

PRESS FREEDOM AND THE LAW

Transatlantic Contrasts

SOME interesting and important differences between the conceptions of freedom of the press and the laws of libel existing in Great Britain and the U.S.A. were discussed recently in a radio talk given by ALISTAIR COOKE, BBC correspondent in New York. Here is a condensation of what he said:

I SHOULD like to go into what Americans mean by a free press, for on these fundamental things we do not always mean the same things at the same time. Of course the American doctrine of freedom of the press comes down from our joint inheritance of English common law and it was written specially into the Constitution as a fundamental guarantee of American life. The guarantee is repeated in the separate constitutions of each State, and the freedom to print what you like is almost absolute, on the same legal understanding as in Britain: namely, that you take the responsibility to be hauled into court if anything you write or publish is judged by a court

to be obscene or libellous or defamatory.

There are probably oddities of tradition here and there, but the main freedom is guaranteed in law in much the same way in both countries, and it is the freedom to write and print your own opinions without any police suppression, and, above all, the right in theory and in practice to tell the Government to go to perdition.

Backgrounds on the Front Page

This, then, is the common tradition. This is what Americans and Britons both mean first of all about freedom of the press. But from this point on, we begin to notice profound differences in practice that baffle the Englishman in America, and the American in Britain.



It does look to a stranger, for instance, as if the main domestic function of newspapermen over here were to go around sleuthing for culprits. It looks to an Englishman as if the press had little respect for the privacy of persons. In a way, that's true. When a private person becomes a public figure his life becomes an open book. I am not thinking so much of the American passion for private lives—though frankly there's nothing peculiarly American about that. But I am thinking of the almost completely unshackled freedom of Americans to find out and write about the background of its public men. Now here is a crucial difference. And it turns, I think, on the different application of the

English and American laws of libel. In theory, they are much the same. In practice, in Britain the benefit of any doubt is generally in favour of the person being libelled. In America, the overwhelming benefit is in favour of the person writing the alleged libel. It has been said that the English libel law is so tricky that the risk of publication is seldom worth while. In America, the libel law is so favourable to the writer that the risk of suing is seldom worth while. In America, for instance, there is no law restraining the press from commenting on a case before it is brought to trial or during the trial. That is one specific difference.

But aside from any differences in law, what I want to make clear is the wide freedom of the press in examining the career and character of anybody that interests it. In America, a lawyer would be very happy if the literal truth of a libel could be established. In Britain a journalist could still lose his case even if he proved he was writing the truth. For there is more concern in Britain over whether a statement does or does not tend to bring ridicule on the victim or injures his standing with his fellow men. The law makes the same point in America, but is hardly ever tested on these grounds. A distinguished English journalist once told me that it would cost an English magazine its capital in libel actions if Britain were to print



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