I had a responsibility to do something about it" (Joly, 2010, p. 7). St. John Dixon reflected, "I was always willing to take on a problem and the segregated cafeteria at the courthouse was a problem. I was afraid on that day. I knew the police had the guns and the license to kill. But I also knew we had to do what we did" (Joly, 2010, p. 7).

Emboldened by these challenges to the status quo, the courthouse protest and the litigation were just the beginning of more extensive resistance for many of these student activists. For example, after his expulsion, Bernard Lee was chosen by Martin Luther King to be his full-time personal assistant (Watkins, 1987). Lee would later become a vice president of the Southern Christian Leadership Conference (SCLC) and a founding member of the Student Nonviolent Coordinating Committee ("Obituary: Rev. Bernard Lee," 1991). After King's assassination, Lee continued his studies at Howard University. St. John Dixon stayed in Montgomery after he was expelled and attempted to integrate a local movie theater (Joly, 2010). During this period, the Congress of Racial Equality awarded him with a scholarship to study at San Jose State College. James McFadden continued his work with the Montgomery student sit-in movement. He then moved to Philadelphia to continue his civil rights activism. Joseph Peterson also stayed in Montgomery and worked with the Montgomery Improvement Association. Peterson eventually moved to New York, where he worked with the SCLC on civil rights work in Harlem. He was later accepted into New York University. Shortly after their expulsion, Elroy Embry and Marzette Watts were arrested for dining with an integrated group of college students in an African American eatery called the Regal Café, a few blocks from Alabama State (Gray, 1995). The students were all convicted of disorderly conduct. Fred Gray, assisted by James M. Nabrit III of the NAACP and two other attorneys, brought a lawsuit challenging the convictions of the African American students in court (Gray, 1995). They won on appeal.

The civil rights movement also benefitted from *Dixon*. Student protests for racial justice were critical for this movement to gain momentum in the 1960s (Carson, 1995; Williamson, 2008). *Dixon* empowered these student activists by recognizing their constitutional right to due process and insulating them from summary dismissal. For example, in the late spring of 1961, 13 African American students from Tennessee Agricultural and Industrial State University were summarily suspended for participating in freedom rides to challenge segregated bus terminals (*Knight v. State Board of Education*, 1961). Relying on *Dixon*, the Tennessee trial court overturned the suspensions holding that that they were in violation of due process. In 1963, two African American students from Florida A&M University were

suspended for incurring contempt convictions related to their participation in civil rights demonstrations (*Due v. Florida A&M University*, 1963). The students claimed that their suspensions were in violation of their due process rights. The Florida trial court, citing *Dixon*, found that due process was satisfied. Even though the students lost their case, the court nonetheless conducted a due process analysis of the procedures provided by the university—an analysis that *Dixon* set the precedent for. In another case, seven African American students from the University of Wisconsin, Oshkosh were summarily suspended for taking over the university president's office where they issued demands on behalf of the Black Student Union with respect to diversifying university personnel, curriculum, and programs (*Marzette v. McPhee*, 1968). The federal trial court, also relying on *Dixon*, overturned the disciplinary action noting that "this suspension has been imposed, and has been continued to be present, without due process of law" (*Marzette v. McPhee*, 1968, p. 569). Joy Ann Williamson (2008, p. 144) further observes in her book about African American students and the struggle for civil rights in Mississippi, "From Alcorn to Mississippi Valley to the University of Mississippi, courts reprimanded university officials who violated *Dixon*." While the protections of due process did not guarantee reinstatement for any expelled students, it nonetheless symbolized a heightened level of judicial protection for the students who chose to challenge the status quo. In this way, even though the *Dixon* plaintiffs' original motivation to challenge Jim Crow diverged from the due process expansion that resulted from the case, these students' goals were nonetheless furthered when other student activists for racial justice across the country were afforded constitutional due process protections during the height of the civil rights movement.

CONCLUSION

On February 25, 1960, Alabama State students engaged in a sit-in to confront segregation at the Montgomery County courthouse. Nine students were then summarily expelled from college for their actions. Fifty years after their expulsions, St. John Dixon, James McFadden, and Joseph Peterson received their honorary degrees from Alabama State to the sound of thundering applause from the 2010 graduating class, their guests, and school faculty and officials. Upon reflecting on their long journeys back to Alabama State, all three men said they would do it again if they had to. Dixon said, "There's no doubt in my mind that it was worth it. Every bit of it was worth it" (Joly, 2010, p. 29). McFadden added, "Absolutely. We took steps to change humanity and change the world" (Joly, 2010, p. 29).

Peterson concluded, "There was so much racism in Montgomery at the time and we had to take a stand. Even though we were expelled, I believe we did the right thing" (Joly, 2010, p. 29). While the expelled students acted to challenge Jim Crow, their subsequent legal victory for students' rights in *Dixon v. Alabama State Board of Education* (1961) paved the way for students across the country to engage in the struggle for racial justice with an unprecedented level of constitutional protection on their side.

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NOTES

1. Alabama State University (ASU) was known as Alabama State College during the time of the Dixon case. For this article, unless otherwise noted, I will refer to both entities as Alabama State.

2. Based on a discussion with ASU director of special collections Howard Robinson during my visit to the ASU Archives on March 14, 2012, I learned that just these three former students were honored because the other six expelled students were either deceased or could not be located.

3. The Montgomery Improvement Association, led by Martin Luther King, spearheaded the Montgomery Bus Boycott in 1955–1956. This boycott was initiated with the arrest and prosecution of Rosa Parks, who violated the separate but equal law by refusing to give up her seat to a White passenger.

4. Jim Crow refers to state and local laws that mandated racial segregation in many American locales. It derives its name from a minstrel character. Although Jim Crow was justified as "separate but equal," this government-imposed separation led to conditions for African Americans and other racial minorities that tended to be inferior to those of white Americans—including in the educational, economic, and social realms. The segregated lunch room in the Montgomery County that the students were protesting against is an example of Jim Crow.

5. The six plaintiffs in the case were St. John Dixon, Joseph Peterson, Bernard Lee, Marzette Watts, Edward English Jones, and Elroy Embry.

6. The 5th Circuit would later acknowledge that some of the Board members testified to "somewhat varying and differing grounds and reasons for their votes to expell [sic] the plaintiffs" (*Dixon v. Alabama State Board of Education*, 1961, p. 154).

REFERENCES

Abernathy telegrams urge officials to "restore order." (1960, February 28). *Montgomery Advertiser.* ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

Alexander, M. (2012). *The new Jim Crow: Mass incarceration in the age of colorblindness.* New York, NY: The New Press.

Bell, D. (1976). Serving two masters: Integration ideals and client interests in desegregation litigation. *Yale Law Journal, 85*(4), 470–516.

Bickel, R. D., & Lake, P. F. (1999). *The rights and responsibilities of the modern university: Who assumes the risk of college life?* Durham, NC: Carolina Academic Press.

Carson, C. (1995). *In struggle: SNCC and the Black awakening of the 1960s.* Cambridge, MA: Harvard University Press.

Castleberry, F. (1960, February 29). Governor's expulsion orders aimed primarily at sitdown ringleaders. *Alabama Journal.* ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

Coombes, J. (1960, February 28). Two demonstrations staged by Negroes. *Montgomery Advertiser.* ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

Courthouse grill limited to employees. (1960, March 1). *Montgomery Advertiser.* ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

Dixon v. Alabama State Board of Education, 186 F. Supp. 945 (M.D. Ala. 1960), *rev'd* 294 F.2d 150 (5th Cir. 1961), *cert. den'd* 368 U.S. 930 (1961).

Dr. Trenholm asks for clear thinking. (1960, February 27). *Montgomery Advertiser.* ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

Due v. Florida A&M University, 233 F. Supp. 396 (N.D. Fla. 1963).

Gelber, S. (2014). Expulsion litigation and the limits of *in loco parentis*, 1860–1960. *Teachers College Record, 116.*

Goss v. Lopez, 419 U.S. 565 (1975).

Gray, F. (1995). *Bus ride to justice: Changing the system by the system.* Montgomery, AL: Black Belt Press.

Guinier, L. (1998). *Lift every voice: Turning a civil rights setback into a new vision of social justice.* New York, NY: Simon & Schuster.

Hines, D., & Ingram, B. (1960a, February 26). Expel Negro sitdowners, college told: Alabama State president given mandate in governor's office. *Montgomery Advertiser.* ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

Hines, D., & Ingram, B. (1960b, March 4). Pledge-free students troop back to classes. *Montgomery Advertiser.* ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

Hymn-singing students hold rally at Capitol. (1960, March 2). *Montgomery Advertiser.* ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

Ingram, B. (1960, March 5). 900 Negroes shout pledge of protest. *Montgomery Advertiser.* ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

Jenkins, R. (1960, February 28). Violence erupts on Dexter, woman clubbed with bat. *Montgomery Advertiser*. ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

Joly, T. (2010, Summer). Taking a seat against segregation. *ASU Today, 3*(2), 5–7, 29.

Kaplin, W. A., & Lee, B. (2006). *The law of higher education* (4th ed.). San Francisco, CA: Jossey-Bass.

King expects "sitters" in 3 more states. (1960, February 23). *Alabama Journal*. ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

King urges demonstrators to "fill up jails." (1960, February 28). *Montgomery Advertiser*. ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

Knight v. State Board of Education, 200 F. Supp. 174 (M.D. Tenn. 1961).

Kovarik, G. (1960a, February 26). Negroes disband after march into courthouse here: 250 stage loyalty demonstration in behalf of youth who later pleaded guilty in court. *Alabama Journal*. ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

Kovarik, G. (1960b, February 27). Bat-carrying men patrol Dexter: Out-of-town cars spotted at rally. *Alabama Journal*. ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL

Lee, B. (1960a). Students petition the Governor [Students' petition to Governor Patterson]. National Archives (Exhibit A of Defendant's Answer, Transcript of Record for Dixon v. Alabama State Board of Education, 5th Cir.), Fort Worth, TX.

Lee, B. (1960b). Western Union Telegram [Telegram to Governor Patterson from Bernard Lee dated February 27, 1960]. National Archives (Exhibit B of Defendant's Answer, Transcript of Record for Dixon v. Alabama State Board of Education, 5th Cir.), Fort Worth, TX.

Lee, B. (1960c). Statement of students of Alabama State College after nine students were expelled on March 2, 1960 [Students' statement to press]. National Archives (Exhibit D of Defendant's Answer, Transcript of Record for Dixon v. Alabama State Board of Education, 5th Cir.), Fort Worth, TX.

Loss, C. P. (2014). Institutionalizing *in loco parentis* after *Gott v. Berea College* (1913). *Teachers College Record, 116*.

Marzette v. McPhee, 294 F. Supp. 561 (W.D. Wis. 1968).

Obituary: Rev. Bernard Lee, 55, civil rights advocate. (1991, February 14). *The New York Times*.

Student ouster sparks Negro college walkout: 9 expelled, 20 given probation. (1960, March 3). *Montgomery Advertiser*. ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

Sullivan receives no report of incident. (1960, February 28). *Montgomery Advertiser*. ASU Student Sit-In Newspaper Clipping File Collection. Archives Dept., Alabama State University, Montgomery, AL.

The pilot: Alabama State University student handbook. (2008–2010). Retrieved from http://www.alasu.edu/student-life/index.aspx

Transcript of proceedings. (1960, August 22). Trial Transcript in Dixon v. Alabama State Board of Education. National Archives (Transcript of Record for Dixon v. Alabama State Board of Education, 5th Cir.), Fort Worth, TX.

Watkins, L. (1987). *Fighting hard: The Alabama State experience*. Detroit, MI: Harlo Press.

Williamson, J. A. (2008). *Radicalizing the ebony tower: Black colleges and the Black freedom struggle in Mississippi*. New York, NY: Teachers College Press.

PHILIP LEE is an assistant professor of law at the University of the District of Columbia (UDC) David A. Clarke School of Law. His research centers on academic freedom, diversity and educational access, and higher education history and law. His work has appeared in the Harvard Journal on Racial & Ethnic Justice (formerly the Harvard BlackLetter Law Journal), Harvard Kennedy School's Asian American Policy Review, and Higher Education in Review.