

Book Review: Libel: Rights, Risks, Responsibilities, by Robert H. Phelps and E. Douglas Hamilton

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Book Review

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LIBEL, RIGHTS, RISKS, RESPONSIBILITIES. ROBERT H. PHELPS and E. DOUGLAS HAMILTON. MacMillan, New York: 1966. pp. 405 (\$9.50)

Libel does not, contrary to the dust jacket proclamation, "cut through the fog that has obscured this complex legal problem", but, rather, it is an attempt to map out the periphery and limits of the fog bank. If it is, as claimed, "the best book on libel ever written", it is so only by default. The more specific claims are that the book is a "handbook for newsmen" (the best advice to them is "be careful", "check and recheck", etc.); a "guide to lawyers" (at one point the book advises "if in doubt call a good libel lawyer"); and a "text book for students" (whether this means high school or law students is significantly omitted). True, the book does start with a high-sounding quote from Holmes ("repose is not the destiny of man") and ends with one from J. S. Mill ("libel law interferes with freedom of debate") but what little attention is paid by the authors to these heady quotations in the body of the book is perfunctory in the extreme. Moreover, some of the advice they dish out shows that they missed the point of the apostles they try to ape.

Really, the premise is how to disseminate the maximum amount of information with the least risk to the disseminators and the answer to this problem takes the form of an admixture of dogmatic law of the black-letter species; the results of gossip mongering from cases involving well-known personalities; trite moral verdicts about the characters in the little dramas the author like to call their "cases" and empty exhortations promoting, supposedly, professional responsibility among newsmen. *Libel* is addressed to the newsmen and not the lawyer and may have been of some help to the former if it had a more disciplined and clearer idea of libel. It replaces this deficiency with the smug attitude that responsibility should be equated with success in selling newspapers and goes so far as to recommend libelous attacks where actions are not likely to be commenced because the victim cannot risk the further humility of taking the newspaper to court. Further, it gleefully depicts an instance where a case was won by bringing in highly emotional, irrelevant and prejudicial evidence, apparently unaware that such tactics are improper. Thus, the newsman gets a distorted view of how a libel action should be conducted, further obscuring his and his lawyer's responsibilities.

The "right" the authors discuss is the right of the news media to make a dollar and the "responsibility" which predominates is the one newsmen owe to themselves: to stay in business. The moral platitudes which are inserted, no doubt, to redeem the book (e.g., "If Western civilization treasures anything, it is the inviolability of the individual") sound even more hollow in this market-orientated context. The amount of damages awarded in a particular case frequently is discussed in greater detail than the *ratio decidendi*.

The book fails on other counts as well. It is loosely written and repetitious. It is organized under meaningless sub-headings (which

are not listed in the table of contents) whose illustrations slop over into other sub-headings or even into other chapters perhaps because the authors fail to edit their references carefully enough, or to understand and manage their material. The points of law suffer frequently from the over-emphasis on cases intended to arouse the reader's salacious interest. (But surely, even the most voracious scandal fan cannot *still* be interested in Eddie Fisher's suit against a magazine accusing him of being a cuckold during his marriage to Liz Taylor.) As for the wit found in this book, this reader wishes they had not bothered.

The greatest evil about *Libel* is that it purports to deal with an area of the law in depth and has done so in a hasty, fragmentary, undisciplined and irresponsible way. The authors' naive and shallow treatment of the law of libel could cause the lay reader to misconceive his rights and responsibilities and thereby increase his risk by adding to the misunderstanding it claims to dispel.

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