Washington Law Review

Volume 12 | Number 4

11-1-1937

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DEFAMATION AND RADIO

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Out of man's instinct to hurt his fellow man was born slander. With the advent of the printing press, one's reputation became subject to a more vicious attack because more enduring, and because of the larger audience. Written or printed defamation became libel.[1] The difference is important, for an action for libel will lie without proof of actual loss, i. e., the loss of some material advantage which is either pecuniary or capable of being measured in money. An action for slander, on the other hand, does not usually lie unless special damage can be proved. The reason usually advanced for this distinction between libel and slander is that a greater degree of harm is possible in the case of a libel than in the case of a slander, owing to the more durable publicity of libel and the fact that it is more easily disseminated.[2]

Radio has opened up a new and larger opportunity for defamation than has ever existed before. There are licensed today in the United States 683 broadcasting stations scattered throughout the country.[3] Newspapers are fairly closely owned and do not open their columns generally to the public. Radio stations, on the other hand, broadcast the message not only of those who lease their facilities, but they also carry the messages of men of public affairs and public officials, for which unsponsored broadcasting they receive no commercial return. Speeches of a timely and informative nature delivered before an audience are frequntly broadcast with a microphone before the speaker, and these, in turn, are received by thousands of radio listeners in addition to the audience which is seated before the speaker. Modern invention has thus arisen as an ally of defamation, and if man's ingenuity continues at its present rate, the vehicles for libel and slander will continue to increase. Television will certainly not lessen the effectiveness of a defamatory imputation.

Program content to the operator of a radio broadcasting station is a real and constant problem. His license must be renewed each six months and in determining whether he shall retain his

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[1]Libel has been held to include:

(a) Pictures, Peck v. Tribune Publishing Co., 214 U. S. 185, 29 Sup. Ct. 554, 53 L. Ed. 960 (1908).

(b) Motion pictures, Merle v. Sociological Research Film Corporation, 166 App. Div. 376, 152 N. Y. S. 829 (1915).

(c) Conduct consisting of shadowing, Schultz v. Frankfort Marine Ins. Co., 151 Wis. 537, 139 N. W. 386 (1913).

[2]COOLEY, LAW OF TORTS (4th Ed.) § 144.

[3]As of January 1, 1936 the Joint Committee on Radio Research estimated that of the total population of the United States, amounting to 128,429,000, there were 22,869,000 radio families.

license or whether the station shall be deleted, the Federal Communications Commission is required to determine whether the licensee has served public interest, convenience and necessity.[4] In serving public interest, educational programs have assumed a large importance. It is recognized that it is not sufficient to have only amused and entertained the listeners. They should be educated and informed and conscientious broadcast station operators are constantly striving to raise the cultural level of their programs. Providing the station operator stays clear of copyright entanglements, his legal difficulties will be few so long as the programs are confined to pure entertainment or education. As soon, however, as programs take on a controversial content, his troubles begin.

A torrid political campaign is being waged in the city where the broadcast station is located. The most effective way of reaching the largest number of voters is over the air. Should the station owner permit the candidates and their representatives to campaign over the radio? If he permits one candidate to speak, he is prohibited under the Communications Act from denying the facilities to other candidates. Furthermore, he is not permitted to censor political speeches—at least, if they are delivered by a candidate personally.[5] Stations with a larger listening audience have, to date, considered that they are serving public interest by carrying political speeches. This type of program, however, has proved to be the most fruitful source of defamatory utterance. Fair and honest comment or criticism is permissible, but when directed at individuals it is difficult, as a practical matter, to determine whether such comment has crossed the border line and has become defamation.

In the field of controversy another type of program is even more dangerous as to possible defamatory utterance. A strike is on, involving a commodity or service in which the public of that community is interested. Broadcast stations are called upon to broadcast programs of one side or the other, or both. Such programs usually involve, in addition to comments on the issues, more or less direct and inflammatory criticism of individuals. If the station operator allows his facilities to be used for programs of

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[4] Sec. 307, Communications Act of 1934, 48 Stat. 1083.

[5] "If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station, and the Commission shall make rules and regulations to carry this provision into effect: Provided, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby imposed upon any licensee to allow the use of its station by any such candidate." Sec. 315, Communications Act of 1934, 48 Stat. 1085.

this character he is, in effect, gambling that the people criticised will not deem themselves defamed and institute an action for libel. A labor leader may become extremely touchy when adversely criticised.

The danger of civil suit for libel and the possibility of having assessed against him a heavy verdict for damages is not the only worry of a broadcasting station operator. Possibly one, or a few suits against him for libel, would not jeopardize his license but it is probable that the Communications Commission would determine that he is not serving public interest if he so operates his station as to become frequently embroiled in libel proceedings.

The discussion thus far has assumed that a broadcasting station is liable to defamatory comment made over its facilities along with the speaker. The few cases thus far decided so hold. The law cannot be said to have become settled on this point, and it is the purpose of this discussion to consider whether radio broadcasting should have applied to it the long established rules and distinctions of the law of defamation, or whether the service that radio broadcasting is required to render justifies some reappraisement and modificatiton of this law as applied to it.

Only three cases of importance in this country have dealt directly with defamation by radio. In the first case, *Sorenson v. Wood,* 123 Neb. 348, 243 N. W. 82, decided in 1932, the Supreme Court of Nebraska held that the station licensee was liable for defamatory words broadcast over its station. The decision was appealed to the United States Supreme Court but was dismissed there because the judgment of the State Court was based on a non-federal ground adequate to support it. W. M. Stebbins was a Republican candidate for nomination to the United States Senate. Station KFAB, having extended its facilities to Senator Norris, who was a candidate for the same office, granted broadcasting time to Stebbins. Richard F. Wood spoke on behalf of Stebbins and read his radio address from prepared copy, during the course of which he used defamatory language against the plaintiff Sorenson, who was a candidate for reelection as Attorney General. The station contended that it was legally required to afford access of its facilities to Stebbins and that under the Federal statute it could not censor the material to be broadcast. This contention was answered by the court in the following language:

> "We do not think Congress intended by this language in the radio act to authorize or sanction the publication of libel and thus to raise an issue with the federal constitutional provisions prohibiting the taking of property without due process or without payment of just com-

> pensation. Const. Fifth Amendment. This is particularly true where any argument for exercise of the police power and for any public benefit to be derived would seem to be against such an interpretation rather than to be served by it. So far as we can discover, no court has adjudicated this phase of the statute and order. We reject the theory. For the purposes of this case we adopt an interpretation that seems in accord with the intent of Congress and of the radio commission. We are of the opinion that the prohibition of censorship of material broadcast over the radio station of a licensee merely prevents the licensee from censoring the words as to their political and partisan trend but does not give a licensee any privilege to join and assist in the publication of a libel nor grant any immunity from the consequences of such action. The federal radio act confers no privilege to broadcasting stations to publish defamatory utterances."

The court, by implication, held that the language was libel rather than slander, for the reason that the speaker read his speech from written continuity; further, that the station licensee was absolutely liable along with the speaker.

The next case, decided in point of time, was *Miles v. Louis Wasmer, Inc.*, 172 Wash. 466, 26 P. (2d) 847, decided in 1933. One Castner purchased broadcasting time from radio station KHQ, licensed to Louis Wasmer, Inc., in Spokane, Washington. Castner employed Lantry, a program announcer employed by the station, to edit Castner's speech and read it over KHQ. This was to be done during hours other than those spent by Lantry in his station employment. The program, so arranged and sponsored, was broadcast, during the course of which words defamatory of the county sheriff, E. E. Miles, were uttered. The court held that it was not necessary to determine whether the words were slanderous or libelous although it was stated:

> "There is a close analogy between the words spoken over a broadcasting station and libelous words contained in a paid advertisement in a newspaper."

The Sorenson case was quoted at length, and the station licensee was held absolutely liable along with the speaker.

The next case was *Coffey v. Midland Broadcasting Company,* 8 Fed. Supp. 889, decided by Federal District Judge Otis of Missouri, in 1934. Station KMBC, licensed to the defendant in Kansas City, Missouri, was the outlet there for the Columbia Broadcasting Company which regularly sent programs to it by telephone from New York. Included among these was one sponsored by Remington-Rand, Inc., during the course of which references were made to Robert J. Coffey, a police official of Kansas City. The

words complained of required less than three seconds for utterance. He sued three corporations, namely, the licensee, Columbia Broadcasting Company and Remington-Rand, Inc., in the State Court. A non-resident defendant removed the case to the Federal Court on the ground of separability of causes. The plaintiff moved to remand the cause to the State Court, which motion was granted, and the case was finally disposed of in the State Court. The words were spoken into the Columbia Broadcasting Company's microphone in New York by an employee of Remington-Rand, were transmitted by telephone to the control room of KMBC and from there they were broadcast by KMBC. The employees of KMBC who were in charge of its operation had no knowledge that any defamatory words would be included in the program and no means of interrupting them after they began to be spoken. The court held the station absolutely liable, and stated:

> "In my thought, then, I put the primary offender in the local studio of KMBC at Kansas City. I assume his good reputation; I assume that nothing in any former performance by him should put the owner of the station on inquiry; I assume even that he has submitted a manuscript and that nothing in it is questionable; I assume a sudden utterance by him of defamatory words not included in the manuscript, an utterance so quickly made as to render impossible its prevention; I assume, in short, a complete absence of the slightest negligence on the part of the owner of the station. With those assumptions is the owner of KMBC liable to one of whom the primary offender has falsely spoken as an ex-convict who has served time in a penitentiary? The conclusion seems inescapable that the owner of the station is liable."

It was further stated, as to the comparison with a newspaper publication:

> "The latter (newspaper publisher) prints the libel on paper and broadcasts it to the reading world. The owner of the radio station 'prints' the libel on a different medium just as widely or even more widely 'read'. * * * The owner of a broadcasting station knows that some time some one may misuse his station to libel another. He takes that risk."

It is thus seen that the only three cases dealing with defamation over the radio, specifically hold the station operator liable along with the speaker, notwithstanding the fact that the speaker is not the agent or employee of the station licensee; further, that defamation by radio constitutes libel rather than slander.

The question of the liability of a radio station for defamation has had a checkered course in the Council deliberations of the American Law Institute in reference to the Restatement of the

Law of Torts. The draft as originally submitted to the Council by the Reporter did not hold the radio station operator liable unless he fails to prove that he neither knew or should have known of the defamatory character of the proposed broadcast. After discussion, however, the majority of the Council voted that the Institute should tentatively take the view that station licensees are subject to absolute liability for the defamatory statements of those broadcasting to the same extent as the proprietors of newspapers for their publication of defamatory articles or other matter in their papers. *Sorenson v. Wood, supra,* was the only case cited by the Council to support this tentative view. When the tentative draft was submitted to the members of the Institute at Washington in May, 1935, the comment was made to the members that proprietors of radio broadcasting stations who operate their facilities to disseminate matter to the public are publishers of the matter broadcast, and therefore, under the rule stated in § 1023, Clause A[6] and § 1024 of the of the Restatement,[7] "they are not relieved from liability if the matter broadcast is defamatory although they did not intend the matter so published to be understood as defamatory and neither knew, nor by the exercise of every possible precaution could have known, that it could be so understood." A majority of the members present at this meeting voted, however, to deal with the liability of broadcasting companies in a Caveat, as follows: "The Institute expresses no opinion as to whether the proprietors of a radio broadcasting station are relieved from liability for a defamatory broadcast by a person not in their employ if they have used reasonable care to ascertain the character thereof or whether, as an original publisher, they are liable irrespective of the precautions taken to prevent the defamatory publication." This action was taken by a vote of 17 to 14. Because of the small number of members present and voting, the matter was given further consideration at the annual meeting held in May, 1937. At this meeting the final action taken was to limit the analogy of the newspaper publisher's liability in the case of a broadcaster, to the case in which through the submission of a manuscript or

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[6]RESTATEMENT, TORTS (Tent. Draft) § 1023. Intention. Except as stated in § 1024, one who publishes defamatory matter of another is not relieved from liability because

(a) he did not intend the matter so published to be understood as defamatory and neither knew nor by the exercise of every possible precaution could have known that it could be so understood.

[7]*Id.*, § 1024. Circulation of Libel Created by Third Person: One who disseminates matter defamatory of another which was originally published by a third person is liable as though the dissemination were an original publication by him unless he neither knows or should know of its defamatory character.

otherwise the broadcaster had knowledge or means of knowledge that the matter included was actually going to be distributed over his system. As to defamatory matter interpolated by a broadcaster, a Caveat was voted that as to interpolated matter, the Institute takes no position. Whether radio broadcasting constitutes libel or slander was covered by § 1010, Comment f: "A libel may be published by broadcasting over the air by means of the radio, if the speaker reads from a prepared manuscript or speaks from written or printed notes or memoranda. Whether an extemporaneous broadcast is a libel or a slander depends upon the factors stated in sub-section 3."[8]

It is manifest that the Institute, because of the paucity of legal decisions on the subject, and the conflicting views of its members, found it difficult to agree not only on whether defamation by radio constitutes slander or libel, but also on the more important question of the broadcasting station's liability.

As to whether a defamatory utterance by radio should be classified as slander or libel, it is difficult to understand why a distinction should be made between an utterance read from written script and one which is wholly extemporaneous. The damage is precisely the same in both cases. To designate one "libel" and the other "slander" would seem to be carrying fine-spun distinctions too far. A radio listener cannot possibly know whether what he hears is read or impromptu. A victim should not be required to rest his case upon coincidence, particularly in view of the fact that it is frequently impossible for a plaintiff to prove whether the statement was made with or without written notes. It should be determined definitely that defamation uttered over the radio is either libel or slander. The three cases referred to above all assume that such an utterance constitutes libel, and in view of the serious and extensive damage that may result because of the wide dissemination, and the fact that broadcast defamation has all the effects of a printed libel, such a view is supported by considerations of sense and reason. "It is simple of formulation, certain of applica-

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[8] *Id.*, § 1010. Libel and Slander Distinguished.

(1) Libel consists of the publication of defamatory matter by written or printed words, by its embodiment in physical form, or by any other form of communication which has the potentially harmful qualities characteristic of written or printed words.

(2) Slander consists of the publication of defamatory matter by spoken words, transitory gestures, or by any form of communication other than those stated in Subsection (1).

(3) The area of dissemination, the deliberate and premeditated character of its publication, and the persistence of the defamatory conduct are factors to be considered in determining whether a publication is a libel rather than a slander.

tion, and undiscriminating in its remedial effectiveness."[9]

Passing to the more important question of the measure of liability, the proponents of absolute liability assure that radio broadcasting is sufficiently similar to newspaper publication as to require the same rule. Newspapers print defamatory words on paper, the broadcasting station impresses the message by means of sound waves on the electrical carrier wave; the newspaper sets up the type and operates the machinery which produces the publication, the station arranges the microphone and adjusts the modulation of the sound wave to the carrier wave. Newspaper copy is edited, and the station licensee can and should revise all continuity broadcast. The newspaper sells space, the licensee sells broadcasting time. They are competitors in the advertising field and it would be unfair to discriminate in favor of radio stations.

These comparisons, while superficially convincing, overlook one important danger to which a radio station is subjected and the newspaper publisher is not. The newspaper can at all times edit its copy. While this is sometimes difficult because of the pressure of the time element, there is at least an opportunity on the part of the newspaper publisher to see and read what is finally printed. A broadcasting station, on the other hand, even though it requires a manuscript to be submitted in advance of the broadcast, is helpless to prevent a departure from the manuscript; in public event broadcasts the speaker frequently departs from his notes or his speech may be wholly extemporaneous. In these cases the broadcasting station has no opportunity to edit the manuscript.

It has been contended that the speaker can be cut off the air if he makes a defamatory utterance, but as a practical matter, this is next to impossible. In the first place, he has made the statement and the damage has been done before any warning has been given to those in charge of the controls. In cases where the speaker has leased the facilities for a definite length of time, he is entitled to uninterrupted use of the facilities unless he indulges in obscene or profane language.[10] If lawyers trained in the subject, have difficulty in determining what constitutes a defamatory statement, consider the difficulties of the radio station employee at the controls in determining whether what the speaker is saying constitutes "spoken words tending to lower a man in the estimation of right thinking men". While a station may have exercised every

[9] *Radio Defamation*, George R. Farnum, XVI BOSTON UNIVERSITY LAW REVIEW, January, 1936.

[10] The Federal Communications Commission under § 303, Subsection m, Communications Act of 1934, 48 Stat. 1083, is authorized to suspend the license of any operator upon proof that the licensee has transmitted radio communications containing profane or obscene words or language.

precaution in examining the manuscript of a prepared speech, the speaker may in the enthusiasm of the moment, or with deliberate intention, depart from his notes and make a libelous statement before he can be taken from the air. Certain speeches are broadcast where no advance copy can be furnished. Under these conditions, liability without fault would appear to be imposing upon the radio station a burden entirely too onerous.[11]

Liability of a telegraph company is limited to the transmission of defamatory matter which is libelous on its face and is transmitted because the carrier failed to exercise due care.[12] A news vendor or the proprietor of a circulating library is liable only if he fails to exercise due care in publishing or disseminating the defamatory matter.[13]

The solution of the problem of liability calls for a balancing of certain definite considerations. In the first place, radio broadcasting is concerned with the public interest. If it is to be hamstrung by fine spun, stringent distinctions, it is entirely conceivable that abuses by those in power that call for correction by an enlightened public, such as corruption in politics and misuse of power by irresponsible labor leaders will thrive on the silence which the rule of absolute liability must perforce impose upon the operators of radio stations. A fair estimate of the harm likely to result to the victims of defamatory statements must also be given, and a balancing of these conflicting interests should finally result in a clear but just rule which will be consistent with fairness to the individual and with the promotion of the interests of the public.

The *Sorenson, Wasmer* and *Coffey* cases recognize the rule of absolute liability. It is apparent, however, that the *Wasmer* and *Coffey* cases relied upon the pioneer announcement to that effect contained in the *Sorenson* case. It, in turn, was influenced by the apparent analogy between radio and newspaper publishing. Radio is a new art and its possibilities for future growth and public service are unlimited. Liability without fault today is the exception rather than the rule. Such strict liability is the outgrowth and survival from situations which have no counterpart

[11]The American Bar Association has questioned the wisdom of imposing absolute liability. *Report of Committee on Communications*, 57 A. B. A. 445, 58 A. B. A. 364, Advance Program 1935 A. B. A. 127, 128.

[12]Nye v. Western Union Telegraph Co., 104 Fed. 628 (C. C. A. 1900); Peterson v. Western Union Telegraph Co., 72 Minn. 41, 74 N. W. 1022 (1898); Western Union Telegraph Co. v. Cashman, 149 Fed. 367 (C. C. A. 1906). See also 20 COL. L. REV. 30, at p. 369.

[13]Street v. Johnson, 80 Wis. 455, 50 N. W. 395 (1891); Emmons v. Pottle, 16 LAW REP. Q. B. D. 354 (1885), Vizetelly v. Mudies Select Library, 2 Q. B. 170 (1900).

today. If a radio station operator cannot control the speaker or the instrumentality over which the speaker disseminates the defamatory imputation, it is difficult to uphold the application of the absolute liability rule. The Restatement of Torts offers little of value in the final solution of this question. In fact, introducing the distinction between statements made from written notes and those made extemporaneously, simply complicates and does not answer the question.

The rule of due care, if ultimately adopted, would necessarily require the application of the rules of negligence to each case according to the facts and circumstances. Whether a copy of the manuscript was required in advance, whether the character of the speaker is such that the broadcast station could anticipate inflammatory and violent utterances, whether the employee handling the monitor controls had been instructed to cut off the speaker in case of defamatory utterances, the opportunity for prevention of the utterance complained of, and the grounds for anticipation of such utterances, are examples of the line of inquiry which it may be assumed the courts would take in determining whether the broadcasting station was negligent.

If the rule of absolute liability governs radio broadcasting, it has been suggested that the licensee may protect himself by procuring an indemnity agreement from the speaker. This, however, would be only as strong as the speaker's financial resources, and in the ordinary situation offers no or little protection. Insurance against defamation is unobtainable. The final choice, therefore, that faces the licensee is to broadcast or not to broadcast, any programs where there is the slightest possibility of defamatory utterances.

It has been suggested that radio station which exist by Congressional sufferance should likewise be governed by an act of Congress pertaining to defamation.[14] Assuming the constitutionality of such legislation, this suggestion has the merit of uniformity, and if such a Bill could be drafted to meet the exigencies of broadcasting, it would benefit not only radio but the general public and provide for them a yardstick which would eliminate the litigation and the constant threat of litigation growing out of radio broadcasting utterances.

The State of Iowa has recently enacted a statute as follows:

> "Section 1. The owner, lessee, licensee, or operator of a radio broadcasting station, and the agents or employees of any such owner, lessee, licensee or operator, shall not

[14]See *Federal Control of Defamation by Radio*, Jos. E. Keller, XII NOTRE DAME LAWYER 14-39, 134-78, Nov. and Jan. 1936-1937.

> be liable for any damages for any defamatory statement published or uttered in or as a part of a radio broadcast, by one other than such owner, lessee, licensee or operator, or agent or employee thereof, if such owner, lessee, licensee, operator, agent or employee, shall prove the exercise of due care to prevent the publication or utterance of such statement in such broadcast."

The State of Washington, in 1935, amended its Criminal Libel Law to include radio broadcasting.[15] Apparently, however, this leaves open the question whether in a civil suit for damages the same rules would apply.[16]

A warning note and qualification of the views expressed in this article should be made. Any abuse of privilege by a station licensee cannot be countenanced where there has been a clear and manifest failure to consider the public interest and the adverse affect upon it in certain types of radio broadcasting.[17] Scandalous matter should never be accepted, nor should a radio station oper-

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[15]Session Laws of 1935, p. 329:

"Section 1. That section 2424 Remington's Revised Statutes be and the same is hereby amended to read as follows:

"2424. Every malicious publication by writing, printing, picture, effigy, sign radio broadcasting or which shall in any other manner transmit the human voice or reproduce the same from records or other appliances or means, which shall tend:

"(1) To expose any living person to hatred, contempt, ridicule or obloquy, or to deprive him of the benefit of public confidence or social intercourse; or

"(2) To expose the memory of one deceased to hatred, contempt, ridicule or obloquy; or

"(3) To injure any person, corporation or association of persons in his or their business or occupation, shall be libel. Every person who publishes a libel shall be guilty of a gross misdemeanor.

"Section 2. That section 2427 Remington's Revised Statutes be and the same is hereby amended to read as follows:

"2427. Every editor or proprietor of a book, newspaper or serial, and every manager of a copartnership or corporation by which any book, newspaper or serial, and every owner, operator, proprietor or person exercising control over any broadcasting station or reproducing record of human voice or who broadcasts over the radio or reproduces the human voice or aids or abets either directly or indirectly in such broadcast or reproduction shall be chargeable with the publication of any matter so disseminated; Provided, That in any prosecution or action for libel it shall be an absolute defense if the defendant shows that the matter complained of was published without his knowledge or fault and against his wishes by another who had no authority from him to make such publication and was promptly retracted by the defendant with an equal degree of publicity upon written request of the complainant."

See also, CAL. PENAL CODE (Deering, 1931) § 258; ILL. REV. STAT. (1935) c. 38, § 567(1); N. D. LAWS (1929) c. 117; ORE. LAWS (1931) c. 366.

[16]See Enright v. Bringold, 106 Wash. 233, 179 Pac. 844 (1919).

[17]That broadcasters are mindful of their responsibility is indicated from the following language contained in the Code of Ethics of the National Association of Broadcasters, adopted March 25, 1929:

"Care should be taken to prevent the broadcasting of statements derogatory to other stations, to individuals, or to competing products or

ator permit the use of his facilities to those who have exhibited intemperate and reckless habits in the expression of their views and comments on individuals. As was stated in *Trinity Methodist Church South v. Federal Radio Commission,* 62 Fed. (2d) 850:

> "If it be considered that one in possession of a permit to broadcast in interstate commerce may, without let or hindrance from any source, use these facilities, reaching out, as they do, from one corner of the country to the other, to obstruct the administration of justice, offend the religious susceptibilities of thousands, inspire political distrust and civic discord, or offend youth and innocence by the free use of words suggestive of sexual immorality, and be answerable for slander only at the instance of the one offended, then this great science, instead of a boon, will become a scourge, and the nation a theatre for the display of individual passions and the collision of personal interests . . . Appellant . . . may not, as we think, demand, of right, the continued use of an instrumentality of commerce for such purposes."

Some of the comments made in this article grow out of actual questions that have arisen in connection with the writer's practice. The opinions expressed may possibly have been influenced by the complexity of the station operator's problem and the practical impossibility of guarding against liability if the rule of absolute liability is applied. Without minimizing the rights of individuals to live in peace, secure against the invasion of their private rights and reputations, it is submitted that individual protection is amply safeguarded by the application of the due care test, and that the social aspects of radio broadcasting with its opportunity for the exposure of public evils, calls for a more liberal rule of liability than the adjudicated cases so far have laid down.

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services except where the law specifically provides that the station has no right of censorship."

It should be noted that Sorenson v. Wood, *supra,* specifically holds that the prohibition of the Radio Act against censorship of political speeches extends only to the "political and partisan trend"; it would seem clear that a defamatory utterance in a political speech could be censored.