

THE BAYLOR-PLAYBOY CONFLICT OF 1980:
A CONTENT ANALYSIS OF
COMMUNICATIONS

By

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CHAPTER I

INTRODUCTION

In January 1980, it was learned that Playboy magazine would visit Baylor University in Waco, Texas. The purpose of the visit to this Baptist-owned institution of higher learning was to enable a Playboy staff member David Chan, to photograph Baylor coeds in various stages of undress typical of the magazine's editorial style. The photos would be considered by editors for use in the magazine's September edition featuring "Girls of the Southwest Conference."¹

The school newspaper, the Baylor Lariat, was under new editorial management. The editor-in-chief was Jeff Barton, a junior, another junior, Cyndy Slovak, was news editor, and Barry Kolar, a senior, was city editor. The year 1980 had witnessed the Lariat's apogee, and its first edition under the new editorial management had been praised as a "proverbial bell-ringer" by Loyal Gould, former Associated Press man who had chaired the university's journalism department for several years.²

Background of the Conflict

The Lariat announced the Playboy plans in grand style.

Its first report, "Playboy to seek Baylor's Beauties," reminded readers: "When Baylor set out to build itself a new reputation for excellence, one of the first things administrators looked for was national exposure."³ The writer, apparently seeking to be cleverly sarcastic, continued:

Some of that exposure will be coming to Baylor in about a month, but it may not be the kind administrators had in mind. You guessed it. Playboy is on its way (at last).⁴

The Baylor administration did not want national exposure through Playboy. Baylor President Abner V. McCall refused to cooperate. He issued a tough policy threatening to expel any coed identified as a Baylor student whose nude or semi-nude picture appeared in the magazine.⁵

Dr. McCall stated further "If a girl poses as Jane Doe, Baylor coed, then she's associating a Christian school with a cheap, tawdry, pornographic magazine."⁶

Baylor is in the so-called Bible belt; it is one of the nation's largest church-related schools. In fact, it is the "largest Baptist college" in the United States.⁷ Paul Harvey, a newspaper columnist and radio commentator, is said to have described Baylor as a special place "as close to heaven as a Baptist can get."⁸ Playboy itself described the university as "a strict, private, Southern Baptist institution in Waco, Texas. . . . strict. No drinking, no dancing, no messing around."⁹

The permeation of Baptist influence into Baylor is recounted by Millecam:

One story . . . concerns the role played by the Baptist General Convention of Texas in the McCall-directed purge of the Lariat. It's common knowledge that Baylor and its faculty are often reminded of their special obligation to promote the doctrines of the convention.¹⁰

Another account by the same writer:

Last year the Baylor family heaved a collective sigh of relief when a call by some Baptists to force faculty members to sign loyalty oaths attesting to their belief in the Bible failed to muster widespread support.¹¹

Though Dr. McCall assured faculty members they would not be forced to sign such an oath, the fact remained that many professors at Baptist schools were uneasy. The Baptist General Convention of Texas was expected to consider mandatory oaths in all Baptist schools at its next Convention.¹²

The facts suggest that Baylor is "a bit too large to be narrowly parochial, yet a bit too parochial to be morally lax."¹³ While the Lariat refused to carry Chan's advertisement seeking prospective coed candidates, the editors rebelled against the hard line of the president.¹⁴ A signed editorial under the headline, "Playboy To Pose . . . or Not to Pose," defended the freedom of choice.¹⁵

The editorial read in part:

Choice still rests with the individual . . . If that individual is mature enough to understand her own needs, her own inhibitions, her own qualms and her own mischievousness, then show us the harm in her posing.¹⁶

As the conflict between student editors and university administrators dragged on, campus opinion was divided. One student's letter to the editor read:

After spending time drooling over a magazine like Playboy, a guy finds it rather difficult to look at a woman as a human being with a mind and a heart and personality of her own. Instead, a guy can't help but look at her as no more than a sexual object that he can use to satisfy his Playboy-inspired fantasies.¹⁷

Following the "pro-Playboy" or "pro-freedom of choice" editorial, it was announced that Dr. McCall would determine policies for the student newspaper.

When the editors sought to persuade McCall to "modify his demands," he not only refused, but suggested to them such editorial subjects as the length of ticket lines, the quality of cafeteria food, the need for streetlights and so forth.¹⁸

In another administrative move, the journalism department chairman wrote a strongly worded letter to Ralph Strother, faculty adviser to the Lariat, instructing him to review all future editorials before publication. The chairman's letter concluded, "This is not a suggestion, it is a direct order."¹⁹ Strother later struck out two sentences from a submitted editorial, which earlier had been read to him on the phone, without informing the editors of the necessary abridgment. Those sentences had used the words "smugness" and "arrogant," apparently in reference to Dr. McCall's policies. Strother found the editorial "provocative."²⁰ In yet another incident as the blowup grew out of control, television crewmen and several newspeople from Waco, Fort Worth, Dallas, Houston, and Austin had swarmed into the Lariat newsroom. Strother ordered the visitors out and

locked the door.²¹

In the wake of these events, the administration-controlled publications board expelled Barton, Slovak and Kolar, the Lariat's top editors. Two members of the journalism faculty, Dr. Donald Williams and Dr. Dennis Hale, resigned. Dr. Williams had been ordered by Dr. Gould to leave immediately because of his statement to the Waco Tribune-Herald that he was "not proud to be at Baylor anymore."²² Dr. Hale, who was not consulted regarding Gould's order to Dr. Williams, tendered his resignation to avoid compromising his "personal integrity" and "professional credibility as a teacher of press law and ethics."²³ In addition, 13 Lariat staff members, including the three top editors, had resigned.

Pornography and Censorship

Baylor, being a church-related school, was understandably concerned about the controversy's moral issues. Obviously, it was thought that the morality of a Christian school was at stake. Blaming newspapers, especially the Waco Tribune-Herald, for overplaying the conflict, Dr. McCall said, "I'm disappointed in the extreme interest that a good family newspaper has in pornography. It really amazes me."²⁴

At another time, Dr. McCall charged that the press was "pimping for Playboy."²⁵ He also had occasion to describe Playboy as "a cheap, tawdry, pornographic magazine."²⁶

His utterances suggest Dr. McCall was intent on waging a crusade against Playboy. "Pornography" is defined by one dictionary as "Written, graphic, or other forms of communication intended to excite lascivious feelings."²⁷ As long as society is beset by problems of language technique, terms like "pornography" and "obscenity" will remain inadequately defined, often causing confusion. The relationship between language and reality is a structural one. Therefore, descriptions should match the territory (reality) that exists outside peoples' minds.

Pember illustrates the confusion arising from the definition of obscenity:

In reputable dictionaries among the meanings for the word obscene is 'indecent, lewd or licentious.' In turn, we will find licentiousness to mean 'lewd or lascivious.' Further research shows that lascivious means 'inclined to be lewd or lustful.' Lustful proves to mean 'having lewd desires.' Finally, lewd turns out to mean 'indecent or obscene.' We have come full circle.²⁸

Surely, when we come full circle the confusion does not end. It rather aggravates things for us because our map of reality is besieged by too many words.

Johnson reviews this structural relationship between language and reality in his book, People in Quandaries. He explains that, whereas the structure of reality shows "a practically infinite degree of differentiation," the language structure is "much less highly differentiated." Thus, many words are given more than one meaning. Furthermore, this fact contributes to the "fundamental lack of

correspondence" between the language and reality structures. Confusion arises because there are "more things to be spoken of than there are words with which to speak of them."²⁹

As man grows he is constantly subject to change in all aspects of life. Language, too, changes. One word may be assigned one meaning today and another tomorrow. So one can hear people saying a certain word "used to be used to mean such and such; then it came to mean so and so; but now it seems to mean this and that."³⁰ A classic example is provided by the use of the word "democracy." Lincoln saw it as meaning government of the people, by the people, for the people. Today, when we talk about "democracy," we tend to equate it with free press, free elections, representative government, due process, political party system and so on and so forth. In the final analysis one must agree with Professor Carney that words are "slippery," for they change meaning in a dramatic fashion over a period of time.³¹

Courts of law long have puzzled over definitions of "pornography" and "obscenity," two terms sometimes used interchangeably. Pember has stated that the first obscenity prosecution in American history occurred in 1815. One Jesse Sharpless was fined for showing a man's picture "in an imprudent posture with a woman."³²

In State v. Lerner (1948) the Ohio Court of Common Pleas had this to say about the definition of obscenity:

Obscenity is not a legal term. It cannot be defined so that it will mean the same to all people, all the time, everywhere. Obscenity is very much a figment

of the imagination--an indefinable something in the minds of some and not in the minds of the people of every clime and country, nor the same today that it was yesterday and will be tomorrow.³³

The confusion created by efforts to define terms seems to have permeated every sphere of society, including law, as evidenced in the passing statement. The tendency for everyone to formulate his or her meaning is reasonably expected to occur. One would agree with Berlo that meanings are in people, not words. Berlo writes:

If meanings are found in words, it would follow that any person could understand any language, any code. If the meaning is in the word, we should be able to analyze the word and find the meaning. Yet obviously we cannot. Some people have meanings for some codes, others do not.³⁴

Berlo further states that:

The element and structure of a language do not themselves have a meaning. They are only symbols, sets of symbols, cues that cause us to bring our own meanings into play, . . .³⁵

If Berlo is right, then the question is: On what basis does the society label something as pornographic or obscene? What symbols or cues do we consider or employ in our formulation of meanings for words like pornography and obscenity? Though the courts depend upon society, or better still, the community, in their determination of what is pornographic or obscene, they have provided tests or standards from time to time in that regard.

First, there was the Hicklin rule in the 1860s. The rule states that a work is considered obscene on the strength of its tendency to "deprave and corrupt" the minds of people

who came across it.³⁶ Obviously, there were serious drawbacks to the rule. Pember points out the rule "reduced the population of the nation to reading what was fit only for children."³⁷ That fact underscored one of the obnoxious dangers of censorship--the excessive power of those who favor censorship over those who are against it.

As long as it is difficult to define words such as "pornography" and "obscenity," which supposedly contribute to immorality, we always will grapple with and be left in doubt as to the meaning of verbs like "deprave" and "corrupt."

In 1957, the Supreme Court declared in Butler v. Michigan that the Hicklin rule was unconstitutional because it reduced the adult population to reading children's materials.³⁸

In time, the Roth-Memoirs test emerged to determine obscenity. For the first time the Supreme Court had a standardized judgment in obscenity cases. It was Justice Brennan who wrote the opinion in the Roth case.³⁹ First, the court required proof of "prurient interest" to which "as a whole" the material's "dominant theme" must appeal. Then, the question of the "patently offensive" nature of the material, vis-a-vis the contemporary community standards, had to be answered. Finally, the Court held, the material must be "utterly without redeeming social

value."⁴⁰

Justice William O. Douglas, dissenting, said:

Government should be concerned with anti-social conduct, not with utterances. Thus, if the First Amendment guarantee of speech and press is to mean anything in this field, it must allow protests even against the moral code that the standard of the day sets for the community. In other words, literature should not be suppressed merely because it offends the moral code of the censor.⁴¹

By setting standards for judging obscenity cases, the Supreme Court placed obscenity outside the umbrella of the First Amendment guarantee. Justice Douglas seemed to say "Catch the thieves and murderers and leave the pornographers alone," but the Supreme Court in Roth consolidated the government's position on censorship. Yet the tendency to define pornography and obscenity without the proper exercise of care persisted. Justice Douglas stated on another occasion:

Every author, every bookseller, every movie exhibitor and perhaps every librarian is now at the mercy of the local police force's conception of what appeals to 'prurient interest' or is 'patently offensive.'⁴²

The years 1973 and 1974 produced the new three-part test for obscenity that came to be known as the Miller-Hamlin test. The first part is that the average person in the local community, in the court's view, must find

the work wholly appealing to "prurient interest." The difference between this test and the Roth-Memoirs test is that the application of local community standards, not national standards, is emphasized. The second part is that the work depicts or describes sexual conduct as defined by a state law. The third was that the work must lack serious literary, artistic, political, or scientific value.⁴³

In a memo on obscenity cases, Chief Justice Warren Burger, encouraged the courts, in defining obscene, to show flexibility in the application of local, not national standards.⁴⁴ He adopted his predecessor Earl Warren's analysis of national standards.

In a society that prides itself--and properly so--in supporting pluralism and diversity there is no sound reason for the law to say that what is found tolerable in the portrayal of sexual activities in Los Angeles or Las Vegas must be accepted in Maine and Vermont.⁴⁵

In other words, community standards appropriately could be determined in individual communities and accepted with less friction.

Commenting on the court's general definition of obscenity, Burger said that it should be loosened so that more prosecutions would succeed. He deemed the hitherto statement that "material should be 'utterly' without redeeming social value" as "clearly too sweeping."

Instead, he proposed that works should have "literary, artistic, political, or social value" in order not to be declared obscene.⁴⁶

In the Baylor conflict, Dr. McCall attempted to determine community standards for the university. Beyond that, however, one may only speculate that he showed over-concern for the school's moral standing in the Bible belt. Speculations were that Dr. McCall took Playboy to task in an effort to impress upon conservative Baptists that he was in firm control of Baylor's best interests and that he would safeguard Baptist ideals.⁴⁷

People, especially those in the media, are worried about the pornography-censorship entanglement. They maintain that if pornography is suppressed, the resulting precedent would have an adverse effect on total freedom of the press.

Commenting on the conviction of Larry Flynt in Cincinnati, Ohio, for "pandering obscenity" in his magazine Hustler, The Akron Beacon Journal commented:

Hustler doesn't seem to be a problem for its readers; nor does it seem to be a problem for the over-whelming majority of people who don't read it. It seems to pose a problem only for those who want to control what other people read.⁴⁸

Should non-believers decide for believers, or

vice-versa? This question would seem to pose a threat to the First Amendment guarantee. The Baylor student editors foresaw that threat in Dr. McCall's "ban" and "policies" actions. They were worried, as was Playboy, that "When somebody starts censoring, there's no telling where he'll stop."⁴⁹

Thus, the government, in the cloak of the judiciary, may regulate the moral behavior of its people. Descending to a lower structure as an institution of higher learning, the operation of this regulatory control is different in name only.

First Amendment Rights: State and Private Schools and Free Press

In many schools the question of First Amendment rights has been a touchy one. Consequently, in the event of any seeming infringement, students have tended to defend their rights in any way they deemed fit. In the Baylor incident, the editors apparently felt that the president's "ban" and "policies" actions violated the rights of the entire student body.

We hope the time has come when the student body will no longer accept the smugness of Dr. McCall's interpretation. We hope the protest. . . is a sign that students are tired of the arrogant position taken by the administration.⁵⁰

As stated previously, the words "smugness" and arrogance were deleted by the faculty adviser to the Lariat. Despite the deleted words, the editors managed to make known that they did not intend to acquiesce without any protest to any infringement on the student body's First Amendment rights.

Dr. McCall, a one-time Federal Bureau of Investigation agent and a former Justice of the Texas Supreme Court, was quick to point out that the First Amendment protected the publisher. He argued further that the "constitutional freedom does not belong to the editors or reporters employed by the publisher" insofar as expressions in the publisher's organ are concerned. Thus, it was argued that the owner-publisher, in this case the university, has the right to set "policies" and determine "editorial stands" of the newspaper.⁵¹

It should be noted here that freedom of the student press in publicly supported institutions was infrequently at issue prior to the 1960s. In Dickey v. Alabama (1967), Gary Dickey, a student editor at Troy State College, was suspended for insubordination because he published the word "censored" across an empty space reserved for editorial comment. Dickey had written an editorial critical of state legislators. School officials had

ruled against publishing it.⁵²

The president of Troy State College decided that Dickey's editorial had violated the rule forbidding criticism of the governor and state legislators. The president argued that the governor and state legislators were owners of the newspaper of which Dickey was the editor. Therefore, the governor and legislators or an authority representing them, could determine what would be published.⁵³

However, a Federal District Judge, Frank M. Johnson Jr., disagreed with the contention. He ruled that the state "cannot force a college student to forfeit his constitutionally protected right of freedom of expression."⁵⁴ Thus, in effect, Dickey's suspension overshadowed his constitutional rights to freedom of expression. Judge Johnson ruled that the college's action was in violation of the First and Fourteenth Amendments of the Constitution.⁵⁵

Although it did not involve student media the right for free student expression was enhanced in 1969, when the Supreme Court upheld the rights of high school students who were suspended for wearing black arm bands in an apparent protest against the Vietnam War. The case, Tinker v. Des Moines Independent School District, was significant in that for the first time First Amendment rights were extended to students in high schools.

Justice Abe Fortas wrote:

First Amendment rights. . . are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.⁵⁶

The constitutional rights to freedom of speech and expression seemed to have stopped at Baylor's "gate." In the Tinker case, Judge Fortas had determined that "constitutional safeguards" are designed to protect the rights of individuals against state or government action. Thus, in effect, students at private institutions have no constitutional protection against their schools' actions. Mencher points out that the Fifth and Fourteenth Amendments, as the courts of law have traditionally believed, offer protection only against federal and state actions.⁵⁷ The Fourteenth Amendment also states in part:

. . . nor any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.⁵⁸

The Fourteenth Amendment's clauses spelling out "due process" and "equal protection" are guarantees against the activities of the state only. As a result, private institutions have felt fewer restraints in dealing with their students.⁵⁹

A case in point is Anthony v. Syracuse University (1926) in which a Syracuse coed was expelled for not being a "typical Syracuse girl."⁶⁰ In those days the courts were less aggressive in dealing with the power of educational leaders. For instance, in the Anthony case the court took for granted that the Syracuse administrators had a good reason for expelling the girl, regardless of the grounds for such action. Furthermore, the court viewed the student-university relationship at a private institution as a contract empowering the institution to levy virtually any penalty against a student.⁶¹

How long will private universities and colleges enjoy this power to expel students or limit their constitutional rights? Mencher believes the courts may grant private-school students the same First Amendment rights of their counterparts in state schools. Already several judges have declared that, because education contributes to the individual's progress and general well-being, it is seen as a public function. In this context, even a private school is performing a public function.⁶²

A federal district judge wrote in Belk v. the Chancellor of Washington University (1970):

It is the opinion of this court that the acts of a private university can constitute "state actions" when said university is

denying to its students their right to participate in the education process.⁶³

Continuing, the judge opined:

Education is a public function. The state granted a charter under which said university could operate as an educational institution. Hence the private university's performance of a public function could render its actions subject to constitutional restraints.⁶⁴

Such court pronouncements are likely to hasten the extension of the First Amendment rights to private institutions. Meanwhile, Dr. McCall's claim that he was, in fact, publisher of the Lariat may be seen to be legitimate. His claim stemmed from the fact that he was president of Baylor University, whose existence was the *raison d'etre* for the Lariat.

Maurer reports that the school board regards itself as the publisher of school newspaper because it subsidizes the paper. Some advisers even share this view.⁶⁵ But Mencher insists that the Dickey and other rulings related to the question, in effect, have made the "student journalist--not the university--the publisher of his newspaper."⁶⁶ That clarification, to a large extent, is a significant step toward freeing student press.

In view of the absence of court cases involving First Amendment rights and the student press at private

schools, there seems little doubt that the Baylor incident could not have been contested successfully in court.

The Blacks and Douglasses occasionally have argued that the Constitution simply states that Congress shall pass no law abridging free expression, and it means just that--no law. However, their opinions historically have been in the minority in major court decisions involving First Amendment rights.

The impact of these minority voices on First Amendment rights is, nevertheless, great. In fact, it is so great that today there is a healthy discussion of public issues. Nevertheless, the battle between pornography and censorship still rages in the courts, and in the society at large.

Writing in Journalism Quarterly, George Stevens examined the issue of the freedom of expression in private institutions in relation to contract law and state constitutions. He explained the possibility of a college student being entitled to "some freedom of speech or press through an express or implied contract with the institution." Stevens based this statement upon Dixon v. Alabama State Board of Education (1961), in which it was observed that "the relations between a student and a private university are a matter of contract." This position was described as a "well-settled rule."⁶⁷ Stevens catalogs cases in which

individual students brought suits against private schools after having been denied freedom of expression. He states that in these cases the courts had applied contract law

[and] held that by enrolling in a private school a student accepts all reasonable conditions set forth in the institution's bulletin or catalog. If the school reserves the right to require a student to withdraw 'at any time' or for 'appropriate reasons,'⁶⁸ this condition may be part of his contract.

Whereas contract law appears to be a stumbling block to free speech and press in private schools, state constitutions have sought to protect such freedoms. Even the United States Supreme Court has determined that a state could grant "more expansive" individual freedoms than those already guaranteed by the federal constitution.

Need for the Study

The Baylor incident was chosen for study because it raises important questions regarding First Amendment rights. Many arguments about the meaning of the amendment may be heard. Do the words "congress shall pass no law to restrict the freedom of the press and of speech" mean what they say? Perhaps not, if these words leave room for limitations which permit censorship.

Obviously, the controversy over the correct interpretation of the amendment casts a deep shadow on the rights of the individual. Behind this shadow one occasionally

finds pornography and censorship locked in fierce battle, each trying to assert its legal rights. Some cherish the freedoms of the press and of free expression best believe that pornography should not be protected. Others, among them many media people, think the free press machinery should not be compromised or subjected to any form of censorship. The dilemma at Baylor provides a test tube for the examination of crucial aspects the "chemistry" of freedom.

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62 Mencher, p. 52.

63 Ibid.

64 Ibid.

65 Diana J. Maurer, "High School Press Freedom,"
Freedom of Information Center Report, No. 381, Nov. 1977,
p. 6.

66 Mencher, p. 51.

67 George E. Stevens, "Contract Law, State
Constitutions and Freedom of Expression in Private Schools,"
Journalism Quarterly, Vol. 58, No. 4, Winter 1981, pp. 613-
617.

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CHAPTER II

REVIEW OF LITERATURE

The review in Chapter I represented the public side of the story. This chapter is reflective of scholarly works.

To conduct the review of scholarly literature, a search was made through Volumes 1 through 19 (1963 to 1981) of Journalism Abstracts. All the studies found relevant to this particular study were master's theses.

Freedom Versus Responsibility

As a convention, liberty of the press has always been defined as complete liberty from interference by the government in the communication channels of information.¹ Kitchen has stated in his treatise on the tradition of freedom:

In the history of mankind no nation has ever allowed the press total freedom in the publication of information. There always have been barriers in one form or another to impede the quest for truth and the publication of information. These barriers have taken many forms: licensing, censorship, economic sanctions or threat of punishment after publication. Yet throughout the brief history of mass communications man has longed tirelessly to be given the right to publish

the truth as he sees it without fear of reprisal.²

Kitchen identifies the main question that emerged in the Hutchins' Commission proceedings thus: "Is the freedom of the press in danger?"³ He answers in the affirmative, but concedes there has been some improvement, though not enough, in the performance of the press since the release of the commission's report in 1947.

He acknowledges the ever increasing information available to the press, but this, he points out, has complicated matters regarding "selecting of items for publication." In fact, it has increased the "possibility of overlooking news of significance."⁴ Despite such new challenges, Kitchen says the press has paid "little attention to the suggestions and criticisms" offered by the commission's report.⁵

He also criticizes the "news management" in government which is "by no means a government monopoly."⁶ He concurs with Heywood Broun in charging that the "press frequently engages in it, not by lying, but by throwing 'half the truth in the waste basket.'"⁷ Kitchen cites an instance of news management in which the American press gave a great deal of coverage to the story of thousands of Cubans leaving their homeland when Fidel Castro overthrew the Batista government. But the press, except

for the New York Times, failed to inform the American public that there also were thousands of Cubans returning home from exile following the revolution.⁸

Freedom of the Press in the Schools

While Kitchen considered press freedom in its broader context, a number of researchers have studied this crucial subject as it applies to student journalism on the nation's campuses. Russell poses the question: "Does the First Amendment apply to students in general and the student press in particular?"⁹ She states that the authority of the schools was derived from Blackstone's in loco parentis philosophy which states that a parent

. . . may also delegate part of his parental authority, during his life, to the tutor or schoolmaster of his child; who is then in loco parentis, and has such a portion of the parent committed to his charge, viz that of restraint and correction, as may be necessary to answer the purposes for which he is employed.¹⁰

Russell traces the philosophy back to the era of pre-compulsory education. She summarizes that when compulsory education was finally introduced, many disagreements between parents and school authorities surfaced. Eventually, the philosophy of in loco parentis was weakened. The concept finally was dealt a last blow when the First Amendment was applied to students in the

late 1960s.¹¹

Green discusses the "state action" concept:

The 'state action' concept. . . originated in the civil rights context. . . . [and] guaranteed to all American citizens in the Thirteenth Amendment [was] held to be applicable to the states through the Fourteenth Amendment.¹²

Green points out that a state action may occur through a state agency or an employee. By virtue of the Fourteenth Amendment, therefore, a state action becomes unconstitutional if it is found to infringe upon a citizen's rights.¹³ Green recalls the era of student unrest in the 1960s. Students raised questions about the behavior of many American institutions and, unsurprisingly, they focused their attention on the "institution nearest to them--the American college or university."¹⁴

Green states that participation of students in "political affairs" and "determination of the policies of their institutions" led them to the courts:

. . . struggles for students' right that began on the campus were continued at the bar. Because much of the original debate over students' rights began on campuses of state or 'public' institutions and quickly moved to the courts, the legal framework that developed dealt in the main with students' rights in public colleges and universities.¹⁵

The courts' decisions on First Amendment rights have not been extended to private schools:

The 'private' nature of these institutions can stem from either religious or ideological reasoning, and courts have been reluctant, partially on those grounds, to become involved.¹⁶

Green then draws a distinction between public and private schools:

In the 1819 Dartmouth College case, Justice John Marshall perceived a distinction between 'a civil institution to be employed in the administration of government' and 'a private eleemosynary institution.' This distinction . . . that 'private institutions like colleges and universities "do not fill the place, which would otherwise be occupied by government, but that which would otherwise remain vacant."' ¹⁷

Marshall's opinion, Green believes, was that the work of private schools would not be performed by their public counterparts if the private schools were to disappear.¹⁸

Freedom of the Press: The College Publisher and the Student Editor

Since the Baylor conflict was between the university administration and student editors, it is appropriate to consider the roles of the college publisher and the student editor. It is common knowledge that the publisher is the owner of the press. But the publisher of the university newspaper, according to Herron, is the person or body which has financial and legal responsibilities.

This could mean the university president, the university's governing board, or a duly appointed person or group.¹⁹

The university administration bears both financial and legal responsibilities. It may be called upon to meet the ever-rising costs of operating a printing press, as well as costly overhead. It must answer to charges of libel, and face penalties for obscenity and sedition in the event student editors or reporters violate these laws.²⁰

Thus, the university newspaper, if anything at all, is doomed to be "his master's voice," for he who pays the piper can call the tune, as the saying goes.

Herron hypothesizes about the dilemma:

The ideal situation for a student newspaper would be one in which it receives no subsidy from the university and pays its own rent and costs of publication. Under these circumstances the college paper would be free and unfettered, able to sink or swim solely on its own merits.²¹

In other words, if student newsmen want to publish in a free atmosphere, they should be prepared to meet the costs of publishing, as do those in any commercial newspaper enterprise. However, the argument here is one of principle. Once the university has committed itself to promoting and offering journalism education by establishing a channel for use in the dissemination of

information, it should expect the possibility of conflict between student journalists and those who administer the broader responsibilities of the university.

Green expresses an opinion on the authority held by the publisher:

University disagreement with expressed ideas or opinions is not sufficient ground for disciplining a student for such expression . . . nor can the university withdraw funds from the publication because of disagreement with editorial policies. . . . In fact, once the university has established a newspaper as an open forum, it cannot then try to place restraints on it just because it dislikes what that publication contains.²²

Legally, the state itself is the ultimate publisher of newspaper at any tax-supported university. In that position it is not legally obligated to account to any higher authority; but it is expected to operate within the confines of the law. It suffices to say, therefore, that

There is. . . no case of administrative censorship so flagrant that it cannot be justified on legal grounds. . . for the university administration may run its newspaper as it pleases.²³

So, in effect, the university administration may exercise its power of hiring or firing at will, or use the paper for its gains, or ignore or insist on elements of truth, or even lies. It may even choose to censor

information or indulge in the suppression or granting of complete freedom.²⁴

In any case, Herron further points out, there is no violation of the student staff members' constitutional rights of freedom of speech and of the press. Though as individuals the students maintain these rights, they are not powered by the Constitution "to exercise such rights in another's publication without being subject to dismissal by the owner."²⁵

Herron states that the constitutional guarantees of press freedom do not apply to student editors. He points out that, upon the acceptance of a newspaper job, the journalist "agrees to project the policies of the publishers," and "loyalty to the employer is an implicit condition of employment."²⁶

Fitzpatrick, on the other hand, dismisses the notion entertained by most administrations that they hold the full authority of the publisher. He says this is an "entirely incorrect" idea, if the students bear the greater part of the cost of the newspaper.²⁷ However, he admits that the liberty of some university papers is "zealously guarded by the surrounding commercial press and any move of censure or suppression by the administration is quickly attacked."²⁸

Herron argues that the college editor may exercise

his right to publish, but not necessarily in the college newspaper. In an analogy, he cites a case in which a policeman was expelled for soliciting funds for a political campaign. In his ruling, Supreme Court Justice Holmes stated that a public official must have the right to practice politics, but that joining the ranks of the police is not an unchallengeable right.²⁹ Similarly, Herron suggests, the student's right to publish his views is not at issue. However, his right to do so in a university newspaper is not an unlimited freedom.

Administrative control of the student press occasionally has been taken to task. Mastos has studied the legal decisions affecting college student press freedom. He found that cases involving officially recognized and established newspapers have revealed that once a school, be it a state college or university, sets up a student newspaper, administrators may not exercise control over it in a way that will constitute a violation of the First Amendment.³⁰

He cites several decisions to support his statement:

Dickey holds that once a school establishes a paper and chooses an editor, the school may not infringe on either's First Amendment rights. Zucker is the first of several court rulings that refuse to equate the student press with the private commercial press. Korn confirms . . . that a school, even though it finances a publication, may not apply a state law

unconstitutionally to the publication. Trujillo adds. . . that a school may not equate itself with a publisher in its relationship to the student press. . . Joyner establishes that even though a college president must insure equal opportunity for any student to serve on a paper's staff, he may not achieve that narrow goal through the broad means of suppressing the paper and its right of free expression.³¹

Russell observes that freedom of the press has legally gained firm ground in the high school:

. . . First Amendment freedoms are available to students. . . . No longer can school authorities rule with an iron hand with no regard that children are 'persons under the Constitution.'³²

In spite of this bold step toward achieving freedom for students, there are areas where the courts have allowed controls. In addition, there are unsettled areas. But the fact remains that the "student press has the legal right to operate freely in a similar fashion to the commercial press."³³

Russell warns that the granting of the freedom of the commercial press, however, does not license students to print without prior restraint. The courts have recognized the school's right to "promulgate rules requiring prior approval," but such "prior approval cannot be based on the approval or disapproval of content."³⁴

Russell explores one controlled area "co-extensive with either adults or the college press." The area

involves "taste" and "appropriateness" which, she believes, should be regulated by the school due to the fact that high school students are minors.³⁵

Simons also has conducted research on high school press freedom. She concludes that advisers, rather than members of the administration, often act as censors. The advisers' censorship basically stems from fear, which in many cases is unjustified. She notes a lack of knowledgeable and professional communication on the part of advisers with the administration.³⁶

Simons' finding is closely related to a similar pattern at Baylor, where a faculty adviser to the Lariat censored an editorial by deleting two words, "smugness" and "arrogant." Mastos cites the Trujillo case in which a teacher ordered a printer to delete objectionable materials in two separate editorials which criticized the president's decision to "close campus pubs" and "allow city police and municipal judges to enforce campus parking regulations."³⁷ For all intents and purposes, advisers in those cases, exercising the power of supervision over school papers, played a role comparable to that of publisher.

Playboy and Censorship

When President McCall issued a ban against Playboy's

advertisement in the Lariat, the matter was not a new one. Since its inception in December, 1953, Hana points out, Playboy has encountered several censorship attempts.

The first incident occurred in August, 1955, in which the postal officials questioned Playboy's November edition and subsequently cut off mailing privileges for the magazine. Later, a federal court overruled the postal officials' action.³⁸

Then, again, in late October, 1958, the Post Office, under pressure from the Churchmen's Commission for Decent Publications, an interdenominational Protestant organization, ordered the Chicago postmaster to stop Playboy from the mails because of its "obscene" nature. Playboy attorneys successfully sought a court injunction against the Post Office, contending that the latter had no right to cut off mailing privileges without a hearing. In addition to upholding Playboy's request, a district court judge issued a five-day restraining order compelling the Post Office to mail the November edition as regular second class matter.³⁹

In most cases, people oppose censorship not in defense of the character of a publication, but in protest against the abuse of power by those in authority.

Hana also notes that the council for Independent Distributors of Connecticut banned Playboy's March, 1960,

issue. Hugh Hefner, the editor-publisher of the magazine, threatened the would-be censors with a law action to remove the ban. The censorship attempt failed in the course of time.⁴⁰

The magazine, Hana observes, has encountered various problems on campuses. Some schools, both Protestant and Catholic, will not sell the magazine on newstands in the student union.⁴¹ Hana cites an incident at Louisiana State University in 1965 in which a male residence hall housing director, acting on the university ruling which prohibited nude pictures in the dormitories, raided and confiscated copies of Playboy and similar publications found in the rooms. LSU students were outraged by the incident. The university's Student Government Association, in an editorial in the student paper, condemned the ruling outright.⁴²

The writer of the present thesis wishes to note that he sought to use the following theses, but was unable to do so: Glen L. Willardson, "The Student Press and its Emerging Power Viewed by Student Editors, Publications Advisers, and Deans of Students" (Unpub. M.A. Thesis, Brigham Young University, 1969); Arlene Ann Brueggeman, "An Analysis of Alexander Mieklejohn's Interpretation of the First Amendment of the Constitution as it Applies to a New Theory of Freedom of the Press"

(unpub. M.S. Thesis, University of Illinois, 1963); and Barbara L. Jatkola, "Violence Against Women in Five Erotic Magazines" (Unpub. M.A. Thesis, University of Wisconsin, 1981).

The first two of the above were reported missing, while the last was available only for sale. Unfortunately, the budget for this thesis could not meet the cost.

Freedom of the press is best ensured when that freedom is accompanied by responsibility. It has been acknowledged that there has been some improvement, though not enough, in the performance of the press since the Hutchins Commission released its report in 1947.

Meanwhile, the philosophy of in loco parentis has gradually given way on most campuses as First Amendment rights have been more widely exercised. While First Amendment rights for the school press were confirmed in the Dickey case, the question "Who is the publisher?" was left unresolved. Schools claim the rights of publisher because they bear the financial and legal responsibilities. The Trujillo case, however, disputed that claim, while the Korn case confirmed that a school may not apply state law unconstitutionally to a student publication despite its financial responsibility for it.

Despite the fact that court decisions were presented in confusing and conflicting forms, a consensus drawn

from master's theses relating to this study has confirmed that First Amendment rights have been extended to state, but not private, institutions. In spite of this bold step toward freedom of the student press, there still exist unsettled areas, in addition to those where control is allowed.

These facts notwithstanding, Playboy has kept up its fight not only to sell its copies from schools' shelves and stands, but also to photograph coeds in various degrees of undress. The magazine's efforts often have been in conflict with school policies on morality and/or "proper student conduct." Such inhospitality has characterized Playboy's thirty years in existence.

ENDNOTES

¹ Gerald J. Kitchen, "Freedom of the Press in the United States: An Examination of Basic Concepts in Historical Perspective" (Unpub. M.S. Thesis, Ohio University, 1963), p. 93.

² Ibid., p. 5.

³ Ibid., p. 37.

⁴ Ibid., pp. 96-97.

⁵ Ibid.

⁶ Ibid., pp. 97-98.

⁷ Ibid.

⁸ Ibid.

⁹ Sandra W. Russell, "Freedom of the Press: Status and Implications of First Amendment Theory for the High School Press" (Unpub. M.A. Thesis, Central Missouri State University, 1975), p. 51.

¹⁰ Ibid.

¹¹ Ibid., p. 51.

¹² Barbara Green, "Student First Amendment Rights in Private Colleges and Universities" (Unpub. M.A. Thesis, Southern Illinois University, 1979), p. 11.

¹³ Ibid., pp. 11-12.

¹⁴ Ibid., p. 1.

¹⁵ Ibid., pp. 1-2.

¹⁶ Ibid., p. 2.

¹⁷ Ibid., p. 4.

- 18 Ibid.
- 19 Russell Lee Herron, "Freedom of the College Press: A Moral and Educational Justification" (Unpub. M.S. Thesis, University of Illinois, 1963), p. 11.
- 20 Ibid.
- 21 Ibid., p. 12.
- 22 Green, pp. 8-9.
- 23 Herron, p. 13.
- 24 Ibid.
- 25 Ibid.
- 26 Ibid., pp. 14-15.
- 27 James Benjamin Fitzpatrick, "Attitudes Toward Responsibility and Freedom of the College Newspaper" (Unpub. M.A. Thesis, University of Florida, 1964), p. 9.
- 28 Ibid.
- 29 Herron, p. 13.
- 30 Craig Louis Mastos, "A Survey of Legal Decisions Affecting the Freedom of the College Student Press from Control by College Administrators" (Unpub. M.A. Thesis, University of Nevada-Reno, 1977), p. 59.
- 31 Ibid., p. 60.
- 32 Russell, p. 173.
- 33 Ibid.
- 34 Ibid., p. 181.
- 35 Ibid.
- 36 Paula Ruth Simons, "Freedom of the Press in High School Newspapers and Yearbooks: A Status Report 1973-74" (Unpub. M.S. Thesis, Kansas State University, 1974), p. 156.
- 37 Mastos, pp. 36-37.

38 Barry C. Hana, "Playboy Magazine: Phenomenon of the Publishing World" (Unpub. M.A. Thesis, University of Missouri, 1966), p. 75.

39 Ibid., pp. 72-73.

40 Ibid., p. 74.

41 Ibid., p. 75.

42 Ibid.

CHAPTER III

DESIGN AND METHODOLOGY

In our fast-developing society we find all kinds of communication taking place in our everyday lives. People engage in verbal as well as non-verbal communication, consciously or otherwise. They can even communicate on different levels, and with a number of people at any given time.¹

Communication involves the transmission of a message through a channel from a source to a receiver.

Appropriately, the definition of a message can be given as "any unit of information that functions as a link between persons who exist in a state of interaction."²

This study, however, focused upon the content of the message embodied in the communication. Thus, the tool of non-frequency content analysis was used freely.

As is true of many subjects, content analysis has been subjected to a barrage of definitions.

Holsti quotes Kaplan's definition: "Content analysis is the statistical semantics of political discourse."³

Another definition quoted from Paisley goes like this:

Content analysis is a phase of information-processing in which communication content is transformed, through objective and systematic application of categorization rules, into data that can be summarized and compared.⁴

In yet another definition, Kerlinger states that content analysis is certainly a method of analysis, but concedes that there is more to it:

It is. . . a method of observation. Instead of observing people's behavior directly, or asking them to respond to scales, or interviewing them, the investigator takes the communications that people have produced and asks questions of the communications.⁵

The definition of content analysis has grown large with the increasing interest of researchers in the latent content of communication. Budd, Thorp, and Donohew see content analysis as

. . . a systematic technique for analyzing message content and message handling. . . the analyst is concerned not with the message per se, but with the larger questions of the process and effects of communication.⁶

Carney, in his book, has quoted Berelson's 1952 definition of content analysis as "a research technique for the objective, systematic and quantitative description of the manifest content of communication."⁷

Holsti discusses the objective and system require-

ments of content analysis in his book. He states that in content analysis each step must follow rules and procedures. The decision on the kind of categories to be employed, the line of distinction to be drawn between categories and the criteria to be used to categorize content units rest on the content analyst. Holsti also states that the system requirement entails the consistent application of rules regarding content and the categorization of content.⁸

A Statement of Objectives

In the heat of the Baylor fracas, President Abner McCall charged that the central issue of the whole incident was pornography. The student editors, on the other hand, viewed the issue as one of censorship. In view of the conflict between McCall and student editors, it was the objective of the writer to discover whether either charge or both were central to the incident.

The following questions were asked: Was the Baylor blowup a case of pornography or of censorship? Was pornography or censorship involved at all? What was the intensity of the involvement in either charge? Compared with each other, what was the degree of involvement on either charge? Or could both charges have been true?

Mode of Operation

Carney identifies two types of content analysis: (1) classical and (2) theoretically oriented. Whereas the former mainly involves description of manifest content, the latter depends largely on inference from latent content.⁹

This study did not deal with frequency of symbols or instances; it rather sought to employ the use of theoretically oriented content analysis. Thus the computations in Chapter IV were based mostly on the non-frequency method of content analysis to assess the intensities of the charges of pornography and censorship that cropped up in the Baylor incident. Nevertheless, the use of both frequency and non-frequency methods, in a combined manner, was employed when the occasion demanded.

It must also be pointed out that the inferences made from the use of non-frequency content analysis dwelled on the strength of the "appearance" or "non-appearance," or better still, the mere "presence or absence of a given content syndrome within a designated body of communication."¹⁰

Holsti describes the task and the advantage of his non-frequency content analysis briefly:

One advantage. . . is to search the document . . . for the appearance of the attribute Depending on the context unit, repetition of a given attribute. . . does not change the tally. This method of enumeration has two important advantages. . . because the coder is faced with a simple dichotomous decision: does the content unit appear or not? Some investigators have labeled this. . . as "qualitative" content analysis, although the term is somewhat misleading because data coded in this manner may be presented quantitatively.¹¹

Kerlinger agrees with Holsti on this point. It suffices to state that the appearance or presence of a characteristic in the selected list of instances, regardless of the number of their occurrences, was the determining factor in the study.

For the purpose of this study, the writer decided to substitute the term "element" for "presence" or "appearance," and "non-element" for "absence" or "non-appearance" of a characteristic.

Operational Definitions*

The variables identified in the study were:

1. Pornography: Any reference, by inference or otherwise, to the Baylor incident in a "written

* The working definitions in this section are those of the writer and are intended to focus specifically upon the conflict studied in this thesis.

graphic or other form of communication intended to excite lascivious feelings." ¹²

2. Censorship: Any refernce, by inference or otherwise, to the Baylor incident which was considered as a non-staff act or process of removing information prior to printing.
3. Element: Any reference considered to be a fundamental or essential constituent of any of the above variables.
4. Non-element: Any reference considered not to belong to, or have any bearing on, pornography or censorship.

The element and non-element variables comprise a dichotomy, and their assigned values are fact and opinion. Whereas any unit of analysis classified as a fact was based on a degree of certainty as to its accuracy, any unit of opinion was without substantiation of positive proof and therefore was considered to be debatable.

Technique of Analysis

In the Baylor conflict, certain statements were made by the people who were directly involved. For example, President McCall charged that "Playboy is a cheap, tawdry, pornographic magazine." That was considered to be a statement made in reference to pornography.

In addition to such statements, there also were actions taken by, or incidents involving, the principals in the conflict. An example of such an incident was Strother's censoring of a Lariat editorial. For the purposes of this study, such an action or incident also was referred to as a statement. These were considered to be "behavioral statements" and were given equal consideration with verbal statements quoted in journalistic publications.

The author, following the precedent of several other studies based upon content analysis, compiled a list of 100 statements from which to draw salient units for analysis. The statements were selected from newspapers, magazines and books dealing with the Baylor controversy.

First, the statements were examined, one at a time, to determine whether they possessed either variable, pornography or censorship. The statements that were found lacking either of the variables were labeled "non-element." None of the statements contained both variables. In any case where it was not possible to determine whether censorship or pornography was the predominant element, the statement was deleted from the study.

The Baylor incident erupted at the beginning of

the spring semester of 1980 and extended through the semester. In all, 30 statements were derived from the above procedure and submitted to analysis. These statements were:

1. Playboy sought Baylor co-eds for nude pictures.
2. No university publication should espouse a position contrary to the Christian nature and purposes of the university.
3. The Lariat was ordered to cease promotional stories for Playboy.
4. "First Amendment belongs to the publisher, not editor and reporters."
5. "Show us harm in posing," says editorial.
6. McCall suggested editorial subjects.
7. Students' scholarships were revoked.
8. Playboy's pictures twist male attitudes toward women.
9. "Posing for Playboy causes degenerating blow to society."
10. Playboy shows sexual objects.
11. Playboy dehumanizes women.
12. "University could not live with press that acted irresponsibly and without control."
13. "Can't start with pornography and turn it into a battle for freedom of the press."

14. Annual swimsuit issue of Sports Illustrated was banned.

15. Editors exhibited un-Christian behavior.

16. Raffety stuck a tape in Barton's face to keep him back.

17. Strother censored editorial.

18. Board of Publication fired editors.

19. McCall said he was willing to accept criticism.

20. McCall refers to Playboy as Northern sleeze magazine.

21. Gould asked Williams to leave right away.

22. Strother banished visiting news reporters and cameramen.

23. McCall did not tolerate editorials denying the basic tenents of the Christian faith.

24. McCall's ban on Playboy infringed on academic freedom.

25. Baylor beauties better not bare it, McCall warns in editorial.

26. Press was pimping for Playboy, according to McCall.

27. Playboy-inspired fantasies, a student charged.

28. McCall accused Tribune-Herald of being extremely interested in pornography.

29. McCall favored "right" kind of news even if

about Playboy.

30. "Playboy is a cheap, tawdry, pornographic magazine."

There were the assigned values of the dichotomies, fact or opinion. Each element or non-element was further examined in the light of being a fact or opinion. One of the statements considered as a fact was the revocation of the students' scholarships. An opinion was best exemplified by the statement that the editors exhibited an un-Christian behavior.

Study Sheet

Briefly, the study sheet (see Appendix A) was prepared as follows: Two separate sheets were made. On each, the specified variable, pornography or censorship, was headlined. On one side was the variable "element"; on the other, "non-element." Under the dichotomy were their assigned values: fact or opinion.

An x-mark was placed under the appropriate value of the element and against the number identifying the instance. Each value was worth one point.

Afterwards, a separate count of the points of value under each variable was taken. Consequently, each sheet obtained its own tally.

Statistical Method

The data collected and submitted to content analysis called for the use of a standard statistical tool for the sake of academic vigor. The dynamics of the Baylor controversy involve two major issues, pornography and censorship. Therefore, the choice of the chi-square test, which is designed to test for independence between variables, was considered.

Strictly speaking, the chi-square test is not a measure of association, that is, it merely indicates certainty, but not strength, of the independence of variables. Therefore, another statistical tool, the coefficient of contingency, was used to measure the strength of the association.

ENDNOTES

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- 2 C. David Mortensen, Basic Readings in Communication Theory (New York: Harper & Row, Publishers, 1979), p. 2.
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- 4 Ibid., p. 3.
- 5 Fred N. Kerlinger, Foundations of Behavioral Research (New York: Holt, Rinehart & Winston, Inc., 1973), p. 525.
- 6 Richard W. Budd, Robert K. Thorp, and Lewis Donohew, Content Analysis of Communications (New York: The Macmillan Co., 1967), pp. 2-4.
- 7 Thomas F. Carney, Content Analysis: A Technique for Systematic Inference from Communications (Winnipeg: Univ. of Manitoba Press, 1972), p. 5.
- 8 Holsti, pp. 4-5.
- 9 Carney, p. 44.
- 10 Alexander L. George, "Quantitative and Quantitative Approaches to Content Analysis," Trends in Content Analysis, ed. Ithiel De Sola Pool (Urbana: Univ. of Illinois Press, 1959), pp. 9-10.
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CHAPTER IV

FINDINGS

It should be reiterated that the instances or statements were carefully selected from a list compiled from various articles on the Baylor incident from the beginning to the end of the spring semester 1980.

Frequency Distributions

The idea of using the principle of frequency in this study does not stem from the number of times a certain symbol or statement appeared or was absent in the coding. Rather, the frequency principle furnished a list showing the number of statements accumulated by each main variable.

Quite often, the presence of an instance of pornography on campus is followed by an instance of censorship. The reverse appears never to be the case. However, the matter of concern here was to determine whether there was any relationship between fact and opinion and element and non-element or pornography and censorship in the Baylor conflict.

The quest for relationships leads to the breakdown

of the major crossbreaks into sub-analyses. That is, what is the relationship between (1) fact and opinion and element and non-element, (2) pornography and censorship and element and non-element, and (3) fact and opinion and pornography and censorship? All these relationships are presented in this discussion.

Tables I and II report the raw figures obtained from coding of the statements on pornography and censorship with reference to the Baylor incident. Pornography or censorship is the independent variable, and conclusion (fact or opinion) is the dependent variable. The term "conclusion" is used because it conveys the idea of judgment of statements as facts or opinions.

Since the establishment of the charge of pornography or censorship is of interest, the dichotomy, fact and opinion, is used not only for that purpose, but also to help examine intensity of the charges. Independent variables are usually used to explain dependent variables. On that basis, it is reasoned that for either or both charges to stand, the element or non-element must be espoused in terms of being a fact or an opinion.

Before going any further, the terms "pornography" and "censorship" might well be defined again. As noted in Chapter III, pornography is defined in this study as any reference, by inference or otherwise, made in the Baylor incident which was in a "written, graphic or other form

of communication intended to excite lascivious feelings."
 Censorship is defined as any act or process blocking
 information with reference to the controversy.

Table I reports raw figures concerning statements made with reference to pornography. The figures were derived from the coding of 30 out of 100 statements made by individuals, with or without ties to Baylor, in the course of and/or with reference to the spring 1980 conflict.

TABLE I
 NUMBER OF POINTS OF KEY STATEMENTS MADE DURING
 THE BAYLOR INCIDENT IN REFERENCE TO
PORNOGRAPHY

	Element	Non-element
Fact	2	0
Opinion	<u>4</u>	<u>5</u>
Total	6	5

Statements with the element of pornography, based on facts, had only two points.* Those statements in the same

category based on opinion obtained four points. The non-element statements based on fact got no points, but those based on opinion got five points.

Table II presents raw figures for statements referring to censorship. In this category, statements with element based on fact had 11 points, whereas those based on opinion obtained 3. The non-element statements based on fact gathered four points, and those based on opinion only one.

TABLE II
NUMBER OF POINTS OF KEY STATEMENTS MADE DURING
THE BAYLOR INCIDENT IN REFERENCE TO
CENSORSHIP

	Element	Non-element
Fact	10	4
Opinion	<u>3</u>	<u>2</u>
Total	13	6

* A point was tallied for each variable found in the 30 statements submitted to analysis. Thus, points are synonymous with frequency.

In the fashion of percentage distribution the variables may be tabulated as shown in Table III.

TABLE III
 PERCENTAGE DISTRIBUTION OF KEY STATEMENTS MADE
 DURING THE BAYLOR INCIDENT IN
 REFERENCE TO PORNOGRAPHY

	Element	Non-element
Fact	33.3%	0.0%
Opinion	<u>66.7%</u>	<u>100.0%</u>
Total	100.0%	100.0%
(N)	6	5

Of all the 30 statements examined, only 11 fell under the pornography category which represents 36.6% of the overall total. The remaining 19, or 63.4%, fell under the category of censorship.

On the face value, this might mean that more references made were to censorship than to pornography. However, it should be emphasized that such a claim based upon the small numbers presented in Tables III and IV would be

unjustified. Thus, it is far-fetched to conclude that censorship was the central issue in the Baylor conflict. One thing that is clear is that both issues, pornography and censorship, were present in the incident. Since the presence of both has been established, the question now is: What was the intensity of the involvement of each charge?

TABLE IV
 PERCENTAGE DISTRIBUTION OF KEY STATEMENTS MADE
 DURING THE BAYLOR INCIDENT IN REFERENCE TO
 CENSORSHIP

	Element	Non-element
Fact	76.9%	66.7%
Opinion	<u>23.1%</u>	<u>33.3%</u>
Total	100.0%	100.0%
(N)	13	6

From Table III it was found that, of all the statements with elements of pornography, 33.3% were based on fact. Also, of all the non-element statements in the same

category, none (0.0%) was based on opinion. The comparison of these two percentages yielded 33.3% difference. In effect, it could be stated that pornography, via fact or opinion, affected the conclusion by 33.3%. Table IV also showed that censorship affected conclusion by only 10.2%. That percentage is not large enough to be considered a strong relationship between censorship and conclusion.

Even though the percentage comparison falls short of expectation, it shows an existence of relationships among variables. It was, therefore, the objective of the writer to explore these relationships from the standpoint of probability.

Probability of Relationships

Generally, the most appropriate statistic used to test for independence between two variables, nominally measured, is the chi-square test. It assumes the hypothesis that there is no relationship between the variables. This assumption of no relationship is referred to as the null-hypothesis.

The strength of the chi-square test for independence of the variables lies in the measurement of the closeness of the observed frequencies to the expected frequencies. Therefore, such a relationship is based on likelihood or

certainty. To strength of relationships, a measure of association, the coefficient of contingency, was applied.

Tables I and II were combined to form a two-by-four crossbreak, as presented in Table V, showing the points earned by statements comprising the combinations of element/non-element, fact/opinion, and pornography/censorship.

TABLE V
POINTS EARNED BY TYPE OF STATEMENT

	Element		Non-element		
	Porno- graphy	Censor- ship	Porno- graphy	Censor- ship	
Fact	2	10	0	4	16
Opinion	4	3	5	2	14
Total	6	13	5	6	30

The chi-square (X^2) formula used is as follows:

$$X^2 = \frac{(\text{Observed} - \text{Expected})^2}{\text{Expected}}$$

From Table V, the chi-square value is 10.23 (see

individual chi-squares in Table VI).

With three degrees of freedom, the observed chi-square value would have to equal or exceed the critical value of 9.837 to be significant at the .02 level. Since the observed chi-square value of 10.23 was larger than 9.837 at the .02 level, one can confidently reject the null-hypothesis that there is no relationship between the variables. Assuming sample reliability, the observed relationship would occur in 98 out of 100 such studies. In other words, it is concluded that there is a relationship between a fact- or opinion-oriented statement and a statement with an element or non-element of pornography or censorship in the Baylor incident of spring 1980.

The appropriate measure of association which was used to describe the degree of association was coefficient of contingency.

The formula for the coefficient of contingency (C) is

$$C = \sqrt{\frac{X^2}{X^2 + n}}$$

Since Table V shows a strong possible association, a maximum absolute value of one was taken. With a contingency coefficient value of .50, the relationship between the variables is moderate.

TABLE VI
CHI-SQUARES FOR STATEMENT TYPES

Category	Observed Frequency	Expected Frequency	Difference	Difference ² /Total
Fact, element--pornography	2	16 x 6/30=3.2	-1.2	1.44/3.2=0.45
Fact, element--censorship	10	16 x 13/30=6.9	3.1	9.61/6.9=1.39
Fact, non-element--pornography	0	16 x 5/30=2.7	-2.7	7.29/2.7=2.7
Fact, non-element--censorship	4	16 x 6/30=3.2	0.8	0.64/3.2=0.2
Opinion, element--pornography	4	14 x 6/30=2.8	1.2	1.44/2.8=0.51
Opinion, element--censorship	3	14 x 13/30=6.1	-3.1	9.61/6.1=1.58
Opinion, non-element--pornography	5	14 x 5/30=2.3	2.7	7.29/2.3=3.13
Opinion, non-element--censorship	2	14 x 6/30=2.8	-0.8	-.64/2.8=0.23
Total	30	30.0		10.23

Chi-square (X^2) = 10.23
Coefficient of Contingency (C) = 0.50

P < .02

Degrees of freedom (df) = 3

Looking at Table VII, which follows, it is observed that, with one degree of freedom, the observed chi-square value would have to exceed 3.841 to be significant at the .05 level.

Since the observed chi-square of 2.0827 was smaller than 3.841, we can confidently maintain the null-hypothesis that there is no relationship between the two sets of variables. In other words, there was no evidence that a fact- or opinion-oriented statement made during the Baylor conflict was related to, or dependent on, the element or non-element of the same statement.

TABLE VII
RELATION BETWEEN FACT/OPINION
AND ELEMENT/NON-ELEMENT

	Element	Non-element	
Fact	12	4	16
Opinion	<u>7</u>	<u>7</u>	14
Total	19	11	30

$$\chi^2 = 2.0827$$

$$P < .20$$

$$df = 1$$

$$C = 0.25$$

As to the strength of the relationship, it is concluded that the association that existed between fact- or opinion-oriented statements and statements having an element or non-element of either pornography or censorship was a weak one. This is evidenced by the small contingency coefficient value of .25, as shown above.

Table VIII shows that with one degree of freedom, the observed chi-square value of 0.6191 could occur by chance more than five times in 100. Once again, the null-hypothesis has been maintained; that is, there is no relationship between the two sets of variables.

TABLE VIII
RELATION BETWEEN PORNOGRAPHY/CENSORSHIP
ELEMENT/NON-ELEMENT

	Element	Non-element	
Pornography	6	5	11
Censorship	<u>13</u>	<u>6</u>	19
Total	19	11	30

$$X^2 = 0.6191$$

$$P < .50$$

$$df = 1$$

$$C = 0.14$$

Pornography and censorship, as variables in the Baylor incident, were independent of element or non-element statements.

With a small value of coefficient of contingency (0.14), as the test indicated, there is no doubt that the association is a very weak one.

In the next crossbreak, Table IX, the observed chi-square value was 8.7753. This exceeded the critical values of 3.841 at .05 level and 6.635 at .01 level.

TABLE IX
RELATION BETWEEN FACT/OPINION AND
PORNOGRAPHY/CENSORSHIP

	Pornography	Censorship	
Fact	2	14	16
Opinion	<u>9</u>	<u>5</u>	14
Total	11	19	30
<hr/>			
$\chi^2 = 8.7753$	$P < .01$		
$df = 1$	$C = 0.48$		

Since the relationship was found to be significant, the null-hypothesis (that no relationship exists between

fact- or opinion-flavored statements and either pornography or censorship) was automatically rejected.

Stated another way, the test has shown that there was strong evidence that fact- or opinion-flavored statements made during the Baylor incident of spring 1980 were associated with either pornography or censorship as a variable.

The strength of the relationship, as shown by the coefficient of contingency, 0.48, was moderate. As Table IX indicates, the greater number of points attributed to censorship was due to fact statements, while pornography points came mostly from opinion statements.

CHAPTER V

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

Summary

One of the most publicized campus controversies challenging the freedom of expression occurred at Baylor University in Spring, 1980. It started when news about Playboy magazine's scheduled visit reached the campus. The object of the visit was to allow Playboy photographer David Chan to take pictures of Baylor girls in various stages of undress for the magazine's September issue, entitled "Girls of the Southwest Conference."

Consequently, the Baylor administration became alarmed. It advised the student newspaper, the Lariat, to turn down an advertisement from Playboy. President Abner McCall of Baylor issued a firm warning to students against posing for Playboy.

As a result, tensions arose among student journalists, journalism faculty and administration. The impact of the controversy upon the Lariat was especially traumatic, culminating in the dismissals of three top editors, Jeff Barton, Cyndy Slovak, and Barry Kolar. Also two professors, Dr. Donald Williams and Dr. Dennis Hale, resigned from

the journalism faculty.

The controversy focused upon the position of the university enunciated by President McCall. The school's long-standing ties with the Baptist Church no doubt intensified fears of the administration as to public reaction, especially among church leaders who were instrumental in fund raising for the university.

The student editors, on the other hand, felt strongly that any coed's decision to participate in Playboy's photo session was a matter of choice. Thus, they viewed the administration's ban as being tantamount to censorship and as a violation of the students' First Amendment rights.

With this as background, the author believed that his proposed research would shed light on the dynamics of the controversy. The study pivoted on pornography and censorship. Appropriately, content analysis was chosen to aid in the study of such dynamics.

As the thesis advanced, it became clear that other writers of master's theses had found the courts' decisions regarding First Amendment rights not to have been extended to private institutions. However, in various court cases presented in conflicting and confusing forms, it seemed clear that administrators may not exercise control over student newspapers in a way that would constitute a

violation of the First Amendment.

The administration's financial and legal responsibilities in the face of ever-increasing printing costs were recognized. But the argument was a matter of principle. It was suggested that once an institution offers journalism education by setting up a channel, it should anticipate the possibility of conflict between student journalists and administrators.

The study did not deal with frequency of symbols. It sought, rather, to use theoretically oriented content analysis. Thus, the method of non-frequency, as opposed to frequency, content analysis was used freely. Both were employed occasionally.

A list of 100 statements relating to the Baylor incident and reported in various journalistic magazines, newspapers, pamphlets and so forth, was compiled. From that list, thirty statements were derived and submitted to analysis.

A major crossbreak and sub-analyses were presented to help analyze the relationships between (1) fact and opinion and element and non-element, (2) pornography and censorship and element and non-element, and (3) fact and opinion and pornography and censorship.

Considering the data collected, it was determined that the best-known statistical tool for the study was

the chi-square test. As noted, the test hypothesizes that there is no relationship between the variables. The test's strength lies in the measurement of the closeness of the observed frequencies to those of the expected. To determine the strength of relationships, a measure of association, the coefficient of contingency, was applied.

Results of the study suggested that the issue of censorship outweighed that of pornography in the thrust of the publicity generated by the media.

Conclusions

Based upon the data and dynamics of the controversy, it was determined that President McCall overreacted in the Baylor conflict. Having done so, therefore, the stage was set for the highly volatile situation that grew out of it.

The president's unyielding position blocked any compromise that might have helped resolve the controversy. It is not out of place to state that the Southern Baptist Convention, no doubt, played a part in the president's highly inflexible stance.

Baylor depends upon private endowments, and stood to lose heavily had university officials not resisted the Playboy efforts to photograph Baylor coeds.

There also appeared to be little compromise by some student editors and journalism faculty. It appeared that lack of adequate dialogue existed between top editors and school administrators. Indications are that the journalism faculty failed to take a firm stand on the issue. The fact that two of six journalism professors resigned made it obvious that the faculty itself was divided on the issue.

It should be noted that the origin of published reports on the controversy may have influenced the study's outcome. Most of the literature on the conflict was contributed by various media people who were, understandably, much concerned with freedom of speech and press.

Recommendations

At this juncture, the author wishes to make some recommendations. First, students are reminded that as journalists they are duty bound to report objectively. Thus, they should endeavor to emulate the principles of journalism taught by schools of journalism.

Moreover, it seems appropriate to recommend that school administrators should exercise extreme care and restraint when dealing with explosive situations on campus. They should not tell students what they can

and cannot do in their private lives. In loco parentis on one hand and First Amendment rights of free expression on the other seemed to be involved. President McCall ordered coeds not to pose for Playboy. In a similar situation, that is, Playboy's visit to the Oklahoma State University campus in February, 1982, the approach was more tactful. A statement issued by Dr. Ronald Beer, vice president for student services, hinted that the university basically, would not allow nude photo sessions on campus, but conceded that individuals had the right to make their own decisions off campus.¹

Dr. Beer said in part:

Our work with students emphasizes the importance in all decisions they make about being responsible to themselves as well as to the university. . . . We would trust that students are not going to do things that embarrass them or the institution.²

In situations like Baylor's student journalists would do well to exhaust all avenues to seek redress. Such efforts call for the exercise of a wide range of tolerance.

The author recommends that, to avoid future misunderstandings, universities should appoint someone from the faculty to assume the position of publisher, thus approximating "real world" conditions in providing a meaningful educational experience for would-be

journalists.

Finally, it is recommended that further studies on this and similar controversies be carried out by other students of journalism. Insofar as the Baylor conflict is concerned, the following research might be productive:

1. A comparison of how the Associated Press and United Press International handled stories about the controversy.
2. A content analysis of the Waco Tribune's coverage of the controversy.
3. A quantitative content analysis of the controversy, using a more extensive sample of communication behavior units.
4. A comparative analysis of publishing policies in selected church-related schools.
5. A comparison of publishing policies of four-year church-related institutions and non-church-related institutions.
6. A study of the perceived role of student editors in private and non-private institutions.

ENDNOTES

¹ Kurt Hochenauer, "OSU Coeds Not Shy About Posing Nude," The Daily Oklahoman, 9 Feb. 1982, pp. 1-2.

² Ibid.

CHAPTER VI

EPILOGUE

As the steam of the controversy evaporated, Playboy circulated its final copy of the much-talked about September 1980 edition, entitled "Girls of the Southwest Conference."

In all, the magazine devoted 14 pages to the special feature. There were 34 full color pictures covering almost 12 pages. It is interesting to note that out of the 34 pictures, only four showed Baylor coeds, and only two of these were provocative (see Appendix B).

Playboy had indicated that some 80 Baylor coeds attended the interview conducted by the magazine's photographer, David Chan. Compared with photographs of candidates from other Southwest Conference schools, the photos of Baylor candidates were smaller in size. The two provocative pictures showed Baylor coeds bared only from the waist up. In other words, it appears that the magazine did not "strike back" by seeking to purposely embarrass Baylor University as it might have done with larger photos and more provocative poses.

In spite of the hoopla and the ensuing furor, Playboy handled the feature in a manner consistent with

past editorial policy. No matter what the outcome of the blowup, the fact remains that nobody won the skirmish at Waco, Texas, except Playboy, which sold out its copies as usual.

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APPENDIX A
SAMPLES OF CODING SHEET

SAMPLE OF CODING SHEET

PORNOGRAPHY

<u>Element</u>			<u>Non-element</u>		
<u>Statement No.</u>	<u>Fact</u>	<u>Opinion</u>	<u>Fact</u>	<u>Opinion</u>	<u>Statement No.</u>
1.					1.
2.					2.
3.					3.
4.					4.
5.					5.
6.					6.
7.					7.
8.					8.
9.					9.
10.					10.
11.					11.
12.					12.
13.					13.
14.					14.
15.					15.
16.					16.
17.					17.
18.					18.
19.					19.
20.					20.
21.					21.
22.					22.
23.					23.
24.					24.
25.					25.
26.					26.
27.					27.
28.					28.
29.					29.
30.					30.

SAMPLE OF CODING SHEET

CENSORSHIP

<u>Element</u>			<u>Non-element</u>		
<u>Statement No.</u>	<u>Fact</u>	<u>Opinion</u>	<u>Fact</u>	<u>Opinion</u>	<u>Statement No.</u>
1.					1.
2.					2.
3.					3.
4.					4.
5.					5.
6.					6.
7.					7.
8.					8.
9.					9.
10.					10.
11.					11.
12.					12.
13.					13.
14.					14.
15.					15.
16.					16.
17.					17.
18.					18.
19.					19.
20.					20.
21.					21.
22.					22.
23.					23.
24.					24.
25.					25.
26.					26.
27.					27.
28.					28.
29.					29.
30.					30.

APPENDIX B

A TABULATION BASED ON PLAYBOY'S SEPTEMBER
1980 FEATURE'S PICTURES OF COEDS FROM
SOUTHWEST CONFERENCE SCHOOLS,
SHOWING PROVOCATIVENESS,
NUMBER, AND SIZES

TABLE X

PLAYBOY'S SEPTEMBER 1980 EDITION: A TABULATION OF PICTURES OF COEDS FROM
SOUTHWEST CONFERENCE SCHOOLS, SHOWING PROVOCATIVENESS, NUMBER, AND SIZES

University	Number of Provocative* Pictures (in parenthesis) and Their Sizes	Number of Non-Provocative Pictures (in parenthesis) and Their Sizes	Total Number of Pictures
Arkansas	(2) $5\frac{1}{2} \times 3\frac{1}{4}$; $5\frac{1}{4} \times 7\frac{1}{2}$	(1) $3\frac{3}{4} \times 2$	(3)
Baylor	(2) $3\frac{3}{4} \times 6\frac{3}{4}$; $4\frac{3}{4} \times 7$	(2) $3\frac{1}{2} \times 2$; $1\frac{3}{4} \times 3$	(4)
Houston	(2) $2\frac{1}{4} \times 2\frac{3}{4}$; $5\frac{1}{4} \times 3\frac{1}{4}$	(3) 3×2 ; $5\frac{3}{4} \times 3\frac{1}{2}$ **; $2 \times 2\frac{3}{4}$	(5)
Rice	(1) $4\frac{1}{4} \times 6\frac{3}{4}$	(0)	(1)
Southern Methodist	(2) $3\frac{1}{2} \times 4\frac{3}{4}$; $5\frac{3}{4} \times 3\frac{1}{4}$	(1) $2\frac{1}{2} \times 4\frac{1}{2}$	(3)
Texas	(4) $3\frac{3}{4} \times 2$; $4\frac{1}{2} \times 3\frac{1}{2}$; $5\frac{1}{4} \times 7\frac{1}{2}$; 4×2	(2) $7\frac{1}{4} \times 9\frac{3}{4}$; $2\frac{1}{2} \times 4\frac{1}{2}$	(6)
Texas A&M	(3) $7\frac{1}{2} \times 8$; $7\frac{3}{4} \times 11$; 11×7	(3) $2\frac{1}{2} \times 2\frac{1}{2}$; $2\frac{1}{2} \times 2\frac{1}{2}$; $4\frac{1}{4} \times 3\frac{1}{4}$	(6)
Texas Christian	(2) $4 \times 2\frac{1}{4}$; $2\frac{3}{4} \times 3$	(0)	(2)
Texas Tech	(4) $9\frac{1}{2} \times 6\frac{3}{4}$; $5 \times 3\frac{1}{4}$; $3\frac{1}{4} \times 2\frac{1}{2}$; $4\frac{1}{2} \times 7\frac{1}{4}$	(0)	(4)

* See next page

** See next page.

* Although the word provocative, as defined by the American Heritage Dictionary, lacks a sexual connotation and neither refers to obscenity or pornography, the author uses the term in his analysis of "Girls of the Southwest Conference" in the following manner: All photographs in which coeds fully bared either or both bosom and the genital area were classed as provocative; photos in which both bosom and genital areas were clad were considered non-provocative. An example of a provocative photo appears in Playboy, Sept. 1980, p. 151; non-provocative photo on p. 140.

** Two coeds were featured in this photograph: One from Rice University and one from the University of Houston. In the tabulation above, the photograph was assigned to Houston.

APPENDIX C

EXTRACTS OF STORIES AND CARTOONS
CARRIED BY SOME MAJOR JOURNALS

looking for beauty in the bible belt can get you belted with a bible



WHERE DO PRETTY GIRLS come from? It's the kind of question that sparks the spirit of adventure in us. Surely someone must once have said to himself, "I wonder where the headwaters of the Amazon are," and then gone out and found them. Darwin must have had such a question in mind when he set about tracing the roots of life on this planet. The search for the origin of life, we grant you, was interesting; but a search for the source of beauty—now, there's a challenge. One that we at PLAYBOY, as true scientists, could not ignore. After nearly six months of intensive research, we can report that we think we've found it—

THE NEW YORK TIMES, WEDNESDAY, APRIL 9, 1980

Playboy's Plan to Take Photos of Women Students Splits Baylor U.

Special to The New York Times
WACO, Tex., April 8 — Abner McCall, the president of Baylor University, has lost patience with the controversy over Playboy magazine.
"It's kind of like a wart on my toe," he

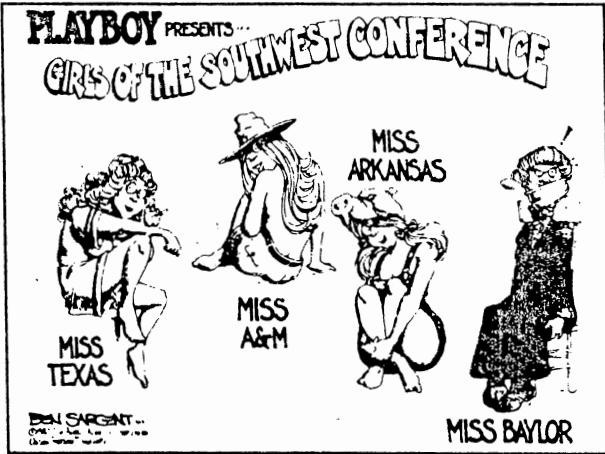
assertion that he would discipline any female students who contributed to the magazine's proposed feature on "The girls of the Southwest Conference" has brought opposition.
"They're too busy being Baptists

That led to tougher administration guidelines on The Lariat's contents and finally a dispute over censorship that resulted in the dismissal of the paper's
ber of the Texas Supreme Court, said that the university's position was that a woman was free to pose for Playboy but not free to do so as a representative of

When president McCall of Baylor restricted his coeds' posing, the controversy received national attention.



Michael Fry of *The Baylor Lariat* took a humorous shot at Baylor's Baptist underpinnings in his drawing above.



Baylor women got a new look in the cartoon above from the *Austin American-Statesman*. Ben Sargent was the couturier.

SMU student newspaper rejects Playboy ad

By RALPH HULME
Playboy magazine publisher, and so on, was looking for the girls of the Southwest Conference. He had a list of schools and was looking for a place to come to holding the 1980-81 Southwest Conference. Baylor University's name was on the list. Baylor University is a Baptist University.

and in the proposed advertisement... and some advertising, and Frank... Baylor University is a Baptist University.

"I don't understand. You're exploiting these women by not paying them. Playboy at least pays for services rendered."

— Playboy photographer David Chan

from the 19... of the 19... of the 19... of the 19...

The Southern Methodist University newspaper rejected PLAYBOY's ad, but students turned out in droves anyway. One possible result of our foray into the Southwest Conference was suggested by Etta Hulme of the *Fort Worth Star-Telegram*.



VITA²

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