opinion

Court's libel ruling negligence of its own

Of course the media in Oregon is going to cry foul regarding the Oregon Court of Appeals appalling decision in the Willamette Week v. Bank of Oregon libel case.

It is foul.

The court ruled that private parties need only prove that defamatory statements in the news media were the result of negligence — and not from the standard of malice.

This ruling seems to broaden the grounds for, and to encourage, the filing of libel suits. The plaintiff is required only to prove the defendant was at least negligent in ascertaining if the defaming material was true or not.

This is referred to as simple negligence as opposed to gross negligence. A plaintiff against the media has only to establish that the news media failed to exercise a professional standard of care, or, as stated in the court's opinion, that usually exercised by "a reasonably prudent, careful and skillful practitioner."

In the lawsuit Willamette Week was accused of failing to verify all the statements in an article concerning the Bank of Oregon and its president Homer Wadsworth. By failing to verify statements the lawsuit claimed Willamette Week published a one-sided account of the bank's financial dealing with several Portland businessmen.

There was a substantial amount of money wagered on the court's decision. The bank claimed $4 million in lost business due to the article. Wadsworth sought $2 million for alleged mental suffering and anguish. He claimed to have lost $1.4 million in dividends due to the article.

The money notwithstanding, the press clause in the First Amendment of the Constitution and its application to news media in Oregon was riding on the case.

Possibly more damning than the charge of bias in reporting is the claim the bulk of the article came primarily from one source.

It should be chiseled in stone — and probably is somewhere — that two sources (or more) do a balanced and accurate story make. Journalists, good journalists, always strive for corroborating evidence. That usually comes with more than one source.

But this situation is the ideal. In rare instances one source is all that is available. And what if the source is unimpeachable? Much of the Watergate investigative reporting was the result of single source material.

Few, if any, journalists in the mainstream news media seek to produce articles with libelous content. It's simply career-suicide.

However, with this latest ruling, a journalist runs the risk of seriously damaging his reputation and credibility if his articles even possess an inadvertent tinge of simple negligence.

And how will simple negligence be construed? Is simple negligence the overlooking of a source? What of the inability to contact a source? Can this also be legally defined as simple negligence? If a journalist spells a name incorrectly is this simple negligence?

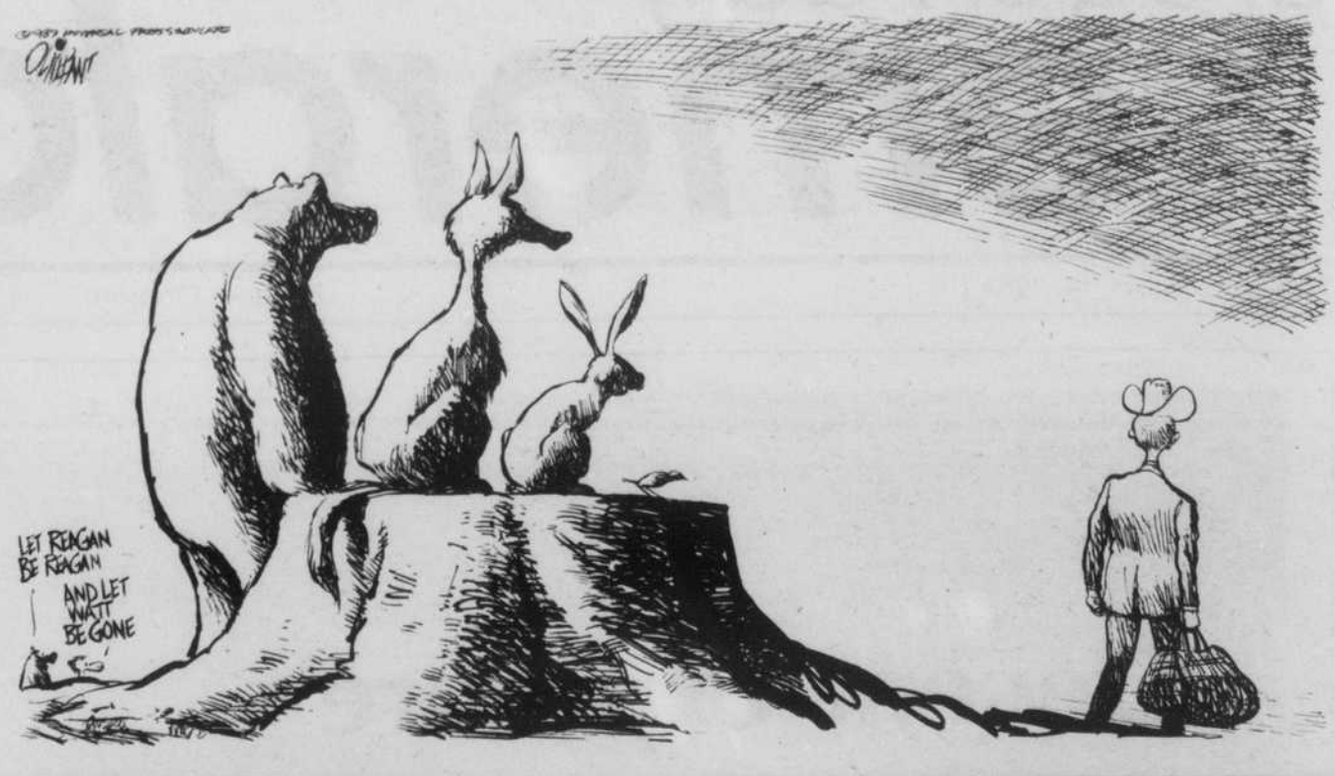
The court of public opinion usually weighs most heavily on the shoulders of journalists as they sit hunched over video display terminals. They know that bias in reporting will be met with disdain by the reading public.

Perhaps the single most important issue in the ruling (along with diluting provable malice) is this opening up of scrutiny into the news media by the courts to investigate the lengths it has to go to ascertain the truth in the light of simple negligence.

We agree with the lawyers for Willamette Week, that simple negligence isn't appropriate involving the freedom of the press as protected under the U.S. Constitution.

The standard that should supersede all others — and will as this case goes up the chain of litigation in the appeal process — is the U.S. Supreme Court's. The Supreme Court has a criteria of actual malice and reckless disregard for the truth as its applicable standard.

The Oregon Newspaper Publishers Association and the American Civil Liberties Union have filed briefs in response to the court's decision. The case they present will probably be successful. But, in the meantime, the work of Oregon journalists will be under the squinting scrutiny of the courts and hampered by this foul decision.



letters

Parking appeal

I applaud the concern and enthusiasm demonstrated by Alan Scearce, president of the Interfraternity Council; Phi Kappa Psi, and the more than 370 co-signers of a petition presented to the City Council during the public hearing held Monday, Oct. 10 concerning the appeal of the West University On-Street Parking Program. Their individual actions and support of those taken by the ASUO are worthy of praise.

More significant and encouraging was the impact of our united and cooperative efforts. It is evident that University students who represent a variety of lifestyles and philosophies are capable of rallying in defense around a common concern.

I look forward to working with the IFC and Greek system in the future and hope this trend will expand to include other groups which historically have not crossed existing barriers. Alan Scearce, Phi Kappa Psi, and others: Thank you.

Barbara Hart McCarthy
assistant coord., University affairs

Nothing of sort

Stewart Shaw, (No Message, Oct.11) tells us that "there is no message from God about abortion in...the 'Bible.'" That the Bible contains no explicit reference to or prohibition of abortion merely confirms that it was a crime so heinious as to be unthinkable. Sufficient was the injunction "Thou shalt not kill." Children were viewed as a gift from the Lord, for it was God who opened the womb and allowed conception (Gen. 30:22). Barrenness was considered a curse by the Israelites, for it meant the possible extinction of the family name.

Shaw believes that "to be a human being...happens at birth." But the scriptures he cites to support his claim do nothing of the sort. Scripture uniformly teaches that life begins prenatally. Luke points to the humanness of the unborn in his description of John the Baptist (Luke 1:44). So too the call of Jeremiah: "And before you were born I consecrated you." (Jer. 1:5).

Shaw maintains further that since we are co-creators with God we may terminate gestation at any time. But from the fact that we may be co-creators it does not follow that we may "uncreate." Women are free not to conceive and so to exercise their prerogative of choosing (the prerogative of abstaining from creation). Men likewise are free to avoid participating in the child-making process. But after pregnancy the same options no longer exist; to annihilate is not to abstain from making anything (except mature decisions).

Scott Calef
philosophy

Disgrace

It is a disgrace that any University official should act in such a spineless manner as to say "We can't do anything except abide by the law" when faced with a clearly illegal, immoral and discriminatory decree (such as the Solomon Amendment) from above. This is what allows fascism to get a grip on a country — giving in at each step along the way until hopelessly enmeshed. They say that to do otherwise would jeopardize financial assistance for some other students. What they are doing jeopardizes the basic rights and freedoms of everyone in the country.

This so-called "law" is a typical Reagan administration product because:

1) It begins with the wrong premise that the right to draft the profits of draft people — but of course not the right to draft the profits of defense contractors engorging themselves from the public treasury.

2) Among prospective draftees it targets only a very small minority — those who really want a good education.

3) Among this small minority it only targets the poor, who cannot come to college without financial assistance of some kind. Those who can afford to come anyway are untouched.

4) Among this tiny minority it only targets those with enough guts and intelligence to challenge the "law." The cowards, who don't like the "law" but sign anyway to get the money, are not affected, except that their character and self-esteem is demeaned. The very ones most deserving of assistance and most likely to make positive contributions to society are denied an education.

Melissa Barker was not even targeted by the law, but, realizing that rights and freedoms mean nothing unless one is willing to exercise them at some personal risk and in the face of official discouragement, she has challenged this "law."

Investment in worthwhile people is the best investment there is, for ourselves and for our country. Since the University is unwilling to make any investment in this case I hope that at least some members of the University community and of the community at large may be moved to do so. Both moral and financial support are important.

Bayard McConnaughey
biology

Distasteful

As a Vietnam era veteran who finds the Solomon Amendment unjust and distasteful, I applaud Melissa Barker's stand.

The University has no business policing the laws of the Selective Service System.

Geo. Bergeron
senior, journalism

oregon daily
emerald

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