

A STUDY OF PRESS LAW  
IN HIGH SCHOOL JOURNALISM

by

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A MASTER'S THESIS

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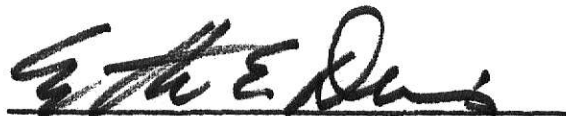
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## CHAPTER I

### INTRODUCTION

The First Amendment to the Constitution states that the United States of America has a free press. "Congress shall make no law . . . abridging the freedom of speech, or of the press." Some have argued that this is a provision for an utterly unrestrained press. Supreme Court Justice Hugo Black has said of the First Amendment, "It is my belief that there are absolutes in our Bill of Rights, and that they were put there on purpose by men who knew what words meant and meant their prohibitions to be absolutes."<sup>1</sup> Others, such as Justice Felix Frankfurter, have argued that freedom of the press is mitigated by responsibility.

A free press is vital to a democratic society because its freedom gives it power. Power in a democracy implies responsibility in its exercise. No institution in a democracy, either governmental or private, can have absolute power. Nor can the limits of power which enforce responsibility be finally determined by the limited power itself. In plain English, freedom carries with it responsibility even for the press; freedom of the press is not a freedom from responsibility for its exercise. Most state constitutions expressly provide for liability for abuse of the press's freedom. That there was such legal liability was taken for granted by the framers of the First Amendment that it was not spelled out. Responsibility for its abuse was imbedded in the law. The First Amendment safeguarded the right. . . . The public function which belongs to the press makes it an obligation of honor to exercise this function only with the fullest sense of responsibility. Without such a lively sense of responsibility

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<sup>1</sup>Harold L. Nelson and Dwight L. Teeter, Jr., Law of Mass Communications (5th ed. of Legal Control of the Press by Frank Thayer) (Mineola, New York: The Foundation Press, 1969), pp. 9-10.

a free press may readily become a powerful instrument of injustice.<sup>1</sup>

There are instances, of course, when the press is not responsible and the rights of individuals are set at odds with the press's right to free expression. Communications law scholars Harold L. Nelson and Dwight L. Teeter, Jr. have referred to these instances as "rights in conflict"—free expression vs. citizen's rights. In order to protect the rights of citizens, a body of common and statutory law has grown which is applicable to the press. It can be generally said in relation to press law that:

Everyone is both legally and ethically responsible for what he speaks, writes, and prints, and for such non-verbal expressions as taking part in parades, demonstrations, and sit-ins. If his action injures someone or damages property, he is responsible for the injury or damage. He can be required to compensate the injured person, or he may be fined or imprisoned if he has violated the law.<sup>2</sup>

This body of press law is applicable to high school newspapers and yearbooks as well as daily newspapers, magazines, books and other publications. As journalism educator Dwight Bentel says:

The school publication has the same responsibilities to its community, its readership, and to those about whom it reports, as any other. It has the same potential for good or evil, the same power to injure the individual. In the hands of immature or irresponsible persons it can be a pretty terrible thing.

Hence in the eyes of the law, the school publication (whether printed, mimeographed, dittoed, or a parody of some other publication) looks like any other.<sup>3</sup>

<sup>1</sup>William A. Hachten, The Supreme Court on Freedom of The Press (Ames: The Iowa State University Press, 1968), p. 12.

<sup>2</sup>Murvin H. Perry and Harold Van Winkle, "Agree on the Rules Before You Start the Game," Quill & Scroll, XLV (October-November, 1970), p. 24.

<sup>3</sup>Dwight Bentel, "Has Your Paper Ever Been Sued," a mimeographed paper from the Journalism Extension Services of The University of Wisconsin, (no date given), p. 1.

More succinctly, high school journalism textbook writers, Julian Adams and Kenneth Stratton, indicated that "school newspapers can be sued for libel, just as can daily newspapers,"<sup>1</sup> and journalist-attorney Dale R. Spencer says, "the student press has essentially the same rights and responsibilities as the mass media."<sup>2</sup> If this is the case:

It is important for all involved with student journalists to understand and appreciate the basic legal requirements that are involved in so-called communications law.<sup>3</sup>

The high school journalist finds himself in a strange situation indeed. A novice, he is thrust into the world of publishing and expected to live by the same rules as a professional. Samuel Feldman, a journalism teacher and former newsman summed up the situation well by saying, "scholastic journalism is a curious paradox of practice being the actual game."<sup>4</sup>

#### Statement of the Problem

The study of press law in high schools has become important recently because high school newspapers and yearbooks seem to be making a steady move away from the bland productions of yester-

<sup>1</sup>Julian Adams and Kenneth Stratton, Press Time (Englewood Cliffs, New Jersey: Prentice Hall, Inc., 1963), p. 263.

<sup>2</sup>Dale R. Spencer, "Communication Law: Fetter, Freedom . . . For Journalism," Communication: Journalism Education Today, IV (Fall, 1970), p. 14.

<sup>3</sup>Samuel Feldman, The Student Journalist and Legal and Ethical Issues (New York: Richard Rosen Press, Inc., 1968), p. 62.

<sup>4</sup>Ibid.

year which emphasised the positive side of school and avoided controversial issues. William G. Ward commented on this when he mentioned in the preface to his book The Student Journalist and Editorial Leadership that he "believes that the campus press today is vigorous, highly professional, more insistent on quality than ever before, and certainly much more independent and determined."<sup>1</sup>

One phenomenon which has prodded high school publications into a change of complexion is the underground press movement.

Until recently, the long-established campus newspapers enjoyed a monopoly. But now many schools are seeing the birth of new publications which regard the other campus papers as little more than controlled bulletin boards for coming events and sports scoreboards.<sup>2</sup>

The estimated number of high school underground newspapers has ranged from 500 to over 3,000.<sup>3</sup>

Another influence on high school publications has been the general tenor of the times.

The 60's in America teemed with a welter of great events, a horde of notable personages, all clamoring to catch the chronicler's eye. Negroes rushed forward to demand their rightful place in a society that claimed to be egalitarian and plainly wasn't; their gains during the decade were considerable, but the furies they loosed, both white and black, left America strained with a deeper sense of racism than ever before. The government plunged into a protracted war that awakened most Americans to the limits of their nation's power, immense as it had become, and persuaded many that it had been deployed with overweening arrogance. Assassination seemed to become a fact of political life: a President, a

<sup>1</sup>William G. Ward, The Student Journalist and Editorial Leadership (New York: Richard Rosen Press, Inc., 1969), p. 9.

<sup>2</sup>Jack A. Nelson, "The Underground Press," Freedom of Information Center Report No. 226, University of Missouri at Columbia, August 1969, p. 4.

<sup>3</sup>Robert J. Glessing, The Underground Press in America (Bloomington: Indiana University Press, 1970), p. 129.

a President, a Presidential candidate, the two most gifted leaders of the Negro struggle were all shot down. The young questioned, confounded and occasionally renounced the world their elders had built; the new generation increasingly sought wisdom along paths where the old saw only folly. Scientists probed both the vast distances of space and the minuscule mysteries of the living cell; human life was transported to the moon and traced to its fundamental sources in the gene.<sup>1</sup>

These pressures, among others, brought a liberalized trend to high school publications. Again Professor Ward comments:

In the 1960's there arose on many campuses a kind of libertarianism in which students insisted on their right to challenge the status quo before deciding whether to accept it. Activists fought for more flexible curricula; they broke down such gray-bearded traditions as lectures, professional distance, and the concept of in loco parentis. . . . They also fought for a campus press free from authoritarian controls.<sup>2</sup>

But even without this liberalization, the inherent problems of producing a publication require that advisers and staff members be aware of the legal implications of the content of their publications. Often in the role of adviser, the author has been asked by students, "Is this libelous?" or "Can we reprint this article?"

Therefore, the author has endeavored in this study to analyze (1) the teaching of press law in the high school situation and (2) the influence press law has on the content of high school publications.

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<sup>1</sup>"The 60's," Newsweek, LXXIV (December 29, 1969), pp. 12-13.

<sup>2</sup>Ward, op. cit., p. 120.

Specifically this study was designed to determine:

1. Whether high school advisers have had training in press law, and if so in what areas.
2. Whether press law instruction is included in the high school program, and if so to what extent.
3. The outcome of litigation brought against high school newspapers and yearbooks.
4. The extent to which suits brought against high school newspapers and yearbooks have been settled outside of court.
5. The extent to which high school newspapers and yearbooks have been threatened with litigation.
6. The extent to which items have been held from publication due to concern for legality.
7. The extent to which printers have refused to print items due to concern for legality.
8. The procedure used by advisers when they are concerned about the legality of an item submitted for publication.

This study is important to the field of journalism for a number of reasons. First, as discussed earlier, there is a liberalization trend in high school publications. Second, high school journalism programs are training grounds for future journalists. Third, the ever increasing population brings with it more high schools and thus more high school publications. Fourth, high school publications affect not only high school students but also parents and the community. And fifth, people are more litigation conscious than they have been in the past.



### Definition of Terms

(All definitions except the ones for "adviser" and "high school publications" are taken from Law of Mass Communications by Harold L. Nelson and Dwight L. Teeter, Jr. The definitions for "adviser" and "high school publications" were written by the author.)

1. Adviser--The faculty member of a high school who supervises the work on a student publication. In some schools he is referred to as "sponsor."

2. Common law copyright--A claim to literary or artistic property which is automatic and which lasts indefinitely until publication occurs.

3. Contempt of court--Interference with the orderly administration of justice.

4. Defamation--Communication which exposes a person to hatred, ridicule, or contempt, lowers him in the esteem of his fellows, causes him to be shunned, or injures him in his business or calling.

5. High school publications--Newspapers and yearbooks produced by students in grades 9 through 12 as classroom projects or as an extracurricular activity which is part of the school program.

6. Libel--Written or printed defamation.

7. Libel per quod--A communication which is defamatory when facts extrinsic to the communication make it damaging.

8. Libel per se--A communication which is defamatory on its face.

9. Malice--Communicating something with the knowledge that it is false or with reckless disregard of whether it is false or not.

10. Obscenity--Material which to the average person, when applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest and is utterly without redeeming social importance.

11. Privacy--This is the right of every person to be left alone; the right of a person to be free from unwarranted publicity. Also included is the right of an individual (or corporation) to withhold himself and his property from public scrutiny, if he so chooses.

12. Statutory copyright--A protection of manuscripts or other intellectual or artistic productions after publication.



## CHAPTER II

### REVIEW OF THE LITERATURE

Much has been written about press law and litigation involving the mass media of the United States. High school publications are subject to the same law as daily newspapers, magazines etc.; however, the situation is somewhat different.

The high school situation is unique in that, there is a convergence of juvenile law, school law, and press law.

Also, there has been a considerable amount written about press law and college publications. The concern of this study, however, is high school publications, and as will be pointed out later, the courts have treated college publications differently than high school publications. For these reasons the literature concerning college publications will not be reviewed.

Most of the study and writing relative to the law and high school publications have been in the area of press freedom or the applicability of the First Amendment to high school publications. Often this involves underground publications rather than school sponsored publications (which is the concern of this study) as well as modes of expression other than writing. One of these works is Robert Trager's paper, Freedom of the Scholastic Press: Landmark Legal Cases. Although the First Amendment is not the primary concern of this study, it is definitely related and deserves brief comment here.

There seems to be some disagreement among writers concerning the applicability of the First Amendment to the high school situation. Journalism educators Murvin H. Perry and Harold Van Winkle appear positive:

"The Constitutional guarantee of freedom of the press does not apply to a student newspaper because the newspaper is under the jurisdiction of the principal and the board of education." True or False?

The answer is False, of course, because the provisions of the U.S. Constitution do not stop at the edge of the campus or at the front door of the school building.<sup>1</sup>

Samuel Feldman does not agree: "Whether the First Amendment guarantee of freedom of the press extends to the public schools is still a moot point, but an interpretation may be forthcoming in the next decade."<sup>2</sup> Jean Stevens, an editorial assistant at the University of Missouri's Freedom of Information Center, also feels that "The courts have not yet determined the extent to which the First Amendment guarantees apply to student publications."<sup>3</sup> After researching the area, Trager concludes " . . . the right of students to be protected by the First Amendment of the United States Constitution, remains unsettled in the minds of students, teachers, administration, and judges."<sup>4</sup>

<sup>1</sup>Perry and Van Winkle, op. cit., p. 24.

<sup>2</sup>Feldman, op. cit., p. 17.

<sup>3</sup>Jean Stevens, "Student Press Revisited," Freedom of Information Center Report No. 260, University of Missouri at Columbia, April 1971, p. 1.

<sup>4</sup>Robert Trager, Freedom of the Scholastic Press: Landmark Legal Cases, a paper presented to the Association for Education in Journalism, August 17, 1970, p. 1.

College editors enjoy a freer hand than high school editors, for, as Stevens points out:

. . . student editors turn more frequently to the courts which deal with the cases on an ad hoc basis. It is these individual cases which reveal a trend toward the defining of academic press freedoms in somewhat the same light as that of the established press for college publications. However, high school journalism is often viewed differently by the courts.<sup>1</sup>

The reason for the different approaches to college and high school students is merely one of maturity. Trager found that "strong opinions have been expressed that high school-age students cannot be granted rights equal to those of college students or the general adult public."<sup>2</sup> Trager goes on to point out "it has also been said that 'it seems unwise to assume . . . that school children possess sufficient sophistication or expertise to distinguish "truth" from "falsity" . . .'"<sup>3</sup>

Changes are occurring in the courts' attitude toward First Amendment rights of high school students however. Tinker vs. Des Moines Independent Community School District was a landmark case. A group of high school and junior high school students were suspended for wearing black armbands to school in protest of the Vietnam war. The Supreme Court overruled the school officials on the grounds that prohibiting expressions of opinions

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<sup>1</sup>Stevens, op. cit., p. 1.

<sup>2</sup>Trager, op. cit., p. 25.

<sup>3</sup>Ibid., p. 26.

on public school campuses, unless it was shown that the opinions would cause disruption, is violative of the students' First Amendment rights. Trager pointed out that Tinker "dispelled administrative autonomy and recognized that students do have First Amendment rights."<sup>1</sup>

Although Tinker did not involve a publication, the rule about disruption applies to publications as well. Stevens offers an example:

In every major college case, the court decision has been favorable to the principle of a free student press. The high school press has not fared as well.

A three-judge U. S. Court of Appeals panel upheld the authority of school officials to censor student publications, but called for procedures that would clearly tell students what kind of material must be approved, and what degree of disorder must be expected to result from publication of the material before censorship is justifiable. Judge Irving R. Kaufman wrote a footnote to the decision, saying that similar censorship might be more inhibiting and less justified on university campuses.<sup>2</sup>

Another example points out that administrators may expell students as well as censor a publication if disruption has occurred or is eminent.

The U. S. Supreme Court has, in effect upheld a U. S. Circuit Court ruling which stated that students could be expelled from school only if their publication caused a substantial disruption of school activities or if evidence pointed strongly toward disruption.

The High Court made no comment on the case in refusing to hear an appeal by the Joliet Township, Ill. Board of Education. The board had originally expelled high school students

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<sup>1</sup>Ibid., p. 44.

<sup>2</sup>Stevens, op. cit., p. 6.

who criticized school officials in a publication. The U.S. Circuit Court in Chicago upset the expulsion last April.<sup>1</sup>

Stevens sums up the court's stand on First Amendment freedoms in the scholastic press in this way:

Although there are not enough cases on which to base a "last word" analysis of the prospects for campus press, the trend to date is a strong court stand in favor of free college publications and an unwillingness to cut off constitutional rights at the university or high school door.<sup>2</sup>

More important to this study than the abstraction of First Amendment rights is the practical question of who is liable in the event of litigation against high school publications. The publisher is usually the one facing the litigation, and in the high school situation, "legally . . . the board of education is the publisher of the newspaper."<sup>3</sup> Perry and Van Winkle<sup>4</sup>, high school publications adviser Sandra Grasinger<sup>5</sup>, and Feldman<sup>6</sup> agree. Perry and Van Winkle elaborate on the topic in this way:

<sup>1</sup>"High Court Upholds Student's Right To Publish Criticism," Newspaper Fund Bulletin, March-April, 1971, p. 5.

<sup>2</sup>Stevens, op. cit., p. 8.

<sup>3</sup>Laurence R. Campbell, "Censorship! Is It Necessary? Or Can It Be Avoided?" Quill & Scroll, XLV (October-November, 1970). p. 16.

<sup>4</sup>Perry and Van Winkle, op. cit., p. 24.

<sup>5</sup>Sandra Grasinger, "Avoid Censorship," Quill & Scroll, XLV (October-November, 1970), p. 10.

<sup>6</sup>Feldman, op. cit., p. 48.

The crucial question is this: Who is legally responsible when the student newspaper injures someone with an editorial or a column or a news story that is libelous? Or when the content of the newspaper invades privacy, interferes with the orderly processes of the courts, tends to incite riots, or comes in conflict with other legal restrictions on the press?

In a strict sense, everyone who had anything to do with the publication is responsible, but in practice only the publisher is held responsible; and the publisher of a school paper is the school or the school corporation. . . . Sponsorship is the key, no matter how nominal the support by the school. Even if the school provides only office space, or typewriters, a simple duplicating machine, or only the name of the school, responsibility accompanies that support.<sup>1</sup>

There is agreement, then, that the school district is legally the publisher of high school publications. Perry and Van Winkle suggest that the school district alone is liable in the event of litigation:

Thus, a suit for damages would be filed against the principal, or the superintendent, or the school board, as officers of the corporation—and not against the student editor or the student newspaper staff members.

Even if the student editor were named in a suit, the court would probably dismiss the complaint because the editor is not of legal age, or because he is not primarily responsible for the content of the newspaper, or both. From a practical standpoint, there would be little use in suing the student editor if he did not have the financial resources to pay a large judgment for damages—and few students are that wealthy.<sup>2</sup>

There is, however, disagreement on this point. "It is sobering for a student to learn that, not only may the school district be sued if the paper prints a libelous statement, but the student editor and student writer (or more likely, their parents) may also be sued."<sup>3</sup> Mr. John R. Higgins, attorney for the school

<sup>1</sup>Perry and Van Winkle, op. cit., p. 24.

<sup>2</sup>Ibid.

<sup>3</sup>Robert J. Sullivan, "The Overrated Threat," Quill and Scroll, XLV (December-January, 1971), p. 23.



district of Grand Island, Nebraska, indicated that the people closest to the publication of the unlawful material (the writer, the editor, and the adviser), would be the most likely defendants in a suit. Specifically, he offers the opinion that people who are in a first hand position, like to adviser, who have a proof-reading responsibility and fail to delete libelous matter can be held liable as condoning the libelous statement.<sup>1</sup>

The author concludes then, that anyone associated with the publication of high school publications is a potential defendant in the event of litigation. This would include the writer (or cartoonist, or photographer, etc.), the editor, the adviser, the principal, the superintendent, and the school district itself. However, litigation usually goes where the money is, and in the high school publications situation this often means the printer. As will be pointed out later, a yearbook publishing company has been the target of litigation at least twice.

Court decisions are difficult to find. John Hohenberg indicates that " . . . so many libel suits are settled out of court and so little is published or broadcast about them that it becomes a chore to compile precedents in this area of the law."<sup>2</sup> Feldman underscores this with the comment ". . . nearly all scholastic libel cases are settled out of court. . . ." <sup>3</sup> However, at least two cases may be cited.

One case took place in Newark, New Jersey. The suit resulted in a \$38,000 libel judgment against the South Orange-

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<sup>1</sup>Interview with John R. Higgins, School District Attorney, Grand Island, Nebraska, May 28, 1971.

<sup>2</sup>John Hohenberg, The Professional Journalist (Chicago: Holt, Rinehart and Winston, Inc., 1969), p. 320.

<sup>3</sup>Feldman. op. cit.. p. 15.

Maplewood Board of Education, the American Yearbook Co. and the yearbook's adviser, Robert Cuddy. The suit was brought by Robert Mele and his mother, and they contended that his junior high school yearbook in 1966 had described him in a derogatory manner. Mele received \$11,000 for loss of reputation and \$27,000 for mental suffering. He was vice president of his ninth-grade class when 340 copies of the yearbook were distributed.<sup>1</sup> The case involved libel per se.<sup>2</sup>

The other case which involved a yearbook published in Merrick, Long Island resulted in an out-of-court settlement. In reporting on the case, Feldman quoted The New York Times:

Mineola, L.I.--Sept. 25--A \$1,000,000 libel suit was filed in State Supreme Court here today on behalf of a 16-year-old former high school student who was allegedly ridiculed in her high-school yearbook.

The suit charges that a caption under a photograph of Irene Bickerton in the 1962 Pacer, the yearbook of the Sanford H. Calhoun High School in Merrick, was a false, scandalous, and defamatory statement.

The caption on Page 103 of the yearbook, which was distributed to the graduating class about June 12, said:

A soft, meek, patient, humble, tranquill spirit . . .  
Thomas Dekker--"The Honest Whore."

The line was from Part I, Act I, Scene II of the Dekker play, written in 1604. He introduced it as an epitomization of a gentleman.

The suit alleges that in the yearbook caption the meanings specifically intended to be conveyed were vicious, insidious, and calculated to injure and were the meanings which naturally would be given . . . and were given by persons who read them.

The defendants in the suit are the Board of Education of Central High School District 3, Anthony W. Yenerallo,

<sup>1</sup>"The Yearbook Staff and Libel," The Editor (official publication of Montana Interscholastic Editorial Association), September 1970, p. 2.

<sup>2</sup>"Adviser, Schools, Publisher Sued in Yearbook Libel Case," Newspaper Fund Bulletin, November, 1970, p. 4.



principal of Calhoun High School, and the American Yearbook Company, the publisher.

Miss Bickerton is seeking damages of \$750,000; her mother \$40,000; her stepfather, \$140,000; and seven other members of her family, \$10,000 each. . . .

Melvyn Altman of Germaise, Fretag & Altman, the law firm representing the plaintiffs, said about 500 copies of the yearbook had been distributed. According to a member of the school board, about half of the books were recalled and the caption was changed to: "Gentle of speech, beneficent of mind"--Homer, "Odyssey."<sup>1</sup>

The fact that American Yearbook Co. was named in both suits obviously adds the printer to the list of possible defendants mentioned earlier.

Another reason for the scarcity of judgments against high school publications was suggested by Higgins when he expressed the following opinion:

The law smiles on the young student who is writing, and realizes that he is an unpolished writer, and that he has a lot of youthful enthusiasm and very frequently his exuberance can break over into tying some nonfactual matters not realizing the proximate rules of what would happen by a misintentioned remark or an uncomplimentary remark which might have been made completely by accident and with a complete absence of malice. But the child wouldn't realize the consequences that statement, if printed, would have upon the subject of the person that was harmed by the said libel. And so for this reason the courts are very prone to award a fair comment attitude toward things which appear in the paper even though they don't have a semblance of truth behind them.<sup>2</sup>

Mr. Richard Seaton, attorney for Kansas State University, indicated that to some extent Mr. Higgins' statement might be true. However, Mr. Seaton quickly pointed out that "there is no immunity."<sup>3</sup>

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<sup>1</sup>Feldman, op. cit., p. 22.

<sup>2</sup>Higgins, op. cit.

<sup>3</sup>Interview with Richard Seaton, University Attorney for Kansas State University, Manhattan, Kansas, July 6, 1971.

So the possibility of legal action does exist, and because it does, writers have given counsel to high school publication advisers in dealing with it.

Lehigh University journalism professor Robert J. Sullivan says that "because there is always a danger of libel, obscenity or invasion of privacy, the competent adviser should examine copy before it is printed."<sup>1</sup> He also indicates that it would be in the interest of the school district to pay for an adviser to take a course in press law during a summer vacation.<sup>2</sup>

Although realizing that the high school situation differs from the college situation, Sullivan suggests that the method used at Lehigh University might be applicable to a high school situation.

Even though high school and university situations are not directly comparable, there may be something to be learned from the university paper that may be applicable to high school personnel.

A college or university with a journalism department is, of course, in a highly favorable position. At Lehigh, for example, many—although by no means all—of the principal editors are either journalism majors or have had courses in journalism. This is true, not because of any requirement, but because most editors are sufficiently interested in the subject to seek some classroom instruction.

In the classroom, they learn not only the techniques of writing and editing, but the laws covering publications of every kind. These include laws relating to libel, obscenity, invasion of privacy and other pitfalls awaiting the unwary publisher.

But this classroom instruction is the extent of faculty dabbling with the press. We are confident that, once students are shown an acceptable way of doing things and are exposed

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<sup>1</sup>Sullivan, op. cit., p. 24.

<sup>2</sup>Ibid., p. 23.

to the requirements of the law, they will be wise enough to keep out of trouble. True, a faculty adviser is either present or available by telephone on press nights, but he expresses an opinion only when asked.<sup>1</sup>

Dwight Bentel has written a paper specifically for the high school publications adviser faced with the constant potential problem of legality. He indicated that problems are likely to originate in one of six areas:

- (1) The Gossip Item
- (2) The "Razz" or April Fool Edition
- (3) Student Government--Student government is not legally considered government and therefore comments are not "privileged."
- (4) Criticism
- (5) Letters to the Editor
- (6) Yearbook Captions<sup>2</sup>

Concerning libelous letters to the editor and libelous quotations, Bentel says that "the paper is legally responsible for everything it prints."<sup>3</sup> He also discussed copyright, lotteries, and right of privacy in his paper.<sup>4</sup>

Although Feldman's The Student Journalist and Legal and Ethical Issues deals significantly more with ethical issues than it does with legal issues, it does contain an eighteen page chapter titled "Legal Restrictions." This chapter deals primarily with libel (including a short account of the 1964 New York Times Co. vs. Sullivan Landmark Supreme Court

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<sup>1</sup>Ibid., pp. 22-23.

<sup>2</sup>Bentel, op. cit., pp. 2-3.

<sup>3</sup>Ibid., p. 3.

<sup>4</sup>Ibid., pp. 3-5.

decision). Brief (about a page each) attention is given to privacy and copyright.<sup>1</sup>

With two exceptions, texts for high school journalism examined by the author offer only the barest essentials concerning law and the press. Most texts devote only one or two pages to the subject. Usually libel is defined, and occasionally, privacy and copyright are briefly discussed.

A text published in 1918 contained a four-page chapter on copyright and a two-page chapter on libel.<sup>2</sup> A text published in 1931 contained two paragraphs on "Law Affecting the Newspaper."<sup>3</sup> One of the paragraphs dealt with postal regulations, and the other with libel. Moving to a text published in 1963, Edmund C. Arnold and Hillier Krieghbaum's The Student Journalist offers one page on libel. This page discusses civil libel, criminal libel, actual damages and punitive damages; indicates provable truth as a defense against a libel charge; and mentions that a retraction might mitigate damages.<sup>4</sup>

In Student Publications Philip Schweickhard provides a short discussion of law, and says that " . . . the laws of libel apply

<sup>1</sup>Feldman, op. cit., pp. 75-93.

<sup>2</sup>Charles Dillon, Journalism for High Schools (New York: Noble and Noble, 1918), pp. 143-148.

<sup>3</sup>Thomas Cecil Morelock, School Newspaper Production (Columbia, Missouri: Lucas Brothers, 1931), pp. 46-47.

<sup>4</sup>Edmund C. Arnold and Hillier Krieghbaum, The Student Journalist (New York: New York University Press, 1963), p. 96.

in student publications."<sup>1</sup> Schweickhard also offers a short note on how to obtain copyright. In his book Yearbook Editing, Layout, and Management, C. J. Medlin included a number of paragraphs titled "Yearbooks Can Be Sued—for Plenty."<sup>2</sup> In those paragraphs Medlin quotes from Dwight Bentel whose paper was discussed earlier. Another high school journalism textbook, Journalism by William Hartman, describes libel laws as protection of the right of an individual to a good reputation.<sup>3</sup> Hartman cautions against the use of gossip items.

One of the exceptions in high school journalism texts is Press Time by Julian Adams and Kenneth Stratton. It includes a five page section titled "What Regulates the Press," and in those five pages discusses ethics, libel, privacy, censorship and copyright.<sup>4</sup> Adams and Stratton define libel as "a spoken or written statement which damages someone's reputation or exposes him to ridicule,"<sup>5</sup> and copyright as "author's or artist's right to control publication of his original work."<sup>6</sup> Concerning

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<sup>1</sup>Philip Schweickhard, School Publications (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1964), p. 227.

<sup>2</sup>C. J. Medlin, Yearbook Editing, Layout, and Management (Ames, Iowa: Iowa State University Press, 1966), p. 21.

<sup>3</sup>William Hartman, Journalism (River Forest, Illinois: Laidlaw Brothers, 1968), pp. 49-50.

<sup>4</sup>Adams and Stratton, op. cit., pp. 11-15.

<sup>5</sup>Ibid., p. 2.

<sup>6</sup>Ibid.

privacy they say, "newspapers cannot pry into a citizen's private affairs, but if he does something newsworthy he loses his right to privacy."<sup>1</sup>

The second exception is Journalism In The Mass Media by Norman B. Moyes and David Manning White. Included in a chapter titled "Editorial Writing" is a paragraph headlined "Libel Considerations in Editorial Writing" which contains a brief discussion of malice.<sup>2</sup> However, the primary portion of this text devoted to press law is included in a chapter titled "Social Responsibility of Journalists." Within that chapter is a section titled "The Pressures and Problems of Social Responsibility" with the topics discussed being:

1. The Meaning of the First Amendment
2. Legal Restraints (libel and slander)
3. Defenses Against Libel and Slander Suits<sup>3</sup>

Also in the chapter on social responsibility is a section titled "Guidelines for Covering the Courts" in which the free press—fair trial controversy is discussed. Included is a list of six items the Reardon Commission, an American Bar Association committee headed by Judge Francis Reardon, recommended withheld from crime stories.<sup>4</sup>

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<sup>1</sup>Ibid., p. 12.

<sup>2</sup>Norman B. Moyes and David Manning White, Journalism in The Mass Media (Boston: Ginn and Company, 1970), p. 287.

<sup>3</sup>Ibid., pp. 300-303.

<sup>4</sup>Ibid., pp. 309-310.

It is significant that all of these texts merely take press law as it applies to the mass media in general and place it in the high school setting. There is no real effort at making the law relevant to the high school journalist in his situation.

## CHAPTER III

### METHODOLOGY

The author decided that a mailed questionnaire to high school publications advisers would be the best approach to this study. The mailed questionnaire method was chosen because of the relatively minor expense involved, and because replies can be received fairly rapidly. It was further determined that the advisers receiving the questionnaire should be chosen by the random sample method.

#### Procedure in Selecting a Sample

The 1968 Directory of the Journalism Education Association was obtained by the author and it served as a mailing list. The Directory included the names and complete addresses of all JEA members in 1968, and with few exceptions, these members were high school publications advisers. After eliminating all the university professors, junior high teachers and professional journalists from the directory, the author was provided with a list of 1041 usable names and addresses.

This remaining list was numbered 1 through 1041 consecutively. By using a table of random units,<sup>1</sup> a list of 300 was

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<sup>1</sup>Samuel M. Selby (ed.), Standard Mathematical Tables (14th ed., Cleveland: The Chemical Rubber Co., 1965), pp. 252-257.



extracted from the 1041. Since JEA is a national organization, this list of 300 constituted a national random sample.

### Construction of the Questionnaire

The author constructed a questionnaire designed to determine the items listed on page 6 Chapter I. The questionnaire was written, submitted to the thesis committee for suggestions, rewritten, and resubmitted to the committee for criticism before the questionnaire was finalized. The questionnaire dealt with school size, the respondents training in press law, press law instruction in the respondents school, litigation and threats of litigation against the high school's publications, deletion of items from publication because of concern for legality, and procedure followed by the adviser when he questions the legality of an item. See appendix A-1 for a copy of the questionnaire.

### Mailing the Questionnaire

Since the mailing list was at least three years old, the author decided to address the questionnaires to "Journalism Adviser" rather than the name indicated in the directory.

Included with the questionnaire was a cover letter which, among other things, asked that the respondent have a conference with the other adviser if he was not the adviser of both the year-book and the newspaper. A copy of the cover letter is included in appendix A-1 with the questionnaire. Also included with the questionnaire mailing was a self-addressed stamped envelope for the purpose of returning the completed questionnaire to the author.

The 300 questionnaires were mailed to the publications advisers during the first week of April, 1971. During the third

week in April, a post card follow-up was mailed to the advisers who had not responded to that point. See appendix A-2 for a copy of the post card follow-up. Both the post card follow-up and the cover letter were signed by the author.

#### Further Inquiries

In addition to the questionnaire, information was sought by making inquiries with people and organizations the author felt might be helpful. Inquiries were made and replies received from:

1. Lester Benz, Executive Secretary of Quill and Scroll
2. C. J. Leabo of Texas A & M University
3. Richard Johns of The University of Iowa
4. William G. Ward of Southern Illinois University
5. Gene Harding, Executive Secretary of the Nebraska High School Press Association
6. John R. Higgins, attorney for Grand Island Public Schools, Grand Island, Nebraska
7. Richard Seaton, University Attorney for Kansas State University
8. The Newspaper Fund
9. National Scholastic Press Association
10. The Freedom of Information Center at the University of Missouri at Columbia

All the usable replies from these inquiries are included in Chapter II, The Review of the Literature.

## CHAPTER IV

### FINDINGS

Of the 300 questionnaires mailed to the random sample group, 174 (58 per cent) were returned. Six of the replies, however, were unusable. Two of the unusable replies were from situations where the high school had been phased out, two from high schools with journalism programs so recently initiated that the instructor declined to fill out the questionnaire, and two from junior high schools. This left a usable response of 168 questionnaires (56 per cent).

After reading the responses, it was determined that meaningful information might be added to the study by dividing the responses into categories based on school enrollment. The author employed the size classifications used by the National Scholastic Press Association in establishing the five school enrollment classifications as illustrated in Table 1. There were 31 responses in the 0-500 enrollment classification, 47 in the 501-1000 classification, 27 in the 1001-1500 classification, 34 in the 1501-2000 classification, and 29 in the over 2000 classification.

The results of the study will be presented in eight parts which correspond with the list of eight items the study was designed to determine as stated in Chapter I. In each case the findings will be viewed in total and in terms of the five classifications mentioned in the preceding paragraph.

TABLE 1

## CLASSIFICATION OF RESPONSES BY SCHOOL ENROLLMENT

| School Enrollment Classification | Number of Responses | Per Cent of Total Responses |
|----------------------------------|---------------------|-----------------------------|
| 0-500                            | 31                  | 18.4                        |
| 501-1000                         | 47                  | 28.0                        |
| 1001-1500                        | 27                  | 16.1                        |
| 1501-2000                        | 34                  | 20.2                        |
| over 2000                        | 29                  | 17.3                        |
| Totals                           | 168                 | 100.0                       |

High School Publications Advisers  
and Press Law Training

One question dealt with training in press law. The respondent was asked if he had taken a college-level course in press law. If so, the respondent was asked to indicate the number of credit hours he had earned, and the areas of press law studied in the course. If the respondent had not taken a course in press law, he was asked in an open-end part of the question to describe any other situation in which he had studied press law.

Table 2 shows the number of respondents who have taken a college level course in press law. The 0-500 enrollment classification had the lowest percentage with only one of 31 taking a college level course in press law. The larger schools, 1501-2000 and over 2000, had the largest percentage in ratio to the number of responses in their enrollment classification with

26.5 per cent and 26.6 per cent respectively. The totals indicate the 31 respondents (18.4 per cent) of the total 168 had taken a college level course in press law, and that 136 (81 per cent) had not. One respondent (.6 per cent) did not reply to the question.

TABLE 2

COLLEGE LEVEL PRESS LAW INSTRUCTION AMONG  
HIGH SCHOOL PUBLICATION ADVISERS

| School Enrollment Classification | Responses | Yes |      |     | No  |      |      | No Response |     |     |
|----------------------------------|-----------|-----|------|-----|-----|------|------|-------------|-----|-----|
|                                  |           | No. | %*   | %** | No. | %*   | %**  | No.         | %*  | %** |
| 0-500                            | 31        | 1   | 3.2  | .6  | 30  | 96.8 | 17.9 | 0           | 0   | 0   |
| 501-1000                         | 47        | 9   | 19.2 | 5.3 | 38  | 80.8 | 22.6 | 0           | 0   | 0   |
| 1001-1500                        | 27        | 4   | 14.8 | 2.4 | 23  | 85.2 | 13.7 | 0           | 0   | 0   |
| 1501-2000                        | 34        | 9   | 26.5 | 5.3 | 25  | 73.5 | 14.9 | 0           | 0   | 0   |
| over 2000                        | 29        | 8   | 26.6 | 4.8 | 20  | 70.0 | 11.9 | 1           | 3.4 | .6  |
| Totals                           | 168       | 31  |      |     | 136 |      |      | 1           |     |     |

\*These percentages indicate the ratio to the number of responses in the enrollment classification.

\*\*These percentages indicate the ratio to the total usable responses of 168.

Of the 31 respondents who had taken a college level course in press law, 20 took a three hour course, four took a four hour course, two took a six hour course, and one took a one hour course.

As shown in Table 3, all but one of the 31 had studied libel in his college course.

Five respondents indicated that they had studied areas of press law other than those listed in Table 3. These areas included social responsibility of the press, slander, radio, freedom of the high school press, fair comment, and privileged matter.

TABLE 3

## AREAS OF PRESS LAW STUDIED IN COLLEGE COURSES

| Area                  | Number of Respondents<br>Who Studied in the Area | %*   | %**  |
|-----------------------|--|------|------|
| Libel                 | 30   | 96.8 | 17.9 |
| Privacy               | 27   | 87.1 | 16.1 |
| Free Press-Fair Trial | 27   | 87.1 | 16.1 |
| Advertising           | 24   | 77.4 | 14.2 |
| Copyright             | 22   | 71.0 | 13.1 |
| Contempt              | 16   | 51.6 | 9.5  |

\*These percentages indicate the ratio to 31, the number of respondents who have taken a college course in press law.

\*\*These percentages indicate the ratio to the total usable responses of 168.

In an open-end part of the question, many respondents indicated that they had studied press law without having taken a college course specifically in that area. As a convenience in compiling the data from this question the author categorized these responses into five areas. The five areas included those who had studied law: (1) through reading books and periodicals on the subject; (2) as a part of a reporting or editing class; (3) as a part of a class taught outside the journalism depart-

ment; (4) in a journalism conference or workshop; and (5) through work experience on a newspaper. These categories are presented in Table 4. One respondent's study did not fit any of the categories in Table 4 however. This adviser is a licensed attorney.

TABLE 4

## ALTERNATIVE METHODS OF STUDYING PRESS LAW

| Method of Press Law Study                             | Number of Respondents Indicating Use of the Method* | %**  |
|---|---|------|
| Reading of Books and Periodicals                      | 31  | 18.4 |
| Journalism Conference or Workshop                     | 19  | 11.3 |
| Included in Reporting or Editing Class                | 17  | 10.1 |
| Included in a Class Outside the Journalism Department | 6   | 3.5  |
| Experience In the Media                               | 2   | 1.2  |

\*The total of the figures in this column cannot be considered the number of advisers indicating a study of press law in a situation other than a course specifically on press law. Some respondents indicated more than one method and other respondents who had taken a press law course also indicated one or more of the methods listed in this table.

\*\*These percentages indicate the ratio to the total usable responses of 168.

While only 31 (18.4 per cent) respondents had taken a college level course in press law, 85 (50.6 per cent) indicated at least some study of press law. These 85 include three categories: (1) 22 who had taken a course; (2) nine who had taken a course and studied press law in a situation other than a course



specifically in that subject; and (3) 54 who studied only in a situation other than a specific press law course. Eighty-two respondents (48.8 per cent) had not studied press law in any way.

#### Press Law Instruction in High Schools

Another question dealt with press law instruction in the respondents' high schools. Table 5 indicates the responses to the question, "does your school offer a course in which instruction in press law is included?" As with press law training among high school publications advisers, the 0-500 classification registered the lowest percentage of yes responses (12.9 per cent in ratio to the number of responses in the enrollment classification). The highest yes response was in the 1501-2000 classification (55.9 per cent). A total of 66 respondents (39.3 per cent) indicated that press law instruction was included in their schools. One hundred respondents (59.5 per cent) gave a negative response. Two respondents (1.2 per cent) failed to mark question number four.

In the event of a positive response, the adviser was asked to give the title of the course in which press law instruction was included, identify the areas of press law studied, and indicate the teaching procedures used in the press law unit.

With rare exception, the instruction in press law was included in a journalism class. Of the 66 positive respondents, 58 indicated that the instruction was in a journalism class. Other classes listed were business law, creative writing, law for youth, and commercial law. Four respondents did not reply to this portion of the question.

TABLE 5

## PRESS LAW INSTRUCTION IN HIGH SCHOOLS

| School<br>Enrollment<br>Classification | Responses | Yes |      |      | No  |      |      | No Response |     |     |
|--|-----------|-----|------|------|-----|------|------|-------------|-----|-----|
|  |           | No. | %*   | %**  | No. | %*   | %**  | No.         | %*  | %** |
| 0-500                                  | 31        | 4   | 12.9 | 2.4  | 26  | 83.9 | 15.4 | 1           | 3.2 | .6  |
| 501-1000                               | 47        | 19  | 40.4 | 11.3 | 28  | 59.6 | 16.6 | 0           | 0   | 0   |
| 1001-1500                              | 27        | 9   | 33.3 | 5.3  | 18  | 66.7 | 10.7 | 0           | 0   | 0   |
| 1501-2000                              | 34        | 19  | 55.9 | 11.3 | 15  | 44.1 | 9.0  | 0           | 0   | 0   |
| over 2000                              | 29        | 15  | 51.7 | 9.0  | 13  | 44.9 | 7.8  | 1           | 3.4 | .6  |
| Totals                                 | 168       | 66  |      |      | 100 |      |      | 2           |     |     |

\*These percentages indicate the ratio to the number of responses in the enrollment classification.

\*\*These percentages indicate the ratio to the total usable responses of 168.

The number of days spent in instruction in law of the press varied from a low of one to a high of 20. The various numbers of days spent in instruction are shown in Table 6. Indicating that the amount could vary a great deal, six of the respondents declined to indicate an approximate number of days spent on press law instruction. Three respondents did not reply to this portion of the question at all.

TABLE 6

## DAYS SPENT WITH PRESS LAW INSTRUCTION

| Number of Instruction Days | Number of Respondents |
|----------------------------|-----------------------|
| 1                          | 1                     |
| 2                          | 5                     |
| 3                          | 7                     |
| 4                          | 5                     |
| 5                          | 17                    |
| 7                          | 1                     |
| 8                          | 1                     |
| 10                         | 13                    |
| 12                         | 4                     |
| 15                         | 1                     |
| 17                         | 1                     |
| 20                         | 1                     |

Libel is the area taught most consistently according to the 66 respondents replying yes to question number four. As shown in Table 7, libel is included in 64 cases. Of the seven main areas, contempt is taught the least as it was indicated by only 14 respondents.

TABLE 7

## AREAS OF PRESS LAW IN HIGH SCHOOL INSTRUCTION

| Area                             | Number of Respondents Who Include the Area in a Press Law Teaching Unit | %**  |
|----------------------------------|---|------|
| Libel                            | 64  | 97.0 |
| Privacy                          | 48  | 72.7 |
| Copyright                        | 48  | 72.7 |
| Obscenity                        | 44  | 66.7 |
| Advertising                      | 39  | 59.1 |
| Free Press-Fair Trial            | 37  | 56.1 |
| Contempt                         | 14  | 21.2 |
| *Court Decisions                 | 3   | 4.5  |
| Slander                          | 2   | 3.0  |
| Responsibility of the Press      | 2   | 3.0  |
| Freedom of the High School Press | 2   | 3.0  |
| Radio and Television             | 1   | 1.5  |
| Censorship                       | 1   | 1.5  |
| School Administrative Policy     | 1   | 1.5  |

\*The last seven items were listed by the respondents in an "others" category while the first seven were on a check list. Multiple responses were permitted.

\*\*These percentages indicate the ratio to 66, the total number of respondents indicating press law was taught in their high schools.

The final part of this question concerned the teaching procedures used in press law instruction. Sixty-two of the

respondents use the lecture method, 35 give their students reading assignments, 17 invite guest speakers into the class, and four use films. A variety of books and periodicals were mentioned by the respondents in connection with the assigned reading portion of the instruction. Sources mentioned by the respondents were as follows:

#### Books

- Adams, Julian, and Stratton, Kenneth. Press Time. Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1963.
- Ashley, Paul P.. Say It Safely. Seattle: University of Washington Press. 1959.
- Coughlin, George G.. Your Introduction to Law. New York: Barnes & Noble, Inc., 1963.
- English, Earl, and Hach, Clarence. Scholastic Journalism. Ames: Iowa State College Press, 1950.
- Feldman, Samuel. The Student Journalist and Legal and Ethical Issues. New York: Richards Rosen Press, Inc., 1968.
- Gillmor, Donald M.. Free Press—Fair Trial. Washington D.C.: Public Affairs Press, 1966.
- Hohenberg, John. The News Media. New York: Holt, Rinehart and Winston, 1968.
- Levy, Leonard W. (ed.). Freedom of the Press From Zenger to Jefferson. New York: Bobbs-Merrill Company, Inc., 1966.
- Miller, Carl G.. Modern Journalism. New York: Holt, Rinehart and Winston, 1962.
- Moyes, Norman, and White, David Manning. Journalism in The Mass Media. Boston: Ginn and Company, 1970.
- Report on the Commission on Freedom of the Press. Chicago: The University of Chicago Press, 1947.
- Thayer, Frank. Legal Control of the Press, 2nd ed.; Brooklyn: Foundation Press, 1950.
- Ward, William G.. The Student Journalist and Editorial Leadership. New York: Richards Rosen Press, 1969.

Westley, Bruce. News Editing. Boston: Houghton Mifflin Co., 1954.

#### Magazines

Editor and Publisher

Quill

Scholastic Editor Graphics/ Communications

#### Other Sources

Dangers of Libel. New York: The Associated Press, 1969.

The 17 respondents who use guest speakers in their classrooms indicated three sources for these speakers. Eight respondents mentioned a local attorney, eight mentioned local newsmen, and one mentioned a university professor.

Although three respondents indicated the use of a film in their press law instruction, only one respondent gave the name and source of the film used. The film mentioned was "Freedom of the Press" borrowed from South Dakota State University, Brookings, South Dakota.

The respondents mentioned a number of teaching procedures other than lecture, assigned reading, guest speaker, and film. These other procedures included working one to one with students as they produce the publications, student reports, panel discussions, mock trial of a libel suit, and case studies of past suits.

#### Litigation Against High School Publications

The next question read "To your knowledge, has there ever been any litigation against your school newspaper or yearbook?" All 168 respondents replied to this question negatively. The

author decided not to use a table to present the findings of this question because of the 100 per cent negative response.

### Settlements Outside of Court

The findings of the following question were almost identical to those of the previous one. The question read, "To your knowledge, has there ever been a situation when an individual considering a suit against your school's newspaper or yearbook has accepted a settlement outside of court?" In this case, 165 respondents (98.2 per cent) replied negatively, and three respondents (1.8 per cent) did not reply. The author considers it a safe assumption that an out of court settlement had not occurred in the cases of the three respondents who failed to reply to this question. Again it was decided not to use a table because of the simplicity of the findings with this question.

### Threats of Litigation

The next question departed from the topic of actual legal action against a high school publication, and dealt with threats of litigation. The question read, "To your knowledge, have there ever been any threats of litigation against your school's newspaper or yearbook?" In the event of a yes answer, the respondent was asked to describe or quote the item which was the subject of the threat. As shown in Table 8, 12 respondents (7.1 per cent) indicated that there had been a threat at their schools. 149 respondents (88.7 per cent) replied in the negative, and seven respondents (4.2 per cent) did not reply to this question. There was no significant difference among the school enrollment classification with one yes response from the 0-500,



1001-1500, and 1501-2000 categories; three yes responses from the over 2000 category; and six responses from the 501-1000 category.

TABLE 8

## THREATS OF LITIGATION

| School Enrollment Classification | Responses | Yes |      |     | No  |      |      | No Response |      |     |
|----------------------------------|-----------|-----|------|-----|-----|------|------|-------------|------|-----|
|                                  |           | No. | %*   | %** | No. | %*   | %**  | No.         | %*   | %** |
| 0-500                            | 31        | 1   | 3.2  | .6  | 30  | 96.8 | 17.9 | 0           | 0    | 0   |
| 501-1000                         | 47        | 6   | 12.8 | 3.5 | 34  | 72.3 | 20.3 | 7           | 14.9 | 4.2 |
| 1001-1500                        | 27        | 1   | 3.7  | .6  | 26  | 96.3 | 15.4 | 0           | 0    | 0   |
| 1501-2000                        | 34        | 1   | 2.9  | .6  | 33  | 97.1 | 19.7 | 0           | 0    | 0   |
| over 2000                        | 29        | 3   | 10.3 | 1.8 | 26  | 89.7 | 15.4 | 0           | 0    | 0   |
| Totals                           | 168       | 12  |      |     | 149 |      |      | 7           |      |     |

\*These percentages indicate the ratio to the number of responses in the enrollment classification.

\*\*These percentages indicate the ratio to the total usable responses of 168.

Two of 12 respondents replying positively to this question indicated that a threat had been made against both the newspaper and the yearbook at their schools. Of the remaining 10 respondents, eight indicated a threat against the newspaper and two indicated a threat against the yearbook. A total of four threats against yearbooks and 10 threats against newspapers were indicated.

All four of the threats against yearbooks involved pictures. Two of the threats involved a student's picture not appearing in the yearbook. One adviser explained that the parent of the student whose picture had been omitted took the matter as far as the school principal and superintendent and then dropped it. The adviser further explained that the student had his picture taken and submitted to the yearbook staff four months after the deadline for senior's pictures. The second case involving a picture not appearing in the yearbook concerned a student who got his picture taken, but his hair did not conform to school regulations. The student told the photographer he did not want his picture in the yearbook anyway. Later he changed his mind and his father threatened to get an injunction against distributing any of the yearbooks unless his son's picture was in it. The boy got his hair cut, had a new picture taken, the appropriate pages were pulled from the yearbook and reprinted, and the yearbook was not ready for distribution until the middle of the summer.

One of the threats against yearbooks involved a student who was not pleased with her picture. The adviser described the situation this way:

The Football Queen threatened to sue if we put her coronation prom picture in the yearbook. She didn't like the looks of her legs with her excessively short skirt. Her picture was taken at the dance at the time of her coronation. We did publish it. (It was the only one we had.) Nothing came of it.

The final threat against a yearbook was described by the adviser as concerning dress for senior pictures. No other details were given.

Of the 10 threats against newspapers, three stemmed from

stories, two from pictures, two from columns, one from a letter to the editor, one from an editorial, and one from a cartoon.

A part of one of the stories prompting a threat was quoted by the respondent.

Dave Minard learned the tricks of the trade at Bartleson's Funeral Home. He commented that he enjoyed working with people who don't talk back. The job was beneficial to Dave in that he enjoyed life more after his experience of working there. "I met some interesting people but at school several people complained about the smell on my hands." When Dave was asked if the program should be discontinued, he retorted, "Over my dead body!"

The respondent went on to explain:

What actually happened was that this was part of a story on a work study program, and the boy interviewed had never worked at the undertaking parlor at all. The undertaker was very upset, but because he is on the school board, did nothing but give us a bad time for a day or two.

Another threat stemming from a story concerned a football player who had been hurt. The adviser indicated that the story quoted the player as saying he went to a hospital (the hospital was identified by name) and was sent home. The next day internal bleeding began and he returned to the hospital and was admitted to surgery. Without supplying further specific information the adviser said the story implied that the hospital was negligent the first time.

The third of the three threats involving stories concerned a principal who took exception to an editorial concerning fire drills. He felt some of the facts were in error.

One of the threats involving a picture concerned a boy with shoulder length hair who was pictured in the paper without a caption. The boy posed for the picture willingly and liked it, but his parents disapproved. However, after receiving no encour-

agement, they dropped the matter.

The other threat stemming from a photograph involved a picture of boys smoking in the school parking lot. The picture was printed with a story on drug abuse problems. The adviser explained that the photographer didn't know the boys were not told of the intended use of the picture.

One of the threats growing from a column was described by the adviser as "very minor" and involved an inquiring reporter type column. The other was described as "subtle" by the adviser and concerned a column called "potpourri and grafitti" which contained some slogans of the left that some readers considered offensive.

The threat in connection with a letter to the editor involved a student response to a guest editorial, "Youth, Sex, and the Bible," written by Billy Graham. The adviser described the response as causing great consternation in the adult community of the city but gave no further details.

The threat stemming from an editorial centered on a quote by a city official who later denied what he said. The adviser noted that the statement had been "witnessed" and was denied because it earned some enemies for the official.

Finally, the threat involving the cartoon concerned a cartoon which was interpreted as ridiculing a political issue. The adviser gave no other details.

#### Deletion of Items Due to Concern for Legality

The following question dealt with the deletion of items from high school publications. The question read, "Have you ever

decided not to print an item in your newspaper or yearbook because you were concerned about the legality of printing it?" As shown in Table 9, 62 respondents (36.9 per cent) indicated that they had deleted items from publications because they were concerned about legality. One hundred and five respondents (62.5 per cent) said they had not, and one respondent (.6 per cent) did not reply to this question.

With 17 of 34, the 1501-2000 school enrollment category had the highest positive response with this question. The over 2000 category registered a 48.3 per cent positive response and the 501-1000 category a 38.3 per cent positive response. The 0-500 and 1001-1500 categories had the lowest positive responses with 22.6 per cent and 22.2 per cent respectively.

Unfortunately, the majority of the 62 yes respondents to this question elaborated very little on the items they deleted. However, on the basis of the information the advisers did provide, the author classified the reasons for deletion in eight categories. The classifications were made for the convenience of presenting the data and included the following categories: criticism, inappropriate humor, letters to the editor, copyright violation, gossip, obscenity, invasion of privacy, and miscellaneous. This breakdown is presented in Table 10.

With 23 instances of deletion, criticism heads the list of reasons for deleting material from publications. Thirteen of the deletions due to criticism involved criticism of school personnel. Examples include school board members being described as "incompetent" attacks on the incompetence and ineffectiveness of teachers, an article on the need for a band director who would employ more

modern methods than the present one, and a column called "Love Notes" which criticized the secretarial staff.

TABLE 9

## DELETION OF ITEMS DUE TO CONCERN FOR LEGALITY

| School Enrollment Classification | Responses | Yes |      |      | No  |      |      | No Response |     |     |
|----------------------------------|-----------|-----|------|------|-----|------|------|-------------|-----|-----|
|                                  |           | No. | %*   | %**  | No. | %*   | %**  | No.         | %*  | %** |
| 0-500                            | 31        | 7   | 22.6 | 4.2  | 24  | 77.4 | 14.2 | 0           | 0   | 0   |
| 501-1000                         | 47        | 18  | 38.3 | 10.7 | 29  | 61.7 | 17.3 | 0           | 0   | 0   |
| 1001-1500                        | 27        | 6   | 22.2 | 3.5  | 21  | 77.8 | 12.5 | 0           | 0   | 0   |
| 1501-2000                        | 34        | 17  | 50.0 | 10.1 | 17  | 50.0 | 10.1 | 0           | 0   | 0   |
| over 2000                        | 29        | 14  | 48.3 | 8.4  | 14  | 48.3 | 8.4  | 1           | 3.4 | .6  |
| Totals                           | 168       | 62  |      |      | 105 |      |      | 1           |     |     |

\*These percentages indicate the ratio to the number of responses in the enrollment classification.

\*\*These percentages indicate the ratio to the total usable responses of 168.

Seven of the deletions due to criticism included personal attack on persons other than school officials. Examples included "(boy's name): Hey Okie! You're a queer" and "(boy's name) is a dildo."

Two more of these deletions concerned comment of a political nature. One item deleted was, "If we don't get our asses out of Vietnam soon, we may lose them." The other involved a cartoon depicting United States planes bombing Vietnam. The caption to

TABLE 10

## REASONS FOR DELETING MATERIAL FROM PUBLICATIONS

| Reason                | Number of Deletions | %     |
|-----------------------|---------------------|-------|
| Criticism             | 23                  | 34.3  |
| Miscellaneous         | 19                  | 28.3  |
| Inappropriate Humor   | 6                   | 9.0   |
| Letters to the Editor | 6                   | 9.0   |
| Copyright Violation   | 5                   | 7.4   |
| Gossip                | 3                   | 4.5   |
| Obscenity             | 3                   | 4.5   |
| Invasion of Privacy   | 2                   | 3.0   |
| Totals                | 67*                 | 100.0 |

\*The total is 67 rather than 62 because five respondents mentioned two instances of deleting material from publications.

the cartoon was a quote from a Chicago police chief concerning some Chicago bombings. The adviser explained, "the quote was something to the effect that the person responsible for the bombings was an insane psychopath."

The last deletion due to criticism involved comments concerning the questionable selection of referees for a basketball tournament.

Eight of the respondents placed in the miscellaneous category simply did not provide enough information on the questionnaire to effectively place them in another category.



Five of the responses in the miscellaneous category dealt with matters which were illegal in the state the paper was published. Two of the deleted items concerned abortion, another concerned draft counseling by an organization which was illegal in the state, another concerned a raffle, and the final one dealt with marijuana.

Two of the remaining deletions in the miscellaneous category concerned the naming of individuals in stories. One involved a story on drugs and the other involved what the respondent termed a "controversial issue."

Another two deletions in the miscellaneous category concerned comment which the respondents felt would be judged anti-American in their communities.

One of the final two involved a picture of a student in an unfavorable pose, and the other was a poem written by a parent in which she named the chief of police and other city officials as being responsible for drug abuse in the city.

Examples of the six deletions because of inappropriate humor included yearbook nicknames such as "Piggy" and "Maggot"; an item from an April Fool's issue which read "New books in the library: Dating for Fun and Profit, by (girl's name) . . . "; and items from a senior will and prophecy.

Five of the six letters to the editor deletions concerned school personnel. Teachers or administrators were accused of unprofessional conduct, negligence, or incompetence. The sixth respondent merely explained that unsigned letters to the editor were not printed as a matter of policy.

The five deletions due to copyright violations included the lyrics of a popular song, cartoon characters Snoopy and Dennis the Menace, and copyrighted pictures from magazines and record covers.

None of the three respondents who had deleted gossip items provided a specific example. Rather, they merely stated that gossip items had been deleted.

The three deletions due to obscenity involved two pictures deemed obscene (one of nude dead people) and one instance of obscene language.

The two respondents who deleted items because of invasion of privacy did not describe or quote the items, but merely indicated there had been instances of privacy being invaded.

Although the number of advisers responding yes to this question was 62, it is significant to note that twelve of them mentioned that they had deleted material several times because they were concerned about legality. One respondent described the instances as "too numerous to mention." Another indicated "perhaps many small, potentially libelous matters edited out all the time." And after quoting two specific instances another respondent explained:

There have been many such instances, there are only two examples of items rejected because of libelous implications. I have been teaching eight years and something like this comes up on an average of six times a year.

#### Printers Refusing Items Because of Legality

The next question dealt with printers declining to print items because they were concerned about legality. The question read "Has the printer of your newspaper or yearbook ever refused

to print an item because he felt it violated an area of press law?" Three respondents (1.8 per cent) indicated that this had happened at their schools while 163 respondents (97.0 per cent) indicated that it had not. Two respondents (1.2 per cent) did not reply to this question.

One of the items refused by the printer was quoted by the adviser. It read "(editor's name) was treated this morning to breakfast at Jack in the Box (a local restaurant) in honor of his glorious position. He will be back in school after he recovers from ptomaine poisoning." The adviser explained that the printer felt it was libelous to the Jack in the Box, and that she agreed. The second item concerned a story announcing a raffle. The printer evidently explained that the item could not go through the mail legally. The laws concerning lotteries, of course, vary from state to state. In the third case, the respondent gave no details at all; the question was simply marked yes.

Though they came short of actually refusing to print an item, two respondents indicated that their printers have been concerned at times. One adviser explained "He printed everything but has been nervous about some material." The other adviser commented, "The printer did question printing a photograph of the flag with printing over it—but he did it. He thought it illegal to 'write on the flag.'"

#### Procedure When Legality is Questioned

The final question dealt with the procedure respondents used when they question the legality of an item. The question read, "If you question the legality of an item which has been

TABLE 11

## PROCEDURE WHEN LEGALITY IS QUESTIONED

|   | Responses | %     |
|---|-----------|-------|
| Simply Delete the Item                      | 49        | 29.2  |
| Check a Reference Source                    | 11        | 6.5   |
| Consult a Person Knowledgeable in Press Law | 15        | 9.0   |
| Follow Some Other Course of Action          | 21        | 12.5  |
| Combination of the First Four               | 45        | 26.7  |
| Have not Been Faced With Situation          | 9         | 5.4   |
| No Response                                 | 18        | 10.7  |
| Totals                                      | 168       | 100.0 |

submitted for publication, do you: simply delete the item, check a reference source, consult a person knowledgeable in press law, or follow some other course of action?" In the cases of the last three choices, the respondents were asked to expand on their replies by listing the sources they use, listing the titles of the persons they consult, or describing the course of action they take.

As shown in Table 11, 49 respondents (29.2 per cent) of the total 168 simply delete the item. Forty-five of the respondents (26.7 per cent) employ a combination of the four alternatives provided on the questionnaire. Twenty-one respondents (12.5 per cent) follow some other course of action, 18 respondents (10.7 per cent) did not reply to the question, 15 respondents (9.0 per cent) consult a person knowledgeable in press law, 11

TABLE 12

## PROCEDURE WHEN LEGALITY IS QUESTIONED

| School Enrollment Classification | Responses | Simply Delete the Item |      |      | Check Reference Source |      |     | Consult one Knowledgeable In Press Law |      |     |
|----------------------------------|-----------|------------------------|------|------|------------------------|------|-----|--|------|-----|
|                                  |           | No.                    | %*   | %**  | No.                    | %*   | %** | No.                                    | %*   | %** |
| 0-500                            | 31        | 13                     | 41.9 | 7.8  | 0                      | 0    | 0   | 3                                      | 9.6  | 1.8 |
| 501-1000                         | 47        | 17                     | 36.1 | 10.1 | 6                      | 12.8 | 3.5 | 5                                      | 10.6 | 3.0 |
| 1001-1500                        | 27        | 5                      | 18.6 | 3.0  | 1                      | 3.7  | .6  | 1                                      | 3.7  | .6  |
| 1501-2000                        | 34        | 9                      | 26.5 | 5.3  | 2                      | 5.9  | 1.2 | 3                                      | 8.7  | 1.8 |
| over 2000                        | 29        | 5                      | 17.3 | 3.0  | 2                      | 6.9  | 1.2 | 3                                      | 10.3 | 1.8 |
| Totals                           | 168       | 49                     |      |      | 11                     |      |     | 15                                     |      |     |

\*These percentages indicate the ratio to the number of responses in the enrollment classification.

\*\*These percentages indicate the ratio to the total usable responses of 168.

TABLE 12 Continued Below

TABLE 12 Continued

| Follow Some Other Course Of Action |      |     | Combination Of the First Four |      |     | Have Not Been Faced With Situation |      |     | No Response |      |     |
|------------------------------------|------|-----|-------------------------------|------|-----|------------------------------------|------|-----|-------------|------|-----|
| No.                                | %*   | %** | No.                           | %*   | %** | No.                                | %*   | %** | No.         | %*   | %** |
| 2                                  | 6.5  | 1.2 | 6                             | 19.4 | 3.5 | 1                                  | 3.2  | .6  | 6           | 19.4 | 3.5 |
| 3                                  | 6.4  | 1.8 | 12                            | 25.5 | 7.1 | 2                                  | 4.3  | 1.2 | 2           | 4.3  | 1.2 |
| 9                                  | 33.3 | 5.3 | 4                             | 14.8 | 2.4 | 2                                  | 7.4  | 1.2 | 5           | 18.5 | 3.0 |
| 4                                  | 11.8 | 2.4 | 10                            | 29.4 | 5.9 | 4                                  | 11.8 | 2.4 | 2           | 5.9  | 1.2 |
| 3                                  | 10.3 | 1.8 | 13                            | 44.9 | 7.8 | 0                                  | 0    | 0   | 3           | 10.3 | 1.8 |
| 21                                 |      |     | 45                            |      |     | 9                                  |      |     | 18          |      |     |

respondents (6.5 per cent) would check a reference source, and 9 respondents (5.4 per cent) indicated that they had never been faced with the situation.

With the breakdown into enrollment classifications, Table 12 offers a more detailed presentation of the data compiled from question number 10. The 0-500 group leads the classification in simply deleting items when legality is questioned with 13 of 31 respondents (41.9 per cent). The 501-1000 classification is close behind in that category with 17 of 47 (36.1 per cent). The enrollment classification which solves the problem of an item of questionable legality with simple deletion the least is the over 2000 group with five of 29 (17.3 per cent). There is a relatively even spread of the enrollment classifications within the remaining procedures of dealing with an item of questionable legality.

The reference sources mentioned by the respondents included the books by Adams and Stratton, Ashley, Feldman, and Thayer listed on page 36 of this paper. In addition, the respondents mentioned the following other books they used as reference sources:

Nelson, Harold L. and Teeter, Jr., Dwight L.. Law of Mass Communications (5th ed. of Legal Control of the Press by Frank Thayer). Mineola, New York: Foundation Press, 1969.

Post, Homer A. and Snodgrass, Harold R.. News in Print. Rockleigh, New Jersey: Allyn and Bacon, Inc., 1967.

The people knowledgeable in press law whom the respondents check with when they question the legality of an item fall into six categories. Twelve respondents check with the school district attorney, 12 check with a local attorney other than the school district attorney, eight check with local newsmen, six check with

professional colleagues within the system, five check with a university professor, and two check their printers. This totals considerably more than the 15 indicated in Table 11 because 45 of the respondents indicated a combination of the four alternative choices in question number 10. Also, in some cases a respondent mentioned more than one person whom he might check with.

The other courses of action described by the respondents fell into four categories. Eighteen respondents discuss the matter with their administrators if they question the legality of an item. Thirteen discuss the matter with the student writer and explain why it is illegal. Five respondents check out the truth of the item submitted for publication, and three allow the editors of the publication to decide whether or not to publish the questionable item. These figures do not total the number given for "follow some other course of action" shown in Table 11 for the same reasons explained in the previous paragraph.

#### Press Law Course vs. No Press Law Course

A definite contrast between the respondents was that some have taken a college level course in press law and some have not. As pointed out in Table 2 page 29, 31 respondents had taken such a course, 136 had not, and one respondent did not reply to that question. These two categories (those who have taken a press law course and those who have not) were cross tabulated with three of the questions discussed earlier in this chapter. The questions used in the cross tabulation were the ones relative to press law instruction included in the high schools, deletion of items from publications due to concern for legality, and procedure used when legality is questioned (specifically, the simple deletion of an



item questioned).

As shown in Table 13, 21 of the 31 respondents (67.7 per cent) who had taken a college level course in press law include press law information in their instruction. Forty-five of the 136 respondents (33.1 per cent) who had not taken a college level course in press law include press law information in their instruction.

The percentages were quite similar in the last two questions which were cross tabulated. Of the 31 respondents who had taken a press law course, 12 (38.7 per cent) have deleted items from publications because they were concerned about legality. Fifty of the 168 respondents who had not taken a press law course (36.7 per cent) indicated that they had deleted items due to concern for legality.

When presented a list of four alternatives, ten of the 31 respondents (32.3 per cent) indicated that they use simple deletion when they question the legality of an item submitted for publication. Forty-nine of the 136 (36.0 per cent) use that method.

TABLE 13

## PRESS LAW COURSE VS. NO PRESS LAW COURSE

|  | Responses | Press law Information Included in High School Instruction |        | Respondents Who Have Deleted Items Due To Concern for Legality |        | Respondents Who Simply Delete Items When They Question Legality |        |
|--|-----------|---|--------|--|--------|---|--------|
|  |           | No.   | %      | No.  | %      | No.   | %      |
| Have Taken College Level Course In Press Law     | 31        | 21  | 67.7*  | 12   | 38.7*  | 10  | 32.3*  |
| Have Not Taken College Level Course In Press Law | 136       | 45  | 33.1** | 50   | 36.7** | 49  | 36.0** |

\*These percentages indicate the ratio to 31.

\*\*These percentages indicate the ratio to 136.

## CHAPTER V

### CONCLUSIONS

A number of points became obvious to the author as the findings of this study were analyzed.

The 0-500 enrollment classification is the only one of the five enrollment classifications to be significantly identified as different from the other four. This began to be apparent in Table 2 on page 29 with the 0-500 classification showing only 3.2 per cent of the respondents who had taken a college level course in press law. The next highest percentage was the 1001-1500 classification with 14.8 per cent.

The identification of the 0-500 classification became clearer with the information in Table 5 on page 33. This aspect of the study revealed that 12.9 per cent of the respondents in the 0-500 classification taught in a high school where press law instruction is included in the curriculum. Again, this was lower than the other four groups with the next highest being the 1001-1500 classification with 33.3 per cent.

The identification of the 0-500 classification was underscored by the information in Table 11 on page 49 where it was revealed that this classification had the highest percentage of respondents who merely deleted an item if there was a question about legality. This was the procedure indicated by 41.9 per cent

of the respondents. Six of the respondents in that classification did not reply to that question, which left only 38.7 per cent who had a plan, other than simple deletion, for dealing with the problem.

One can conclude that there is simply not the attention given to press law in the smaller schools as there is in the larger ones. It should be pointed out, of course, that none of the publications of the 0-500 size schools had been sued, none had experienced an out of court settlement, and none experienced a higher percentage of threats (as shown in Table 8 page 39) or deletions (as shown in Table 9 page 44). Thus, it cannot be said that this attitude toward press law necessarily breeds litigation or threats of litigation. Rather, the author would speculate that the passive attention given to press law is merely a byproduct of modest journalism programs in the 0-500 enrollment classification schools. The author would further speculate that the advisers in these schools are, in many cases, people with a minor interest in journalism and a major interest in another area. This would tend to compound and perpetuate the passive attitude toward press law.

One finding of this study was that 48.8 per cent of the respondents indicated that they had not studied press law. The author perceives two problems in situations where the adviser is unacquainted with press law. One, it is potentially dangerous for an adviser to be unaware of the legal consequences of a violation of press law. Two, when the adviser knows little or nothing about press law it is doubtful that his students will learn anything about the subject.

Another finding in this study was compiled from the results of the question related to press law instruction being included in high schools. It was indicated by 69.5 per cent of the respondents that press law instruction is not included in their schools. However, the author feels it may be assumed that some of these 100 respondents may teach press law to some extent in the day-to-day work on the publication. When Samuel Feldman's comment (quoted on page 3), "scholastic journalism is a curious paradox of practice being the actual game," is contemplated in terms of press law, it is important that the student receive some instruction in the area. Obviously, many students are not receiving that instruction and are playing the game while being ignorant of the rules.

Related to the topic of the preceding paragraph is one of the statistics revealed in the comparison of the respondents who have taken a course in press law with those who have not. It was indicated by 67.7 per cent of the respondents who had taken a college level course in press law that they include information on press law in their high school instruction. At the same time, 33.1 per cent of the respondents who had not taken a course in press law include press law information in their instruction. One would conclude that a journalism instructor who has taken a college level course in press law is more likely to include information on that topic in his instruction than one who has not taken a course in press law.

Some one-sided statistics in the study were those concerning litigation and out of court settlements. None of the 168 respondents indicated litigation or out of court settlements

involving the publications at their schools. Definitely, this means there are few suits against high school publications. Conceivably, this could be used as an argument for minimizing the concern for press law at the high school level. However, the author does not interpret the findings that way. No matter how seldom a suit against a high school publication may occur, the possibility does exist. The \$38,000 judgment in New Jersey, discussed in the Review of the Literature, is a reality. Also, the study of press law gives the student a better understanding of the media and its responsibility in society. Likewise, a study of press law will provide a more thorough concept of courts and the legal process. These last two concepts are certainly important for any American citizen—doubly so for prospective journalists. Finally, the study of press law will instill a firmer conception of the power of the press, and should serve, to some extent, as a guide to use that power maturely.

On the basis of this study, one can say that high school publications do not have a significant problem in the area of press law at this time. The possibility of a high school publication being sued is slim. This is borne out in the findings on litigation and out of court settlements and by the fact that only two cases were located for the Review of the Literature. However, litigation involving high school publications might well be a problem of the future. Significantly, the two cases which were mentioned in the Review of the Literature are relatively recent—one involving a 1962 yearbook, the other a 1966 yearbook. A factor which contributes to the possibility of more litigation in the future is the desire of students to make high school

publications more relevant and independent. This was discussed in the Review of the Literature also. This change in complexion might well make high school publications more likely targets for litigation; for in its effort to be relevant, the high school publication might move into dangerous areas. A wrong name on an athletic team line-up may go unnoticed, but a wrong name in a drug story may prove costly. Community citizens (or fellow students or teachers etc.) may well call an attorney in the event of malicious criticism. But this, of course, is speculation.

A recurring point which became evident while conducting this study was that many respondents were more concerned about taste, or prevailing community standards, than legality. A number of respondents commented on this point as they filled out the questionnaire. Five of those comments are quoted here:

1. Once in a while I have had to decide whether an item was in good taste (a very difficult task) but nothing more serious has cropped up—yet.
2. Legality is not a problem, but often good taste is.
3. Our decision not to print usually concerns a matter of good taste rather than legality.
4. The question that has arisen in my experience was in the area of "good taste" in regard to subject matter.
5. It's rarely a problem of deleting an item because we question its legality. In the past three years, I have twice insisted on items being rewritten or deleted because of poor taste, not legality.

The author concluded that in some cases community standards or the advisers' standards play a bigger role in what is printed in the school publication than does the actual legal limits on what may be printed. This was obvious even in the items respondents mentioned in threats of litigation and items which had been



deleted because of concern for legality. There was probably nothing actually illegal, for example, about the slogans of the Left in "potpourri and grafitti", or in the student's response to Billy Graham's editorial, or in accusing teachers of being negligent. However, these items were evidently the center of at least some degree of controversy and their legality was questioned. Such is the power of "taste."

One respondent went to great length to describe how the publications he advised were controlled by community standards. The following is a partial quotation of his comments:

. . . In short, many parents in my school district protest loudly if the public schools do not endorse: apple pie, mother, Spiro Agnew, Jesus Christ, National Rifle Association, police, Armed Forces, etc. These vocal "taxpayers" as they call themselves are ready and eager to enter the classroom and purge those educators who do not "behave", according to their actions.

The . . . high school newspaper, as a result of the above mentioned condition, has been afraid to print articles that suggest the conservative school board is remiss in some of its policies. We have avoided printing interviews with prominent politicians because of possible recriminations from various conservative "citizens committees." Our paper may not discuss population control for obvious reasons. We are in an ideological straight jacket. My young journalists are stifled, and yet our school paper along with others . . . has been called an "underground" or "Free Press" type of paper.

This adviser is probably so concerned about community standards that actual legality rarely enters his mind. Other advisers may be in basically the same situation because of community or personal convictions.

Finally, it is significant to consider the factors which might have affected the findings of this study. Controversy surrounding legality is probably considered "trouble" by most advisers, and some advisers may have been reluctant to mention or elaborate on their "troubles." Some of the items on the

questionnaire (especially questions three, four, and 10) may have been marked incorrectly by respondents to conceal an ignorance of press law. The questions may have simply been misunderstood. The respondents ignorance of press law may have caused him to confuse law with taste. It is possible that these and other factors may have served to bias the results of this study.

#### Recommendations for Further Research

The influence of prevailing community standards on the high school publications seems to be significant, and could be the topic of further study. One method of approaching this topic would be to determine the prevailing standards of a community and compare that standard with the content of the high school newspaper in the community.

This study would start with the researcher compiling a portfolio of story ideas, pictures, editorials, quotations from stories, headlines, and picture captions. It would be necessary for these items to range from ultraconservative to radical in tone.

The researcher would then select a number of communities to serve as subjects for this study. Ideally the communities selected would be diverse in size and in cultural make-up.

A number of people would be chosen from each community and asked to rate the compilation of items mentioned earlier. The items would be rated on a number scale ranging from 0 to 10 with 0 representing very poor taste and 10 representing very good taste. People asked to rate the items might include the journalism adviser, principal, student council president, and newspaper editor at the

high school. In addition, a minister, the chairman of the chamber of commerce, a women's club leader, the newspaper editor, and a number of randomly selected community residents could be asked to rate the items. Ideally, the researcher would personally administer the questionnaire to the subjects. The result would be a numerical representation of the taste in each community.

The researcher would follow with a content analysis of the newspapers in the high school of each community. The purpose of the content analysis would be to study the "taste" of the material appearing in the newspapers.

The conclusion of the study would be to determine the extent to which the content of the high school newspapers reflect the standards of the communities.

Another topic of further study would be a survey of high school journalism advisers inquiring about their teaching assignments. This would reveal whether advising publications is a major or minor part of these teaching positions.

A third topic would involve an investigation of the interrelation of school law, press law, and juvenile law. This would involve an intensive search of cases affected by these laws as well as, perhaps, a questionnaire sent to school attorneys.

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## APPENDICES



## APPENDIX A

## Methodology Information



Dear Journalism Adviser:

I'm gathering information for a master's thesis and I need your help. I would be appreciative if you would fill out the enclosed questionnaire, put it in the self-addressed, stamped envelope, and drop it in the mail at your earliest opportunity.

The topic of my thesis is law and the high school press. I am concerned with the relationship of press law to high school yearbooks and newspapers, and instruction in press law at the high school level. If you are not the adviser for both the newspaper and yearbook at your high school, please fill out this questionnaire in conference with the other adviser. Also, if a person other than yourself teaches a course in which instruction in press law is included, please include that person in the conference for filling out the questionnaire.

Research is needed in this area. High school editors and writers are striving for more freedom of expression and more latitude in the topics they write about. In order to best advise these ambitious young journalists, we must have a clear conception of press law and its relation to high school yearbooks and newspapers. I hope that my work on this thesis will assist in such clarification.

Again, I will certainly appreciate your help.

Yours truly,

Duane Obermier

## LAW OF THE PRESS STUDY

Name \_\_\_\_\_

School \_\_\_\_\_

School Street Address \_\_\_\_\_

City, State, Zip code \_\_\_\_\_

Name of Yearbook \_\_\_\_\_

Adviser \_\_\_\_\_

Name of Newspaper \_\_\_\_\_

Adviser \_\_\_\_\_

1. Is your school a three or four year high school? \_\_\_\_\_

2. What is your school enrollment? \_\_\_\_\_

3. Have you ever taken a college-level course in the law of the press?

\_\_\_\_ Yes      \_\_\_\_ No (if no, go on to question number 3c)

3a. How many credit hours did you earn in the class? \_\_\_\_\_

3b. What areas of press law did you study in the course?  
(check those which apply)

|              |                |            |
|--------------|----------------|------------|
| ____ libel   | ____ copyright | ____ free  |
| ____ privacy | ____ obscenity | press-fair |
|              |                | trial      |

\_\_\_\_ advertising      \_\_\_\_ contempt of court

\_\_\_\_ other (please specify) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_3c. If you have studied the law of the press in a situation other than the classroom, please briefly describe that situation. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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5. To your knowledge, has there ever been any litigation against your school's newspaper or yearbook? (If there has been more than one case, please answer 5a through 5i for each case. Add additional pages if necessary.)

\_\_\_\_ Yes      \_\_\_\_ No (if no, go on to question number 6)

5a. Did the litigation involve the yearbook or the newspaper? \_\_\_\_\_

5b. List the name and title of the plaintiff(s) involved.

\_\_\_\_\_  
\_\_\_\_\_

5c. List the name and title of the defendant(s) involved.

\_\_\_\_\_  
\_\_\_\_\_

5d. Describe or quote the item which was the subject of the litigation. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

5e. What was the date of publication of the item which was the subject of the litigation? \_\_\_\_\_

5f. What were the commencing and concluding dates of the court action involving the litigation? \_\_\_\_\_

\_\_\_\_\_  
5g. What is the official title of the court in which the litigation was conducted? \_\_\_\_\_

5h. What charge did the plaintiff(s) make against the defendant(s), and what settlement was asked? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

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Page 4

5i. What was the decision of the court? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. To your knowledge, has there ever been a situation when an individual considering a suit against your school's newspaper or yearbook has accepted a settlement outside of court? (If there has been more than one case, please answer 6a through 6e for each case. Add additional pages if necessary.)

\_\_\_\_ Yes      \_\_\_\_ No (if no, go on to question number 7)

6a. Did the incident involve the yearbook or newspaper?

\_\_\_\_\_

6b. Describe or quote the item which was the subject of the out-of-court settlement. \_\_\_\_\_

\_\_\_\_\_

6c. List name and title of the defendant(s) involved.

\_\_\_\_\_

\_\_\_\_\_

6d. List the name and title of the plaintiff(s) involved.

\_\_\_\_\_

\_\_\_\_\_

6e. Describe the settlement agreed upon. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. To your knowledge, have there ever been any threats of litigation against your school's newspaper or yearbook? (If there has been more than one case, please answer 7a and 7b for each case. Add additional pages if necessary.)

\_\_\_\_ Yes      \_\_\_\_ No (if no, go on to question number 8)



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7a. Did the threat involve the yearbook or newspaper?

7b. Describe or quote the item which was the subject of the threat.

8. Have you ever decided not to print an item in your newspaper or yearbook because you were concerned about the legality of printing it? (If there has been more than one case, please answer 8a and 8b for each case. Add additional pages if necessary.)

☐ Yes ☐ No (if no, go on to question number 9)

8a. Describe or quote the item involved.

8b. Briefly describe why you felt it was inadvisable to print the item.

9. Has the printer of your newspaper or yearbook ever refused to print an item because he felt it violated an area of press law? (If there has ever been more than one case, please answer 9a and 9b for each case. Add additional pages if necessary.)

☐ Yes ☐ No (if no, go on to question number 10)

9a. Describe or quote the item involved.

9b. Briefly describe the reasons the printer gave for his refusal to print the item.

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10. If you question the legality of an item which has been submitted for publication, do you: (check those which apply)

\_\_\_\_\_ simply delete the item.

\_\_\_\_\_ check a reference source. (if so, please list the sources you use) \_\_\_\_\_

\_\_\_\_\_ consult a person knowledgeable in press law. (if so, please list the title(s) of the person(s) you consult) \_\_\_\_\_

\_\_\_\_\_ follow some other course of action. (if so, please briefly describe the action you take) \_\_\_\_\_

THANK YOU FOR YOUR COOPERATION IN THIS STUDY.

A-2. Follow-up Post Card.

April 24, 1971

Dear Journalism Adviser,

Recently I mailed a questionnaire to you concerning law of the press. If you have returned the questionnaire already, you have my gratitude.

If you haven't had a chance to yet, please take a few minutes of your time with the questionnaire and return it in the self-addressed stamped envelope included with the questionnaire.

Thank you very much.

A STUDY OF PRESS LAW  
IN HIGH SCHOOL JOURNALISM

by

DUANE A. OBERMIER

B. A., Kearney State College, 1965

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AN ABSTRACT OF A MASTER'S THESIS

submitted in partial fulfillment of the

requirements for the degree

MASTER OF SCIENCE

Department of Journalism and Mass Communications

KANSAS STATE UNIVERSITY

Manhattan, Kansas

1971

This study was designed to analyze the teaching of press law in the high school situation and the influence press law has on the content of high school publications.

A mailed questionnaire to high school publications advisers was used to gather information for the study. By the use of a table of random numbers, a mailing list of 300 was extracted from an original list of 1041 addresses. The completed questionnaires were mailed back by 168 (56 per cent) of the 300 publications advisers.

In presenting the findings, the 168 respondents were divided into five enrollment classifications with 31 in the 0-500 classification, 47 in the 501-1000 classification, 27 in the 1001-1500 classification, 34 in the 1501-2000 classification, and 29 in the over 2000 classification.

The findings of the study revealed that 31 of the 168 respondents (18.4 per cent) had taken a college level course in press law and 85 (50.6 per cent) had at least some study of press law. Sixty-six respondents (39.3 per cent) indicated that press law instruction was included in their high school's instructional program. All the respondents indicated that their publications had never been involved in litigation or in any out of court settlement. Twelve of the respondents (7.1 per cent) reported that they had experienced a threat of litigation against one of their publications. Sixty-two respondents (36.9 per cent) indicated that they had deleted items from publications because they were concerned about legality. Three respondents (1.8 per cent) had experienced printers refusing to print items because of

concern for legality. When they question the legality of an item, 49 of the respondents (29.2 per cent) delete the item, and the remainder check a reference source, consult a person knowledgeable in press law, or follow some other course of action.

Finally, the study revealed that 67.7 per cent of the respondents who had taken a college level course in press law include press law information in their instruction. At the same time, 33.1 per cent of the respondents who had not taken a course in press law include press law information in their instruction.

The conclusions the author drew from this study were:

The 0-500 enrollment classification is the only one of the five classifications to be significantly different from the other four. This classification registered the smallest number of respondents (1) who had taken a college course in press law. Also this classification had the lowest number of respondents (4) indicating that press law was a part of the instruction in their high schools. In addition the 0-500 classification registered the highest number of respondents (13) who merely deleted items when legality was questioned. The author concluded that there was not the concern given to press law in the smaller schools as there is in the larger schools.

High school publications do not have a significant problem in the area of press law. The possibility of a high school publication being sued is small.

In some cases contemporary community standards play a larger role in what is printed in high school publications than do the actual legal limits on what may be printed.

A journalism instructor who has taken a college level



course in press law is more likely to include information on that topic in his instruction than one who has not taken a course in press law.