



# **Rights in the Balance: Free Press, Fair Trial, and Nebraska Press Association v. Stuart (Plains Histories)**

*Mark R. Scherer*

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On a horrific night in October 1975, Erwin Simants brutally murdered six members of the Henry Kellie family in tiny Sutherland, Nebraska. Massive media attention to the grisly story soon spawned a historic collision between two of the most cherished American constitutional protections—the First Amendment’s guarantee of a free press and the Sixth Amendment’s guarantee of a criminal defendant’s right to a fair trial before an impartial jury. *Rights in the Balance* is the story of the complex legal battles set in motion that tragic night on the western Nebraska plains. In juxtaposition to the criminal prosecution of Erwin Simants, Mark Scherer traces the Nebraska Press Association’s battle to overturn a gag order imposed on the media by state court judges. Prohibited from publishing certain details about the crimes and the Simants prosecution, the association set its own arduous legal course that would lead ultimately to the U.S. Supreme Court and the landmark ruling issued in *Nebraska Press Association v. Stuart*. The decision, one of the most closely followed in American constitutional history, remains one of the high court’s most significant statements and controlling precedents on the troublesome and recurring conflict between the rights of free press and fair trial. Balancing the nuances of myriad legal considerations against the very human dimensions of both the constitutional litigations and the Simants prosecution, Scherer offers up a narrative accessible not only to communications and legal specialists and scholars but also the interested general public.

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