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# BIBLIOGRAPHY OF RECENT BOOKS IN COMMUNICATIONS LAW

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The following is a selective bibliography of recent books in communications law and related fields. All were published in late 1995 or 1996. Accompanying each item is an annotation describing the contents and focus of the work. Bibliographies and other useful information in appendixes are noted.

## FREEDOM OF PRESS AND SPEECH

**FREEDOM OF THE FIRST AMENDMENT: CRITICAL PERSPECTIVES ON FREEDOM OF EXPRESSION.** Edited by David S. Allen and Robert Jensen. New York: New York University Press, 1995. 300 p.

*Freeing the First Amendment* is a collection of essays which, as the editor describes in his introduction, takes a "critical" view of the limitations of traditional liberal First Amendment theory. The book contains fourteen essays which (with the possible exception of Paul Siegal's contribution on sexual orientation and first amendment jurisprudence) search for a new paradigm about the "real power and limits of speech." Each contribution provides endnotes.

**THE INTERNATIONAL LIBEL HANDBOOK: A PRACTICAL GUIDE FOR JOURNALISTS.** Edited by Nick Braithwaite. London: Butterworth-Heinemann, 1995. 249 p.

*The International Libel Handbook* is a compilation of individual essays on the libel laws of the United States, England and the Commonwealth countries, France, Germany, India and Japan. Each essay is authored by an attorney at a major law firm in the country discussed. (The editor provides the

unit on England and Wales.) Chapter 9 presents a comparison of the laws of these countries in a series of easy-to-read tables. The final chapter attempts to present the common ground which these countries share by suggesting a series of general rules and considerations to sensibly manage the risk of a libel suit. There are footnotes to legal sources at the end of each chapter and a general bibliography at the end of the book.

**THE KINGFISH AND THE CONSTITUTION: HUEY LONG, THE FIRST AMENDMENT, AND THE EMERGENCE OF MODERN PRESS FREEDOM IN AMERICA.** By Richard C. Cortner. Westport, Conn.: Greenwood Press, 1996. 196 p.

Cortner's book chronicles the relationship of the press and controversial Louisiana governor Huey Long from his first successful campaign in 1928 until his death in 1935. The centerpiece of the book is Long's legislative attempt to control the Louisiana press by enacting a newspaper tax through which he could punish his media enemies. The early chapters discuss Huey Long's ultimately successful efforts to get the Louisiana legislature to enact the tax. Chapters 6 and 7 tell the story of the test case, *Grosjean v. American Press Company*, first in the lower federal courts and ultimately in the U.S. Supreme Court. The Supreme Court's decision expanded the concept of freedom of the press beyond the traditional bounds of prior restraints and laid the foundation for the modern constitutional jurisprudence of the First Amendment. There are notes at the end of each chapter and a bibliographical essay at the end of the book in which the author discusses his sources.

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**OUT OF TUNE: LISTENING TO THE FIRST AMENDMENT.** By John Frohnmayer. Golden, Colo.: North American Press, 1995. 138 p.

As the chairman for the National Endowment for the Arts from 1989-92, John Frohnmayer was at the center of some of our most contentious recent public debate about freedom of expression. He has more than earned his right to give us his personal reflections on the First Amendment. He does precisely that in *Out of Tune*. The book contains individual chapters on the political process, ethics, censorship, and religion and government. Each short chapter ends with questions for discussion and suggestions for further reading. The appendixes reproduce the texts of the U.S. Constitution, the Gettysburg Address, the Declaration of Independence, and Martin Luther King's Letter from Birmingham Jail.

**SLAPPS: GETTING SUED FOR SPEAKING OUT.** By George W. Pring and Penelope Canan. Philadelphia: Temple University Press, 1996. 279 p.

The authors, George Pring and Penelope Canan, have not only written a book on SLAPPs; they invented the term. They define SLAPPs (Strategic Lawsuit Against Public Participation) as a class of intimidation lawsuits designed to stifle not only free speech but also the "freedom to petition" component of the First Amendment. The authors founded their Political Litigation Project at the University of Denver in 1984 and began to study both the legal and nonlegal aspects of this type of litigation. They conclude that SLAPPs comprise a serious threat to political speech and activity. The first two chapters discuss the background of SLAPP litigation and the constitutional issues which they raise. The middle chapters examine SLAPPs in particular types of litigation: environmental, real estate, zoning, political process, and personal rights. The final three chapters address legal and tactical remedies (SLAPPbacks) and provide a model "Anti-SLAPP" statute. The appendix presents the methods and findings of the authors' project. Extensive endnotes are included.

**VIOLENCE AS OBSCENITY: LIMITING THE MEDIA'S FIRST AMENDMENT PROTECTION.** By Kevin W. Saunders. Durham, N.C.: Duke University Press, 1996. 246 p.

The author seeks to enlarge the recognized obscenity exception which denies First Amendment protection to sexually obscene materials. In Saunders' view excessive violence can satisfy the legal standards of obscenity and can properly be the subject of governmental regulation. The first two chapters discuss the current debate on media violence and examine the psychological and social science evidence for a causal relationship between the media portrayal of violence and actual violent behavior. Individual chapters explore historical and legal aspects of the development of obscenity law. A full chapter is devoted to the feminist critique of pornography. Chapter 9 deals with the problems of drafting a constitutionally sufficient media violence statute and offers model statutory language. Extensive endnotes are included.

**SAMUEL MEDARY & THE CRISIS.** By Reed W. Smith. Columbus, Ohio: Ohio State University Press, 1995. 200 p.

Samuel Medary was the editor and publisher of the *Crisis*, a Columbus, Ohio newspaper, during the Civil War. Medary opposed the war and used the *Crisis* as a vehicle to express his concerns about the war and the restraints on civil liberties which it brought. Medary died prematurely six months after federal criminal charges were brought against him and his publication. Smith provides a thorough glimpse at Medary and the dissident press of the Civil War-era Peace Democrats. Although Medary is decidedly a minor figure in journalistic history, the issues he raised and the historical context in which they played out make Smith's contribution a worthwhile one. Extensive endnotes and bibliographic references are included.

## MASS MEDIA

**COMMERCIAL CULTURE: THE MEDIA SYSTEM AND THE PUBLIC INTEREST.** By Leo Bogart. New York: Oxford University Press, 1995. 384 p.

The central thesis of Leo Bogart's book is that the rapid progress of technology and the concentration of media power have bound together individual media into a Gordian knot of entertainment and information that is sustained, nourished, and infused with advertising. *Commercial Culture* argues that this powerful mix cannot

be left to the raw power of market forces. It urges the creation of a "coherent national policy" that will give media issues greater priority on the national agenda. Only continued public scrutiny and debate can ameliorate the media's commercial culture; pure market forces are inadequate to the task. The book contains extensive endnotes.

**ELECTRONIC MEDIA LAW AND REGULATION.** By Kenneth C. Creech. Second edition. Boston: Focal Press, 1996. 502 p.

Originally published in 1993, Kenneth Creech's text covers all aspects of electronic media regulation: broadcasting, advertising, cable, copyright, libel, privacy, and free press/fair trial. The revised work contains rewritten chapters on cable television and new technologies. Substantial appendixes contain selected FCC forms, copyright application forms, ASCAP licensing contracts, a glossary, and a bibliography.

**REDEEMING THE WASTELAND: TELEVISION DOCUMENTARY AND COLD WAR POLITICS.** By Michael Curtin. New Brunswick, N.J.: Rutgers University Press, 1995. 316 p.

Michael Curtin's contribution to the publisher's series, *Communications, Media, and Culture*, is an analytical study of the television documentary during its "golden age" in the post-Sputnik years of 1959-1964. He examines the television documentary in relation to a national agenda that pursued an increased United States role in foreign policy and greater activism in shaping the global economy and geography. Curtin maintains that these documentaries are "best understood as the product of converging social, economic, political, institutional, and discursive forces." An appendix lists and categorizes all network documentaries from the 1959-60 through the 1963-64 television seasons. Extensive endnotes are included.

**THE VANISHING VISION: THE INSIDE STORY OF PUBLIC TELEVISION.** By James Day. Berkeley, Calif.: University of California Press, 1995. 443 p.

*The Vanishing Vision* is a history of public television broadcasting in the United States from its inception as "educational television" in the early 1950s to the present day. Day argues that public

television must be reinvented if it is to progress beyond the marginal position it now occupies on the media landscape. The epilogue directly addresses the issues of funding, policy, and leadership needed to accomplish such a transformation. The book contains endnotes, photographs, and a bibliography.

**TITANIC LEGACY: DISASTER AS MEDIA EVENT AND MYTH.** By Paul Heyer. Westport, Conn.: Praeger Publishers, 1995. 175 p.

Paul Heyer's book studies the sinking of the Titanic and its relationship to the media which reported the event and memorialized its story. The chapters which comprise Part II of the book examine the beginnings of wireless communication and its integral place in the Titanic saga. Part II concerns newspaper coverage of the disaster and its aftermath. The final unit, entitled "Disaster as Metaphor," examines the Titanic's treatment in literature and film, and the renewed interest occasioned by its rediscovery and exploration. The volume contains photographs, a bibliography, and an appendix which reproduces poetry and song lyrics about the Titanic.

**MEDIA AT WAR: RADIO'S CHALLENGE TO THE NEWSPAPERS, 1924-1939.** By Gwennyth L. Jackaway. Westport, Conn.: Praeger Publishers, 1995. 168 p.

Gwennyth Jackaway's book seeks to identify and examine the recurring issues and tactics of what she refers to as "media wars," that is, the conflict between an established media and an emerging new media technology. She takes as her case study the resistance of the established newspaper industry to the rapidly-emerging technology of broadcast radio in the 1920s and 1930s. Jackaway's history of the Press-Radio War concentrates less on the economic aspects and more on the communications issues inherent in radio's challenge to the established institutional identity, structure, and function of the press. A bibliography of books, journal articles, and oral histories is included.

**THE GOVERNMENT FACTOR: UNDERMINING JOURNALISTIC ETHICS IN THE INFORMATION AGE.** By Richard T. Kaplar and Patrick D.

Maines. Washington, D.C.: Cato Institute, 1995. 100 p.

*The Government Factor* identifies government intervention as a major obstacle in the development and functioning of journalistic ethics. The authors maintain that government, through direct legislation and telecommunications policy, substitutes an artificial construct of government ethics for a truly personal one and interferes unnecessarily in the free development of a less-regulated communications industry in which ethical behavior would be nourished. This short monograph's final chapter outlines the author's recommendations for lessening the impact of government regulation of both competition and content in the media and creating an environment in which effective journalistic ethics can flourish.

**GETTING BETTER: TELEVISION AND MORAL PROGRESS.** By Henry J. Perkinson. New Brunswick, N.J.: Transaction Publishers, 1996. 326 p.

This first paperback edition of *Getting Better*, which was originally published in 1991, includes a new epilogue by the author. The book looks at the social history of television during the 1960s and 1970s from the perspective of its moral impact on the culture. Perkinson takes the contrarian view that television has made a positive contribution to the culture by inducing moral criticism of the relationships which it presents. The author examines television's impact on civil rights, presidential politics, our perceptions of economic and social justice, and environmental and scientific issues. Endnotes and an extensive bibliography are included.

**SELLING THE AIR: A CRITIQUE OF THE POLICY OF COMMERCIAL BROADCASTING IN THE UNITED STATES.** By Thomas Streeter. Chicago: University of Chicago Press, 1996. 336 p.

Streeter's book is not a "critique" in the sense of an indictment of the commercial character of American broadcasting. Rather it is a close examination of the ideas which lie behind the conceptual framework of governmental policy, market forces, and technology which interact to produce commercial broadcasting as we have it today. The author describes his approach as interdisciplinary: a mixture of social philosophy, sociology, history, political science, and legal analysis.

**RADIO PRIEST: CHARLES COUGHLIN, THE FATHER OF HATE RADIO.** By Donald Warren. New York: Free Press, 1996. 376 p.

*Radio Priest* is a biography of Father Charles Coughlin, the controversial radio personality of the 1930s. In Warren's view the contemporary media phenomena of televangelism and political talk radio have their roots in Coughlin's radio broadcasts. Coughlin understood and effectively used the new medium of broadcast radio to spread a personal and political agenda during the Depression's darkest hours. The author maintains that Coughlin is a pivotal figure in American life and culture "because he was the first public figure to obliterate the distinction between politics, religion, and mass media entertainment." The appendix contain a number of tables and opinion polls which examine the demographics and attitudes of Father Coughlin's audience. Extensive endnotes, references to interviews, photographs, and a bibliography are also included.

**HOLLYWOOD IN THE INFORMATION AGE: BEYOND THE SILVER SCREEN.** By Janet Wasko. Austin, Tex.: University of Texas Press, 1995. 308 p.

The focus of Janet Wasko's book is the "entertainment component" of the new information technologies. She maintains that people are influenced as much by the entertainment aspects of new technology as they are by the information component. Specifically, the book examines the impact of new technology on motion picture production, distribution, and exhibition. Special attention is given to cable television, pay-per-view, home video, and the information superhighway. The international market for motion pictures is given a full chapter. Endnotes are included.

## TELECOMMUNICATIONS

**LAW AND REGULATION OF COMMON CARRIERS IN THE COMMUNICATIONS INDUSTRY.** By Daniel L. Brenner. Second edition. Boulder, Colo.: Westview Press, 1996. 357 p.

The author describes *Law and Regulation* as a book of "cases and materials" on common carrier regulation. It differs from most law school casebooks in providing greater commentary and shorter excerpts of primary source material than is typical of this type of law book. By so doing

Brenner's book stands by itself as a readable reference resource, in addition to its primary use as a classroom text. The appendixes contain a glossary of telecommunications terms, excerpts from the text of the Communications Act of 1934, and a table of cases.

**TALK IS CHEAP: THE PROMISE OF REGULATORY REFORM IN NORTH AMERICAN TELECOMMUNICATIONS.** By Robert W. Crandall and Leonard Waverman. Washington, D.C.: Brookings Institution, 1995. 294 p.

*Talk is Cheap* studies the changes in telecommunications regulation in the United States and Canada at both the federal and state/provincial levels. Chapters 1 and 2 describe the structure of the telephone industries in each country and their regulation and deregulation experience. Chapters follow on rate setting, competition in long-distance, regulatory reform at the state/provincial level, local access competition, and the emergence of new technologies. The authors recognize substantial changes in the overall regulatory schemes of both countries, and argue for a policy of continuing deregulation. The book contains footnote references and a variety of tables.

**GUIDEBOOK TO THE TELECOMMUNICATIONS ACT OF 1996.** New York: Matthew Bender, 1996. 298 p.

The *Guidebook* is published by Matthew Bender as a Special Supplement to their treatise, *Cable Television Law*. In this slim volume the editors have included a section-by-section analysis of the new Telecommunications Act, the text of the Public Law, and a reprint of the Joint Explanatory Statement from the Conference Report (104-458).

**THE TELECOMMUNICATIONS ACT OF 1996: SPECIAL REPORT.** By Peter W. Huber, Michael K. Kellogg and John Thorne. Boston: Little, Brown and Co., 1996. 428 p.

This *Special Report* is an update on the new Telecommunications Act from the authors of *Federal Telecommunications Law* (1992) and *Federal Broadband Law* (1995). It contains a 120-page analysis of the Act and its effect on the areas of telephony, broadcast, cable and video services, and obscenity and violence. The text of the Act is reproduced,

as is the Joint Explanatory Statement of the Committee on the Conference.

**THE NEW INFORMATION INDUSTRY: REGULATORY CHALLENGES AND THE FIRST AMENDMENT.** By Richard Klinger. Washington, D.C.: Brookings Institution Press, 1996. 208 p.

New technologies and increased competition have blurred many of the established lines of demarcation between the traditional regulatory regimes of the information industry. Klinger's book addresses this changing regulatory environment. Chapter 2 examines the principal agencies and their regulatory patterns. Chapters 3 and 4 discuss new information technologies and the novel challenges which they raise for the current regulatory apparatus. The final chapter treats the new First Amendment issues which these changes raise. Extensive endnotes are included.

**LAW AND THE INFORMATION SUPERHIGHWAY: PRIVACY, ACCESS, INTELLECTUAL PROPERTY, COMMERCE, LIABILITY.** By Henry H. Perritt, Jr. New York: John Wiley & Sons, 1996. 730 p.

Perritt's book is a wide-ranging, single-volume text on legal issues raised by the advent of the information superhighway. He characterizes his approach as applying traditional concepts of torts, contracts, property, criminal law, and administrative law to the new realities of national and international information technology. Chapter 1 provides background on the basics of the technology of computerized information exchange, identifies the legal principles which operate, and serves to outline the treatment of individual issues which follow. Included with the author's more theoretical discussion of these legal issues are a large number of practical tools: checklists, model documents, suggested contractual language, and document drafting guidelines. A table of cases is included.

**TELECOMMUNICATIONS LAWS IN EUROPE.** Edited by Joachim Scherer. Third revised edition. Boston: Kluwer Law International, 1995. 179 p.

*Telecommunications Laws in Europe* consists of a series of short essays produced by the European

Telecommunication Law Practice Group of Baker and McKenzie. The editor provides the initial chapter discussing the policies, legal instruments, and regulatory structure of the European Union. Individual chapters follow which address telecommunications laws, policies, and governmental structures in fifteen European countries. The editor indicates that information contained in the descriptions is accurate as of May 1995.

**NETWORK COMPETITION FOR EUROPEAN TELECOMMUNICATIONS.** By Oliver Stehmann. New York: Oxford University Press, 1995. 327 p.

Stehmann's book analyzes the current state of European telecommunications policy at both the EC and individual state levels. The chapters which comprise Part III of the book examine policy in France, Germany, Italy, Spain and the United Kingdom. Chapter 6 looks at U.S. telecommunications as a baseline against which to

view the European experience. The final chapter attempts to analyze the promise and problems of Europe's move from state control of telecommunications to network competition. A bibliography is included.

**THE TELECOMMUNICATIONS ACT OF 1996: LAW AND LEGISLATIVE HISTORY.** Bethesda, Md.: Pike & Fischer, 1996. Pagination varies.

A sixty-page "legal analysis" by the Pike & Fischer editors serves as an introduction to this single-volume compilation of significant legislative history documents generated by the new Telecommunications Act during its path through Congress. The entire Communications Act of 1934, as amended, is reproduced with the changes introduced by the 1996 Act noted in italics. Senate Report 104-230, House Report 104-204, and Conference Report 104-458 are reprinted in their entirety. Key dates and deadlines imposed by the 1996 Act are outlined in the final section.