

The Criminal

Libel Suit.

The circuit court room was crowded to the doors yesterday when the case of criminal libel against the editor of The Astorian was called.

The court allowed the prosecution until this morning to procure witnesses from Portland too.

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

The following jury was then impaneled:

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. Spelmer, and Geo. Colmann.

Below will be found the evidence adduced during the day.

Sidney Dell sworn on behalf of the state testified on direct examination by District Attorney Barrett.

I have lived in Astoria since the latter 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 liar, falsifier and unworthy of my profession as attorney at law, and a coward, I understood that the article had a double meaning.

I wrote and circulated the circular you speak of throughout parts of the city. The circular appeared the day before Rathom's article. I wrote a portion of that article only. That article was partly written by myself.

Yes, 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.

I went to the Budget office and the Budget editor added that portion of it in which it is called an interview. They agreed to publish it and afterwards declined.

I don't attempt to state that it was 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.

No reporter called on me. The statement that he did so is not accurate; it is not untrue. I think it is true. The reporter was making it his interview when he revamped it. It is true that Mr. Simpson interviewed me when I went to the office and took the interview and made it his own.

I met Mr. Elmore on the day after the Astorian's article appeared. He said he had not seen the article until it appeared. He employed the editor and he could discharge him when he saw fit.

Mr. Dell resumed: The circular was printed at Portland. Not in the Budget office.

The circular, entitled "The Reason Why," was then read to the jury and introduced in evidence.

AFTERNOON SESSION.

Cross examination of Sidney Dell resumed by C. W. Fulton.

I wrote the "Excoriation" at the request of Mr. Dunbar. It was put in the paper the same evening as I intended to put in the original communication. I got the reference to Bergman from the Examiner.

Re-directly examined by District Attorney Barrett: The matter relating to Mr. Bergman, Bergman urged in the council that Dell wished to sell his books, and for that reason he voted against the ordinance.

Re-cross examination by Mr. Fulton—I don't think these hills along the coast are any part of the foothills of the Cascade range.

Substantially Donan made the statement I credited him with. He didn't use the word mountains. It was not a false statement that I made as to Donan's book. He said Astoria was built at the foothills of the Cascade range.

Defendant's case was opened at 2:50. The first witness called on behalf of defendant was O. W. Dunbar. Directly examined by C. W. Fulton—I am a copy dated Tuesday December 27th, 1892. It was circulated in the city at that time.

Bentley Killen—I live in Portland. Have lived there 25 years. I am a lawyer. I know Sidney Dell. Don't remember how long. He used to be practicing law there. Have seen him in the courts. I don't know that I am acquainted with his general reputation as to honor and integrity in the profession.

Judge Whaley—I live in Portland. I have known Dell since 1872 or 1873. I know his reputation as to his ability as a lawyer. In some respects fair, some not so fair. Have heard remarks of an uncomplimentary character.

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 them entirely reputable, but I have never paid any costs myself.

Fred V. Holman—I am an attorney in Portland. Know Mr. Dell. Some phases of his reputation. I know to a certain extent what his reputation is as an attorney. He has some good reputation, some bad, in that he is a stirrer up of litigation.

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lawyer to pay the costs, and commit what is called the crime of "chamPERTY". The supreme court of this state has ruled severely against this practice.

L. E. Sellg called:—In December I was reporter on the Budget. I remember Dell bringing an article to be published in the Budget. One afternoon Simpson, the editor, asked me to take the communication to Dunbar.

Judge Seneca Smith:—I reside in Portland. Am a lawyer. Have been circuit judge in Portland. Have known Dell since about 1875. I suppose I know his reputation as a lawyer.

Cross examined by Sidney Dell—There was talk of a difficulty between yourself and the supreme court. I stated last night in talking of this matter that I once said you were a liar and you said the same of me, but I don't know who made the statement first.

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