

**The Criminal**

**Libel Suit.**

The case of the defense was continued yesterday morning by the recalling of

E. C. Lewis: who testified as follows when asked as to the charge in Dell's circular that he owned no property in the city.

"The statement is not true. My city taxes last year alone were \$24.90, and the real estate was in my name. I owned four lots in Taylor's Astoria, six lots in Adair's and two lots in Adair's South Addition.

The defendant here rested his case. The case for the prosecution was continued by examining the following witnesses:

A. F. Sears: I reside in Portland. Am a lawyer. Known Dell nearly 14 years. Know his character as a lawyer. It is high. His character for conscientiousness is good. His general reputation for truth and veracity is excellent. Hostility in Portland to him arises from the Neff case.

Cross examined: His character is high among the lawyers. There is some hostility. Never heard that he has a reputation for digging up old claims. Never heard any charge of unprofessional conduct.

M. C. George: Reside in Portland. I have known Dell since 1875. Am a lawyer. Know his character for truth and veracity. It is good. His character as a lawyer has always appeared to be good. His reputation as a lawyer is good. Know a hostility to him as a lawyer exists. My impression is that it grows out of the Neff case.

Cross examined: I have heard of hostility to him by the supreme court. Heard there was some trouble. Don't remember whether the supreme court was commencing proceedings to disbar him or not. Judges Prim, Kelly and Bolse were on the bench. Heard some discussion about him. Don't know whether it was from leading and prominent attorneys. Should consider Judge Whalley, Killen and Seneca Smith leading lawyers.

J. V. Beach: Am an attorney in Portland. Known Sidney Dell about 13 years. His reputation as a member of the bar is good. His reputation for truth and veracity is good.

Cross examined: Didn't say I ever heard his honor and integrity questioned. I have heard members of the bar say he was quarrelsome and stubborn. Consider Smith, Whalley, Stott and Deady stand high in their profession. Have heard them speak of him. Not in the highest terms, but not against his character as a lawyer particularly. Heard Judge Thayer speak of him, also Judge Deady and Judge Stott. I think the bench always thought it was an unwarranted attack that Dell made on the bench. I think most of the lawyers thought it was an unwarranted attack.

H. B. Nichols: Reside in Portland. Am an attorney. Known Dell 15 years. Think his reputation as a lawyer and as for truth and veracity is good.

Cross examined: Have heard his reputation discussed. A lawyer must tramp on peoples' toes sometimes. Have heard attorneys discussing his reputation and character. Have heard that he has hunted up old claims and titles and have heard it disputed.

Ira Jones: Am an attorney in Portland. Known Sidney Dell 9 years. His reputation as a lawyer is good.

Cross examined: I don't know that I am known as "Sure Shot Jones." Am not particularly a chum of Dell's any more than Thayer or Deady. Am not a chum of Thayer, Deady or any other judge. I don't have many chums. I didn't say his character was excellent. I said good. I will make it excellent. I have not been intimate with him. Am intimate with no man.

George Noland testified: I am a lawyer at Astoria. Known Dell 5 years. His reputation as a lawyer is fair. His reputation as for truth and veracity, good.

Cross examined: Have heard his character discussed a great deal. He has strong enemies and some friends. Have heard some people say he had a habit of digging into and looking up old titles and litigation. He tried to get me to go into a case that I didn't want to go into. I didn't care to go into it. I am not much of a hand at taking up old titles. I don't know that it is particularly disreputable. I don't like old, musty claims, where the witnesses are dead and gone. Don't wish to impute anything to others. They have a right to be as they please.

Re-directly examined by Dell: If the case were just, and brought to me without solicitation and I thought the case were just, I think I might take it, but I should please myself. (Mr. Dell was here precluded by the court from cross examining his own witnesses.)

J. Q. A. Bowlby: Have known Dell well since he has been here. Never heard his reputation for truth and veracity questioned till this controversy over the pamphlet.

Cross examined: Know his reputation as a member of the bar. There is some criticism as to his honor. His reputation is; well, it is not very savory. He is considered by the bar as unpleasant and disagreeable generally. Never heard his integrity questioned. There is a great deal of criticism as to his digging up old state claims and titles. Could not state any particular case.

Re-directly examined: The bar consider that technical and old cases have been brought up by Dell. They complain about that. Perhaps the case against Flavel has been the most unpopular.

John Hobson: Lived in Astoria 50 years. Known Dell about 15 years. His reputation for truth and veracity I should consider good.

Cross examined: Have never heard it questioned.

A. Montgomery: Lived in Astoria since 1852. Known Dell for 10 years. Don't know that I ever heard his reputation for truth and veracity questioned. Don't know him personally. Only by sight.

Father L. Dieleman: I have lived in Astoria for 13 years. Known Dell 12 or 13 years. Dell's reputation for truth and veracity is good.

W. B. Adair: Lived in Astoria since 1870. Known Dell about 12 years. His reputation for truth and veracity is good.

Cross examined: Have heard his reputation in other respects questioned.

W. Hampton Smith: Lived in Astoria about 4 years. Known Sidney Dell since he came to Astoria. Consider his reputation for truth and veracity good.

Cross examined: Never heard it discussed. It is some other phase of his character that is usually discussed in public.

O. W. Dunbar recalled: Defendant had been in Astoria only a short time before he wrote the editorial. I would not say how long, my impression was only a few days. Don't know where he came from.

Sidney Dell recalled: (His book handed to him and he read the title.) That was the book offered the council and the other one is as revised afterwards. Counsel objected to the reading of the books to the jury. The court allowed them to be read by title. It is a settled principle of my practice to hunt up no title unless I am employed. About making it a habit of hunting up titles to stir up strife, don't recall an instance in my career where I have looked up a title without I was employed. There is one case I did look up titles, that is where I acquired judgment of my own. I consider it my sworn duty never to reject the cause of the oppressed and those not able to pay for their own cases. Never heard of the Raymond-Flavel case until about a month before I commenced the proceedings. (He then went on to explain to the jury his legal points in the case and was stopped several times when attempting to make a speech.) I advanced the costs because I thought it by duty when he had been deserted by somebody else. There is another case involving the Shively water front. Shively gave me \$1000 to investigate the case. In the Neff case it was similar to the Raymond case. I found it necessary to put up the costs for the old people to help them out. The judges Prim and Kelly, who I classed as an organized ring. I had criticised them on the bench. They had one of their friends bring up an indictment to disbar me. The proceedings were dismissed in my favor. I have had a good many cases that I have won and some that I have lost, also some that I have been paid good fees for. I still consider that I was right in all the cases I brought.

Cross examined: The Neff case, the Flavel case and the Shively case were all decided against me by the supreme court of Oregon. I found it necessary to put up money to help in the cases of Neff and in Raymond's case. Don't remember whether the place of Flavel's was bonded before I brought the suit. I think it was after. Oh yes, I remember I served Burke and Dwyer with a notice that Raymond claimed that land I also served notice on Strong when he arrived. Don't think I served any other notices. When they came to pay for the land, I recorded a deed after that. I had the deed from W. W. Raymond to George N. Raymond in my possession, but not on file when I served the notice. I also had a suit pending at that time. I told Captain Flavel that I was employed to examine the title of Mrs. Sophie Daggett to her property. I told him I had discovered a defect and as a friend of his I suggested a course by which he could settle the matter. I urged him to make a loan to Mrs. Daggett, as she was a poor struggling woman. I did not threaten him. Don't recall being employed by Judge Page to look up titles. Don't remember any specific case. I did not hunt up the records and tell the Adair's that their title was defective. I told them they had better see if they had not sold some of their property they did not intend to.

I think the principal issue in the election for the supreme court in 1880 wherein Judges Prim and Kelly were defeated was Sidney Dell's letters to the paper. I stated there was a ring and intimated that Governor Thayer received particular favors before the supreme court. I did not state any charge of corruption. I think the charges I made were "very improper conduct." To say that judges grant favors to their private friends in court is not in my mind an accusation of corruption.

John R. Rathom recalled: Heard Dunbar's statement that I had only been here a few days before I wrote the article in question. I had been in Astoria six weeks. Had been just previously connected with the Oregonian for several months before coming down here. Had heard Dell's reputation spoken of in Portland by Judge Deady Judge Bellinger, Governor Thayer and several others.

This closed the evidence in the case at 11:30. Prosecuting Attorney commenced to speak.

The district attorney presented the case to the jury in a fair and impartial manner, reviewing the evidence clearly and showing the merits of the testimony on both sides. When he concluded Mr. G. C. Fulton, on behalf of the defense, rose and said:

Mr. Fulton started out by calling the attention of the jury to the fact that though the prosecuting attorney had attempted to prove that the grand jury had indicted the defendant, Sidney Dell himself was at the bottom of the whole proceeding. The speaker then went on to expose the character of the alleged interview and stated that Dell

had only brought the case to make another link in his chain of notoriety. He especially desired the jury to bear in mind that though Dell had the alleged written interview in his possession at the present time, he dared not produce it or call Simpson, who he declared on oath had altered it. Dell, with the gall and effrontery of which he had given every evidence during the progress of the trial, had attempted to make out by a published pamphlet that the men, women and children were crying aloud for his magnificent book, when, in reality, his supreme impudence imagined all this, and prompted him to print what he knew to be a lie. Mr. Fulton continued, "There is another phase of this question which I don't feel at liberty to say much about. I mean in regard to Dell's honor and integrity as an attorney. Now it struck me as a most peculiar thing that a man whose reputation is characterized by Sure Shot Jones as excellent, can only produce among all the lawyers of this city, where he has lived for four years, one man in the profession, who says with diffidence that he thinks Dell's reputation is 'fair.' Mr. Noland, this covers Friend Dell with a mantle of charity. Doesn't it strike you, gentlemen of the jury, that it is a peculiar thing for a man so pure and honest to have to go 110 miles away from his own city to get a single witness to testify to his reputation? Such an elegant reputation, that he has to import stock to swear to."

Mr. Fulton then went on at length and took up every phase of the case of the prosecution, putting forth the evidence that had been presented, very forcibly and clearly.

Mr. C. W. Fulton followed, in one of the best and most powerful forensic efforts ever heard at the bar of the state. He spoke for over an hour, and held the crowded court room absolutely silent during the whole time. Owing to want of space The Astorian is compelled to eliminate much of what he said. He spoke substantially as follows: "Gentlemen of the jury: I ask your indulgence while I review the testimony in this case. When I started out in my opening address I told you that we would prove our case, and we have done so, fully and completely. Now, the law contemplates that times arise when it is proper for a public journal to hold up the character of any individual to the gaze of the community. I ask you in all sincerity whether there ever was a case where that right was more ably or properly taken advantage of than when the defendant undertook to characterize the actions and character of this man Dell. I will call attention to the fact that The Astorian was not the first paper to take up this matter, and that Mr. Rathome has never spoken to or communicated with Mr. Dell in his life. What malice could he have had against Dell? He couldn't have had any personal spite for he didn't know the man. What reason had he then? He was actuated by an honest sense of public duty. Dell wrote a pamphlet. In this document, which he sends broadcast throughout the city, he attacks the character and impugns the motives of men who are public servants, whose integrity and honor are absolutely unimpeachable, and who are our foremost citizens, and it is on these men that this vile traducer pours out his filthy stream of abuse, and who he characterizes as pusillanimous curs, and scrubs. Dell demanded that these men buy his book with public money. They refused, and at once he proceeds to do as he has done all his life long when his will has been thwarted—vilify and attempt to ridicule the men who are responsible to the public for the stand they take. But what does Dell care for that? When anybody crosses his path he has but one rule—cut him out of the way and throw mud at him. This pamphlet business is only a sample of the whole framework of Dell's life. You heard him admit to me that because the supreme court of this state had decided against him in cases, he went into the public journals of Portland and brutally abused the members of the bench, accused them of being portion of a ring and showing favoritism to certain sections of the bar. His own witnesses testify here today that many Portland attorneys feel bitter against Dell on this account. Why should they not? Does it not prove him a coward that is everything low and despicable? Who but a man actuated by the basest motives would be guilty of an act like this. It stamps him with the seal of condemnation and the brand of infamy. The editor of The Astorian says he is a liar. Isn't he? The Astorian says he is a disgrace to his profession. Isn't he? Out of his own mouth in this court room he has been guilty of detestable falsehoods. He lied about Mr. Bergman, and had to apologize in open court to him for it most humbly and abjectly. He says that Mr. Lewis owns no city property, and Mr. Lewis steps into the box here and gives him the lie direct by proving that he has a large quantity of city property. When I tried to get an honest answer out of him about that interview, did you no-

Continued on Fourth Page.

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