

**WHAT AMERICAN EDITORS SAID ABOUT
THE TEN MILLION DOLLAR LIBEL SUIT.
EDITORIAL COMMENT IN AMERICAN
PRESS ON THE LAWSUIT BROUGHT IN
THE NAME OF THE CITY OF CHICAGO
AGAINST THE CHICAGO TRIBUNE**

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What American Editors Said About the Ten Million Dollar Libel Suit. Editorial Comment in American Press on the Lawsuit Brought in the Name of the City of Chicago Against the Chicago Tribune by Anonymous

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What American Editors Said
about the
Ten Million Dollar
Libel Suit

*Editorial Comment in American
press on the lawsuit brought in the
name of the City of Chicago against
The Chicago Tribune*

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Preface



IN the following pages will be found the views of the American press on the suit for ten million dollars damages brought against The Chicago Tribune by the corporation of the City of Chicago at the instance of the Thompson administration.

This suit was a novelty in American law, being founded on the theory that because a municipal corporation holds property, makes contracts, employs credit and carries on business, it is entitled to bring action like a private corporation, for libelous publication.

To this suit the Tribune filed demurrer chiefly on the ground that a municipality is a political agency, an agency of government, and that to permit a suit for civil damages for libel would be infringement upon the right of free speech and free press.

On this ground Judge Harry M. Fisher, of the Circuit Court of Cook County, sustained the demurrer in a notable opinion, widely quoted, as will appear in the following editorial discussion of the case.

From this discussion it will be observed that virtually the entire press of the United States, to say nothing of several of the leading newspapers of Great Britain, recognized the importance of the suit as a recrudescence of the long continued effort of governmental authority to paralyze criticism, an effort beginning with the Star Chamber and ending with the thorough establishment of political freedom in the American republic.

The suit is an anomaly, without precedent in American law, and as Judge Fisher remarked, is "not in harmony with the genius, spirit and objects of our institutions.

It does not belong in our day. It fits in rather with the genius of the rulers who conceived of law not in the purity of love for justice, but in the lustful passion for undisturbed power."

The comment of the American press on this case and Judge Fisher's decision, the Tribune believes, is of historical interest and therefore offers it to the newspaper fraternity and to the public as a noteworthy expression of American thought and principle.

ALTON (Ill.) *Telegraph*, Oct. 5, 1921.

Libel Suits and Officials

Mayor Thompson, in the name of the City of Chicago, has sued for libel The Chicago Tribune. The Tribune, the city's suit alleges, hurt the reputation of the city.

Many things are involved in the suit. There is, of course, the question of whether a newspaper is allowed to criticise public officials. There really should be no argument on this point. The modern American form of government is not the idealistic thing the fathers intended it should be. The people of this republican—not pure—democracy are guaranteed the right of getting rid of officials who do not, in the modern parlance, hit the ball. The method is the ballot box. But many things have been done to destroy this right. The greatest instrument against it is the political machine, a form of primary, party bossism and other things.

When all these elements destroy—as they have in many cases—the right of removal by the people, there must be some recourse. That recourse is the newspaper. If there ever was an inalienable right, it is that of the newspaper to criticise public officials. Any judge who would seek to deny or curb this right is taking from the American people one of its greatest treasures, a treasure no other people enjoy.

Then, in the Chicago case, Mayor Thompson, ostensibly, is using money of the city of Chicago to fight a newspaper which has criticised government of Chicago. The suit, it is to be remembered, has been brought by the city.

EAST ST. LOUIS (Ill.) *Journal*, Oct. 19, 1921.

Valiant Free Press Necessary for the Public Weal

The decision of Judge Harry Fisher that the city of Chicago had no actionable cause against The Chicago Tribune and News in the \$10,000,000 damage suits instituted by the city administration positively and specifically upholds the freedom of the press as a constitutional right. The press is at liberty, the court

held, not only to exercise the equivalent of free speech in printing news and expressing opinion, but to expose wrongdoing in public office and even to attack public servants.

Modern society could not exist in security, nor representative government endure, without alert, just, impartial, vigorous and fearless publicity. And the untrammelled press, sincere in motive and honest in purpose, is the most indispensable of public institutions. The church, the schools, commerce, the people and the government itself depend on the daily newspaper as their most valuable and necessary auxiliary, using it constantly as their own medium to advance the general welfare.

The press sees and hears everything of importance in all parts of the world. Its vigilance and publicity prevent revolutionary upheavals, hold standard political entities together, locate and feed the starving and persecuted, and maintain a kind of international equilibrium of peace and progress. The press states or molds public sentiment and opinion against great wrongs and for noble principles.

The present is the people's era, and the press is the people's institution. That these are existent and recognized facts is demonstrated especially by the universal demand for publicity at the forthcoming disarmament conference. It is feared that the disarmament conference will not be sufficiently successful without the glaring light of publicity.

As the press is public, it must be free. Because it is responsible to the public, its abuse of power need not be feared, for the public would cease to support a newspaper that violated its trust or failed in its duty. Putting the press in chains would be the same as shackling the people. In the finality, it is by its fulfillment of public obligations that a newspaper merits respect and wields influence, and by disregard of public interests or the common weal that it destroys itself.

OSKALOOSA (Ia.) *Herald*, Oct. 18, 1921.

Freedom of the Press

The damage suit brought in the name of the City of Chicago against The Chicago Tribune for \$10,000,000 involved more than an attempt to "get even with the press" for exposing a lot of public irregularities in Chicago. It held in its wake the destiny of the freedom of the press. Judge Fisher, in deciding to throw the case out of court recognized the importance of the danger, and emphasized it in his decision.

The decision was of far-reaching importance to newspapers, as the suit was the first on record in which a municipality sought to restrict the right to criticize its corporate acts.

The court said that examination of the early English law only served to point out the necessity of avoiding its principles. He characterized its history as telling the story of the struggle for human liberty.

"It is a succession of repressive measures with varying degrees of inhuman penalties on the one hand and a stubborn resistance to them by the champions of liberty on the other," Judge Fisher said.

"The freedom of speech and of the press was, at the very inception of our government, regarded as indispensable to a free state," said Judge Fisher.

The court said that torture and even death itself had not availed to suppress the desire for freedom of speech and public worship and that legitimate restraints had been narrowed down to four heads—blasphemy, immorality, sedition and defamation. Dismissing the first two as not involved in the present hearing, he held that if the articles in which The Chicago Tribune asserted that the city was "broke" were neither seditious nor libelous, they were unrestrained. He then pointed out that the counsel for the city had admitted that the publications were not seditious.

Judge Fisher extolled the part which newspapers play in modern industrial and social development and in times of national stress such as the recent war. He said that with increased power of the press had come naturally increased abuses of power. He pointed out that often a great part of the press is led to serve eco-

conomic interests to the detriment of the public, but he added that the harm it could do was limited by the fact that existence of a newspaper depends upon the public favor.

"It cannot long indulge in falsehoods without losing that confidence from which alone comes its power, its prestige and its reward," Judge Fisher said.

"On the other hand the harm which would certainly result to the community from an officialdom unrestrained by fear of publicity is incalculable."

The court said that if the present suit could be maintained "then public officials would have in their power one of the most effective instruments with which to intimidate the press and silence their enemies."

From the *Sioux City Journal*, reprinted in the *COUNCIL BLUFFS (Ia.) News*, Oct. 24, 1921.

A Notable Press Victory

Judge Harry Fisher, of Chicago, in sustaining the demurrer of *The Chicago Tribune* to the \$10,000,000 libel suit brought by the municipality, has helped to maintain the principle of a free American press. Again a notable newspaper victory has been won and a service of information and interpretation has been protected for the good of the public. A muzzled press would not be worth much in America where journalism has been developed to a point at which the newspaper is regarded as a public necessity.

Mayor Thompson had been attacked and criticised for his management of the city's financial affairs. Chicago was found to be unable to pay its current bills for its regular corporate expenses, and the *Tribune* and the *News* referred to this condition as "bankruptcy." It was pointed out by the papers that the city administration, which had been administering the affairs of the municipality, had brought the finances to such a condition of "bankruptcy." Therefore Mayor Thompson, in suing the two newspapers in the name of the city and in its behalf, charged that the good name and the credit of Chicago had been injured to the extent of \$10,000,000. The two suits were the first on record