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CONSTITUTIONAL LAW—THE APPLICATION OF PROCEDURAL DUE PROCESS TO PROCEEDINGS FOR THE COMPULSORY CIVIL COMMITMENT OF NARCOTIC ADDICTS

On April 1, 1967, the New York Narcotic Addiction Control Act became effective.[1] The ostensible purposes of the Act are to rehabilitate narcotic addicts and to obviate the social peril of drug contagion while safeguarding the liberty of individuals coming within the statute's purview.[2] Procedurally the Act provides for compulsory civil commitment and treatment of narcotic addicts for up to three years.[3] Anyone on knowledge, information or belief may institute a proceeding for the certification of an addict into the custody of the Narcotic Addiction Control Commission.[4] A supreme court judge then examines the petitioner to inquire into the veracity of his allegations.[5] If the judge finds reasonable grounds to believe the accused person is an addict, and further concludes that there are reasonable grounds to believe that this individual will not comply with a court order to appear at a hospital for medical examination, he may issue a warrant.[6] The warrant mandates apprehension and delivery to a state "reception center" for medical examination of the alleged addict.[7] A hearing, not more than five days subsequent to the medical examination, is provided for.[8] At this time the alleged addict is given notice of the certification procedure, and apprised of his constitutional rights to counsel and to refrain from self-incrimination.[9]

In two recent New York supreme court cases, the constitutionality of the foregoing certification procedure was challenged. A proceeding was brought in the *Matter of Spadafora*, 54 Misc. 2d 123, 281 N.Y.S.2d 923 (1967) on the petition of a mother for the certification of her son. Pursuant to a warrant, respondent was obliged to submit to a medical examination, during which he admitted to the doctor that he used heroin. The certification of respondent was effected primarily by the testimony of the examining doctor as to the case history furnished by respondent and the physical examination. Respondent's contentions that the Narcotic Addiction Control Act impinges on rights guaranteed by the fourth, fifth, sixth, eighth, and fourteenth amendments to the United States Constitution were dismissed by the court. *Held*, the certification procedure is civil in nature. Citation of cases dealing with search and seizure in criminal proceedings are not applicable. Since the state of New York constitutionally exercises its police power in the protection of its citizenry, the procedural aspects of the Act satisfy the requirements of due process.

The material facts in the *Matter of James*, 54 Misc. 2d 514, 283 N.Y.S.2d

1. N.Y. Mental Hygiene Law §§ 200-17 (Supp. 1967).
2. *Id.* § 200.
3. *Id.* §§ 206(1), (5)a. Section 206 is the subject of the constitutional attacks in the two cases herein noted.
4. *Id.* § 206(2)a.
5. *Id.* § 206(2)b.
6. *Id.*
7. *Id.* § 206(2)c.
8. *Id.* § 206(2)b.
9. *Id.* § 206(4)a.

126 (1967) were substantially the same as those in *Spadafora*. Nevertheless, the court sustained petitioner's constitutional attack upon the Narcotic Addiction Control Act. *Held*, the procedure for certification is infirm by virtue of its encroachment upon rights protected by the fifth, sixth, and fourteenth amendments to the Constitution. Certain modifications of the procedure for civil commitment are requisite to comport with standards of due process of law. An order or warrant must be returnable forthwith to the issuing court rather than to a hospital or any other custodial institution. The alleged addict must be served with papers informing him of the purpose of the hearing. At the inception of the proceeeding, the alleged addict must be advised of his constitutional rights to remain silent and to retain counsel.

It is well settled that the privilege of freedom from self-incrimination and the right to the advice of counsel are integral requirements of both federal and state criminal procedures.[10] These safeguards become operational immediately upon the apprehension of an accused person.[11] Recent decisions of the United States Supreme Court indicate that these constitutional protections are to be extended to proceedings which are criminal in nature, though denominated as civil.[12] Thus, an individual whose life, liberty or property may be deprived in civil proceedings regarding delinquency, disbarment, or insanity is entitled to the protection of the fifth and sixth amendments as made applicable to the states by the fourteenth amendment.[13] The scope of this emerging doctrine is at present indeterminate. A broad guideline is suggested in *Miranda v. Arizona*, however, where it was stated that "today, then there can be no doubt that the Fifth Amendment privilege is available outside of criminal court proceedings and serves to protect persons in *all settings in which their freedom of action is curtailed in any significant way* from being compelled to incriminate themselves."[14] It may be inferred then, that one facing deprivation of freedom of action inhering from a civil proceeding, criminal in nature or effect, should be entitled to the safeguards described in *Miranda* and *Escobedo v. Illinois*.[15] The fifth amendment privilege is restricted, however, in certain instances where evidence (such as a blood test) is self-incriminating, yet is held to be without the scope of the amendment because it is not testimonial in nature.[16] Therefore, it appears that the fruits of a physical examination, but not of the accompanying questioning, may properly be admitted into evidence where the individual has not been apprised of his fifth amendment privilege. Thus, where the proceeding is "criminal" in nature, the rationales of *Miranda* and *Schmerber v. California* are dis-

10. *See, e.g.*, Malloy v. Hogan, 378 U.S. 1 (1964); Gideon v. Wainwright, 372 U.S. 335 (1963).
11. *See, e.g.*, Miranda v. Arizona, 384 U.S. 436 (1966); Escobedo v. Illinois, 378 U.S. 478 (1964).
12. *See, e.g.*, Matter of Gault, 387 U.S. 1 (1967); Spevack v. Klein, 385 U.S. 511 (1967).
13. *Id. See also* Matter of Williams, 157 F. Supp. 871 (D.D.C. 1958).
14. Miranda v. Arizona, 384 U.S. at 467 (Emphasis added.).
15. Matter of Gault, 387 U.S. 1 (1967).
16. Schmerber v. California, 384 U.S. 757 (1966).

positive of whether the pre-hearing procedure mandated for "civil" commitment proceedings infringes on the individual's constitutional guarantee of due process of law.

In *Robinson v. California,* the United States Supreme Court declared by way of dictum that compulsory civil commitment of narcotic addicts is a proper exercise of the state's police power to protect the public welfare.[17] California enacted a statute providing for the civil commitment of narcotic addicts[18] which apparently would have met the constitutional standards set forth in *Miranda.*[19] The person charged with addiction was brought before a superior court judge, who immediately advised him of his constitutional rights, and issued an order stating the time, place, and purpose of the hearing.[20] The addict was then sent to a medical hospital for examination.[21] This procedure provided safeguards similar to those enunciated by the United States Supreme Court for disbarment, juvenile deliquency, insanity and sexual psychopath proceedings.[22] In commenting on a juvenile delinquency proceeding, Mr. Justice Fortas stated that "[f]or this purpose at least [invocation of the fifth, sixth, and fourteenth amendments] commitment is a deprivation of liberty. It is incarceration against one's will, whether it is called 'criminal' or 'civil',"[23] and consequently juvenile delinquency proceedings are held to be "criminal" in nature.[24] Although the individual could be confined against his will in proceedings for the certification of narcotic addicts, the California Supreme Court ruled that sections 5350-5361 of the California Welfare Code provided for a proceeding which was "civil" in nature.[25] Despite certain criminal connotations attached to that California statute,[26] the court found that treatment and rehabilitation were the true ends sought by the statute.[27] Regardless of the actual nature of the proceeding, however, the California statute provided sufficient procedural safeguards to insure the individual's constitutional right to due process.[28] The New York statute, conversely, does not require notice and apprisal of constitutional rights at the inception of the

17. Robinson v. California, 370 U.S. 660 (1962) (dictum).
18. Cal. Welfare and Institutions Code §§ 5350-61 (1937). In 1965 §§ 5350-61 were repealed, and replaced by §§ 3100-11 of the Welfare and Institutions Law. The new California civil commitment procedure, unlike its predecessor, resembles the New York procedure in so far as it provides for detention of the alleged addict for up to three days without a hearing or warning as to constitutional rights.
19. Cal. Welfare Code §§ 5353-55. *See, e.g.,* Matter of Jones, 61 Cal. 2d 325, 392 P.2d 269, 38 Cal. Rptr. 509 (1964); Matter of De La O, 59 Cal. 2d 128, 378 P.2d 793, 28 Cal. Rptr. 489, *cert. denied,* 374 U.S. 856 (1963).
20. *Id.*
21. *Id.*
22. *See, e.g.,* Matter of Gault, 387 U.S. 1 (1967); Spevack v. Klein, 385 U.S. 511 (1967); Minnesota v. Probate Court, 309 U.S. 270 (1940); Meyer v. Nebraska, 262 U.S. 390 (1922).
23. Matter of Gault, 387 U.S. 1, 50 (1967).
24. *Id.*
25. Matter of De La O, 59 Cal. 2d 128, 378 P.2d 793, 28 Cal. Rptr. 489, *cert. denied,* 374 U.S. 856 (1963).
26. *See* text accompanying *infra* notes 52-4.
27. *See* Matter of De La O, 59 Cal. 2d 128, 378 P.2d 793, 28 Cal. Rptr. 489, *cert. denied,* 374 U.S. 856 (1963).
28. *Id.*

proceeding.[29] Nevertheless, such procedure is not fatally defective unless a determination is made that the proceeding is criminal in nature.[30] By comparison with the California statute considered in the *Matter of De La O*, the New York statute is relatively free of any criminal indicia repugnant to the notion of commitment as a civil proceeding.[31] It is clear that if the Supreme Court of California was correct in ruling that the California commitment proceeding was civil in nature,[32] the New York proceeding is likewise civil in nature.[33] It is by no means obvious, however, that the commitment proceedings of either state are essentially "civil" by present United States Supreme Court standards as suggested in *Matter of Gault*.[34]

Decisions in the two New York cases herein noted reached opposite conclusions as to the real nature of civil certification proceedings. The court in *Spadafora* reasoned from the premise that the certification proceeding is civil in nature, announcing "We are of the opinion that the demonstrably civil purpose, mechanism and operation of the program outweigh its external criminal indicia."[35] In particular, the court emphasized that the addict loses none of his civil rights, and that he is held for treatment in a hospital, rather than a jail.[36] The court relied on *De La O* and *Robinson* as authority for its conclusion that civil commitment of narcotic addicts is, in essence, a civil proceeding.[37] The court, in answer to respondent's contention that due process is abridged by the medical interview and examination prior to a full hearing, noted: "Where immediate action is necessary for the protection of society and for the welfare of the alleged addict due process does not require notice or hearing as a condition precedent to valid temporary confinement."[38] The court did not demonstrate, how-

29. N.Y. Mental Hygiene Law § 206(4)a (Supp. 1967).

30. Matter of Gault, 387 U.S. 1 (1967); *but see* Baxtrom v. Herold, 383 U.S. 107 (1966).

31. *See* 31 Albany L. Rev. 336 (1967).

32. Cal. Welfare & Institutions Code §§ 5350-61 (1937); Matter of De La O, 59 Cal. 2d 128, 378 P.2d 793, 28 Cal. Rptr. 489, *cert. denied*, 374 U.S. 856 (1963).

33. N.Y. Mental Hygiene Law §§ 200-17 (Supp. 1967).

34. Matter of Gault, 387 U.S. 1 (1967). In the instance of juvenile delinquency, the individual has engaged in conduct proscribed by the criminal law. Because of his status as a youth, however, the criminal law is deemed to be an improper vehicle for dealing with this behavior. Therefore, civil proceedings are substituted. Nevertheless, the inevitable loss of freedom and the social stigma associated with being adjudged as a juvenile delinquent leads to an inference that the proceeding is actually criminal in nature. The similarity of the foregoing to the proceeding for the certification of an individual as a narcotic addict is striking. The addict indulges in proscribed behavior. Yet because of his status as a sick person, he cannot be dealt with by the criminal law. *Cf.* Robinson v. California, 370 U.S. 660 (1962). A criminally tainted civil proceeding for the confinement of addicts results. It is submitted that as in *Gault*, the Supreme Court might well find that, despite the "civil" label, the certification proceeding for narcotic addicts is in fact "criminal" in its true nature.

35. Matter of Spadafora, 54 Misc. 2d 123, 127, 281 N.Y.S.2d 923, 928 (Sup. Ct. 1967).

36. *Id.*

37. *Id. See also* Matter of De La O, 59 Cal. 2d. 128, 378 P.2d 793, 28 Cal. Rptr. 489, *cert. denied*, 374 U.S. 856 (1963).

38. Matter of Coates, 9 N.Y.2d 242, 173 N.E.2d 797, 213 N.Y.S.2d 74 (1961), *appeal dismissed sub nom.*, 368 U.S. 34. This case involved certification to an institution for the mentally ill, before having had a full hearing.

ever, that immediate action is necessary in this particular case, but merely generalized that addiction is a contagious disease, the control of which comes within the ambit of a state's police power.[39] The court then pointed out that once a subject is within the proper scope of this police power, any exercise of that power is constitutional if there is a rational basis for the legislative act.[40] The procedure provided in the Narcotic Addiction Control Act was therefore held to be constitutional.

In *James*, the court disputed a critical link in the chain of reasoning employed in *Spadafora*. The court found the proceeding for the certification of narcotic addicts to be similar to juvenile delinquency proceedings, which the United States Supreme Court has ruled to be criminal in nature.[41] An individual may, under the Narcotic Addiction Control Act, be deprived of his liberty for up to three years.[42] His prospective involuntary and compulsory confinement invites the conclusion that such a proceeding is comparable in seriousness to a felony prosecution, and hence criminal in nature.[43] From this postulate the court proceeded to impute the due process prescriptions of *Miranda* and *Escobedo* to the civil commitment procedure.[44] Since the individual's freedom of action is imperiled to a degree comparable to that in a criminal prosecution, he is entitled to similar procedural safeguards.[45] Thus, the alleged addict must be informed of his rights, not subsequent to the medical examination, but at the outset of the proceeding.[46] The court maintained that in terms of the rationale of *Miranda*,[47] the alleged addict is entitled to custodial procedural safeguards, notwithstanding the fact that he is examined by a doctor in a hospital rather than by a police officer in a police station. The court based this result on the fact that the Narcotic Addiction Control Commission, of which the doctor is an agent, is the alleged addict's adversary in this proceeding.[48] It is the Commission which prosecutes the case and seeks to have the individual confined.[49] It is the testimony of the examining doctor, like that of a police officer in a criminal case, which may well be essential to a successful prosecution.[50] Therefore the medical examination is a vital stage of the proceeding, during which the alleged addict is entitled to the protection of procedural due process. He should be cognizant of his privilege from self-incrimination, and should be afforded the advice of counsel from

39. Matter of Spadafora, 34 Misc. 2d at 129, 281 N.Y.S.2d at 930.
40. *Id.*; *see also* Jacobson v. Massachusetts, 197 U.S. 11 (1904); Buck v. Bell, 274 U.S. 200 (1927).
41. *See supra* note 34.
42. N.Y. Mental Hygiene Law § 206(5)b (Supp. 1967).
43. Matter of James, 54 Misc. 2d 514, 529, 283 N.Y.S.2d 126, 142 (Sup. Ct. 1967). *See also* Matter of Gault, 387 U.S. at 149.
44. Matter of James, 54 Misc. 2d at 523-28, 283 N.Y.S.2d at 135-41.
45. *Id.*
46. *Id.*
47. Matter of James, 54 Misc. 2d at 525-37, 283 N.Y.S.2d at 137-49. *See also* Miranda v. Arizona, 384 U.S. 436 (1966).
48. Matter of James, 54 Misc. 2d at 536, 283 N.Y.S.2d at 149.
49. *Id.*
50. *Id.*

the inception of the commitment proceeding for "the reasonable exercise of police power . . . presupposes a valid procedure to implement it as well."[51]

Uncertainty and confusion continue to pervade the law in the area of civil commitment of narcotic addicts. Unresolved is the question of whether civil commitment is actually a "criminal" proceeding in nature. *De La O* is relevant to this consideration, though dubious support for the contention that New York's certification proceeding is "civil" in nature.[52] In that case, the California Supreme Court looked past the following criminal indicia to find that the proceeding was "civil." Provisions for the commitment proceeding were embodied in the California Penal Code, addicts were subject to a criminal-like sentence of six months to five years and institutions to which addicts were sent were operated by the Department of Correction which also operated the prison facilities of California.[53] Furthermore, at the time that *De La O* was decided, the procedural safeguards in California's commitment proceeding were calculated to afford protection to the alleged addict similar to that required by *Miranda* for criminal prosecutions.[54] In scrutinizing the New York civil commitment proceeding, the greater weight of authority militates for the inference that, like juvenile delinquency proceeding,[55] it is substantially "criminal" in nature. The prospect of being confined for as long as three years, with its attendant social stigma, militates for a presumption of "criminal nature."[56] The probability of failure in treating the addict suggests that the legislature's announced therapeutic purpose of civil commitment[57] may well be subordinate to a covert purpose of keeping the addicts off the streets.[58] The Supreme Court of the United States has indicated that great procedural circumspection is required where substantial rights of the individual are threatened in civil proceedings.[59] Therefore, it seems likely that because of the seriousness of the certification proceeding, and because of its resemblance to criminal proceedings, the procedural safeguards of *Miranda* should attach.

Following the resolution of the "civil-criminal" issue, the question still remains as to how far the state's police power may reasonably impinge on the alleged addict's constitutional guarantee of due process. An indication of broad police power is unmistakable in *Schmerber*, which held that a compulsory blood test incident to an arrest did not abridge fourth, fifth, sixth, or fourteenth amendment rights, when the delay necessary to obtain a warrant threatened destruction of the evidence.[60] *Miranda* and *Gault* exemplify the principle of

51. Matter of James, 54 Misc. 2d at 537, 283 N.Y.S.2d at 150.
52. Matter of De La O, 59 Cal. 2d 128, 378 P.2d. 793, 28 Cal. Rptr. 489, *cert. denied*, 374 U.S. 856 (1963). *See* A. Lindesmith, The Addict and the Law 291 (1965).
53. *Id.*
54. *See* text accompanying *supra* notes 18-22.
55. *See, e.g.*, Matter of Gault, 387 U.S. 1 (1967); Matter of Rust, 53 Misc. 2d 51, 278 N.Y.S.2d 333 (Sup. Ct. 1967).
56. *Id.*
57. N.Y. Mental Hygiene Law, § 200 (Supp. 1967).
58. *See* Aronowitz, *Civil Commitment of Narcotic Addicts*, 67 Colum. L. Rev. 405, 421 (1967).
59. *See, e.g.*, Matter of Gault, 387 U.S. 1 (1967); Spevack v. Klein, 385 U.S. 511 (1967).
60. Schmerber v. California, 384 U.S. 757, 770 (1966).

narrow police power where constitutional rights are imperiled.[61] If a determination is made that proceedings for the certification of addicts are "criminal" in nature, the principles enunciated in *Miranda* will surely be injected into the certification procedure.[62] That the medical examination and its coincident questioning, as contemplated in the certification proceeding, will come within the reach of *Schmerber* is doubtful.[63] The likelihood of losing evidence of narcotic addiction (unlike evidence of intoxication) through delay is negligible.[64] Thus, the rationale of *Schmerber* affords no basis for relaxing the standards of procedural due process formulated in *Miranda* as they may pertain to the certification procedure. Further, it seems clear that the case history of addiction which is elicited by the examining doctor is testimonial self-incrimination, which is also without the scope of *Schmerber*.[65] It should also be noted that although the alleged addict may present additional evidence, the hearing is, as a practical matter, a formal rehash of the medical examination. The New York procedure, in denying the alleged addict the protection of the fifth and sixth amendments until the hearing stage of the proceeding, accords the individual meaningless constitutional rights. It is only at the outset of the proceeding that these rights may be effectively employed to prevent the individual from assisting in his own prosecution.[66]

Another dichotomy in the reasoning of *James* and *Spadafora* demands analysis. *Spadafora* finds applicable to the addiction proceedings a standard employed in insanity commitment proceedings. Where an individual is likely to injure himself or others if not immediately restricted, temporary confinement without notice, hearing or counsel is not incompatible with procedural and substantive due process.[67] *James* rejects this application. The reasoning in *James* appears more cogent. Abrogation of due process in insanity commitment proceedings requires a finding that the person is dangerous to himself or others, and that the danger is reasonably probable and immediate.[68] No such requirements are evident in the procedure for certifying narcotic addicts.[69] The only ostensible requirement is that the individual be a narcotic addict.[70] Apparently, the proceeding is based on the supposition that all addicts are helpless and dangerous,[71] ergo requirements of due process may be suspended. It would seem, however,

61. *See* Miranda v. Arizona, 384 U.S. 436 (1966); Matter of Gault, 387 U.S. 1 (1967).
62. Matter of Gault, 387 U.S. 1 (1967).
63. The United States Supreme Court is in conflict over the scope of Schmerber as demonstrated in Gilbert v. California, 387 U.S. 263 (1967); United States v. Wade 388 U.S. 218, 259 (1967) (Fortas, J., concurring in part and dissenting in part).
64. *See, e.g.*, D. Maurer & V. Vogel, Narcotics and Narcotics Addiction 129-39 (1962).
65. Schmerber v. California, 384 U.S. 757 (1966).
66. Matter of James, 54 Misc. 2d at 524, 283 N.Y.S.2d at 136-37.
67. Matter of Coates, 9 N.Y.2d 242, 173 N.E.2d 797, 213 N.Y.S.2d 74, *appeal dismissed sub nom.* 368 U.S. 34 (1961).
68. *See e.g.*, Overholzer v. Williams, 252 F.2d 629 (D.C. Cir. 1958); Warner v. State 297 N.Y. 395, 79 N.E.2d 459 (1948).
69. *See* N.Y. Mental Hygiene Law, § 206 (Supp. 1967).
70. *Id.*
71. *See*, A. Lindesmith, The Addict and the Law, 292 (1965).

that in the instance of addiction, where there is usually no need for emergency action, due process requires a separate evaluation of helplessness and propensity toward crime (or other public injury) for each alleged addict.[72] It is not a truism that all addicts are helpless or dangerous.[73] By providing for commitment of an individual for being an "addict," a member of a class whose members generally require treatment, rather than requiring proof of necessity of compulsory confinement in his particular case, the Narcotic Addiction Control Act may be infirm for violation of rights of substantive due process.[74] A state may not arbitrarily deprive an individual of his freedom, nor may it arbitrarily discriminate against a class of people.[75] On the other hand, a court might well accept a presumption that the legislature has reasonably determined that compulsory confinement of narcotic addicts is necessary to the public welfare, and that such a policy is within the broad police powers of the state.[76] Another possible infirmity in the logic underlying the New York certification procedure is its manifest premise that individuals alleged to be addicts are in fact addicts. It is extremely difficult for the layman, who must initiate the certification proceeding on knowledge, information or belief,[77] to detect addiction, primarily because of misinformation disseminated through mass media.[78] In addition to difficulties in distinguishing addiction from other afflictions, there is the problem of fitting the accused person within the statutory definition of "narcotic addict."[79] Consequently, there is an exigent danger that a person may, on tenuous grounds, be erroneously apprehended, detained for up to three days, and made to submit to medical examination and interrogation. Irrespective of *Miranda's* applicability to the certification procedure, the risk of arbitrary interference with an innocent individual's freedom of action requires a procedural framework that will ensure rights of substantive due process from arbitrary encroachment. Consequently, notice of the proceeding, apprisal of constitutional rights, and provision for a hearing at the outset of the proceeding (as suggested in *James*) are devices that may reasonably meet requirements of due process and obviate the risk of frivolous complaints.

Because of the amorphous nature of the law in the sphere of civil commitment, an attempt to answer the following policy questions would be mere unsupported conjecture. Nevertheless, such considerations should be noted for their signficance in shaping the requirements of a constitutionally valid and effective civil commitment proceeding: Should the mere promise of treatment, unsupported by facts indicating likelihood of success, be sufficient to support

72. See Aronowitz, *Civil Commitment of Narcotic Addicts*, 67 Colum. L. Rev. 405, 412 (1967).
73. *See, e.g.*, L. Kolb, Drug Addiction, A Medical Problem 19-37 (1962).
74. *Cf.*, Schware v. Board of Examiners, 353 U.S. 232, 246 (1957); Wieman v. Updegraff, 344 U.S. 183 (1952).
75. *Id.*
76. *See, e.g.*, McGowan v. Maryland, 366 U.S. 420 (1961).
77. *See* N.Y. Mental Hygiene Law § 206 (Supp. 1967).
78. *See* D. Maurer & V. Vogel, Narcotics and Narcotics Addiction 131 (1962).
79. *See* N.Y. Mental Hygiene Law § 201 (Supp. 1967).

civil commitment as a proper exercise of the state's police power?[80] If the rationale of *James* is correct, will the exercise of fifth amendment rights to suppress the alleged addict's case history create difficulties of proof that will emasculate the certification proceeding? If *Miranda* is applicable to commitment proceedings for addicts, should its safeguards be extended to insanity commitment proceedings where an individual may lose his freedom of action, but where no taint of criminality attends his confinement? If an addict proves that he would receive superior treatment from a private physician, must he nonetheless be committed?[81]

The preceding policy questions emphasize the complexity of the task of developing a civil proceeding for the compulsory commitment of narcotic addicts which is at once constitutional and practicable.

KENNETH D. WEISS

CONSTITUTIONAL LAW—ONE YEAR RESIDENCE REQUIREMENT TO BE ELIGIBLE FOR STATE WELFARE: A DENIAL OF BOTH EQUAL PROTECTION AND FREEDOM OF TRAVEL

Defendant, the Commissioner of Welfare for the state of Connecticut, denied plaintiff's application for assistance under Aid to Dependent Children[1] on November 1, 1966, for the sole reason that she had not met the statutory one year residence requirement.[2] Until September, 1966, plaintiff had been receiving

80. A persuasive argument that involuntary commitment of narcotic addicts is not justified on the basis of existing knowledge about addicts, and methods of treatment is presented by Aronowitz, *Civil Commitment of Narcotic Addicts*, 67 Colum. L. Rev. 405 (1967).

81. *See* A. Lindesmith, The Addict and the Law 270-77, 290-94 (1965).

1. Social Security Act, tit. IV, 49 Stat. 627 (1935), *as amended*, 42 U.S.C. §§ 601-09 (1964), *as amended*, 42 U.S.C. §§ 602-06 (Supp. I, 1965).

2. Conn. Gen. Stat. Rev. § 17-2d (1965):

> "When any person comes into this state without visible means of support for the immediate future and applies for aid to dependent children under chapter 301 or general assistance under part I of chapter 308 within one year from his arrival, such person shall be eligible only for temporary aid or care until arrangements are made for his return, provided ineligibility for aid to dependent children shall not continue beyond the maximum federal residence requirement."

As impemented by 1 Conn. Welfare Man. ch. II, § 219.1.

1. Persons or families who arrive in Connecticut without specific employment.
2. Those arriving without regular income or resources sufficient to enable the family to be self-supporting in accordance with Standards of Public Assistance.
3. "Immediate future" means within three months after arriving in Connecticut. NOTE: Support from relatives or friends, or from a public, private, or voluntary agency for three months after arrival will not satisfy the requirements of the law, which relates to self-support rather than to dependency.

And also implemented by *id.* § 219.2.

In accord with the above, the regulations further provide:

1. If the application for assistance is filed within one year after arrival in