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Fenner, G. Michael, "Book Review: *Rights in the Balance: Free Press, Fair Trial, and Nebraska Press Association v. Stuart*. By Mark R. Scherer" (2009). *Great Plains Research: A Journal of Natural and Social Sciences*. 1019.
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Rights in the Balance: Free Press, Fair Trial, and *Nebraska Press Association v. Stuart*. By Mark R. Scherer. Foreword by James W. Hewitt. Lubbock: Texas Tech University Press, 2008. xxi + 242 pp. Photographs, notes, bibliography, index. \$40.00 cloth.

A good crime story, true crime or fiction, ought to begin something like this:

Out on the Plains of westcentral Nebraska, where the interstate highway fades into the horizon, you do not expect to find six bodies, among them the best friend the shooter ever had.

Around 2:30 Saturday afternoon, brothers-in-law Erwin Charles Simants and Bill Boggs walked into the Rodeo Bar in Sutherland and began drinking beer, five or six for Simants in the first hour alone. Around 8:00, Simants left his brother-in-law at the bar and went to the latter's home. He smoked a cigarette, spoke briefly with his babysitting thirteen-year-old nephew Butch, and saw, out the window, the ten-year-old neighbor, Florence Kellie. "Simants . . . went into the Boggses' bedroom, retrieved a .22 caliber rifle owned by his brother-in-law, and loaded it with shells. After telling Butch to 'keep the kids in here,' Simants left the house and headed towards the [Kellies'] . . ." (Scherer, 23). His killing spree over in roughly 45 minutes, Simants returned to the Rodeo Bar and ordered a beer.

What you have just read is a fair paraphrase of how this book begins . . . in chapter 2. I loved Mark Scherer's *Rights in the Balance* . . . once I got into chapter 2. My advice: buy the book; skip the front matter and chapter 1 until you've read chapter 2; then, once hooked, go back and read the opening material.

Asked to review *Rights in the Balance*, I was worried. It is a book about the media intervening in a criminal trial to assert the right to publish news about the trial. How exciting could that possibly be? The story of the murder itself might be exciting, as might the story about the hunt for the killer. But motions and briefs, groups of brainstorming lawyers, appeals—even all the way to the United States Supreme Court—do I really want to read this? Having read it, my answer is a resounding "Yes!"

This is the story of small town life and a tragedy compounded by its location. It is the story of Great Plains media outlets leading the charge to enforce the right to Freedom of the Press—the named party is Media of Nebraska, not the *New York Times* (as in the Pentagon Papers) or the *Washington Post* (as in Watergate). And it is the story of a group of Great Plains lawyers, many of them graduates of Creighton University Law School (including Jim Koley, after whom my endowed professorship in constitutional law is named), and all of them as intelligent, insightful, tenacious, and, in the end, victorious as any Ivy League lawyers officed on Wall Street.

It is the story of the United States Supreme Court case that held that there can be no secret criminal trials except in those exceedingly rare cases where closing the court is "compelled"—where, for example, there is a clearly shown interest of national security, and no way to achieve this "compelling state interest" except by infringing this fundamental value of open trials.

Nebraska Press Association v. Stuart establishes the public's right to attend criminal trials and the right of the press to attend on behalf of the the public that cannot, or chooses not, to do so. There shall be no Star Chamber in the United States. We shall know how our judges and prosecutors operate. We shall know what goes on inside the courtroom, for the doors shall be open.

Mark Scherer has succeeded in making this narrative of constitutional brainstorming, brief writing, and appellate arguing most exciting. It is a story well told. My hope is that he's sitting at a desk somewhere right now working on another book.

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