

PREJUDICE AND THE PRESS. By Frank Hughes.* New York: The Devin-Adair Company, 1950. Pp. xi, 642.

The target of Mr. Hughes' diatribe is the thought provoking report from the Commission on Freedom of the Press.¹ The diatribe, however, professes to "embrace a great deal more than that."² While it is primarily a "search for the truth,"³ it has as some of its stated end products a complete and valid restatement of American political philosophy, a critical examination of the liberalism which the Commission is attempting to introduce in the United States today, and a presentation of the facts about the press and about freedom of the press in America.⁴ An ambitious project, it fails miserably.

The significant conclusions announced in the Commission's Report were that to the extent the American press was non-competitive it failed to provide society with a broad unbiased source of news, and that perhaps something ought to be done about it. Thus the Commission presented the not wholly new idea that the greatest threat to the freedom of the press resided within the framework of the press itself. Though the Report showed that some thought had been given to societal intervention as a means of correcting such ills, the accepted conclusion was that the solution lay in a betterment of the standard of press performance by the press itself.

Some of the findings and conclusions of the Commission may well be subject to question. Mr. Hughes, however, cannot be said to have seriously undertaken such questioning. At every passage where the reader is ready to believe that the author is next to present an objective analysis of the problem he is met with personal invective. The author argues that the Commission consisted of a group of men who are "bad" Americans. Therefore one is to suppose that the findings of the Report are philosophically "bad." The middle term of the syllogism is missing.

The vitriolic thesis that the members of the Commission are "bad" Americans is supported with the politically successful and over-used devices of smear and guilt by association. Chancellor Hutchins is said to be against academic freedom,⁵ a member of Communist front movements,⁶ and perhaps worst of all, "he has served as an expert adviser to a British royal commission set up

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1. A FREE AND RESPONSIBLE PRESS. The General Report of the Commission on Freedom of the Press. Chicago: The University of Chicago Press, 1947. Pp. xii, 139. \$2.00. See also FREEDOM OF THE PRESS: A FRAMEWORK OF PRINCIPLE. By William Ernest Hocking. Chicago: The University of Chicago Press, 1947. Pp. xi, 243. \$3.00 And GOVERNMENT AND MASS COMMUNICATIONS. Two Volumes. By Zechariah Chafee, Jr. Chicago: The University of Chicago Press, 1947. Pp. xvii, vi, 830. \$7.50.

2. P. v.

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5. Pp. 46-48.

6. P. 20.

by the Socialists.”⁷ In a chapter entitled “Two Professors,” two other members of the Commission, Zechariah Chafee, Jr., Professor of Law at Harvard University, and John Maurice Clark, of Columbia, are reviled. It is alleged that what Chafee “really wants is to give Communist propaganda ‘ample chance’ to engender lies, hatred, and dissolution among the people, especially school children. . . .”⁸ Professor Clark’s philosophy, on the other hand, asks Americans “to deliver up their freedom to the custody of a ‘Good Hitler’.”⁹ In dealing with Professor Arthur M. Schlesinger, Jr., also of Harvard, the author generously acknowledges that it can not be technically stated that Schlesinger is a Communist. However, inasmuch as Mr. Hughes is of the opinion that “guilt by association is a fact . . . which has clear and unequivocal weight in the whole body of law,”¹⁰ the Professor is for all intents and purposes a Communist. And so it goes. If the author had a point which could have been made with respect to the membership of the Commission, he fails to make it. The man rants and raves too much. Every possible shred of evidence which is not in conformity with the code of ethics as found in the Chicago Tribune is served as indicia of the fact that the Commission could have come to naught but the “wrong” conclusions. Mr. Hughes has forgotten, or perhaps never knew of, the social and political re-examination which has been manifested since the 1930’s by a number of “good” Americans.

As muddled a thing as the first part of the book is, it is not until the author attempts to generalize in his “re-statement of American political philosophy” that *Prejudice and the Press* becomes an illiterate bore. According to Mr. Hughes, the United States “has never been a democracy.” It is a “Republic,”¹¹ where the best government is almost no government. “The founders of the American Republic knew the meaning of ‘democracy,’ and therefore they had very little to say about it. The word meant the same thing it has always meant in practice, ‘mobocracy,’ or mob-rule—the tyranny of the gang in power.”¹² The distinction between the form and function of government is missed by such wild definitions. All that the reader gets is a heady draught of rancid wine from an old bottle. The wine is of the vintage of the not-so-old introverted philosophy of the isolationist; the bottle bears the stamp of the Chicago Tribune.

The freedom of the press which Mr. Hughes sets up in his Republic is a very special sort of civil liberty. It is a freedom paramount to all other freedoms. It is cast in terms of freedom from responsibility. Mr. Hughes seems

7. P. 30.

8. P. 62.

9. P. 74.

10. P. 80.

11. P. 5.

12. P. 452.

to conclude that it is a freedom which is not subject to examination. The Report of the Commission asked whether the press ought to have the right to pervert the arts, to cause hatred and bigotry by spreading untruths, to confound the public. In short, the Commission asked whether the press should have the right to abuse its freedom. The author's answer to this important question is oblique. He ignores the possibility that such abuses may exist and argues that by the very nature of things freedom of the press can not be abused. "The founding fathers had only one intention, to keep the government from interfering with speech and press now and forevermore."¹³ For all practical purposes, "individuals are free to print in the United States subject only to damage done wrongfully and so proved in a court of law, for which there are penalties. This is our accepted philosophy of press freedom."¹⁴ To no group, other than the press, does such a philosophy accord a like freedom from responsibility. The treatment which would be meted out to the Jehovah's Witnesses with their loudspeakers and pamphleteers in Mr. Hughes' Republic is not difficult to imagine. The picture painted by the author portrays the institution of the press as the master of society, not as its servant. This picture is not a refutation of the Commission's allegation. It is proof of it.

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MINIMUM STANDARDS OF JUDICIAL ADMINISTRATION. By Arthur T. Vanderbilt.* New York: New York University, 1949. Pp. xxxii, 752. \$7.50.

"One of the strangest phenomena in the law is the general indifference of the legal profession to the technicalities, the anachronisms, and the delays in our procedural law. While our substantive law . . . has been developing, . . . our procedural law . . . has been relatively neglected."¹

For ten years the National Conference of Judicial Councils compiled data on procedural practices in the several states. The valuable result of this work, *Minimum Standards of Judicial Administration*, edited by Chief Justice Arthur T. Vanderbilt of the Supreme Court of New Jersey, measures each state's practice against the minimum standard prescribed by the American Bar Association, in each of the following departments:

1. With Respect to the Selection, Conduct and Tenure of Judges
2. Managing the Business of the Courts
3. The Rule Making Power
4. The Selection and Service of Juries
5. Pre-Trial Conference
6. Trial Practice

13. P. 454.

14. P. 458.

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1. P. xvii.