

# Frank A. Day vs. Humphrey M. Blaisdell

(1891)



## The Libel

In October 1890 a libel suit between the editors of the two Fairmont newspapers was filed in Martin County District Court. The plaintiff was Frank A. Day, the publisher of the *Martin County Sentinel*, the defendant was Humphrey M. Blaisdell, the publisher of the rival *Fairmont News*.<sup>1</sup> Both papers were weeklies, the *News* usually published on Tuesday, the *Sentinel* on Friday. Blaisdell was a practicing lawyer, whose business card was published in the *News*.<sup>2</sup> Day was the incumbent state senator in the Sixth District, who was running for re-election on the Republican ticket.

During the last months of the campaign the *News* smeared Day in every issue. On October 14, 1890, the *News* printed these accusations:

Senator Day has “steel ties” that bind him to Washburn and Jim Hill’s railroad but the adjective is not spelled just that way, although it sounds all right.

...

The trusted members of the Fairmont ring held a meeting last Wednesday night to devise means whereby the boodle could be best dispensed to insure Senator Day’s re-election. Only the “branded” were present.

...

Remember a vote for Frank Day for Senator means a vote for Merriam for Senator in place of C. K. Davis. Day said two years ago he was “for a man who could win” and Merriam can win, just as Washburn did, because he has more money than Davis and it is just

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<sup>1</sup> Blaisdell was named personally because small town, weekly newspapers at that time were not incorporated. The publishers of the metropolitan dailies were occasionally named individual defendants in a libel suit but usually the parent corporation of the paper was listed.

<sup>2</sup> E.g. *Fairmont News*, October 14, 1890, at 1 (“Commercial Law, Collections, Loans and Insurance, Specialties”). He did not advertise in the *Sentinel*.

such a gudgeons as Day they catch the easiest because they are cheap. Day will pledge himself to vote for Davis but he “pledged” himself to vote for Olson and Armstrong to get pay for the railroad grade and their votes elected him but he voted against them just the same. He would make pledges any time and swear to them for a vote and then break them for a dollar.

...

Let every man in Martin and Watonwan counties who deposits a vote for Frank A. Day for state senator remember this: that he is voting for the most immoral man personally and politically in the two counties and for one who is done more by his life, character and example to corrupt the youth of this county than any other 100 men ever in it and then the stain of his contact will be felt here for the next quarter-century.<sup>3</sup>

In an open letter to the *Sentinel's* readers in the October 17 issue, the Senator announced his intention to seek redress for these libelous attacks in court while calling Blaisdell names that matched his rival's for sheer nastiness:

### Personal

The Fairmont *News* this week was possessed, and it disgraced this entire community with another ferocious attack of the rabies. Its convulsions of malice, hate, jealousy and revenge have been so frequent and continuous since its existence that citizens have become accustomed to them; they have ceased, in large measure, to be actionable and all honorable, fair-minded people who have been acquainted with their author have been excited, on the contrary, to sentiments of disgust and contempt and to expressions of the deepest indignation.

The following is a sample of the contents of this week's issue of the paper:

“Let every man in Martin and Watonwan counties who deposits a vote for Frank A. Day for state senator remember this: that he is voting for the most immoral man personally and politically in the

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<sup>3</sup> Id. at 1. Each of these items was printed separately. The *News* printed short items on various topics, usually local politics, on its front page.

two counties and for one who is done more by his life, character and example to corrupt the youth of this county than any other 100 men ever in it and than (sic) the stain of his contact will be felt here for the next quarter-century.”

It is only outside the county where H. M. Blaisdell is not known and where the estimate that is placed upon him here is not understood that his all utterly reckless, unscrupulous, brutal, if not insane assaults may receive general consideration. There are those who, while characterizing him as he is, charitably attribute it to a species of insanity, to the uncontrollable disorder and intense ferocity of a demon, and we are not prepared to dispute them.

Although at all times exhibiting to me personally the signs of confidence and friendship he has persistently defamed me and with unexampled frequency has filled his paper almost every week with articles viciously attacking my character, conduct and reputation. I have paid little heed to it all; feeling secure in the confidence and respect of my neighbors and fellow citizens among whom I have lived for sixteen years, but there are others whose peace, happiness and reputation I have in my keeping, and through the portals of those whose home the insatiate wretch has not scrupled to inflict his ruthless venom. It is not fit for any self-respecting man to enter into controversy with him; to explain his unprovoked, false and foolish charges against me or even to those who did not do not know me, to deny the multitude of utterly causeless and foundationless petty criticisms and vile labels that he has published. There is a proper time and place—a more suitable place—a just and impartial tribunal of law, where I can and will vindicate myself and protect my family.

Further than this I have no answer or apology to make and until that time comes I shall rest my cause with those who know me best.

Frank A. Day<sup>4</sup>

He then served a demand for retraction required by the 1887 libel law on Blaisdell, who replied in the *News* on October 21:

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<sup>4</sup> *Martin County Sentinel*, October 17, 1890, at 5.

Bro. Day has served notice on us to retract what we said about him in last week's News. We regret extremely that we cannot accommodate Bro. Day, but we have nothing to take back, not being built that way.<sup>5</sup>

Day followed his demand for a retraction with a libel complaint against Humphrey M. Blaisdell. In a "Personal" statement to the *Sentinel's* readers, Day announced his intent to lay low, to not try his libel suit in the newspapers. The response of the *News* to the suit was unusual by conventional standards but consistent with its editor's past behavior. It taunted and mocked Frank Day and the *Sentinel*.

### Obituary

The Editor of the *Sentinel* feels under deep obligations for the kind and sympathetic words sent us by numerous correspondents and others, but we are compelled to omit their publication. We do not believe in trying our case in the newspapers, and shall forgo all comments until a proper tribunal passes upon it. – *Sentinel*.

Bro. Day was always noted for his extreme modesty, in fact it is one of his besetting—now we hope the complaint wont spell that besotting—sins. Why so bashful Frankie? Just let us know what the people really think of you, and if you are really intending to "forgo all comments" and not try "our case in the newspapers" why dont you "forego" and quit talking about it?<sup>6</sup>

A week later, on election day, Blaisdell's *News* put these items on its front page:

Frank A. Day has sued H. M. Blaisdell the editor of the *News* for libel, but not on the charge that Day was immoral. Day did not *dare* to stand the racket on his *moral character*. He sued because we said

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<sup>5</sup> *Fairmont News*, October 21, 1890, at 1. The law requiring a plaintiff to first demand a retraction before commencing suit is posted in the Appendix, at 14. The constitutionality of the law was affirmed by the Minnesota Supreme Court in *Allen v. Pioneer Press Co.*, 40 Minn. 117, 41 N.W. 936 (1889) (Mitchell, J.). The story of the *Allen* case is posted separately on the MLHP.

<sup>6</sup> *Fairmont News*, October 28, 1890, at 1.

he would build a new brick office next spring. How about the morality “Frankie.” That is left out of the complaint.

...

If Frank Day was so anxious to vindicate himself from the charges of immorality made by the News why did he not have the writer arrested for criminal libel and we would have had all the evidence we hold before the public *before election*. It is three weeks since the charges were made, and now when he brings civil suit merely as a bluff he dare not bring in the charge of immorality. He knows we can prove all we charged in that article.

...

Frank A. Day has completely backed down on suing the editor of the News for saying he was immoral, etc. There is not one word as to that in the whole complaint. Now we ask the candid judgment of our citizens: was it not our duty to make the charge unpleasant as it was to us to do so? <sup>7</sup>



### The Election

Despite the *News’s* ceaseless name-calling and accusations Senator Day was easily re-elected on November 4:

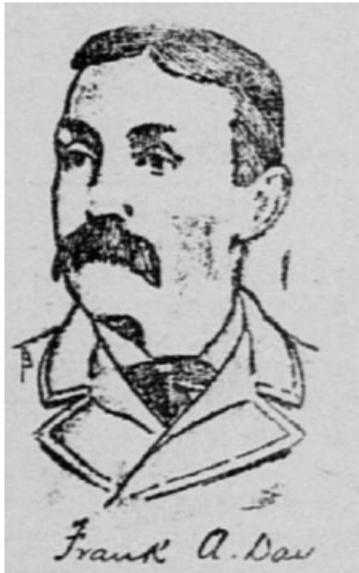
Frank A. Day (Republican).....	1,776
E. Grogan (Democrat).....	1,224
J. D. McBroom (Independent).....	39 <sup>8</sup>

The libel suit must have been the subject of much gossip in the corridors of the Capitol while the 27th legislature met, but that did not prevent Senator Day from building a reputation for leadership. This sketch appeared in the *St. Paul Globe* in April 1891:

<sup>7</sup> *Fairmont News*, November 4, 1890, at 1. Each of these items was printed separately. The *News* printed short items on various topics, usually local politics, on its front page.

<sup>8</sup> 1891 Blue Book, at 561. The Sixth District covered Martin and Watonwan counties.

One of the popular and prominent members of the Republican side is Senator Frank A. Day, of Martin county, who is now serving his second term in the upper house. Senator Day, although a young man, is one of the leading Republicans in the Second district, and would make an excellent congressional candidate in that new



district. While the senator from Martin is inclined to be shy about acknowledging the presence of a congressional bee in his bonnet, his friends have no such modesty and are already freely discussing his name in connection with the nomination of his party for that position. In case Senator Davis, of Nicollet, succeeds Congressman John Lind as the Republican standard bearer in the Second, it is safe to say that the Nicollet senator's successor will be Frank Day. Senator Day has made a record during the past session as a shrewd and effective leader and organizer and demonstrated his ability to command as well as to obey.<sup>9</sup>



## The Trial

One year passed before the case was called for trial in Martin County District Court. Perhaps sensing possible defeat, Editor Blaisdell printed this defiant promise to his subscribers a week before trial:

After Bro. Day's libel suit is tried against the writer he may not have money enough to continue to publish the News and if not he means to be honorable enough to repay the hundreds of his subscribers who have kindly paid their subscriptions in advance. We will refund their money if the News suspends and that is a blamed sight better

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<sup>9</sup> *St. Paul Globe*, April 20, 1891, at 1.

then dunning them through our news column every week or two as some of our esteemed contemporaries do.<sup>10</sup>

The trial consumed three days, November 12-14, 1891. The *Sentinel* published a long account of the trial in its issue on November 20, 1891. It likely was written by the plaintiff-editor-Senator himself:

#### The Libel Case.

The libel case of Frank A. Day against H. M. Blaisdell which has excited much interest, at least in Martin County, was commenced prior to the general election in 1890, but was not brought to trial until the recent term of court. It was founded on charges published in the *Fairmont News* by the defendant, its editor, in which the plaintiff was accused of dishonesty and corruption as a state Senator and of other like depravity of character, the answer being that the charges were [un]true and privileged.

Cy Wellington of St. Paul and B. F. Vorois represented the plaintiff and Messrs. A. C. Dunn of Winnebago and L. J. Knox of Jackson appeared for the defendant. The jury was composed as follows:

Wesley Tester, Fairmont village.  
John Gahringer, Welcome village  
Geb. Goetz, Fraser.  
Clint Garrison, Pleasant Prairie.  
William H. Johnson, Rutland.  
John Bowen, Fairmont village.  
Mjlo Blowers, Rolling Green.  
Chris Mickelson, Sherburne .  
John S. Nutter, Silver Lake.  
John Allen, Elm Creek.  
Ole A. Bergdal, Galena.

Three days were consumed in the trial, much of the time being taken up in arguing motions and like preliminary tilts between the

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<sup>10</sup> *Fairmont News*, November 10, 1891, at 1.

attorneys. Copies of the papers containing the alleged libelous articles, and subsequent issues, in order to establish malice, were introduced and these, with the very brief testimony of the plaintiff himself constituted his case. Except his own testimony, there is practically no evidence in defendant's behalf. Mr. Blaisdell on oath emphatically disclaimed having accused plaintiff of official dishonesty and disavowed ever having intended to do so, and swore that he had always had been and still was a friend of the plaintiff and entertained no ill-will or malice toward him.

Mr. Wellington addressed the jury for the plaintiff with his well-known ability and power, and Messrs. Dunn and Knox made the best possible presentation of the case for their side.

The Judge's charge was quite lengthy and impartially covered the law and its bearings upon the case. The jury deliberated about four hours and returned a sealed verdict for the plaintiff of \$500, which was duly announced upon the opening of the court Monday morning. A stay of proceedings was asked by the defendant, which was claimed to be for the purpose of perfecting an appeal to the supreme court. There is no possibility of the verdict being reversed.

The plaintiff recognizes the courtesy and fairness with which he was treated by the opposing attorneys; they earnestly advocated their client's cause, but cast no aspersions on the character or good name of the plaintiff.

Will the judgment be paid? We answer: the matter is in doubt. The defendant is reputed to be worth, by those who claim to know, between twenty-five and thirty thousand dollars. Since this suit was brought he has conveyed considerable property and it is said has now none subject to execution.

The plaintiff is satisfied with the verdict. It is the vindication which, on behalf of his family, more than for himself, he sought, and coming as it does from the hands of his fellow citizens, and through medium of a full and impartial trial in court, he feels that a sufficient



expression of his success is the unembellished statement of the case.<sup>11</sup>

The *News* reported the jury verdict in a short paragraph in its November 17 issue:

The jury in the libel suit of Day vs. Blaisdell brought in a verdict Monday morning of \$500 in favor of plaintiff. A stay of proceedings for thirty days was extended to enable the defendant to take an appeal which will be done at once.<sup>12</sup>

Before the next issue of the *News* on November 24, Editor Blaisdell had read with mounting fury the account of the trial in the *Sentinel*. He exploded:

There is not one word of truth in the statement in the *Sentinel* last week that Mr. Blaisdell swore that he was now a friend of Senator Day and the rest of the of the article was very much like it. We are not going to try the case through the papers and Bro. Day may not be so pretty or so young (?) as he now as he is by the time we get through with him but we trust he will know more.

Bro. Day devotes about half the *Sentinel* last week to bragging about his libel suit, his vindication etc., but his attorney was very prompt to object to our proving the truth of our charges and it was ruled out, so we fail to see where the "vindication" comes in. Last week we made no comments to the way having the first day after the verdict and should not now but for the ill-timed and senseless bragging of the *Sentinel* since. The case is still in court, it has never been tried; we shall strain every nerve to have tried as soon as possible and there is an old French proverb that we translate for Bro. Day's benefit which reads as follows: He laughs best, who laughs last. The Day vs. Blaisdell libel suit is just commencing.<sup>13</sup>



### Press Commentary on Verdict

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<sup>11</sup> *Martin County Sentinel*, November 20, 1891, at 5.

<sup>12</sup> *Fairmont News*, November 17, 1891, at 1.

<sup>13</sup> *Fairmont News*, November 24, 1891, at 1 (? in original).

From the *Albert Lea Enterprise*, quoted in the *Fairmont News*, November 24, 1891:

Frank A. Day, editor of the Fairmont Sentinel has obtained a verdict of \$500 damages for libel against editor Blaisdell of the Fairmont News. The brethren will find that this legal strife is very expensive and it would be better for them, the profession and the community to abstain from saying hard and mean things about each other.

Two articles from the *Princeton Union*, November 19, 1891, at page 4:

LAST fall, in the heat of the campaign, H. M. Blaisdell, editor of the Fairmont News, charged Frank A. Day, editor of the Fairmont Sentinel and candidate for State senator, with corrupt practices, among other things that he, Day, would promise to vote for Davis and sell his vote to Merriam. Mr. Day commenced an action for libel. The case was tried on Monday and the jury awarded him \$500. Eric Olson was a witness for the defence and the only thing to be wondered at is that the verdict was not for \$5,000 instead of \$500.

*Princeton Union*, November 19, 1891, at page 7:

#### Day Wins His Libel Suit.

FAIRMONT, Minn., Special Telegram, Nov. 17.—The newspaper libel case of Senator Frank A. Day, editor of the Sentinel, against H. M. Blaisdell, of the Fairmont News, was concluded to-day. The jury returned a verdict of \$500 in favor of the plaintiff. The action was brought before the last general election to recover \$5,000 on account of alleged libelous articles against the plaintiff's official honesty and integrity. Among other charges against plaintiff was that he would promise to vote for Davis for senator and then sell his vote to Merriam. The defendant in court denied that he had any intention of charging Day with corruption or dishonesty. Eric Olson was one of the witnesses for the defense. The jury was out about four hours.

From the *St. Paul Daily Globe*, November 18, 1891, at page 4:

Senator Frank A. Day arrived in the city yesterday fresh from the trial of a libel suit in which he figured as the plaintiff. Being an editor, this

is unusual, to say the least, the member of that fraternity usually figuring on the other side. And, by the way, the man on the other side of this case was also an editor. Senator Day refused to talk on the case, but when it was suggested that the suit had been instituted for the sake of booming the circulation of the two papers he declared that the gentle insinuation was false. His attorney was Hon. Cy Wellington and the plaintiff was given a verdict of \$500—just the amount of his senatorial salary at the last session.

A local merchant even used the suit for advertising dry goods:<sup>14</sup>

**That Libel Suit**

Is at last decided so far as the district court is concerned.

**If Merchandise,**  
goods that are sold every day, could sue for libel on the grounds of falsehood, we fear a great many of the best merchants would have more libel suits on their hands than they could attend to. On these grounds

**The Model One Price Store**

would have a very slim case, because we have yet to misrepresent the first article in quality or price. Our salespeople are instructed to tell the "whole truth and nothing but the truth," in representing each and every article they sell. We submit to all cross examinations and employ no counsel to interfere with objections on any grounds. We submit as evidence the following quotations:

\$4.50 buys your size in ladies black Coney fur Cape, satin lined.

\$6.00 buys your size in ladies imitation gray astracau Cape, satin lined.

\$15 buys a ladies genuine fur Astracau XXXX quality cape, satin lined and well made.

\$18 buys a ladies Bulble seal cape, either plain or with Krimmer collar, satin lined and well made.

\$8.50 buys your size in the Jackson favorite corset waist, in white or drab.

25c buys your size in medium-weight ladies ribbed vest.

\$1.50 buys your size in ladies fine Jersey ribbed union suits.

Consult us when you want Underwear. We can save you money.

20c buys a pair of ladies black all wool hose.

25c buys a hatter pair. Our hosiery line is complete.

We respectfully ask you to give us a trial in the fine grades of ladies, gents and childrens hosiery.

20c buys a box imported sea wool, warranted full weight and best made.

75c buys a pair of cotton Blankets.

Large line of blankets, all grades, at prices we guarantee.

\$1 buys 22 lbs. granulated sugar.

Ladies and gents plush caps, gents overshirts, Blake & Co.'s shawls, gloves and mittens, ladies and childrens fancy knit mittens; China, art and ferry silks; overshoes, boots, shoes, &c.

Each and every department offers attractions. In looking over the facts of the case dont miss

**The Model's Confectionery Department,**  
the sweetest department of all. Lack of space prevents us from fully presenting our case. So we ask permission to offer an amendment in the near future. We ask no favors of the judge nor do we ask for a jury of twelve, but leave our case to the entire purchasing community, at whose hands we simply ask a fair trial.

Thanking you for your kind attention, we are,

At your service,

**A. KNAUTZ & SON,**  
Post Office Block.  
RIGHT PRICED MERCHANTS.

<sup>14</sup> Martin County Sentinel, December 4, 1891, at 5.



## Conclusion

Blaisdell did not appeal to the Minnesota Supreme Court. A newspaper report that he paid the judgment and costs has not been found but it must be assumed that he did—probably on confidential terms—otherwise there would have been front page stories in the *Sentinel* on the Senator’s struggle to find assets to satisfy his judgment.



## The Aftermath

As illustrated in this article, the sheer nastiness of political campaigns and newspaper editorials in the late 19th century led to libel suits against newspapers or their editors or even criminal libel prosecutions of editors. The ad hominem comments in the *News* that Senator Frank Day complained of involved his candidacy for public office. In *Allen v. Pioneer Press, Co.*, 40 Minn. 117 (1889), Justice Mitchell emphasized that the common law of libel would be changed by the courts depending on the facts of each case. In *Herringer v. Ingberg*, 91 Minn. 71, 77 (1903), the Supreme Court drew a distinction between criticism of private persons and public officeholders:

All persons holding public positions are subjects for public discussion, and when a citizen, whether a newspaper editor or not, publishes an article of public interest, fair and temperate in tone, he may express his opinion on the conduct of such officers, and not be subject to an action for libel. Whoever fills a public office renders himself open to public discussion, and, if any of his acts are wrong, he must accept the attack as a necessary, though unpleasant, circumstance attaching to his position..There has always been a distinction between publications relating to public and private persons as to whether they are libelous. A criticism might reasonably be applied to a public officer which would be libelous if applied to a private individual.

Would this decision have protected Humphrey Blaisdell from Frank Day's libel lawsuit? No, it likely would not as his attacks on the Senator alleged immorality, corruption and were extremely personal even by the low standards of that period.

An important question lingers: Did the deluge of libel law suits in the three decades from the 1870s to the early 1900s—including threats of criminal libel prosecutions—have a deterrent or “chilling” effect on newspaper reporting and editorials? It is enough here to raise this question rather than venture answers.



### Acknowledgments

The research for this article was conducted at the Minnesota Historical Society on several weekends during the Pandemic of 2021. I am indebted to the staff of the MHS for making the main library and microfilm room available to researchers during these difficult times—risky but greatly appreciated efforts.



The following law was passed by the 25th Legislature in 1887.

308

GENERAL LAWS

CHAPTER 191.

[H. F. No. 160.]

AN ACT TO REGULATE ACTIONS FOR LIBEL.

308-191  
131-89  
41-nw 937

*Be it enacted by the Legislature of the State of Minnesota:*

Libel suits.

308-191  
40-31 . 117

SECTION 1. Before any suit shall be brought for the publication of a libel in any newspaper in this state, the aggrieved party shall, at least three (3) days before filing or serving the complaint in such suit, serve notice on the publisher or publishers of said newspaper at their principal office of publication, specifying the statements in the said articles which he or they allege to be false and defamatory, if it shall appear, on the trial of said action, that the said article was published in good faith, that its falsity was due to mistake or misapprehension of the facts and that a full and fair retraction of any statement therein alleged to be erroneous was published in the next regular issue of such newspaper, or within three (3) days after such mistake or misapprehension was brought to the knowledge of such publisher or publishers, in as conspicuous a place and type in such newspaper as was the article complained of as libellous, then the plaintiff in such case shall recover only actual damages. *Provided, however,* That the provisions of this act shall not apply to the case of any libel against any candidate for a public office in this state, unless the retraction of the charge is made editorially in a conspicuous manner at least three (3) days before the election.

Damages.

SEC. 2. The words "actual damages" in the foregoing section shall be construed to include all damages that the plaintiff may show he has suffered in respect to his property, business, trade, profession or occupation, and no other damages whatever.

When act to take effect.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved March 2d, 1887.