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NOTES

The Doctrine of Libel Per Se in Ohio

INTRODUCTION

Few areas of Ohio law have been so beset by confusion and conflicting decisions as the area of the law of defamation referred to as libel *per se*. This confusion is the more regrettable for it tends to obscure and obstruct the effective operation of defamation law. Defamation is a "relational tort," protecting one's interest in his reputation — which is the foundation of his relations with others — against those utterances which come within the definition of defamation.¹

A good reputation has long been regarded a most precious asset. Shakespeare expressed the feelings of many when he said: "who steals my purse steals trash. . . . But he who filches from me my good name . . . makes me poor indeed."²

¹Historically, words which held a person up to "hatred, ridicule or contempt" were deemed defamatory. The modern view holds words defamatory which "harm the reputation of another as to lower him in the esteem of the community or to deter third persons from associating or dealing with him." RESTATEMENT, TORTS § 559 (1938); see PROSSER, TORTS 574 (2d ed. 1955). Modern courts have tended to adopt the spirit of the modern definition, while retaining the patter of "hatred, ridicule or contempt." *e.g.* Burrell v. Moran, 38 Ohio Op. 185, 82 N.E. 2d 334 (C.P. 1948).

²Othello, Act III, Sc. 3, line 131; cited in McCarthy v. Cincinnati Enquirer, 136 N.E. 2d 393, 402 (Ohio App. 1956) (dissenting opinion).