

# Briefing a ---near v. minnesota

Law



Near v. Minnesota Near v. Minnesota June 1931 The facts and historical/social context of the case: The Press published a story on assaults on local officials claiming that the police had links with the criminals. The Minnesota administration, therefore, made attempts to stop the Saturday Press from other publications under the state decrees (Near v. Minnesota). The state law argued that the Press caused nuisance through defamatory statements; thus, the abolishment of other publications and circulation to the public.

Constitutional question(s) presented by the case: The Court had to decide if the authorizations to stop the Press were in line with the freedom of the press as guaranteed by the Constitution. The Court was of the judgment that the restraining order violated the First Amendment of the Constitution (Near v. Minnesota). Since the Press was barred against publishing and circulating information on prejudice and anti-Semitism, the Court indicated that the media was simply censored. The press had to enjoy its freedoms and restrains would only be applicable in contexts such as the media publishing stories that touched on overthrowing the government, matters on national security, war, incitement and indecency (Near v. Minnesota).

Who won the conflict? What is the legal holding? : The Saturday Press won the conflict. The legal holding focused on the fact that the statute did not allow for censorship control by the media. Censorship for the Saturday Press was, therefore, not permitted (Near v. Minnesota). The state in this context, did not have the mandate to determine what would be published or not. The Court also noted that issuing sanctions to the media prior to their publications would be a clear infringement of the freedom of the press. Prior restraints were therefore not applicable.

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Why?: The logic that supports the majority opinion is the fact that the First Amendment was to protect the press, and more so from interference from the government that strives to make restraints on the media (Near v. Minnesota). A precedent that emanates from the case relates to how the government makes constant attempts to restrain speech especially on ideas that do not support the government. This case will be used a guide to future cases on restraints on speech. in the event that the government opts to regulate the media, this ruling will be useful to giving rulings.

Concurring and dissenting opinions: Three judges among them Justice Butler wrote dissenting opinions that the statute needs not operate on restraints on publications. According to the judges, the restraints would not preserve law (Near v. Minnesota). Administration, authorizing and censorship was also not in the domain of the government. The statute was then operating on unconstitutional grounds simply because the liberty of the press was constantly restrained through calls to have the media presenting their content for approval before making final submissions and circulation to the public (Near v. Minnesota). Going by the constitution, the media has to enjoy protection especially in case when it is the only channel that can unravel the ills that are ongoing in the society. Regulating the media means that all forms of ill doings will have a channel of progress.

#### Work Cited

Near v. Minnesota. 283 U. S. 697. Supreme Court of the US. 1931.

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