

EDITOR, IN JAIL,
TALKS 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 was released on bond 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 as a writing table.

I've had twenty-four hours for a very calm recapitulation of my views in 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 courts entertain ideas 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 know—power to punish summarily and without intervention of jury for indirect 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 Bernalillo 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 unpunished while I am in jail for writing an article criticising his felony?

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 jail 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 afflicted a State. Judge Leahy is a criminal 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 penonage 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 treated so previously. All were confined and sentenced to the fifty-eight hours after indictment. None ever got into the penitentiary, but all quit the newspaper business as consideration for being allowed to go or to prevent repetition.

Upon my indictment the inexorable machine began to grind. I did not recount details. It was too weary.

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 newspaper to contain 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.

On the trial of four of these cases, which were consolidated, I was denied a change of venue and change of judge or a trial by jury. I answered, alleging the truth of my statements.

For a week we introduced before Leahy evidence of his own corruption. But it didn't take. Leahy held that he wasn't corrupt, and sentenced me to a year in jail and a \$4,000 fine.

The Governor corrected all the above with 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 to bring a year ago that 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 was in 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 recede.

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 by Sycamore and Mulberry Sts., by "he-fappers," "tin 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 whom 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 Style Redding of Bluffton turned out to be a walking trip. The river was too low.

"NAUGHTY, naughty," Justice of Peace J. C. Shely, told Edward 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.

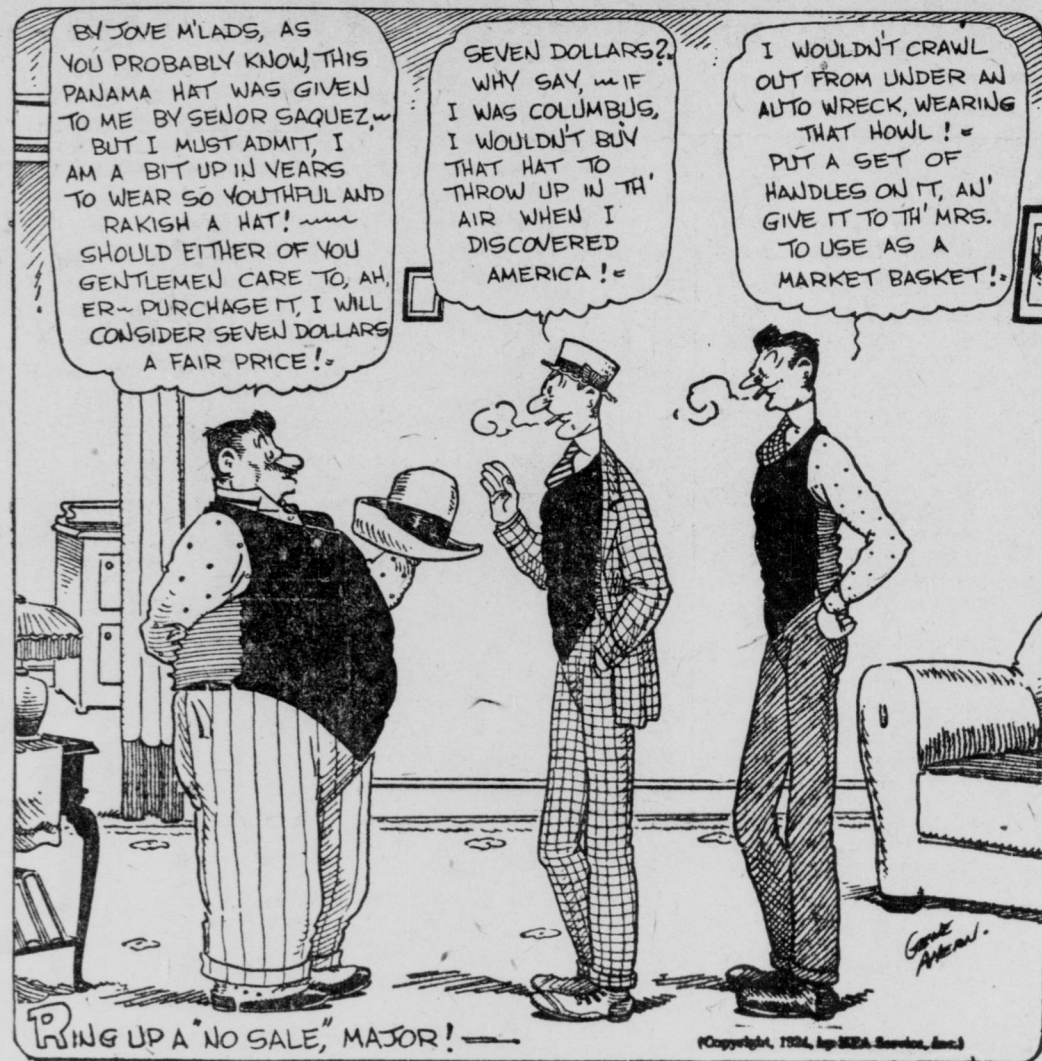
Newton Allen, Fairmount farmer, is elated over the boost in hog prices. He owns 2,000 of them.

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 rib.

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 ladders were chivalrous. They kept her name a secret.

OUR BOARDING HOUSE—By AHERN



THE OLD HOME TOWN—By STANLEY



The NERVOUS WRECK
by E. J. Rath

And now the Wreck was taking her to the train, mainly because everybody but Sally said it could not be done in a flivver.

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 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 billowing ranges, 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 traveled 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.

"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 amended. "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 horrible manner.

"What you need," said the doctor, "is a long trip somewhere, by yourself. Cut out the cities; dodge the towns. Buy yourself a flivver and strike out for the wild west. That's the only place where a man can lead a quiet life in these days."

Dad Morgan allowed that the doctor was right; but the Wreck said no, the doctor was a liar. The west had not been nearly so quiet as promised.

But it seemed that the Wreck liked the Bar-M. He stayed and stayed, and appeared to think they ought to be grateful to have a paying boarder. Dad and Ma and Sally were, in fact, glad to have him, for, outside of the sheriff and a few other natives, visitors at the ranch came seldom. Besides, the Wreck was something of a curiosity, and when he did not talk about his nerves he could tell interesting tales of the east, which nobody but Sally believed. She had been as far as Chicago, so that she had something to judge by.

OUT OUR WAY—By WILLIAMS



FRECKLES AND HIS FRIENDS—By BLOSSER



"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 trail 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 reconnaissance.

"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.

He was reluctant to abandon the idea and still stared at the trail with an appraising eye.

"We'll have to go back," explained Sally, "to the place where the road turns off. We passed it."

"I didn't see it," he remarked.

"Did you?"

"Certainly not. If I had I'd have spoken about it. But it's there, of course. Don't you remember that we spoke about a road turning off last night? That's what we had to watch for. It's not much of a road, I imagine, but a car came through last night."

"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 dismounted 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.

"Get in," he commanded.

They were off on the Black Trail, leaping and careening. For ten tempestuous minutes they traveled the down grade, with Black Top casting a long shadow before them.

"Keep your eye peeled for that turn-off," admonished the Wreck, as they plunged reeling into a little green coulee through which a tiny stream trickled.

"It's queer about that road, but I can't seem to find it," Sally confessed after a while.

Sally glanced at the watch that was strapped to her wrist and caught her breath.

"Do you know that it's after 6 o'clock?" she cried.

He bent over to examine the watch, then produced his own, which he wore in a pocket.

"Ten after 6," he confirmed. "I think we're both a few minutes fast."

"And do you know we're supposed to catch that train at 7?"

Sally's voice had a note of consternation.

"Don't get fussed," he advised.

"We'll make it."

He was plunging forward again, but she checked him with a vigorous grip on his arm.

"We're headed in exactly the wrong direction. We're going south, and we ought to be going north."

"Well, we've got to go south until we get out of this what-you-may-call-it," retorted Wreck. "I can't turn around here."

"But—but—"

Sally was thinking about the east-bound 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 where is the road?"

The Wreck removed his hands from the wheel, folded them in his lap and looked at her.

"You said it was over this way, didn't you?"

"I—I'm not sure. I said it was in a certain direction from a certain place. But I don't believe we've been going in that direction. At least, not all the time."

"We've been going as nearly in one direction as we could," he said, coldly. "Don't blame me if the country is a hodge-podge."

"I'm not blaming you."

"Look here; have you got the idea in your head that I'm lost?" he demanded.

"Please go ahead. It's getting later and later."

"Because if you have," added the Wreck, "I'll remind you that I drove all the way from Pittsburgh without getting lost. And if you think you can lose me in a little two-by-nothing prairie, you'll have to guess some more."

"Oh, drive on!" exclaimed Sally.

He did drive on, expertly and furiously. She cast a hopeless glance at the low ridges that seemed to have sprung up on all sides and frowned anxiously. Perhaps the Wreck was not lost, but Sally was quite certain that she was.

(Continued in Our Next Issue)

Factory Inspector Named
John Dickson, Whiteland, Ind., was appointed factory inspector for the State Industrial Board by the board. Dickson is interested in the tile business in Wheatland.

SAVED FROM
AN OPERATION

Mrs. Shaw Calls Lydia E. Pinkham's Vegetable Compound a God-Send to Sick Women

"I suffered terribly with pains and soreness in my sides. Each month I had to go to bed. I saw your advertisement in the paper, and I told my husband one day to get me a bottle of Lydia E. Pinkham's Vegetable Compound. Before I took the third dose I felt better. I took it four times a day for two years, getting better all the time, and now for four years I don't have any pains. I do praise this medicine. It is a Godsend to women who suffer with female troubles and especially for pains. I surely was very bad once, and I know that Lydia E. Pinkham's Vegetable Compound saved me from an operation."

—Mrs. Josie M. Shaw, Route No. 1, Cambridge, Maine.

A country-wide canvass of purchasers of Lydia E. Pinkham's Vegetable Compound reports 98 out of every 100 were benefited by it.—Advertisement.



Large Red Pimples
On Face And Body
Cuticura Healed

"My face and almost my entire body broke out with pimples. They were large and red and after festering, scaled over. They itched and burned and my clothing aggravated the breaking out on my body. It was almost impossible to sleep at night due to the intense irritation. I tried several remedies but to no avail. A friend advised me to try Cuticura Soap and Ointment so I purchased Cuticura. After a week's treatment my skin showed signs of clearing, and the itching and burning were relieved. I continued the treatment and in about a month I was healed, after using two cakes of Cuticura Soap and one box of Cuticura Ointment." (Signed) Miss Alice C. Kalosi, 18406 Neff Rd., Cleveland, Ohio.

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