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BOOK NOTES

MURDER, COURTS AND THE PRESS: ISSUES IN FREE PRESS/FAIR TRIAL. By Peter E. Kane. Carbondale: Southern Illinois University Press, 1986. Pp. 96.

Murders involving sex, celebrities, or the macabre have traditionally been the stuff of which headlines are made. As the title suggests, Peter Kane is concerned with more than how these crimes sell newspapers. By analyzing five famous murder trials in recent history, Professor Kane illustrates through an analytical and narrative approach, the clash between the media's first amendment right of freedom of speech and the defendant's sixth amendment right to a fair trial.

The first of the murder case stories is that of Dr. Samuel Sheppard, a prominent doctor who was accused and convicted of murdering his wife. Dr. Sheppard served twelve years in prison until the Supreme Court, in 1966, rendered a decision that voided the conviction. The Court concluded that Dr. Sheppard was denied his right to a fair trial because of the news media's influence on the judicial process. In addition, the Court provided guidelines regarding the responsibility of trial judges when faced with the conflict between first and sixth amendment rights and enumerated the powers and tools available to resolve this conflict.

The next four murder case stories illustrate the manner in which our judicial system has adopted the suggestions set forth in the *Sheppard* decision to ease the tension between the free press/fair trial dilemma.

Through the dramatic quality of the murder case stories, we see how the techniques enumerated by the Supreme Court in *Sheppard*, such as granting a continuance, change of venue, sequestering juries, and issuing orders to law enforcement personnel not to divulge any information to the media, can maximize the defendant's chance of receiving a fair trial. Moreover, none of the above guidelines interfere with the media's first amendment rights.

Murder, Courts and the Press is an informative and interesting way to raise the reader's consciousness about the myriad

of problems faced by our judicial system when two constitutionally guaranteed rights clash.

Arda Arslanian

SWANN'S WAY: THE SCHOOL BUSING CASE AND THE SUPREME COURT. By Bernard Schwartz. New York: Oxford University Press, 1986. Pp. 245. \$19.95.

In *Swann's Way*, Bernard Schwartz intimately details the processes and personalities involved in creating the landmark decision of *Swann v. Charlotte-Mecklenburg Board of Education*. 402 U.S. 1 (1971). Making a difficult decision at a difficult point in American history, the federal district court judge in *Swann* ordered substantial changes throughout the public educational system in a North Carolina city and county, to effectuate the desegregation policy handed down fifteen years earlier in *Brown v. Board of Education*. These changes included busing and redistricting, necessary to end one school board's foot-dragging on desegregation based on its interpretation of the concept of "deliberate speed" formulated in *Brown*. Based on documentary research and extensive interviews, the book begins and ends with chapters giving the historical background of the long tradition of segregation in the city of Charlotte, North Carolina and surrounding Mecklenburg County, and includes profiles of the district court judge and the plaintiffs' attorney in *Swann*. Another chapter presents the major Supreme Court decisions under Burger's predecessor, Earl Warren, which led to the *Swann* decision. The Warren Court school desegregation decisions were traditionally unanimous, demonstrating the strength of the Court's resolve on this issue. In 1971, *Swann* provided a majority of the Court with the time and place to revise the *Brown* order from desegregation with "deliberate speed" to "immediate".

The facts of the individual case, however compelling, provide only the backdrop for the remainder of *Swann's Way*. In seven chapters and two appendices, Bernard Schwartz demonstrates impressive legal scholarship, introducing the individual justices and describing in detail the process of reaching a final opinion by the Supreme Court. Schwartz explains clearly that the process Burger used in this case was unusual for the court,

and stemmed from his political affiliation with the Nixon Administration, which had expressed opposition to the proposed use of busing for desegregation. Burger did not call for the usual vote of the justices in conference, and so avoided a clear delineation of the majority and minority. He then circulated a "draft" opinion, which implied that he was in the majority. If, as the author suggests, this was an effort by the Chief Justice to accommodate the Nixon administration, the effort failed. The book describes the progress of Burger's opinion through six drafts, from an attempt to remand the case to the district court for reconsideration of the proposed desegregation plan, particularly as it applied to elementary school children, to a strong endorsement of the district court's school desegregation plan. The comparisons of wording from one draft to the next could become tedious, but the author weaves in bits of information about the individual justices and court procedure to explain how the system works despite personnel changes and personality conflicts. In two appendices following the text, the author has reproduced the first draft, and the final *Swann* opinion. The differences between the two drafts are apparent without the preceding explanation, but take on added meaning after reading about the battles over each phrase.

An analysis of a fifteen-year-old decision is not likely to become a best seller; however, *Swann's Way* is both interesting and readable. It includes details on the workings of the Supreme Court, with enough historical distance to avoid threatening a current administration or most of the members of the present Court.

Mary Cato

THE TENTATIVE PREGNANCY: PRENATAL DIAGNOSIS AND THE FUTURE OF MOTHERHOOD. By Barbara Katz Rothman. New York: Viking Penguin Inc., 1986. Pp. 257. \$19.95.

In Barbara Rothman's book, *The Tentative Pregnancy*, she grapples with the underlying problems which accompany the new technologies of reproduction. The book is premised on Rothman's belief that there is an evolving American value system in which we are learning to see our children as "the prod-

ucts of conception", and to think of our babies as marketable "commodities".

The central focus of the book is on the use of amniocentesis for prenatal diagnoses and on the use of selective abortion. Rothman presents women's perspectives on what this technology does to the meaning of motherhood and human commitment. *The Tentative Pregnancy* is a compilation of comments and excerpts from interviews with recipients or intended recipients of genetic counseling and prenatal diagnostic services, and with genetic counselors.

The first two chapters of the book review some of the social changes leading up to current technology. Rothman draws upon interviews with genetic counselors as a means of reflecting the contemporary context in which prenatal diagnosis is offered. The third chapter presents a series of excerpts from conversations with women who are in the process of making serious choices concerning the use of amniocentesis and selective abortion. The fourth and fifth chapters focus primarily on the different reactions of women who have undergone amniocentesis. These women are either anxiously awaiting the results of their tests, hence the "tentative pregnancy", or are deliberating their next step now that they have received the results. Finally, Rothman concentrates on the uncertainty of prenatal diagnoses and the toll that the news of a genetic defect can take on the pregnant mother.

Rothman believes that it is women who are most directly and powerfully affected by the new technology, so she presents only the female perspective in this book. Because of this, the analysis of the issues of prenatal diagnoses, genetic counseling, and selective abortion is less in depth than it could be. *The Tentative Pregnancy* is, nonetheless, an interesting collection of dialogues which reflect a wide range of female responses regarding these new reproductive technologies.

Janet A. Di Giorgio

HEALTH CARE FOR THE POOR AND ELDERLY: MEETING THE CHALLENGE. Edited by Duncan Yaggy. Durham: Duke Press Policy Studies, 1984. Pp. 146.

With the decline of government support for health care services to the poor and elderly, the role of the private sector in providing the necessary support has become unclear. Duncan Yaggy explores the options available within the private sector to deal with this challenge. The author focuses on the impact that government cuts in health care services will have on Medicaid and Medicare, the largest public sector health programs for the poor and elderly.

The book is based on the Seventh Private Sector Conference (1982) which assembled physicians, economists, hospital administrators, planners, educators, and policy makers to debate various health care options. The book's three sections accordingly cover the problems presently associated with our public health care system and various alternatives to alleviate these problems and to provide responsibly for the elderly and indigent. The first section provides the reader with the background of our public sector health programs, the recent cuts in health care expenditures, and the impact on the elderly and poor in coming years. The second section explores the inefficiency and waste of the health business and the administrative difficulties of Medicaid and Medicare. Significant changes to our health care systems are also proposed, such as federalizing Medicaid into a single program and opening up Medicare and Medicaid to competition. The final section reconsiders Medicare by looking at its accomplishments and long-term policy options such as cost sharing and Medicare vouchers.

Each section is followed by responses to and discussions of the changes suggested for our health care system. The participants of the Conference offer their opinions on the various proposals made, and on how likely they think the several proposals will work toward the goal of providing responsibly for the poor and elderly.

Health Care for the Poor and Elderly is intended to be a reference for the future as well as the present. The author provides an insightful look into the future health care services for our poor and elderly and examines the problems that our society can expect if the health care system is not restructured. Finally,

the author sets forth several possible solutions to avoid those problems.

Pamela B. Goldsmith

LAWS, RIGHTS AND THE EUROPEAN CONVENTION ON HUMAN RIGHTS. Edited by Jacob Sundberg. Littleton, Colorado: Fred B. Rothman & Company, 1986. Pp. 105.

This transcript of the proceedings at the Colloquy on Laws, Rights and the European Convention on Human Rights which took place in the Plenary Hall of the Svea Court of Appeals (Sweden) on March 29, 1983, is a little book with a big message. Its general purpose is to provide an understanding of and support for the European Convention on Human Rights, the first international body designed to protect fundamental rights through judicial procedure. The Convention provides for two international organs, the European Commission, and the European Court of Human Rights. The proceedings at the Colloquy on Law, Rights and the European Convention on Human Rights were intended as a forum for advocating the acceptance of the Convention and commitment to the application of its rules to municipal courts in Europe.

The book is limited by its nature and scope. It is a transcript of oral addresses which specifically relate to the laws of Sweden and the effects the Convention would have on Swedish law if formally adopted. However, through the speeches which constitute the book — one discussing recent developments concerning the Convention, one elucidating the accessibility of human rights information made possible by the Documentation Center for Human Rights in Strasbourg, one examining a case study of the effects of the Convention on domestic Swiss law, two projecting the consequences of ratification and implementation on Swedish law, and a panel discussion about alleged violations of particular articles of the Convention which have occurred in Sweden — a good description and understanding of the Convention is conveyed.

The strength of this book lies in its obsession with footnoting. All of the addresses have been fully researched, documented and noted. This has made the book an indispensable tool for

others doing research on international human rights rule-making bodies, and for those who would like to know more about the European Convention on Human Rights.

Richard T. LiPuma

