Student reporters fight for news access
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The Student Press Law Center

The Student Press Law Center is the only national organization devoted exclusively to protecting the First Amendment rights of high school and college journalists. The Center is a national legal aid agency providing legal assistance and information to student journalists and faculty advisers experiencing censorship and other legal problems.

The SPLC Report

SPLC Report, published three times each year by the Student Press Law Center, summarizes current controversies involving student press rights. The SPLC Report is researched, written and produced entirely by journalism and law student interns.

The SPLC seeks student-produced drawings or photographs to illustrate the SPLC Report. Please send copies of your materials to the SPLC office.

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The Student Press Law Center also offers for sale the Manual for Student Expression: The First Amendment Rights of the High School Press for $1.00 (2-10 copies $0.75 each, more than 10 copies $0.50 each).
‘Stand up and protest’

To the editor:

I have been an avid student journalist for the past two years. During this time, one of my major concerns has been the protection of the First Amendment rights of students working on high school newspapers, literary publications, and the like. As such, I was most impressed by the Student Press Law Center when I became aware of it through Mike Simpson’s keynote address last February 22 at the Annual High School Journalism Conference held here in Milwaukee at UWM. I share his remorse over the fact that there is a need for an organization like the SPLC. However, as long as a few see fit to trample upon the rights of others, someone must stand up and protest.

During my tenure as student editor for two different student sponsored publications, I have been most vociferous in defense of our First Amendment rights. As editor-in-chief of the Pius Scope (the student publication of Pius XI High School [Wisconsin]), I have weathered the storms of several attempts at censorship of student reporters. For example, when I was managing editor for the Scope in my junior year, several administrators and faculty members tried to stop us from publishing an investigative story. These people feared that the article, which dealt with filthy and unsanitary conditions in the school cafeteria and locker rooms, would give Pius a bad image and prompt protests from parents. I took the position that the story should be published, maintaining that we shouldn’t sweep our problems in school under a rug. As a result of the efforts of other students and me, the article was printed and spurred useful feedback on the problem we were probing.

Also, during that same year, I had authored an editorial column that was critical of school administrators for what I felt to be their undue imposition on student rights. My adviser read the article, said that I was wrong “all the way down the line” and told me that he would not let the article be published unless it was offset by a rebuttal statement by a school official in the same issue. (He even offered to write the rebuttal.) I told him that such a policy would not only contradict our editorial policy against prior review, it would be an infringement on my rights and a retreat to the blandness of “tin pan” objectivity. But the episode has a happy ending—my column was published without immediate rebuttal and received critical acclaim.

Furthermore, as a feature editor for Metro Student News I have supported articles that constructively dealt with subjects like teenagers’ sexual activities, birth control, venereal disease, and athlete abuse.

It’s good to know that one has formidable allies in the effort to protect the First Amendment rights of student journalists. I extend my gratitude and promise of support, now and always. Keep up the good work.

Michael Gauger,
Milwaukee, Wisconsin. [*]

SPLC Report welcomes letters from readers. Letters should be typed and double-spaced. Because of space limitations, those published are subject to abridgment.

Transou contests ‘no tenure’ label

To the editor:


A basic journalistic principle that is drilled into any student of the craft is the ethical responsibility and legal necessity of accurately checking all facts relative to a story prior to publication.

SPLC purports to be an organization dedicated to the support and protection of First Amendment rights of high school and college journalists. One would expect proper journalistic rigor at all levels to be the routine of such an organization. It is disheartening and confusing when such organizations blindly publish erroneous copy.

Tag lines essential to the slant of both articles in question state, “Schultz, who is tenured, was replaced as adviser by a nontenured English teacher with no journalism experience.” Since you failed to check with either my principal, my associate superintendent of personnel, or my superintendent of education, I am obliged to inform you that at the time of my appointment to advise the Wildcat Prowl I had both tenure and experience in journalism.

Perhaps you should examine your own practice or at least re-read legal definitions of libel per quod.

Retraction is in order.

Enclosed is a check for resubscription to your publication in the name of my journalism class.

Cordially,

David G. Transou
Adviser, Wildcat Prowl
Eastern Randolph High School
Ramseur, N.C.

SPLC Report contacted Transou by telephone in April and learned that he had had tenure for three years when appointed adviser to the Wildcat Prowl. Although he has never taken a course in journalism, he had been a stringer for the Winston-Salem Sentinel while in high school and later served as newspaper adviser in a middle school. He was also involved with a magazine for Project Zoo, a federally funded Title IV project. Report regrets the error. □
High school reporter sues for board meeting access

A Gladstone, Oregon high school journalist who was denied access to a school board meeting and subsequently removed from his position as editorial editor when he attempted to write about his denial has filed suit against his school board, asking that he be reinstated to his old position and all critical letters be removed from his personal file.

Scott Clark, a junior and staff member of the Roamin' Scroll, filed a class action suit in U.S. District Court April 9 after he was refused admission to a school board meeting dealing with extra-duty contracts of teachers. The meeting was closed to the general public but open to professional journalists.

The suit had originally asked the federal court to declare unconstitutional the Gladstone student publications guidelines and to extend student reporters the same access rights given professional newsman. In late April, after the suit was filed, the school board changed those guidelines, allowing students to attend all meetings except those dealing with the student and teacher disciplinary actions or salary matters. Meetings dealing with those issues may still be opened to professional newsman, however.

Named as defendants in the suit are Gladstone School District, School Board Chairman Bernard Straigh, District Superintendent Frank Ellis, Gladstone Principal Francis P. O'Brien and Scroll adviser Linda Vogt.

Under Oregon law state agencies such as the Gladstone School Board may exclude the public from executive (closed) meetings, but at the same time may admit representatives of the "news media." Clark was expelled from the board's September 27 meeting despite an attorney general's opinion that student journalists are considered members of the media under Oregon law. The attorney general has since issued an opinion stating that because a student newspaper is published with school funds, the school can restrict the activities of its reporters.

Straight had reportedly refused Clark admittance to the September 27 meeting because he objected to an earlier article Clark had written on the subject, an article he called "inaccurate." He told Clark: "If you had treated the story the way it should have been treated, I never would have objected to your attending the session."

Clark wrote an article for the Roamin' Scroll describing his unsuccessful attempt to cover the board session. The article quoted Straight as saying, "I don't have time to sit and listen to you kids." It also quoted Gladstone School District Superintendent Frank Ellis as saying, "I hope you kids don't make asses of yourselves."

Scroll adviser Linda Vogt was apprehensive about the quotations and called a meeting of four other teachers and Principal O'Brien. The group decided at the meeting to show the article to Straight. O'Brien later told Vogt that Straight wanted the quotes removed.

Clark was not willing to remove the quotes, however, and asked that the story run in its entirety or not at all. Vogt insisted he rework the story or let someone else do it. He refused, and Vogt removed him from his editorial position. Another staff member reworked the article, which ran February 14.

Vogt told Mary Hartman, director of the Oregon Scholastic Press Association, that she had her own ethical dilemma: she was not sure that when Chairman Straight had given the quotes he knew they would be used in print. The staff was also faced with a problem because it now had three quarters of a page empty on the day of paste-up, and Clark refused to help fill it.

This was the second consecutive week that Clark had missed paste-up. The week before he had made arrangements with editor Lisa Schroeder to be excused because of a heavy school workload. The next week, Vogt removed him from his editorial position.

She denies that the content of Clark's article had any bearing on his removal, and says, "He was fired only because he missed paste-up two weeks in a row. He left the other kids to do it the next morning."

Clark believes that Vogt's action was a direct result of his dispute with the Gladstone School Board. The American Civil Liberties Union agreed to sponsor the litigation. Clark is represented by Portland attorneys Ron Fontana and Charles Hinkle. The case is scheduled to be tried in July.

ACLU attorney Lawrence Wabbrook counsels Roamin' Scroll reporter

Scott Clark before school board meeting.
ARKANSAS

Students win press accreditation

Arkansas college and high school student journalists won a year-long battle for police press accreditation when the Arkansas State Police, faced with the threat of a lawsuit from several students and scholastic press organizations, reversed its position and issued press passes to student reporters. Arkansas is the first state to adopt an official policy of issuing press passes to students.

The action by Doug Harp, director of the Arkansas State Police, came just before staff members of the University of Arkansas at Little Rock Forum, the Fayetteville High School Register and the Parkview High School Constitution were to have filed suit in U.S. District Court claiming the police policy violated their rights under the First and Fourteenth Amendments. The Arkansas College Publications Association and the Arkansas High School Press Association supported the suit and agreed to provide funding for litigation and to be plaintiffs in the case.

Steve Taylor, then a staff member of the Constitution, originally sought a press pass after he was denied access to the funeral of Senator John L. McClellan in November 1977. His request was never acknowledged in writing, although he had been told that he probably would not receive credentials.

He appealed this denial to Colonel Harp, State Commission Chairman J. E. Dunlap and then-Arkansas Governor David Pryor, without success. Dunlap told him plainly that he thought the idea of issuing press passes to students was "ridiculous."

Little Rock attorney Richard Quiggle and SPLC Director Michael Simpson prepared the suit, but Colonel Harp reversed his position before it was ever initiated. The students received their passes in late January.

"I am positive that the lawsuit is why they changed their minds," said Constitution adviser Julia Ann McGeehee. Harp denied this, saying rather that he was simply looking for a way to avoid classifying students as members of the working press. He did this by stamping the word "student" on each pass.

However, Simpson warned Harp that "if state officials do not honor those student press passes, then we will insist that students be issued passes similar to those issued to professional journalists.""

Assistant Attorney General Charles Hoornstra said in a February 7 letter that such a meeting "is best characterized as an administrative meeting. [Such meetings] are necessary for the proper administration of schools [and] do not have the status of meetings of governmental bodies . . . ."

Hoornstra noted, however, that school board meetings are covered under the Wisconsin Open Meetings Law and are therefore open to members of the press in most cases.
Weber State editor wins salary data release

The editor of the Weber State College (Utah) Signpost has successfully sued the college administration and various state officials to require the release of college employee salaries.

Judge E. Howell Taylor ordered the information's release on January 3 after remarking that his own salary was public information. An appeal to the Utah Supreme Court filed in late January by Weber State College and the Utah Records Committee has not yet been decided.

John Redding, Signpost editor, filed the suit in November claiming that the college's refusal to release salary information violated a July 1977 ruling by the Records Committee that such data is public information.

The State Records Committee is a legislative body spawned by the Utah Information Act of 1975 to set policy concerning public information. The Records Committee was named as a defendant in the case for failing to take action to enforce its July 1977 policy. The college attorney has defended Weber State's position on the ground that releasing the salary list "constitutes an unwarranted and unconstitutional invasion of the privacy rights of persons employed by Weber State College." Some college employees threatened lawsuits if their salaries were released.

Faculty members and the Utah Board of Regents plan to file "friend of the court" briefs with the Utah Supreme Court.

Utah Governor Scott Matheson offered another explanation for some institutions' desire to retain salary information. Seeking personnel in highly competitive fields sometimes necessitates that colleges offer more attractive salaries than in less competitive areas. Withholding salary data relieves the institution of potential problems among the faculty when some members are paid more, he said.

The governor publicly advocated Redding's cause, and the state auditor at one time considered joining the Signpost in the suit to emphasize his belief in the public's "right to know."

The Associated Press of Salt Lake City and the managing editor of the Logan Herald also filed official requests for the salary information, which were denied by the college.

AP reported that education officials in every state bordering Utah—Arizona, Nevada, Idaho, Wyoming, Colorado and New Mexico—said salary information of professors and administrators is public.

The Weber State College stance was upheld by the State Board of Regents, the Commission of Higher Education, and the assistant attorney general, though none of their opinions were legally binding.

The Utah high court is expected to hear the appeal in May.

No sunshine at 5,000 feet

A district court judge refused to open a Pikes Peak Community College administrative meeting to the press in February, saying that the non-policy making body is not a state entity and is therefore not governed by the Colorado Sunshine Law.

The college newspaper, Pikes Peak News, sought a preliminary injunction to obtain access to an executive meeting of the president's cabinet February 14 where consideration of a procedural change affecting student organizations was to take place.

Judge Bernard Baker said the 1973 Sunshine Law does not mandate that "every going on in the public sector is open to public access at a time when particular procedures are being utilized." He compared the executive session to a meeting where policemen plan a narcotics raid.

According to News editor Marit Dyer-Allison, college president Don McInnes has refused to talk to News reporters since January. All information is released through the college Public Information Office, a procedure that "gives him time to get his story straight," Dyer-Allison said. The newspaper has since attempted to cover every meeting on campus.

Also at issue at the school is whether the administration is entitled to oversee the newspaper's financial dealings. Dyer-Allison says student activity fees, which constitute two-thirds of the News budget, are under the jurisdiction of students, not the college. She says the student senate will take legal action if the issue is not resolved internally.

Judge okays closed teacher hearings

Teacher disciplinary hearings conducted by the Hillsborough County (Florida) Board of Education need not be open to the public, the Florida Supreme Court declared in February.

In so ruling the court upheld the constitutionality of a special law which permits teachers in the Hillsborough County School District to require that disciplinary charges against them be heard in private. The court ruled that the statute was a valid exception to the Florida Sunshine Law.

The Hillsborough Classroom Teachers Association had joined the school board in defending the law from attack by the Tribune Company, publisher of the Tampa Tribune, whose reporters had been barred from disciplinary hearings.

The court said the law "is a valid legislative exception," but refused to discuss the merits of that law. One judge dissented, however, stating, "Open meetings in disciplinary matters against teachers are of vital importance to the public welfare. A person inclined to bring spurious charges against a teacher would hesitate to do so if confronted with the requirement of making such charges a matter of public notoriety . . . . On the other hand, if a charge against the teacher is warranted, the accusation and hearing should be open, as the issue is one of public concern . . . ." Tribune Company v. Hillsborough School Board 4 Med. L. Rptr. 2244 (1979).
Carter introduces legislation to overturn Stanford decision

President Carter asked Congress April 2 for legislation to overturn the Supreme Court decision Zurcher v. Stanford Daily, which held that searches of newsrooms by law enforcement agencies are constitutional, even in instances where newsmen themselves are not suspected of crimes.

The decision stems from a 1971 case in which police obtained a warrant and proceeded to search the Stanford Daily offices in Palo Alto, California for unpublished photographs of a student demonstration at which some police officers were injured. (See Nat Hentoff's article, SPLC Report 8.) Carter said the decision "poses dangers to the effective functioning of our free press."

The proposed legislation represents a reversal of the administration's earlier position. In 1977 Solicitor General Wade H. McCree Jr. said that special protection to news organizations would "represent a judicial endorsement of two classes of First Amendment freedoms, one designed for the majority of Americans and one tailored especially for the press." The Justice Department at that time urged the court to rule against the newspaper.

Asked why the administration had changed its position Assistant Attorney General Philip Heymann commented "Frankly, we can live in the law enforcement business without the powers we are giving up. And states and localities can live without them also."

If Congress approves Carter's proposal, searches for the "work-product" of newsmen, novelists, scholars and others "involved in the dissemination of information to the public" would be banned.

At a White House press conference in April, SPLC Report asked Henry Geller, assistant secretary of commerce for communications and information, if the scope of Carter's legislative proposal would extend to college and high school publications offices. "Yes, I think it would," he said. "There is a jurisdictional provision that it apply to interstate commerce, but it is very broad."

According to Jack Landau, director of the Reporter Committee for Freedom of the Press, the prospects are good for Congress to pass the legislation in one form or another. □
Resisting resistance

Students struggle for information under FOIA

by David Danner
and Evan Hendricks

In January 1978, Brown University junior Andrea Gaines decided to test her rights under the Freedom of Information Act by filing requests with the Central Intelligence Agency and the Federal Bureau of Investigation for documents concerning those agencies' activities at Brown during the 1960s and 1970s.

The agencies stonewalled, and by February 1979 she had received only a sparse collection of heavily censored and, in her own words, "fairly innocuous" documents. They contained little information about the 1960s and nothing at all about the 1970s.

"They're obviously leaving out quite a bit," she said. "I'm not satisfied at all.

But neither was she surprised at all.

In spite of the 1974 FOI Act, which requires government administrative agencies to make available information requested by any citizen, United States intelligence agencies have generally resisted the wave of requests to open their files on secret recruiting and surveillance programs which they conducted in the past on American college campuses.

Although a few heavily censored documents—such as those received by Gaines—have been released by the CIA, the Army and the Navy, more than 40 Freedom of Information requests, initially denied, are now being appealed by university and college newspapers, officials and students. Several student newspapers—including the Ohio State Lantern, the Penn State Collegian, and the Columbia Spectator—have filed lawsuits in attempts to obtain documents denied them under appeal.

A central target of these inquiries is the CIA's "Project Resistance," which involved extensive monitoring of student political activities on campuses from 1967 to 1973. According to memos obtained by the Washington-based Center for National Security Studies, the agency kept tabs on student publications and underground newspapers to see how they were covering student response to national issues, such as civil rights and the Vietnam war.

A University of California student named Nathan Gardels received, via an FOIA request, the memos that provided the first overall account of "Project Resistance." The notes documented CIA fears that the student press was under "foreign sponsorship, encouragement or training," and sought to identify any on-campus threats to agency personnel, installations or projects.

Not that the CIA was the only agency acting covertly on campus during that period. The FBI's COINTELPRO (Counter-Intelligence Program) sought, among other things, to undermine various college newspapers by writing anonymous letters to advertisers warning of the publications' affiliations with the "New Left." The agency in at least two instances published bogus "student" newspapers to counter what it considered leftist publications and wrote phony letters to members of the Michigan state legislature as part of a successful campaign to cut funding of student activities at Wayne State University in 1969.

But if the relationship between students and the government intelligence community was not entirely honest during the Vietnam war years, there is no indication that the relationship has become any more sincere a decade later. Mark B. Levy, attorney for the Ohio State Lantern staff, says that as students have sought information, "at universities across the United States, the CIA has sought to stonewall disclosure at every stage." Gardels' attorney, Jack Novik, agrees. "The CIA is resisting at all costs and is doing anything possible to prevent disclosure."

Too much deleted

Gardels himself believes that the CIA has withheld or deleted too much information from the documents he requested concerning "Project Resistance" activities within the University of California system. He has taken his case to the U.S. District Court in Washington, D.C., where it is now pending. His suit—as well as the CIA's response to his initial FOIA request—illustrates the difficulties others face in trying to learn details of past government spying projects.

Gardels first became interested in the agency's files when he learned of the 1976 report of the Senate Select Committee on Intelligence which suggested that the CIA had maintained scores of possibly illegal contacts, to be used "in an unwitting manner for minor activities." The agency responded to his initial request—filed in the spring of 1977—by releasing three uncensored letters to college placement officers and 155 documents that contained scores of deletions.

But Gardels sensed that he had been shown only the tip of the iceberg, and asked the CIA's appeals unit to review his request for more complete dis-
closure. In November 1977 he was provided with 18 additional uncensored and 21 censored documents. The agency refused him 18 documents on the grounds that their release would endanger national security and refused to confirm or deny the existence of several other documents, claiming that such an admittance would endanger confidential sources on campus.

In February 1978 he filed suit against the agency, demanding full disclosure and an “itemization and justification” for all material that was withheld. He also demanded a more complete explanation as to why the CIA could not acknowledge the existence of certain records.

Response insufficient

Under the 1974 law, the Freedom of Information Act does not apply to records designated as “Secret” by executive order, records exempted from disclosure by statute, and personnel and medical records, the disclosure of which would constitute an invasion of personal privacy.

Nonetheless, Gardels found the agency’s response insufficient. His attorney, Novik, argued that the CIA gave justifications only for five of the 250 documents which it either censored or withheld. And by failing to confirm or deny the existence of other records, he said, the agency made it impossible to determine whether the documents were properly classified as national security data and therefore exempt from disclosure.

The agency’s rationale for barring disclosure of the material—or of the fact that other files existed—came in the sworn statement of National Security Council member Michael Oksenberg, who said, “I strongly believe that requiring the Agency to disclose the names of other academics who develop similar personal relations will destroy associations that benefit both academics and foreign policy interests in the United States.” Specifically, he said that disclosure has resulted in “inflammatory articles in college newspapers alleging ties between China centers and the university [when] in fact, [much of the correspondence between academics and the CIA] requested unclassified CIA publications available upon request.”

Novik told District Court Judge June Green that this answer begs the question. “The government’s refusal to confirm the fact of the documents simply shifts the whole matter outside the context of the Freedom of Information Act.”

Brown University’s Gaines: “They’re obviously leaving out quite a bit.”
Novik asked for further discovery, and the CIA moved for a final decision. Judge Green ordered the agency to provide her with all the documents so that she could review them privately, the CIA appealed, and on March 26 of this year, the court of appeals ordered the lower court to proceed with further discovery. Both parties are waiting for Judge Green to set a time to continue.

**Lawsuits follow pattern**

Other lawsuits involving freedom of information follow a similar pattern.

At Penn State, staff members of the Collegian filed a request in December 1977 for all CIA files dealing with the university. Over a year later, they have still received nothing. The staff filed suit last spring.

At Ohio State, the editors of the Lantern filed suit October 13, 1978 to obtain files concerning "Project Resistance" and CIA connections on campus. Their suit seeks (as does Gardels') "justification of exemptions rather than simply stating the exemptions."

At Columbia, staff members of the Spectator filed suit April 17, 1978 after the CIA failed to respond to inquiries concerning its use of university facilities to examine the effects of drugs on human behavior.

And at Brown University, Andrea Gaines is preparing a lawsuit with the help of the Rhode Island ACLU. She is seeking specific information concerning FBI and CIA surveillance of campus anti-war groups during the 60s.

Freedom of Information requests by university newspapers, officials and students make up only a small percentage of all FOIA requests. For example, in 1977 alone the Justice Department processed more than 13,000 petitions and spent nearly $10 million in "compliance activities."

But the percentage of disappointed petitioners from colleges is proportionately large. While the Justice Department contends that more than 90 percent of all 1977 requests were fulfilled, Susan Woods of the Washington-based Campaign for Political Rights says, "Almost all of the people we have talked to [at universities] are frustrated by the CIA's refusal to comply with their requests."

Many university leaders, such as Harvard President Derek Bok, believe the reason for CIA denials of FOIA requests is the agency's continued activity on campus. Bok and several others are now developing guidelines in the hopes of limiting "Projects Resistance" in the future.

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**PRIVACY**

**OREGON**

**Minor’s name may be published**

In January the Oregon Court of Appeals affirmed a newspaper's right to publish the name of a minor charged with committing delinquent acts.

The Tigard Times had reported that the 16-year-old daughter of Emil and Elizabeth Mikan was charged in juvenile court with unauthorized use of a motor vehicle and hit-and-run driving. The Times printed the girl's name, her parents' names and their address.

The parents filed suit against the paper, seeking damages for "sickness and emotional trauma" which resulted from "threatening telephone calls, eggs thrown at their residence and surveillance of it by strangers," all allegedly caused by the newspaper's article.

The Oregon court dismissed the suit because the newspaper had committed no act for which it could be sued. The court rejected the Mikan's claim that the story's publication was a "nuisance," thus never reaching the question of whether such reporting is protected under the First Amendment.

**NEW MEXICO**

**Privacy suit dismissed**

Newspapers may publish the names of juvenile crime victims if those names are obtained at preliminary hearings open to the public, the New Mexico Court of Appeals ruled last September.

The parents of Renee Poteet filed an invasion of privacy suit against the Roswell (New Mexico) Daily Record after the newspaper reported that the girl had been kidnapped and sexually assaulted. The court dismissed the lawsuit, however, saying that "the incident was a matter of public record and therefore newsworthy."

The court agreed with attorneys for the Record that the newspaper has a right to accurately report court proceedings. "Since it obviously is to the interest of the public that information be made available as to what takes place in public affairs, a qualified privilege is recognized under which a newspaper... may make such a report to the public." Poteet v. Roswell Daily Record, 4 Med. L. Rptr. 1749 (1978).
Let someone else be the judge

The Student Press Law Center is not the only place students should look to for information about their First Amendment rights. The most important agent for freedom of the press is the press itself. With this in mind, the Center is sponsoring the Second Annual SPLC Journalism and Art Awards. We are encouraging high school and college journalists and artists to address First Amendment issues in an editorial, news article, feature or cartoon. Separate awards will be given for writing and art, and entries will be grouped into high school or college categories. Winning entries will be published in the Spring issue of the national SPLC Report together with a resume of the winners.

To be eligible send us a copy of the newspaper containing your entry, published in a high school or college newspaper or magazine.

Entries must be postmarked no later than March 15, 1980.

Entry fee: A year’s subscription to your student newspaper.

--- ENTRY BLANK ---

NAME

PLEASE PRINT

HOME ADDRESS

CITY, STATE, ZIP

SCHOOL

NEWSPAPER_ DATE ARTICLE

□ Yes, I have placed the SPLC on my newspaper’s mailing list.
Michigan

Court deems student officers public figures for libel purposes

A Michigan federal court has ruled that a high school student government officer is a public figure for purposes of libel and dismissed a suit by one such student against several school officials and a local newspaper.

Judge Cornelia G. Kennedy ruled last September that student Barry Henderson was a "public figure" by virtue of his involvement in student government and that he could not prevail in the suit because he had not shown that the allegedly libelous statements were published "with actual malice."

Under U.S. Supreme Court rulings, if one who sues for libel is a "public figure," he must prove that the false and defamatory statement was published "with actual malice," that is, knowing the statement was false, or with reckless disregard for the truth.

Henderson filed suit against the Ypsilanti Press, reporter David Whiting, Van Buren Public School and several school officials, claiming that two January 1977 Press articles libeled him.

The articles reported on a drug problem at Belleville High School and quoted the superintendent, a school board member and the administrator of the school as saying that Henderson "is not very intelligent," "knows how to manipulate," "may not graduate," has "had problems," is a "hatchet man," is "in the bottom ten percent of his class" and has "overstepped his role as a student."

Whiting, author of the articles, was careful to pepper the stories with Henderson's reaction to the various statements about him.

Emphasizing Henderson's status as president of the student senate, the court declared "he was a public figure with regard to these events of local interest for coverage by a local paper."

The court also stressed the facts that the quotations were "newsworthy," that they were "statements of opinion," and that the student was given the opportunity to rebut them.

"There can be no question that the events involved in this case, drug use in the public schools and school officials' actions, are matters of local public interest.

"All of the statements [by the school authorities] involve attributed quotations made by public officials concerning their public duties. They do not touch upon the plaintiff's private life but only reflect the school officials' opinions on the plaintiff's involvement in the high school controversy. As such they are neither demonstrably false nor true. They are merely statements of opinion," wrote the court. Henderson v. Van Buren Public School, 4 Med. L. Rptr. 1741 (E.D. Mich. 1978).
TEXAS

**UTEP editor censured, retains post**

The editor of the University of Texas at El Paso Prospector had to clear his name with the newspaper’s publications board to retain his post after a University professor accused the editor of having libeled him in two November editorials.

The professor, Joseph Klingstedt, asked the Student Publications Board to remove editor David Burch from his position and to require the Prospector to publish a front page retraction and apology. The editorials speculated that Klingstedt was one of three university officials demoted for mishandling the granting of a B.A. degree in 1976 to a student who did not pass a mandatory class.

The board dismissed Klingstedt’s requests, but found that “Burch erred regrettably in judgment and in choice of language in the composition of the editorials.” It urged “the university and metropolitan community to be tolerant of the errors and indiscretions resulting from the youthful professional immaturity of the staffs of such publications.”

Klingstedt said the decision indicated “recognition of the grievance,” while Burch labeled it “a slap on the wrist.” Burch resigned from the board, emphasizing that it “wantonly failed to concern itself with justice in its attempt to appease both parties.”

The board will consider appointing an editorial adviser to the Prospector as a result of the conflict, a board spokesman said.

MONTANA

**State retraction law voided**

The Montana Supreme Court voided in August a state law which required a person believing he has been libeled to request a retraction before filing suit, and reinstated a $102,000 lawsuit against the University of Montana student newspaper.

The unanimous decision struck down the 17-year-old Montana “retraction statute” as a violation of the state constitution.

The case arose from an October 1974 editorial in The Montana Kaimin about Al Madison, director of the university print shop. The editorial stated, “His position...alone makes anything he would say...suspect. As well, he is a congenital liar, an incompetent whose own operation has lost $103,914.89 in the last four years.”

Two months later Madison sued Kaimin editor Carey Yunker, the University of Montana, the Associated Students of the University of Montana and the publications board for $102,000, claiming that the defendants had “deliberately and maliciously libeled [him] by publishing false, defamatory statements.”

The district court dismissed the suit in December 1976 on the ground that Madison had not asked for a retraction before filing suit as required by the Montana retraction statute. Under the law if a newspaper prints a retraction, the person libeled is limited in the type of damages he can recover.

Madison appealed to the Montana Supreme Court and asked that the statute be struck down because it denied him the right to sue for “injury of character,” as guaranteed by the Montana Constitution.

The defendants countered that to require one allegedly libeled to request a retraction “does not affect access to
the courts; it merely permits a potential defendant a reasonable opportunity to correct any false information and thereby mitigate damages.”

The high court ruled in favor of Madison and declared the law unconstitutional. The case was remanded to the lower court for a trial to determine whether Madison was entitled to recover any damages. Madison v. Yunker, 4 MED. L. RPR. 1337 (Mont. 1978).

Earlier in 1978 the Oregon State Supreme Court upheld the constitutionality of a similar statute. In addition to preventing a person from suing for libel unless he has requested a retraction, the Oregon law bars the recovery of damages for injury to reputation, emotional distress or physical harm if a retraction is printed. Davidson v. Rogers, 574 P.2d 624 (Ore. 1978). □

MONTANA

Staff weather’s libel threat

An investigative reporting stint to test local bars’ compliance with state drinking laws led to the threat of a libel suit against a Great Falls, Montana, student newspaper.

Montana law prohibits the sale of alcohol to anyone under 19, but Maria Enley of the Russell High School Stampede found those laws laxly enforced when she visited the Gold Rush Bar during Christmas vacation with only an outdated student card for identification. When she asked the bouncer whether he was supposed to request her driver’s license, he replied, “As long as it’s got a picture and a date we don’t really care.”

Gold Rush manager Brian Feltner apparently did care, however, when he learned that the incident would be written up in the Stampede article. “The problem [of keeping minors out] is an easy one to criticize but difficult to solve, and I don’t think it is necessary to pick on just this one bar,” Feltner said.

He called the adviser and tried to persuade her that the bar had been under its former name, Turn of the Century, when the reporter entered, explained Stampede editor Bob Johnson. “He spoke of the damage the story would do to his business and said the paper could take out all references to the Gold Rush, kill the story, or else. ‘Or else’ was never specified, but the implication seemed to be a possible libel suit.

“The bone of contention became when the Turn of the Century changed its name. We spent the entire weekend searching for verification of the date of the change.

“Finally I went to a local radio station and asked them to look up their advertising records. They found a tape dated November 11 that said ‘We’ve just changed our name,’ and I went to the printer with the go-ahead to publish. Not surprisingly, we’ve never heard another word from Mr. Feltner,” Johnson concluded. □

COLORADO

Program chief sues Colorado Daily

The former director of the University of Colorado’s Berlin Study Abroad Program initiated a $500,000 libel suit in February against the school’s Colorado Daily, a Daily reporter, and a former program director for a 1977 article in which students criticized his handling of an intensive language study course in Germany that year.

The article was based on interviews with some of the 20 participants. It reported that Rainer Dimter, the Berlin Study Abroad Program director between 1975 and 1977, contracted hepatitis before the trip but did not inform the students or university until a few weeks later, afraid that some would withdraw from the excursion. While Dimter spent six weeks in a hospital his students were taught by replacements.

A division of the New York Supreme Court ruled last December that a newspaper headline which falsely describes a school teacher as a “no-show” can be libelous, even when that description is qualified in an attendant article.

New York teacher Albert Deluca filed suit against the New York Daily News after it published a July 1978 article about him headlined “Sue No Show Teacher for 61 G in Pay Given Out by Mistake.” The story reported on a suit filed by the Board of Education against Deluca to recover salary mistakenly paid to him.

Deluca conceded that such a suit had been filed but claimed that the headline which described him as a “no-show” was false and defamatory. He stated that he was on “authorized leave without pay for health reasons,” rather than a “no-show” as the headline claimed. The author of the article, Daniel O’Grady, admitted reading court papers filed by the board of education which described Deluca’s absence as “authorized leave” but claimed the term “no-show” accurately described the teacher’s conduct.

The court disagreed, however, noting that the term “no-show” is “generally understood to connote a person who is able to work but fails to show up and would lead the average reader to believe Deluca was ‘disreputable.’”

It concluded, “Sensational headlines sell newspapers. But while the headline and article must be read together, unless the headline is a fair summary of the article, a cause of action is maintainable if the characterization of the headline is not fairly supported by the facts being reported.” Deluca v. New York News, Inc., 4 MED. L. RPR. 2312 (1978).
who spoke little English, the article said.

Some students alleged they had to pay costs above the pre-determined $1,450 trip price, including “optional” events that Dimter forced them to attend and finance. Dimter allegedly harassed the participants and threatened to send them home if they complained.

After the four-month “fiasco” still more trouble seethed, according to the Daily. The program had given Dimter $2,000 when he went in the red trying to organize events. Dimter spent $700 on the program, but never accounted for or returned $1,300 of the $2,000, according to Ruth Purkaple, the former program director named as a defendant in the suit.

No date has yet been set for a trial.

IOWA

Zionist wins $10 libel judgment

The Daily Iowan of the University of Iowa has appealed a January court ruling that awarded $10 to university law student Bill Michelson, who charged libel for a headline he says labeled him “Bloody Racist.”

The headline appeared above a Palestinian Arab’s letter to the editor which criticized an earlier Michelson letter for its pro-Zionist view of the Middle East.

Michelson complained in his suit that the offensive epithet referred to him.

However editor Bill Conroy explained that the phrase was merely an excerpt from the Arab’s letter. The entire sentence “Israel is a bloody racist state” originally appeared in the last paragraph of the letter but was deleted for lack of space, leaving the headline “Bloody Racist” with no reference.

“The conclusion a reader would naturally come to,” Michelson said, “was that some Daily Iowan staffer was throwing in his two cents.”

“The incident caused me to suffer humiliation and censure because the Daily Iowan, which has 20,000 or more readers a day, operates in a town full of foreigners and liberals who regard racism as a ghastly crime,” Michelson continued. “I am Jewish and highly pro-Zionist; while I have nothing against Arab people, I do find their politics and the so-called ‘Islamic revival’ totally loathsome.”

Michelson alleges that he received telephone threats and harassments. “I really had a bad case of depression and was quite shook up.”

He took the Daily Iowan to small claims court, suing for $1,000 reimbursement. “I was trying to make a point politically. I wanted to create a judicial precedent saying that calling a Zionist point of view or a Jewish person ‘racist’ is not libelous per se.”

Conroy based his defense on the Daily Iowan’s total lack of malice. “If I wanted to call Michelson a bloody racist, I would write ‘Bill Michelson is a bloody racist.’ Michelson had threatened with lawsuits repeatedly.” Conroy added. “We’ve been running his letters for two or three years and he’s always complained.”

Judge Joseph Thornton ruled that the headline could be construed as relating to Michelson, and awarded him $10 plus court costs.

Conroy appealed the suit to district court, saying he intends to “appeal indefinitely. I don’t care how much money it takes. We don’t want a stain on our reputation.” Michelson explained that “I wasn’t planning to appeal because I had set the precedent, but the Daily Iowan appealed because they were unhappy over it. I got mad and cross appealed.”

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Derek Washington’s cartoon “brought tension” to Lakewood High School

Writer alleges reprisals

Derek Washington had no problem printing a scathing editorial and cartoon about the Lakewood High School (Florida) senior class sponsor, but he found himself suddenly transferred out of his journalism class, out of a history class taught by the sponsor, and off of the high school newspaper after the editorial appeared in a February issue of the Centurion.

The article attacked the sponsor for failing to advise seniors of their right to purchase less than a full $12 graduation accessories package. Accompanying the editorial were two cartoons, one depicting the sponsor as holding up a graduate at gunpoint, the other showing him lying lazily in front of a TV set drinking beer.

Lakewood High School principal Gerald Luther admitted the editorial “brought tension” but denied that it precipitated Washington’s removal from the journalism class and newspaper.

Washington, however, believed the removals were a direct result of his editorial. He contacted the Student Press Law Center for advice but took no legal action because of pressure from his mother.

Washington was not the only one ready to go to court. The senior sponsor considered suing for libel, but “I persuaded him to let things lie,” the principal said.

Faculty members were “very dissatisfied” with the editorial, and one published a rebuttal in the next issue which ran alongside a retraction by the Centurion editor, according to Luther.

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Khomeini cartoon sparks death threats

Two members of the University of Southern California Daily Trojan received telephone death threats last February after the paper ran an editorial cartoon depicting Iranian leader Ayatollah Khomeini as Hitler.

Political cartoonist Bob Staake and Managing Editor Michael Schroeder were placed under campus security protection after the anonymous calls. Staake is also cover artist for the SPLC Report.

Farrokh Abrishamkar, president of the university's Iranian Students' Club, denied any knowledge of the telephone threats, but denounced Staake as "narrow-minded and racist" and warned of demonstrations by 4,000 to 5,000 students if the cartoons continued. There are about a thousand Iranians at Southern Cal.

The Daily Trojan ran an editorial on February 15. "An anonymously phoned death threat is useless in presenting an opposing viewpoint. A commentary or letter submitted to the newspaper could shed light on an alternative. Abrishamkar is welcome at any time to share the page with Bob Staake, but no one has the right to impose his views on others, especially in a democratic society."

Student journalists at three other universities were harassed or threatened during March. Across town at UCLA, more than 70 protesters occupied the offices of the Daily Bruin on March 1, protesting a satirical article on youth gangs. The demonstrators, mostly Chicanos, charged the paper with "blatant racism" and demanded a front page apology.

Joanne Eglash, editor of the Daily Bruin, conceded the article was racially offensive and agreed to run a retraction.

In Houston, Texas, Mark Power of the University of Houston Daily Cougar filed trespassing and assault charges against four students who forced their way into his apartment at 2:30 the morning after he wrote an article charging a campus political party with violating the university's campaign code. The intruders demanded to know why Power had been "printing lies."

And in Tacoma, Washington, the president of the Pacific Lutheran College student government allegedly slapped Mooring Mast editor Allison Arthur after she wrote an editorial calling him "unethical." He reportedly told her "never to cross him again or else."

Arthur's editorial came after the president allegedly boasted to the student senate that he controlled the content of a campus television program.
The University of Virginia has resolved a conflict with its student newspaper, the Cavalier Daily, that at one point threatened to shut down the paper for the first time since its founding in 1888. The staff was forced to publish off-campus for two days during the conflict.

University President Frank Hereford ordered the newspaper to vacate its campus offices in Charlottesville April 3 after its editors refused to recognize the authority of the university-appointed Media Board. That board was established in 1976 to oversee campus publications and broadcast stations. The newspaper staff has viewed its creation as an act of censorship. Hereford and the students reached an agreement April 5 in which the students will recognize the board until August 30, at which time the newspaper will become independent of university control. Details of the compromise will be worked out over the summer.

The settlement came after an estimated 1500 to 2000 students staged a demonstration supporting the Cavalier Daily in front of Hereford's office. Students cheered as the president's effigy was hanged from a tree.

During the two-day exile, the Cavalier Daily published using the facilities of the Charlottesville Daily Progress at cost.

"We've been in a running game of give-and-take with the Media Board ever since it was formed," said Cavalier Daily editor Richard Neel. "It maintains it has control over what the newspaper prints or doesn't print. But it is disorganized and without real purpose and spends most of the time trying to get on its feet." Neel and other editors have refused even to acknowledge mail from the board.

The conflict came to a head in March when the Media Board ordered the Cavalier Daily to reinstate a student reporter who had been removed from the staff for alleged "conflicts of interest." While the student was a reporter he also held a statewide leadership position with the Young Americans for Freedom political group and was a candidate for a student government office. The Cavalier Daily ignored the order.

The Media Board voted to censor the paper and ordered the newspaper to publish the letter of censure in its entirety. The newspaper again ignored the board's order, but published a news story about the board's action.

The university's governing body, the Board of Visitors, then ordered President Herefore to evict the paper from its campus offices. Board of Visitors Chairman William L. Zimmer called the Cavalier Daily "somewhat of an irritant in refusing to recognize the authority of the university."

The Cavalier Daily received legal support from the Richmond chapter of the American Civil Liberties Union, the Student Press Law Center and the Washington, D.C., law firm of Rogovin, Stern and Huge.

ACLU attorney Stephen Retherford said, "There is a First Amendment issue, but it's not clear cut. If the Media Board was set up to harass or intimidate the editorial staff, there may be a First Amendment issue. If so, we are very interested in getting involved."

Herefore apparently was not, however, and quickly reached the settlement with Neel. In an April 5 statement he announced, "I am very pleased that the issue has been settled. I always thought the idea of an independent newspaper had merit."

The Cavalier Daily receives free office space, electricity and utilities from the university but last year refused any Student Activity Board allocations. This year the paper managed a profit, although Neel predicts it will operate at a loss next year.

Still, Neel would like to negotiate to lease office space and to pay for utilities. He also hopes to purchase office and production equipment from the school soon.

White reporters for the University of Minnesota Minnesota Daily were twice evicted from black students' meetings this winter because of alleged Daily negativity towards minorities. "Press coverage was not desired from a white perspective," a spokesperson for the blacks said. A black Daily reporter was permitted to remain for both meetings.

A task force of the Black Student Cultural Committee (BSCC) organized the first meeting as a forum for discussion of black student issues and planning of BSCC policy. The second meeting was called by the Office of Minority and Special Student Affairs to further debate issues raised at the earlier assembly.

The two gatherings were "indirectly related" but "not organized by the same people," said George Brown, BSCC director, adding that the man who ousted the whites from the first meeting was not an official spokesperson for the group.

"I regret the way in which the Daily's editors attempt to accuse the entire black student body of irresponsibility, bad politics, and racism because of the actions of one or two individuals," he commented.

"Daily reporters tend to have a negative attitude towards blacks and the task force felt these attitudes would dominate the positive aspects of the meeting," Brown said.

He questioned whether the Daily staffers actually had to leave the meetings. "Neither the reporter nor the photographer was physically expelled from the meeting. If they had asserted themselves and forced the issue, the issue could have been resolved."

The Student Activities Center is investigating a complaint by one of the reporters that the meetings should have been open because the sponsoring organizations are funded in part by student fees. University policy states that meetings of fee-supported organizations are open to all students who may be affected by the organization.
NEW YORK

'Special issue' stirs trouble

"I am well aware that the endorsement of political candidates is valid under First Amendment law. I do not agree under any circumstances that this type of endorsement has a place in high school journalism."

The principal of H. Frank Carey High School (New York) thus explained his "displeasure" with two school newspaper editors who in November published and distributed an unauthorized issue of the paper containing an article on censorship and political endorsements for the upcoming elections. The editors subsequently resigned, but the administration was unsuccessful in trying to tag them with the printing bill.

The one-page "Special Election Issue," printed under the masthead of the official school newspaper, the Carey Clipper, carried endorsements of New York State Democratic candidates as well as a reprint of a "controversial" article on censorship from the newspaper of local Sewanhaka High School, all to "stir up some interest" in the faltering Clipper, said Sofia Koutsouris, one of the former editors.

Principal John London said he was out of town at a convention when he okayed the paper's release through his assistant principal, believing it to be the regular Carey Clipper.

Neither the journalism adviser nor the business adviser had formally authorized publication of the issue and none of the students named in the staff box were actually involved with it, save the two editors Sofia Koutsouris and Steve Spencer.

When London returned to school he discovered the election issue and threw "hairy fits," Koutsouris said. He summoned them to a meeting, at the end of which the two editors resigned. Koutsouris claimed they resigned because "controversial" Clipper adviser John Scibelli feared personal harassment.

Koutsouris said a game of "pass the bill" ensued. She gave London a $20 printing bill for the special edition, and he returned it to her. She again left it with him, and never heard about it again. "The issue fizzled," she said.

WISCONSIN

Student press guidelines receive lukewarm response

The student press guidelines drawn up at a Racine, Wisconsin conference last September have received a lukewarm reception, according to numerous members of the original drafting committee of administrators, editors, advisers, and the professional press.

"The schools that least needed them have been the first to accept them," reported Kevin Clark, an official of the Wisconsin Association of School Boards, one sponsor of the statewide conference, which was held at the Johnson Foundation's Wingspread estate.

The guidelines delineate free speech rights in relation to the responsibility of the press, sanctioning students' right to determine school newspaper content and write about controversial issues, while encouraging adherence to the Sigma Delta Chi Code of Ethics.

At least one school district, the Madison metropolitan area, adopted the guidelines verbatim, and "limited evidence so far indicates that in other districts it has been variably amended to conform to local mores, or used as a basis for developing original policy," said Robert Torlomond, director of the University of Wisconsin Extension, another conference sponsor. The document was mailed to Wisconsin high schools and out-of-state press associations.

As a direct result of the gathering, the Milwaukee Sigma Delta Chi chapter offered to serve in a one-to-one advisory capacity to Wisconsin schools with censorship problems. A Minnesota conference modeled after the Racine meeting will similarly attempt to develop state-wide guidelines this spring.

The Associated Press officially endorsed the guidelines and several newspapers editorialized in their favor, but despite efforts to encourage their use, Clark conjectures that "enactment will be a slow process. Unless there is pressure from student journalists, their advisers, and local news media, I don't think it's reasonable to expect school boards to adopt the guidelines of their own volition."
California

Harsh winter for Irvine paper

The student newspaper at the University of California at Irvine has found itself the object of attacks from all sides this term with three trashings of various editions, a freezing of newspaper funds, an unfavorable court decision, the near-removal of the editor, and general hostility from numerous campus minorities.

Editor Richard Clucas said problems began with the January 16 trashing of 3000 copies of the New University because of a photo story of a local "wet T-shirt" contest. Karen Bjorneby, a Student Government Association vice-president, staged the "symbolic protest" because she believed the article was "degrading to women."

When Clucas took Bjorneby to small claims court for the $600 he claimed to have lost in ad revenues, the judge dismissed the suit on the ground that Clucas was not the publisher and therefore could not sue on behalf of the newspaper.

In an unrelated development, a humorous political ad titled "Live and Play in Iran" by an unnamed advertiser prompted the Communications Board to request that Clucas reveal the names of all future advertisers. He refused, saying, "No matter how few in a group, every group should be allowed to express its viewpoint." He hypothesized that a person taking out an ad for a gay rights group might fear reprisals if his name were revealed.

According to Clucas, a March 13 humor issue in the style of the National Enquirer mocked the number of newspapers on campus and facetiously suggested starting a New Jew newspaper. Although the item was the brainstorm of a Jewish staff member, it caused the trashing of not only the campus circulation, but the papers in the community as well. He said that 5,000 additional copies were printed, but they too were trashed later that evening. Protesters also wrote letters to New University advertisers censoring the newspaper for anti-Semitism.

Additionally, New University received complaints for publishing CIA ads and a letter to the editor saying, "If the handicapped can't walk, let them crawl," in response to an earlier letter which criticized improvements on campus for the handicapped.

The Association of Students Council (ASC) met April 3 to freeze the full $20,000 annual funding to the newspaper "forever" and to withdraw the power of the Communications Board, Clucas said. The ASC constitution defines the ASC as the owner of the newspaper, while the board is only the publisher.

Clucas believed the fund cut-off contradicted the ASC Bill of Rights, which states that communications media are entitled to editorial independence and freedom of intellectual creation. He explained that his editorial policy is to let his editors make the decisions.

Through ad revenues and donations the New University produced an April 10 issue totally unaided by ASC funding, Clucas said. The paper, though one-third the size of the normal 36-page issue, was distributed to the full 11,000 circulation.

Immediately following, the Association of Fraternities officially announced its support of the paper. Days later, the ASC met to restore funding and to decide whether to remove Clucas as editor. "To everyone's astonishment," Clucas said, "they voted not to dismiss me." He believes the upcoming campus elections were a major factor in the decisions. "They wanted to placate the situation. They wanted to calm things down to get re-elected."

However, the future might turn grim again in May when the ASC reviews its budget. Clucas expects it to seriously consider re-directing at least part of the New University funding to another newspaper.

Florida

University must pay $1,600 to Socialist Worker paper

In February a federal judge permanently enjoined the University of Florida administration from severely restricting newspaper sales on campus, holding that such activity was protected by the First Amendment. James Howe, who stopped distributing a socialist party newspaper on campus last year when threatened with arrest, won a $100 judgment plus $1,560 in attorneys' fees and court costs.

Relying on a 20-year-old policy, University of Florida officials had required Howe to sell the Militant—the official Socialist Workers Party paper—from behind a desk at the student center or through vending machines.

University officials claimed they were merely regulating "commercial activity" and said they would have placed no restrictions on Howe if he had given the newspapers away for free.

Judge William Stafford rejected the officials' argument, stating that, "Economic interest does not disqualify a party from protection under the First Amendment."

Stafford's ruling makes permanent a preliminary injunction issued last June which prohibited university officials from enforcing the rule restricting the sale of newspapers on campus.

"Any regulation which subjects First Amendment rights to prior restraint is unconstitutional without narrow, objective, and definite standards to guide the licensing authority. The University regulation suffers from overbreadth because of the limitless and standardless discretion it vests in the [university]," Stafford concluded.
VERMONT

Cynic unfair competition, private weekly charges

The publisher of a private weekly newspaper in Burlington, Vermont has charged the University of Vermont student newspaper, the Cynic, with unfair competition, and has hired an attorney to look into the matter.

Publisher Steven L. Brown of the weekly Vermont Vanguard Press says the student paper has an unfair edge because it is state and federally funded, enjoys tax-exempt status, and pays no rent.

Although the Vanguard has not yet initiated legal action, its attorney, Andrew R. Field, has met with University of Vermont attorney Paul Sutherland. Sutherland offered to reduce the Cynic's downtown circulation by a fifth, but the Vanguard has so far not responded to the offer.

Cynic editor David Greeff denies Brown's allegations of unfair competition and says the Vanguard's current financial woes result from its own "misjudgment of the market."

In an editorial December 12 he wrote that "articles and editorials [in the Vanguard] have a distinctly leftist leaning that, quite understandably, don't appeal to the average Burlington person. Speak your mind, but don't expect to make money on it."

But Brown contends that "there is more than enough room for both papers," and what he desires is simply "a student paper with proper educational value for its student employees and student readership, rather than the financial bonanza which the Cynic has become."

Both papers are similar in format, distribution and audience appeal. The Vanguard has a circulation of 15,000, of which 85 per cent is distributed within Burlington. The Cynic publishes 10,000 issues, 50 per cent of which is distributed off campus.

Ironically, Brown is a University of Vermont graduate and former Cynic staffer. According to Cynic staff member Scott Sartorius, he was "instrumental" in the success of the Summer Cynic's back-to-school issue, which has been the paper's greatest money-maker since 1976. He went into competition with the 95-year-old Cynic about a year ago.

NEW JERSEY

Rutgers newspaper strikes for gold

The staff of the Rutgers University student newspaper, the Targum, staged a two-week strike in March to protest an administrative decision not to pay editors. The New Jersey daily resumed publication when authority to make the decision was transferred from the Cultural Affairs and Programs Committee (CAPC), which rejected the editors' salary requests last term, to a Student Life Committee, a group considered more receptive to the Targum.

The staff requisitioned $5100 per year from ad profits—ads are the source of 85% of Targum revenues—to be shared among the editorial board of 12-15 people, explained editor Howard Teichman, who claims that his paper is one of eight or ten dailies in the country not paying its editors.

"Dean Howard Crosby told student government leaders they could decide, [whether or not to pay salaries] and in September 1978 they agreed to our request," said Teichman. "Subsequently, the dean found guidelines prohibiting honoraria. The CAPC, an advisory board to the dean that determines policy for allocation of fees, was asked to revise the guidelines, but they refused."

Teichman claimed it was unfair for "the CAPC to have the power to establish guidelines when their original purpose was only to promote cultural affairs. The honoraria would not even be issued from student fees. The money would be from our own profits."

The staff met in February to declare an indefinite work stoppage as a "matter of freedom of student organizations," until they would be assured that some mechanism "more equitable" than CAPC would decide the issue.

Teichman says the strike was "successful in seeding a favorable administration response to our situation. It was also successful in creating student awareness of the honoraria issue."
Editor removed for misuse of funds

The editor of the North Carolina State University Technician was ousted February 11 by the school’s publications board for "unethical conduct," a move the editor claims is a personal vendetta against him and an administrative attempt to tone down the newspaper.

The publications board investigated charges that editor David Pendered overpaid staffers and lied to the board, but dropped the charges after a two-month investigation. The editor was removed on the charge that he improperly paid a student on financial aid.

While not an issue in the impeachment proceedings, Pendered and Dennis Jacobs, the sports editor, also allegedly vandalized Technician property on February 7, according to board chairman Cindy Walters. Pendered "got drunk, went wild, broke glass and burned newspapers," Walters said. Pendered admitted only having shredded some newspapers and throwing a plastic bottle against a wall in the office. The editors appeared in district court for the vandalism charges.

Pendered immediately appealed the board’s decision to Joab Phoners, the university chancellor, but the official did not respond until March 26, five days before the term ended, Pendered said.

Student says newspaper printed rebuttal but not original letter

After three months, Roger Karapin is tired of waiting.

A student at York Suburban High School in York, Pennsylvania, Karapin has met with direct refusals and sly averting of his attempts to get a letter critical of the school’s Trojan Tribune newspaper published in the paper.

The letter, submitted in February, attacked the Tribune for its "serious misinterpretation of priorities."

The concept of a free press has been overshadowed by a devotion to bland feature stories and the incessant praise of all athletic programs and their participants. The Tribune avoids at all costs any semblance of controversy. There is no student editorial voice," Karapin wrote.

And in trying to get his letter published, Karapin got a first-hand glimpse of how the Tribune suppresses the "student editorial voice." He originally took the letter to Tribune adviser Rick Keller, only to be told that "that sort of thing doesn’t belong in a school newspaper" because it was "negative" and "biased."

Karapin next confronted several members of the five person editorial board (the paper has no editor) and eventually elicited the promise that the piece would run the next issue.

Phoners refused to review the case because of the vandalism charges against the former editor even though the district court had exonerated him of that charge for lack of sufficient evidence, according to Pendered. Walters said Phoners did not review the case because it was "without merit." In a separate district court hearing, the sports editor was fined $25 for vandalism.

Pendered believes his dismissal was a personal attack against him by board members, as well as an attempt by the administration to control the newspaper’s sometimes controversial stances on university issues. He claimed that some faculty on the board suggested that a number of Technician articles were "not in the best interest of the university."

Walters denied the firing was a result of personal feelings, and said the administration "didn’t have anything to do with the impeachment." In fact, she said, "the administration didn’t especially want the dismissal. They don’t like noise." Walters had initiated the investigation into the charges against Pendered.

Pendered claims he was dismissed under unfair circumstances. He said the publications board fired him even after a board subcommittee assigned to decide his fate had dropped the charges against him. He claims the board never told him when the impeachment trial was to take place, never said for what he was being fired, violated the Open Meetings Law by denying him admittance to one meeting concerning him, and never gave him written notification of his dismissal.

Walters said every allegation is "completely untrue," except the last. "No, we didn’t give him written notification, but that’s because he was at the meeting where we decided to remove him."

Since the dismissal numerous financial problems have arisen because of Pendered’s "financial incompetence and dishonesty," Walters said.

Pendered will not take legal action because he doesn’t know "if the people for whom it would be gained would appreciate or even understand it."
Hammer-swinging student officer gives chase to *Cardinal* photographer

A hammer-wielding student government member chased a photographer for the University of Wisconsin student newspaper to seize and expose shots of a clandestine student government activity in February.

Mark Hazelbaker, photographer for the *Daily Cardinal*, took two pictures of Wisconsin Student Association (WSA) president Jim Mallon and his assistants while they constructed a $2000 model of the Statue of Liberty in a carpentry shop off campus, a function Mallon had earlier renounced.

(Mallon’s political party, the Pail and Shovel, attracted national attention last year for winning the election on an absurdist platform that advocated, among other ideas, bringing the Statue of Liberty to the university’s Madison site.)

Hazelbaker says he was standing on the shoulders of two *Daily Cardinal* staffers when the WSA president spotted him. Mallon, Jim Webster, and another man ran towards the front door with Webster grabbing a hammer along the way, according to Hazelbaker. “Webster came after me and yelled, ‘Come back here you asshole.’”

Brandishing the weapon ten feet away, Webster ordered Hazelbaker to turn over the film or he would “chop you up and leave you in the snow.” “I was thoroughly terrified,” said Hazelbaker, who then relinquished the film. Webster immediately exposed it.

In a *Daily Cardinal* interview, Webster admitted menacing the photographer with a hammer but denied intending to hurt him. He accused Hazelbaker of trespassing and complained that he was tired of reporter harassment.

Hazelbaker claims he was not trespassing because he had been on a public sidewalk outside the window photographing.

After contacting the Madison police, Hazelbaker met with the district attorney, but declined to press charges when he was advised that doing so would probably not succeed for lack of witnesses.

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**MASSACHUSETTS**

 IRS pays Harvard ‘informers’

A former Harvard University *Crimson* investigative duo was forced to file for Internal Revenue Service “informers’ fees” to follow up on their 1973 article on faculty housing tax discrepancies.

The IRS allegedly told the reporters that the only way to obtain information on IRS action taken as a result of the *Crimson* expose would be to request the reward. The reporters filed, and in January received checks for $493.50 each from the IRS.

Additionally, they reportedly learned that IRS audits of some Harvard faculty revealed a debt of $10,000 in back taxes. Low cost university housing requires that personal income tax be paid on the difference between market value and rent actually paid.
Principal backs down on sex poll ban

School officials of Bothell (Washington) Senior High School refused to let the school newspaper staff conduct a poll on students' sexual behavior and values last February, but relented after a bit of legal haranguing.

Larry Peterson, the principal, took cover behind a ten-year-old state school board regulation which prohibits questionnaires on sex or religion without written consent from parents.

The Catamount, which sought to supplement an article on sex with the results of its proposed poll, countered that the statute applied only to school administrations and that, not being an arm of the state, it was beyond jurisdiction of that law. Additionally, adviser Eleanor Wallis proffered a state attorney general's opinion upholding the paper's stance.

The poll never saw the light of day, however. By the time Peterson agreed to it, the article had long been printed, though not without an editorial on the front page. "As student journalists, we have been taught repeatedly the importance of relating our stories to students. When we tried to follow a practice we have been taught is good journalism, we were thwarted," the editorial stated.

But the Catamount will not be thwarted again, Wallis said. "There is no question that if we want to [conduct a poll] in the future, we can."  □

MARYLAND

Court upholds firing of Gaithersburg teacher

The Maryland Court of Appeals upheld in March the 1975 firing of a Gaithersburg (Maryland) Junior High School teacher who called some of his students "jungle bunnies" after they taunted him with insults and obscenities.

John Resetar was reportedly standing next to a classroom window when a group of students outside directed the insults at him. Resetar allegedly responded, "Look at those jungle bunnies. Somebody ought to feed them bananas." The remark was overheard by an assistant principal, and Resetar was dismissed in 1975.

The court reaffirmed a Montgomery County hearing examiner's earlier decision that "it was intemperance rising to the level of misconduct" for the teacher to respond to taunts with a racial epithet. The hearing examiner's report mentioned, however, that it found "no racial bias or prejudice" on Resetar's part.

Resetar claims he had closed the classroom window before he 'mumbled the remark' to himself, and said that it was "humanly impossible" for anyone outside the classroom to overhear him. He says that he made the remark out of frustration with the students' behavior all year. □

FLORIDA

Alligator appeals

The University of Florida Independent Alligator has appealed the dismissal of its suit which charges former student politicians with stealing 17,000 copies of an April 1976 campus election day issue containing political endorsements unfavorable to them.

Circuit Court Judge Wayne Carlisle dismissed the two-year-old case in January because the Alligator refused to comply with a November court order to reveal a confidential source.

Alligator managing editor Betty Morgan said the staff would rather lose the case than divulge the name of the informant who participated in the theft and later identified the other thieves for the Alligator to avoid being named in the suit.

"To force reporters to reveal news sources would cause sources to dry up because they would fear disclosure of their identifies," an Alligator article said.

The student newspaper is seeking $6,000 in actual damages and $60,000 in punitive damages plus attorneys fees. (See SPLC Reports 8 and Vol. II, No. 1.) □

OHIO

The Word is out — despite superintendent

When Jeffrey Jenkins and six friends banded together to publish an underground newspaper at Zanesville High School [Ohio], superintendent Ellisworth Statler frightened away printers and advertisers because he wanted The Word to have an adviser and be under a system of prior review, according to Jenkins, the editor.

The Word is printed fifty miles away from Zanesville, a town of 30,000, because Statler pressured local printers, Jenkins said. "The school farms out printing contracts to local businesses. They don't want to lose business for the sake of The Word."

"He also caused us to lose one (possibly more) advertisers," Jenkins continued. "The administration doesn't use overt threats, but does it backhandedly."

Statler, meanwhile, barely acknowledges The Word. He told the SPLC Report, "The high school doesn't have a newspaper called The Word. It's just a few kids who got together. They went out and sold ads. Some people thought it was the official newspaper and were misled. We started getting questions." He denied having intimidated printers.

"The administration figures if it ignores [the newspaper] long enough, it will go away," Jenkins concluded. □
Three Florida State University student journalists successfully resisted subpoenas ordering the release of photographs of a November Iranian student demonstration on campus.

Assistant State Attorney Dan McKeever subpoenaed Rick Johnson, general manager of the FSU student newspaper, the Flambeau, and two staff photographers in January to obtain the photos for use in the trial of eight Iranians arrested during a protest of CIA presence on campus and U.S. support of the shah.

Johnson had indicated he would turn down the official request at the deadline. "No one's life depends on them. It's not the business of the press to gather evidence for the state attorney's office," explained Flambeau editor Steve Watkins, who had previously denied the public defender's request for the same photographs.

The photographers' subpoenas were rescinded when the state attorney became satisfied that they did not possess the pictures, but Johnson's subpoena remained. Watkins had earlier transferred the photographs from the newspaper office to unidentified site.

"With regards to why we were subpoenaed when other media present at the demonstration were not, some

FLORIDA

FSU editors resist subpoenas

Rick Johnson (above center), general manager of the Florida State Flambeau, did not surrender photographs of an Iranian student demonstration on campus. The photos, some of which are shown here, had been subpoenaed by state attorneys.
speculation was that as a smaller organization we would be without the resources to combat such an intrusion and such would not be the case with UPI or AP,” Watkins said.

Determined to go “as far as we’re legally entitled to do so,” the Flambeau expected a court battle and the possible jailing of Johnson. However, “several newspapers in the state editorialized in support of our stance, including the influential Miami Herald, thus increasing pressure on the state attorney’s office,” Watkins explained.

“The Tallahassee Democrat, a local daily, offered us the free use of its attorney and the head of the Florida Press Association called to assure us that any battle we faced would not be faced alone.”

The subpoena was withdrawn three days before the Monday deadline.

“The explanation: a number of ‘freelance people’ had come forward, spurred on by all the publicity, with photos. The state attorney no longer needed ours, we were told,” Watkins said.

“In a word, bullshit, but if that’s the excuse the state attorney needed to cover himself, we were more than pleased to go along with it.”
MARYLAND

Adviser, photographer arrested during police locker search

Student photographer Alan Day and his newspaper adviser Vincent Gugluzzi were arrested March 28 after Day attempted to photograph a police search of students' lockers. Day was charged with "disorderly conduct" and adviser Gugluzzi was arrested for "interfering with an arrest" when he protested the police action.

Day, a student at Mervo High School in Baltimore, Maryland, determined to cover the search for the student newspaper after he noticed security guards rummaging through lockers outside his journalism class. The search was reportedly part of the principal's recent campaign against drugs.

"I decided it was a possible story. I got a hall pass from Mr. G. [adviser Vincent Gugluzzi]. When I got to the security guards they were searching a locker. One of them was kneeling down with his hands going through the pocket of a coat. I was seven feet away, on the other side of the hall."

"I never even got a [usable] photograph. I was focusing and one of the guards, Officer [Robert] Daniels, saw me and said, "You can't do that. Get out of here.'"

According to Day, Daniels then walked over, put his hands over the camera lens and shoved the camera into the students' face. "I tried to take a picture one more time. He grabbed my arm. I still had my finger on the trigger and the flash went off in his face. He put the handcuffs on me from behind."

As Day and the officer descended the stairs, Gugluzzi came down the steps trying to explain to Daniels that he had given the student permission to leave class, Day said.

"Gugluzzi wasn't yelling but Daniels was telling Gugluzzi to stop yelling. 'If you don't leave, Mr. Gugluzzi, [William] Brockelhurst, the other officer, said, I'll place you under arrest for interfering with an arrest.'"

Gugluzzi was then handcuffed and taken on to jail. He was released two hours later on his own recognizance.

Day was not taken to jail, but to the office where he was released to the custody of his parents.

Mervo Principal Robert Phelan defended the police action and said that Day, whom he calls an "extreme disciplinary problem" was arrested only for harassing the officers. Phelan was not a witness to the incident.

"The security police have a right to search lockers," he said, noting that only certain lockers had been searched. He would not say that the search was part of his campaign to stop drug use on campus.

Day will appear in juvenile court in May. Gugluzzi will be arraigned June 7.

Former Brooklyn principal may sue student paper

The former principal of Fort Hamilton High School (Brooklyn, New York) is contemplating taking legal action against the school newspaper, the Pilot, for a December article which accused him of "insane despotism."

The editorial disagreed with then-principal Charles Loiacono's decision not to approve a veteran National Honor Society adviser for another term, saying the decision was "another example of [Loiacono's] complete, insane, and uncalled-for despotism."

Loiacono reportedly called the piece "journalistic garbage" and said he would sue the adviser and staff.

Loiacono refused to comment to SPLC Report except to say that he is currently consulting with a lawyer.

According to student editor Andrew Klingle, the newspaper had been at odds with Loiacono throughout his three-year stint as principal until his transfer to another school this winter.

The editorial was simply the last straw for the principal who had earlier cautioned the Pilot to refrain from investigating and writing about administrative actions, Klingle said.

The editor said Loiacono lectured some staff members on their responsibility to print "what students want to read. None of this business is important to them. It's not what they want to read." He allegedly likened the Pilot to the National Enquirer.

"I wish he would sue. That would let the courts decide the issue," Klingle commented. He claimed he had earlier contacted the ACLU for advice about whether the "insane despotism" article was libelous and was told it is not defamatory.
Chronicle obtains Hughes papers

The University of Utah Daily Chronicle scooped the national media by acquiring and publishing some of the late billionaire Howard Hughes' personal papers.

The 3000 pages document Hughes' business activities and private life between 1974 and 1975 through extensive daily logs, court papers, memos, and bank records. Excerpts were published in seven installments as the documents were released to the Chronicle between March 1978 and January 1979. The papers are testament to Hughes' connections with Patty Hearst, the CIA, Watergate, numerous presidents and several Latin American countries.

Chronicle associate editor Jeff Howrey, researching an unrelated story, made contact with people who claimed to have access to the documents. Mexican authorities had confiscated the papers from aides who were in the process of destroying them in the Acapulco hotel where Hughes resided just prior to his death in 1976.

Summa Corporation, the umbrella firm of the Hughes empire, vainly attempted to buy back the papers from Mexican officials for one million dollars, says Howrey. The Mexican government did, however, release copies of the documents later in 1976 to Canadian House of Commons member John Reynolds, who was investigating the legality of a Hughes sojourn in Vancouver in 1972.

The information proved worthless to Reynolds, and the papers passed to Canadian Johnny Meyers, a former Hughes aide who, according to Howrey, is now facing extradition for having peppered the set of documents with forged papers to benefit his side of a court case against a Hughes subsidiary in which he was then involved.

After a year in Meyer's hands, the documents landed for a month with lawyer Douglass Wallace, a controversial Mormon figure, and then were channeled through an unnamed intermediary to the Chronicle, culminating six months of negotiations with the newspaper.

"It was a lucky break," says Howrey. "The primary reason we got the papers was because the people involved were part of an anti-Mormon network, and we were the only media outlet whom they thought could be objective about Hughes' connections with the Mormon Church."

Howrey claims that the Chronicle's findings were "blackballed" by local media. "They were offended. The national media picked it up, but the locals either did not believe the story's veracity or are too conservative to report about it."

The papers are legitimate "beyond a doubt," says Howrey, "except for a few papers suspect because of the Johnny Meyer case." Howrey cites the verification of Canadian House of Commons member Reynolds, and the fact that no one has challenged the allegations printed in the Chronicle series.

"What we have must be real or people don't care about their reputations."

Howrey is currently attempting to interest a national magazine in financing further investigative work on the Hughes empire, possibly leading to a book on the subject.

The series earned the Chronicle first place in investigative journalism in the Rocky Mountain Collegiate Press Association, a twelve-state organization. Region nine of Sigma Delta Chi, the Society of Professional Journalists, awarded the newspaper its regional prize, thus qualifying it for the national competition, and a CBS affiliate in Salt Lake City based a television documentary on the Chronicle findings.

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CENSORSHIP

ILLINOIS

ICCJA rips Elgin administration; ACLU's Goldberger to represent students

A study released March 12 by the Illinois Community College Journalism Association (ICCJA) has charged that the administration of Elgin Community College “harassed the official student newspaper and the substitute school newspaper, infringed on the student government’s advertising plans, and hampered student access to campus information.”

The ICCJA announced that it would consider action against the school at a later meeting.

In the meantime, ACLU attorney David Goldberger has agreed to represent the student journalists. Goldberger gained notoriety last year when he represented the National Socialist Party in its quest to march in Skokie, Illinois.

The study came more than a year after conflicts between administrators and student journalists first surfaced at Elgin (See SPLC Report Vol. II, No. 1). The student newspaper, the ECCO, had published articles critical of the student senate’s handling of funds. The senate angrily reacted to the articles by cutting the paper’s funding and closing its offices. Elgin President Mark Hopkins later fired the paper’s adviser, Beth Pool. In September, most of the ECCO staff resigned in protest; they have since published an underground paper, the Real Voice.

The ECCO has published sporadically since that time. Pete Retzbach of the St. Charles (Illinois) Chronicle reported on September 27 that all phone calls to the ECCO were referred to the Office of Student Affairs where Vernelle Daberkow, director of student activities, had taken over as adviser. Dale Wilson, former ECCO editor and now publisher of the Real Voice, said in March that Daberkow has since taken over writing and paste-up duties.

President Hopkins defended Daberkow’s involvement. He told Retzbach, “It [the ECCO] is a student activity and a learning experience, not a newspaper. The ECCO has the right to criticize, as long as it is done responsibly.”

The Elgin Community College Trustees began discussion of the matter in late September. Board member Lynn Schock expressed his differences with Hopkins. “The ECCO should be re-
moved as much as possible from politics. I thought we had a pretty good paper, but it seems we’re hurting it, crippling it.” He introduced a measure to remove funding power from the senate, but the Trustees rejected it, 5–2.

The new school year had brought a change in senate membership, however, with new senators more sympathetic to Pool and the Real Voice. During the fall, the body decided to fund a literary magazine and asked Pool to be its adviser. Pool accepted, but President Hopkins objected and the matter was dropped. On February 12, the president of the senate resigned under pressure from President Hopkins.

Finding the new ECCO an ineffective medium, the senate began to advertise student activities in the Real Voice, and by late February had run up a bill of $75 with the paper. But at that time President Hopkins notified the senate that it could no longer advertise in the Voice because rules prohibited “institutional money from being spent on advertising in a newspaper not recognized by the staff of ECC.”

Wilson says he has been trying to get his publication recognized since early October, without success. As of March 30, the senate had not paid its bill.

INDIANA

Students sue to revive paper

Two students at Warsaw (Indiana) Community High School filed suit in U.S. District Court in April, charging that their principal, superintendent and school board acted illegally in suspending the Warsaw student newspaper, the Kontac, and replacing it with a page in a local newspaper. The students contend that the new format, called “Tiger Alive,” is limited to “stories that convey a positive image of Warsaw,” and prohibits publication of editorials and sports articles.

The suit seeks a permanent injunction to revive the Kontac and protect it from administrative review and censorship. It also asks for punitive and compensatory damages.

Principal Ray Green and Superintendent Charles Bragg decided to suspend the Kontac after Editor Anne Summe questioned the administration’s policy of reviewing newspaper articles. In May 1978, former principal Clayton Smith had prohibited publication of Summe’s editorial, “In the Middle of World War III,” which criticized recent teacher firings. He claimed that such editorials violated approved policy.

Summe appealed to the school board, and by citing several court decisions giving student newspapers protection under the First Amendment, persuaded the board to let her run her editorial uncensored. It ran May 26.

Ray Green became principal during the summer, however, and asked Summe to sign a document stating that she would not participate in the Kontac staff the following year. She refused.

Green denied he was intimidating or censoring Summe, and said rather that his action was simply “an administrator’s attempt to solve a student’s problem.”

In September, he announced the suspension of the student newspaper, and said that in its place the local daily newspaper, the Warsaw Times-Union, would reserve one page a week for articles by students. Green would review all contributions.

He said that the Kontac was suspended because the school was having trouble finding an adviser, but Summe believes that he never had any intention of hiring one, and that in fact the teachers Summe had asked only refused because “they were all afraid of being fired.”

Summe and another student, Jeri Grissi, are represented by South Bend attorney Jeanne Swartz.

Warsaw has gained notoriety in recent years because of its censorship problems. The Los Angeles Times ran a front page article on June 3, 1978 reporting that the Warsaw School Board ordered the burning of such books as The Bell Jar, Go Ask Alice, and The Stepford Wives. The Indianapolis Star reported a month later that a teacher was fired for questioning the principal’s orders to ban certain textbooks. And Professor Edward B. Jenkinson of Indiana University has published a study which he says shows that the Warsaw School Board “continues to violate the First Amendment rights of students, teachers and parents.”

Joe Bauer, an attorney from Notre Dame, Indiana, has filed suit against the school board over the book-burning controversy.

More recently, Green censored several photographs from the school yearbook. One photograph depicted students roller skating in a hallway, while another showed a rally by more than 400 students protesting a new “tardy policy.” He has also ordered two photographers to turn over all film relating to a photo essay on marijuana use among students. So far, the students have refused, and are considering legal action.
**ALABAMA**

**Pot photo outrages Mobile School Board**

A photograph of students smoking marijuana published in a high school yearbook so outraged the Mobile County (Alabama) School Board last December that it established a policy of censoring any material in student publications that does not "promote the general welfare of students."

The photograph appeared in the Davidson High School 1978 annual over a caption which read: "A few students resort to alcohol, pot or tobacco when they become bored. A buzz or a high seems to ease boredom and make the daily burden lighter."

Under the new guidelines, the faculty adviser is directed to "scrutinize and approve all items placed in the annual, with any item he or she has 'any doubt about taken directly to the principal.'" The principal will then "be held responsible for presenting a book that meets . . . community standards." Those standards specifically exclude "showing or implying" drug use, alcohol consumption, vulgar language, and anything "contrary to the good taste of the local community."

The school board first enforced those rules in February when a Valentine's Day issue of the Mobile High School student newspaper, the *Spotlite*, ran a limerick which contained the word "cathouse." The teacher who oversaw the issue was suspended from teaching for three days and later removed as adviser. Three members of the staff were also placed on probation.

"If that's called censorship, we're going to censor," said School Board President Don Alexander.

Anne Reeks, a Mobile Press Register reporter who regularly covers the school board, questioned the legality of the new policy and contacted the Student Press Law Center in Washington. SPLC Director Michael Simpson told Reeks that the new policy is "blatantly unconstitutional."

But Alexander responded to that contention by saying that "Washington lawyers had better keep their noses out of Mobile schools." He said he would run his schools "the way I run my high school-aged daughter—with an iron hand."

**Florida**

**Principal orders students to destroy Anita Bryant spoof**

One thousand copies of the Northeast High School newspaper in St. Petersburg, Florida were reprinted in April because a spoof of Anita Bryant's anti-homosexual views was deemed "in poor taste" by school administrators.

Four pages of the six-page *Nor' Easter* April Fool's Day edition were reprinted at the cost of $100 to the school budget to remove the humorous announcement that Anita Bryant would speak at the school about her two books, "Drink OJ, Don't Be Gay," and "Eat Fruit, Don't Act Like It." All the articles in that edition were spoofs.

*Nor' Easter* adviser Herb Sirota first read the item when the paper returned from the printer. Believing the article to be libelous, he consulted with school principal Thomas Zachary and two assistant principals. They decided to destroy the edition and reprint it without the Bryant article.

Another adviser, Terry Dunham, said he read the issue before it was printed and found the Bryant spoof acceptable because the actress is a public figure and therefore subject to parody.

"The article was definitely not in good taste," Zachary said. "For a school newspaper, it had no business being in it."

He explained that he wanted the paper to present "a public image in a way that we want it to be presented. These kids know that and I would hope they wouldn't try to write these sort of articles. They're not just writing for adults; we're writing for 13- and 14-year-olds."

The school superintendent, Gus Sakis, differed. "It's not a matter of what image the principal wants to see at the high school." He added that no censorship policy exists at Northeast High School, but mentioned that student editors had once decided to maintain a paper free of personal attacks.

"I was pretty shocked but there was nothing I could do about it," said editor Wendy Borbash. "I don't see that there was anything offensive about it. There were other parts of the paper I thought would be more offensive," including an article that mocked Zachary's southern accent. That article ran in the revised edition.
NORTH CAROLINA

University fires, rehires editor in election coverage dispute

The publications board of East Carolina University suspended Doug White as editor of the Fountainhead for almost a month this spring on the charge that the newspaper gave biased coverage to the recent student government race. White was reinstated with full pay in April, only a week after his attorney threatened to sue the university.

According to board minutes, the suspension was ordered March 27, four days after the publications board heard complaints from student politicians and one faculty member that the Fountainhead had manipulated the elections by not publishing the platform of one candidate, not contacting a candidate for comment on an article concerning him, and otherwise presenting a biased view of the campaign through errors of commission and omission. No formal reasons were given for the suspension until April 12, when White received a letter from the board.

At the March 23 meeting where these allegations surfaced, White explained that he had followed a “hands off” policy. Page editors made their own decisions and set their own policy, he said, adding that he believed the unpublished platform had been misplaced. He refused to print a statement apologizing for the Fountainhead election coverage, as one board member requested.

After White's suspension the board launched a full scale investigation of the Fountainhead. Student government President and board member Tommy Joe Payne denied that the investigation was undertaken for political reasons.

White claimed the board met “in a series of secret meetings” and never gave him written notice of the charges against him or permitted him to cross-examine the witnesses against him.

The board reportedly heard testimony accusing White of placing a free political ad in one issue, withholding paychecks, allowing the consumption of beer in the newspaper office, conspiring with his editors not to print anything on some Fountainhead political “enemies” so as to avoid giving out free publicity, not keeping consistent office hours, not enforcing deadlines, re-printing old editorials and general mismanagement.

When questioned by the board, White responded that he withheld paychecks to force the staff to attend meetings, that beer was drunk while police were on the premises, that he believed there was a faction against the newspaper, that the staff had recently begun to establish consistent office hours, that he had only recently begun to enforce deadlines because he wanted to leave the staff “breathing room,” and that he wrote 90% of the editorials.

When the board voted on April 3 to continue the temporary suspension indefinitely, White contacted the SPLC and the North Carolina Civil Liberties Union for legal assistance. NCCLU volunteer attorney Thomas F. Loflin III wrote university chancellor Dr. Thomas Brewer demanding White’s reinstatement.

Loflin noted in his April 12 letter that White was suspended “from the student editorship of the paper in obvious retaliation for the manner in which he covered in his paper student political issues and races,” and said the board hearings were conducted “in a shocking manner utterly devoid of any due process protections whatsoever.”

Loflin concluded by threatening legal action if White was not reinstated within seven days. Chancellor Brewer reinstated White with full back pay on April 19.

However, the board did not reappoint White as editor for next year. “The board action irreparably damaged any chance I had for reappointment,” he said. “It was a political move from the beginning.”

White said, “The administration hasn't yet learned what freedom of the press means. They still believe they are the publishers [of the Fountainhead], contrary to what the courts have ruled.”

CALIFORNIA

T-shirts upset administrators

T-shirts bearing ambiguous sexual references were the target of administrative discipline in California's Kingsburg High School in February.

One student had to wear her T-shirt backwards and under a jacket for its inscription “Life is a bed of roses but watch out for the pricks,” and another student was sent home for a shirt saying “Squeeze Mine” with an arrow pointing downwards.

The Kingsburg dress code prohibits students from wearing clothing with “unacceptable wording, insignias or slogans.” The Student Council is the official dress review board with ultimate authority resting with the assistant principal.

A column in the school newspaper, the Viking Voice, by junior Darren Johnson protested the administration’s discipline of the students and failure to consult the Student Council before taking action. According to Johnson the column “enraged teachers, administrators, and a minority of students and community members” because it reprinted the T-shirt slogans.

An attorney consulted about the controversy advised that dress regulations should be made more specific. School officials have agreed to re-word the code.

Johnson is the winner of the First Annual SPLC Journalism Award for his article on the First Amendment. His column is reprinted on page 47.

"White was removed in a shocking manner utterly devoid of any due process whatsoever."
NEW JERSEY

Students sue over censored Carlin article

Two New Jersey high school students filed suit in March challenging their school officials' decision to censor from the school newspaper an editorial about a recent Supreme Court decision. School officials contend that the editorial contains "indecent language."

Matt Smith and Alan Grossman, staff members of the Cranford High School Spotlight and authors of the editorial, asked a U.S. District Court to permanently enjoin school officials from prohibiting the publication of the controversial article and to award costs and attorneys' fees.

The students' editorial attacked the Supreme Court's decision in the case FCC v. Pacifica Foundation, which upheld a Federal Communications Commission order restricting the broadcast of "seven dirty words" to those times of the day when children are not likely to be in the audience. The case arose from a mid-afternoon broadcast by New York radio station WBBA of George Carlin's monologue "The Seven Words You Can't Say on Television." (See SPLC Report 8.)

Named as defendants in the students' suit are the Cranford Board of Education, Superintendent Robert Paul, Principal Robert Sayfarth and Assistant Principal Irwin Figman.

In spring 1978, Smith wrote an article about the case and submitted it to his editor. Because the article contained specific reference to the seven words, the editor submitted it to Assistant Principal Figman, who refused to allow its publication.

Smith appealed Figman's decision to Principal Seyfarth, pointing out that the article was an expression of opinion and that the inclusion of the seven words was "in the interest of complete and accurate reporting." Seyfarth also refused to allow the article's publication.

When an appeal to the superintendent of schools proved fruitless, Smith appeared before the Cranford Board of Education in May 1978. The board voted to censor the article, calling it "filthy" and "offensive." One board member charged that the school "was no place for words like this."

Language used in a mid-afternoon monologue by comedian George Carlin was deemed "indecent" by the Supreme Court.

The following summer the Supreme Court issued its decision in the Carlin case. Smith, with the assistance of fellow reporter Grossman, revised the article leaving the seven words intact and submitted it for publication the following school year. Although the student editors voted to allow the article's publication, Principal Seyfarth again objected.

Smith then contacted the American Civil Liberties Union, which arranged for him to be represented by Somerville attorney Richard Harris.

Smith and Grossman filed suit in March claiming that the censorship of the editorial "violated the First Amendment rights of the [students] to peaceably and non-disruptively express and communicate their views."

The students also assert that the censorship was unconstitutional because the school has no written guidelines concerning student publications.

Papers filed with the court allege that all seven of the objectionable words can be found in books and other publications in the Cranford High School library and other libraries in Cranford and throughout New Jersey.

The newspaper staff is holding up publication of the June issue of the Broadcaster pending the outcome of a hearing scheduled for May 29.
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SPLC Report Spring 1979
Shield laws, press pass policies often exclude student journalists

by David Danner

"A corollary to the right to publish," Potter Stewart once said, "must be the right to gather news. The full flow of information to the public protected under the free press guarantee would be severely curtailed if no protection whatever were afforded to the process by which news is assembled and disseminated."

While the courts have consistently held that college and high school journalists are protected under the First Amendment, no court or lawmaking body has yet held that students are entitled to the same "right to gather news" as professional newsmen. And despite Justice Stewart's corollary, student journalists are regularly denied access to news events ranging from school board meetings to presidential press conferences.

There are, of course, fundamental differences between student newspapers and made-for-profit publications. In many cases, student newspapers are produced as part of a school's journalism curriculum, and ordinarily they are school-funded. They are usually distributed at no charge within the school. And frequently student journalists are not paid for their work.

But are these differences significant enough to deny student journalists some of the rights enjoyed by professional newspapermen? In most cases, no. But they are often enough to exclude students from the benefits of some state laws and federal government policies.

Shield Laws Exclude Students

In the 1972 case <i>Brenzburg v. Hayes</i>, the Supreme Court held that reporters do not have a right to refuse to reveal confidential news sources to a grand jury. However, the court suggested that individual states could enact laws to provide newsmen this privilege. Today 26 states have so-called "shield laws" which protect newsmen from prosecution for refusing to disclose news sources to a judge, legislative body or other tribunal.

The laws of nine of those states, however, do not extend the privilege to students. For example, Rhode Island Attorney General Dennis Roberts told SPLC Report that his state's "Newsman's Privilege Act" limits the scope of the privilege to journalists contributing to newspapers and periodicals 'issued at regular intervals and having a paid circulation.' This would appear to deny the privilege to student journalists contributing to high school newspapers which have no paid circulation. There may also be a question as to whether such journalists are contributing to an "accredited newspaper."

The phrase "issued at regular intervals and having a paid circulation" is nearly identical to the wording of the shield laws of Illinois, New Jersey, Indiana, Louisiana and New York. Arguably, students would not be covered in any of these states.

New Mexico's shield law defines "journalist" as "any person who, for gain, is engaged in gathering, preparing, editing, analyzing, or commenting on news for a newspaper..." Similarly, New York and Maryland laws protect only those who work "for gain..." Under these statutes, unpaid student journalists are not covered.

Delaware's shield law defines "reporter" as one who "at the time the information was sought was earning his principal livelihood by, or in each of the preceding three weeks or four of the proceeding eight weeks has spent at least 20 hours engaged in the practice of obtaining or preparing information for dissemination..." The law would cover only those students who could show that they put in the required time to fit the state's definition of "reporter."

Such limits as those stated above have been successfully challenged in the courts, however. In 1977, a student filmmaker at the University of California at Los Angeles refused to turn over to an Oklahoma judge any papers and film relating to a free-lance film project, contending that as a member of the press he was entitled to protect his confidential sources.

Arthur "Budd" Hirsch was filming a documentary about the death of Karen Silkwood, a laboratory analyst at an Oklahoma plutonium processing plant who was killed in a car crash on route to meet a <i>New York Times</i> reporter. Silkwood was expected to disclose alleged plutonium losses and other irregularities at the plant to the reporter.

Her family later sued the plutonium processing company and several FBI agents, charging them with conspiracy to
prevent Silkwood from organizing a lawful labor union at the plant, as well as negligence in exposing her to harmful radiation.

The company's attorneys served Hirsch with a subpoena in February 1977 ordering him to appear in court with all papers and film relating to the Silkwood investigation. He refused, citing his privilege as a member of the press to protect confidential sources under Oklahoma's shield law.11

The U.S. District Court in Oklahoma City ruled that Hirsch was not covered by the state statute because he was not "regularly engaged in obtaining, writing, reviewing, editing, or otherwise preparing news." But in September 1977 the U.S. Court of Appeals for the Tenth Circuit reversed the lower court ruling, holding that Hirsch was entitled to newsman's status, and was therefore not required to turn over his papers and film.

"We are not prepared to say that the fact that Hirsch is not a salaried newspaper reporter of itself acts to deprive him of the right to seek protective relief," the court stated.12

In the 14 other states that have shield laws, student journalists would probably be extended the same protection as professional newsmen.13 Those states are Alabama, Alaska, Arizona, Arkansas, California, Kentucky, Michigan, Minnesota, Montana, North Dakota, Ohio, Oregon, Pennsylvania and Tennessee.

But even in these states, such protection does not necessarily imply that students are recognized by lawmakers as having the same rights as professional newsmen for other purposes.

**Endorsements Banned**

In Oregon, for example, state Attorney General James Redden issued an opinion that student journalists were "bona fide "representatives of the news media," but nullified that concession by stating that student journalists may be barred from executive sessions of school board meetings, even when those meetings are open to members of the professional news media. Because student newspapers are published with school funds and as part of a journalism curriculum, Redden says, school districts are effectively the "owners" of such publications and may therefore restrict their content as well as the activities of their reporters. "[If a school district] policy bars reporting of the matter discussed at a board meeting, the student reporter need not be admitted, and if admitted, any report of the session may be prohibited."

He also reaffirmed his earlier opinion that editorial policies of college and university newspapers are subject to control of school administrators. "It is the school's newspaper. The editor and others who work on the newspaper are not doing so in the capacity of free agents to whom the freedom of the press would attach."14

Several courts, including the United States Courts of Appeals for the Second, Fourth, Fifth and Seventh Circuits, have rejected Redden's contention that school districts are "owners" of student newspapers and therefore entitled to control editorial policies.15 Redden based his opinion on a 1972 Oregon Appeals Court ruling which held that a municipal water board cannot use city funds to promote a ballot measure which directly affects the public utility.

"What that case has to do with editorial judgment, I haven't the foggiest," remarked University of Oregon communications professor Jack Hart. "Student newspapers are forums for student opinions and are covered by the First Amendment." But Fred Friendly, a former Columbia University journalism professor and CBS News chief, now with the Ford Foundation, says that school control of editorial policy is "likely constitutional since the newspapers are tax-supported."

The issue may be decided soon. Last April a Gladstone, Oregon student reporter filed a class action suit in U.S. District Court in Portland after he was denied admittance to a board meeting which was open to professional news- men. Scott Clark, a reporter for the Gladstone High School *Roamin' Scroll*, has sued his adviser, principal and school board, asking, among other things, that students be afforded the same access rights to school board meetings as other reporters. (See story on page 4.)

**Access at the Federal Level**

Student journalists face great difficulty gaining access to news events of national interest. While the most determined reporters may sometimes attend presidential press conferences or sessions of Congress, policies of all three branches of the federal government as a rule deny press accreditation to students.

Rules governing the press galleries of Congress limit press passes only to persons working for newspapers "pub-
The Constitution empowers each house [of Congress] to determine its rules of proceedings . . . It is a continuous power, always subject to be exercised by the house, and within the limits suggested, absolute and beyond the challenge of any other body or tribunal."

The appeals court did not say that the press galleries' policy was right; it simply said you cannot sue Congress.

**White House Policy 'Arbitrary'**

You can sue the White House, however, and according to McGee, "You might have a suit against them. I'm not saying you do, but you might." White House criteria for issuing permanent press credentials require, among other things, that journalists "be accredited to one of the Capitol Hill galleries," a requirement which necessarily excludes students. If, as the D.C. District Court says, such policy is a violation of the freedom of the press guarantee of the constitution, McGee is probably right.

White House Associate Press Secretary Patricia Bario says the rationale for denying students access to White House news events is simply a matter of space. "I recognize that the president is a students' president same as he is to everyone else," she says. "However, press conferences involving the President of the United States, by their very nature, become a crowded event. We find it virtually impossible to accommodate all the students who would like to attend and therefore have adopted the rather arbitrary posture that we can accommodate none."

Interestingly enough, the same D.C. Court of Appeals which said that Congress is immune from suit also ruled in a case involving White House press credentials that "arbitrary or content based criteria for press pass issuance are prohibited under the First Amendment."

Student journalists may have difficulties covering presidential press conferences in their own hometowns. Tami Miller of the Yamhill-Carlton (Oregon) High School *Expression* sought press credentials to cover Carter's May 1978 visit to Oregon to campaign for Democratic candidates. Carter's advance people denied Miller's request, saying that they "weren't allowing teenagers in for a variety of reasons." One of the reasons cited was that "professional journalists did not want to work with unprofessional student reporters."

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**"We find it virtually impossible to accommodate all of the students who would like to attend [White House events] and therefore have adopted the rather arbitrary posture that we can accommodate none."**
"You keep mentioning the First Amendment. How does that apply to what we're doing?" asked an Indiana administrator as he prepared to burn schoolbooks, censor the school yearbook and close the school paper.

Even with help from U.S. Representative Les AuCoin, the Student Press Law Center and a Yamhill County commissioner, Miller was unable to obtain a pass. When Carter finally arrived, she was not there to greet him.

But several months later Carter announced plans to return to Oregon, and Miller began her quest a second time. This time her strategy was different; she emphasized to Carter’s advance team that the Expression served as a community newspaper and was mailed to residents of Yamhill, Carlton and Gaston. This time, she received her pass.

"The pass was granted to me only because my paper covers community news," she says. "They still will not allow students press passes, and they made an exception in my case." She says that when she picked up her pass she was instructed not to tell anyone that she was a student.

But White House Deputy Press Secretary Walt Wurfel says that his office uses "a rule of reasonableness and fairness" in limiting student access only "to the extent that professional news media can be accommodated."

"Both at the White House and during presidential travels, there are events where the room is so small or where the area available for press is so limited that we are forced to restrict the number of reporters admitted. This frequently applies to even the national networks and other major news organizations."

Still, he invites student journalists to fill out Secret Service information cards so that they may be admitted to particular events or do specific interviews. "Student journalists wishing to cover a White House event should contact me or Patricia Bario. Those interested in covering an event during presidential travel can obtain information on the credentials procedure from an AP or UPI wire service client not less than four days in advance of the President's scheduled visit."

Recent Challenges

Students do most of their news gathering at the school and local level, and it is here that they face the most restraints on such activity. Many advisers and school administrators see their relationship with student journalists not as one between government and press, but as one between teacher and student, or between adult and child. "You keep mentioning the First Amendment. How does that apply to what we're doing?" asked a Warsaw, Indiana administrator as he prepared to burn schoolbooks, censor the school yearbook and close the school paper. "The differences between constitutional right and parental responsibility are not always understood.

But the more students have strived to cover substantive issues, the more they have been willing to challenge what they believe to be unconstitutional restraints on their news gathering activities by advisers, administrators and government.

Student journalists in Arkansas, for example, threatened to file suit to challenge a state policy of denying press credentials to students. They received their passes in February. (See story on page 5.)

A reporter at Palm Beach Junior College in Florida sought legal advice to challenge the school administration's contention that it was not required under the state's open records law to release documents concerning the college president's travel expenses. He later obtained the documents, which showed that the college president had spent school money to fly to a distant city to attend a basketball game.

And a Hood River, Oregon reporter received the support of the American Civil Liberties Union in his quest to gain admittance to Hood River School Board executive sessions.

As such challenges continue, it will be up to the courts to determine whether student journalists are entitled to the

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**Student journalists may apply for passes**

Students will be considered for passes to particular events involving the president or vice-president if there is room, says White House Deputy Press Secretary Walt Wurfel.

Students interested in attending White House press conferences should contact:

Patricia Bario  
Media Liaison Officer  
The White House  
Washington, D.C. 20006.

She will require all student journalists to fill out Secret Service forms, giving their social security numbers and the names and nature of their publications. Those interested in covering events outside Washington should contact the local United Press International or Associated Press bureaus or client newspapers not less than four days before the scheduled visit.

Because there have been cases in which an individual asserts that he works for a high school or college newspaper and is later discovered to be neither a student nor a journalist, it is a good idea to bring identification and a letter of introduction from a faculty adviser or administrator. □
same rights and privileges afforded the professional media. The courts could decide, as Oregon Attorney General Redden has, that “the school newspaper could serve as a learning tool if it contains nothing save the reporting of sports results, times and places of meetings and other news of the school.” But it is more probable that they will recognize that news gathering is a First Amendment right. And as Tom Wicker of the New York Times has noted, “If courts can rationalize themselves into upholding administrators who quash anybody’s First Amendment rights, then everybody’s First Amendment rights are to some extent endangered.”

Footnotes

21. Ibid.
23. Ibid.
25. Opinion No. 7735, supra, n. 16.

SPLC intern opportunities

This SPLC Report was produced entirely by a team of student interns working out of offices in Washington, DC. Two interns worked on the spring Report staff.

Lisa Najavits, 18, is an early graduate of Metuchen (New Jersey) High School, where she served a term as editor-in-chief of the student newspaper Bulldogs Bark. She will enter Barnard College this fall. Funding for her internship was provided by the Gannett Newspaper Foundation.

David Danner, 23, is a graduate of Columbia University, where he was a staff member of the Daily Spectator and was contributing editor of the Columbian yearbook. He has worked for the sports department of the Portland Oregonian and more recently was house organ editor at Scho-
ADVISERS

OHIO

Dr. Murvin Perry ousted as Kent State j-school chief

The 15-year director of the Kent State University School of Journalism, Dr. Murvin Perry, charged that he lost his job in January because the university administration wants to restrain the Daily Kent Stater from publishing abrasive articles and because he refused to comply with "strong urgings" that he replace the paper's adviser. Perry said he was never given a chance to defend himself or appeal.

Neither the Dean of the College of Fine and Professional Arts, Harry Ausprich, nor Michael Schwartz, the academic vice president, would comment on the dismissal to SPLC Report.

"I've frequently had problems with minor administrators regarding controversial things in the Kent Stater," Perry said, citing an article on a plagiarized Ph.D. dissertation and a piece that criticized a $20,000 expenditure to hire a consultant in the search for a new university president.

Perry claims to have documentation revealing the administration's desire to have him replace Frank Ritzinger, the Kent Stater adviser since 1971. The university wanted to take "no overt action" towards the paper, so it tried to suppress the Kent Stater through Perry.

Last September Perry was reportedly placed summarily under administrative review by the dean of the College of Fine and Professional Arts, who had been on campus four days when he initiated the action.

WISCONSIN

Fired adviser awarded $22,500

The Union Grove (Wisconsin) High School District agreed April 2 to pay $22,500 in damages to James Englmann, who was terminated as adviser to the Union Grove High School Bronco Times in 1977 after he refused to censor the student paper. The settlement also requires the school district to remove all adverse non-renewal references from Englmann's personnel file and add a non-adverse employment recommendation.

"It feels good to have it all over," Englmann said of the out-of-court settlement. "At last my wife and I can go on living our lives and put Union Grove High School behind us." He is now a Master's degree candidate at the University of Wisconsin-Milwaukee, where he is writing a dissertation on the First Amendment rights of students.

Englmann was notified that his contract would be terminated in March 1977. The school board's notice made specific reference to the student newspaper's use of the word "pissed" in a headline, which it said "brought disrespect upon the school system."

The board had earlier taken action to fire the Bronco Times student editor, but tabled the idea under pressure from students, local press and several scholastic press organizations. (See SPLC Report S.) Englmann contacted his union attorney, Michael Stoll of the Wisconsin Education Association, who filed a federal lawsuit in U.S. District Court in August 1977.

Englmann, who had been journalism instructor at Union Grove since 1973, describes his years there as "a running battle to see who controls the student press. It just came to a head after four years." Union Grove administrators declined comment on the settlement.

The school board has since dropped journalism from the school curriculum, but administrator James Highland says that action was unrelated to the Englmann lawsuit or any censorship controversies. "We dropped it because not enough students signed up for it. Board rules state that at least 18 students must be signed up for an elective to justify its place in the curriculum. Last year only 13 signed up."

He anticipates that the paper will be revived by next year, however. "It is on the agenda as a curricular activity." The board has not chosen a new adviser, but Highland says he will be a present member of the faculty.

"At no point in the process was I informed of the charges. I was promised the opportunity to respond to the allegations, but was later denied that opportunity," Perry said. "I was never shown the official report or given any reasons when I was told that I would not be reappointed."

Perry appealed the decision to university officials. The Board of Trustees allegedly granted a five-minute hearing, while the university president refused a formal hearing and would only listen to a brief summation of Perry's constitutional arguments.

There is a "good possibility" that Perry will take legal action against the university.

"The administration has consistently refused to address my record here," he said. Enrollment has increased ten-fold and two School of Journalism programs have been approved by the Council of Journalism in America, according to Perry. "Beyond this, I have the outstanding support of journalism professors, alumni and the majority of faculty and students." He claims the university president used a form letter to respond to the "flood of letters" sent on his behalf.

The termination of the directorship is effective July 1. Perry was offered a position on the teaching faculty, which he declined, preferring to take on the chairmanship of the mass communications department at East Tennessee State University in Johnson City.

Meanwhile, the adviser to the Daily Kent Stater barely escaped a similar fate. Frank Ritzinger said he was up for tenure this year and in mid-March learned that, for lack of a Master's degree, he would not receive tenure. A month later, the decision was retracted. His case will be re-reviewed in the fall because a procedural error did not allow him sufficient time to assemble a documented pro-tenure argument.

Ritzinger said, "I firmly believe it's because of my handling of the newspaper. The administration is violently anti-college press. I guarantee I will never get tenure because if I get a Master's degree, the administration will attribute the dismissal to 'professional development' or some other abstraction.

If he fails to obtain tenure, his contract will expire in June 1981. He will "very definitely" take legal action if denied tenure.
Ex-adviser loses tenured teaching post

"I'm the whipping boy. The administration can't whip the kids so they whip me." So said Bill Downs, who lost his teaching post at Pascack Valley Regional High School (Montvale, New Jersey) in March, less than a year after the Pascack Valley Board of Education axed him as adviser to the school newspaper.

Downs, a tenured teacher, had advised the Smoke Signal for four years, during which time he allowed publication of articles critical of school officials and addressing such topics as teenage pregnancy, marijuana and cohabitation. Last year he became the only teacher in the school's history not to have an extra-duty contract renewed. "Many teachers have said that I'm being fired [now] for what I did with the newspaper," Downs says.

Pascack Valley Principal Morris Saxe denies this and attributes Downs' dismissal to budget cuts and declining enrollment. "A reduction in force has been going on for three years, with ten teachers in the district being cut this year. We go by seniority. All the non-tenured teachers are already gone."

Saxe makes no secret of his dissatisfaction with Downs, however. "He was not putting out a quality publication. No subject is taboo and I do not censor the paper or see any articles beforehand, but I expect topics to be well..."
Adviser asks $65,000 in tenure dispute

An Indiana high school newspaper adviser has filed suit in U.S. District Court, charging that her principal withheld a recommendation of tenure for her in retaliation for what he considered “an overabundance of negative-ism” in the newspaper.

Terri Nelson, adviser to the Yorktown High School Broadcaster since 1974, has asked for $65,000 in damages from Principal James Laws. She claims that since October 1978 Laws has sent her at least ten written reprimands and given her ‘‘a great deal of verbal censure’’ for allowing students to publish articles and anonymous letters to the editor critical of the school administration.

The suit also asks the court to permanently restrain and enjoin Laws from ‘‘attempting to censor, impose prior restraints on, or otherwise dictate what is and is not published in the Broadcaster’’ and to order him not to harass Nelson or refuse to recommend renewal of her contract because of her unwillingness to censor the newspaper or reveal the names of student letter writers.

Laws denied that he intimidated Nelson in any way or that he attempted to censor the newspaper. ‘‘I have a lot of respect for Mrs. Nelson and she does have some very fine qualities in her teaching. But based on what I have observed I could not in good faith justify recommending tenure.’’

Laws had first told Nelson he might refuse to recommend tenure in October 1978, after Nelson had allowed several students to withhold their names from letters to the editor critical of the administration. After the letters were published, Laws demanded that Nelson reveal the students’ names. Nelson refused to disclose them, however, contending that to do so would curtail the students’ constitutional rights to expression.

In November, Laws delivered Nelson a note reprimanding her for the ‘‘negativism’’ in the newspaper and ‘‘directing [her] as the adviser for the newspaper to develop a more positive approach by the students.’’

The next month Laws sent Nelson a typewritten memorandum citing eight articles or letters to the editor which he said demonstrated ‘‘a lack of direction on the part of the adviser, resulting in an overabundance of negativity in the newspaper.’’ He directed Nelson to verify all facts in submitted letters and noted that, ‘‘The editor (adviser) would be remiss in his duty if he did not check to see if the writer of the letters did not base his opinion on fact.’’

Nelson objected to the note, saying that such research ‘‘would be a full time job.’’

One letter complained that the administration did not award the $100 promised for information leading to the apprehension of a vandal. It questioned whether it was worse to vandalize the building or to lie about the award, which, according to the letter, was never given even though the vandal had been caught on information from a student. Laws claims the student refused the money. Another letter censured and refused the administration’s announcement that it was entitled to search locked cars in the school parking lot.

Nelson said she had always offered the administration ‘‘equal space’’ to respond, an offer which the principal continually declined.

In a later memo Laws voiced his disapproval of Nelson’s use ‘‘of the teachers’ lounge as a place to continually complain and air her views.’’

The note also accused Nelson of mishandling newspaper office machinery, resulting in costly repairs. Laws later recanted on this point when a typewriter repairman told him that such repairs were needed because of the machinery’s old age.

In a December 15 evaluation of her work Laws concluded that, ‘‘based upon what I have observed during these first few months of school this year, I could not in good faith justify the recommendation of tenure for Mrs. Nelson.’’

Nelson filed suit in February with financial assistance from the Indiana State Teachers Association, reportedly the first time that organization has so assisted a teacher still on the payroll. She told SPLC Report, ‘‘This is something that might have been happening 10–15 years ago, but I can’t believe it’s happening now. I may be idealistic, but if I’m going to go out, I’ll go out fighting for the principle.’’

Laws refused to comment on the pending suit to SPLC Report except to say that he is optimistic about his defense. He reiterated, ‘‘I never attempted to censor.’’

Ex-adviser loses tenured post

continued from page 41 researched and not just emotional outbursts.’’

Not everyone accepts Saxe’s appraisal. Under Downs’ direction, the Smoke Signal moved from third to first place in the Columbia Scholastic Press Association rankings. The Bergen County (N.J.) Record commented that ‘‘Downs’ ouster was just another round in a continuing conflict over editorial control of school newspapers.’’

Downs rejects Saxe’s contention that declining enrollment was a factor in the school district’s action. He claims that the only drop in his journalism class size came after he was removed as adviser to the Smoke Signal, and that students were ready to stage a walkout when they learned of the school board’s action.

Saxe acknowledges the students’ support of Downs and finds it ‘‘disturbing’’ that they were satisfied with what he termed a ‘‘poor publication.’’ But he refuses to take all responsibility for Downs’ dismissal, saying that even if he had approved of Downs’ performance the school board would have removed him anyway. ‘‘The superintendent was convinced he was doing a lousy job.’’

ADVISERS
Editors push *Playboy* up against the ivy wall

When *Playboy* magazine photographer David Chan visited the Ivy League campuses last winter, he received the same mixed welcome he has come to expect at colleges.

While more than a hundred women at each school came to his hotel room to pose, hundreds of others came to picket, and amid all the controversy, editors of the Ivy League student newspapers found themselves in the rather uncomfortable position of deciding whether or not to run Chan's advertisements invitingivy women to audition.

Newspaper editors at Columbia, Brown, Cornell, Dartmouth, Pennsylvania and Yale all decided to run Chan's ad, but none did so without comment or controversy.

At Princeton, where Chan was met with demonstrators, the *Daily Princetonian* ran the ad "in order to allow freedom of choice."

The *Yale Daily News* editorial board voted not to run the ad, only to be overruled by publisher Thomas Kelly. The ad finally ran beside an editorial urging women to stay out of camera-shot.

The Brown *Daily Herald* ran the ad "to let people make up their own mind."

Only the Harvard *Crimson* declined to run the ad, and it devoted several columns of print to explain why. A December 2 editorial said, "*The Crimson* rejected the ad because the paper thought the ad would have been aiding *Playboy* in its search for a pictorial that will degrade Radcliffe women and women in general, further enforcing sexist attitudes. Our point is simply that *The Crimson* does not want to be party in any way to *Playboy*’s exploitative tactics."

A dissenting opinion appeared three days later which read, "This is not relentless, structural exploitation; it is an offer, easily ignored. The argument that this paper should be the presumed champion of the women of Radcliffe, protect them from having to make seamy choices, is a role that certainly had no parallel in previous cases of advertising policy."

Chan was reportedly delighted with the attention he received at the colleges. "I always have the best results in a small community," he says.

**WISCONSIN**

*Daily Cardinal* stands up to contraceptive ad ban

The University of Wisconsin *Daily Cardinal* has successfully challenged a state statute banning contraceptive ads in print media.

Last fall the paper ran an ad for En­care Oval, a new spermicide, unaware of the statute’s existence. The product’s agency warned them of the law after the University of Wisconsin–Mil­waukee Post refused to publish the ad.

The *Daily Cardinal* obtained the support of the American Civil Liberties Union, and facing a possible $250-$500 fine and the opposition of some faculty members, re-ran the ad in De­cember with an editorial denouncing the law.

"A statute that not only flagrantly restricts print media ad content but also unconstitutionally abridges citizens’ right to know ought to be re­pealed," stated the editorial.

In January, Wisconsin Attorney General Bronson La Follette issued a formal opinion stating that the law was unconstitutional. La Follette cited a 1977 U.S. Supreme Court decision that struck down a New York statute which banned the advertising of contraceptives.
NEW JERSEY

Paterson College registrar upset with brawl coverage

He got drunk and threw a glass of wine at his drinking partner. When the companion retaliated with a mug of beer, he went on a rampage, throwing things and trying to strangle him. And when the school newspaper wrote about it, he demanded a retraction and the name of the article writer, intimating that he would consider taking legal action.

The "he" is William Paterson College registrar Mark Evangelista and the episode is the Beacon's version of a February brawl in the student center pub.

Beacon editor Judy Mills said it "hurt us to [publish it] but we have to do our job." Originally unsure of whether or not to print the article, she contacted Mike Simpson of the Student Press Law Center, who advised her that the incident was newsworthy and deserved fair coverage. But Beacon adviser Herb Jackson called it "just another barroom brawl" and suggested that the story rest.

"So we had to find a good angle," Mills explained. "Finally we learned that because a faculty member was involved, an investigation into the incident was underway to give him the benefit of the doubt. That's how we handled it."

Every fact in the article was attributed to named sources and each allegation triple-checked with head officials, witnesses, and pub employees and managers, Mills said.

"Evangelista would make no comment before the article was published but was more than willing after the article appeared. He is under the belief that things said about him he did not do. I think he was too drunk to remember," she added, mentioning that she was present at the melee.

In fact, as night manager of the student center, Mills had to write the official Student Center report on the incident. Evangelista called her report "opinionated" and demanded that it be rewritten to include only the facts. Mills revised the account.

In her role as newspaper editor, however, she did not accede to Evangelista's demands. She refused to run a retraction and reveal the author of the Beacon article, saying it was a "staff effort." Mills reported that Evangelista "harassed the news editor for a full fifteen minutes" to try to obtain the author's name.

When contacted by SPLC Report, Evangelista refused to comment except to call the incident a "misunderstanding." "There is no controversy as far as I'm concerned," he said.

NEW JERSEY

Self-censorship in Tenafly

The course evaluations Tenafly (New Jersey) High School's Echo worked five months to produce were relegated to the trash can when the question of printing them faced the paper's editorial board in January.

The 3-2 decision came after adviser Robert Mulholland urged the staff to scrap the article because of the potential for libel suits and the "simple unfairness" of publicizing the information.

According to an article by editorial editor Harry Moscovitz, Mulholland told the staff that "there was a chance" he and his co-adviser would no longer be able to advise if the staff did not acquiesce.

At least one of the three who voted down publication did so for fear of losing the advisers, Moscovitz claimed.

The American Civil Liberties Union of New Jersey had previously judged the course evaluations "innocuous and totally devoid of any libelsuous interpretation." The SPLC had similarly appraised the article, which was based on the results of a formal poll and student and teacher interviews.

Despite this reassurance, the staff decided not to publish the evaluations.

THE ILL-LITERATE

Ill-literate slogans removed to avoid ill feelings

NEW YORK

Staff avoids 'bad impression'

The staff of the Saunders Trade and Technical High School newspaper removed the dictum "A House Divided Against Itself Cannot Stand" from its December Ill-literate cover when the principal objected to the "bad impression" the phrase would create.

The saying would have appeared above a photograph of the school being chiseled into halves by hand-drawn figures sitting on either end of the roof. The illustration remained on the cover, leaving a one-inch white strip under the Ill-literate masthead. The cover illustrated an article that discussed the polarization of trade and technical students at Saunders.

Principal Reginald Marra said he "met with the newspaper staff and sponsor [adviser] to discuss what the newspaper was trying to do. Eventually they understood that I didn't want the newspaper to do something to harm the reputation of the school. There was no 'controversy' as the decision was based on a consensus of the staff and sponsor," he said.

Robert Rynolds, Ill-literate culture editor, agreed with Marra, saying that no one objected to removing the phrase after the principal met with the staff.
KENTUCKY

FBI probes photography kickbacks

The Federal Bureau of Investigation has begun looking into alleged illegal kickbacks that school portrait photographers have been paying to Louisville (Kentucky) area high school principals in return for school yearbook portrait contracts.

Usually a photographer shoots all the student photographs used in a yearbook free of charge and earns his money by selling copies of those photographs to students and their families. Under the kickback arrangement, however, photographers bidding on such contracts must agree to pay back to the principal a percentage of those profits. The percentages range from 15 to 50 per cent.

The FBI believes this practice is a violation of the Hobbes Act, which prohibits a public official—such as a principal—to use his office for private gain. The Kentucky attorney general's office issued an opinion four years ago which called the kickback arrangement "commercial bribery."

Although principals maintain they use the money for school projects and not for personal use, the Louisville Courier-Journal reported in March that some principals have accepted television sets, free meals, cameras, firearms and other items in return for contracts.

John Arnold, a suburban Louisville photographer, says his business has been hurt over the years because he has refused to offer kickbacks to principals. "It's a national scheme," he says. "And it has been going on for years."

But Dr. Irving Rice, the principal of Louisville's Male High School, says that he has never heard of principals receiving gifts in exchange for contracts. Rather, he claims the money is returned to the yearbook budget in the form of a rebate, thereby reducing the price of the annual. "We ask the photographers to donate a portion of their contract to the school and that money is used for the book. I see it as no different than selling candy to raise money."

Arnold believes that in most cases the money is used on other school projects and is not returned to the yearbook budget. Because of this, he says, some schools charge students more than 75 per cent over the actual cost of the yearbook. "The students are getting ripped off," he says.

However, Rice cited figures to show that because the photographers returned a portion of their profits, the retail price of the yearbook was reduced from $17.50 to $12. "That's typical for most high schools," he says.

Two years ago a Jefferson County grand jury advised the school system to order an end to the kickbacks, but the practice continued until this year. Under a new policy, all bidding is done by the central school district administration.

The FBI declined comment while the investigation is pending.

INDIANA

Adviser, salesman trade lawsuits

The Indiana representative of the Taylor Publishing Company of Dallas, Texas, agreed to drop his lawsuit against Blue Ridge (Indiana) High School yearbook adviser Judi Kellett after the adviser served him with a $1500 countersuit in small claims court April 22. At the same time, Kellett has agreed not to pursue legal action.

Dick Kennard sued Kellett for $270 that he says she owed him for shipping costs on the 1978 annual. She has refused to pay, claiming that the yearbook company made numerous errors in the yearbook copy and broke several agreements during production.

She charges that the company lost several photographs, including those of the entire sophomore class, and that those photos had to be re-shot at the yearbook's expense. Several photos were cropped incorrectly, she says, while others were turned sideways.

She also asserts that she received only one extra book even though the company promised her 15 to 20, and that because of the shortage, three students were forced to purchase books printed upside-down.

In a telephone interview with the SPLC Report, Kennard blamed those misfortunes on Kellett. "She cancelled the proofs; she wouldn't let us look at the proofs. Now she won't let us look at the original pictures." He refused to say that he had ever promised Kellett extra books, and said his company would gladly have offered a refund on the books printed upside-down.

When asked how that would help the student who would then have no yearbook at all, Kennard said, "Look, I have been in this state for 20 years and I've seen companies come and go. I must be doing something right."

Not according to Kellett. She says she was never warned about company deadlines, therefore subjecting her budget to surcharges that forced her to cut eight pages of color from the book. She also claims that when Kennard's employee for her area resigned, she never received notification. "We went four or five weeks without a rep."

Kennard responded, "She has never, never been without a representative." He explained his company's lack of visits by saying, "Sometimes you can visit a client 40 times a year and it's not enough. Other times you see them..."
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YEARBOOKS

KENTUCKY
Woman seeks $50M for book negligence

A Hopkinsville, Kentucky woman has filed suit for $50,000 against her son's high school, claiming that the youth's reputation was damaged when his name appeared below a picture of a dog in the school yearbook.

Margaret Major claims her son Ellis was so humiliated by the picture that he transferred to a school in Washington, D.C. rather than return to Christian County High School in Hopkinsville. She also alleges that after the photo's publication, members of her immediate family were harassed by persons who barked at family members "as if they were dogs."

The suit seeks $50,000 in damages from the Christian County Board of Education and the Christian County High School.

A spokesman for the school says Major's name appeared in the yearbook only because of a mechanical error by the printing machine. Staff members had erased the student's name from their lists after he declined to have his picture published, but an indentation that remained was picked up by a computer scanner and inadvertently published under the photo of the dog. The dog photo was "ad copy" that the computer automatically substitutes for photos that are removed.

"It was entirely an accident," the spokesman said.

No trial date has been set. ☐

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Darren Johnson winner of first SPLC Journalism Award

The Student Press Law Center is pleased to announce that Darren Johnson is the winner of the First Annual SPLC Journalism Award.

Johnson is a junior at Kingsburg High School (California) and the opinion editor of the school newspaper Viking Voice, where this column originally appeared.

Johnson credits his journalistic success to "having been raised by a pack of wolves." He lists his extracurricular activities as "cruising down Main and participating in the usual Friday night rituals," in addition to being a co-founder of "The Athletic Supporters of Kingsburg High School," and a member of the yearbook staff, the drama club, and the Mu Alpha Theta honorary math society. His winning entry appears below.

T-shirts on trial

by Darren Johnson

ambiguous: adj. Doubtful or uncertain; capable of being understood in either of two or more possible ways; equivocal.

The following article deals with the rather controversial and emotional question: Can students be disciplined or reprimanded for wearing T-shirts with ambiguous phrases printed on them to school? Ambiguous in the sense that an obscene or sexual connotation may be derived from a phrase that at first glance seems straightforward and uncontroversial.

Item: A KHS student was recently given a referral and forced to wear her T-shirt backwards under a jacket for supposedly violating the dress code. Printed on the T-shirt was this seemingly innocent proverb: "Life is a bed of roses, but watch out for the pricks."

Item: During Spirit Week activities another student was sent home for wearing an "obscene" T-shirt to school. The shirt said "squeeze mine" and had an arrow pointing to the wearer's belt buckle.

In both of the above incidents, there was no nudity or obscene gestures displayed on the shirts. No "dirty" words, unless thy are taken out of context, were present. The offending language, if any, was all implied and not stated. The phrases were, at worst, ambiguous.

The section of the KHS dress code that concerns this issue is here:

"Clothing with unacceptable wording or insignias or slogans may not be worn on campus. The student council will serve as the dress review board and will act upon cases referred to it. Final authority will rest with the Assistant Principal." In other words, the administration is practically free to do anything it damn well pleases concerning what may or may not be printed on a T-shirt. Additionally, the student council was not consulted before disciplinary actions were taken in both of the cases discussed in this article.

The question arises as to whether the students' rights are being violated. KHS is not a prison (we have to pay for our lunches). Students do have a few constitutional rights, freedom of speech being one of them. Isn't a phrase written on a T-shirt an extension of the wearer's personality and feelings, thus an expression of free speech?

The Department of Health, Education and Welfare in a handbook of student rights states:

"[A student] . . . has the right to express his views, either orally or symbolically (through buttons, arm-bands, symbols on clothing, political salutes, etc.) however unpopular or critical of school or governmental policy they may be."

Compare this passage with the KHS dress code. Beginning to get the picture? The vagueness of our dress code gives the administration a free hand to regulate what we can or can't wear, thereby violating our rights.