

To Miss "Doris"
Herb & Barrie &

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Libel may be defined as any false statement, written or broadcast, which tends to (1) bring any person into public hatred, contempt or ridicule; (2) cause him to be shunned or avoided; or (3) injur him in his business or occupation.

Risk of libel cannot wholly be avoided by newspapers which report the news and dare to fight for honest government. Deadlines demand fast handling and do not permit exhaustive and scientific investigation of every fact. Sometimes, a paper's duty to its community ~~requires~~ requires exposure of corruption under actual threat of suit by someone who thinks it will be impossible to prove in open court the facts which a reporter has unearthed, or even those which have become notorious.

Reports of crimes, trials, politics, public affairs and many other stories involving defamation must be published every day. Factual errors creep in. There is a day-to-day hazard from which there is no complete escape by a newspaper worth reading. It is big in terms of dollars.

Regardless of whether the laws of the state permit punitive damages (damages to punish the wrong-doer in addition to compensating the injured), juries do punish by enormous verdicts. Stable, long-established properties have been crippled as a result of one libelous comment.

Sometimes a jury is ~~an~~ prejudiced against the publisher or his policies, or against a broadcaster. Perhaps more frequently, the jury believes that the publisher was wantonly careless, malicious, or so eager for circulation that he deliberately exploited false rumors or scandals.

So, as to libel, every publisher is engaged in an extraordinarily hazardous occupation.

But despite the dangers, all the news can be published and a strong editorial policy maintained with little risk if the basic legal principles are remembered and observed.

Knowing how to recognize and then avoid libelous statements permits publication of stories and justifies aggressive editorials which an uninformed person would have to kill for fear of the unknown. Skilled mountaineers

seldom fail; the week-enders often do.

The purpose here is to state enough to enable anyone to recognize the risk of libel--always, if he gathers the news and writes the story; usually, if he sees the copy but does not himself investigate the facts.

The policy of all whose engage in mass communication is presumed to be:

1--To write ~~or~~ pass copy or ads for publication or broadcast ~~in~~ free of hazard.

2--Whenever dangerous copy is observed to call attention to the risk of libel, violation of privacy or contempt of court, as the case may be.

Nothing is more important to the maintenance of a free society than the preservation and enlargement of the right of the people to know what is going on in public affairs.

Libel is now new in the law. The ~~XXXX~~ Papyrus of Hunefer shows the soul of the dignitary, then lately departed, pleading before the sun God: "I have not robbed...I have not slandered..." and so on until he had pleaded innocent to each of the 42 offenses of which the early Egyptian law took cognizance.

Moses commanded: Neither shalt thou bear false witness....The Far East punished slander. The Twelve Tables of Rome recognized defamation. Early Anglo-Saxon and Germanic laws took a serious view of insult by word or gesture. Punishment included excision of the tongue.

In ~~England~~ England, a book on libel was written 300 years ago. Under a French ordinance of the past century the publication of a libel was punished by whipping and, on second offense, by death.

Lady Montague remarked, "I am charmed with many points of the Turkish law. The proved authors of any notorious falsehood are burned on the ~~forehead~~ forehead with a hot iron". If a South Sea Islander hurts another person's body or his name, the chief must decide between them.

For a long time everywhere defamation has been recognized as a

crime or a civil wrong or both. It must be recognized that protection from this tort is one of the most cherished legal rights.

The rise of large newspapers during the Nineteenth Century brought special legal problems. Their ability to inflict injury is enormous. But the daily headlines make it difficult to take the precautions available to the publisher of a book or the ^{writer of} ~~writer of~~ a speech. The recent development of radio and TV poses new problems.

Despite its long history, the law of libel is still in a period of evaluation. It reflects a continuing attempt by society to reach a proper balance between the need of the individual for protection and the necessity for a free dissemination of news and fair comment in respect to public affairs.

Except as granted by statute, no publisher or broadcaster has prerogatives greater than those of the ordinary citizen. But even without statutory shield, proper understanding and use of the rules pertaining to qualified privilege and freedom of comment and of criticism afford every publisher and broadcaster ample latitude.

Libel is an age-old risk. The year 1890 may be said to mark the birth of its kinsman, right of privacy. Whenever a publisher or broadcaster departs from the dictates of good taste and invades this newly come right of privacy, the right is given a chance to grow step by step by adverse court decision. If the trend is permitted to continue, a day may come when the right of privacy is deemed a greater hazard than libel.

One facet of journalism with which the editor, reporter and broadcaster lives constantly is the risk of libel.

Cicero laid down the ground rules so well hundreds of years before the printing press was invented, that no one has since tried to say it better. He wrote: We should never so entirely avoid danger as to appear irresolute or cowardly. But at the same time we should avoid unnecessarily exposing ourselves to danger, than which nothing can be more foolish.

Because freedom of the press is taken for granted in this country, it is easy to forget (1) that the right is relatively new; (2) in many lands it does not exist and (3) it is being undermined here.

Freedom of the Press and freedom of speech were written into the constitution at a time when there was not such freedom in England. Two decades after the adoption of the constitution, an English publisher was convicted of crime because he criticized Parliament. An eminent American historian remarked, "We need from time to time to take a look at the things that go without saying to see if they are still going."

The trend of the times is against freedom of expression. Many a bureaucrat ~~does~~ would prefer that the news touching governmental affairs be limited to mimeographed handouts. But the citizens of the country have a right to know what is going on. Unless they do, the country will not long remain free.

I hope that by touching briefly on libel, I can help you understand better the need ~~of~~ for the law and the concurrent need to publish the news that ~~it~~ is fit to print.