

REMINISCING (Column)

Scott Sues Times on Behalf of Publisher E.T. Earl

By ROGER M. GRACE

At the same time that attorney Joseph Scott was maintaining his own libel actions against the Los Angeles Times, he was also pressing a libel suit against the same newspaper on behalf of his client Edwin T. Earl, owner/publisher of competing newspapers.

Earl and his neighbor Harrison Gray Otis, owner/publisher of the Times, were arch rivals, prone to bicker in print.

The suit Earl filed against Otis and his newspaper, and others, stemmed from a Nov. 14, 1914 article in the Times with the headline, "LONG BEACH UNCOVERS 'SOCIAL VAGRANT' CLAN." It tells of a police crackdown on "a coterie of Long Beach men whose unnatural tendencies caused them to make advances to other men." The article names 30 defendants who quietly paid fines, and one who had pled not guilty and was on trial.

Earl—who had purchased the Los Angeles Express, a p.m. newspaper, in 1901, and started up the morning Tribune in 1911—took exception to that article being published. An editorial of Nov. 19, 1914 in the Tribune says, in part:

"Brutal journalism sometimes becomes homicidal journalism. Several instances are supplied by the recent record of local events. Driven to desperation because they were made the victims of sensational publicity, men have sought refuge in death from the attacks that were made upon them. They preferred to meet the instant judgment of God rather than face the merciless clamor of men.

"It is the business of newspapers to print the news, but that duty should be performed in decency and with discrimination....

"No interest of society is subserved by the premature exploitation of such accusations. The public will be as well protected against the offender if publicity is withheld until conviction shall have been secured...."

A Tribune editorial three days later adds:

"The Tribune and the Express do not believe that there is any 'scoop' in printing scandalous stories which frequently are untrue, or founded on blackmail, the publication of which will serve no good purpose and the only result of which will be to harm and injure the individual. The Tribune and Express do not believe that the public ever want to read this sort of stuff, and are resolved, even if there is a demand for this class of matter existing in a few depraved minds, that those persons will have to look elsewhere for the filth they seek. It long has been the custom of the Tribune and the Express to throw such matter in the waste basket."

And, the spat continues:

•**Nov. 29:** A Times editorial proclaims: “[N]o matter how rich or influential or insistent a sinner may be, if he has committed an egregious offense against society The Times will not spare him. All concerned will please take notice. And let the heathen rage and the heathen’s wealthy relatives gnash their teeth and cry ‘brutal journalism.’ Huh!”

•**Dec. 1:** The Tribune calls for a boycott against the Times by readers and advertisers, declaring:

“Brutal journalism must be destroyed....

“If the people do not want destructive and harmful newspapers they will cease to support and patronize such newspapers. Without support evil newspapers cannot exist and brutal journalism will cease to be.”

•**Dec. 2:** The Tribune contains an editorial cartoon depicting the Times (or Otis) as a hog.

•**Dec. 3:** The Times responds, in a rash editorial headed “Defense of Degenerates”:

“The theory of the editor of the Morning Sodomite and the Evening Degenerate seems to be that those who violate the laws of God and man should be protected from punishment and sheltered from publicity, while those newspapers whose proprietors publish the news, and by so doing aid decent people to avoid ignorantly contaminating their households with well-dressed cultivated Pharisaical moral lepers, are to be denounced as ‘brutal journalists.’

“The Toopious [too pious] system is to coddle criminals, to conceal their crimes, and to denounce those who expose crime as ‘brutal journalists.’ The system of the Times is to publish the news, and if the news includes an account of the misdoings of a lot of pretentious Pharisees, who are as lecherous as goats and as conscienceless as jackasses in April, the acts of the evildoers will be exposed, notwithstanding the purchased defense of the editor of the Morning Sodomite and Evening Degenerate.”

•**Dec. 4:** The Tribune’s response comes in editorial with the headline, “Times Commits An Atrocious Libel.” It announces:

“A suit for libel will be filed against the Los Angeles Times at once by the publisher of the Express and the Tribune. The Times, in attempting to defend the practices of brutal journalism, directs a tirade of foul language against the Express and the Tribune and commits a libel in its reference to the ‘purchased defense’ of persons accused of crimes.”

That’s a suit that Scott would take to trial and win, defending the judgment in the California Supreme Court.

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Editorial Cartoon Prompts Filing of Cross Complaint by Times

By ROGER M. GRACE

The Los Angeles Times, hit by a lawsuit in 1915 seeking \$125,000 for the alleged libeling of newspaper publisher/political boss Edwin T. Earl, retaliated with a cross complaint for \$150,000 stemming from an editorial cartoon appearing in one of Earl's two L.A. newspapers, the morning Tribune.

Attorney Joseph Scott, already suing the Times for alleged libel of himself, was now not only pursuing Earl's action against the Times, but defending the Times' action against Earl. Talk about narrow specialties....

The beef between the Times and Earl had its origin in a Times article of Nov. 14, 1914. As detailed here last week, The Times alluded to arrests, in separate incidents, of 31 men in Long Beach for the alleged solicitation of sex. All but one had earlier pled guilty, and the one who didn't was presently on trial.

The Tribune excoriated the Times, arguing that decency required the withholding of such information from the public until such time as there had been a conviction.

As to the 30 who had pled guilty, there was, of course, a conviction. With respect to the one who was on trial...it was a *public* trial on a *public* charge...yet Earl—whose background was in the citrus fruit industry, not journalism—thought the matters should be kept secret.

Inasmuch as the defendants in Long Beach had sought homosexual sex, the Times sought to portray Earl as a protector of criminal perverts.

Earl displayed apathy toward the First Amendment; Times publisher/owner Harrison Gray Otis evinced intolerance of gays.

On Dec. 2, 1914, the Tribune published this editorial cartoon:

The Brute



Earl's action against the Times stemmed from its Dec. 3 editorial referring to “the purchased defense” of criminals by “the editor of the Morning Sodomite and Evening Degenerate.” The Times sought, lamely, to justify its allegation that Earl’s editorializing was “purchased” based not on any proof of actual pay-offs to him, but on a defense of “provocation”...amounting to the assertion that Earl had engaged in warfare against the Times and all was fair in war.

In cross complaining against Earl, the Times alleged in its pleading:

“That in and by said cartoon plaintiff intended to charge, and was understood by the readers of said paper as charging, that cross-complainant is a brute; that it is a hog; that, like that animal, it wallows in filth and indecency; that it is an assassinator of character; that salacious matter and unverified rumor is its entire stock in trade, and that it uses both to ruin the lives of men and women; that it is controlled neither by conscience nor feeling; that it carries on its business in a brutal and conscienceless manner; that it practices constantly, and is the embodiment of, brutal journalism; and that it is controlled and actuated solely by a desire to accumulate money, regardless of the means employed to accomplish that purpose; that each of said charges is false and untrue, and was known by plaintiff to be false and untrue when made by him, as herein alleged.”

The cross complaint was never tried. A demurrer was sustained without leave to amend. When all was said and done, the California Supreme Court upheld that determination, saying that, under the law (as it then existed): “[A] cause of action for libel on one day could not be set up as a counterclaim to a cause of action for libel arising the next day, even though the second libel was the result of the first. They are separate and distinct transactions, and, though connected in the sense that one is the result of the other, they are, in contemplation of law, entirely separate.”