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Book Review of The Constitutional Right of Association

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THE CONSTITUTIONAL RIGHT OF ASSOCIATION

By DAVID FELLMAN

The limitation, if any, which should and can constitutionally be placed on freedom of association is a pressing twentieth century problem. David Fellman, in *The Constitutional Right of Association*, provides a concise summary of the development of this problem and the current status of the concomitant right which is "enshrined in the First Amendment."

Mr. Fellman launches his examination of freedom of association with an historical analysis. Herein he succinctly discusses unlawful assembly and public meetings, and their relation to the early rejection of the doctrine that the first amendment is an absolute fiat. Perhaps the most interesting discussion in this section is of "the problem of a hostile audience." That is, should a man be prevented from speaking who will very likely antagonize his audience and provoke them to acts of violence against him? While "the state has an incontestable duty" to control mobs, on the other hand "it is unthinkable that the right to hold public meeting should be determined by the least tolerant people in the community." The solution offered calls for a case-by-case balancing process.

The right itself has various manifestations, such as the right to join a labor union or a political party. It is clearly illustrated that significant limitations have been constitutionally imposed upon it. One has but to look at the body of legislation regulating the action and even the internal procedures of labor unions and political parties to realize this fact. Mr. Fellman points out without any major editorializing the key laws relevant to this topic. This section summarizes the existing relation between governmental units and labor unions as to whether government employees have the right to join unions, to strike, etc.

The author also takes up the right of association in its relation to government exposure, under the various state and federal enactments dealing with sedition and internal security. Once again Mr. Fellman gives a concise summary with little, if any, attempt to comment on the efficacy of such legislation. However, when he arrives at the attempt of the southern states to con-

duct "a sustained and varied legislative and administrative harassment of N.A.A.C.P.," the author gives ample evidence that *here* is something which bothers him. The ensuing discussion is extremely lucid when dealing with whether the N.A.A.C.P. should be forced to disclose its membership lists but hastily skirts the attempts to tighten laws dealing with champerty and maintenance. The author's seeming emotional involvement with this topic does not compare favorably with his dispassionate analysis of other problems, and detracts from the merit of this section. Also covered are anti-Klan laws and their effect upon the N.A.A.C.P. and the present-day Klan, and certain legislative enactments which, for lack of a better term, may be described as attempts to prohibit "association with bad people." It is pointed out that such association often is essential to prosecutions for vagrancy. Mr. Fellman concludes his study with a brief look at the rights of association in Great Britain and western Europe and their place in the "growing body of supra-national documents dealing with civil liberties."

The Constitutional Right of Association is a well documented and precise view of the evolution and current status of a constitutional right. The right is analyzed both in the abstract and in the historical context. Mr. Fellman has given us what might best be termed a primer in the highest sense of the word. It is one which will afford both attorney and layman an excellent synopsis of a constitutional problem which will be with us for many years.

JEFFREY M. GRAHAM