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## Book Notes

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## BOOK NOTES

**SAY IT SAFELY: LEGAL LIMITS IN JOURNALISM AND BROADCASTING.** By Paul P. Ashley. Seattle: University of Washington Press, 1959, 112 pages. Price: \$2.50.

Often a branch of law has a greater application to one particular occupation or profession than it has to others. In this work, the author has taken one such branch (libel and slander) and warned the people most likely to be affected by it of its dangers and possible consequences. Within the preface it is stated that "this manual is a working tool designed for day-to-day use by all who write or process copy. It is not a reference work . . . but is pinpointed for personnel of newspapers, publishers of magazines and books, radio and television broadcasters, the wire services and broadcasting networks, advertising agencies, and students looking toward a career in the field of mass communication."

The table of contents is brief and sketchy and may not be fully explanatory to the layman until the book has been fully read with complete understanding. However, this brevity is compensated for by a comprehensive index which should enable the layman to solve any misunderstandings or ambiguities which may arise.

The first six chapters of the book are primarily concerned with the nature of libel and slander. Within these chapters the author defines libel and slander, explains their degrees and risks, outlines their historical basis, and illustrates what type of statements give rise to libel and slander. Chapter 5 entitled, "Keep Away From Libel *Per Se*", contains a very complete list of specific expressions which should be considered libelous *per se* when spoken in reference to designated organizations and individuals. This list should be helpful to anyone, whether working in the field of mass communication or otherwise.

The next six chapters deal essentially with the various defenses and mitigations to an action for libel. The subject matters covered in these chapters are privilege, qualified privilege, fair comment and criticism, consent, replies, the defense of truth, corrections, and retractions. Privilege and qualified

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1. Ashley, **SAY IT SAFELY: LEGAL LIMITS IN JOURNALISM AND BROADCASTING**, Seattle: University of Washington Press (1959) at V and VI of preface.

privilege are notably emphasized in relation to political and judicial matters, but this is not to say that the other defenses are not adequately developed.

The final six chapters are concerned with specific situations in which litigation frequently arises. The subjects covered in these chapters are contempt of court, right of privacy, use of photographs, radio and television, and political broadcasts. At various points within these chapters the author digresses somewhat from his stated purpose in order to convey his personal feelings about the subject matter at hand. It is apparent that the author feels our Constitutional right of free speech is being curtailed. The growth of the concept "right of privacy" is especially noted and the hope that this concept will not grow any larger is expressed. The "right to be informed" is a premise which is favored except where national security is concerned.

Included in this group is the chapter on political broadcasts which discusses various safeguards available to radio and television stations when dealing with political candidates. Reference is made to the regulations of the Federal Communications Commission and the procedure by which a radio or television station may be protected by these regulations. This procedure was recently followed in North Dakota, the result being that the defendant broadcasting station incurred no liability for the defamatory statements involved.<sup>2</sup>

Throughout the book the author is compelled to explain the law of libel and slander as it exists throughout the United States in order that the reader may understand why the various safeguards are being promulgated. The book is entirely free of citations as there is no attempt to delve deeply into the law nor to consider various exceptions that may arise. When dealing with an area of the law which may give rise to certain exceptions the reader is advised to see his attorney. The general law that is enunciated seems quite accurate and

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2. *Farmers Educational & Coop. Union v. WDAY*, 89 N.W.2d 102 (N.D. 1958). This case presents a situation specifically covered by Ashley whereby a radio or television station must allow a political candidate for office equal time to broadcast and such station does not have any power over censorship of such script but is protected by the Federal Communications Act from any libelous statements within such script.

Here WDAY had specifically pointed out to the defendant candidate that said speech contained or might contain libelous statements and that it would deny said candidate, A. C. Townley, the right to broadcast unless he made such demand under Section 315 of the Federal Communications Act. Such demand was made and Townley was allowed to make the broadcast which resulted in the lawsuit whereby WDAY was made a party defendant. By the federal act the defendant, WDAY, was absolved of any liability through the granting of immunity by said statute.

complete in reference to North Dakota statutory<sup>3</sup> and case law.<sup>4</sup> It is stated, "Because this is a Stop, Look, and Listen handbook, in certain close situations the rules have been strictly construed against the publishers and broadcasters. In court, the interpretation should be more favorable than here indicated."<sup>5</sup> Seemingly a North Dakota citizen could rely with some confidence on the law found in this book but the author emphasizes that when an individual recognizes a danger sign he should immediately consult his attorney in order to determine what the precise law is. Such advice seems to conform with the purpose of the book which is not to teach the law but "to avoid the pitfalls of libel, invasion of privacy, and contempt of court."

This book is excellent if used in the intended manner and by those for whose use it is designed, but for any legal research purposes the book would be of little help. It is suggested that the practicing attorney may well be able to make use of this book by referring it to any outspoken clients he represents, especially those in the communications field.

SERGE GARRISON

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3. See N.D. Cent. Code Chap. 12-28 and Chap. 14-02 (1961).

4. See *Farmers Educational & Coop. Union v. WDAY*, 89 N.W.2d 102 (N.D. 1958); *Johnson v. Nielsen*, 92 N.W.2d 66 (N.D. 1958); *Ellsworth v. Martindale-Hubbel Law Directory, Inc.*, 66 N.D. 578, 268 N.W. 400 (1936); *Briggs v. Coykendall*, 57 N.D. 785, 224 N.W. 202 (1929); *Streeter v. Emons County Farmers' Press*, 57 N.D. 438, 222 N.W. 455 (1928); *Meyerle v. Pioneer Publ. Co.*, 45 N.D. 568, 178 N.W. 792 (1920); *Martinson v. Freeberg*, 44 N.D. 363, 175 N.W. 618 (1919); *Lauder v. Jones*, 13 N.D. 525, 191 N.W. 907 (1904).

5. *Supra* note 1 at 6.