

The Rights and Privileges of the Press (Book Review)

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"Cases on Law of Agency," by the same author. Both volumes are old and tested works which the author over a period of years has supplemented, rearranged and strengthened in a manner that has proven most effective in presenting the important principles of Agency.

Naturally, in the "Principles of the Law of Agency" and "Cases on Law of Agency," we find the old guideposts and landmarks in the New York law of agency. Shadings and modifications of old principles that come with the progress of the law have not escaped the careful, painstaking research. Skilled and experienced craftsmanship is shown throughout. Freshness and modernity is added by including illustrative and erudite opinions of Judge Pound and Judge Cardozo as they appear in more recent New York cases.

The instructor as well as the student will find a succinctness, yet sufficient material for independent research. The snug dovetailing of these two volumes enables the instructor to lay out a course of study either brief or elaborate to suit the given requirements and needs. Prepared primarily with a view to their use in the classroom, eminent success has already been had in the practical use of these books for many years. They have been found valuable in bringing out the principles of law of agency clearly and concisely and placing them within the easier grasp of the student of the law.

So thorough and comprehensive has been the groundwork through the several additions that this new edition required little by way of supplement or addition. What has been added, has been accomplished through the experienced hand of Professor Frederick A. Whitney in incorporating some recent decisions and statutory changes.

These companion volumes are most welcome.

LEO C. KELLY.

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THE RIGHTS AND PRIVILEGES OF THE PRESS. By Frederick Seaton Siebert. New York: D. Appleton-Century Co., Inc., 1934, pp. xvii, 429.

Although this book is entitled "The Rights and Privileges of the Press," and is dedicated to a "Freedom of the Press Committee," it is not a free press manifesto. It is, simply, a text-book, concise, interesting and well organized. It states, as accurately as is possible in a field of constantly shifting judicial standards, the law appertaining to the right of the Press to gather, publish and comment on the news.

In connection with the gathering of news, the book deals in detail with the right (a) to inspect public records, including those of the federal, state, county and municipal governments; (b) to report judicial, legislative and administrative proceedings; and (c) to make use of written or printed matter (covering the outlines of the law of copyright). This portion of the book includes further a discussion of the obligations of the Press with respect to statements "off the record," and news releases which specify the date and time of publication. It concludes with a consideration of the right of the Press to refuse to

publish particular advertising or news items, and its obligation to observe the right of privacy and the rights of cartoonists.

The section of the book which is devoted to the publication of news, lawfully gathered, deals primarily with the law of libel, and includes a chapter devoted to the civil and criminal liabilities for obscene, immoral or blasphemous publications.

In covering the right to comment on the news, the book considers the exercise of this right as it relates to the government, courts and judicial officers, public officers and candidates for public office, and persons whose position in the community, temporary or permanent, renders them a fair subject for newspaper comment.

Interesting illustrations of the manner in which the law operates with respect to the various subjects are given throughout. References are made not only to the reported cases, but to text and law review material and to unreported decisions.

In short, the book has, to the fullest degree, the limited usefulness which any manual may have. It is interesting and it is convenient, but it cannot hope to enable the publisher to determine for himself, in cases not covered by his experience, the application of conflicting decisions and changing standards to his particular problem.

This book has the further merit, however, of touching on and treating briefly many problems of particular current interest. The relation of the Press to crime is one of these. "Trial by newspaper," which has been regarded as the chief modern deficiency in the treatment of crime news, is but a single aspect of the larger problem: the adjustment of the conflicts which arise between the right of the Press to report the news, and its responsibility not to arouse criminal tendencies—its duty to aid, rather than to impede, the apprehension and prosecution of offenders.

Where a crime has been committed, for example, it is important that the available details be published in order that the apprehension of the criminal may be facilitated. The commission of a crime, furthermore, is a fact which the community as a whole has a right to know about. But the information, unless carefully prepared, is two-edged. It informs the offender, as well as the public. Crime stories, furthermore, tend to assume a dime novel aspect. A story couched in such descriptive terms as the "lone gunman," "coolly defiant," "undaunted by a throng of onlookers," and which describes a "swift getaway" in a "smoothly purring powerful limousine" cannot fail to arouse the misguided admiration of impressionable young readers. The temptation to crime, serious enough as the result of existing economic pressures and other unfortunate modern influences, is rendered much more potent by these lurid crime pictures. Legally unimpeachable, these stories can only be censored by a realization on the part of the Press of the tremendous influence which it exerts and a recognition of its concomitant moral responsibility.

Similar considerations are applicable to the manner in which the apprehension of criminals is often described. Stories of thrilling gun battles, hair-breadth escapes and clever ruses, do not act as crime deterrents.

When the criminal has been apprehended and is about to be tried, the entire resources of the newspaper, in sensational cases, are devoted to printing

every detail of what happens. Statements are procured from the District Attorney and the defense counsel, much as if they were contenders for pugilistic honors. The details of the day-by-day battle between counsel, the stratagems and expedients resorted to by both sides, the emotions of witnesses and of the defendant are all set forth with melodramatic exaggeration. This type of reporting, whatever its circulation-getting possibilities may be, is not good journalism; it is a plain violation of ordinary standards of decency. Placing the defendant in the position of a person waging a desperate fight against odds, represents not only a distortion of the fact, but is likely, in the interests of good government, to call forth the statutory regulation which the Press has fought so long to avoid.

Although the authority of the courts to punish interference with the administration of justice by exercise of the power of contempt is conceded, it has not been frequently exercised in this country. In the instances in which the contempt power has been invoked, the contempt most frequently involved criticism of the judiciary. There is at least one instance, however, in which an editor was held guilty of contempt for publishing articles in advance of a trial which purported to set forth the evidence which was to be produced, and commenting thereon.¹ That case might be followed with highly salutary results.

The leniency of judges and prosecuting officers, in their attitude towards the Press, is undoubtedly due to the political influence which the newspapers may exert and which judges and prosecuting officials cannot afford to disregard. The Press itself has recognized the need for reform. An editorial printed in the Chicago Tribune and set forth by the author² refers to trial by newspaper as an "abomination." The entire problem needs investigation and vigorous action.

The book, therefore, is to be commended, not only for its competent treatment of a complicated set of rules, but for its tendency to stimulate discussion of the many problems which the Press must solve in adjusting itself to the needs of the community.

GEORGE SYLVESTER.

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RESTATEMENT OF THE LAW OF CONFLICT OF LAWS. St. Paul: American Law Institute Publishers, 1934, pp. xli, 814.

The advent of this restatement marks the culmination of eleven years of research undertaken by the American Law Institute and a staff of eminent scholars. The completion and publication of the results of this great effort are peculiarly fitting at this time in that this work may be considered as a tribute to one of America's foremost jurists, Joseph Story. It comes just one hundred years after the publication of Story's "Commentaries on the Conflict

¹ State v. McGee, 80 Conn. 668, 69 Atl. 1059 (1908).

² P. 54.