

\$LANDER

CAN COST YOU MONEY

By Herbert L. Schon

THE MOTHER in Denver, Colorado, was incensed. Her son's pert young school teacher had whipped the little boy in front of the entire third-grade class and sent him home weeping.

"Why, the woman must be insane," the irate mother told a group of neighbors that evening.

When the rash comment reached the teacher's ears, she lost no time in bringing a suit charging slander. A jury decided that not even an outraged parent has the right to reflect on the sanity of a school instructor and awarded damages of \$1,500.

Carelessly chosen words are the cause of legal suits which cost Americans thousands of dollars each year. While the American Bar Association keeps no overall statistics on such cases, most states report an ever-increasing number of suits being brought for libel and slander, and a tendency on the part of juries to award substantial amounts for injured reputations. Everybody's good name is protected by laws

which warn that no person can falsely and maliciously assail another's standing in the community without liability. Forget this ancient precept during some violent outburst of anger or poor judgment and you are almost certainly paving the way for a costly session in court.

If you believe your next door neighbor has been having trouble with his wife, is a hypocrite, sneak, spy or is cruel to children, better not put your suspicions on paper or in a letter which has any chance of being passed from hand to hand. Such accusations have been held to be libelous. In most states, libel is any false and malicious publication against an individual, whether in print, writing or picture, designed either to injure his reputation or to expose him to public contempt or ridicule.

It is almost as easy to fall into the snares of slander. A dissatisfied patient in a northern New York town who complained about a young doctor learned about this too late.

"He is no good," the man told his friends. "He is nothing more than a butcher. I wouldn't have him to treat a dog."

Slander, a stern judge told the jury which eventually assessed high damages in favor of the physician, involves defamatory words which are spoken and which prejudice the reputation, business or means of making a livelihood of another.

LIKE MURDER, slander almost always occurs unexpectedly and in the most unlikely places. What started out as a leisurely few hands of poker in Phil Holcomb's living room near East St. Louis, Illinois, recently ended with his friend Vincent Paley bringing suit for \$30,000. At a tense moment during the game, Holcomb allegedly pointed to Paley and said, "Any time that —— draws against me, he beats me."

Paley claimed that the remark not only caused him to lose friends and business, but also led him to suffer a mental shock and torture, impaired his nervous system and brought on a heart condition which resulted in expenses for medical attention. Should the court finally allow payment of the full sum sought, at the rate of \$3,000 for each of the ten words, Holcomb's spirited remark could turn out to be one of the costliest comments on record.

When Louise Wallender walked down to a variety store in Miami

to pick up a fifteen cent loaf of bread, she could not have known that it would lead to her winning \$2,000 in a slander suit.

The Florida woman had a standing agreement with one of the store clerks that a particular brand of bread would be saved for her each week. When she asked for the special loaf one day, the unwary young clerk declared, "You haven't paid me for the bread you got last Saturday." He continued to repeat the accusation in a high and threatening tone of voice, so that a dozen or more customers nearby witnessed Mrs. Wallender's embarrassment. That accusing voice was a bit more subdued when court action a year later agreed with the Miami housewife's charge that her "name, credit and reputation" were injured.

When it comes to handing out money in libel or slander suits, almost all states instruct juries that they must decide whether general, special or exemplary damages should be assessed. General damages are for loss of reputation, shame and hurt feelings, while special damages are imposed for injury to property, business trade, profession or occupation. Less often heard of are exemplary damages, a sum awarded as an example and punishment for statements published with actual malice.

Juries, like most people, are apt to take a dim view of malicious name-calling and have frequently slapped all three types of damages on those found guilty of the prac-

tice. Unless you are sure that the fellow down the street who never gets a haircut is actually a secret agent of the Reds, and can prove it in court, it would be wiser not to point him out to friends as the right hand man of Malenkov. New York courts have already found that a false oral statement accusing a man of being an agent of Hitler and fascism in America was an obvious ground for slander, since it imputed his guilt of any and all crimes of such an agent.

Few people will find any fault, for example, in the statutes on slander which helped three Mississippi boys not so long ago. The youngsters had bought tickets for a movie theater which had frequently been victimized by gate crashers. A short time after the trio had been seated, an usher came down the aisle with a policeman, pointed at the youths and said, "These are the boys that slipped in." Their ticket stubs not only exonerated them from any wrong-doing, but led to a substantial award when a Southern court agreed that they had been slandered.

In a similar case, a fourteen-year-old North Carolina girl went through mental torture for months. A burly detective in a busy department store accused her of stealing a barrette from one of the counters. The girl quickly proved that she had nothing in her hands except a small change purse. Somehow a twisted version of the incident

reached her school mates. One of them told her, "Rena, if I had known you wanted a barrette that bad, I would have bought you one." Another girl friend asked, "Honey, did you really steal the barrette?" Testimony of this sort resulted in her receiving \$2,500 from a jury quick to clear her reputation and to place the blame on a detective who didn't know his job.

Hurt feelings alone, of course, never form the basis of a successful court action. The middle-aged New Yorker who resented being called a bachelor, the Baltimore naval officer who took umbrage at being labeled as a "screwball," and an elderly roué who was greeted by the receptionist at a swank New England hotel with the observation, "You're a no good bum," all had their cases thrown out of court.

THE TROUBLE which a wagging tongue can cause, however, is nothing compared to the damage which can stem from a maliciously misguided pen or typewriter. Sending a postal card which accused a former friend of stealing money cost a North Dakota man several thousand dollars. Dropping the card into a mail box, the court ruled, was publication of a libel. "While the government may legislate against the reading of postal cards by those through whose hands they pass," the judge told him, "it nevertheless recognizes the frailty of human nature and prohibits the

mailing of postal cards containing defamatory matter, under severe penalties."

Letter writing also has its perils. If you send a note in a sealed envelope to your elderly Aunt Minnie, accusing some mutual friend of arson or wife-beating, and the old lady reads and quickly disposes of the letter, no harm has been done. But if she leaves it on the table as a document for all and sundry to see and read, you are guilty of putting a libel into circulation.

Not all libel suits are quickly resolved, however. When a clever mind sets out to smear a person, attempting to avoid all appearance of malice, a judge must frequently resort to common sense rather than the letter of the law.

PERHAPS the strangest case of all, in which a dead man tried to have the last libelous word, occurred in New York several years ago. John and Ethel Poague were separated a short time after their marriage. When John died suddenly a few years later, his will was admitted to probate. Ethel was amazed to find a passage in the document which said: "My reason for not making a special bequest or devise to my wife is that (and then followed some scurrilous matter which even court records felt constrained not to reproduce) and that she is provided for by dower rights in and to my real estate."

Incensed at the scandalous ac-

cusations, Mrs. Poague sued not only her late husband's estate but also the attorney who filed the will.

The judge exonerated the attorney, pointing out that the lawyer was compelled by statute to probate the instrument even though it contained libelous material. But he gave the offended widow a major portion of an estate which the dead husband had hoped to keep from her hands, declaring that the will was a particularly malicious document. While a libel in a newspaper might eventually be forgotten, the court said, the will had to remain on file forever, and the vile language would be seen by generations yet unborn who might have business dealings involving the estate.

The complexities of libel and slander do not, of course, provide a convenient cover for those who should be properly pointed out as wrong-doers. Every state makes provision for "privileged" communications. These cover such matters as testimony in court, information about crimes which is given to the police in good faith, legitimate comment on a person running for public office, and evidence presented before a grand jury. In such instances, there is a direct obligation to tell the truth, no matter how injurious it might be to any particular person. It is only the deliberate slander and the malicious libel against which increasing vigilance is being shown.

KARL BAARSLAG

Determined Dutchman

By NICHOLAS NONNENMACHER



NOT LONG AGO a strange-looking letter arrived at the National Headquarters of the American Legion in Washington. It bore Siamese stamps and was addressed to "Carl Tsarlag, Care of the American Region, Washington, D. C." Anti-Communists in far-away Thai, in need of help and information, had somehow heard that an organization called the American "Region" had a man who could help them.

The Chinese Ambassador to Rome dropped in to pay a visit to the Legion's counter-subversive specialist, Karl Baarslag; a Filipino colonel, charged with counter-subversive work in the Philippines, arrived for advice and help. It seemed that sooner or later anyone seriously engaged in the study or exposure of the world Communist conspiracy found his way to Baarslag's office. In fact, while he was with the Legion, his office became a sort of national clearing house for all anti-Communists.

The role of expert on Communism

is not a new one for Karl Baarslag. He first began to learn the hard facts of world Communism back in the early 'twenties when, as day laborer, seaman, radio officer, and union organizer, he saw first-hand what the Reds were doing in the labor movement. From 1920 to 1925, he worked in the Brooklyn post office where he was in close contact with young Communists, some of them actual founders of the Party. Later, he listened as Reds sang the Communist *Internationale* while working at night down in the basement stacks of the New York Public Library.

Baarslag was spurred into militant anti-Communist activity in 1933 when he saw what Stalinists were doing then to the trade union movement. He helped found and became general chairman of an AFL Radio Officers' Union after spending several years in the mid-'thirties trying to break the grip of the Reds in his own union. These years fighting the Communists on the waterfront taught