University of Nevada

Reno

Quality High School Journalism: Program Principles and Publication Guidelines Governed by Press Law

A thesis submitted in partial fulfillment of the requirements for the degree of Master of Arts

by

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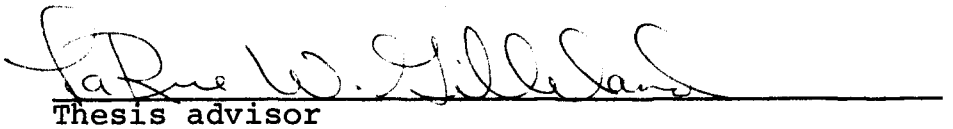

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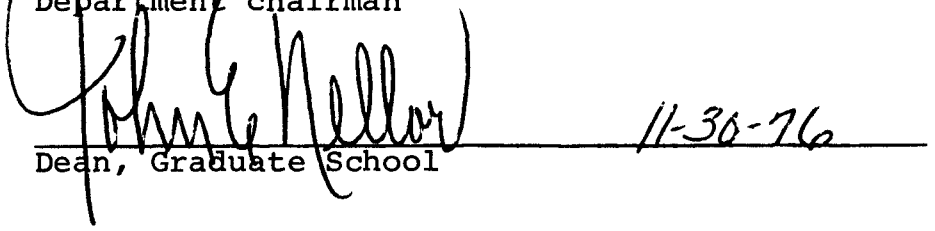

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ABSTRACT

High school journalism programs are generally ineffective because they lack concrete direction for course content and student publication policy. This thesis defines the problems of high school journalism, finding that an ignorance of professional press practices--as they relate to press law--is the common denominator in each problem.

Professional journalists depend upon law to set policy on press freedoms and press responsibilities. Rarely, however, is press law introduced into high school journalism programs because school administrators and publications advisors are either not aware that these legal guidelines exist or are not convinced that they apply to high schools.

This study demonstrates, by detailing court cases specifically involving the high school press, that these legal guidelines do apply to high schools. The purpose is to show that press law can solve many problems in high school journalism and offer a sound basis for building quality high school journalism programs.

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Chapter I

INTRODUCTION

> High school journalism for too long has existed in a gray, shadowy area of public concern. It is time to bring it forth as one of the most potential, most educational, most exciting means available for young people to meet and come to understand their world and ours.[1]

Statement of the Problem

In 1973 the Robert Kennedy Memorial Foundation brought together twenty-two individuals with backgrounds in law, professional and scholastic journalism, and public school education and charged them with the task of determining the state of high school journalism in America. The Kennedy Commission of Inquiry into High School Journalism, as this task force is known, devoted fifteen months to research and published their findings in a book called Captive Voices.

Captive Voices is the first comprehensive assessment of the condition of high school journalism programs on a national scale. Several studies on various aspects of high school journalism have been undertaken from as early as 1940. But these have all been handled entirely through the questionnaire method as independent (single person) research projects and each has dealt with one specific area of high

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[1]Jack Nelson, ed., Captive Voices: The Report of the Commission of Inquiry into High School Journalism (New York: Schocken Books, 1974), p. xxi.

school journalism, such as the sampling of principals' attitudes on press freedom issues,[2] the drawing of correlations between advisor-administrator relationships and quality newspapers,[3] and defining the role of the high school newspaper.[4] While the data in each of these studies are interesting, none of them has the scope or thoroughness of the Captive Voices study which dealt with the broad spectrum of high school journalism and did so with nationwide personal interviewing as well as questionnaire distribution.

The Captive Voices impact on defining and, more importantly, publicizing the problems of high school journalism is unparalleled. As one journalism teacher commenting on the study noted, "It tells those of us close to scholastic journalism that we are dealing with a sick animal."[5] Indeed, the Commission exposed journalism programs throughout the country as deplorably ineffectual.[6]

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[2]Laurence R. Campbell, "Principals' Attitudes toward Freedom of the Press," Quill and Scroll, L, No. 3, (February-March, 1976), pp. 19-23.

[3]Ronald L. Watson, "Administrative Attitudes toward High School Journalism," Quill and Scroll, XLIV, No. 1, (October-November, 1969), pp. 10-11.

[4]Laurence R. Campbell, "The Role of the High School Newspaper," Quill and Scroll, XLV, No. 3, (February-March, 1971), pp. 22-23.

[5]C. Marshall Matlock, "Captive Voices: Valid Points vs Generalizations," Quill and Scroll, XLIV, No. 4, (April-May, 1975), p. 8.

[6]Captive Voices, pp. 47-49, 111-113.

The problem, according to the Captive Voices study, is epitomized by the bland mediocrity of student publications produced in school journalism programs that do not encourage free expression, independent inquiry or investigation of important issues in either the school or the community.[7]

The problem develops in a climate of confusion over the role and value of journalism within the high school.[8] Because journalism is customarily given low priority considerations with regard to budgetary allotments and academic status, it has generally been treated as an extracurricular activity.[9] Where journalism emerges as a scheduled class, the Commission noted little attempt by school boards to emphasize educational background and/or practical experience training in the subject as criteria for teacher assignment.[10] In fact, it was pointed out that teachers-advisors are often assigned a journalism duty against their preference.[11]

The problem festers in an atmosphere riddled with inordinate concern over right-to-print issues. Captive Voices cites several examples where administrators, publications advisors and student journalists have waged a heated

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[7]Captive Voices, p. 111.

[8]Captive Voices, pp. 81-89.

[9]Captive Voices, pp. 111-112.

[10]Captive Voices, pp. 89-96.

[11]Captive Voices, p. 111.

battle one against the other because of censorship policies.[12] And it repeatedly points to ignorance of press law as both the cause of unnecessarily lengthy debates over publication content and the reason for absence of substance in the student publications produced by school journalism programs.[13]

The problem continues because administrators and advisors, those involved in decision-making power over publication content, remain unaware of First Amendment press freedom guarantees or unconvinced that these same guarantees governing the professional press also apply to the high school press.[14] Indeed, members of the professional press are not entirely supportive of such a theory as evidenced by the comment of one managing editor from Missouri who told the Commission he feels that high school newspapers are a privilege granted by school authorities and supported by the taxpayers and, as such, should have no recourse to First Amendment protection.[15]

The problem has little chance for solution as long as high school publications remain isolated from the mainstream of career journalism.[16] According to Commission

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[12] Captive Voices, pp. 3-49.

[13] Captive Voices, pp. 3-49, 141-163.

[14] Captive Voices, pp.

[15] Captive Voices, p. 117.

[16] Captive Voices, pp. 117-123.

findings, the Missouri editor's opinion is not unique among professional journalists. Of the 465 managing editors randomly selected for Commission questioning, 62 percent favored First Amendment rights for student press only under certain conditions or were opposed to applying them at all, with 3 percent expressing no opinion.[17]

Professional journalists should have a personal stake in preserving the highest standards for their field, and yet the Commission's report indicates that they have little interest in or awareness of the problem prevalent in the introductory stages of journalistic development.[18]

The problem is clearly a decided lack of respect for current high school journalism programs and an uncertainty about how to establish a more viable program.

Importance of the Study

The premise of this thesis is that high school journalism should be patterned on (1) professional journalistic practices and (2) press law as it functions to define press freedom and responsibility in the areas of libel, privacy invasion and obscenity. These are the legal areas that most often cause problems for student publications.

The thesis details court decisions specifically related to high schools to demonstrate that the courts have

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[17] Captive Voices, p. 117.

[18] Captive Voices, pp. 117-138.

afforded student journalists no less press freedom than their career counterparts. While these freedoms are not unlimited, it is the judicial system, not the school system, which is empowered to define what constitutes illegal expression and to allocate punishment.

Administrators and advisers should know what the courts have said with regard to student First Amendment activities. A common understanding of law would dissolve any arbitrarily contrived system of student press control and replace it with a concrete formula for editorial policy.

If content no longer had to be justified as "appropriate" for a school paper, the student press would have the opportunity to flourish as a forum for student opinion on real issues as well as to become a genuine source of information. It could then engender the active curiosity which is so crucial to the process of learning.

If law formed the framework for a high school journalism program, three major scholastic journalism ills could be cured. They are:

1. Reluctance to give journalism a prominent, respected place in the curriculum.

2. Friction in administrator-advisor-student relationships.

3. Isolation of high school journalists from their professional counterparts.

If law provided the guidelines for content, the emphasis would shift from time-consuming, conscience-

tormenting, often entirely authoritarian decisions regarding whether or not a story will see print to a more positive educational enterprise. Writing style, grammar, vocabulary and layout design--factors already given attention in most journalism programs--would take on a fresh importance as critical elements for effective presentation of content. Programs that stressed story research and content delivery would provide an educational challenge for students and as such would earn a solid position within the school's curriculum.

If law were recognized as the authority, the burden for decision about content would no longer be solely a matter of administrative debate or advisor conscience. In the past, school officials have had to rely upon vague impressions of appropriate student behavior and personal feelings about student rights and school responsibilities. If administrators, advisors and students would agree on law as the arbitrator for publication-content questions, the friction in their relationship would be greatly reduced and an attitude of publication teamwork may emerge.

If law determined standards, student journalists would be encouraged to pattern their efforts after those of their professional counterparts. If high school journalism becomes more "professionalized," career journalists would find that they and their young colleagues have a mutual interest in furthering a public understanding of journalism as a professional field.

If law guided the development of a journalism program, the program would become a credible academic offering of substantial educational impact and one that would earn the respect of educators, professional journalists and the entire school community.

Background of the Study

Fifteen years ago on a warm September morning, the writer of this paper walked into her first period class as a student at Chippewa Junior High School, Port Huron, Michigan, and heard the words "inverted pyramid" for the first time. That was ninth grade and she has been hooked on journalism ever since.

She has the opportunity to look at scholastic journalism from both sides of the teacher's desk, for four years as a junior high school and high school student in Port Huron and four years as a high school magazine journalism teacher-yearbook advisor in Farmington, Michigan.

She has been a member of a student publications workshop team that traveled the eastern third of the United States and parts of Canada to put on scholastic journalism workshops. This experience gave her the chance to meet advisors from numerous high schools and to exchange journalism program ideas and publications anecdotes.

Add to this a year of student teaching in journalism at two Detroit inner-city high schools, undergraduate and graduate degree programs in journalism, a variety of

journalism related work experience further becomes obvious that she has a particular devotion to the profession.

This devotion prompted in her a deep concern for the status and condition of high school journalism described in this study's "Statement of the Problem" section. She has always felt that scholastic journalism could and should be much more effective than it generally is.

It was during a University of Nevada-Reno press law course in the Fall of 1975 that she began to see a correlation between quality journalism and press freedom; between editorial codes and legally defined responsibility parameters. Although she could see law working for the professional press, she was still not convinced that these First Amendment guidelines would apply to the high school.

She probed law libraries for court cases specifically involving high school students and uncovered a wealth of precedent beginning in 1969 with the landmark decision of Tinker v. Des Moines. Tinker marks the first time that a court has guaranteed First Amendment protection to minors.

Aided by a library reference computer search, she then began to explore the available literature on high school journalism and found, especially in Quill and Scroll, that the debate is still raging on how to solve the program development and publication guideline problems of high school journalism.

One author states that the school paper would be more effective if it were to take on the character of a

public relations practitioner and view the entire school community as its client.[19] Others think the answer is in writing more and better editorials.[20] Still others suggest that the advisor, top administrator and students reach an agreement about editorial policy prior to putting the first paper of the year on the press.[21] The latter is certainly a constructive suggestion, but it leaves too much room for personal opinion to set policy.

Several articles have sketched a high school press law outline but have overlooked the point that this information could have a substantial pay-off for the total journalism program.

The writer of this paper became increasingly convinced that the law-emphasis plan outlined in the "Importance of the Study" section is the solution to journalism program problems and she set about to collect the press law

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[19]James E. Murphy, "Responsibility and Quality: To Be Effective in Public Relations," Quill and Scroll, LXV, No. 1, (October-November, 1970), pp. 12-33.

[20]Jerry Varner, "School Press Must Expand News Coverage, Editorial Commentary," Quill and Scroll, XLIII, No. 3, (February-March, 1969), pp. 8-9 and William J. Zimma, "New Freedom for the High School Editorial Writer," Quill and Scroll, XLVII, No. 2, (December-January, 1973), pp. 6-7.

[21]Sandra Grasinger, "Avoid Censorship: Develop Unique Relationship Between Advisor, Staff and Administration," Quill and Scroll, XLV, No. 1, (October-November, 1970), pp. 10-11 and Rod Vahl, "Adopting a Realistic Policy for School Publications," Quill and Scroll, XLV, No. 4, (April-May, 1971), pp. 10-11 and Murvin H. Perry and Harold VanWinkle, "Agree on the Rules before You Start the Game," Quill and Scroll, XLV, No. 1, (October-November, 1970), pp. 24-25.

information that administrators and advisors would need to put the plan into action.

Chapter II

THE ARGUMENT FOR HIGH SCHOOL PRESS FREEDOM

> That they [schools] are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes.[1]

The Tinker Case: Landmark Decision

The Supreme Court's landmark decision concerning high school student right to freedom of expression was born in the turmoil of protest over the war in Vietnam. Not only did the case set a precedent for the First Amendment rights of minor students but also declared a strong correlation between freedom of expression and quality education.

In December 1965, a group of adults and students gathered in a Des Moines, Iowa, home to discuss methods of publicizing their opposition to the Vietnam War. They decided to wear black armbands during the holiday season. Two high school students--John F. Tinker, 15, and Christopher Eckhardt, 16--and one junior high school student--Mary Beth Tinker, 13--decided to participate in the protest program.

The school administrators, hearing about the protest plan, met and adopted a policy that any student wearing an armband to school would be asked to remove it. If the

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[1] Tinker v. Des Moines Community School District, 89 S Ct 733 (1969), at 738.

student refused, he would be suspended until he returned without the armband. All three students were aware of this new regulation.

All three students, however, chose to wear their armbands to school and, subject to the regulation, were suspended from school until they would return without their armbands. They did not return to school until after New Year's Day, the planned expiration date for wearing of armbands as determined by the protest committee.

The three students, through their fathers, filed a complaint in the United States District Court asking for an injunction restraining the school officials and members of the board of directors of the school district from disciplining the students.

The district court dismissed the complaints, claiming that the school authorities had the right to prohibit the armband action on the grounds that it was reasonable to prevent disturbance of school discipline. On appeal, the Court of Appeals for the Eighth Circuit affirmed the lower court decision.

The case was taken to the Supreme Court in 1969, and the task of sorting out the question of constitutionality began. On one hand, the students were claiming that their action was constitutionally protected freedom of expression. On the other hand, the schools (and lower courts) claimed the right of school officials to exercise their duty in protecting the school environment from discipline problems.

The Supreme Court reversed the decision of the lower courts and the majority opinion written by Mr. Justice Fortas strongly upheld student right to free expression. The decision warned school systems that the Constitution protects the high school student in these matters; and it stipulated what would be constitutionally permitted prohibition of these rights.

The court, through the Fortas opinion, defined students as "persons under our Constitution,"[2] adding:

> It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.[3]

Furthermore, it warned boards of education that they are not permitted to impose rules that are contrary to the Bill of Rights. Indeed, the court reminded school authorities of their duty as educators, saying:

> That they [school authorities] are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes.[4]

The court then turned its attention to the ruling of the lower courts. The conclusion had been that school authorities acted reasonably because they feared a disturbance would be caused by the wearing of armbands. But the Supreme Court said:

> In our system, undifferentiated fear or apprehension of disturbance is not enough to overcome the

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[2] Tinker at 740. [3] Tinker at 737. [4] Tinker at 738.

> right to freedom of expression. Any departure from absolute regimentation may cause trouble. Any variation from the majority's opinion may inspire fear. Any word spoken, in class, in the lunchroom, or on the campus, that deviates from the views of another person may start an argument or cause a disturbance. But our Constitution says we must take this risk.[5]

Moreover, the court said that to justify prohibition of opinion there must be "something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular opinion."[6]

The court rejected mere fear of disturbance as reason for school administrators to prohibit free expression. It did, however, institute conditions under which school officials could limit expression of opinion. Relying on the decision from Burnside v. Byars, the court determined:

> Where there is no finding and no showing that engaging in of the forbidden conduct would materially and substantially interfere with the requirements of appropriate discipline in the operation of the school, the prohibition cannot be sustained.[7]

This concept of material and substantial interference with appropriate discipline has been compared to the "clear and present danger" ruling in Schenck v. United States.[8] The Tinker decision gives school officials the right to silence student opinion only if they have strong evidence that such opinion will absolutely cause substantial

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[5]Tinker at 739. [6]Tinker at 739. [7]Tinker at 739.

[8]Scoville v. Board of Education, 16 ALR Fed at 175, (1970). See also Schenck v. United States, 249 US 47.

disciplinary problems within the school. Furthermore, this part of the decision places the burden of proving imminent substantial disruption on the school officials. In the absence of such proof, "students are entitled to freedom of expression of their views."[9]

Tinker is considered a landmark case because it established valuable precedents which firmly protect freedom of expression for high school students. In summary, these precedents are:

1. High school student freedom of expression is protected by the Constitution. The Supreme Court vigorously upholds this right.
2. School officials violate constitutional rights of students if they attempt to silence student opinion unless they can prove that this opinion would create a "material and substantial disturbance" in the school.
3. School officials, in order to legally impose censorship on student opinion, have to be able to prove:
    a. that there was a clear and present danger of disturbance, and
    b. that this danger was a direct result of student opinion.

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[9] Tinker at 740.

Tinker is the foundation of student press freedom. A study of cases involving similar First Amendment activity that followed Tinker will show how the courts further defined the constitutional strength of this decision.

Traditional Views of Regulation

The general feeling of school officials is that the school paper is a "house organ." As such, they subscribe to the belief that the paper belongs to the school and, therefore, should represent it.[10] There would be no quarrel with this ideal if "school representation" could be interpreted to mean "representation of student views and interests as well as views and interests of the faculty and administration." This, however, is not the interpretation of "school representation" that school officials deem appropriate.

Most school officials believe that the student paper should present the school in a favorable light; the paper should make the school look good. For this reason, criticism of administrators, teachers, and school activities is prohibited.

Representative of this thinking is the policy of the Board of Trustees of the Anaheim Union High School District, Anaheim, California. It says in part:

> Since criticism of school-sponsored events can have disruptive effects on concerned groups within

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[10]Jack Nelson, ed., Captive Voices: The Report of the Commission of Inquiry into High School Journalism (New York: Schocken Books, 1974), pp. 24-47.

> the school, reviews of these productions and contests shall be constructive in nature.[11]

According to school officials, then, the school paper should be an instrument of public relations for the school. Student journalists should report only the good news and always discuss the school in the most glowing terms. A great many advisors go along with this line of thinking.[12]

One advisor, in an article for the October-November Quill and Scroll, 1970, urged other advisors to consider the public relations aspect of the school paper. The following points were offered as a guideline to insure that the school paper would not stray from public relations objectives:

> 1. Consider the paper's publisher to be the school administration and work within that framework;
> 2. Learn the personal philosophy of the principal and pay him allegiance in print;
> 3. Have respect for all "sacred cows"; and
> 4. Limit the newspapers to news and features that concern the school and students.[13]

The rights and responsibilities expected for and of the commercial press should be no less applicable to the student press. The First Amendment does not specify an age limit under which one can qualify for freedom of speech or of the press.

Libel, obscenity, invasion of privacy--factors that courts have cited as legal cause for press restrictions--

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[11] Captive Voices, p. 26.

[12] Captive Voices, pp. 29-37.

[13] Captive Voices, p. 30.

"are seldom at issue in school censorship controversies."[14] Rather, school censorship policies center on three categories of writing:

> 1. Controversial political issues, such as racism, students' rights, and, at one time, the Vietnam War.
> 2. Criticism of school administration or faculty policies, or unfavorable images of the school, such as criticism of athletic teams or school censorship policies.
> 3. Life styles and social problems, such as birth control and drug abuse.[15]

The Supreme Court, however, "has indicated that expression of any kind cannot be abridged because of a dislike for its content."[16] School officials may not impose regulations on the student press merely because they wish to "avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint."[17] Indeed, if a regulation confined to students would be unconstitutional if imposed on adults, then the school has a "substantial burden of justification" to meet in order to demonstrate its validity as applied to students.[18]

In considering the extent to which school officials may legally impose regulation of the student press, the courts have been concerned with questions of constitutional-

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[14] Captive Voices, p. 40. [15] Captive Voices, p. 41.

[16] C. Michael Abbott, "The Student Press: Some First Impressions," 16 Wayne Law Review at 28 (1969).

[17] Tinker at 739.

[18] 16 Wayne Law Review at 29, quoting Breen v. Kahl, 296 F Supp at 702, 709.

ity. And it has specifically outlined those conditions which warrant regulation.

Activities Warranting Regulation

In a 1971 case, Eisner v. Stamford Board of Education,[19] the court noted that a public school is "undoubtedly a marketplace of ideas" and that early involvement in social comment and debate is a good method for future generations of adults to learn intelligent involvement. The same case, however, also determined that a state has the authority to minimize or eliminate influences that "will dilute or disrupt the effectiveness of the educational process."[20] School officials may, therefore, regulate student speech, but only under very specific conditions. Regulation may be legally imposed only in situations where the educational process is threatened and so long as such regulation does not otherwise "unreasonably burden students' First Amendment activities."[21]

Litigation since Tinker has determined that certain conditions warrant regulation of student First Amendment activity. They involve expression of opinion that would:

1. materially and substantially interfere with the requirements of appropriate discipline in the operation of the school;

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[19] Eisner v. Stamford Board of Education, 440 F 2d 803 (1971).

[20] "Regulation of Student Publications," 16 ALR Fed at 200 (1973).

[21] 16 ALR Fed at 200.

2. materially disrupt classes or classwork;
3. involve substantial disorder, chaos, violence, or an invasion of the rights of other students.[22]

In determining the legal strength of regulation under the above conditions, the question must be "whether the words used were of such a nature as to create a clear and present danger that they would bring about the substantive evils sought to be prevented."[23]

A case involving university students is an example of how student expression of opinion may materially disrupt classes or classwork and may invade the rights of other students. In Speake v. Grantham,[24] three students at a state university circulated false notices that classes would not meet at the university on each of two days immediately preceding the beginning of the university's final examination period. The students were suspended and the court upheld the suspensions saying that these students:

> . . . had promoted unrest and had imposed the potential threat of disruption of normal educational activities at the university to the detriment of both the university and all other students attending it.[25]

A situation such as that described in the Speake case would not be likely to occur in a sanctioned high school paper. In the first place, attendance of classes is

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[22]16 ALR Fed at 199. [23]16 ALR Fed at 200.

[24]Speake v. Grantham, 317 F Supp 1253 (1970).

[25]Speake at 1253.

more closely controlled in a high school. In the second place, the institution of home room periods, where announcements are read by teachers or conducted over public address systems on a daily basis, would mitigate the possibility of a misunderstanding regarding attendance requirements.

The student press and its advisors, however, should be cautioned that speech advocating the boycott of classes would not enjoy First Amendment protection.[26] The court has said that schools have the right to "establish any standards reasonably relevant to its lawful missions, processes and functions."[27] It must be remembered that the state is charged with the duty to provide an education for its youth. School attendance is mandatory under state law and enforcement of attendance policies is considered a school's "lawful mission." To suggest, therefore, that students should not come to school as a method of protest would be illegal speech.

In Scoville v. Board of Education,[28] two Illinois high school students published an underground newspaper called Grass High. The students, Raymond Scoville and Arthur Breen, wrote an editorial urging students not to

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[26]Jones v. State Board of Education, 279 F Supp 190 (1968).

[27]Sullivan v. Houston Independent School District, 307 F Supp 1328 (1969), as interpreted in 16 ALR Fed at 202.

[28]Scoville v. Board of Education, 16 ALR Fed 171 (1970).

accept, for delivery to parents, any "propaganda" issued by the school, and to destroy it if accepted.[29] The editorial came as a reply to a pamphlet issued by the school. The pamphlet, which outlined a new policy on detention punishment, was addressed to parents. Students were instructed to deliver the pamphlet to their parents.

School officials in Scoville argued that the editorial--the action it advocated--would materially and substantially interfere with the maintenance of the school system.[30] They cited the importance and the custom of communicating with parents through their children.[31] To disturb this custom, they said, would interfere with the operation of the school. The lower court agreed.

The Court of Appeals, however, held a much different opinion. The court considered that the boys "may have intended their criticism to substantially disrupt or materially interfere with the enforcement of school policies"[32] but rejected this premise as having "no significance per se under the Tinker test."[33] Tinker requires that school officials have the burden of proof in showing that a material and substantial discipline problem was imminent. The Scoville court said that distribution of only sixty copies of

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[29] Scoville at 175.

[30] Scoville at 175, 176.

[31] Scoville at 176.

[32] Scoville at 178.

[33] Scoville at 178.

the paper--to teachers and students--would not constitute a clear and present danger to the operation of the school.[34] The court further determined that the school had not met its burden of proof since there was no evidence of any disruption following distribution of the paper.

It is important to note that no state law was in question when the editorial urged students not to take school notices home to their parents. There is no state law compelling students to act as messengers for the school. Rather, this expectation is one which is derived through custom within the individual school.

While courts have considered evidence of material and substantial disruption of prime importance in determining the right of schools to regulate student speech, the courts have also interpreted the extent to which a disruption can be blamed on the student press.

In Sullivan v. Houston Independent School District,[35] school officials, as well as the lower courts, determined that an underground newspaper called Pflashlyte was directly responsible for the disruption of classes, classwork and discipline. Teachers called to testify to this disruption cited incidents where students were reading the paper in the classroom when they were to have been doing their classwork.

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[34] Scoville at 175.

[35] Sullivan v. Houston Independent School District, 307 F Supp 1328 (1969).

Other evidence claimed that one boy twisted around in his seat to look at a copy of the paper held by the student behind him. Teachers said that students interrupted classes to ask questions about the paper or to discuss the paper's content.[36]

In distributing 1,000 copies of Pflashlyte, Mike and Dan--the originators of the paper--had asked other students to help them. The boys asked their helpers not to distribute papers in the school. The plan had been to distribute the papers from a park across the street from the school. While most students did as the boys requested, others did not. "In one boys' restroom a stack of papers was found with a sign above it saying 'take one!' Copies were also placed in a paper towel dispenser and some were found inside sewing machines in a girls' homemaking class."[37]

School officials pointed to the disruption of classes as justifiable reason to suppress the newspaper. The principal of the high school further claimed that he was apprehensive as to discipline problems he felt could arise. He said that he detected "something of concern that was generally among the student body."[38] The school claimed that suppression of the paper and expulsion of the two boys was justified "in that the newspaper created such disruption to the school's daily operation that the result was complete

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[36] Sullivan at 1334. [37] Sullivan at 1334.

[38] Sullivan at 1335.

turmoil among students."[39]

The court, in considering the constitutional merits of the case, relied upon the Tinker rule saying:

> Serious disciplinary action concerning First Amendment activity on or off campus must be based on the standard of substantial interference with the normal operations of the school.[40]

But the Sullivan court did not find such a showing of proof in evidence. Indeed, as the court pointed out:

> It is of special significance to note that during the nine school days between the first appearance of the "Pflashlyte" and the expulsion of Mike and Dan, only one student "discipline card" was filled out at Sharpstown High which was in any way related to the newspaper. Moreover, that one student was also being reprimanded for several other infractions as well as possession of a "Pflashlyte."[41]

The Sullivan decision gives administrators the right to regulate the time, place and manner for distribution of student publications.[42] But it cautions administrators about imposing distribution regulations in a discriminatory manner.[43] With regard to the argument that the newspaper caused a disruption, the court said:

> If a student complies with reasonable rules as to times and places for distribution within the school, and does so in an orderly, non-disruptive manner, then he should not suffer if other students who are lacking in self-control, tend to over-react thereby becoming a disruptive influence.[44]

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[39] Sullivan at 1336.
[40] Sullivan at 1341.
[41] Sullivan at 1341.
[42] Sullivan at 1340.
[43] Sullivan at 1340.
[44] Sullivan at 1340.

The importance of the Sullivan decision is two-fold. First, it clearly establishes a reasonable method by which school officials may legally regulate the student press. It limits this method of regulation to rules involving newspaper distribution. Secondly, it relieves the student press from the precarious position of having to be responsible for the behavioral reactions of other students. The Sullivan decision would then greatly increase the school's difficulty in proving that disruption was directly caused by the newspaper.

Gross Disrespect or Disobedience

School officials have argued that gross disrespect or disobedience by students should nullify the constitutionality of free expression. The courts have agreed that when this condition exists activity involving speech need not necessarily be tested against the Tinker disruption standard.[45] Gross disrespect and contempt for officials of an educational institution may justify not only suspension, but also expulsion of a student.[46]

In Schwartz v. Schuker,[47] a high school student published an underground newspaper called High School Free

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[45]Graham v. Houston Independent School District, 335 F Supp 1164 (1970), as discussed in 16 ALR Fed at 205.

[46]See Graham and also Quarterman v. Byrd, 453 F 2d 54 (1971).

[47]Schwartz v. Schuker, 298 F Supp 238 (1969).

Press. The paper was critical of school policies and school officials. But according to the court, the content of the paper was not at issue in the student's suspension from school. The student had specifically been told that he was not to bring copies of the paper on the school campus. The student was found to be on the school premises and carrying thirty-two copies of his paper. When he was told to surrender the papers, he refused. When he was told not to report to school, he nevertheless appeared in school in admitted defiance of the superintendent's orders. The Schwartz decision allows that open and flagrant defiance of school discipline is just cause for school officials to impose control on student behavior. In Schwartz, the newspaper was extraneous to the situation.

Student motive comes into question in matters involving court determination of the gross disrespect and disobedience ruling. In Graham v. Houston Independent School District,[48] students who published an underground newspaper called The Plain Brown Watermelon alleged that they were harrassed by school officials and finally suspended from school because the content of the paper was critical of the school. The court said that it was not necessary or proper to inquire into the content of the paper. There were other issues at stake. The major thrust of this evidence was the admission of the student plaintiffs that their sole purpose

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[48]Graham, op. cit.

in publishing the paper had been to flaunt a school rule forbidding distribution of unauthorized material on the school grounds. The court noted that there were reasonable and proper channels for these students to explore in order that they might be allowed to distribute the paper on campus.

The Quarterman v. Byrd[49] decision underlined the finding in both the Schwartz and Graham cases. The court added that cases involving gross disrespect and disobedience:

> . . . proceed on the theory that a student has a legal way to test the validity of a school regulation, and there is accordingly no reason for him to disregard the school regulation or to flaunt school discipline.[50]

Motive and conduct were also considered in the Scoville decision. School officials had imposed an Illinois state statute which gave the officials the authority to expel students for gross disrespect or disobedience. But the court said that the board of education had imposed the statute in an unconstitutional manner. In Scoville, the board's objection was concerning the content of the paper and not with the motives of the authors or the manner in which newspaper distribution was conducted.[51]

Content, the courts have said, will enjoy full First Amendment protection unless the school can prove that the words explicitly caused a material and substantial disruption

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[49] Quarterman, op. cit.

[50] Quarterman, in 16 ALR Fed at 205.

[51] Scoville at 178.

of discipline or classwork; or unless gross disrespect or disobedience could be proven within the framework of the courts' definition of this condition.

Chapter III

THE QUESTION OF PRIOR RESTRAINT

Tinker settled the question of whether First Amendment freedom of speech or press applies to students in public high schools. The case firmly established the precedent that neither students nor teachers "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."[1] Tinker also established the rule that school officials may not interfere with these rights unless the student conduct of this expression would materially and substantially forecast disruption of the school operation. The question, however, is sometimes raised as to the method of forecasting disruption that the officials may properly take.

The possible sources of disorder are conceptually two-fold: the manner of the exercise of speech, and its content. In preventing disorder arising from the first of these two, the sections dealing with regulation show that the courts have said the school may prescribe reasonable rules concerning time, place and manner of distribution. Schools were also cautioned that these rules must not infringe on the exercise of First Amendment rights. In the realm of content, administrators have relied upon the forecast principle to claim the right to preview material prior

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[1] Tinker v. Des Moines Community School District, 89 S Ct 733 (1969), at 737.

to publication. They theorize that such a screening process would enable them to judge whether the material would have adverse effects on the operation of the school. Administrators claim they would then be able to prevent disruption.[2] Submission of material for judgment by administrators smacks of prior restraint; and the courts have taken a very dim view of prior restraint as a method of regulating the student press.

Tinker holds that speech may be regulated because of its potential for producing disorder; but such regulation cannot take the form of prior restraints. In cases following Tinker, student plaintiffs, who challenged regulation by prior restraint have prevailed. While courts have in specific cases denied the legitimacy of prior restraint, most have been reluctant to hold prior restraints per se inappropriate in high schools.[3]

The predominant struggle the courts appear to have had with this question is whether high schools have special requirements for maintaining order; and whether this special need might justify a forecast of disorder based only on content, without more facts as to actual effect. A discussion of court cases involving prior restraints will show how

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[2]"Prior Restraints in Public High Schools," 82 Yale Law Journal 1325 (1973) and "Recent Developments," 6 Indiana Law Review 583 (1973).

[3]82 Yale Law Journal at 1326, 1329.

courts have addressed themselves to specific arguments proposed by school officials.

Immaturity of Students

While agreeing that freedom of the press may not be denied to students, courts generally concur that high school students need a certain amount of supervision. They cite the relative immaturity of high school students as reason to require supervision of student press activities. The primary concern here is that unsupervised student reporters and editors may not always adhere to the canons of responsible journalism. There is also fear that other students may accept irresponsible statements as truth, and this may have an adverse effect on the operation of the school.[4]

In Schwartz v. Schuker,[5] the newspaper in question criticized the high school principal as a "big liar" and as a person having "racist views and attitudes." The paper did not substantiate either of these claims, and testimony showed that the comments were aimed solely as a malicious attack on the principal. The court said that the students who read such comments are at an "adolescent and immature stage of life" and, therefore, would be "less able to screen fact from propaganda."[6]

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[4]Yale Law Journal at 1329; 16 ALR Fed at 226-228.

[5]Schwartz v. Schuker, 298 F Supp 238 (1969).

[6]Schwartz as discussed in 16 ALR Fed at 226.

The Schwartz decision upheld the right of the school to suspend the student editors and considered reader reaction a viable reason for supervision of content. But certain elements were noticeably absent from the decision. While the court determined that immature readership would be reason to impose judgment of content and suggested that content should be supervised, it did not sanction prior restraint as a method of supervision. Indeed, the court's ruling concerned itself only with the instant case and did not render any universal statement on what type of supervision would be required to insure responsible journalism. Furthermore, it is unfortunate that the court did not label the irresponsible comments as libel. This would have been invaluable in high school press law. (Libel is discussed in a later section of this paper.)

Although the court, in Quarterman v. Byrd,[7] denied the school the right to suspend student editors of an underground newspaper, it did so because the school rule upon which the suspensions were based had been found to be too vague for constitutional protection. This rule required that students who wished to distribute printed material on the school grounds must obtain prior approval from the school authorities. The Quarterman decision struck down the rule because the rule had procedural defects and not because prior

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[7]Quarterman v. Byrd, 453 F 2d 54 (1971).

restraints are impermissible.[8] On the contrary, the court said that "the First Amendment rights of children are not co-extensive with those of adults" and application of First Amendment principles "could properly take into consideration the age or maturity of those to whom it (speech activity) was addressed."[9]

The Quarterman decision does seem to indicate that prior restraint could be considered as a way of safeguarding immature readers. Even more damaging to student press freedom in the matter of prior restraint was the decision in Enger v. Texas City Independent School District.[10] Not only did the court in this case justify prior restraint in the school environment, but it also outlined three reasons for the justification:

> 1. compulsory school attendance resulting in a captive audience,
> 2. the possibility that student exercise of expression on this captive audience would interfere with the educational process, and
> 3. the relative immaturity of the high school students.[11]

With regard to the last of these reasons, the court said, "School officials are entitled to consider the special characteristics of their charges, such as emotional immaturity."[12]

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[8] Yale Law Journal at 1331. [9] 16 ALR Fed at 226.

[10] Enger v. Texas City Independent School District, 338 F Supp 931 (1972).

[11] Indiana Law Review at 588. [12] 16 ALR Fed at 227.

These cases would seem to indicate that the courts will sanction some sort of prior restraint where school concern involves emotional immaturity of their students. There are, however, other court decisions which would weaken this assertion. The Scoville court did not think the lower court should have been too concerned over the immaturity of the student readers.[13] Although it did not address itself to the paper's content, the Sullivan court determined that the student press should not be held responsible for the behavior of other students who lacked self-control.[14] The Tinker decision itself denies the right of school officials to impose prior restraints on student First Amendment activities. The Tinker test requires facts as a basis for prediction of disruption and not merely undifferentiated fear or apprehension of disturbance.[15] Finally, the decision in Fujishima v. Board of Education absolutely forbids prior restraint of student expression.[16] (Fujishima, being crucial in the protection of the high school press against prior restraint, is detailed in Chapter IV.)

Obscenity

Several cases have reached the courts in which school officials have attempted to regulate student expression

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[13] 16 ALR Fed at 227. [14] Sullivan at 1340.

[15] Yale Law Review at 1332, 1333.

[16] Fujishima v. Board of Education, 460 F 2d 1355 (1972).

because of what they felt constituted obscenity. School officials have generally held that "dirty words" or "four-letter words" are obscene and should not be permitted in a publication which is distributed to students. Administrators maintain that they have the obligation to uphold a standard of moral decency within the school environment.[17] For this reason, they may believe that screening of student publications is essential to delete objectionable words and have them deleted prior to publication. There are no court decisions, however, holding that dirty words as used in any high school or underground newspaper have amounted to obscenity.[18] Without a legal determination of obscenity, the schools would be hard put to invoke this as a reason for prior restraint.

The legal definition of obscenity evolved from two major obscenity cases.[19] Supreme Court decision in these cases determined that obscenity refers to literature about sex that meets three tests of illegality. The Rights of Students, published by the American Civil Liberties Union, holds that these same three tests are valid in the case of high school students if the word "minors" is included in each test. To be obscene, it must be proven that the literature about sex:

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[17] Captive Voices, pp. 156, 157.

[18] Captive Voices, p. 157.

[19] Roth v. U.S., 354 US 476, and A Book Named "John Cleland's Memoirs of a Woman of Pleasure" v. Massachusetts, 383 US 413.

> 1. predominantly appeals to prurient, shameful interest of minors;
> 2. patently offends community standards regarding suitable sexual materials for minors; and
> 3. taken as a whole lacks serious literary, artistic, political or scientific value for minors.[20]

The Rights of Students further states that to be illegal, the literature must meet all three standards.[21]

Four cases offer particular insight into court reaction to obscenity complaints against high school publications. In Jacobs v. Board of School Commissioners of Indianapolis,[22] the court further defined obscenity test No. 2. It said that:

> . . . the definition of "contemporary community standards" by which a work must be judged . . . must necessarily be the standards of the (Indianapolis) school district and not merely one school (in the district). Furthermore, to determine whether a publication of the newspaper "Corn Cob Curtain" is obscene according to legal standards, the whole publication must be considered.[23]

In Kopell v. Levine,[24] a high school principal impounded copies of a student magazine because it contained four-letter words and a description of a movie scene in which a couple "fell into bed." The court, however, ordered the principal to allow continuation of distribution of the magazine after finding that it was not obscene. The court said that the magazine contained no extended narrative

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[20]Alan Levine, Eve Cary, and Diane Divoky, The Rights of Students, American Civil Liberties Union Series (New York: Avon Books, 1973), p. 39.

[21]Ibid. [22]Jacobs, 349 F Supp 605 (1972).

[23]Jacobs at 610. [24]Kopell, 347 F Supp 456 (1972).

tending to excite sexual desires, and "the dialogue therein was the kind heard repeatedly by those who walk the streets of our cities."[25] The Kopell decision extended "community standards" beyond even the school district to include the streets of a city.

In Vought v. Van Buren Public Schools,[26] a high school student was expelled for having in his possession a copy of Argus, a tabloid-type commercial newspaper. The newspaper contained four-letter words which the administration found objectionable and this was the basis for expulsion. Testimony centered the principal's primary objection on the word "fuck." Counsel for the student plaintiff determined through further testimony that this same word appeared five times on three pages of Catcher in the Rye which was required reading in the tenth grade at that school.[27] Moreover, Harper's Magazine, which was easily obtainable to students in the school library, was found to contain the word "fuck" as well as the expression "mother fucker."[28] The Vought decision, which is a classic in student obscenity cases, said:

> We decline to become involved here in a discussion on obscenity--that area of the law is about as well-defined as the course of a tornado. . . . We do

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[25] 16 ALR Fed at 233.

[26] Vought v. Van Buren Public Schools, 306 F Supp 1388 (1969).

[27] Vought at 1394. [28] Vought at 1394.

> recognize rank inconsistency when we see it. And the inconsistency is so inherently unfair as to be arbitrary and unreasonable.[29]

Vought determined that if a word can be found in required reading or in the school library, then school authorities may not object to the word as obscene.

The 1971 Sullivan case underlined this precedent. In Sullivan, the principal's initial response to the student paper was provoked by a letter to the editor which bore the title "High School Is Fucked."[30] The words "fucked" and "fucking" were used throughout the letter.[31] The court first determined that the word as used in the letter and in the title had no reference to sex, but rather was used to say that the high school was "in bad shape."[32] The court then determined that the school forfeited its right to object to the appearance of "fuck" in the student paper by "sanctioning the presence, in libraries of the school district, of various books and periodicals that contained similar vulgarisms."[33] It should be noted that Sullivan extended the Vought rule from a library within a school to libraries within a school district.

The concluding remarks in the Sullivan decision indicate a remarkably liberal attitude on the question of alleged

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[29] Vought at 1396. [30] 16 ALR Fed at 233.

[31] Ibid., footnote #2 for text.

[32] 16 ALR Fed at 234. [33] Ibid.

"dirty words." The court said:

> . . . in a society in which the old and the traditional is daily being challenged by the new and the unprecedented, those who seek to guard against taboo words appear to be waging defensive warfare. Far from signalling the moral crisis of our civilization, such a development is a healthy indicator of moral progress.[34]

Anti-establishment Content

The Supreme Court has many times expressed the view that the First Amendment's basic guarantee is of freedom to advocate ideas, and that freedom of speech is not confined to the expression of ideas that are conventional or shared by a majority.[35] Tinker was founded on litigation arising from students' peaceful protest of the war in Vietnam. Tinker held that suppression of free speech must be caused by "something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint."[36] School officials and publications advisors would be well-advised to "be aware of their personal prejudices and realize that they cannot simply prohibit all expression which they find disagreeable.[37] As court opinion in a university discipline case noted:

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[34]16 ALR Fed at 234.

[35]16 ALR Fed at 235, see footnote #3.

[36]Tinker at 739.

[37]Michael Abbott, "The Student Press: Some Second Thoughts," 16 Wayne Law Review at 1003 (1970).

> There is a tendency to lump together the burning of buildings and the peaceful but often unpleasantly sharp expression of discontent. It seems to be most important that the courts should distinguish between the two with particular care in these days, when officials under the pressure of events and public opinion are tempted to blur the distinction.[38]

The peaceful expression of anti-war sentiment whether through distribution of leaflets,[39] student sponsored advertisement in the school paper,[40] or the wearing of black armbands,[41] is uniformly protected by the First Amendment. And where school officials have argued the need to preserve the newspaper as an educational device and prevent it from becoming mainly an organ for the dissemination of news and views unrelated to the high school, the court has replied that, if this were accomplished, the paper would indeed be a sterile publication and would not function as an educational device.[42]

The object of litigation in Shanley v. Northeast Independent School District[43] was termed "the most vanilla-flavored (underground newspaper) ever to reach a federal court." The alleged controversial subjects were statements

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[38] Norton v. East Tennessee State University Discipline Committee, 399 US at 909 (1970).

[39] Riseman v. School Committee of Quincy, 439 F 2d 148 (1971) and Fujishima v. Board of Education 460 F 2d 1355 (1972).

[40] Zucker v. Panitz, 299 F Supp 102 (1969).

[41] Tinker. [42] Zucker in 16 ALR Fed at 237.

[43] Shanley v. Northeast Independent School District, 462 F 2d 960 (1972).

which advocated a review of the laws regarding marijuana and offered information on venereal disease, birth control, drug counseling, and draft counseling. The court said that controversy in a democracy is, as a matter of constitutional law, an insufficient reason for stifling the views of any citizen.[44]

In Joyner v. Whiting,[45] a campus newspaper at a state university predominantly attended by blacks, published a statement in the paper saying that the newspaper would not run "white advertisement." Furthermore, the newspaper had, according to evidence, consistently and intentionally attempted to discourage the attendance of non-Negro persons by "a program of harassment, discourtesy, and indicia of unwelcome."[46] And yet, the court determined that it must leave the press, student or otherwise, free to "crusade for integration, segregation, black power, white supremacy, or repatriation,"[47] although the press must do so without the financial aid of the state.

The university had withdrawn funding from the newspaper and the court upheld its right to do so--even though this was clearly a method of suppressing the press. The court reasoned that the university was an agency of the

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[44] Shanley in 16 ALR Fed at 239.

[45] Joyner v. Whiting, 341 F Supp 1244 (1972).

[46] Joyner in 16 ALR Fed at 238.

[47] Joyner in 16 ALR Fed at 239.

state and the state was subject to the provisions of the United States Constitution. The Constitution clearly states that discrimination based on race, color or national origin is unlawful. Furthermore, the court said:

> . . . the university receives financial aid from the United States, and in order to continue receiving such funds, it cannot directly or covertly, discriminate on the ground of race, color, or national origin, in determining to whom and to what extent the various benefits of the university shall be extended.[48]

While the Joyner decision allowed the university to suppress the paper by withdrawing school funding, it did so because it would be illegal for the university--in itself or through the financial support of the paper--to engage in racist attitudes. The court was saying that the university--itself or its paper--could not bar a particular race of people from having access to it. The paper clearly announced its intention to deny a race of people from having access to the paper.

The Joyner decision added that the "proper remedy against censorship is restraint of censor, not suppression of press by permanent injunction against a state university's funding of the student paper."[49] The court said that revision of the paper's editorial policy to exclude its unconstitutionally racist views would insure continuation of school funding.

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[48] Joyner in 16 ALR Fed at 238.

[49] Joyner at 1244.

Joyner would prevent a school from withdrawing its funding from the student press unless the press practiced racist behavior such as denying a race of people access to the paper.

Chapter IV

FUJISHIMA: UNPARALLELLED STUDENT PRESS PROTECTION

> Fujishima[1] appears to stand alone in its position that prior censorship is completely intolerable in the area of student expression. . . . It may be a significant addition to the arsenal of cases affording students greater protection for their First Amendment freedoms. Its promise is that the student press is to be afforded the same freedom from previous restraint that is enjoyed by the press in the ordinary non-school situation.[2]

The case involved three high school students who were suspended from two Chicago high schools because they were said to have violated Section 6-19 of the rules of the Chicago Board of Education. The rule states:

> No person shall be permitted . . . to distribute on the school premises any books, tracks, or other publications, . . . unless the same shall have been approved by the General Superintendent of Schools.[3]

Burt Fujishima and Richard Peluso, seniors at Lane Technical High School, were suspended for distributing about 350 copies of an underground newspaper called The Cosmic Frog. The papers were distributed free to students before and between classes and during lunch hours.

Robert Balanoff, a sophomore at Bowen High School, was suspended on two separate occasions, once for distribut-

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[1] Fujishima v. Board of Education, 460 F 2d 1355 (1972).

[2] "Recent Developments," Indiana Law Review at 589.

[3] Fujishima at 1356.

ing a petition calling for "teach-ins," protest movement instruction concerning the war in Vietnam, and the other for distributing leaflets about the war to about fifteen or twenty students. The former took place in the school corridor between classes and the latter occurred during a fire drill while Balanoff and his classmates were across the street from the school in their assigned places.

The student plaintiffs brought action against the school on behalf of themselves and all students in Chicago school districts. By bringing the complaint to court on a class action basis, plaintiffs were asking for a ruling on Section 6-19 claiming that the rule was enforced on all students in the Chicago area. While the lower court dismissed the case and declined to rule on the section in question, the United States Court of Appeals, Seventh District, considered the matter of the school board rule and its effect on all students in the Chicago area a crucial point.

The main contention of the school board in defense of the suspensions was that the students had violated Section 6-19 of the school board rules. The board further contended that Section 6-19 is constitutionally permissible because it does not require approval of content of a publication before it may be distributed. The court, however, replied:

> Unfortunately for defendants' theory, that is neither what the rule says nor how defendants have previously interpreted it. The superintendent must approve "any books, tracts, or other publications." The superintendent cannot perform his duty under the rule without having the publication submitted to him.

> The principals believed the rule requires approval of the publication itself.[4]

On the basis of this finding, the court ruled that Section 6-19 does require prior approval of publications. Furthermore, it is unconstitutional as a prior restraint, in violation of the First Amendment. The court reached this determination by combining the holdings of Near v. Minnesota[5] and Tinker. Near v. Minnesota has since 1931 stood as a protection of the commercial press against prior restraints imposed by government. It is extremely important to high school press law that this court would determine a case protecting the professional press has relevance to the high school press. The court explained its combination of the two cases saying:

> Tinker held that, absent a showing of material and substantial interference with the requirements of school discipline, schools may not restrain the full First Amendment rights of their students. Near established one of those rights, freedom to distribute a publication without prior censorship.[6]

The court then commented on other cases which involved prior restraint of student expression. The most important of these comments involved the damaging Eisner[7] decision. The Eisner court allowed prior submission of

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[4] Fujishima at 1357.

[5] Near v. Minnesota, 283 US 697 (1931).

[6] Fujishima at 1357.

[7] Eisner v. Stamford Board of Education, 440 F 2d 803 (1971).

publications if accompanied by elaborate procedural safeguards. The Fujishima court, however, rejected this idea saying:

> We believe that the court erred in Eisner in interpreting Tinker to allow prior restraint of publication--long a constitutionally prohibited power--as a tool of school officials in "forcasting" substantial disruption of school activities. . . . Tinker in no way suggests that students may be required to announce their intentions of engaging in certain conduct beforehand so school authorities may decide whether to prohibit the conduct. Such a concept of prior restraint is even more offensive when applied to the long-protected area of publication.[8]

The court then defined the Tinker forecast rule as a formula for determining when the requirements of school discipline justify punishment of students for reason of expression. The Tinker forecast rule is not a basis for establishing a system of censorship and licensing designed to prevent exercise of First Amendment rights. Properly understood, this definition of the Tinker rule holds that punishment must come after the fact. In other words, school boards may not prevent distribution of student publications. Only after distribution would they be legally able to judge the effect of the publication and determine whether or not punishment is justified.[9]

The Fujishima court gave school officials the right to establish reasonable, specific rules which determine time, place and manner of publication distribution. But the court

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[8] Fujishima at 1358.

[9] 6 Indiana Law Review at 586, 587.

said this does not mean that students must obtain administrative approval of the time, place and manner of distribution. The court said that school boards have the burden of telling students when, where and how they may distribute materials.[10]

School officials then must set in writing their rules involving distribution of student materials. Inherent in this is the fact that they must also make those rules available to students so students may act accordingly. The rules may state, for example, that distribution of student publications may take place only at certain times of the day and at designated places in the school. The rules could prohibit distribution at certain times, such as during a fire drill. But the rules must be universal. School officials may not issue certain rules for certain student literature. Indeed, content is not to be a consideration in determining distribution regulations.

School officials would be within their rights to punish students who violate distribution regulations. However, it must also be noted that "the reasonableness of the regulations established [by school officials with regard to First Amendment activities] would be subject to challenge in court."[11]

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[10] Fujishima at 1359.

[11] "Prior Restraints in Public High Schools," 82 Yale Law Review at 1334.

The Fujishima decision is unparallelled in its endorsement of a free high school press. The highpoints of the case:

1. attribute to the high school press the same rights and privileges enjoyed by the professional or commercial press;
2. deny school officials the right to censor student material or even to review material prior to publication;
3. determine regulation of the student press to be limited to rules involving distribution, these rules being universal and not arbitrarily administered; and
4. further determine that punishment of student First Amendment activities must, in order to prove disruption actually occurred, of necessity be imposed after distribution, the courts then being in a position to judge the role of the student press in the alleged disruption.

One final note from Fujishima is equally important in high school press law. The court said that boards of education "may establish a rule punishing students who publish and distribute on school grounds obscene or libelous literature."[12] This was the first time a court has

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[12] Fujishima at 1359.

specifically said that the high school press should be judged according to professional press standards.

Chapter V

THE CASE FOR HIGH SCHOOL PRESS RESPONSIBILITY

> School publications are part of the press in the United States, and their editorial staffs are journalists. These publications are not playthings to be used irresponsibly. They usually are not profitmaking enterprises and are not professional publications, but that does not excuse them under the law. State and federal laws relating to the press apply equally to all publications.[1]

Chapters II through IV demonstrate that high school publications have made impressive gains in press freedom since 1969. Press freedom, however, is only half of the process of professionalizing student journalism. The other half is press responsibility. For high school journalism to claim press law for its guidelines, emphasis must be placed equally on both the promise and the expectation of law.

Press freedom offers reporters the latitude necessary for creativity and exploration. Press responsibility demands that reporters temper their rights and privileges with sound journalistic judgment.

Moreover, as an authority on press law wrote,

> Both [the institutions of journalism and law] were created by society to serve its needs, and both are entitled to those prerogatives only which will accrue to the advantage of the group as a whole. Resolution of conflicts between the law and the press must not be regarded as victories or defeats for

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[1]William Alfeld, "The Law and the School Editor," High School Journalism Today (Danville: The Interstate Printers & Publishers, Inc., 1976), p. 114.

> either, but only as gains for society. The new keyword for law of the press is neither rights nor responsibilities, but--responsibilities.[2]

The partnership between journalism and law, therefore, cannot exclude the factor of social duty to the communities they were designed to serve.[3]

This chapter introduces those areas of press law that function to enforce reasonable restrictions--as a method of social control[4]--on the press.

Libel

Chapter IV suggested that the student press should have the same rights and restrictions as the commercial press. One restriction specifically noted by the court was libel. Libel, however, is seldom at issue in student press litigation.[5] Where words which may constitute a legal definition of libel occur in the student press, school officials have attempted to suppress the entire publication rather than deal with the specific words. Potentially libelous expression has been generally punished under one of the following two rationales for regulation:

(1) that gross disrespect of school authority would cause a disruption in discipline;

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[2]Walter A. Steigleman, The Newspaperman and the Law (Dubuque: William C. Brown Company, 1950), p. viii.

[3]Steigleman, pp. vii, viii. [4]Steigleman, p. vii.

[5]Jack Nelson, ed., Captive Voices: The Report of the Commission of Inquiry into High School Journalism (New York: Schoeken Books, 1974), p. 40.

(2) that administrators have the right to impose prior restraints because students are immature and may not be able to differentiate fact from fiction, and because student acceptance of irresponsible statements would cause discipline problems.

Fujishima holds that punishment based on content cannot be imposed until after publication. Furthermore, it contends that judgment on whether the words are punishable should be based on established principles of press law. It is necessary then to understand some important aspects of libel.

New York Times Company v. Sullivan determined that a "person involved in matters of public interest" must prove that printed statements were published with knowledge that the words were false or with reckless disregard as to whether they were false or not.[6]

In the high school, just which persons would be considered "involved in matters of public interest" is difficult to determine since the question has never been raised. Would "public interest" be equated with "student interest" since the student body is the primary "public" for which the student paper is published? Would "persons involved in

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[6]See Times v. Sullivan, 376 US 254 (1964) as explained in: Harold L. Nelson and Dwight L. Teeter, Jr., Law of Mass Communications (New York: The Foundation Press, Inc., 1973), p. 146.

matters of public interest" then include secretaries, cooks, custodians and bus drivers as well as the more obvious administrators, boards of education and teachers? Would student leaders be "persons involved in matters of public interest?" In light of the Fujishima suggestion, it would seem, although not conclusively, that the student press would have a valid argument in claiming Times v. Sullivan as a defense in libel.

Fujishima gives school officials the right to punish student expression on the basis of libel. But just what form of punishment should be imposed was not determined. In matters of civil libel involving the commercial press, the punishment takes the form of money damages awarded to the person who could prove he was libeled. The question of money damages poses an enormously complex problem for the high school press.

Where libel suits are brought by private persons, such as a student, because of words printed in a high school publication, it is usually the board of education, the school principal, the printing or publishing company and sometimes the advisor who are named as co-defendants.

While a student journalist--even a minor--"may be legally responsible for his torts [civil wrongs],"[7] courts have found that children are:

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[7]George E. Stevens and John B. Webster, Law and the Student Press (Ames: The Iowa State University Press, 1973), p. 29.

> . . . a special group to whom a more or less subjective standard is to be applied, which may vary according to age, intelligence, and experience.[8]

Furthermore, parents are only responsible for their child's torts "if they consented to the child's act or failed to control their offspring."[9] High school journalists would be likely to escape being named as defendants in libel suits since they would not be likely to have the financial resources to pay meaningful damages[10] and their parents would probably not be held accountable for their publication activities.

School administrators and publications advisors, however, are school employees and as such are generally "liable for torts arising out of their own negligence."[11]

> Advisors and administrators are not immune from libel suits and run some risks, since anyone who was in a position to stop publication of the libelous matter and failed to do so can be sued.[12]

To protect themselves against a charge of negligence, journalism teachers and publications advisors must instruct their students in the dangers of libel, and administrators must be

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[8]Stevens and Webster, p. 29, quoting William L. Prosser, Handbook of the Law of Torts, 4th ed. (St. Paul: West Publishing Co., 1971), p. 997.

[9]Stevens and Webster, p. 29.

[10]Stevens and Webster, p. 29.

[11]Stevens and Webster, p. 28.

[12]Stevens and Webster, pp. 44-45.

sure that this instruction is indeed presented.[13]

Libel and the Yearbook

Irene Bickerton, 16, brought suit against Central High School, Merrick, Long Island[14] claiming that the caption under her yearbook picture was false, scandalous and defamatory. The suit further alleged that the caption was specifically intended to be vicious, insidious and calculated to injure. Defendants in the case were the board of education, the high school principal and the yearbook publishing company. The caption read:

> A soft, meek, patient, humble, tranquil spirit... Thomas Dekker--"The Honest Whore."[15]

The line was from Part I, Act I, Scene II of the Dekker play, written in 1604, and was intended in the play as the epitomization of a gentleman. The quote was not in question. It was the inclusion of the title of the play that resulted in the libel suit. Miss Bickerton sought damages of $750,000, her mother $40,000, her father $140,000, and seven other members of the family $10,000 each--for a total of $1,000,000.[16]

Of the 500 yearbooks which had been distributed, the school was able to recall half. The caption was changed,

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[13]Stevens and Webster, p. 45.

[14]Samuel Feldman, The Student Journalist and Legal and Ethical Issues (New York: Richards Rosen Press, Inc., 1968), pp. 21, 22.

[15]Feldman, p. 22. [16]Ibid.

the books were redistributed and the matter was settled out of court.

Student reporters could even be committing libel when they publish a false statement that, on the surface, does not seem harmful.[17] Consider the following example suggested by a yearbook publishing company.

> If you said that Jeannie Doe works at the Black Barn after school, the statement would not seem defamatory, even though it might not be true. If you find out, however, that the Black Barn is a low class bar instead of a fancy restaurant, Jeannie might have grounds for a libel suit.[18]

Pictures could also result in actionable libel. The student press must be cautioned against running a picture that could leave a wrong impression and subject a student to mental distress or ridicule.[19] Gag or cute captions add to the danger of committing libel. For example, a photo appearing in a Midwestern high school yearbook showed one boy walking down the hall with his arm around a male friend. It was captioned, "Lovers for a lifetime, high school sweethearts _____ & _____ gaily await the married life."[20] This

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[17]See Libel per quod, Harold L. Nelson and Dwight L. Teeter, Jr., Law of Mass Communications (New York: The Foundation Press, Inc., 1973), pp. 86-90.

[18]"You're Liable to Be Libeling!" Taylor Talk, Taylor Publishing Company, (May 1975), p. 5.

[19]Taylor Talk, p. 5.

[20]C.E. Savedge, "Responsibilities of the Student Press," Quill and Scroll, XLVIII, No. 4, (April-May 1974), p. 9.

particular yearbook, which was peppered with similar pictures and captions, escaped a libel suit but did not escape severe reprimand from the state scholastic press association. Association officials labeled the yearbook irresponsible journalism and refused to qualify it as an entry in that year's publications judging.

Privacy

> The right of privacy is the right to be let alone, to live one's life without being subjected to unwanted publicity.[21]

The right of privacy gives a person the right to refuse to have his picture taken or used unless he is involved in a matter that is newsworthy or in public interest or is in a public place when the picture is taken.[22] Many student publications are so carefully controlled that they do not illegally invade a person's privacy.[23] And most high school students are pleased to have their picture taken and, therefore, would not be likely to object to the use of that picture in a school publication or in advertising.

There are, however, two areas in which student publications might inadvertently violate privacy laws:

> 1. placing someone in an extremely embarrassing situation or in a false position, and
> 2. using a person's name or photograph in an advertisement without his consent.[24]

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[21]Stevens and Webster, p. 101.

[22]Taylor Talk, p. 8.

[23]Stevens and Webster, p. 102.

[24]Ibid.

Reporters and editors can use a person's name or picture without his permission as long as the story is real news and of timely interest to readers. Written consent, however, must always accompany a name or photograph that is to be used in an advertisement.[25] And since courts have ruled that a minor is not in a legal position to give this consent, written consent should be obtained from the parents.[26]

Yearbooks are a prime source for potential privacy problems because of the great number of photographs used in them.[27] Photographers who go beyond the scope of normal school coverage should be especially aware of privacy law and those methods available to them that would insure them protection from a law suit.

The 1976 University of Nevada-Reno yearbook Artemesia, for example, carried photographs of a woman in childbirth. If this woman did not know that she was being photographed or had not given her consent for the pictures to be published, she could decide that the pictures placed her in an embarrassing situation and would have been in a position to sue the yearbook staff.

A photographer on the Northern Illinois University newspaper staff had to reach a decision on privacy law when

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[25]Stevens and Webster, p. 102.

[26]Don R. Pember, Privacy and the Press (Seattle: The University of Washington Press, 1972), p. 115.

[27]Taylor Talk, p. 8.

he wanted to take pictures of a crowded welfare office. Welfare department officials tried to discourage him saying that such pictures might cause the people who were waiting in line for food stamps to be embarrassed. The photographer's press law professor told him that he was within the law to take the pictures because these people were in a public place. But the professor suggested that the photographer (1) inform the people that they were to have their pictures taken and explain to them how the pictures were to be used, and (2) circulate photo release forms. The professor reasoned that this would give those who did not wish to have their pictures taken the chance to leave.[28]

According to the law of privacy, the photographer was within his rights to photograph anyone in a public place. The professor's suggestions should be considered, however, as (1) a courtesy to those individuals a photographer wants to photograph, and (2) complete insurance to the publications staff that they can print those pictures with confidence.

Obscenity

Chapter III demonstrates that courts have given student journalists tremendous latitude in the matter of obscenity. Evidence indicates that courts prefer to leave determination of obscenity entirely to community standards.

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[28]Chuck Berman, "Knowledge of Press Law Vital for Student Photographers," Quill and Scroll, XLVIII, No. 4, (April-May 1974), pp. 24-25.

This should not suggest that four-letter words be used indiscriminately by the student press. Inherent in responsible journalism is the supposition that a writer has an adequate command of the English language and, therefore, would not have to depend upon vulgarities to make a point. A statement on obscenity reflecting this point will soon be published by the professional press. United Press International and Associated Press are in the process of revising the joint stylebook used for twenty years by the two wire services. A notation on "dirty words" carries this formula:

> The new style will prohibit obscenity, profanity or vulgarity in news stories unless there is a compelling reason to use it. If it is used, it must carry a flag to editors at the top of the story, every time.[29]

The stylebook revisions are scheduled to go into effect by the end of 1976 and will serve, as did the old one, as a widely used "bible" on style and content decisions for members of the professional press.

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[29]Bobby Ray Miller, UPI Reporter Newsletter, (October, 1976), p. 2.

Chapter VI

CONCLUSION

High school journalism too often drifts aimlessly in the realm of superficial extracurricular activities or second class curriculum citizenship. It has traditionally lacked any genuine substance because of the popular attitude that it is only "pretend" journalism. And it has been further alienated from the respect it should deserve because members of the professional press have generally chosen to ignore its relevance to them.

High school journalism can be much more effective than it is. As with any other discipline in the high school, however, it must draw from its "real world" counterpart for its definition of purpose, description of function and all other course guidelines if it is to be a viable intellectual pursuit.

Chemistry students, for example, do not work with "pretend" chemicals. They experiment with the real thing and learn to face the consequences if they should make a wrong decision.

High school journalism must also be allowed this latitude of experimentation but not without parameters of realistic responsibility. To implement this delicate harmony, journalism programs will have to be defined in a context of professionalism. This context demands the observance of press law under the qualified supervision of

publications advisors who are trained journalists.

Summary of the Legal Position

Court cases since 1969 have defined many areas of press law specifically for high school publications. These points are:

1. School officials may regulate student publications only with regard to distribution. This right is limited to time, place and manner of distribution, and all such regulations must be clearly explained to the publications staffs.

2. Prior restraint as a measure of censoring the student press is unconstitutional.

3. Student publications will enjoy full First Amendment protection of press freedom unless publication of content can be proven to be illegal in terms of libel, obscenity or invasion of privacy.

The general feeling among educators, professional journalists, press law authorities and many judges is that high school students are young and inexperienced and require supervision. No authority has addressed himself to the solution of conflict between this need for supervision and the illegality of prior restraint. This conflict is a major source of concern for school administrators who see the value of solid journalism programs in their high schools, but who could not, in good conscience, allow their student press to publish without adult supervision.

Proposed Solutions

This thesis advocates the professionalization of high school journalism with its foundation in press law. It is in the implementation of this theory that the answer to many problems can be found.

The profession of journalism is becoming increasingly more complex and demanding. Professional journalists often require advice about reporting methods, writing style and press law. When they do, they turn to someone who has the training and experience that would recommend that person as an authority on the subject. This opportunity should--and, for genuine programs of journalism, must--also be available to high school journalists.

It follows that administrators must select only qualified journalists for teaching assignments in high school journalism. They must insist on such qualification by virtue of formal educational training or practical experience and they must encourage their journalism teachers to keep current with developments in the field of journalism, especially in the area of press law.

Journalism must be entrusted only to teachers who are capable and willing to accept the assignment. Perhaps when administrators adopt a program of professionalized journalism as outlined in this thesis, the role of high school journalism teacher-publications advisor will become a legitimate career option for professional journalists. With professionals moving into the field, administrators could recruit

journalism teachers who have an expertise in and an enthusiasm for the field and thus ensure a maximum learning experience for their students. Administrators generally believe that the strongest educational programs are those in which students learn through experience and through contact with professional fields, the personnel in those fields and current relevant issues. Journalism especially lends itself to those conditions. In addition, it provides for general educational experiences. It teaches writing and communications skills. It instructs students in techniques of inquiry and investigation that are important in the practice of research. It gives young people the chance to develop attitudes of social responsibility and an appreciation of business practices. It could, through instruction in press law, instill in students a respect for concepts of democracy because it would demonstrate that the United States Constitution does indeed have a relevance to them.

Furthermore, student publications are valuable teaching tools because they give students the opportunity to have immediate feedback--in a tangible form--on their classroom learning experiences. For the readers, quality student publications can be an instrument of learning and a unifying force for the student body.

For adolescents struggling with the task of selecting a career, journalism provides a means for close identification with professional counterparts. Through a solid journalism program which entails student publications, students

are continually placed into close proximity with professional journalists who can serve as models of both the behavior and skills essential in the world of work, generally, and in journalism specifically. In short, high school journalism provides one of the best career introductions in the curriculum.

High school journalism, although a valuable learning experience, is today at a crossroads. Press law clearly delineates the liberty and limitations student journalists must follow. Yet, traditional educational supervision has, in effect, not allowed the laws inherent in professional journalism to find their place in high school journalism. For the most part, traditional supervision with its emphasis on prior censorship has not provided the student with a clear understanding of the responsibilities and limitations of journalistic ethics.

In effect, then, while press law offers the student proper guidelines to responsible journalism, traditional supervision has created a situation in which the student cannot adequately develop within those guidelines. Indeed, due to the censorship approach to supervision rather than the more realistic professional and legal approach, the student is burdened with nothing more than a "pretend" journalism which not only limits his creative and ethical awareness but more importantly destroys his educational development in journalism.

For viable journalism programs to exist in the high school, administrators must advocate professionalized programs based on press law, see that only qualified journalists are placed in charge of the programs, and maintain a close contact with the journalism teacher publications advisor to ensure that the objectives outlined in this thesis are considered seriously.

Studies have shown[1] that when advisors are trained journalists and their administration believes in their ability to make sound decisions about student publications, the results are (1) the publications are judged to be outstanding, (2) instruction in press law replaces a need for censorship, and (3) administrators, advisors and student journalists enjoy a much more harmonious relationship.

Studies further show[2] that there is a significant improvement in journalism programs in high schools where principals are concerned and enthusiastic about the study of journalism. Principals have demonstrated this attitude by:

1. providing adequate space, equipment, facilities, money and extra time for advisors to do their job.

2. encouraging teachers to enroll in summer journalism courses, to apply for Newspaper Fund fellowships, to affiliate with scholastic journalism organizations, to

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[1]Ronald L. Watson, "Administrative Attitudes Toward High School Journalism," Quill and Scroll, XLIV, No. 1, (October-November 1969), pp. 10, 11.

[2]Ibid.

enter publications for critical evaluation, and to have the teachers' students attend workshops and conferences.

3. urging faculty to support school publications.

4. encouraging school librarians to build a good journalism library.

5. asking counselors to keep abreast of trends in journalism careers.

6. asking merchants to advertise in student publications.

7. encouraging the student council to recognize achievements in student journalism.

Recommendations

This thesis demonstrates that high school students have fought for and won considerable press freedom, and it should be a sobering thought that the publications involved have been primarily "underground" or non-school sanctioned publications.

It has been shown that if students have a constructive outlet for opinion, problems in discipline are greatly reduced.[3] That outlet for student expression should be an instructive, educational experience with as much emphasis on responsibility as on the right to express opinion. School journalism programs that support free and responsible student

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[3]Jack Nelson, ed., Captive Voices: The Report of the Commission of Inquiry into High School Journalism (New York: Schocken Books, 1974), p. 49.

publications can offer such an outlet. The following recommendations are offered to administrators, advisors and student journalists:

1. Study and discuss the press law cases presented in this thesis and the major cases which will be decided in the future.

2. Read and discuss the codes contained in the appendix, since professional codes of journalism ethics have arisen out of press law conflict.

3. Become familiar with the statutes of their states on the status of open records, open meetings and protection of news sources, since these statutes vary from state to state.

4. Evaluate present student publications in terms of the points of law raised in this study.

5. Consider establishing an advisory board that would review legal and ethical publications problems. This board might consist of representatives of the professional press, parents, school administration, faculty, student body and publications staffs.

6. Consider establishing a line of communication with the school attorney.

7. Let members of the professional press know what high school journalism programs are doing to become more professional.

8. Understand the role of advisor, because (a) courts have determined that the advisor has ultimate

responsibility for student publications decisions,[4] and (b) the advisor is part of the publications staff with duties similar to those of publisher or managing editor in the matter of copy screening.

This last point is by far the most important in terms of recognizing press law as the best method of creating better journalism programs and reducing conflicts regarding student publication content. When the advisor is a journalist and part of the publications staff, his screening duties do not take on the character of prior restraint. Rather, the advisor's job--just as the title implies--is that of advising the student journalists about their right to print and their responsibility to print only within the bounds of established law.

In conclusion, for solid academic programs of journalism to exist in the high school, enlightened administrators must lead the way. They must accept the premise that journalism programs should be patterned after the practices of the professional press. They must assign only qualified journalists to supervise student publications and teach journalism classes. And they must insist that instruction in and reliance on press law form the guidelines for high school journalism programs.

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[4]George E. Stevens and John B. Webster, Law and the Student Press (Ames: The Iowa State University Press, 1973), pp. 19-20.

In the wisdom of the law can be found impartial and responsible decisions that involve the Constitutional principles inherent in right to print issues. In law are concrete guidelines that can enlarge a journalist's scope of creativity and ensure that he adheres to established rules for responsible reporting.

For some 200 years, law has governed the professional press. The guidance of law should be no less crucial to the activities of journalists who, by their inexperience and youth, would require definition of their liberties and limitations.

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APPENDIX

THE JOURNALIST'S CREED

I BELIEVE in the profession of Journalism.

I believe that the public journal is a public trust; that all connected with it are, to the full measure of their responsibility, trustees for the public; that acceptance of a lesser service than the public service is betrayal of this trust.

I believe that clear thinking and clear statement, accuracy, and fairness, are fundamental to good journalism.

I believe that a journalist should write only what he holds in his heart to be true.

I believe that suppression of the news, for any consideration other than the welfare of society, is indefensible.

I believe that no one should write as a journalist what he would not say as a gentleman; that bribery by one's own pocketbook is as much to be avoided as bribery by the pocketbook of another; that individual responsibility may not be escaped by pleading another's instructions or another's dividends.

I believe that advertising, news and editorial columns should alike serve the best interests of readers; that a single standard of helpful truth and cleanness should prevail for all; that the supreme test of good journalism is the measure of its public service.

I believe that the journalism which succeeds best--and best deserves success--fears God and honors man; is stoutly independent, unmoved by pride of opinion or creed of power, constructive, tolerant but never careless, self-controlled, patient, always respectful of its readers but always unafraid, is quickly indignant at injustice; is unswayed by the appeal of privilege or the clamor of the mob; seeks to give every man a chance, and, as far as law and honest wage and recognition of human brotherhood can make it so, an equal chance; is profoundly patriotic while sincerely promoting international good will and cementing world-comradeship; is a journalism of humanity, of and for today's world.

Walter Williams

Dean, School of Journalism, University of Missouri, 1908-1935.

CODE OF ETHICS ADOPTED BY AP MANAGING EDITORS

With responsibility, accuracy, integrity and conflicts of interest the avenues of approach, the board of directors of the Associated Press Managing Editors Association, meeting in Washington in April 1976, adopted a Code of Ethics for the 600-member organization.

The code is the product of study that began more than a year ago, before the APME convention in Long Beach, Calif., by a committee headed by Joseph Shoquist of the Milwaukee Journal.

The text of the code follows:

APME CODE OF ETHICS FOR NEWSPAPERS AND THEIR STAFFS

This code is a model against which newspaper men and women can measure their performance. It is meant to apply to news and editorial staff members, and others who are involved in, or who influence, news coverage and editorial policy. It has been formulated in the belief that newspapers and the people who produce them should adhere to the highest standards of ethical and professional conduct.

RESPONSIBILITY

A good newspaper is fair, accurate, honest, responsible, independent and decent. Truth is its guiding

principle.

It avoids practices that would conflict with the ability to report and present news in a fair and unbiased manner.

The newspaper should serve as a constructive critic of all segments of society. Editorially, it should advocate needed reform or innovations in the public interest. It should vigorously expose wrongdoing or misuse of power, public or private.

News sources should be disclosed unless there is clear reason not to do so. When it is necessary to protect the confidentiality of a source, the reason should be explained.

The newspaper should background, with the facts, public statements that it knows to be inaccurate or misleading. It should uphold the right of free speech and freedom of the press and should respect the individual's right of privacy.

The public's right to know about matters of importance is paramount, and the newspaper should fight vigorously for public access to news of government through open meetings and open records.

ACCURACY

The newspaper should guard against inaccuracies, carelessness, bias or distortion through either emphasis or omission.

It should admit all substantive errors and correct them promptly and prominently.

INTEGRITY

The newspaper should strive for impartial treatment of issues and dispassionate handling of controversial subjects. It should provide a forum for the exchange of comment and criticism, especially when such comment is opposed to its editorial positions. Editorials and other expressions of opinion by reporters and editors should be clearly labeled.

The newspaper should report the news without regard for its own interests. It should not give favored news treatment to advertisers or special interest groups. It should report matters regarding itself or its personnel with the same vigor and candor as it would other institutions or individuals.

Concern for community, business or personal interests should not cause a newspaper to distort or misrepresent the facts.

CONFLICTS OF INTEREST

The newspaper and its staff should be free of obligations to news sources and special interests. Even the appearance of obligation or conflict of interest should be avoided.

Newspapers should accept nothing of value from news sources or others outside the profession. Gifts and free or reduced-rate travel, entertainment, products and lodging

should not be accepted. Expenses in connection with news reporting should be paid by the newspaper. Special favors and special treatment for members of the press should be avoided.

Involvement in such things as politics, community affairs, demonstrations and social causes that could cause a conflict of interest, or the appearance of such conflict, should be avoided.

Outside employment by news sources is an obvious conflict of interest, and employment by potential news sources also should be avoided.

Financial investments by staff members or other outside business interests that could conflict with the newspaper's ability to report the news or that would create the impression of such conflict should be avoided.

Stories should not be written or edited primarily for the purpose of winning awards and prizes. Blatantly commercial journalism contests, or others that reflect unfavorably on the newspaper of the profession, should be avoided.

No code of ethics can prejudge every situation. Common sense and good judgment are required in applying ethical principles to newspaper realities. Individual newspapers are encouraged to augment these guidelines with locally produced codes that apply more specifically to their own situations.

NEW CODE OF ETHICS ADOPTED BY EDITORS

The American Society of Newspaper Editors has adopted a new Statement of Principles to replace its 52-year-old Code of Ethics or Canons of Journalism.

Mark Ethridge Jr., chairman of the committee, submitted the final draft of the new code to the ASNE board for approval. After some minor changes the document was adopted by the directors.

The complete text is as follows:

A Statement of Principles.

PREAMBLE

The First Amendment, protecting freedom of expression from abridgment by any law, guarantees to the people through their press a constitutional right, and thereby places on newspaper people a particular responsibility.

Thus journalism demands of its practitioners not only industry and knowledge but also the pursuit of a standard of integrity proportionate to the journalist's singular obligation.

To this end the American Society of Newspaper Editors sets forth this Statement of Principles as a standard encouraging the highest ethical and professional performance.

ARTICLE I - Responsibility

The primary purpose of gathering and distributing news and opinion is to serve the general welfare by informing

the people and enabling them to make judgments on the issues of the time. Newspapermen and women who abuse the power of their professional role for selfish motives or unworthy purposes are faithless to that public trust.

The American press was made free not just to inform or just to serve as a forum for debate but also to bring an independent scrutiny to bear on the forces of power in the society, including the conduct of official power at all levels of government.

ARTICLE II - Freedom of the Press

Freedom of the press belongs to the people. It must be defended against encroachment or assault from any quarter, public or private.

Journalists must be constantly alert to see that the public's business is conducted in public. They must be vigilant against all who would exploit the press for selfish purposes.

ARTICLE III - Independence

Journalists must avoid impropriety and the appearance of impropriety as well as any conflict of interest or the appearance of conflict. They should neither accept anything nor pursue any activity that might compromise or seem to compromise their integrity.

ARTICLE IV - Truth and Accuracy

Good faith with the reader is the foundation of good journalism. Every effort must be made to assure that the news content is accurate, free from bias and in context, and that all sides are presented fairly. Editorials, analytical articles and commentary should be held to the same standards of accuracy with respect to facts as news reports.

Significant errors of fact, as well as errors of omission, should be corrected promptly and prominently.

ARTICLE V - Impartiality

To be impartial does not require the press to be unquestioning or to refrain from editorial expression. Sound practice, however, demands a clear distinction for the reader between news reports and opinion. Articles that contain opinion or personal interpretation should be clearly identified.

ARTICLE VI - Fair Play

Journalists should respect the rights of people involved in the news, observe the common standards of decency and stand accountable to the public for the fairness and accuracy of their news reports.

Persons publicly accused should be given the earliest opportunity to respond.

Pledges of confidentiality to news sources must be honored at all costs, and therefore should not be given

lightly. Unless there is clear and pressing need to maintain confidences, sources of information should be identified.

These principles are intended to preserve, protect and strengthen the bond of trust and respect between American journalists and the American people, a bond that is essential to sustain the grant of freedom entrusted to both by the nation's founders.