The Criminal

to the doors yesterday when the case subsequently as witnesses for the deguard. He set out the plea that he could get plenty of printers to publish It was sent back to Mr. Dell. I reshould be allowed time to get wit- it. neses from Portland too.

The court allowed the prosecution until this morning to procure wit-

Mr. Dell then stated that the order for subpoenaes had been issued after the subpoenaes were served, but was compelled to retract this statement when Mr. Fulton produced the document, legally signed and dated.

The following jury was then impan-

Ed. Richardson, J. C. Pope, C. Oerkwitz, A. Leberman, Samuel Russell, W. B. Ross, L. N. Shafer, John Boberg, H. C. Harrison, A. V. Allen, H. Spellmier,

Below will be found the evidence adduced during the day.

Sidney Del Isworn on behalf of the state testified on direct examination by District Attorney Barrett. I have lived in Astoria since the lat-

ter part of 1890, saw the piece published in the Astorian entitled "A Noble Character." The assertions made in that article reflecting on my 'professional character are false.

Cross examined by C. W. Fulton-The charges reflecting on my personal character are false-I mean the charges calling me a Har, falsifier and unworthy of my profession as attorney at law, and a coward, I understood that the article had a double meaning. It referred to that article published the day before, and also meant that I tempted to state what Councilman Par- who have a personal feeling against was a liar generally.

I wrote and circulated the circular you speak of throughout parts of the prepared an article entitled as that is,

the reporter. I circulated and published the Cascade range.

the pamphlet. Ves. I consider as a man of honor that I could issue such a circular stating that a reporter had called on me, when no reporter had done so. The original article was prepared by myself as an interview to be published in I could not quote his long statement. It is not very good. I should consider the Budget. I submitted it to the ed- No man ever does when he can get the his reputation as not good. I was not itor and he suggested that I make a idea down briefly. few alterations. I am somewhat of a newspaper man myself and have written imprudently, a book.

The exceriation was published that day, and the next day the article did

not appear. It is a usual thing in journalism to write a thing as a letter and let it apwhether I have the original or not. I think the editor returned it to me. It was to be taken as an interview. That is why the charge that I was a liar is

I went to the Budget office and the in which it is called an interview. They agreed to publish it and afterwards de-

an interview when it was not.

I attached the portion of it which makes it purport to be an interview because I thought that it was the most important part of the pamphlet.

published the circular because it was the original article that was offered by me to the Budget, accepted and then rejected.

No reporter called on me. The stateis not untrue. I think it is true. The reporter was making it his interview Mr. Simpson interviewed me when I went to the office and took the interview and made it his own.

Astorian's article appeared. had not seen articele until it appeared He employed the editor and he could discharge him when he saw fit. He said he had no control of the paper, that matter was left to the editor. He might have said he had not any voice in the paper. His idea was that the editor was running the paper at this time. Some discussion arose as to what Mr. Dell said to Mr. Elmore Dr. Kinney said about the editor, and never paid any costs myself. as to why Mr. Dell did not go to the

The judge, at this juncture, held that a military man.

of the court to the fact that Dell was ful cases or cases that had not been

Mr. Dell resumed: The circular was

introduced in evidence. Court adjourned till 2 o'clock

AFTERNOON SESSION Cross examination of Sidney Dell re-

I wrote the "Excoriation" at the re the paper the same evening as I' intended to put in the original commu-The circuit court room was crowded man from the Examiner. Mr. Berg- lieve man had agreed to support my resolu-

present, in addition to a large number it. I think all but Welch and Lewis, don't say that these are all the cases citizens, several prominent mem- and McGregor, who had partially know of. I think I could find many bers of the Portland bar, who appeared agreed to do so. I did not see Lewis more if I searched the records. I have 2 this office. about it. I saw the rest of the coun- not been hostile to you. I have no feelfense. Prosecuting Attorney Barrett, climen. I drew up the resolution for ing against you. assisted by Sidney Dell and C. J. Cur- the council to purchase my books, and L. E. Selig called: -In December tis, prosecuted on behalf of the state, Parker was to introduce it. The "Im- was reporter on the Budget. I remem and the defendant was represented by mortals" article was inserted in the ber Dell bringing an article to be pub-Fulton Brothers. Mr. Dell began the book and the title changed after this. lished in the Budget. One afternoon

> to Mr. Bergman. Bergman urged in could be published in pamphlet form. is the truth as he stated, I owe him an hand writing and purported to be an apology for misrepresenting him. I interview. the alleged Australian scrapper. He know his reputation as a lawyer. manded a retraction. I met him next adversely a good deal. In reference because he had not the power. Then There are some lawyers whose practice indicted appeared. I stated in that cir- speak. cular that in Donan's book It is stated foot of the overhanging Cascade moun-

ferred to read to the jury.) city. The circular appeared the day city should buy the book and distrib- not bring any interest in the judgbefore Rathom's article. I wrote a ute it. I was endeavoring to get the ment I bought under a sale by the portion of that article only. That arti- book circulated in Portland, to show court. I have some of the property cle was partly written by myself. I that the destinies of the two cities which I bought pretty cheap. DeLashan interview with me, and submitted laid on the table by the council. I bought it at about what it was worth it to the editor of the Budget to be might possibly have misrepresented at the time. There was some criti-

know when he testifies. Mr. Simpson, the editor of the paper | Re-cross examination by Mr. Fulton, like to say that you are not a pretty wrote the preface to the article. No -I don't think these hills along the good man. I never heard you called a reporter called upon me. I called on coast are any part of the foothills of common liar, although I have heard

Subtsantially Donan made the state- in slightly different terms. ment I credited him with. He didn't false statement that I made as to Don- ly know what Dell's reputation is an's book. He said Astoria was built among the lawyers. I have heard it at the foothills of the Cascade range. discussed among a number of citizens.

This completed the case for the state.

Defendent's case was opened at 2:50 dated Tuesday December 27th, 1892. It he tries his cases in the newspapers inpear as an interview. I do not know It was circulated in the city at that stead of the courts. That is not con-

member how long. He used to be practicing law there. Have seen him Budget editor added that portion of it in the courts. I don't know that I am don't know that they were intended to acquainted with his general reputation as to honor and integrety in the profession. I know his general reputa-I don't attempt to state that it was tion as to his standing as a lawyer. Dell's reputation among the lawyers is that he is a quarrelsome, ugly, ill disposed man, and I have heard him criticised as to the cases he takes, I guess he had to take what cases he could get years. I have an impression from

hold of. Judge Whaley-I live in Portland. I have known Dell since 1872 or 1873. I reputation not very enviable as an atknow his reputation as to his ability torney. as a lawyer. In some respects fair, ment that he did so is not accurate; It some not so fair. Have heard remarks of an uncomplimentary character. As to the character of cases he takes, and when he revamped it. It is true that that he is overbearing to his opponents. Have heard that some of his and he to pay the costs. I was a vic-I met Mr. Elmore on the day after tim of that myself. I had to come back from Rome, Italy, to vindicate my character in a case in which I was an attorney, and which Dell had brought up in my absence. The case was dismissed without even an argu-

ment by myself to the court. Cross examination by Sidney Dell-I refer to the case of Neff. I won a case for Neff myself. I don't think the case was disreputable. I took it for a contingent fee. I have taken other cases in the same way, and think when he met him on the street, what them entirely reputable, but I have

Fred V. Holman-I am an attorney office and see the editor personally. in Portland. Know Mr. Dell. some phases of his reputation. I know to a the words "a coward" are not libelious, certain extent what his reputation is unless perhaps the man referred to is as an attorney. He has some good reputation, some bad, in that he is a Mr. Fulton then called the attention stirrer up of litigation. Taking doubtdisturbed for some time. What is called by common law "champerty" printed at Portland. Not in the Budg- In that respect I consider his reputation bad. Cross examined by Sidney Dell. The circular, entitled "The Reason I have have had a contingent fee in the Why," was then read to the jury and Budd case, but I did not pay the costs. which is a very different matter. I consider that it is disreputable for a

what is called the crime of "champerty". The supreme court of this state has ruled severely against this quest of Mr. Dunbar. It was put in practice. I know that you stirred up nication. I got the reference to Berg. chasing of the Carter case, which I beof criminal libel against the editor of tion; He agreed with me to do so. Not ard. I don't make it a practice of The Astorian was called. There were all the other councilmen agreed to do looking up attorneys' reputations. I

proceedings by asking for two days' I asked Dellinger, who has an office in Simpson, the editor, asked me to take He said that he noticed in the Budget office, to publish my book. the communication to Dunbar. I knew court, several Portland gentlemen who He would not do so, as Mr. Dunbar what it was. It was in Dell's hand had been subpoensed by the defense, objected to it. I don't recall what Se- writing. It was in the form of an inand that he had been taken off his lig said about publishing it. I said I terview with some one on our paper. turned it to him and told him Mr. Dun-Re-directly examined by District At- bar did not wish to publish it. Delltorney Barrett: The matter relating inger sent me to ask Dunbar if it the council that Dell wished to sell his I told Dell it could not be published in books, and for that reason he voted any form from our office. I told him against the ordinarice. I got these to be careful and not have it pubstatements from Curtis and from the lished as an interview with the Budget. Examiner. Bergman afterwards cor- I don't know whether any changes rected his statements to me, and if it were made in it. It was all in Dell's

> saw Elmore the morning after the first | Judge Seneca Smith:-I reside in article published. I asked him to re- Portland. Am a lawyer. Have been tract. I thought he was running the circuit judge in Portland. Have known paper. I did not then know the editor, Dell since about 1875. I suppose I was pointed out to me afterwards. I Don't care to say categorically what it addressed a note to Elmore, told him is. I have heard him discussed by the the statements were false, and de- lawyers quite a good deal, criticised morning and told him he had not re- to his conduct in cases, and somewhat tracted. He said he did not intend to as to the character of his practice. the fracas occurred. He said he did not is regarded as below the average. The discharge the editor because he suited general impression is that he takes him. Next morning the editorial for cases that are not usually wanted by which the editor of The Astorian was other lawyers. A little off color, so to

Cross examined by Sidney Dell:that Astoria is perched on piles at the There was talk of a difficulty between yourself and the supreme court. tains. (Donan's book was here offered stated last night in talking of this in evidence, and the statement rematter that I once said you were a liar and you said the same of me, but "I had seen all the councilmen ex- I don't know who made the statement cept Welch and Lewis, (Dell here at- first. I don't know of any attorneys ker said. It was objected to by Ful- you as to the Neff case. I have heard ton and the objection sustained.) They you talked about for bringing up the generally favored the idea that the Coffin claim in the Carter case. I did were the same. The ordinance was mutt bought some of the property. He published, stating it to be an interview Mr. Bergman in the circular. I shall cism about you regarding something that occurred before that. I would not something of that character expressed

Thomas Connell:-I live in Portland use the word mountains. It was not a Am in the insurance business. I harda witness in the Neff case at all.

Judge F. J. Taylor:-I have known Sidney Dell ten or twelve years. I have heard his reputation discussed The first witness called on behalf of among the members of the bar in my defendent was O. W. Dunbar. Directly circuit. It is not very good in some reexamined by C. W. Fulton-I am man- spects. I have heard that he is in the ager of the Budget. This is a copy habit of hunting up old cases and that sidered good professional conduct. Bentley Killen-I live in Portland considered his conduct when I was on Have lived there 25 years. I am a law- the bench improper and insulting to yer. I know Sidney Dell. Don't re- those opposed to him. I have received several communications after arguments were closed, citing cases, etc.

influence me. Cross examined by Sidney Dell:-It was so common to receive notes from you, and to find them on my desk, that I could not specify any particular case. Judge Milton Elliott sworn:-I have been an attorney Am not practicing now. Have known Dell a good many what I have heard as to what his reputation is. I would say that it is a

In cross examination:-I am not pre judiced against you in my own case to heaven. I have heard a great number of attorneys speak about you in cases were taken on contingent fees, the way I suggest. Judge Taylor, C. W. Fulton, and Clyde, both of them; Mr. Thomson, Mr. Curtis, and many others. If I. have any prejudices against you I remember that I am on my oath and would not tell a lie about your character. I am getting too old to have prejudices now against you or

anybody else. E. C. Lewis:-I know Sidney Dell. His general reputation is unenviable I think it is had.

Isaac Bergman:-I did not promise to vote for the purchase of Dell's book. Continued on Fourth Pace.

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