

The Journal of Law and Education

Volume 15
Issue 4 4

Article 12

Fall 1986

Book Reviews

Follow this and additional works at: <https://scholarcommons.sc.edu/jled>



Part of the [Law Commons](#)

Recommended Citation

(1986) "Book Reviews," *The Journal of Law and Education*: Vol. 15: Iss. 4, Article 12.

Available at: <https://scholarcommons.sc.edu/jled/vol15/iss4/12>

This Article is brought to you by the Law Reviews and Journals at Scholar Commons. It has been accepted for inclusion in The Journal of Law and Education by an authorized editor of Scholar Commons. For more information, please contact digres@mailbox.sc.edu.

Book Reviews

FREEDOM FOR THE COLLEGE STUDENT PRESS: COURT CASES AND RELATED DECISIONS DEFINING THE CAMPUS FOURTH ESTATE BOUNDARIES. By Louis E. Ingelhart. Westport, Connecticut, Greenwood Press, 1985, Pp. 229. \$29.95.

*Reviewed by Edward R. Hines**

For some time, there has been a need for a book focusing on one specific topic within the law of higher education and treating that topic in depth. This need would be met in the area of the student press by fulfillment of the author's stated purpose "to collect the court rulings of significance." The reader's interest is whetted by the note that the book contains court decisions from the nineteenth century through 1983. At first glance, the author appears to have delivered the material. This 200-page book contains 649 references and 449 separate court cases. The seventeen chapters are organized logically along lines of providing overviews of court cases pertaining to the law of higher education (neither was mentioned in this book), there arose the need for more in-depth treatment of specific topics.¹ One such topic is the college student press. The author of this book is well-qualified. An emeritus professor of journalism, the author has published an earlier book (1973) as well as journal articles on the topic. The author is helpful in identifying a number of sources and organizations such as the Student Press Law Center and the Student Press in America Archives, as well as "approximately 400 respondents who have helped him with information and sleuthing over the years." Indeed, the volume of references and court cases cited in the book speak strongly in support of the thoroughness and detail of the examination of this topic.

The chapters on disruptive publications, newsgathering, libel, privacy, obscenity, and advertising have much to recommend to virtually any campus newspaper staff person or student journalist. The author dispels the myth that courts probably would not regard defamation by the student press as being actionable for libel damages. He explains the landmark decision of the U.S. Supreme Court in *New York Times v. Sullivan* (1964), which is credited for giving "emancipation of the press." Included also are accounts of settlements for as little as \$10 or the right to toss a pie in someone's face, giving humor if

*Professor of Educational Administration and Director of the Center for Higher Education, Illinois State University.

¹William A. Kaplin, *THE LAW OF HIGHER EDUCATION*, 2d ed. (San Francisco: Jossey-Bass, 1985); Harry T. Edwards and Virginia Davis Nordin, *HIGHER EDUCATION AND THE LAW* (Cambridge, Massachusetts: Institute for Educational Management, Harvard University, 1979).

not insight into legal resolution. More seriously, libelous imputation is examined including sexual innuendo, drug use, accusation of thievery, epithets, and public performance. Libel defenses are analyzed including truth, privilege, comment and criticism, first amendment, satire written in jest, and neutral reportage.

A range of useful management issues are explored which have potential value to advisers of campus newspapers and institutional officers. These include the extent of accountability of the institution for material published in student newspapers, funding college student publications and the role of student fees in this funding, taxation, and postal regulations. The author does an effective job of cautioning institutional officials against exercising prior restraint upon the content of student publications and the legal implications of chilling such content. He properly reminds us that "control of content is the measure for determining liability."

There are, however, a number of frustrations and shortcomings in this book. One frustration has to do with the format and organization. Some of the chapters used U.S. Supreme Court decisions, decisions from the U.S. courts of appeals, federal district court decisions, then state court decisions as side heads. While this format is logical, a more effective approach would have been to present substantive subtopics using side heads, as was done in the chapter on libel. The federal and the state court decisions could have provided a practical way to organize material pertinent to specific principles and legal issues. In addition, the author chose a cumbersome and fragmented approach of using an excessive number of single-sentence paragraphs. In places, analysis of a single case utilized several paragraph. In other places, single-sentence paragraphs left the reader with a feeling of superficial treatment and incomplete analysis. I would have preferred having more detailed analyses of key cases followed by supporting or closely-related cases. Admittedly, the author warned readers that "the grand and moving statements and essays of the theorist or the work-a-day examples of the media fall outside the scope of this book." The effect of poor format caused boredom, loss of interest, and unnecessary fragmentation.

The organization of the book could have been improved. The first chapter of seven pages is entitled "A General Overview," but the initial four chapters, in fact, provide an introduction to this topic. There is an enumeration of the constitutional guarantees of a free press and an explanation of what has been the general approach of the courts, both federal and state, toward student publications in private and in public colleges. These opening 60 pages would have been more effective if organized topically and labeled "overview" or "survey of key issues."

These problems of format and organization were nettlesome, but even more troublesome were errors in bibliography and content. In the second chapter, there was bibliographic transposition between footnotes 62 and 63, so the

references in the narrative do not match the end-of-chapter references. The case cited in footnote 63 (it should have been footnote 62) is incorrect and does not match the case citation found in the *New York Supplement*. The case is *Civil Service Employees Association, Inc. v. State University of Stony Brook*. The case is listed in this book as *Civil Service Employees Association, Inc. v. New York State University of Stony Brook*, 368 N.Y.S.2d 927 (1974). New York State University does not exist. There is New York University, the University of the State of New York, and the State University of New York, which has four university centers, one of which is located at Stony Brook. Of greater concern are statements found in the book on pages 72 and 111 regarding the structure of Cornell University. The author wrote that "Cornell University maintains four last-grant colleges." This is incorrect. Cornell University is a private university which has been designated as the land-grant institution in New York state. As the land-grant institution, Cornell maintains four units which are public and designated as statutory colleges. A careful reading of the case cited by the author, *Holden v. Board of Trustees of Cornell University*, App. Div. 440 N.Y.S.2d 58 (1981), will demonstrate this structural characteristic.

Freedom for the College Student Press, thus, deals with an important topic. More such treatments are needed in areas of special interest and where a thorough coverage is necessary and beneficial. The errors and problems identified in this review, however, cause the reviewer to conclude that this was an uneven treatment. More careful work eliminating these problems would have improved the book significantly.

MENTAL ILLNESS AND THE LAW, Revised Edition. By Tony Whitehead, Basil Blackwell Publisher Limited, 1985, Pp. 198. Softcover. \$10.00.

*Reviewed by Gene Teitelbaum**

As an educator, one should be aware of the signs of mental illness in both one's students and one's colleagues, and how society treats such people. This short (only 134 pages of text) paperback book is a discussion of the 1983 English mental health law, together with a comparison with its predecessor, enacted in 1959. Also, it contains 39 legal forms to help mentally sick people, and a nine page glossary of terms. While geared to an English audience, this work has value to American readers, thus this review.

The author wrote this volume for both professionals and the general public. The first portion of the text is a 43 page discussion of various gradations of mental illness, and being mentally handicapped. Everyone differs in some degree from the "normal," ranging from modest depression to most debilitating illness and possible suicide. After reading this introductory section, the reader may feel he/she suffers from many more mental problems than thought beforehand.

Then, Mr. Whitehead minutely examines the 1983 English mental illness statute, and its variations from the earlier version, and states what reforms still need to be instituted. He discusses many topics such as the procedures necessary to hospitalize a sick person, patient's rights, and the procedures used to insure the patient is not forgotten about by society while in an institution. The mental illness statutes of Northern Ireland and Scotland are briefly examined.

Why read a non-American oriented book? One reason is the volume's section on the subject of mental illness and handicaps in general, is useful regardless of national or state boundaries. Another reason is to be able to compare one's home state's mental health laws with another jurisdiction's. Even a work discussing the mental illness statutes of Indiana would be of limited help to people in New Mexico. Despite the lack of uniformity in the 50 state statutes, the medical aspects of mental illness are the same. The reader will see how his/her state's laws compare to England's. The thrust and direction of American law has come from England. Thus, one may see if his/her state's statutes are progressive, and select the better parts of the English system for enactment into his/her home state.

Despite the above reservations, this book is worthwhile to an American reader, especially if the person knows very little about mental illness. Mr. Whitehead's writing style is crisp and clean-cut, which makes a complex topic understandable.

*Professor of Law, University of Louisville, School of Law.