employment was itself conditioned by the procedural limitations which had accompanied the grant of that interest," [785] the employee would have to "take the bitter with the sweet." [786] Thus, Congress (and by analogy state legislatures) could qualify the conferral of an interest by limiting the process that might otherwise be required.

But the other six Justices, although disagreeing among themselves in other respects, rejected this attempt to formulate the issue. "This view misconceives the origin of the right to procedural due process," Justice Powell wrote. "That right is conferred not by legislative grace, but by constitutional guarantee. While the legislature may elect not to confer a property interest in federal employment, it may not constitutionally authorize the deprivation of such an interest, once conferred, without appropriate procedural safeguards." [787] Yet, in *Bishop v. Wood*,[788] the Court accepted a district court's finding that a policeman held his position "at will" despite language setting forth conditions for discharge. Although the majority opinion was couched in terms of statutory construction, the majority appeared to come close to adopting the three-Justice *Arnett* position, so much so that the dissenters accused the majority of having repudiated the majority position of the six Justices in *Arnett*. And, in *Goss v. Lopez*,[789] Justice Powell, writing in dissent but using language quite similar to that of Justice Rehnquist in *Arnett*, seemed to indicate that the right to public education could be qualified by a statute authorizing a school principal to impose a ten-day suspension.[790]

Subsequently, however, the Court held squarely that, because "minimum [procedural] requirements [are] a matter of federal law, they are not diminished by the fact that the State may have specified its own procedures that it may deem adequate for determining the preconditions to adverse action." Indeed, any other conclusion would allow the state to destroy virtually any state-created prop-

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[785] 416 U.S. at 155 (Justices Rehnquist and Stewart and Chief Justice Burger).

[786] 416 U.S. at 154.

[787] 416 U.S. 167 (Justices Powell and Blackmun concurring). *See* 416 U.S. at 177 (Justice White concurring and dissenting), 203 (Justice Douglas dissenting), 206 (Justices Marshall, Douglas, and Brennan dissenting).

[788] 426 U.S. 341 (1976). A five-to-four decision, the opinion was written by Justice Stevens, replacing Justice Douglas, and was joined by Justice Powell, who had disagreed with the theory in *Arnett*. *See* id. at 350, 353 n.4, 355 (dissenting opinions). The language is ambiguous and appears at different points to adopt both positions. *But see* id. at 345, 347.

[789] 419 U.S. 565, 573–74 (1975). *See* id. at 584, 586–87 (Justice Powell dissenting).

[790] 419 U.S. at 584, 586–87 (Justice Powell dissenting).