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Book Reviews

THE PRESS AND THE CONSTITUTION, 1931-1947 By J. Edward Gerald. Minneapolis: University of Minnesota Press, 1948. Pp. viii, 173.

This is primarily a survey and study of judicial decisions relating to the publication of news and opinions during the Roosevelt Era. The cases studied are really of two kinds—those in which the decision, as in the famous “Minnesota gag-law” case (*Near v. Minnesota*), was based firmly on the First Amendment to the Constitution, strengthened by the Fourteenth; and those like the A.P. monopoly case (*Associated Press v. United States*), which exemplify what Dr. Gerald calls “the theory that freedom is not a passive force but must be socially directed to carry out the principles of the First and Fourteenth Amendments.”

The book is not divided according to these broad trends in decisions, however. Its chapter divisions are very properly made according to types of issues, as follows: contempts, picketing as freedom of speech, employe relations, newspaper taxes, anti-trust violation, abuses of postal and licensing powers. The leading Supreme Court decisions discussed are the two mentioned in the preceding paragraph; the Brandeis decision in *Senn v. Tile Layers Protective Union*, called “the first chapter of the new Constitutional history of picketing,” and the related one written by Justice Murphy in *Thornhill v. Alabama*; *Associated Press v. NLRB*, in which the discharge of Morris Watson for Guild membership was the issue on which the court divided five to four, Roberts writing for the majority and Sutherland for the minority; the Huey Long advertising tax case, *Grosjean v. American Press Co.*, in which Justice Sutherland wrote the decision; *Lovell v. Griffin*, the landmark case in the proceedings against the Jehovah’s Witnesses, decision by Chief Justice Hughes; the *Esquire* postal censorship case, in which Justice Douglas wrote the majority opinion; and the Miami *Herald* contemp case, *Pennekamp v. Florida*, in which, as Dr. Gerald puts it, Justice Frankfurter “swung his brilliant verbal shillalah.”

But these are only a few of the highlighted cases which the author discusses in this book. He refers to many others, and even to some which were decided long before 1931, the beginning date of his survey. In short, he attempts to give some background for the leading press issues which arose in the Roosevelt Era. In the main, his treatment is objective and informational, but he frequently takes a point of view and points out directions in which legal theories need further development. The entire treatment is well informed, lucid, and excellently ordered; and Dr. Gerald has performed a genuine service in bringing this material together. The chapters on picketing and on the A.P. case are especially full and helpful. The work was originally performed as a doctoral dissertation in the Department of Political Science at the University of Minnesota. The author, formerly acting dean of the Missouri School of Journalism, is now professor of journalism at Minnesota.

There are, of course, matters of opinion in which any attentive reader will find some scope for disagreement; but the present reviewer believes Dr. Gerald’s dis-

cussions to be generally sound. Perhaps there is a bit of exuberant over-writing here and there, and a few statements that may be challenged. To say that "the long trail by which the postal power became censorial started in 1877 with the decision in *Ex parte Jackson*" seems misleading. There were many "censorial" activities by the Postoffice Department before such matters came to the attention of the Supreme Court; for example, mailing privileges were refused many periodicals during the Civil War for political reasons.

FRANK LUTHER MOTT

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MEDICOLEGAL PROBLEMS. Edited by Samuel A. Levinson, M.D. Philadelphia: J. B. Lippincott Company, 1948. Pp. xiv, 255.

This pocket sized volume is an edited transcript of a medicolegal symposium conducted in 1945 jointly by the Institute of Medicine of Chicago and the Chicago Bar Association. It is the result of an experiment in conducting a program of mutual interest to doctors and lawyers for presentation to a mixed audience of doctors and lawyers. Six topics were made the subject of discussion from both the medical and legal viewpoints. The topics discussed were: Expert Medical Testimony, Artificial Insemination, Practice of Pathology, Operations to Produce Sterility, Traumas and Tumors in Industrial Medicine, Scientific Tests in Evidence.

The discussions do not purport to be thorough, documented products of painful research. The remarks of each of the participants, except in a few instances, appear to be practically extemporaneous discussions by busy but well informed practitioners. More questions are raised than are disposed of.

To the practitioner the discussions on the causal connection between traumas and tumors and the discussions on the blood grouping tests and the tests for alcoholic intoxication are interesting and helpful, if not profound.

The discussions of artificial insemination are unique and amusing. Our law based upon prevalent conventions and mores apparently is embarrassed by the phenomenon of artificial insemination.

There are many legal questions concerning the civil and criminal law in connection with operations to produce sterility which perplex the medical practitioner. The lack of legal rules in this field is emphasized by the discussions.

This symposium indicates that the communication between lawyers and doctors on professional problems are not good; that joint meetings may be held with mutual profit.

This is the kind of book one would wish to read for pleasure and to keep up with what is going on in the world.

It is suggested that volumes of this character would be more popular if published in less expensive editions.

WILLIAM H. BECKER

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