

EDITOR, IN JAIL, ALKS OF FREEDOM OF THE PRESS

Carl Magee of New Mexico
Tells of Workings of
Court Machine.

By CARL C. MAGEE,
Editor New Mexican State Tribune.
Editor's Note.—Since he wrote this article, Mr. Magee has been indicted and pending the review of his case by the New Mexico Supreme Court. This article gives the chronological development of the Magee case very clearly.

I am complying with the request for a story on "The Freedom of the Press" from a cell in the San Miguel County Jail, New Mexico. I am using the tea tray upon which my breakfast was sent in by kind friends is a writing table.

I've had twenty-four hours for a very calm recapitulation of my views on the freedom of the press and the consequences.

I may have other days for similar reflection extending from three to six months, provided the higher court entertains the same on the subject similar to those of Judge Leahy of the district court here. Yet my views are unchanged and are likely to remain so.

The more recent angles of the case hinge around a proposition of law which is susceptible of more judicial buse than any other discretionary power of a court which I knew—the power to punish summarily and without intervention of jury for contempt of court for publishing articles regarding a pending case.

Let me illustrate by being more specific regarding my own case.

Judge Parker, chief justice of the supreme Court of New Mexico, lives in Santa Fe County. I publish a paper in Bernadillo County. A bank in Santa Fe County failed in 1923. It developed that the clerk of the court had the court funds in his name in the bank in spite of a State law making it a felony not to turn them over to the State treasury within twenty-four hours after receipt.

I attacked the clerk and demanded his removal. May I turn aside to say that he is still clerk and still un punished while I am in jail for writing an article criticizing his action.

In the editorial in which I attacked the clerk I said:

"We wish to call the attention of justices Bots and Bratton to what is going on in their court. I suggest nothing to Judge Parker. He has grown too accustomed to old conditions to see anything wrong with what has happened."

Parker is a member of the old all machine. I don't know whether Bots, a new member held to the same practice. It seems so, for the clerk is still on duty.

Is Indicted

For the above statement I was indicted in San Miguel County the following week for criminal libel. The reason for this venue is that it is headquarters for the most corrupt political organization that ever affected a State. Judge Leahy is a principal cog in that machine. The county government is completely in their power. The citizenry of the county is 85 per cent Spanish-speaking and non-English speaking. They live in peacock to this machine. No one knows where grand juries and petit juries come from. This law is ignored. Interpreters are used for all juries. I was brought here because it was the only county where the machine could succeed with its plans with absolute certainty.

A half dozen editors had been created so previously. All were convicted and sentenced within forty-eight hours after indictment. None ever got into the penitentiary but all quit the newspaper business as a consideration for being allowed to go or to prevent repetition.

Upon my indictment the inexorable machine began to grind. I will not recount details. It was a travesty.

I was convicted in five minutes by a jury which could not read the offending article or understand the evidence without an interpreter.

Judge Parker testified he had not asked for my prosecution. He said freely that he did not think the article libelous.

Nevertheless, I was sentenced to a year to eighteen months in the penitentiary by Leahy.

Another Attack

In the meantime, I attacked the way I was being railroaded in order to silence me. I allowed no newspapers containing the article to come into San Miguel County during the trial, as I did not wish to affect those directly concerned with my trial. Regardless of this I was cited for contempt for publishing these articles. Each day I was cited as the articles appeared.

Hydro-Electric Bonds Approved

Authority has been given the Indiana Hydro-Electric Power Company to issue \$1,750,000 in 6 per cent bonds, and \$437,600 in 7 per cent preferred stock by the public service commission. The power company plans to build a hydro-electric plant at Oakdale, Ind., on the Tippecanoe River.

Robin Puffed Up—Blame Him?

By Times Special
USEVILLE, Ind., Aug. 2.—An orphan robin here is all puffed up and he isn't cold, either. He's proud. He tells the whole bird world he's the legal ward of Mr. and Mrs. Raymond Hargrave of this city.

And around his ankle—no not a yellow ribbon, but a "gorgeous" bracelet bearing numbers that are officially recorded by the Federal government.

Five weeks ago, Mrs. Hargrave found the bird half starving. She took it in the house, and fed it and then turned it loose. The robin flatly refused to leave. Every night he fluttered around the door and wanted in.

tenced me to a year in jail and a \$4,000 fine.

The Governor corrected all the above with a pardon, saying that the whole proceeding was "a blot on the State and a disgrace to the good people thereof."

The Supreme Court affirmed the validity of the pardon and I presumed the incident closed. However, I continued to attack Leahy, trying to draw him into suing me for libel, where I could get some one else on the bench. He shied at this.

Two weeks ago Leahy set for trial on July 22 one of these contempt cases which he had continued indefinitely a year ago. I wrote a story announcing the setting and saying that "I have as much chance with Leahy as a lamb has with a butcher." This later was a "comment on a pending case" and drew a new citation for contempt.

Changes Tactics

When the case came up Leahy announced that he would change his ruling of a year ago that the truth of the statement would constitute a defense. He held the articles to be contemptuous even if true.

This left me defenseless. He didn't like the publicity regarding his corrupt practices. I stood mute. He found me guilty, of course. He then asked me if I cared to give any reason why I should not be punished.

I replied simply and courteously: "I deny that this is a court or that I am being accorded due process of law."

He at once declared that statement a direct contempt. He sentenced me to from ninety days to six months on each case, and I'm here and will stay here before I will release.

Now, what is the net result on the public generally? The contempt law as it has grown up affords the courts a short route to deny a change of judge; the right to have a grand jury first accuse you; the right of a presumption of innocence; trial by jury, or to be confronted by your accusers. The courts have found a way to take away by a court ruling the 600-year-old guarantees of free men and all American constitutional rights.

I deny that such is the law and will fight such pretensions to the death.

Probably no one else in the United States has as hard-boiled a situation to deal with as I have, but if the rule stands judges can control newspapers absolutely and the freedom will be gone.

If newspapers abuse their freedom in the discussion of pending cases they should be indicted and tried exactly like any other criminals. That might not help me much in San Miguel County, but under most circumstances it would afford the corrective effect of a jury and an impartial judge.

Accompanied by the usual rules of change of venue and presumption of innocence this kind of a newspaper offender would be on as favorable a legal footing as a murderer or a rapist.

Even a newspaper man should be entitled to that much consideration.

Hoosier Briefs

KOKOMO girls are being annoyed between Sycamore and Mulberry Sts. by "he-flappers," "the horn gamblers" and "mashing dudes," according to O. C. Phillips, attorney, who appeared before police commissioners.

"If the stuff croaks me I'll die without telling where I got it," William F. Petty, St. Paul youth, arrested on a drunkenness charge, told Greensburg police.

FROST is only six weeks away. Vern Hottschall, near Marion, reports he heard a katydid.

Canoe trip down the Wabash, undertaken by Pressell Redding and Nyle Redding of Bluffton turned out to be a walking trip. The river was too low.

NAUGHTY, naughty," Justice of Peace J. C. Sheley, told Everett Curtis, Donald Rooney and Ralph Summers, Washington boys, who went swimming ala Adam.

William Baumbauer, Wabash grocer, lost a bunch of bananas while driving to his store. He's singing a popular song.

Newton Allen, Fairmount farmer, is elated over the boozey in hog prices. He owns 2,000 of them.

RAYMOND GOFF, Greensburg, reversed the old established faithfulness of a dog for a man. He saved his dog from an auto and received a broken leg.

Miss Florence Stickler, 21, of Warsaw, dropped dead walking from a hospital where she had been operated on for appendicitis.

FIRE department at Bedford was called out to rescue a girl who caught her knee while climbing a tree. Fire laddies were chivalrous. They kept her a wreck.

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THE OLD HOME TOWN—By STANLEY



OUT OUR WAY—By WILLIAMS



FRECKLES AND HIS FRIENDS—By BLOSSER



The NERVOUS WRECK by E.J. Rath ©1924—by NEA Service Inc.

BEGIN HERE TODAY
Sally Morgan, the daughter of the owner of the Bar-M ranch in Montana, has to go a distance of 35 miles from the ranch to catch a train for the wedding of her friend, the bride of Sheriff Wells. Sally is unable to ride with the bride and her escort, her mother and father, to the wedding. Her mother suggests that Sally ride with the bride and her escort, her mother and father, to the wedding. Sally is worried about the rough trail.

The Wreck's real name is Williams and he is in Pittsburgh. He drove up to the ranch one day in a rattling car, stayed for supper, and then kept on staying.

Now GO ON WITH THE STORY
I'M a nervous wreck," he told Dad Morgan and the family. "I've got insomnia and things like that. I look healthy, but don't let it fool you. I'm a wreck."

It seemed that his doctor, back in Pittsburgh, diagnosed him, and he believed the doctor. He had been working too hard; he was on edge all the time. He was not very old, but the city was killing him.

"Listen," he said. "Don't you start saying it can't be done. I thought you were different."

"Oh, but I think it can be done, Mr. Williams," she hastily added.

"Only—well, you might break an axle, or something. Mightn't you?"

The Wreck brought the machine to a stop and allowed the engine to race in a horrid manner.

"Want to get that train, don't you?" he demanded.

"Why, of course."

"Am I alarming or otherwise annoying you?"

"No, indeed!"

"Have I busted anything yet?"

"I don't believe so."

"All right. Let's go." He stamped his foot on one of the pedals and they leaped forward. Sally held tight and smiled. She enjoyed his childish faith in himself; besides, she figured that she could jump clear as soon as it became necessary.

Not until the Wreck was shrunken to a mere path among rocks and trees did the flivver come to a stop. The Wreck killed the engine, climbed out and went ahead for reconnoissance.

"We'll have to roll a lot of rocks out of the way," he said when he came back. "Are you good at it?"

Sally fought against a smile, for she was contrite with guilt.

The trail got worse, as most of them do. It wound and climbed in a tortuous fashion, simple enough for a horse, but most of it never intended for a horse for a contraption with a 56-inch tread. Ordinarily, at the top of the rises, Sally was wont to check her horse long enough for a sweeping view of the range, bench land and the stern figure of Black Top, which was their nearest mountain. Black Top was not a very high mountain, but, standing curiously alone in the range country, was a useful mark for reckoning. Nearly everybody who travelled the neighborhood took bearings from it, even though they chanced to be strangers.

But today Sally took no sweeping views when they reached crests in the trail. Rather, she drew deep breaths, looked down ahead of her and gripped the seat; for the Wreck had a trick of taking the down grades with a swoop, they being the only stretches of trail which offered chances for speed.

They had come to the end of a long, twisting descent, which he volplaned with amazing abandon, when Sally ventured a comment.

"How do you get it up again when it turns over?" she asked.

It was a look of annoyance and disappointment that he gave her.

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"But—but—"

Sally was thinking about the eastbound express. She did not know, but she had a feeling that the railroad was still very far away. They had been on the road since noon, and she could not for her life tell how many miles they had wasted—but probably most of them.

"But what?" asked the Wreck, impatiently.

"We'll just never make that train."

"Why not? Who says so? Certainly we will. If there's a railroad there with a train on it, we'll make it. Just as soon as we get to this road you spoke about—"

"But how far back is it?" he demanded.

Sally could not even guess.

"It can't be far," she said.

The Wreck stood for a moment in gloomy contemplation.

"It upsets my nerves to turn back," he announced. "I get jumpy and shaky. It irritates me. But—oh, blazes!"

He reached for the crank and yanked it viciously. Sally stumbled and stood breathless while he made a turn. He managed it ultimately, after a furious charge into a clump of saplings, which flattened under the attack like wire entanglements before a tank.