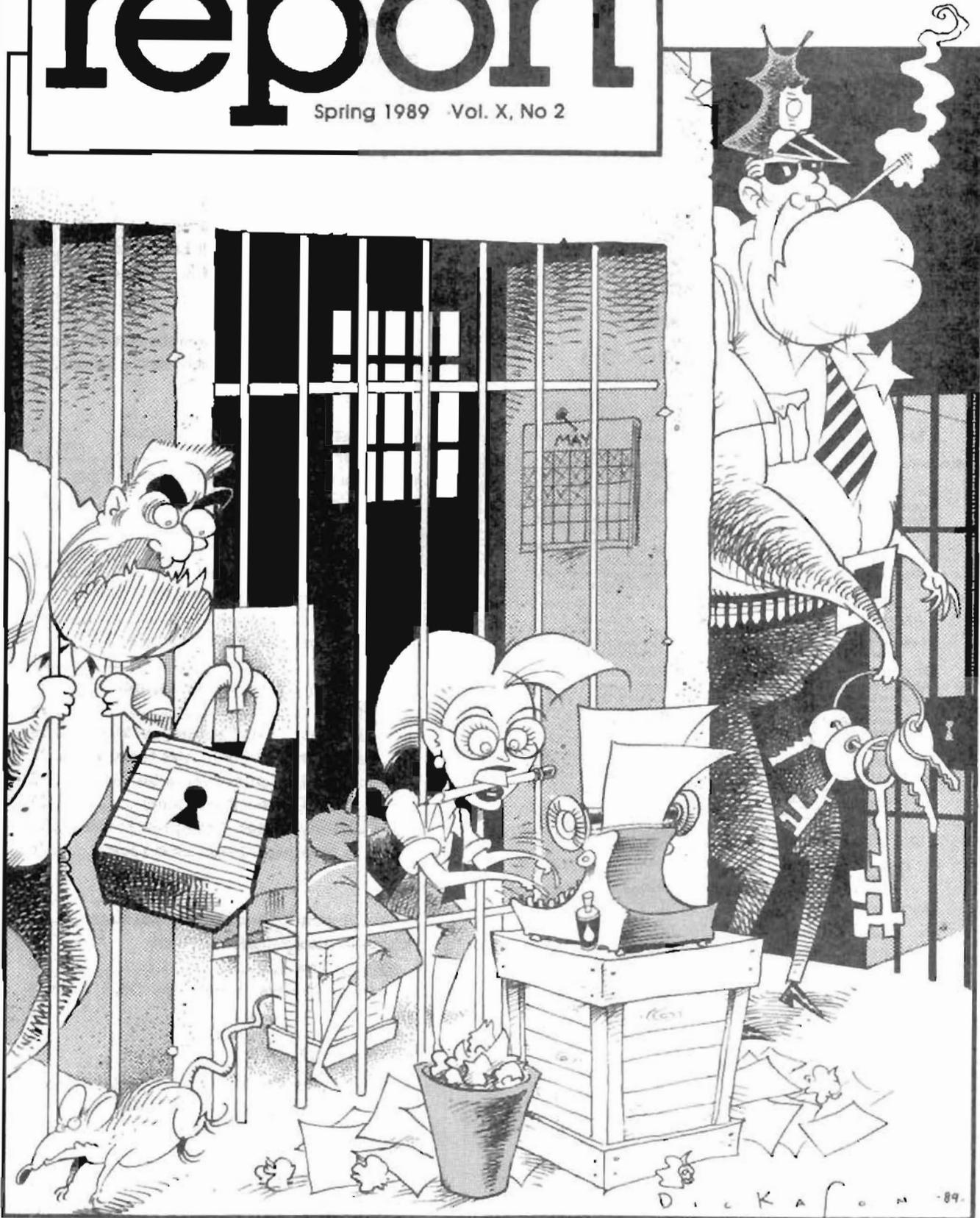


student press law center

report

Spring 1989 Vol. X, No 2



Going to Jail to Keep a Confidential Source?

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The SPLC Report

SPLC Report (ISSN 0160-3825), 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.

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Hazelwood decision makes for busy, disturbing year

Over a year has passed since the Supreme Court's decision in the *Hazelwood School District v. Kuhlmeier* case. It has been a year that we at the Student Press Law Center will not soon forget.

Thus far in the 1988-89 school year, the SPLC has received over 450 calls from high school and college student journalists and their advisers asking for our legal advice and assistance. The calls have been up over 20 percent from the same period in the previous school year.

What we are hearing time and time again are instances of blatant censorship by school officials. We have had reports of student newspapers being confiscated, stories being pulled or banned and advisers being threatened with their jobs for refusing to censor quality student material from student publications.

To our surprise, the censorship is not just happening at schools with new advisers or administrators with a history of censoring. Advisers that have been in their positions for 10, 15 and even 21 years in one instance are telling us that for the first time in their careers, school officials are demanding the right to review all copy for the newspaper or yearbook before it goes to press or are outright censoring topics or sto-

ries. And in the vast majority of the reports we hear, the *Hazelwood* decision is being used as a justification for the censorship.

Many good stories about AIDS, abortion or drug use and valid criticism of school policies and officials have been lost because of this censorship since school began last fall.

College students and advisers have not been immune from threats to press freedom. The number of college editors that call us to say that they have been locked out of their office, denied funding or fired from their job because of what they wrote for their newspaper continues to increase.

But one of the most disturbing facts about the censorship reports we hear is the common attitude of the school officials that what they are doing is "in the school's best interest." Without so much as a second thought about the value we as Americans supposedly place on free expression, even when that expression is troublesome or offensive to us, they merrily censor stories and editorials that point out the warts that every school has. It is increasingly common for them to change their position and stop censoring only when their actions are exposed in the local news media and public outrage creates pressure they cannot ig-

nore.

But the outlook is not without bright spots. Iowa and Kansas appear on the verge of creating state laws to protect student expression that will help undo some of the damage of the *Hazelwood* decision. Courts continue to point out the inapplicability of the *Hazelwood* decision to forum or "underground" publications. An increasing number of college student publications are becoming involved in celebrating Freedom of the College Student Press Month in January each year and as a result are helping to educate their campuses about the importance of press freedom to us all. And a small but growing group of school principals, superintendents and board members are saying, enough: to prepare students for life in this democracy we must let them experience the rights and the responsibility that accompany free expression, even when we would rather not.

Because of the dedication of countless students and advisers around the nation to quality student journalism, the SPLC is never without inspiration for our work. We hope readers of the *Report* will continue to wage their own battles for a free and responsible press and will keep us posted of their efforts. ■

Looking for a little attention?

The Scholastic Press Freedom Award is given each year to the high school or college student or student news medium that has demonstrated outstanding support for the First Amendment rights of students. The award is sponsored by the National Scholastic Press Association/Associated Collegiate Press.

Nominations for the award are accepted until August 1 of each year and should clearly explain why the nominee deserves the award and provide supporting material. A nominee should demonstrate a responsible representation of press freedom through writing or actions and the ability to raise difficult and necessary issues in news coverage.

Send nominations to:

Scholastic Press Freedom Award
Student Press Law Center
1735 Eye Street, NW
Suite 504
Washington, DC 20006



Court limits *Hazelwood*, upholds free press

Ridgefield High School literary magazine will publish with school funding

CONNECTICUT—In one of the first official challenges to the 1988 Supreme Court ruling, students and advisers from Ridgefield High School took a bite out of *Hazelwood* when a federal district court prohibited school officials from censoring a student literary magazine.

Faculty adviser for the literary publication *Lodestar*, Robert Cox, and student staffers filed suit in May 1988 charging their board of education with violating student's First and 14th Amendment rights in trying to determine the magazine's content.

The court issued a preliminary injunction in March prohibiting the school from enforcing its publications policy and said the *Hazelwood* decision does not apply to all student publications.

Representing *Lodestar*, attorney Bill Laviano said this "landmark decision" provides that school sponsorship of a publication is not sufficient for school officials to demand editorial control. A school board's history of exercising control over the publication makes a difference.

"Once a public forum is opened you can't control the editorial content selectively," he said, "it has to be done across the board with just cause."

The school's publication policy, amended after

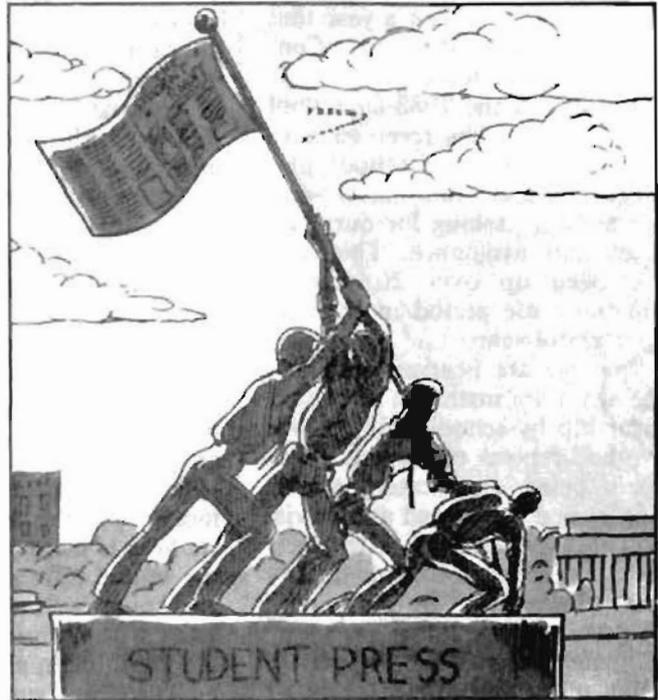


Illustration by Bryn Hendrickson.

School sponsorship of a publication is not sufficient for school officials to demand editorial control.

**Bill Laviano
attorney**

Hazelwood in 1988, limited contributors to *Lodestar* to current students and faculty. The new policy also said that the school board "retains the right to exercise editorial control over school-sponsored publications and related materials to ensure that such publications and related materials serve a valid educational purpose and are consistent with the school's educational mission," language taken directly from the *Hazelwood* decision. When the *Lodestar* staff refused to comply with the new policy, school administrators retaliated by withholding \$4,000 in funds allocated for printing costs.

Students who worked on the publication said the action was *Lodestar's* punishment for publishing a story in the 1987 issue entitled, "Round Trips." The story was written by Ridgefield faculty adviser Stephen Blumenthal and included a four-letter word.

Laviano agreed with the speculation.

"[The school is] claiming a different issue," Laviano said. "They were definitely upset over the content of the article and that will be brought up in the trial."

In prohibiting the school from enforcing the changes in its publications policy, U.S. Magistrate Arthur H. Latimer writing for the court said the "requirement that publications 'serve a valid educational purpose and are consistent with the school's educational mission' is impermissibly vague."

Furthermore, the court said that *Hazelwood* does not automatically apply to all student publications that receive some school sponsorship. Publications that operate "not simply as a school activity" but also as an independent student activity may be beyond the control of *Hazelwood*, the opinion stated.

"[I]t can be said that fair ground for litigation exists as to the *Lodestar's* status as 'curriculum' — and similarly as to the related question of *Lodestar's* status as a 'public forum' never validly closed by school authorities," the court said.

Lodestar will be allowed to publish material by alumni as planned and maintain school funds, pending the resolution of the lawsuit. The case is scheduled to go to trial in June. ■

Underground uncensored

Case will not go to Supreme Court

WASHINGTON—The U.S. Court of Appeals for the Ninth Circuit broke a few administrative blue pencils in November 1988 after deciding educators could not screen underground newspapers distributed on school premises.

Board members of the Renton School District who lost the case, locked in a 2-2 vote on whether to appeal the court's decision in *Burch v. Barker*, 861 F.2D 1149 (9th Cir. 1988), and ran out of time in mid-February to ask for Supreme Court review of their case.

The controversy began in 1983 when administrators at Charles Lindbergh High School in Renton reprimanded five students for distributing a non-school-sponsored publication, *Bad Astra*, during a senior class barbecue. School officials said the students did not submit the material for prior approval as required by school policy.

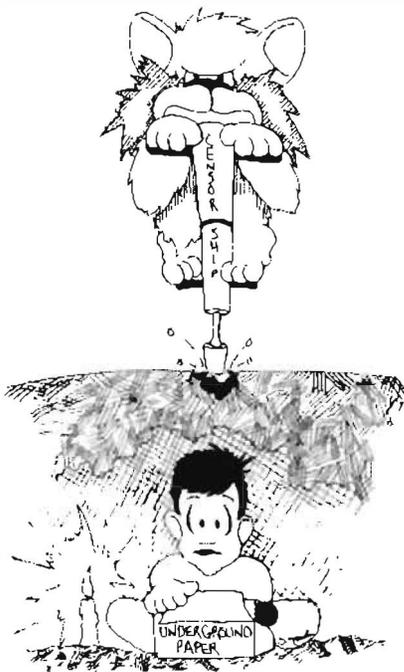
The underground paper, produced off campus at the students' expense, consisted of political poetry and articles "which no one could associate with school sponsorship or endorsement," said Judge Mary Schroeder in the unanimous decision of the three-judge panel. "They are therefore not within the purview of the school's exercise of reasonable editorial control. The student distribution of non-school-sponsored material...cannot be subjected to regulation on the basis of undifferentiated fears of possible disturbances or embarrassment to school officials."

Brian Barker, principal of the high school at the time disagreed

with the Court's ruling, saying he was concerned with the "serious ramifications" that could follow.

Not everyone has a right to distribute anything they want," he said. "We're dealing with students who consider themselves 'skin-heads, punks, heavy metalers,' you name it. We should be permitted to censor material distributed during the school day, on school grounds."

Schroeder said the Supreme Court's ruling in *Hazelwood School District v. Kuhlmeier* allowing principals to control the content of student newspapers was based on schools' authority to govern their curriculum and regulate statements that are issued with official school sponsorship. The same controls do not apply to "underground" publications, she said. ■



Law varies across U.S.

In the wake of the 1988 *Hazelwood* ruling, the court's decision in *Burch v. Barker* provides a direct affirmation that First Amendment protections in underground student publications remain intact.

The decision which says the school officials cannot exercise prior review of non-school-sponsored publications, applies to all public high schools in the following states: Washington, Oregon, California, Arizona, Nevada, Idaho, Montana, Alaska and Hawaii. The U.S. Court of Appeals for the Seventh Circuit rendered a similar decision in the 1972 case *Fujishima v. Board of Education*, 460 F.2d 1355 (7th Cir. 1972), which applies to the states of Illinois, Indiana and Wisconsin.

Federal courts of appeal with jurisdiction over Alabama, Arkansas, Connecticut, Florida, Georgia, Iowa, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, North Dakota, South Carolina, South Dakota, Texas, Vermont, Virginia, West Virginia have allowed limited prior review of non-school-sponsored publications.

Such prior review is only permissible when due process safeguards are present. For example, school regulations must specify to whom the material is to be submitted for approval and give students the right to a prompt hearing with the school official to argue for distribution. School officials can only be allowed a limited time to review the material and can only censor material that is libelous, obscene, or substantially disruptive of school activities. For more information see the Student Press Law Center's book *Law of the Student Press* or call the SPLC. ■

College editors return to school

NEW HAMPSHIRE — Grafton County Superior Court Judge Bruce Mohl, in January, ordered Dartmouth College to reinstate two former editors of the conservative, off-campus newspaper, the *Dartmouth Review*, saying their suspensions were tainted by bias against the weekly publication. The injunction was granted pending final outcome of the suit.

Christopher Baldwin and John Sutter were among four *Review* staff members punished in March 1988 after a collegiate disciplinary committee decided the students had harassed black professor William Cole in a face-to-face confrontation. Both students are white.

The two students took their case to a state court in New Hampshire in July. The suit alleged the college violated the student's free

expression rights as guaranteed by the school's own policies. The Dartmouth student handbook, provides in part, that "freedom of expression and dissent is protected by college regulations."

The controversy began in the winter of 1987-88 when the conservative *Review*, which is published by students but not officially connected with the college, printed an article severely critical of two faculty members. One, an English teacher who did not have tenure, was criticized for failing to teach the required text books and has since left the school. The other, music professor Cole, remains.

A classroom confrontation took place after the *Review* published a transcript of one of Cole's classes. The transcript demonstrated how Cole peppered his class lectures

with profanities. Cole, who is regularly listed by the *Review* as one of the college's worst professors, was invited to reply to the piece before publication, but he refused the reporter's calls.

Baldwin and Sutter along with *Review* staff reporter John Quilhot, persisted by visiting Cole's classroom after the story was printed to get comments or reaction to their transcript. A dispute ensued that resulted in the breaking of the *Review* photographer's flash attachment. The editors taped the entire exchange.

College officials subsequently charged Sutter, Baldwin and Quilhot with disorderly conduct, harassment and invasion of privacy and engaging in what was described as "a vexatious oral exchange" with the professor. Baldwin and Sutter were suspended from the school for six terms, while Quilhot was suspended for two. A fourth *Review* reporter involved in the incident was put on probation.

"I think it was a complete injustice," Baldwin said. "Especially when the school purports to support academic freedom of speech and compromises that promise whenever [the school] feels like it."

Dartmouth maintains that the students were not punished for what they wrote but for conduct that was disruptive to the peace of the college community.

In allowing the students to return to school, the court said that one of the members of the disciplinary board that punished *Review* staffers had demonstrated bias prior to the board's vote. One member of the panel had signed a letter, not shared with other board members, criticizing the *Review*. The letter criticized the newspaper for writing "slandorous articles" using "repeated sexist and racist" remarks about Dartmouth faculty members.

Mohl said for this reason, the board's decision in suspending the



students was "fundamentally unfair."

Dartmouth's lawyer John Middleton had argued that the students had been suspended for misconduct, not for their political view.

But Harvey Myerson, the New York attorney representing the students, cited a passage in the state ruling which said "contrary to the college's position, the charges against the four students did arise directly out of their activities on the *Review*."

Myerson said the college's actions had violated the students' freedom of expression.

"We don't think there's any question about it," Myerson said. "That's been a cornerstone of what we've been saying from the beginning."

Myerson insisted that the judge

drew no meaningful distinction between the nine-member disciplinary panel, whose chairman was the dean of the college, and Dartmouth itself.

"The court found that the actions of the Committee on Standards were the actions of the college and ordered the students reinstated," Myerson said.

Baldwin said the controversy has brought Dartmouth into the limelight, but the true issue has not been addressed.

"The real issue here focuses on professor Cole and the quality of education at Dartmouth," Baldwin said. "The school has been put in an embarrassing situation of questioning the integrity of one of its professors, especially a tenured professor [Cole]. Tenure is regarded with religious awe and if the university were to investigate

Cole's abilities, it would signal other faculty that their tenure could also be questioned."

Feeling the "real criminal" has not been punished, Baldwin said Cole has received merits for the incident which attracted national attention to the Ivy League school.

In a January hearing, a federal judge dismissed the companion lawsuit that claimed reverse discrimination against the reporters by Dartmouth College.

Dartmouth president James Freedman said the school has endured its most serious public relations setback as a result of the two lawsuits. The school reports early applications to the college are down 29 percent and suggests the negative publicity surrounding the controversial *Review* is to blame. ■

Student brings \$2 million suit for yearbook slur

MASSACHUSETTS—The excitement of graduation swelled as Westwood High School students gathered to receive their yearbooks in 1986. But excitement quickly changed to embarrassment.

Appearing in the biography next to the picture of Michael Strauss, a graduating senior at the time, were the words "Superjew, Yidmaster, short squat Jewish," and statements that made incestuous implications about his sister. The manufactured brief also poked fun at one of Strauss' male friends of Lebanese origin, calling the boy "Bobbydeary," according to court documents.

The copy was typeset and inconspicuously printed by someone involved with the production process of the Western High School yearbook, the *Green Years*. Strauss wrote and submitted his own autobiographical note, but has yet to find the culprits responsible for printing the false modification.

The yearbook tampering resulted in a \$2 million lawsuit, filed by Strauss and his parents against the town of Westwood, the yearbook company and two as of yet unidentified students. The original complaint in the suit charged three school officials with negligence as well.

Representing the school officials in the case, town counsel Tom McCusker filed a motion to dismiss the case in February at the Norfolk Superior Court, in Dedham. The court granted the motion, dismissing claims against the school's principal, vice principal and faculty adviser.

Now Jostens Yearbook and Publishing Company

in State College, Pennsylvania, the town of Westwood and the two unidentified students are taking the heat. Court documents say Strauss is claiming negligent infliction of emotional distress by the three remaining defendants and two counts of libel targeted at Jostens and the responsible students.

Nearly 250 of the November 1986 yearbooks were distributed to Westwood students before the substitution was found. School officials recalled most of the annuals, but could not reclaim the entire circulation. The page in question was replaced and the book redistributed.

Investigative efforts to find the elusive perpetrators have been futile, but suspects have been questioned, said Strauss' attorney David Shaughnessy.

The attorney refused to speculate on the identity of the culprits for lack of concrete evidence.

Investigators consulted a handwriting expert who could yield no further information. The case was then turned over to the attorney general's office for further investigation of the phony copy. McCusker said the school has "gone to great lengths to find the persons responsible," and concluded that investigators will be unable to find the guilty parties.

"The senior editors were all interviewed and had no knowledge of who did it," McCusker said. "It's impossible to know which typist did which biographies."

As a result of the incident the school is tightening its security by requiring students to sign their autobiographical notes before submitting them to yearbook staff members, McCusker said. ■

Student free press legislation in Iowa to hit governor's desk this spring

Officials in Iowa are preparing a bill for the governor's signature that would prevent school administrators in the state from censoring student publications.

State Sen. Richard Varn, D-Solon, introduced the Iowa student press bill in January protecting student publications from censorship as long as the material is not obscene, libelous and does not incite criminal acts or violation of school regulations or material disruption of the school.

In February the Senate passed the bill with a 35-12 vote and threw it to the House where it was accepted with a 79-14 vote in April. The House added an amendment to the legislation that would release the school district from liability in the event of legal action against a publication. Assuming the House and Senate can work out an agreement on this amendment, the governor will receive the pitch and will have to sign the bill to make it a state law.

If the bill is passed, Iowa will become the third state to establish legislation overriding the *Hazelwood* decision. California and Massachusetts already have student free press laws.

Six other states across the country, Illinois, Kansas, Nevada, Ohio, Oregon and Rhode Island, are attempting to stamp out the ashes of the *Hazelwood* ruling.

Sen. Sean Coffey, D-Providence, introduced a bill in Rhode Island in February to reinstate the legal standard for censorship of students that was in effect before *Hazelwood*. The standard set by the Supreme Court in the *Tinker* case allowed censorship only when school officials could demonstrate material and substantial disruption or invasion of the rights of others.

"If students are not given elementary First Amendment rights in the school, it is difficult to expect them to become active, involved and concerned citizens and parents once they leave the school setting," Coffey said. "[This] bill would insure that Rhode Island public schools engender a positive attitude towards the responsible exercise of freedom of speech."

The bill passed out of the Senate Judiciary Committee in April and is expected to reach the Senate floor before the session ends.

Nevada is marching along with its legislation with help from state

Sen. Susan Wagner, R-Reno, chairman of the Senate Judiciary Committee. Senate Bill 191, introduced in March, is modeled after the California Education Code section that protects student free expression rights. The Human Resources Committee heard testimony from local media professionals in a March hearing, but no further action has been taken. The Committee is considering a second hearing but has yet to schedule a date.

Representative Judy Sheerer, D-Shaker Heights, has agreed to introduce student press legislation into the Ohio House this spring. According to Sheerer's aide Grace Moran, a draft of the bill is being reworked by the legislative committee and should be introduced this session.

Moran said Sheerer is "excited about the legislation" and is marking it a "high priority" for completion.

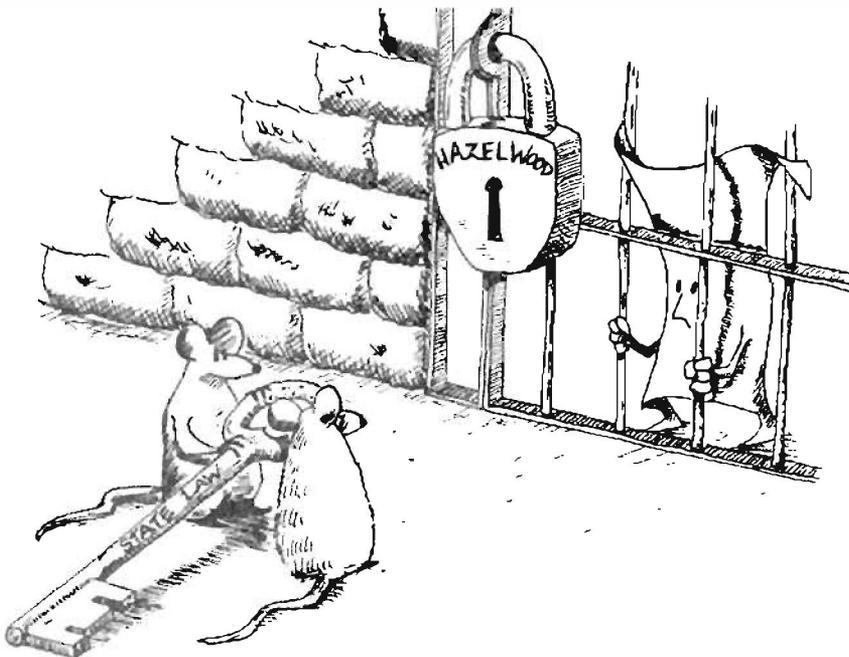
Oregon has joined the ranks after proposing student press legislation for the first time in March. The bill should face a senate committee this fall.

After taking their stab at *Hazelwood*, Wyoming officials were defeated in January when they introduced a bill modeled after the Student Press Law Center guidelines. The bill, introduced by Rep. Lynn Dickey, D-Sheridan County, was killed in a straight party-line vote in the House Education Committee.

Charles Levendosky, Editorial Page Editor of the *Casper Star-Tribune* and strong supporter of student press rights, said he did not see the bill going anywhere from here.

"Unless something drastic happens I don't think it will be introduced again; the [House Education] committee is just too conservative," Levendosky said.

Illinois Rep. Ellis Levin, D-Chicago, introduced a student free expression bill in March. No action has yet been taken on it. ■



Press freedom gains momentum in the Midwest

KANSAS—More than a year has passed since the *Hazelwood* ruling in which the U.S. Supreme Court gave censorship rights to school district officials, but students and teachers in Kansas prove the ruling can be battled and student press rights upheld.

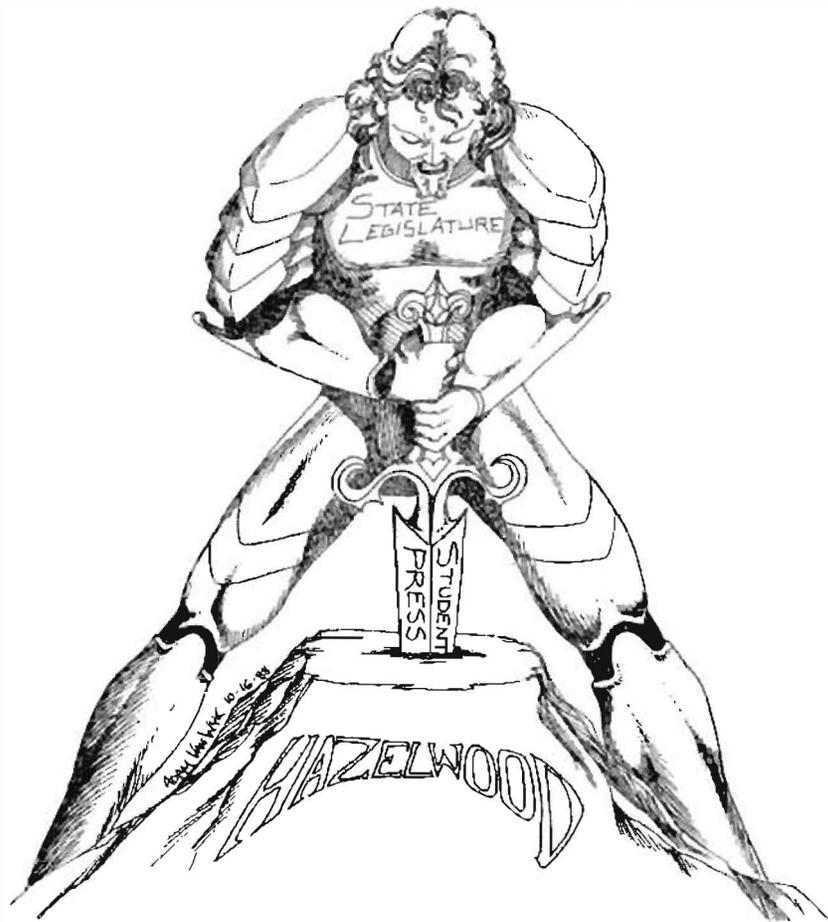
A bill before the Kansas legislature sponsored, by Rep. Gary Blumenthal, D-Merriam, and eight other House members, would establish the "Student Freedom of Expression Act." From this, the Kansas legislature could prevent school boards and administrators from violating the free press rights of student publications.

The bill passed the Kansas House of Representatives in March with a 98-21 vote and now faces the Senate Education Committee. The statute will not be addressed by that body until next year when the committee reconvenes. The student expression bill was apparently "squeezed out" of the 1989 legislative calendar by statutes of "higher priority," said Ron Johnson, Director of Journalism at Fort Hays State University.

"I think the wait is an advantage because now we will have a year to lobby the Senate like we did with the House," he said.

If passed in the Senate, the bill will move to the governor to be signed.

The act is designed to protect student material published in newspapers, yearbooks and creative writing publications from censorship by Kansas school administrators. The law would not protect matter that is libelous, slanderous, obscene, en-



courages violation of the law or certain school rules, or that creates a substantial disruption of the normal school activity.

Executive secretary of the Kansas Scholastic Press Association Jackie Engel expressed strong support for the bill in saying administrators and students can work together toward a free press.

"We are not enemies, but instead partners working together for a relevant school press that will offer viable opportunities to write on topics of concern to them as students of today and citizens of tomorrow," she said in a commentary written for the *Kansas State Collegian* in February.

Simply stated, the bill says, "The liberty of the press in student publications shall be protected. Material shall not be suppressed solely because it in-

volves political or controversial subject matter."

Rep. Arthur Douvle, R-Overland Park, spearheaded opposition to the bill.

"Whenever you create a right, you give rise to possible lawsuits," he said.

Opponents to the bill worried about who would be ultimately responsible for content of student publications and said the bill might be another manifestation of government interference.

Johnson disagreed and said he thinks the group of educators and students supporting the bill has the drive to pass the bill next year.

"We have a lot of strong grassroots support from local journalists, not to mention the Kansas Scholastic Press Association," he said. "I think our bill has a good chance." ■

Education commissioner rejects censorship

NEW YORK — A former student of Northport High School on Long Island claimed victory for the student press in April when the state commissioner of education prohibited school officials from censoring a student literary magazine.

The controversy whirled around Eric Brenner's short story, "The Depths," printed in the 1987 edition of *Arts Focus*, Northport High School's annual literary magazine.

Thomas Sobol, Commissioner of Education, said in his decision that according to the Northport Board of Education's own policy, the censorship could not be allowed.

In addition, the decisions said Northport superintendent William Brosnan side-stepped Northport's own publication policy guidelines by failing to meet with the editor, faculty adviser and ombudsperson prior to his censorship, as required by board regulations. The commissioner said the school's policy only allowed censorship of substantially disruptive material or material that is libelous or obscene. He said Brenner's story did not fit within these categories.

Brenner's attorney, Alan Levine of the New York Civil Liberties Union, said the commissioner's opinion directly follows the school's guidelines and "until those rules are changed, public school students will have uncensored newspapers."

"The school district's own policy resists the tide of the *Kuhlmeier* decision which has swept along with it

school districts across the country who think they have to censor," Levine said.

Referring to the Supreme Court's decision in *Hazelwood v. Kuhlmeier*, in which school officials were given greater authority to censor, Sobol said,

This should set a precedent for the state in stopping arbitrary censorship by administrators. Hopefully, what happened to me won't happen to anyone else.

**Eric Brenner
student author**

"The existence of a power does not itself compel the exercise of that power. *Kuhlmeier* simply establishes a standard to determine whether an educator's editorial control over school-sponsored publications violates the First Amendment rights of students. It does not require school districts to adopt that standard. A school district may establish its own policy to grant students broader free speech protections than those established under *Kuhlmeier*."

Over 8000 copies of *Arts Focus* were circulated in June 1987 as a supplement in the local community newspaper before Brosnan intervened. He confiscated nearly 500 copies of the publication intended for distribution at a district-sponsored arts festival. The superintendent claimed the language in the story was "obscene" and "unfit for the younger children" who would have access to the magazine at the fair.

The story described a night in which two high school friends wait at school for a ride after choir practice. Passing time, they make up a parody of a song that tells of a man "who couldn't pee" who went from town to town with his "dick tied 'round his knee." The rest of the story is a surrealistic fantasy in which the two friends are trapped inside the school while a third boy attacks them with a knife. Brenner describes blood, mutilation and castration, all of which disappear when the dreamers awake in the end.

Brosnan cited other aspects of the story including the gratuitous use of the word "hell," the goriness of the story, making light of vandalism and grammatical errors.

The school board, at Brosnan's recommendation, denied Brenner's request to have copies of the arts magazine placed on the Northport High grounds when school reopened in the fall of 1987.

With his father's help, Brenner petitioned the state commissioner of education to review the school board's ruling and to allow the story to be distributed

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Keeping Confidentiality

Shield laws and privileges protect your right not to reveal sources or information

The threat of court orders to reveal sources and information concerns reporters and editors on and off campus. Almost every student publication is confronted with the question at least once each year of whether someone can force a journalist to disclose sources to whom they have promised anonymity or information that was never intended for publication. In increasing numbers, civil and criminal litigants nationwide — often those representing the police or other governmental bodies — are demanding that reporters and editors appear at judicial proceedings to divulge information obtained as part of their newsgathering efforts.

Journalists typically rankle at such subpoenas. They assert that reporters must be able to promise confidentially to some sources to get the information necessary to satisfy the public's right to know.

They also raise a concern over appearing to be an investigative arm for the state and point out that some litigants would rely on the press to do their dirty investigative work for them.

In 26 states, legislatures have adopted statutes called "shield laws" affording the news media varying degrees of protection against subpoenas to reveal sources and information. In other states, the courts have recognized First Amendment and common law privileges that protect reporters from being forced to reveal this kind of information. This privilege may be "qualified" in many states; that is, it can be outweighed by a competing interest presented in a given situation, for example a criminal defendant's right to a fair trial. These legal protections have sel-

dom been explicitly applied to student journalists, but students continue to voice the need for them.

In this issue of the *Report*, we begin a several-part series that will examine the rights of journalists to keep their confidential sources and information to themselves.

On a state-by-state basis, we will examine state shield laws and privileges and discuss how they might apply specifically to students. Most states have never ruled on the confidentiality rights of student journalists. The analysis given here is the SPLC's best judgement of how a court might rule on the issue.

Each state section begins with a citation to the shield law, if such a law is in place in that state. If your state is not discussed in this issue, be sure to read future issues of the *Report*.

And remember, promises of confidentiality are not to be made lightly. Know your rights under your state law so you will not be

in a position of having made a promise of confidentiality you are not willing or able to keep.

ALASKA

Shield Law: Alaska Statutes section 09.25.150 to 09.25.220 (1983 and 1987 supp.)

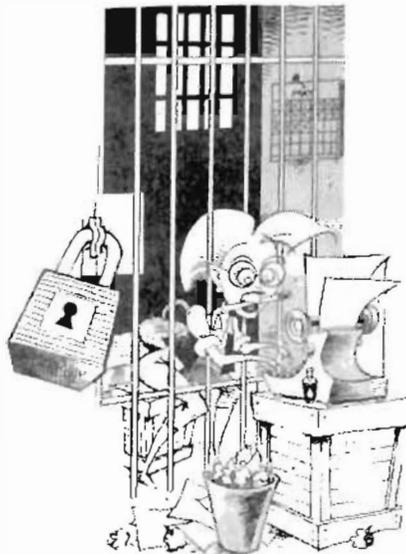
Reporters "regularly engaged" in collecting or writing news for a "news organization" are protected from compelled disclosure under the Alaska shield law unless the nondisclosure would "result in a miscarriage of justice or the denial of a fair trial ... or be contrary to the public interest." A news organization is defined as an "individual or group that publishes a newspaper or other periodical" at regular intervals and has a general readership. Presumably, a publication that is distributed on and off school grounds could be said to have a general readership because non-school-related individuals also would be reading it. Furthermore, student journalists would be regularly engaged in the news gathering business if they write for the newspaper on a frequent basis. The Alaska law looks as if it should apply to most student journalists.

CONNECTICUT

No Shield Law.

A qualified First Amendment privilege protecting confidential sources has been recognized by the courts in Connecticut, although its applicability to students has not been tested. The privilege will only be overcome when the party seeking disclosure can show that it

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made a reasonable effort to obtain the information from an alternative source and the inquiry is designed to elicit information highly relevant to the court proceeding. *Connecticut Labor Relations Board v. Fagin*, 370 A.2d 1095 (Conn. Super. Ct. 1976).

DELAWARE

Shield Law: Delaware Code Ann. Title 10, subchapter II, sections 4320 to 4326 (1974 Rev. and 1985)

Students may have trouble qualifying as reporters under Delaware's narrow shield law. Anyone who earns his or her "principal livelihood" by reporting or who spent three or four weeks of the preceding eight weeks working at least 20 hours per week "in the practice of, obtaining or preparing information for dissemination" meets the requirement of the statute. Reporters can be protected in all proceedings except those of a grand jury from disclosing both sources and information. A court can order public disclosure of material when it is in the public interest if it can be proven that the reporter's assertion of a need for non-disclosure is false.

DISTRICT OF COLUMBIA

No Shield Law.

District of Columbia courts have not clearly dealt with the question of a privilege for journalists. However, the District's highest court ruled recently that a news organization not a party to a law suit may be subpoenaed only if there is greater than a "mere hope" of finding relevant information. *CBS v. Arnold*, No. 87-31 (D.C. Court of Appeals Feb. 2, 1987).

The federal court of appeals in Washington has recognized a qualified constitutional privilege for reporters under the First Amendment. The court will balance the reporter's interest in confidentiality against the plaintiff's interest in disclosure, with the balance tilted to favor the journalist's privilege. *Carey v. Hume*, 492 F. 2d 631 (D.C. Cir. 1974). *Zerilli v. Smith*, 656 F.2d 705 (D.C. Cir. 1981).

FLORIDA

No Shield Law

Florida recognizes a qualified First Amendment privilege against compelled disclosure of a journalist's sources and information. A three-part test is applied to determine whether disclosure will be compelled. If the information is

relevant, if it can not be obtained by alternate means and if there is a compelling interest for the information, disclosure will be required. This test applies to both civil and criminal trials. It was used by the Florida Supreme court in *Tribune Co. v. Huffstetler*, 489 So.2d 722 (1986), in which the court reversed a reporter's contempt conviction for not revealing a source.

Unpublished photographs that are "physical evidence of a crime" may not be protected by the privilege says a state appeals court. *Satz v. The News and Sun-Sentinel Co.*, 484 So.2d 590 (1985).

GEORGIA

No Shield Law.

In 1911, the Georgia Supreme Court rejected recognition of a journalist's privilege in the case *Plunkett v. Hamilton*, 70 S.E. 781 (Ga. 1911), and has never altered that decision.

IDAHO

No Shield Law.

The Idaho Supreme Court has recognized a qualified privilege grounded in the First Amendment and the Idaho Constitution that allows a journalist to refuse to disclose confidential sources. When faced with a demand to

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compel disclosure, a court will balance the interests of the parties by questioning if the information sought is relevant, whether it can be obtained in another way and whether the interest in the information is compelling. *In Re Wright*, 700 P.2d 40 (Idaho 1985).

ILLINOIS

Shield Law: Smith Hurd Illinois Ann. Stat. ch. 110 sections 8-901 to 8-909 (1984 and 1988 cum. suppl)

Anyone "regularly engaged in the business of collecting, writing or editing news for publication through a news medium on a full-time or part-time basis" cannot be compelled to disclose the source of any confidential or non-confidential information. A news medium includes any newspaper or periodical "issued at regular intervals and having a general circulation." If a high school or college publication is distributed off campus as well as on, it probably could be considered general circulation. Whether a student journalist works enough hours to be considered part- or full-time is more questionable, especially if the student is not paid for their work (and thus perhaps is not "in the business of ..."). The courts in Illinois have never been confronted with the application of the law to young journalists, but a fair argument can be made that it should apply to high school and college students as well.

A reporter may be divested of the privilege if alternative sources of information have been exhausted and disclosure "is essential to the protection of the public

interest involved or, in libel or slander cases, the plaintiff's need for disclosure ... outweighs the public interest in protecting the confidentiality of sources of information."

INDIANA

Shield Law: Burns Indiana Stat. Ann. Chapter 5, Title 34-3-5-1 (1986 Repl. Vol. and 1988 supp.)

In Indiana, reporters must "receive income" from reporting and writing work and be employed at "a newspaper or periodical ... having a general circulation" to be covered under the statute. If the student meets this requirement, he or she will be protected from disclosing in any legal or non-legal proceeding the name of any source obtained from reporting. College journalists seem more likely to be covered by this statute than would high school journalists because of the requirements of the law.

The shield law has been construed to protect only confidential sources of information rather than the information itself. In *In Re Stearns*, 489 N.E.2d 146 (1986), however, a state court of appeals recognized a qualified privilege under the First Amendment protecting disclosure of non-confidential information. If the information desired is relevant, if disclosure is critical to a someone receiving a fair trial and if other sources have been exhausted, the interests will be balanced to determine if compelled disclosure is warranted.

IOWA

No Shield Law.

Iowa does not have a shield law, but its courts recognize a

qualified privilege under the First Amendment and the Iowa Constitution. The courts lean toward disclosure in criminal cases, grand jury proceedings and in libel suits. A journalist requesting the privilege must fall within the protected class of people qualifying for the privilege, although the courts have never explained how to determine if a person falls within that class. Unless the courts say otherwise, it probably can be assumed that student journalists fall within the class of protected people, although this is by no means clear. In deciding whether to compel disclosure, the court asks if the information is critical to the action or defense and if other means of obtaining it have been exhausted. *Lamberto v. Bown*, 326 N.W. 2d 305 (Iowa 1982).

KANSAS

No Shield Law.

Kansas has no statute but recognizes a qualified privilege for both sources and information. The privilege is stronger in civil cases than in criminal ones. In *State v. Sandstrom*, 224 Kan. 573, 581 P.2d 812 (1978), cert. denied, 440 U.S. 929 (1979), the Kansas Supreme Court said a lower court's ruling that forcing a journalist to testify was warranted because it could lead to information regarding an important aspect of the criminal defendant's defense. The court approved a case-by-case balancing of the need of the defendant to a fair trial against the reporter's need for confidentiality. It seems Kansas would allow student journalists the use of the privilege. ■

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at the high school.

Brenner, who graduated from Northport in 1987, heard of Sobol's decision while attending Vassar College where he is studying English this semester. He said the victory was exciting.

"This should set a precedent for the state in stopping arbitrary censorship by administrators," Brenner said. "Hopefully, what happened to me won't happen to anyone else."

Brenner said students as well as professional writers should have the "freedom to write what they want."

"Quality is still important in what you write, but you should be able to write anything and not have to worry about [restrictions]," he said.

Levine said he is satisfied with the resulting opinion which upholds the rights of student press freedom.

"[The decisions] says to student editors that they have rights apart from the First Amendment," he said. "They may have to struggle to convince school officials and state courts of that, but they won't find *Kuhlmeier* standing in the way of their journalistic responsibilities." ■

Principal impounds newspaper for running editorial comparing homecoming to the crucifixion of Christ

CALIFORNIA—Tommy walks along the narrow corridors of his high school as the final bell of the day rings. He musters up the courage to ask the best-looking girl to the homecoming dance, but contemplates the possibility of her refusal.

The risk of rejection may be one of the greatest stress factors a teenager must face in school, but is it comparable to the crucifixion of Jesus Christ? A reporter at Rio Americano High School in Sacramento thought so and wrote her satirical opinion for the high school newspaper, the *Rio Mirada*. The story hit front page in October with the headline reading "Is Homecoming God's Way of Making Us Pay For Our Sins?"

Vanessa Richardson likened the "humiliation" of the homecoming dance to the pain of Jesus on the cross. She said in the article, "If you believe in God, Homecoming is your salvation. For tomorrow's dance is really a religious ceremony for ones to experience the most humiliating time of their life, so they can experience the pain and suffering that Jesus went through while dying on the cross, for the two experiences are pretty painful."

"It is the embarrassment of asking your prospective date...and being shot down," and "It is the mortification of going to a party after [the dance] and having

your date get amazingly drunk...then having to drive your date home and not even getting a good-night smooch because he's passed out on the front seat after upchucking all over it."

Administrators of the school took one look at the headline and temporarily impounded the paper claiming it was "offensive to the religious beliefs of parents, teachers and students."

If you believe in God, Homecoming is your salvation. For tomorrow's dance is really a religious ceremony for one to experience the most humiliating time of their life.

**Vanessa Richardson
reporter**

A legal review of the incident by the school's attorney supported the paper by determining the action to be inconsistent with the California Education Code. California and Massachusetts are the only states with statutory protections for student expression. The newspapers were returned to the bins three days later.

Rio Americano Principal Ron Uzelac said the school had planned to implement a review committee "consisting of teachers, students and administrators as a result of the controversy." But faculty adviser of the publication Dean Baird said the committee had not been created.

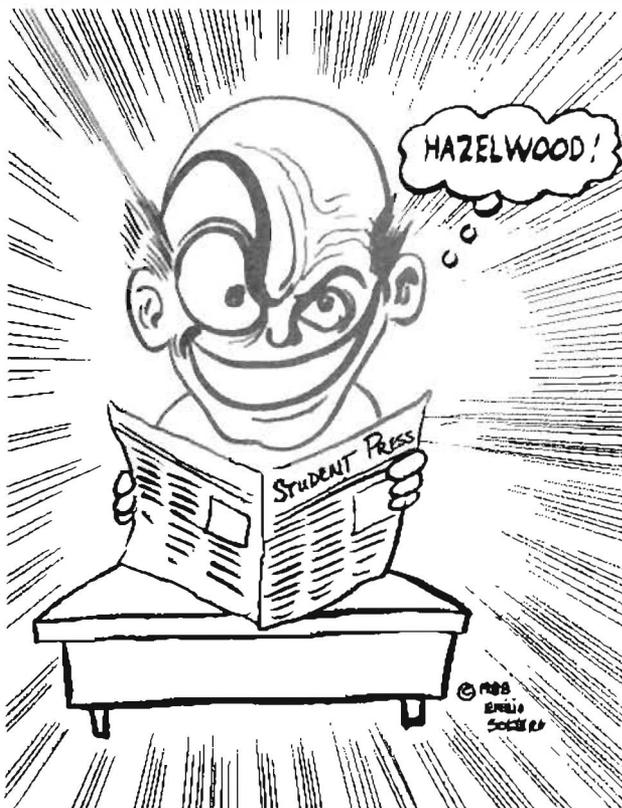
"The original intention of the administration to put together a review committee never evolved," Baird said. "I told [the principal] that if they put the review panel into action, the students would [fight back]."

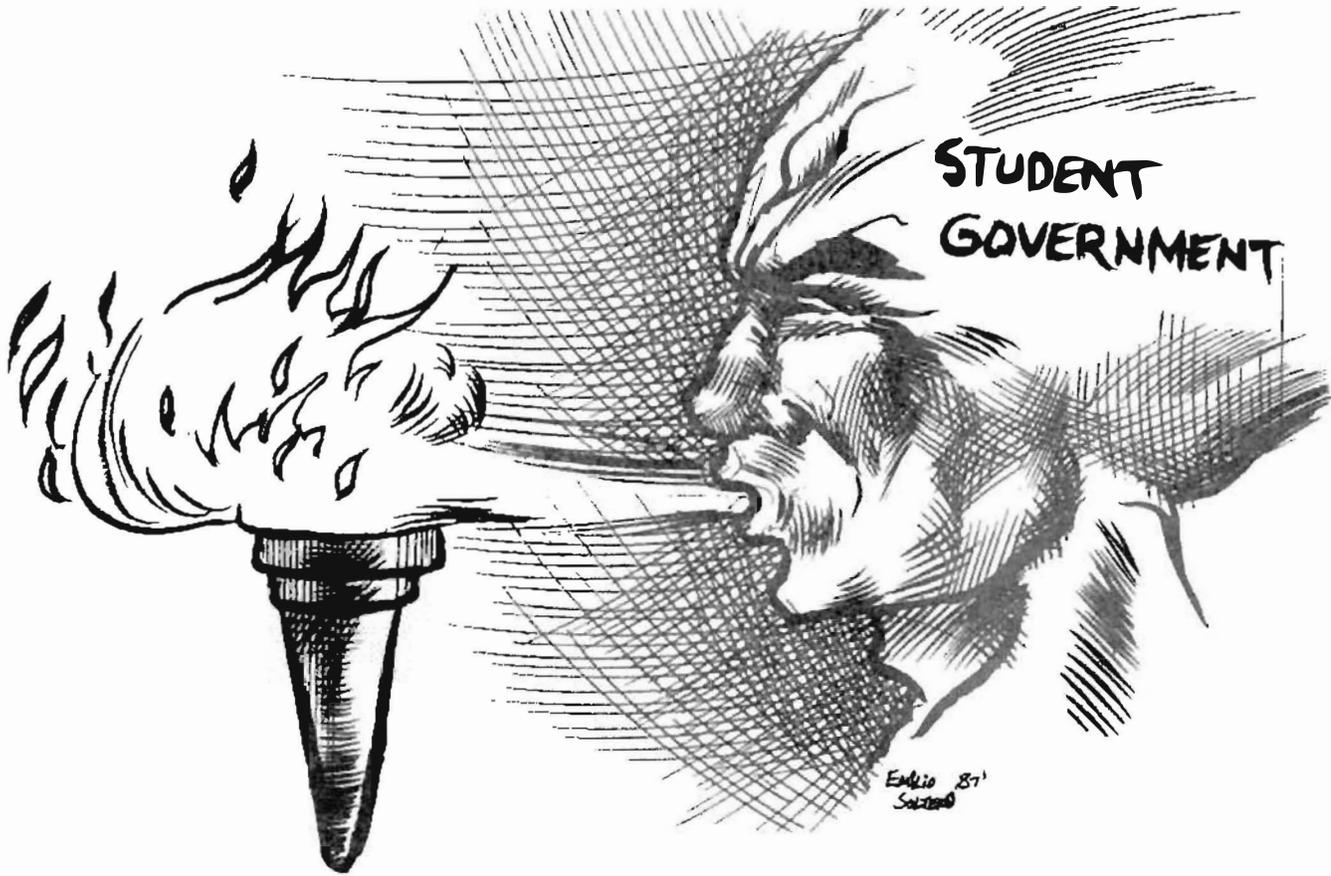
Although there is no official prior review committee, Baird has given the school's production supervisor permission to review the page layouts before sending them to press.

"I don't set up an appointment or anything," he said, "but if we have a controversial article, I'll show it to her [beforehand] so she'll know it's coming out. If she has a problem, she can talk to me about it."

After several months of discussion, the controversy has subsided without recourse.

"I think the administration realizes now that they can't just pull a story because they don't like it," Baird said. "Their attitude on censorship is a little more clear to them now." ■





Student president shuts down paper, boots editor

PENNSYLVANIA — The Duquesne University Student Government Association (SGA) exercised iron-handed suppression after an advertisement for birth control counseling ran in the school's daily newspaper, *The Duquesne Duke*, in February.

SGA members seized control of the university's student newspaper offices as a result of investigations into various controversies surrounding the publication, one of which focused on the family planning ad. Doors were locked to all staff members during a three-day shut-down of the newspaper offices when SGA members planned to "fill the reporter's positions with their own people," according to Sean McNamara, managing editor of *The Duke*.

The doors were reopened three days later, minus editor-in-chief Rebecca Drumm.

The editor was permanently

suspended from her post when the Duquesne student judicial board charged her with 14 offenses, including allegations that the newspaper had an unauthorized off-campus checking account and fraudulently ran her election to the position.

Results of the March judicial board hearing found Drumm guilty on two counts: failing to comply with university regulations and violating published university policies involving the unauthorized checking account.

Drumm remains on probation until she graduates in May.

The Duke faced opposition after running an advertisement for contraceptive counseling. The ad was published three times in January and February issues before SGA members seized *The Duke* offices.

Administrators of the Roman Catholic university reportedly felt

the ad's message was inconsistent with the school's mission statement which is based on the Catholic religion.

McNamara said the reasoning was unfair.

"[Administrators] are forgetting that the mission statement also says they will protect the rights of human dignity and freedom," McNamara said.

In a letter dated Jan. 30, SGA president Harold "Happy" Meltzer, informed *The Duke* news staff that if the ad were to reappear in the paper SGA members would begin investigation into the election of the student editor-in-chief and the paper's student-run checking account which violated university rules.

The Family Services ad ran again on Feb. 9, this time with a disclaimer that said "the following advertisement does not necessarily

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reflect the views or values of Duquesne University."

Soon after the readvertisement, the SGA cabinet gathered in a closed meeting where they decided to revoke *The Duke's* constitution, ending the right to publish a paper under the name of the university. This action also denied the paper the right to use university facilities because the newspaper was no longer recognized as a school-sponsored publication.

The constitution was reinstated when the paper was reopened three days later.

Student editor Drumm claimed school officials supported the SGA's actions in silencing the paper.

"The building belongs to the administration, not the SGA," she said. "The administration could unlock [the newsroom] in a moment, but their lack of action shows they backed the SGA all the way."

University spokeswoman Ann Rago said the administration saw this as a "power struggle" and avoided intervention as long as students "acted in good faith" to resolve the issue themselves.

The Duke's attorney, Joel Klein, said the student government was trying to cover up the censorship issue with charges against Drumm fearing bad publicity for the college.

"We believe that the student government didn't want to have to go to the world and explain that [it] shut a paper down over a contraceptive ad," Klein said. "Instead, [it] came up with these other two items that were old news."

Meltzer denied the allegation, saying the investigation was coincidental to the ad's publication.

"The suspension has nothing to do with the ads that appeared in print," he said. "We began investigations after the SGA recently received complaints from several studies about the account and Drumm's election."

When questioned about the January letter Meltzer said he

thought the ad would "offend a lot of people" and the letter was intended to bring this to the news-taff's attention.

"It wasn't proper to exchange the University name for money from an organization of that nature," he said.

Drumm disagreed.

"I'm certain they censored us for the ad, it was right there in black and white," she said. "They didn't approach me once about the checking account."

Klein said *The Duke's* 15-year-old checking account in question and the election controversy have "been around for a long time" and only now are being criticized.

Throughout the chaos, Drumm and several student reporters assembled a four-page newspaper called *The Free Press* for distribution on the Duquesne campus. The paper, devoted entirely to *The Duke's* suspension, was laid out at the Indiana University of Pennsylvania and printed by the *Washington Observer-Reporter* in Washington County.

After learning of Drumm's suspension, several staff members refused to return to the paper unless the editor was reinstated. But after the judicial board's ruling in March, original staffers returned with plans to leave the editor's seat vacant.

"We don't want to make anyone

else a magnet for student government badgering and harassment," McNamara said, "It would unload too much pressure from the school onto that one person and it just isn't worth it."

McNamara said the SGA continues to "harass and antagonize" *The Duke* reporters in the power struggle.

"[The SGA] is using the power of the purse to control the newspaper," McNamara said. "When we print something they don't like, they tighten allocations. That's why we had the off-campus account, to keep our funds completely independent of theirs."

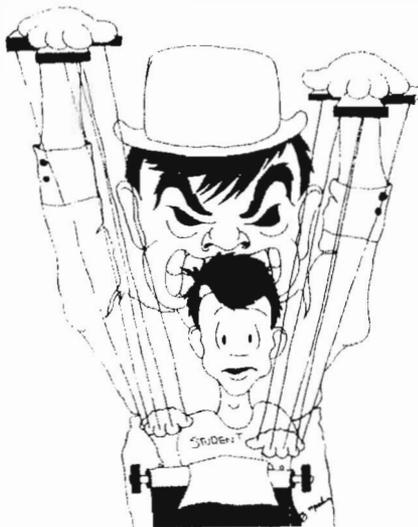
Results of the incident include the establishment of a new publication board for the school. A temporary six-member board has been set up to mediate student conflicts. The outlines guide for the committee's responsibilities and structure is currently under the pen. Whether the board will regulate content policies or enforce press guidelines is still being decided. Students hope to establish a permanent committee by next semester.

Claiming this was not a censorship issue, Meltzer said the shut down was intended to stop the misuse of the newspaper's funds.

"[*Duke* staffers] are still running the ad as far as I know, but I don't think an ad like that should be there," he said. "It doesn't have a place in the publication of a Catholic university, but it's also not worth suspending a paper over. We wouldn't suspend the paper for that reason and we didn't."

McNamara said the controversy has been difficult to withstand, but he is proud to stand up for his rights at any length.

"I didn't realize the right for freedom of expression until it was taken away from me," McNamara said. "There are people out there who want to control the media and I've realized how dangerous that can be. You just have to stand up for what you think is right and stick to it to the end." ■



Klu Klux Klansman on yearbook stirs controversy

Picture causes angered legislator to demand firing of high school principal

ALABAMA — Pictured on the front steps of Jefferson Davis High School, posing for a class shot, stand former president John F. Kennedy, father of Communism Karl Marx, singer Michael Jackson and in the back row, a Ku Klux Klansman beside a flaming cross.

Certainly these people didn't attend school together, so what is the meaning behind the picture?

The composite photo appearing on the cover of the high school yearbook was intended to depict prominent events, issues and people of the last 20 years. Patterned after the cover of the Beatles album, "Sgt. Pepper's Lonely Hearts Club Band," the cover was designed by yearbook staffers to commemorate the Montgomery high school's 20th year.

Following yearbook distribution in November, State Representative Alvin Holmes, D-Montgomery, demanded the principal of the high school be dismissed for permitting students to include a KKK member and a Confederate flag on the yearbook cover.

"[The picture] glorifies the KKK," Holmes said. "I don't think they should have used these symbols to represent history. They should have used pictures that would be educational."

Holmes would have preferred pictures of the new fine arts center in Montgomery or photographs of the development and construction of buildings on the surrounding college campuses to be used on the commemorative cover.

"It's the same idea as a Jewish high school student in Israel publishing a picture of Adolf Hitler . . . or some other Nazi on the cover of their yearbook," he said.

School superintendent Thomas Bobo received a letter from Rep. Holmes shortly after the yearbook's release requesting the discharge of school principal Thomas Head from his position at Jefferson Davis.

When the Montgomery legis-



lator addressed the school board with the issue in December, members supported his opinion and asked Head to write an apology statement to the chairman of the board of education for offending anyone by allowing the cover to be printed. The legislator also required Head to present a public apology to the board during their January meeting.

"Never in my wildest dreams would I think anyone would take a yearbook for more than just a yearbook," Head said. "and to pick the KKK member out of all the other pictures we had on there."

The picture is superimposed with magazine cutouts, cartoon drawings, student and teacher

photographs. Other figures featured are former president Ronald Reagan and his wife Nancy, rockstars Chuck Berry and John Lennon, a naked cartoon of President George Bush, model Donna Rice and former presidential candidate Gary Hart, evangelist Jim Bakker and his wife Tammy and comedian Robin Williams standing below a Confederate flag. The title "Twenty Years Ago Today," was left off the cover by mistake.

"I think this whole thing was taken out of context," Head said. "We didn't mean to offend anyone, but if you put it all into perspective, like the bomb over the KKK's head, it's merely a representation of major events. I think the students have a right to deal with that [major issues and events]."

Proud of his students and teachers for handling the situation, Head said it was "a learning experience especially for the kids." Students at Jefferson Davis now know they are responsible for the material they publish and realize how one idea can be seen many different ways, he said.

As the issue comes to a rest, Head commented on a recent advertisement in a Montgomery newspaper. A published photograph showed marchers in the mid-January celebration of the Martin Luther King holiday. The background scene shows a painted mural on the side of the Dexter Memorial Baptist Church were King used to preach. There, the familiar images of a KKK member and a Confederate flag stand intermingled with prominent freedom leaders.

"After all this hoopla and we see the same kind of mural in the middle of the town. I just can't believe it," Head said. ■

Newspaper circulation ceased to avoid riot

Faculty adviser files grievance to guarantee cooperation from principal

MICHIGAN — Slamming the rights of student press freedom, school officials at Western High School delayed the release of their school paper, *The Western Hemisphere* for reporting the “unsportsmanlike” conduct of the crowd at a basketball game.

Western High School Principal David Ouellette withheld distribution of the school paper in January for a weekend because of what he described as the “inflammatory nature” of several editorial articles. The articles criticized the opposing team, Lumen Christi High School, and their fans for poor sportsmanship at one of the games.

Two front-page editorials claimed fans cheering for the Lumen Christi team were “rude, vulgar and unsportsmanlike” after Western High School point guard Brian Ginzer, was “deliberately fouled by a Christi player” in a lay-up attempt. Ginzer suffered a “severe wrist injury” from the incident, according to the articles.

Further coverage of the game

described the intensity of the competing players by reporting that one Lumen Christi player involved in the scuffle said, “Welcome to the jungle,” to Ginzer who lay writhing on the floor in pain.

Ouellette claimed the articles could lead to violent behavior at an upcoming weekend game against the same team. The principal stopped circulation of the *Western Hemisphere* on the Friday of the game saying it was an attempt to avoid “jeopardizing the safety” of Western High Students attending the game.

Dawn Kinch, co-editor of the *Hemisphere*, said she understood the administration’s reasoning in withholding the paper, but she did not believe the articles would have caused an uproar.

“We tried to show our school how we could benefit from good sportsmanship,” she said. “If I had been a Lumen Christi student I might have gotten mad, but I don’t think it would have caused a riot. I understand why they stopped the paper now, but I think they

should have discussed it with [the student staff] first.”

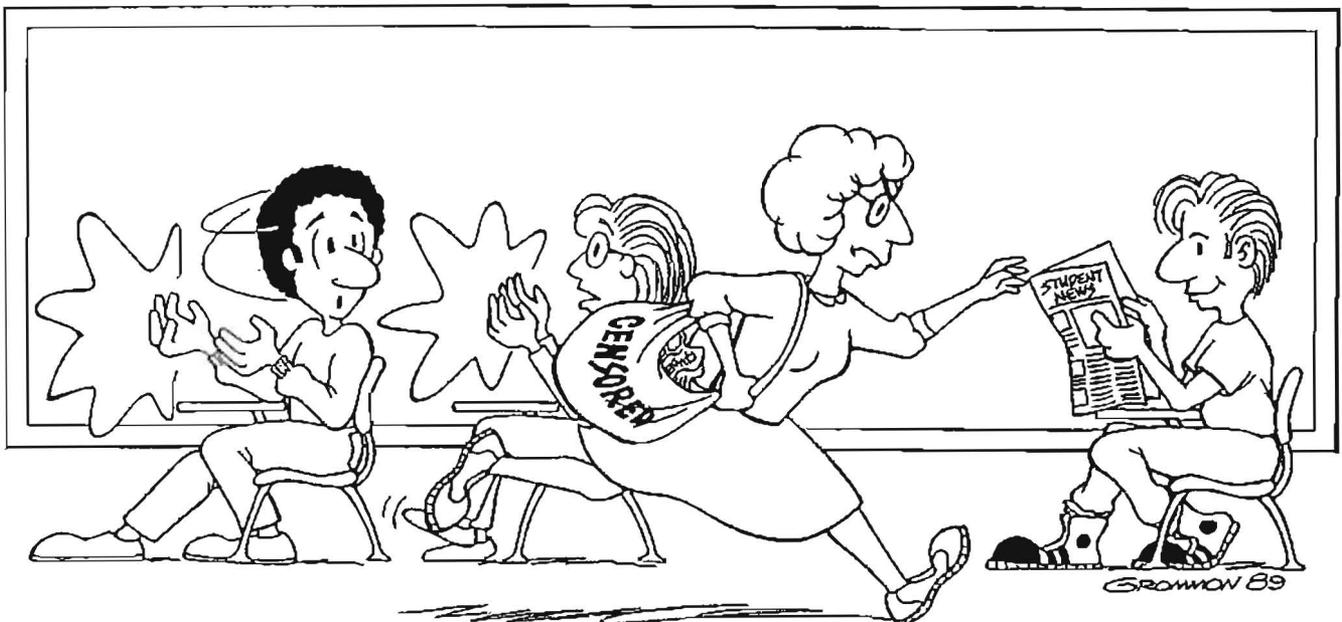
The principal said he made the right decision in withholding the paper, but denies the incident was a censorship issue.

“I did not censor the article, I just delayed it one [school] day,” Ouellette said. “The paper ran in its entirety the following Monday. Although I did oppose the wording, I am a firm believer in students’ rights of the press.”

Ouellette refused to make further comment.

Adviser of the *Western Hemisphere* student newspaper, Kelly Wernette, said the principal restricted him from discussing reasons for the “censorship” with students. Wernette filed a grievance to insure follow-through on the part of the administration and “raise [the principal’s] attention level” toward the incident.

“We are holding the grievance at bay as long as we have the administration’s cooperation,” Wernette said. “And so far, they



have been very cooperative and have done everything we've suggested."

Superintendent Robert Bass, Ouellette and Wernette have devised three solutions to solve the censorship problem. These include a new editorial policy requiring a 24-hour advanced discussion between the adviser and principal regarding questionable news material before publication, rule changed defining the editorial au-

thority of the principal in future situations and finally a board policy change defining the roles and duties of everyone involved in such an issue.

"This is the first time we've had censorship in our school," Wernette said. "I don't know if it's because of the *Hazelwood* decision and principals are starting to flex their muscles more or what."

Wernette said the principal's main concern was with the poten-

tially bad publicity this controversy could bring to the school. But he said his students have learned a valuable lesson from the incident.

"We see a light at the end of the tunnel," he said. "It's just unbelievable how much people fear the student newspaper. I think this has made our students stop and realize how much power the paper has and they now know they are responsible for whatever is printed." ■

Student news media threatened at SMU

TEXAS—After years of athletic scandals that led to some of the toughest sanctions in National Collegiate Athletic Association history, Southern Methodist University has stepped up its effort to create a positive public image. Some students fear that effort is coming perilously close to censorship of campus publications that do not always present the school in a positive light.

The school's vice president of student affairs proposed a plan to the campus publication board in November that would require the campus newspaper and yearbook to submit all copy to an assigned faculty member for prior review before printing.

Jim Caswell suggested the plan after the campus yearbook, *The Daily Campus* student newspaper that he thought the photo should have been deleted.

"If misunderstood, [the photo] could have cast the image of the university into bad repute," Pye told a *Daily Campus* reporter.

Pye was hired as president of SMU in credibility to the university after the NCAA stripped the school of its football program for a year. The program was sanctioned after the fans were discovered running an elaborate pay off system with the players.

The photo shows the darkened silhouette of a man kissing the nape of a woman's neck. The woman's back is to the camera with her hair pushed back over one shoulder. Both models are fully clothed. The picture was

placed opposite a story on the AIDS epidemic and acquaintance rape.

"Interpretation is certainly in the eye of the beholder," said Les Hyder, Director of the Student Media Co., Inc., the yearbook's independent publishing body. "We didn't get a single complaint from anyone else in the community."

To date, the university has not acted on the proposal to review student publications, but the presence of the proposal is keeping student journalists wondering if prior review may become a censoring tool for university administrators concerned more with public relations than good journalism.

The yearbook editor for 1988, Victoria Clarke, said the photograph was an innocent attempt to portray a serious message about AIDS. The dark lighting in the photograph was not meant to be "tricky," but shadowed to depict a more serious aura, she said.

"We had a lot of great photos to choose from and I picked that one because I thought it was the most artistic and sensitive to the subject," Clarke said. "I was really surprised to find out it would be taken this way. As people go, I'm more conservative than most and I run a tight ship. I wouldn't run pornography in my book."

Although the yearbook was published in September, the photograph was not criticized until December, long after 3,500 copies of the *Rotunda* had been distrib-

uted.

"It was out for two months and we heard nothing but praise for the book and the photo," Clarke said. "If I had known it was going to cause such a fuss, I wouldn't have run [the picture]."

Caswell reportedly complained that *The Daily Campus* had an excessive number of spelling mistakes, typographical errors and had mishandled a story about a fraternity's black cook in a September issue.

Both the SMU newspaper and yearbook are produced under the sponsorship of the Student Media Co., Inc. The media company is a non-profit corporation operating independently of the university. The company's board of directors, comprised of students and faculty members from SMU, are responsible for appointing student editors for the publications.

Student journalists and student media company officials speculated that there was a link between Caswell's prior review proposal and an October 31 announcement by the student government to renegotiate its bulk subscription to *The Daily Campus*.

The student government association had, in the past, paid \$37,000 per year to the Student Media Co. so that *The Daily Campus* would be distributed free on campus. According to Hyder, that payment translated to 3.5 cents, per student, per issue of the newspaper. The student government said it wanted to renegotiate

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The PRIOR REVIEW CONCEPT



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the contract with the Student Media Co., but by mid-April had failed to present a proposal.

"From our standpoint, this needed to be resolved three months ago," Hyder said. He said that if an agreement was not reached before the school year ended, the company would have to presume the bulk subscription arrangement was dead and begin making the necessary cuts in the publication budgets. He said plans to publish *The Daily Campus* during the school's first summer term were scrapped but publishing during the second summer term was a possibility.

Student body president Scott Gray said the contract was not renewed in order to review it on financial grounds. He said the bulk subscription issue and the threat of prior review were unrelated and coincidentally dragged

into the public arena together.

"I think it's unfortunate for both parties that we didn't talk about what was happening ahead of time," he said. "[Caswell] knew I was upset about the negotiations [over printing services with the Student Media Co.] and I knew he was upset about the yearbook picture, but we never talked about it until they showed up on the front page of the paper."

To add to the financial pressures facing the student publications the university began charging the media company for the use of campus space.

Before moving into the school's new student center three years ago, the media company received free space in another campus building whose construction it had financially supported. Hyder said they gave up the space with the understanding that they would be charged a nominal rent in the new

space. However, Hyder said soon after the move, SMU began experiencing severe financial problems and the newspaper became more aggressive in its coverage of the problems.

Hyder said the multiple threats against the student publications reflect the university's attitude of placing little value on a free student press.

"The sentiment [of some administrators] is 'if [student publications] want to be independent, let them pay for it,'" Hyder said.

"There's the perception that the student publications are not as sensitive to the image of the university as they should be, that they aren't good team players," he said. He and others involved regret that this perception has prompted many to ignore the fact that the media company is producing quality student journalism. ■

Dean seizes paper to protect school's image while 200 prospective students visit campus

NEW JERSEY—A university official apologized to students in March for confiscating *The Vector* student newspaper at the New Jersey Institute of Technology, but the damage had already been done.

William Anderson, dean of enrollment planning, seized *The Vector's* February 17 issue after staff members ran a front page headline, "Graduate student gets mugged" with a story about a campus robbery.

A week earlier, *The Vector's* front headlines read "Body found in boiler room." The story was about a man found dead, apparently from an overdose of drugs, in the basement of a campus building.

The Vector's editor Mark Budzyn said the administration panicked when they saw the headlines.

"I was on campus [two days later] and noticed the papers were missing from the bins," he said. "I went to the admissions office and made a big stink so they eventually brought a bundle [of papers] down."

During the same weekend, a crowd of nearly 200 high school seniors and their parents attended NJIT's open house and brunch, an annual event to attract prospective students. The students were a representative sample of "distinguished scholars"

from New Jersey high schools. The students were designated based on their Scholastic Aptitude Test scores.

After Budzyn met with the dean a day later, *The Vector* reported that by confiscating the papers, Anderson wanted to avoid "inducing anxiety or concern among the students and their parents."

Anderson reportedly said it was the goal of the administration to present the campus in the "most favorable light possible."

Anderson refused to comment on the situation.

After the confrontation Budzyn and managing editor Sarah Rees posted signs on the newspaper stands which read, "These school newspaper bins were emptied by the admissions department so you cannot see what really goes on."

The editor said the articles were written to alert students about walking campus grounds at night.

"This is important news," he said. "People heard rumors about the muggings and [campus] security tried to keep it quiet. There were a rash of muggings in the area and they weren't publicized. We need to let students know so they can be more cautious around campus."

A few hours after the visiting students left campus, the missing papers were returned to their bins.

Disagreeing with Anderson's move, Budzyn said the situation should have been handled differently.

"[Anderson] should have approached us before he took the papers and we might have worked something out," Budzyn said. "Actually the Dean's move was [admissible] under our old publication policy. But he violated the spirit of the policy."

The old policy, written in the early 1960s, says, "The editor accepts the responsibility for the paper and its contents. In no case can a representative of the University, whether a board or faculty member, have the implied or the expressed power of ~~prior~~ censorship."

In March, University president Saul Fenster, *The Vector's* faculty adviser Henry Weinfield and Budzyn signed a new policy similar to former version, but without the word "prior" before censorship.

Budzyn said if the situation presented itself he would print the stories on the front page again.

"It's our duty to report to students what's happening on campus," he said. "We're not a public relations publication. Students need to know what's going on."

Members of *The Vector* staff requested an apology from Anderson after the incident. Anderson complied with a note saying he would not take this type of action again. ■



Story on sex survey will run

INDIANA — A sexual survey distributed to students at Eastbrook High School unearthed censorship fears in the hearts of budding journalists when a member of the school board set out to stop the survey and the resulting news story to be published in the 1989 yearbook.

After reading an article printed in *USA Weekend*, a national magazine insert for the Sunday *Marion Chronicle-Tribune*, Eastbrook yearbook reporters decided to compare the sexual attitudes and standards of students at Eastbrook with national high school statistics published in the *Chronicle's* weekly insert.

Doris Kirkpatrick, yearbook reporter for *The Torch*, gathered information for the article using a sexual attitudes survey distributed randomly to Eastbrook students.

The survey addressed sexual topics relating to teen-age pregnancy with questions such as, "If a couple has been going together long enough, is it OK for them to have sex?" and "If you were unmarried and pregnant, would you consider an abortion?"

After reviewing the school survey, school board member Jim Hayes demanded the survey be "stopped."

"I'm opposed to a sex survey going into a school annual without seeing it first and knowing the facts," Hayes said.

"The principal of the school should have the responsibility for reviewing what is published," Hayes said. "It comes down to common sense and judgement. I think two heads are better than one to come up with a decision to print something or not."

Faculty adviser for the yearbook George Dicken said Hayes believes in censoring without muddying his own hands.

High school principal, Don Deemer, responded to the incident in a December memo to the school newspaper, *The Panther Beat*.

"If the result of the survey can be termed accurate... and if it has merit in assisting our community to understand [the]... teen-age pregnancy problem... my suggestion is that an article be published in the school newspaper rather than the school yearbook. My rationale is that the topic would be handled as a news item... as opposed to a chronicle recording successful student school achievements during a given school year, which is the mission of a yearbook. [This] decision would also end the righteous cry of censorship and the feeling that valuable news is being suppressed."

The principal received a copy of the final article before it was printed and approved its content.

After speculating that the sur-

vey might intrude on student rights to privacy, Hayes said he did not have a problem with the questions, but expressed concern for the confidentiality of the survey procedure. Students were asked to complete the questionnaires anonymously, but Hayes said it would not be difficult for other students to recognize unidentified students quoted in the story.

Senior student representative on the school board and yearbook staff member Matt Bennett said students were asked to fill out the questionnaires anonymously. Those surveys returned with names on them were not included in the research and discarded.

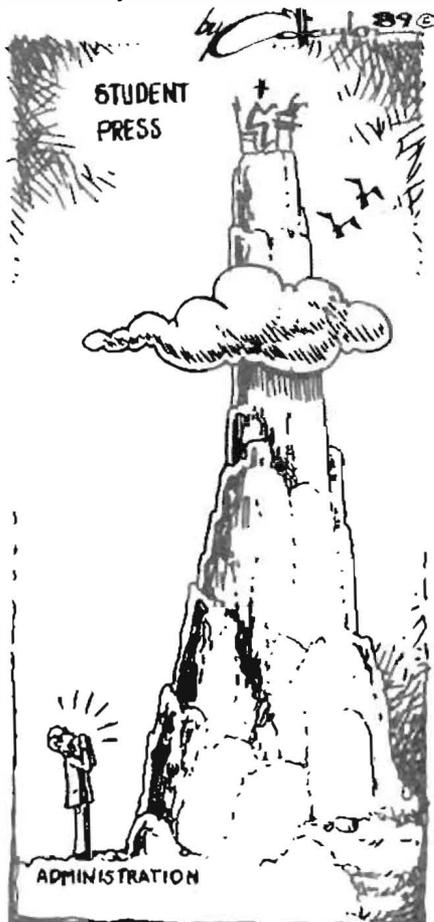
"[The surveys] should have been handled in a more private manner, like putting them in a confidential envelope for distribution with some kind of box to return them in instead of passing them hand to hand where anyone can read them," Hayes said. "They say they throw away the signed ones, but that's not going to stop anyone from pulling them out of the trash and reading them."

Kirkpatrick said the yearbook conducts surveys the same way each year and did not handle the sex survey differently because students did not consider its content "out of the ordinary."

"Unfortunately, the survey shocked Mr. Hayes," she said. "But he is not around school and doesn't have to face [sexual topics] everyday like we do. As far as [the yearbook staff is] concerned it was confidential."

In bringing to light the issue of Eastbrook's student pregnancy rate, students hope to reach an expanded audience by using the yearbook as an educational tool. But school board member Hayes doesn't agree with the method.

"We should provide the educational resources to address this



NOW, YOU CAN WRITE WHATEVER YOU WANT!

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Adviser kills cockroach story, senior newspaper staff revolts

WASHINGTON, D.C.—The final straw in an ongoing duel, a newspaper adviser at St. Albans School in Northwest Washington exterminated a cafeteria roach story from the student newspaper.

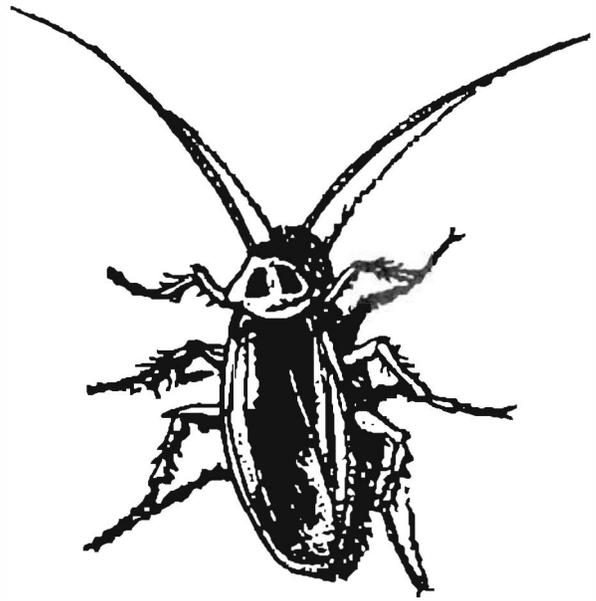
Wallace Ragan, newspaper adviser of *The St. Albans News*, censored an article in February when the paper prepared to run a story about a small visitor who joined Benjamin Quayle, son of Vice President Quayle, for lunch in a plate of chicken nuggets during lunch in the school cafeteria. The visitor was a roach.

Biard MacGuineas, editor of *The St. Albans News* said his adviser suggested they describe the roach as a "foreign substance." Instead, the staff used the term "cucaracha," a Spanish word meaning cockroach.

Headmaster Mark Mullin said the article was not fit to print at St. Albans, a prestigious private school next to the Washington Cathedral, and the story was censored. In the past, Mullin had blocked stories on school vandalism and parent complaints regarding math instruction, students said.

Mullin defended his actions as a "quest for good taste and sensitivity." Rather than calling the action "censorship," he said he made the restrictions hoping to set higher standards for the paper. Focusing his concerns more on reporting "within the standards of decency" he said he was not restricting aggressive reporting.

MacGuineas said the school was more interested in "engineering its reputation" instead of admitting to problems that needed to be resolved.



As a result of the incident, Mullin established a publication board for prior review of *The News*. After this, the entire senior *News* staff resigned, leaving the paper to juniors who did not join in the revolt.

Following the censorship, MacGuineas and other former *News* staff members unveiled a rebel paper at St. Albans called *The Independent*.

Mullin said he will not ban the paper, but *Independent* staff members will not be allowed to use St. Albans equipment.

MacGuineas said he plans to use personal computers and a laser printer to assemble *The Independent*.

The editor plans to contribute \$800 of his personal savings for the *The Independent* overhead and circulation. ■

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problem, not run something like this in the school annual," Hayes said. "A survey would be more appropriate in a periodical if it is to help people, not in a yearbook. Why don't they publish the story in the newspaper? I would think it would reach more people that way."

Hayes' complaint prompted School Board officials to review current high school publication policies. School administrators would like to revise the guidelines and include a prior review committee for student publications.

The Board submitted a six-point position statement to the

administrators in which one point directed school officials "to develop a proposed policy alternative to open forum publications for consideration by the Board no later than June 1989."

"I have always maintained an open-door policy with [the administrators]," Dicken said. "They are welcome to come in anytime and make suggestions or just come see what we are doing. But they have to understand these are only suggestions."

Eastbrook principal Don Deemer has visited the newsroom twice since the survey incident, announcing each time that he was not there to censor. Deemer appeared amiable, making a few

suggestions for the paper during each visit, Dicken said.

To date, a rough draft of the article based on the student's sex survey has been submitted to Deemer and approved for publication.

According to Dicken, the article will appear in the September 1989 edition of *The Torch*. Board members hope to develop new policy guidelines by June. Revised policies should not effect the publication of the article, Dicken said.

"I might be transferred to a different position by that time, but my two new editors will be appointed by then and they'll push for the yearbook whether I'm there or not," Dicken said. ■

Young reporters challenge city police department in attempt to expose violations of student constitutional rights at parties

OHIO — Staff members of the Upper Arlington High school newspaper confronted the issue of journalism ethics after staging a party to gain information for a story in the Nov. 21 edition of the *Arlingtonian*.

Preparation for the article "Police versus Parties," began after several students reported that police had illegally entered their homes to break up parties suspected of involving drug or alcohol use.

"We had 14 complaints of police entering parties without prob-

permission they were violating search and seizure protections in the Fourth Amendment to the U.S. Constitution.

Police officers allegedly responded to the reporters with verbal abuse, saying they could do "whatever they wanted." After finding no evidence of substance abuse, officers issued several parking tickets to party-goers "apparently out of malice," Kister said.

The city attorney's investigation of the incident showed the officers followed "proper procedure, consistent with the law."

rights. We had a conflict over such actions around 1776," DePascale said.

Upper Arlington Police Chief Thomas Kulp said his officers, Sgt. Michael Brining and officer James Hamilton, entered the "opened storm door" to the home after seeing party members carrying "plastic cups of amber liquid" around inside. The liquid was discovered to be ginger ale.

After the event, Ohio State law professor Stan Laughlin told the *Arlingtonian* that the "plain view doctrine" comes into effect if, in the process of investigating a party, an officer can see illegal substances or actions inside the home. In that case it is legal to enter.

However, according to a 1987 Arlington Police Department memorandum on juvenile parties, the "plain view doctrine" occurs when "the police have made a lawful intrusion into the home and inadvertently discovered incriminating evidence." Also, "In order for evidence to be seized under the plain view doctrine, the police must show the initial intrusion was lawful, the discovery of evidence was inadvertent or the incriminating nature of the evidence was immediately apparent to authorities."

Claiming the event was a set up, Kulp said the police department was in the process of cracking down on teen-age drug and alcohol use in the city.

"The whole intent of the party was to lead us into that house," Kulp said. "The whole thing was a ruse and they did a good job. We've had no other complaint of officers acting inappropriately since we've started proactively pursuing parties."

Kulp's records show officers responded to 23 disturbance calls

We had 14 complaints of police entering parties without probable cause, but when we went to the police with our information, they declined to comment. We wanted to give the police the benefit of the doubt, so we held a non-alcoholic party to see what they would do.

Chad Kister
reporter

able cause, but when we went to the police with our information, they declined to comment and refused to show us their files," said Chad Kister, in-depth editor of the paper and author of the article. "We wanted to give the police the benefit of the doubt, so we held a non-alcoholic party to see what they would do."

On Nov. 11, Upper Arlington police officers responded to a caller's complaint of the loud party. The policemen approached the front steps of the house belonging to an *Arlingtonian* photographer whose parents were not home. Failing to knock, the police entered the party without permission, said Kister.

Reporters at the party, immediately identified themselves to prevent any "misrepresentation," then told the police officers that they were entering the house without

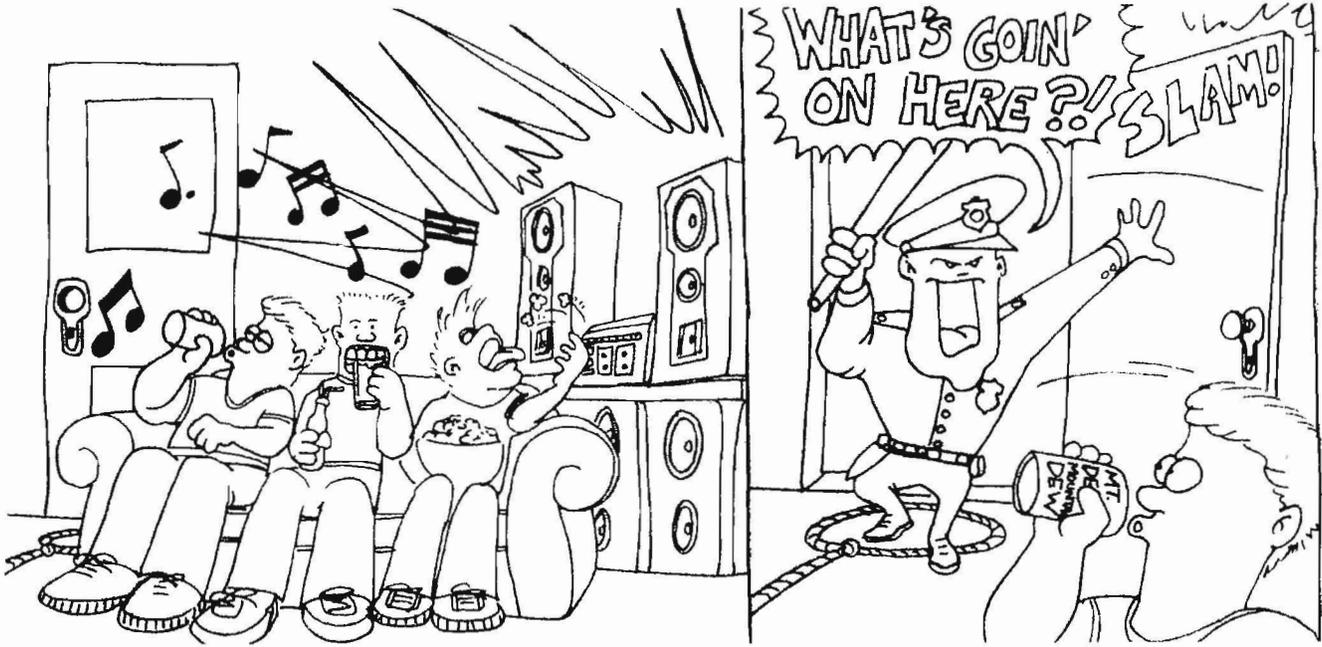
According to Ohio guidelines, officers may enter a residence without knocking when there is a possibility that evidence of criminal activity, such as alcohol or drugs, may be destroyed prior to the officer's admittance.

But Upper Arlington Attorney Vincent DesPascale pointed out that "no law requires a citizen to allow police officers to enter their home unless such officer possesses and presents a warrant signed by a judge, or there is a crime of violence in progress, which will result in serious injury or death."

He also said Ohio law has no provision preventing a private citizen from establishing a scenario which provides the police with the opportunity to act professionally or to violate the citizen's statutory and constitutional rights.

"There is no excuse sufficient for the police to violate a citizen's

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in 1987, dropping to eight calls in 1988.

"In my opinion, these statistics show we are making a statement that our city will not be a haven where kids can drink and do drugs. We don't want the city to be known for that," he said.

Kister said the reporters felt students needed to let people know what police were doing. Figuring the public would ignore a student report to the local newspaper, *Arlingtonian* staffers reported the story themselves.

"The ethics involved [in staging the party] might be questionable, but it was our duty to report the story," Kister said. "No one else was going to [cover the story] and who is going to believe a bunch of teenagers anyway?"

Sarah Ortman, journalism teacher and faculty adviser of the *Arlingtonian*, said the aftermath of the incident has had a chilling effect on the school newspaper.

"The principal would like us to review the [school's] editorial policy and amend the policy to include prohibition of 'unethical' reporting, especially stories reporting legal activity, or reporting that would cause potential harm to students," Ortman said. "I'm afraid they want me to be a censor."

A clause in the Upper Arlington student handbook states, "The editor and co-editors of the school newspaper shall be responsible for the review of final copy under direction and control of the faculty adviser."

"I don't have a problem putting in a policy on reporting legally and ethically, but I have a problem with censoring," she said, "I would think I have good enough rapport with my students [that] they would listen to me and follow my suggestions."

Police officers in the Arlington District have since been instructed to avoid contact with Chad Kister, according to Upper Arlington Police Chief Tom Kulp.

"I don't agree with what he did [staging the party] and I explained this in two letters I wrote to Mr. Kister in response to his complaints of the incident," Kulp said.

The official complaints were for verbal abuse and violation of students' Fourth Amendment rights. Kister filed these with the UAPD.

Continuing to work with other *Arlingtonian* reporters, Kulp said he hopes the incident has not damaged the relationship between the police and the student paper.

"I don't think the [*Arlingtonian*] should suffer for one reporter being a little over eager to get a story," Kulp said.

Both sides involved in the case say it has been an "educational experience."

"You can't discount everything that comes out of the pen," Ortman said. "This [controversy] was an effective method [of reporting the story], but it's not how we should teach students to report. It puts too much focus on the press."

The case was resolved in January upon completion of the internal investigation into police procedure and the criminal investigation of the reporters' actions. Lacking evidence for the case, Kulp said the UAPD does not plan to legally pursue the incident.

The incident seems to have had a lasting effect on the Upper Arlington community. Kister said he believes the story has made a difference in police response to parties.

"We've been actively following the reports and find that no parties have been broken up since our party in November. That seems like dramatic data compared to one [party broken up] every two weeks to a month," he said. "It's been three months now, and there have been a lot of parties. I just hope the students won't have hatred for the police in the future for trampling on our rights." ■



Libel fears prompt student fires

MONTANA—An editorial criticizing an unnamed teacher at Missoula Sentinel High School went up in flames when staff and faculty adviser of the school newspaper decided to destroy the resulting copies.

Dave Severson, adviser of the *Konah* newspaper, said it was an "internal matter" where the students were afraid they were too close to libeling a teacher. Staff members voted to burn the papers fearing legal repercussions from the incident.

"According to school policy, students, by majority vote, must make the decision," Severson said. "The vote was deadlocked in a 6-6 tie, so I broke the tie in favor of burning them."

Severson said the editorial made false accusations against a teacher who apparently disciplined the student editor for "normal classroom behavior."

Students made the decision to destroy the issues after final copy had been returned from the printer.

"By then it was too late and I realized that the girl who wrote [the article] was close to overstepping the boundary of libel and simply out to satisfy a personal vendetta," he said.

Author of the article and editor of the *Konah* Julie Campagna thought the incident was "blown way out of proportion." She did not see the editorial as libelous and had it been her decision, she would have allowed the papers to be distributed.

"[The article] might have caused a few problems, but I didn't use his real name and I made his identity vague. I wasn't saying his skills were awful or that he was a bad teacher," she said, "It was just my opinion

that he was condescending to students."

After the staff voted to destroy the publication, Severson took the papers to his home where he burned them before anyone read the editorial.

"It appears that I censored [the students], but this was not censorship," he said. "It was a difficult situation, but I think my students handled it responsibly."

If the incident were to repeat itself, Severson said he would destroy the papers again.

"Next time I might not burn them, but I would definitely destroy them again," he said. "This isn't any type of *Hazelwood* case, which I was very opposed to. If I was ever in a situation where I was forced to censor, I think I would quit."

Campagna has since pulled her editorial column from the school newspaper. She said she stopped writing the column because "all of a sudden everyone made it seem bad."

"Every time I said something that criticized the school or school policies, a teacher or someone would come talk to me about it," she said. "A column is supposed to be critical, but teachers don't want direct attacks on the school, they just want to read nice articles on [noncontroversial] subjects."

The smoke has now blown over, but the unity of the *Konah* newspaper staff has been disrupted, Campagna said.

"So many of the students were split on the issue, but eventually we worked it all out," she said. ■

Students win battle for NCAA report

MINNESOTA—The Minnesota Court of Appeals has ordered University of Minnesota officials to release the results of an internal investigation into apparent violations of National Collegiate Athletic Association regulations.

In January, *The Minnesota Daily* filed a lawsuit to obtain the report, which focuses on the University of Minnesota men's athletic program, after the university refused to publicly release the results to the student newspaper.

University officials claimed the report was private and exempt from disclosure because it contained information gathered in the process of the investigation.

The comprehensive report, released in February, says the university violated numerous NCAA regulations over the past nine years. The product of an 18-month investigation by the university, the 900-page report details infractions involving the men's basketball and football programs at the University of Minnesota.

The three-judge appeals panel followed District Court Judge John Borg's decision allowing university officials to delete the names and distinguishing titles of individuals on the document as part of the release order.

Borg said in his ruling that if the university had conducted the investigation for legal action the report would have been confidential. Instead, the information was collected at NCAA's recommendation to aid the investigation.

According to court documents, the university athletic department came under "intense scrutiny" in 1986 when three members of the men's basketball team were charged with and acquitted of raping a woman following a University basketball game in Madison, Wis. The incident led to reports of "questionable activities" within the University's basketball program.

After the Madison incident the basketball team fell to pieces. The three players were discharged from the team and left school, several other team players were removed from the team for disciplinary offenses and coach Jim Dutcher resigned from his position.

Under orders taken from the NCAA, the regulating and supervising body of intercollegiate ath-

Hopefully the university has learned a lesson from this and will be more open when conducting future business.

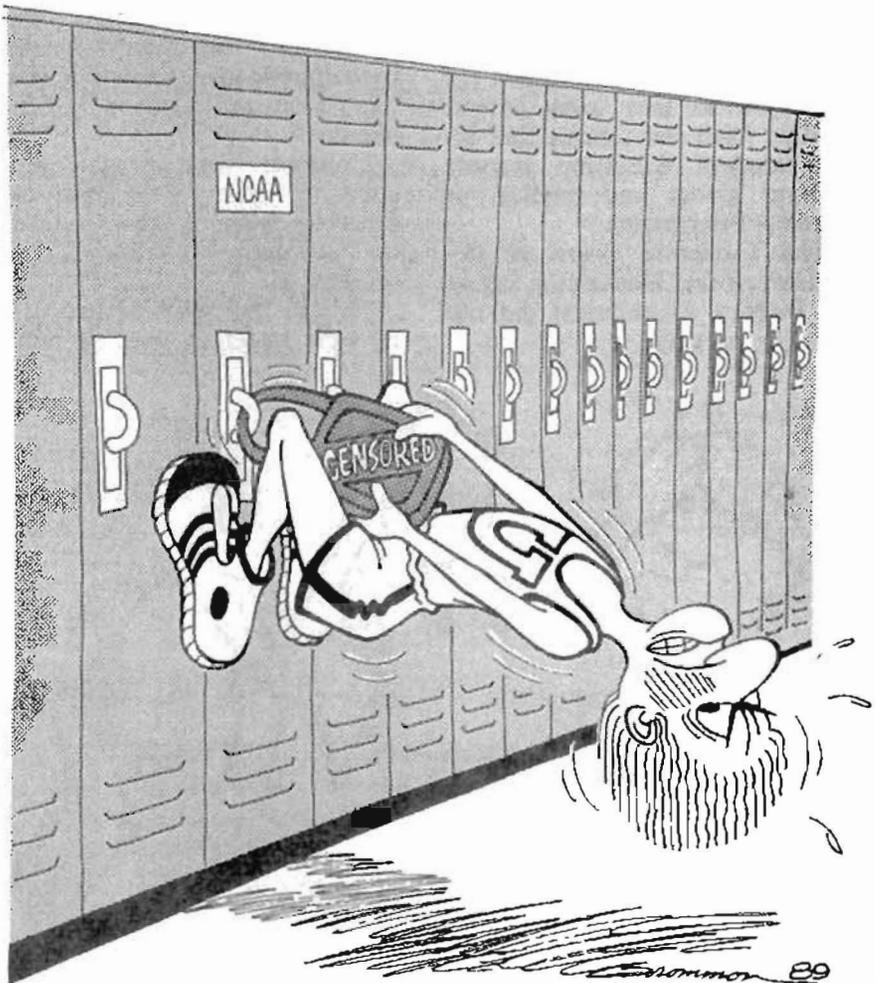
John Engen
editor

letic competition, the university directed a task force to conduct a comprehensive in-house review of the men's basketball and football programs.

Court documents said the report is "expected to form the basis for possible sanctions to be taken by the NCAA Committee on Infractions."

The Daily printed portions of the report in a February issue where students responded to the controversy. Editor-in-chief of *The Daily* John Engen said the court ruling is important to the public as well as the student newspaper.

"Hopefully the university has learned a lesson from this and will be more open when conducting future business," he said. ■



University officials must release security reports to student press

TENNESSEE—Censorship of campus security reports intended for release to student reporters was blocked in January after the State Board of Regents forced officials from Memphis State University to adhere to the state public records law.

In August 1988, the MSU Police Department began blotting-out the names of students on incident reports before releasing the records to *The Daily Helmsman*. This action came about after Katheryn Hookanson, legal counsel for the university, advised MSU administrators that the release of incident reports involving students was prohibited by the Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g.

This federal law, often referred to as the Buckley Amendment, allows the U.S. Department of Education to take away federal funding from institutions that reveal student education records such as grades and medical or financial information.

The Tennessee Board of Regents overruled Hookanson saying the Buckley Amendment did not apply in this case.

Terry Hollahan, managing editor of *The Daily Helmsman*, said MSU president Thomas Carpenter told him statements made on the security reports could be "defamatory" and if published, the newspaper could be held liable. But Hollahan believed a story printed in *The Helmsman* last spring sparked the censorship action.

The article reported a student's claim that she was raped by four MSU athletes in the athletic dormitory. The names of the four men, obtained from security reports, were published in *The Helmsman* although the woman did not bring charges against the athletes.

"I think [administrators] wanted to curb our accessibility to the reports to prevent similar incidents from being published," Hollahan said. "They didn't want this in the public light. Censoring gives them more control over incidents like this."

Hollahan wrote to state legislators to "raise a little dust" and called the Student Press Law Center for advice in reversing the censorship.

"It's in the rights of free press to view materials deemed public

record. To taint [the records] in any way, is to taint the press," he said.

Eventually reaching the board of regents in November, Hollahan told his story to a receptive audience. Siding with the students, the board ordered university officials to cease censorship of the reports saying the Buckley Amendment did not apply.

Legal counsel for the Tennessee Board of Regents, Mary Walker, said because of Tennessee's excessively "broad open records law," nearly all records are open to public examination, including the school incident reports. According to Walker, Hookanson's legal analysis of the Buckley Amendment was improper.

"It depends on the nature of the case," Walker said. "If it is an ongoing or pending criminal investigation, the report is considered confidential."

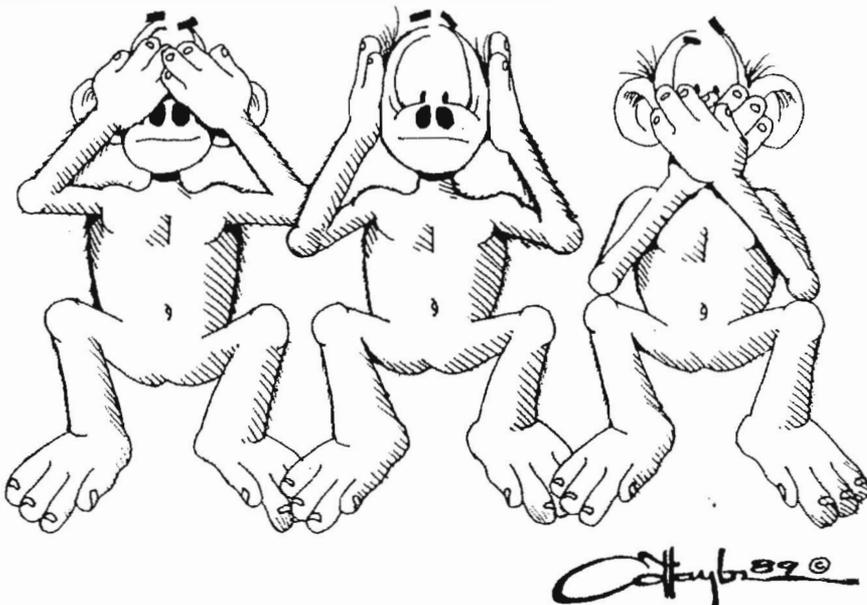
MSU students claimed victory over the controversy saying the incident has brought the administration to its feet in understanding First Amendment rights.

"I think the administration realizes that we have rightful access to these documents, however potentially damaging [to the school's image the documents may be]. The press has the right to make that decision [to publish]," Hollahan said.

MSU students are now allowed to see the campus security documents in their entirety.

Hollahan said he is still concerned about the university's control of the records.

"They still have an ace in the hole," said Hollahan. "They can still delay the dissemination of information by holding back documents marked 'ongoing investigation.' We aren't allowed to see those reports. The officials have to understand, you can't just tie [the media's] hands behind their back [because you think] they will make a mistake." ■



Kansas investigators scare photo editor hoping to get film

KANSAS—A student photojournalist claims investigating officers from the Kansas Bureau of Investigation and the Highland Community College Police Department “threatened to sue her” after she refused to hand over a roll of film she shot at the scene of a fire.

Victims of a college prank, several students from Highland Community College found themselves trapped inside a mid-January blaze that destroyed part of the Hampton apartment complex near the college. Residents doused the flames with fire extinguishers and no one was hurt.

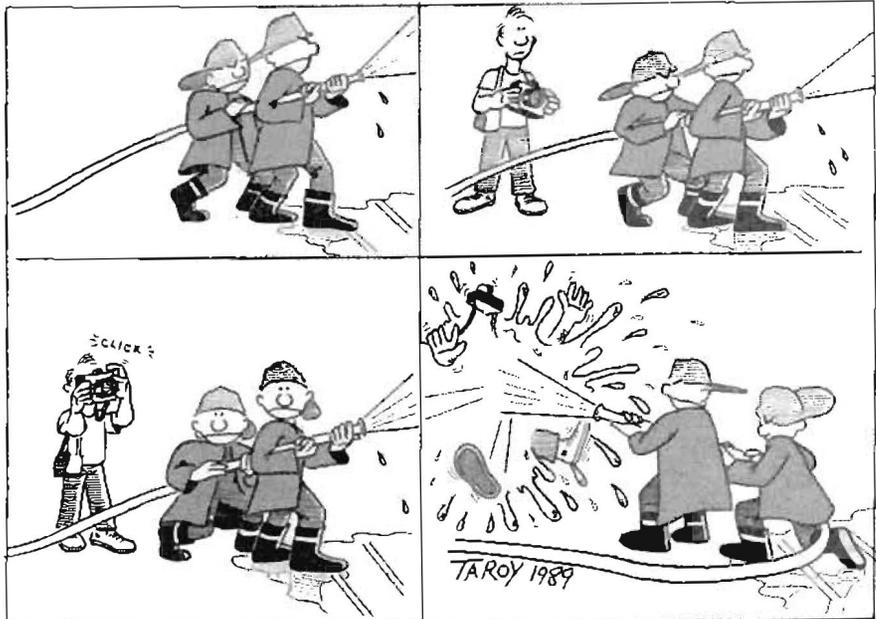
The fire started when several college students tried to ignite a cushioned armchair as a practical joke. After pulling the chair closer to the apartment building where it would be blocked from whipping winds, the prank-attempt proved futile and the students gave up. They abandoned the smoldering chair next to the brick building where it eventually sparked into flames. The flames traveled along the side of the building, burning a hole through the corner of one living unit.

Sonya Sperman, photography editor for the Highland Community College newspaper, *The Highlander*, and resident of the dorm-like complex, saw the smoke, borrowed a neighbor's camera and shot pictures of the raging fire. Her quick action brought *The Highlander* exclusive photo coverage of the incident.

Agent Duane Robert from the Kansas Bureau of Investigation and campus Police Chief Mike Ingwerson were called to the scene after students extinguished the flames. The officers were forced to rely on witnesses' reports for factual information after the majority of evidence was cleared away before they arrived, Robert said.

With knowledge of the film, the investigators confronted Sperman at her apartment two days later.

Sperman said the officers saw the camera in her apartment dur-



ing the interview and suggested she hand the film over to the KBI for investigation.

The photographer had given the roll of film to her newspaper adviser, Esther Gormley, for processing the day before. Sperman said she explained this to the investigators who refused to believe her. In a final attempt to obtain the film, Sperman said the men “deliberately used scare-tactics” when concluding the interview.

She said KBI agent Robert told her if she did not hand over the film, she or the newspaper could be “taken to court” for printing privileged information.

“I told them they could call Ms. Gormley about [the film], but they never did,” Sperman said. “If I would have had the film at the time I would have handed it over to [the officers], but I wasn’t real familiar with my rights as a photographer or a journalist. I thought they could really throw me in jail or something if I didn’t give them the film. I was scared and intimidated by their questioning.”

Claiming they had no intention of intimidating the photographer, agent Robert and Chief Ingwerson both said Sperman fabricated her side of the story. Robert said

neither he nor Ingwerson made threats toward the photographer during the confrontation.

“As an investigator I can ask for anything I want,” Robert said. “If [the person refuses] I have to have a court order. There was no big problem as far as we are concerned. I asked the girl for copies of the pictures or the film. It was a simple request. I think [Sperman] was just scared. As far as I’ve been able to glean, this problem is based on misunderstanding.”

Robert said he figured Sperman made up the story after seeing a similar incident on television.

Chief Ingwerson said he thought Sperman’s accusation were “ludicrous.”

“We did an easy going investigation because students are easily riled up here, but [the students] were trying to get a controversial story for the paper and win some kind of [journalism] award,” he said. “What they ended up printing was a loose report of what actually took place.”

During the phone interview, Ingwerson could not remember any specific examples of false information included in the *Highlander*’s story about the incident.

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Baylor books exempt

TEXAS—State Attorney General Jim Mattox ruled in December that Baylor University is exempt from the Texas Open Records Act and therefore is not required to release its list of approved textbooks to private bookstores in the city of Waco.

The ruling came about when State Senator Carl Parker asked Mattox to determine whether the private university could be classified as a public governmental body due to funding they receive from a state college grant system called the Texas Equalization Grant Program.

Mattox said the university is not wholly, or in part, supported by state funds simply because of the grant program. Instead, the ruling states that Baylor acts as a "conduit to pass the funds to the students."

Chairman of the Senate Education Committee, Parker requested the opinion when some of his Beaumont constituents who owned a Waco bookstore were unable to obtain an approved textbook list from Baylor University. ■

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Co-editor-in-chief of the *Highlander* Hope Swartz responded to the allegation saying the reporters covered the incident "accurately and fairly."

"We heard no complaints from any reader or anyone on campus about problems," she said. "We did receive compliments on the stories from people on and off campus and the faculty supported us. But we never heard from Ingwerson or the KBI after the stories ran."

KBI officials eventually received copies of the pictures from the Highland Community College Dean of Affairs. ■

Police seize students' film from double murder scene

CALIFORNIA—San Jose police officers confiscated video-tape footage of a police shoot-out from two Santa Clara University students who, while filming a story, witnessed a tragedy.

While taping a documentary on the homeless in January, Ellen Ankuda and Christen Murphy kept their camera rolling as they watched the fatal shooting of two police officers and a gunman in the parking lot of Winchell's Donut shop.

The student reporters were on assignment for a class project, taping a story on local transients and their experiences with police. During the filmed interviews, the spray of gunfire unexpectedly erupted in the parking lot.

San Jose police officers seized the student video as evidence in the killing of Gene Simpson and Dale Connors, the policemen slain in the incident. Although the tape does not show the deaths, it shows one of the officers darting among parked cars during cross-fire.

Without the permission of the students or SCU, the police department released the tape to the Law Enforcement Training and Informaton Network, a commercial training tape company in St. Louis and several local television stations.

From the student's brief footage, the network produced a video on handgun survival techniques and distributed the training tape to nearly 300 police departments across the country. The 30-minute film shows officers how to detect and deter suspects who might seize their guns.

John McManus, director of the SCU journalism department objected to the use of the tape and said the students were afraid that confidentiality promised to the homeless would be violated with the video's release. McManus said the subjects of the documentary were promised anonymity in freely discussing their experiences with police mistreatment.

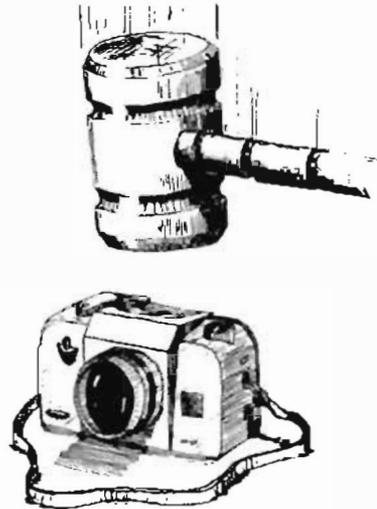
Lt. Dan Bullock, head of the police training unit said they respected the confidentiality and segments of the homeless were not copied. Credit at the end of the film, originally attributed to the police, will now be attributed to the university.

In February, police returned the original video to SCU officials along with a list of those who had received the tapes.

SCU sent letters to the subscribers informing them of the film's copyright protection with instructions not to use the tape without permission from the university, said Rev. Tom Shanks, chairman of the university's communications department.

Shanks said SCU does not plan to take legal action against the police or the video producer. Instead, the communications department and the police will conduct a seminar for journalism students and police officers to establish guidelines for obtaining copies of tapes in the future.

As a result of the incident journalism students this fall will be required to attend a discussion on reporters' rights before taking a camera out on the streets. ■



Adviser fights officials on free press grounds

CALIFORNIA — While the battle for First Amendment rights surges on, the ousted newspaper adviser at California State University, Los Angeles is making a stand fighting for student press rights.

Joan Zyda filed suit in March in U.S. district court, claiming university officials unlawfully terminated her in April 1988. Zyda is also charging the school with violation of her rights as publisher and advocate for student free press rights.

The award-winning CSLA student newspaper, the *University Times*, was recognized for excellence in collegiate journalism after investigative reporters covered the October 1987 earthquake which resulted in the death of one student and caused nearly \$22 million in damages on the CSLA campus. Zyda was publisher of the paper at the time.

The *Times* exposed several hazardous health and safety sites on campus after the quake and published a series of editorials criticizing University President James Rosser and his aides for impeding campus news gathering.

Peggy Taormina, former editor-in-chief of the *Times*, said the newspaper's coverage of the quake implied university negligence in allowing unsafe conditions to exist on campus.

The victim of the earthquake was killed by a collapsing slab of concrete that fell from the upper level of a parking structure. The family of the student filed a \$10 million wrongful death lawsuit against CSLA, soon after the *Times* covered the story.

Taormina said the university is blaming the newspaper for the lawsuit.

The *Times* reported a similar incident that occurred in 1976 when another cement block fell from the same building. University maintenance did not secure the concrete slabs until after the stu-

dent's death 11 years later.

Zyda, a former reporter for the *Denver Post*, *Los Angeles Herald Examiner* and *Chicago Tribune*, prided herself in inspiring aggressive in-depth reporting techniques among student reporters, but feels this contributed to her firing.

"The school thought we were being too negative in the earthquake coverage and ultimately discouraged investigative reporting," Zyda said. "[Administrators] tried to make changes in a short span of time."

Keith Hennig, Chairman of the Communication Department, to whom Zyda reported, said the dismissal was considered to be in the best interest of the university.

Zyda began working as a part-time visiting journalism professor at CSLA in 1984. After multiple requests from CSLA to return, Zyda was hired to serve as publisher for the *University Times* in 1987. Six months later, one month after the wrongful death lawsuit was filed, she was given the "blunt brush" and asked to leave before

the end of her one year contract.

"I don't ever want to forget it," Zyda said. "What [administrators] did to me and the paper was hateful and I'm taking steps against them."

Amazed at the improvements Zyda made in the paper, Taormina thought the publisher's termination was a mistake.

"Joan was fantastic. After seven years the paper hadn't won any awards," Taormina said. "In the short time Joan was there, we won seven statewide awards and two regional awards."

Former student editor Keith Jordan said the publisher "brought a lot of expertise to a paper that hadn't been there for years."

"The paper wasn't the same before she was there and hasn't been the same since," Jordan said. "She was the driving force behind the *Times* for the brief amount of time she was here."

When asked to speculate on reasons for Zyda's termination,

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\$1 million stink floats to court of appeals after dismissal

CALIFORNIA—Court officials dismissed a \$1 million libel suit in January for lack of substantial evidence needed to proceed with the case.

The \$1 million controversy over a detonated smoke bomb in a high school classroom was scheduled to drift to the California Court of Appeals this spring.

The claim is the result of a story covered in the Foothill High School newspaper *Inflight*. The article quoted two anonymous students who exploded a smoke bomb in teacher Larry Moyer's classroom in March 1988. One of the students quoted made derogatory remarks about Moyer's teaching ability, saying he was a "babbling" and "the worst teacher at FHS."

Moyer, a business and math teacher at the school, filed an official claim in May 1988, which said the story was "false and libelous," and that he suffered "harm to his professional reputation" as well as "humiliation, mental anguish and mental distress," as a result of the published article.

The case was presented in the Alameda County Superior Court in Hayward, where Louis Leone, attorney for the Amador Valley High School District, filed a motion for dismissal in February. The judge ruled the statements made about Moyer in the newspaper

were not actionable because they were based on opinion, not fact, and the case was dismissed.

Rita Rowland, Moyer's attorney, said she and her client will take the case to the California Court of Appeals. ■



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Jordan said he thought the administration did not appreciate the "seemingly new voice" of the paper.

"The administration was totally bent on trying to disparage our reporting saying we constantly covered negative news," Jordan said. "What they were doing was incredible. We came here to study our career objectives and when we tried to practice what we learned, the administration tried to tell us how to do our job."

Jordan said the current newspaper cannot compare to the *Times* he and his reporters knew in 1987-88.

"Under Joan we had more news on the front page, now you see more feature stories on the front page," he said.

Administrators are redefining the department of communica-

tions code that formerly identified the paper as both a laboratory experience and a public forum. New guidelines describe the *Times* specifically as a "laboratory experience." The publishers post was split into two positions: a publication manager and a faculty adviser. The publication manager answers to the adviser, who is responsible for prior review of all copy, according to Taormina.

The recent publication manager of the *Times*, Mark Haeefe, uncomfortable with the revised situation, said the administration has now pushed him "toward the rail." Haeefe was fired from his position at the *Times* on April 6.

"When they took Joan's job and split it in half, I don't think they really thought through the division of powers," he said a few days before his dismissal. "The position certainly isn't any easier

to be in. We're having the same problems Joan did."

Charles Simmons, the newspaper's adviser, said Haeefe was fired because he allowed too many errors, such as "misspelled headlines without verbs" to appear in the paper.

Zyda hopes her lawsuit will inhibit other school administrators from "tampering" with the school newspaper.

Barry Fisher, Zyda's attorney said administrators are "distorting the view of Journalism and freedom of the press" by exercising censorship control over student newspapers.

"Administrators that treat the student newspaper as a public relations tool and suppress it are doing a disservice to this country [and the readers of the publications that] students may someday write for." ■

Press coverage of *Hazelwood* lacking

By Bobby Hawthorne

Viewpoint is an occasional series written by those with a special perspective on problems faced by the student press. Bobby Hawthorne is director of the Interscholastic League Press Conference at the University of Texas at Austin.

On January 13, 1988, the United States Supreme Court ruled 5-3 in the *Hazelwood v. Kuhlmeier* case that school officials may censor student expression that is "inconsistent with its [the school's] basic educational mission." Although press coverage of the decision was extensive, few articles attempted to examine what Melvin Mencher, dean of the Columbia University Graduate School of Journalism, called "the significant constitutional, political and social consequences of the ruling."

In fact, the bulk of the coverage portrayed a "kids versus adults" theme, quoted experts who wondered if the decision might not be sending out a wrong message and then concluded with a shrug-of-the-shoulders in the form of "well, that's life in the real world." But these themes fail to address the concerns put forth by Mencher and by journalism educators writing in the professional journals.

Reporters failed to define the "basic educational mission of the school," did not examine the role of journalism in general and of the student publication in particular in the fulfillment of that mission and did not consider the effects that censorship might have upon the achievement of the mission. Finally, the ideological basis of censorship — who will censor, in what situations and to what end — was never discussed. In its place were juicy quotes from students like, "I think what it boils down to is that students are no longer citizens of the United States," found in the Tacoma, Wash., *News Tribune*. Such quotes do little to enhance the public's understanding of the crucial issues involved in student press censorship.

How the Press Covered the Decision: Next Day Reporting

It is easier to cover personalities than principles, conflict than issues. Thus, it is not surprising that the next-day coverage of the *Hazelwood* decision was laden with sports metaphors and virulent exchanges between the opposing parties to the detriment of those readers who might have enjoyed a reasoned explanation of what the decision meant. Because the reporting failed to portray the decision in an educational or philosophical context, the reader was left with the impression that the whole issue is much ado about nothing. So what if a principal tells a kid he cannot run a story on drugs?

Generally, the main coverage by the commercial press presented Justice Byron R. White's majority opinion, Justice William Brennan's dissent and case background and quotes from the respective attorneys. Often, the main story was accompanied by a sidebar to note local reactions.

News stories about *Hazelwood* from wire services or syndicated from the *New York Times*,

The reader was left with the impression that the whole issue is much ado about nothing.

Knight-Ridder or other media pools almost exclusively reflect the "students versus adult school official" theme. Reporters frequently quoted the contention of Jonathan Howe, president of the National School Boards Association, that many schools would not start journalism classes "because

now they can control activities within the school. Until now, school boards have been between a rock and a hard place. The concern was 'Are we going to be sued by the students or by the people they write about?'"

This contention went completely unchallenged, even though so far as anyone is able to determine, no published court decision has ever held a public high school financially responsible for libel due to content in a student newspaper.

Ivan Gluckman, attorney for the National Association of Secondary School Principals, was quoted as saying, "No reporter has an unfettered right to publish whatever he wants in the paper." This was the beginning of the "real world" theme — that all journalists are subject to censorship and that no one has the absolute right to see his or her opinions published. Though daily newspaper editorial writers and columnists sought desperately to relate the *Hazelwood* case to "the real newspaper world," such a comparison is invalid because no journalism educator has ever suggested that the student newspaper serves as a forum for any and all student expression. Content of student newspapers is filtered by student editors through a selection process that takes into account community standards, journalistic values, laws and ethics and the needs and expectations of the student audience. The "between a rock and hard place" may have made for interesting reading but was in reality a non-issue.

Sidebars stressed two themes: 1) that the decision would not have an immediate effect locally; and 2) that even so, it was a bad

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decision because it sent out the wrong message. Consider these two typical stories:

From the *Fort Worth Star-Telegram*:

Administrative censorship has never been a problem in the 21 years Phyllis Forehand has advised the Arlington High School student newspaper, and she doesn't expect yesterday's Supreme Court ruling to change that.

But Forehand and other Tarrant County journalism advisers are worried that the court ruling upholding a Missouri principal's right to censor will lead to more censorship than already exists on high school newspapers.

From the *Miami Herald*:

Many South Florida educators and students were dismayed by the Supreme Court's ruling allowing school officials to censor student newspapers, but most said they didn't expect it to have much impact in their schools. Dade School Board Chairman Michael Krop said he did not believe the decision would bring major changes in local policy.

"It is the definite feeling of the board that as long as whatever is printed is in good taste and done in a factual manner, there should be no censorship," Krop said. "The

board is willing to give students whatever latitude they need as long as they act responsibly."

These reports paint a skewed picture of reality. First, reporters sought for reaction quotes of advisers from schools with established journalism programs. These teachers have degrees in journalism, adequate funding for student publications, access to college-bound students and peers who find censorship repugnant. These programs exist primarily in large, middle class or affluent, suburban schools. Few schools have such comprehensive journalism programs. In most, the task of advising the newspaper or yearbook is given to the person lowest on the faculty totem pole.

Reporters sought out the "award-winning" programs and certified advisers for reactions. Quotes from non-certified advisers, many of whom were subject to censorship before *Hazelwood*, were conspicuously omitted. The fact that censorship and prior restraint were already a fact of life in most schools would have taken the edge off the stories.

It was of note that while advisers from the winning programs conceded that the decision may not precipitate drastic changes in their immediate situations, they

nonetheless predicted it would have deleterious effects on the whole of scholastic journalism. Yet reporters failed to pursue this angle. If the finest advisers at the best schools were apprehensive, how might the others have felt? Again, we don't know because the other advisers were not asked.

Nor did reporters seek comments from administrators who censored, although they represent the status quo. More than two-thirds of the principals responding to a survey conducted by J. William Click of Winthrop College and Lillian Lodge Kopenhagen of Florida International University believe that they should prohibit the publication of articles they deem harmful, even though those articles may not be libelous, obscene or disruptive.

This certainly isn't the image created of school officials by the press because reporters sought the comments from administrators who said they had not censored and would not censor in the future.

Take, for example, this story from the Lexington, Ky.,

Herald-Leader:

A day after the Supreme Court gave broader powers of censorship to high school principals, members of the Henry Clay High School newspaper turned in their articles for the January issue yesterday.

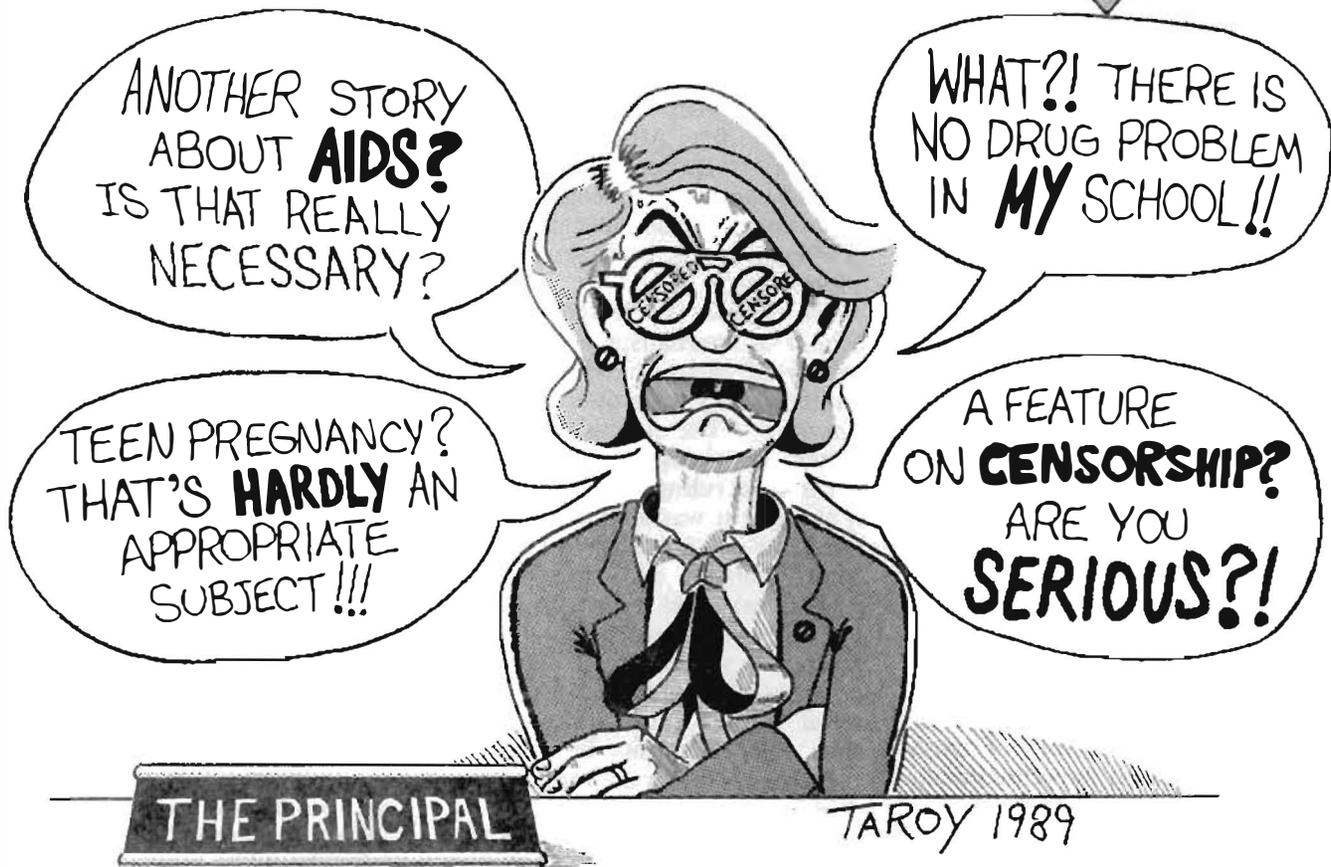
Down the hallway and up a flight of stairs, Principal Bill Hurt sat behind his desk and waited to read the stories. After they are published.

Like many other high school principals in Kentucky, Hurt said the high court's ruling would not change how he treated the student newspaper.

"I think the decision was correct," Hurt said, "but I don't plan to review the paper every month."

This story creates the false image of the administrator as benign dictator — one who holds the power to censor but who chooses not to wield it. The only story I found that approached the *Hazelwood* decision from a





editorial as a status quo angle was in the Bozeman, Mont., *Daily Chronicle*:

Bozeman-area high school newspaper editors say this week's Supreme Court ruling giving school administrators broad power to censor their work won't affect their papers much because they don't cover controversial topics that have gotten teen-age journalists in trouble elsewhere.

"Whatever happened to free speech?" asked Scott Wilson, editor of Livingston Park High School Geyser, whose article on alleged favoritism in the basketball program last year stirred up administrators.

There were threats (from the former principal) to get rid of the newspaper if we didn't stay away from controversial topics," he said.

Now, Wilson said, the Geyser staff "stays away from controversial issues" and their relationship with current Principal Vern Belfert is "great...."

Even here, the reporter did not ask why controversial topics

should be excluded. The principal in this case, Tom Fikani, told reporters, "I think it's a great thing (that the paper stays away from controversial issues). The student paper is not only read by people in the school but also people in the community." But this does not explain why he believes the issues should not be raised nor does it provide insight to the process of determining what is and what is not controversial. The system appears arbitrary and capricious, based either on the principal's personal ideologies and values or whim.

Another weakness of the coverage was the failure to identify the specific qualifications of the principal to serve as censor, although the point was raised by advisers, such as in this story from the *Indianapolis News*:

Most Indianapolis area high school journalists and newspaper advisers aren't worried that principals will begin trashing students' stories — even though the Supreme Court gave school officials

that power Wednesday.

But they are outraged by the high court's decision.

"I find the Supreme Court's ruling offensive because it takes away so much responsibility from the newspaper advisers and teachers of high school journalism programs," said Julile Kukolla, student newspaper adviser at Lawrence North High School.

"It ignores their responsibility of teaching honesty and fairness and other journalism issues and places the decision-making about student publications into someone else's hands."

Reporters did not ask administrators to spell out their qualifications nor to clarify under what circumstances they would censor. Reporters assumed that if and when censorship is inevitable, then it might as well be the principal who performs the dirty deed. Only Bob Richmond of the *San Antonio Light* — a school teacher who writes a weekly column — argued:

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Remember, future principals and superintendents score so poorly on the Graduate Record Exam that one of 95 career preferences indicated on the GRE questionnaire, school administrators, scores lower than 90 other careers. That ranking suggests that letting principals censor student newspapers is akin to having Third World countries design rocket ships.

In fact, reporters allowed school officials to deny that the Hazelwood decision contained free speech implications. The prevailing theme of administrators' comments was "this returns the curriculum to the control of the local district." A Toledo, Ohio, assistant principal told *USA Today*, "We consider the newspaper a part of our curriculum and we want to have control." Francis Huss, Hazelwood superintendent, told the *New York Times*, "It (the decision) reaffirms our position that the board of education has authority to establish curricula. The authority of boards of education would have been threatened if this case had been lost."

Threatens how? These statements beg for clarification. It would seem that a sincere journalism curriculum would require students to cover timely and relevant issues — divorce and teen pregnancy, for example. A language arts course should stress critical thinking skills. Yet when Hazelwood students attempted to analyze and interpret timely and substantive issues, they were censored. If it is the belief of school administrators that control is more important than the chaos that occasionally accompanies freedom of expression, then why didn't the reporters get someone on the record saying as much?

The fundamental question of the nature of censorship — again, who censors in what situations to what end — was not raised. Reporters allowed administrators to portray the issue solely as a matter of local control of curriculum without discussing the philosoph-

ical justifications for censorship. Mark Goodman, executive director of the Student Press Law Center, told the Alexandria, Va., *Journal*, "I certainly hope many schools continue to recognize how educationally unsound and morally offensive it is to censor student viewpoints."

Dr. Robert P. Knight of the School of Journalism at the University of Missouri wrote in the Summer 1988 issue of *Journalism Educator*, "The nation's editorial writers surprisingly applauded the Hazelwood ruling. They apparently thought it was a simple matter: Everyone has a publisher who can control content, and surely, in the school that must be the principal. Few, if any, remembered that in the public school, the principal is an agent of the government." Editorial writers must have gained this misperception by reading their papers' news accounts of the decision.

Another popular theme was the "wrong message" one. For example, Richard Schmidt, general

I certainly hope many schools continue to recognize how educationally unsound and morally offensive it is to censor student viewpoints.

Mark Goodman
SPLC Executive Director

counsel for the American Society of Newspaper Editors, told the *Chicago Tribune* that the decision means that students "can be instructed about the First Amendment, but they will not be able to practice it until they get out of school." Journalism adviser Paul Spadoni of Peninsula High School in Gig Harbor told the Tacoma, Wash., *News Tribune*, "You can't teach students about their inalienable rights in social studies and then deny them in journalism class."

Reporters did not pursue with vigor the fears of journalism teachers that administrators might create an authoritarian press whose purpose is to achieve a

unity of opinion and whose concern is not with facts but with dialectic. Although advisers repeated their fears that quality programs might fall to the wayside if a change of administration brought in principals unsympathetic to free speech issues, the reporters failed to understand that censorship is rarely a matter of legal codes or community standards but is instead an imposition of personal values and ideologies by those in power. After Hazelwood, school officials who believe a story should not be published can much more easily kill it. Dr. Louis Ingelhart, professor emeritus of Ball State University, told the Indianapolis *Star*, "This decision is going to make high school kids stand in line and not say anything, not write anything, not think anything. Controversy causes high school principals to turn purple. They might seize on this as a way to hide from the public what the school program is really about."

It is altogether likely that censorship will take place as school officials seek to promote smooth public relations at the expense of free inquiry. Censorship for the sake of convenience is perhaps more insidious than for ideological reasons, since it is based on fear rather than common sense. Carol Hallenbeck, a high school journalism teacher and chairwoman for the Freedom of the Press committee of the Southern California Press Association, told the Orange County *Daily Register*, "School administrators don't like high school newspapers exposing their warts. Principals concerned with PR or those who can't stand to be disagreed with will do everything to make student newspapers nothing more than a public-relations tool."

Questions Never Asked: The Failure of Hazelwood Coverage

The message of the Hazelwood decision and its subsequent coverage is that school officials would rather control than educate students, and that they fear the

slightest challenge to authority. At a time when educators universally agree that the thinking skills of high school students continue to plunge, the Supreme Court told those students who might wish to inquire, to challenge, to analyze and interpret, "It's okay to think but keep your opinions to yourself." The fear is that school officials will sterilize student expression. Consider this portion of a *Chicago Tribune* story:

(Hazelwood principal Robert Reynolds said he told a journalism class that the ruling would not change how the newspaper runs.

Reynolds says he has not intervened in the paper since Cheryl Stoller, the journalism faculty adviser, was hired after the lawsuit. Previously, he said, journalism advisers "were not the quality we'd like, and I was still requiring prior review" of issues until Stoller was hired.

Stoller is happy with the court decision. "I've always believed that freedom of the press extends only as far as ownership of the press," she said. "What we're talking about here is school control; that's what this whole ball of wax is about."

"I don't feel that we're limited," (Spectrum editor Tammy) Hawkins said. "Most kids in our school are not interested in controversial stuff anyway. They just want to see their names in print."

Stoller and Reynolds agreed.

A more intellectually bankrupt philosophy is hard to envision. Stoller also told the *St. Louis Post-Dispatch* that she had met with Reynolds to discuss a potential story on AIDS and that he had rejected the subject. "He said he was not ready for us to discuss AIDS," she said. This flies in the face of Surgeon General C. Everett Koop's insistence that sex education about AIDS — including discussion of homosexual relations — must start at the lowest grade possible. It also reinforces the comments of Kathy Kuhlmeier, who told the *St. Louis Post-Dispatch*, "We were trying to make a change with the school

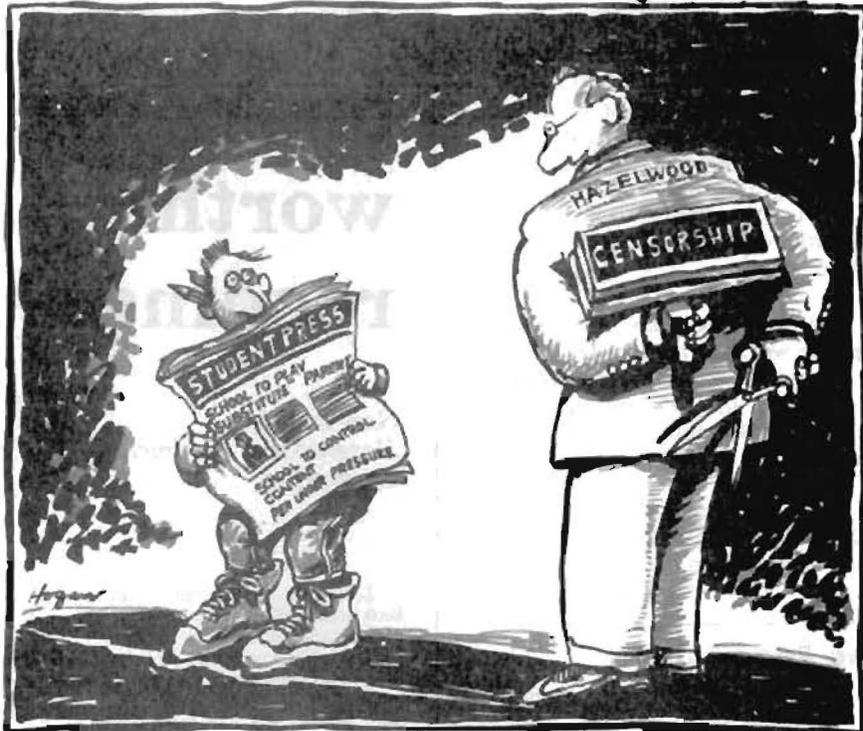


Illustration by Bill Hogan, *The Record*, Hackensack, NJ; Reprinted with permission from *The Bulletin of the American Society of Newspaper Editors*.

paper and not just write about school proms, football games and piddly stuff. I don't think the administration wanted anyone to know that there were problems in the school or allow us to tackle issues that had some relevance to the students."

In summary, except in rare occasions, coverage of the Hazelwood decision emphasized three themes: the kids versus adults theme, the wrong message theme, and the real world theme. I found no attempt by reporters to ask the crucial question: Who will censor, in what situations, and to what end? Discussions of constitutional rights or local control are peripheral to these central questions if we are to assume that school officials act in the best interests of student learning. But a case for censorship in a pedagogical context is never made.

Most disturbing about the coverage was the reluctance of reporters to press for clarification. Information (fears of censorship, and questions of authority and qualifications to censor) in direct quotes by advisers provided avenues for exploration but these

opportunities were ignored.

Based on the reporting of the decision, I can only conclude that the professional journalists did not read the stories in question, do not understand the objectives of journalism as a language arts course in the secondary curriculum, and do not appreciate the political, social and ideological consequences of censorship. Often the coverage smacked of condescension, as if it were impossible that the student press might, like the professional press, serve to inform, entertain and assist its readers in knowing truth through honest, objective, unrestricted inquiry.

The comments of one student, Cyrus Sadri, a German exchange student attending Henry Clay High School in Lexington, Ky., stand out. Sadri told the *Lexington Herald-Leader* that in Germany "we printed everything we wanted to print. Then I came here and we weren't allowed to print this and this and this. This country is supposed to be free. This is not freedom anymore."

It's a pity reporters covering Hazelwood didn't see this. ■

Internship opportunities with the SPLC are available during each semester and the summer for college and law students with an interest in student journalism. Interns write and produce the SPLC Report, handle requests for information on student press rights and assist the Executive Director by providing research and paralegal support. Interested individuals are encouraged to write for more information.

Drawings, cartoons and news tips are welcome and needed. Help us inform the scholastic journalism community by contributing your skills and information to the SPLC Report.

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The Report staff

Katy Shea is a May 1989 graduate of Colorado State University with a bachelor of arts degree in technical journalism. A native of Colorado, Katy plans to pursue a public relations career in Washington, D.C.

FRIENDS

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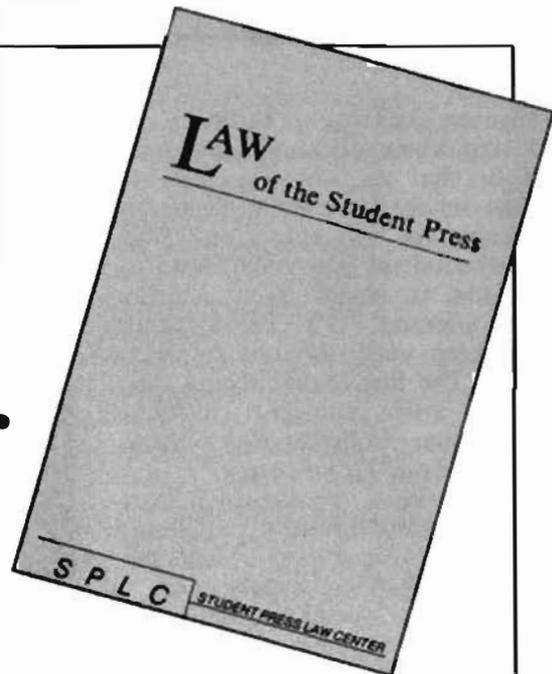
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