

# The Liberty of the Press (Book Review)

Edward J. O'Toole

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### Recommended Citation

O'Toole, Edward J. (1935) "The Liberty of the Press (Book Review)," *St. John's Law Review*: Vol. 9 : No. 2 , Article 37.  
Available at: <https://scholarship.law.stjohns.edu/lawreview/vol9/iss2/37>

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occurs, the loss must fall somewhere. How it shall be divided is socially important in so far as either plaintiffs or defendants may become restive if they feel that the decision has been markedly unfair. We may come to recognize at some later day that, except in so far as liability for fault may have a deterrent effect on careless people, the risks of living may best be spread over society at large as today are spread part of the risks of industrial accident. Pending that time, I cannot feel that the attitude of the Restatement on this point, if generally adopted by the courts, will produce serious disturbances in the workable harmony of living.

In general the format, comments, examples, and precision of the language used are all worthy of high praise. Professor Bohlen, the reporter for this subject, should look upon these volumes with pride as the fine achievement of a life devoted wholeheartedly to the clarification of the most complex and troublesome of the major divisions of the common law. He would be the first to emphasize the cooperative nature of the work, and intelligently cooperative it has been, but without his own intelligence, patience, and profound knowledge of the subject, the labor of bringing this section to its present fruition would have been more painful and less effective.

JAMES P. GIFFORD.

Columbia University School of Law.

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THE LIBERTY OF THE PRESS. By Harry Weinberger. Berkeley Heights: Oriole Press, 1934, p. 39.

In 1735, Andrew Hamilton, lawyer, then in his eighty-first year, came from Philadelphia to New York City to defend John Peter Zenger, who was accused of criminal libel. The cause of Zenger was not popular with the authorities. As a matter of fact, two lawyers who had dared in behalf of the defendant to challenge the jurisdiction of the court had been disbarred, before Hamilton, who served without fee, was induced to represent Zenger. In commemoration of the services rendered by the eminent lawyer from Philadelphia, in which he fearlessly espoused the cause of the freedom of the press and in which he "first established in North America the principle that in prosecution for libel the jury were the judges of both the law and the facts,"<sup>1</sup> two meetings were held in 1934, one at Independence Hall, Philadelphia, Pa., and one at the "Home of Law" of New York County Lawyers Association. At each of these meetings, an address was made on the liberty of the press by Harry Weinberger, of the New York Bar. These addresses are now printed in the book under review.

No orator should fail today when his theme is liberty. The humblest speaker need have no qualms as to his audience when they have attended to honor that divine concept, freedom. His result, therefore, should not be measured merely by the popularity of his subject, but rather by the depth of feeling that his words evince and his presentation manifests.

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<sup>1</sup> P. 11.

Mr. Weinberger's addresses are inspiring, moving, and at the same time, convincing. They stress in forceful language the legal struggle for the right to say and to write what we think and at the same time they emphasize the important part which was enacted in that struggle by the venerable Andrew Hamilton, friend of Benjamin Franklin and veteran of the Pennsylvania Bar.

In regard to the liberty of the press, there is a problem other than the legal, which it might not be amiss to mention at this time. It has been forcefully called to our attention by an address delivered by Walter Lippmann at George Washington University on February 22, 1935. In it he eloquently stressed the non-legal problem of the independence of the press. For, as he said, "It is perfectly possible to have a press which is legally free, but it is not independent because it is the mouthpiece of parties, interests, cults."

The addresses by Mr. Weinberger and the address by Mr. Lippmann state the causes of the legal freedom and individual independence of the press as they have not been stated for some time. Both are recommended for reading and re-reading, not only in these days of unrest, but at all times lest we forget that liberty of any kind is prone to vanish more easily than it is acquired.

EDWARD J. O'TOOLE.

St. John's University School of Law.

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STATE INHERITANCE TAX AND TAXABILITY OF TRUSTS. By Royce A. Kidder.  
Chicago: The Foundation Press, Inc., 1934, pp. xxiii, 544.

The author of this work was for several years Assistant Attorney General in charge of the Inheritance Tax Division of the Office of the Attorney General of Illinois. In the Foreword he states that the purpose of the work is to render to the law practitioner a much needed service by presenting the current law applicable to state inheritance taxation, including the subject of taxability of trusts, in convenient and compact form. During the past few years the administration of the state inheritance tax has undergone revolutionary changes in that there was double taxation of tangible personal property, and in some cases quadruple taxation of intangible property. The majority of states have passed reciprocal laws whereby intangibles of non-resident decedents were exempted from taxation, provided the state of the domicile extended reciprocity in the same manner, and to the same extent. About the same time, the decisions of the United States Supreme Court began to show a tendency towards the abolition of multiple taxation, the idea or principle being gradually developed that the assertion of the right to tax in one state denies the right to tax in another state.

Undoubtedly one of the outstanding developments of recent years has been the growth of trusts and trust companies. Today few small cities have no trust company, and it is rapidly becoming the practice for persons who desire to be relieved of the active management of property, and to provide for its transfer to relatives after death, to transfer the property to a trust company