Author's Note

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experiences with some teachers who failed to return from maternity leaves of absence.

*Cerra* is presently on appeal to the Supreme Court of Pennsylvania. Hopefully, that court will deal with the constitutional issue squarely, if the necessity arises, and add a convincing precedent from a state tribunal to the developing case law in the area of maternity regulations. Although the commonwealth court by-passed the equal protection issue raised by the case, the recent activity in the federal courts indicates a strong likelihood that the East Stroudsburg regulation, and others like it, may ultimately stand or fall on this question.

Richard William Perhacs

AUTHOR’S NOTE: On January 19, 1973, the Supreme Court of Pennsylvania filed its opinion in *Cerra v. East Stroudsburg Area School District*. The court reversed in favor of the appellant teacher. The unanimous opinion, delivered by Justice Eagen, failed to reach the constitutional issue raised by the case. However, the court cited *Le Fleur* and *Cohen* and recommended that the reader compare them with the instant case.

In deciding *Cerra*, the court regarded the central issue as the "legality" of the board's action in terminating appellant's contract. The court thus took a broad view of the possible infirmity of the Board's resolution and moved beyond a mere consideration of whether the regulation was "unreasonable" or *ultra vires* under section 5-510 of the School Code. The decision was largely based on the sex discrimination provisions of the Pennsylvania Human Relations Act, PA. STAT. ANN. tit. 43, § 955(a) (1964). The applicability of this statute was proposed by appellant's counsel but not emphasized.

Justice Eagen characterized the board's regulation as "sex discrimination pure and simple." Interestingly, and, as might be expected, the court used language which would have been appropriate in disposing of the case on equal protection grounds. After noting that there was no evidence that appellant's ability would be impaired after the pregnancy, the court pointed out that (1) male teachers are not so harshly treated in East Stroudsburg and (2) pregnant women are singled out and placed in a class to their disadvantage. In answer to the "adminis-

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"trative hardship" argument of the appellee, Justice Eagen noted that any teacher suffering from a temporary disability presents similar problems. In concluding, he acknowledged the proposition advanced in Stanley v. Illinois, 405 U.S. 645 (1972), an equal protection case, that "efficiency is not the only value to be considered."

It seems that in Cerra the court came to grips with the basic constitutional arguments advanced on both sides of the case, even though there was no need to dispose of the litigation explicitly on constitutional grounds. The purpose of both the equal protection clause and the state civil rights statute is, after all, the prohibition of unreasonable discrimination.

R. W. P.

CONSTITUTIONAL LAW—CHILLING EFFECT ON FIRST AMENDMENT RIGHTS—ARMY SURVEILLANCE OF CIVILIAN POLITICAL ACTIVITY—The United States Supreme Court has held that allegations of a "subjective" chill of first amendment rights, due to the mere existence of the Army's intelligence and data gathering system, did not constitute a justiciable controversy since such allegations are not an adequate substitute for a claim of specific present objective harm or a threat of specific future harm necessary to invoke the judicial power to determine the validity of executive or legislative action.


A class action suit was brought by several citizens and organizations, who discovered that their political activities were the subject of surveillance by the Army, seeking a declaratory judgment that the Army's surveillance of their "lawful civilian political activity" was unconstitutional and an injunction forbidding such surveillance.

The United States District Court for the District of Columbia dismissed the suit, declaring that no evidence existed to support the complaint that the Army exceeded its constitutional authority. Plaintiffs appealed to the United States Court of Appeals for the District of Columbia which reversed on the ground that the complaint alleging


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