

# Cornelius Berghuis vs. Henry Mammen

(1903)

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In December 1903 an unusual libel case was tried in Chippewa County District Court, Montevideo, Minnesota, before Judge Gorham Powers. The case arose in September of that year when Henry Mammen pleaded guilty in justice court to assaulting Edward Hanlon. Justice of the Peace Cornelius Berghuis, who was also the editor of the *Clara City Herald*, fined Mammen \$10 and costs. Editor Berghuis described the case in the *Herald*:

Henry Mammen was arrested last Tuesday [September 1903] on complaint of Edward Hanlon, who claimed to work with A. Holthues a threshing machine. He claimed to have been hit over the arm with a beer bottle which produced an ugly wound. After the trial was over, Mammen claimed he hit him in self-defense. Be that as it may when the charge was read to him before Justice Berghuis he pled guilty to the charge as set forth in the complaint. The justice had no other alternative but to pass sentence, which he did and fined Mammen \$10 and costs, which he paid. Mammen dropped in an hour afterwards and had his name stricken from the Herald subscription list (they all do that when they get mad at the editor) but the paper comes out just as bright as ever this week.<sup>1</sup>

Unfortunately for Henry Mammen, a friend, E. H. Keenan, offered to write an article giving his version of the case for the *Maynard Progress*, a weekly newspaper. A very colorful article was later printed over Mammen's by-line. The full article is unavailable<sup>2</sup> but a few sentences quoted in the subsequent account of the libel trial in the *Herald* written by Berghuis himself show the humor and hyperbole of Keenan's piece:

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<sup>1</sup> *The Clara City Herald*, September 18, 1903, at 5.

<sup>2</sup> The Minnesota Historical Society has issues of the *Maynard News* on microfilm but not the *Maynard Progress* in 1903.

"I succeeded in clearing my room of two of the toughest characters that ever came to this town except the editor of the Clara City Fog Horn." "They then went to Judge (?) Bughouse (as he is commonly called) and he being a man of unscrupulous character, more of a swine-herder than a peace officer, gave him a warrant and I was arrested, and brought before his highness." "I feel that I have been wronged by a man who we elected to be justice of the peace but who is more of a low dirty swine-herder and ought to be sent back to Willmar where he herded swine for a living." "I always pay my honest debts which is something the editor of the Clara City Pacifer can not say."

Most of this obvious hyperbole, sarcasm, exaggeration and humor was directed at Berghuis as Justice of the Peace, much less as newspaper editor. Regardless Berghuis believed the article was libelous and sued Mammen. Newspaper editors were usually defendants in libel actions at this time, not plaintiffs, and judges never sued for libel for their work on the bench.

The case was tried on Tuesday, December 1. Judge Powers ruled that the article was libelous per se. An account of the trial written by Berghuis was published three days later in *The Clara City Herald*:

### A BIG VICTORY.

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The Editor of the HERALD  
Wins His Libel Suit Against  
Henry Mammen.

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A Jury of Twelve Honest Men  
Returns a Verdict of \$200  
Damages for the Plaintiff.

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The Story of the Fight.

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The \$5,000 damage suit instituted by the editor of this newspaper against Henry Mammen, a saloon-keeper of Clara City, for defamation of character and reputation, was tried in district court in Montevideo last Tuesday, Judge Gorham Powers presiding, and was bitterly fought by some of the best legal talent of Montevideo and Willmar.

A brief resume of the beginning of the trouble and the trial will no doubt prove of interest at this time.

Our readers will probably remember that about the 15th of September Henry Mammen of this place was arrested on a complaint sworn out by Edward Hanlon, a threshing hand, for assault and battery. We, as justice of the peace, issued a warrant for Mammen's arrest and he was brought before us by the village marshall.

Upon the complaint being read to him he plead guilty to the charge as set forth in the complaint and we thereupon fined him \$10 and costs, which he paid. This should have closed the matter, but it seems it did not.

E. H. Keenan, who runs the Commercial Hotel at this place, hearing of the trouble Mammen had gotten into, volunteered to write an article for the Maynard Progress setting forth Mammen's side of the case. It must be remembered now that Mammen plead guilty. If he had put in a plea of not guilty we would have given him a chance to put in his plea of defense and tried the case on its merits, but as it was, the justice was in duty bound to pass sentence and not try to prove him innocent when he said himself that he was guilty. Keenan in presenting Mammen's side of the case overdid himself because of his hatred to us and tried to use Mammen as a shield to protect himself from as filthy an article as ever disgraced the columns of a newspaper. Mammen was made the tool and dupe of Keenan's designs, as Attorney Fosnes said in his charge to the jury that when Mammen struck Keenan he evidently found the right man who was capable of doing such dirty work.

The principal part of the article on which suit was based and which is purely libelous is as follows. "I succeeded in clearing my room of two of the toughest characters that ever came to this town except the editor of the Clara City Fog Horn." "They then went to Judge (?) Bughouse (as he is commonly called) and he being a man of

unscrupulous character, more of a swine-herder than a peace officer, gave him a warrant and I was arrested, and brought before his highness." "I feel that I have been wronged by a man who we elected to be justice of the peace but who is more of a low dirty swine-herder and ought to be sent back to Willmar where he herded swine for a living." "I always pay my honest debts which is something the editor of the Clara City Pacifer cannot say." The above is only a part of the article which is claimed to be libelous but enough has been given to show for what the action was brought.

We placed the matter in the hands of Attorney Fosnes of Montevideo, who promptly brought action against Mammen (whose name appeared to the article as published in the Maynard Progress) for \$5,000 damages. Mammen retained Olson & Johnson as defense and the legal battle was on.

It was expected that the case would be tried last Monday but it was not reached till the next morning. Mammen had subpoenaed from ten to twelve witnesses to testify in his behalf. We rode over with one but expected to use Mammen's witnesses and they proved to be good ones for our side as we expected. The witnesses for the defense from here were D. Grashius, M. S. Carl, T. Voss, E. H. Keenan, J. Keeley, J. Shaller, D. Gaasterland, A. F. Petersen, John Caspers, Fred Freese, Henry Greve, and A. Veenstra. Geo. Schulte was our only witness from here and he only testified as to our character and reputation. The defense with all their witnesses could not prove a single charge as made in the article published but every one was compelled to admit that our character and reputation was of the best.

The proceedings of the trial against Henry Mammen in justice court was also brought up and Mammen's witnesses were compelled to admit that he plead guilty to the charge of assault and battery.

Attorney Fosnes in handling our side of the case did so in his usual able manner and his address to the jury was an eloquent and brilliant effort. It probably presented our side of the case in a stronger light than all the evidence put together.

While it's true the suit was made for \$5,000 he only asked for a verdict of \$1,000. Mr. Fosnes received words of praise and com-

mendation for the able manner in which he tried the case and for his masterly effort in his address to the jury.

When the defense rested the judge said he would instruct the jury to bring in a verdict for the plaintiff which he also made in his final charge. He also stated in substance that while this suit was brought against Mammen, it did not relieve the writer of the article, Keenan, or the publisher, (Shaver) as they were equally responsible under the law. An action could thus be brought against either one of these men and it is hardly necessary to state that we would easily win out.

The jury were out only a short time when they brought in a verdict of \$200 damages and costs which will amount to about \$400 or \$600 in all against the defendant.

In conclusion we say that we have nothing personally against Henry Mammen for we know that he was made the tool of Keenan, the author and instigator of all this trouble and who has intelligence enough to know that an article of this kind would bring any man into trouble. It is the most cowardly and contemptible thing any man could do and his action is being roundly condemned on all sides.

As to Shaver, the publisher of the Maynard Progress, we will say that it is beyond our comprehension how any editor and especially a man of experience and years would allow such dirty filth to enter his columns. He must know that such an article is utterly unfit to be read in the homes of his readers and read in the family circle. Such a man is not worthy to have charge of the destinies of a newspaper whose mission should be for the public good and not to bring into contempt and ridicule the reputation and character of honest men.<sup>3</sup>

The *Herald's* headline is misleading: the satiric article was directed at Berghuis as both judge and editor. In fact it seems directed more at Justice of the Peace

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<sup>3</sup> *The Clara City Herald*, December 4, 1903, at 1. This article was republished in the *Willmar Tribune*, December 9, 1903, at 17, under the headlines:

EDITOR WINS LIBEL SUIT.  
The Clara City Herald Man Is Awarded  
a Verdict of \$200 Damages for  
Defamation of Character.

Berghuis than Editor Berghuis. This is one of the few cases where a newspaper editor and a jurist, who were one and the same, won a libel suit.

If this was not enough, District Court Judge Gorham Powers lectured two persons who were not parties in the suit in open court. According to Berghuis:

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This was highly irregular. At the time Judge Powers was in his 13th year on the 12th Judicial District Court, having been appointed in February 1890. It's possible that he had come down with a bout of judicial arrogance, a malady that sometimes strikes long-serving bench warmers.



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