

Ignatius Donnelly vs. St. Paul Pioneer Press
(1891)



Ignatius Donnelly (1831-1901)
Date of photograph: 1891

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Preface

In February 1891 Ignatius Donnelly brought a libel lawsuit against the *St. Paul Pioneer Press* alleging that he had been damaged by the republication on February 16, 1891 of an article first published on May 4, 1880. This was not a “strike suit” of the sort that plagued Minnesota newspapers from the 1870s through the early 1900s. This litigation had “politics” written all over it. The *Pioneer Press* had dredged up a long-forgotten controversy just when Donnelly was attempting a political comeback through the Alliance Party. In the history of Minnesota there never was a libel lawsuit like this one.

Both parties retained formidable litigators from St. Paul—for the plaintiff, Cy Wellington of the firm Erwin & Wellington, and for the defendant, the firm of Flandrau, Squires &, Cutcheon, led by 63 year old Charles E. Flandrau.

The lawsuit was venued in Minneapolis.¹ This was a tactical error as Donnelly himself acknowledged after the trial, as did the jury foreman.²

The commencement of hostilities was reported in the *St. Paul Daily Globe* on February 21, 1891:

¹ When asked why he filed the suit in Minneapolis instead of St. Paul, Cy Wellington replied:

When asked why the papers were to be served here instead of in St. Paul, Mr. Wellington replied that Minneapolis had been decided upon as the place to try the case because it was probable that 12 unbiased men could be secured more easily in Hennepin county than in Ramsey county. Further than this, there was more livelihood of getting verdict warranted by facts in Minneapolis than in St. Paul. Mr. Wellington argued that the paper would, of course, demand a struck jury, and such a one as it would obtain in St. Paul might not give his client a fair show.

Minneapolis Tribune, February 24, 1891, at 4.

² *Infra*, at 151, 102. For the explanation of Captain Hart, one of the P.P.’s lawyers, see *infra*, at 31.

SAGE AFTER SHEKELS.

Senator Donnelly Begins His Hundred-Thousand-Dollar Libel Suit.

The Pioneer Press Likely to Have Companions in the Same Misery.

Ignatius Donnelly has at last donned the garb of battle and moved against his alleged traducer, the Pioneer Press. The expert in reviving ancient history disclaims the right of his erstwhile friend to reproduce a back number of literature that refers in no pleasant terms to his own official career. The Sage of Nininger, the author of "Caesar's Column," "Atlantis" and the theory that Bacon, and not Shakespeare, wrote the literature ascribed by common consent to the latter, supposed the letter of W. S. King, of Minneapolis written some dozen years ago—had been so completely buried in oblivion that no one henceforth cared to or would resurrect or reproduce it. But, in the midst of an ascending political career, Mr. Donnelly awoke one morning to see the letter that he thought was forgotten reproduced in the paper that was wont in former times to herald his praise.

He then sought his late colleague in the political arena—the noted lawyer, W. W. Erwin—after a consultation the Pioneer Press was asked to make a thorough and complete retraction of the damaging statements in the King letter.

This was followed up by an action being instituted in the district court yesterday, alleging that the publication is libelous and asking for damages to the extent of \$100,000. The complaint was drawn by Erwin & Wellington, and makes substantially the following allegations: On the 16th of February, 1891, the Pioneer Press, without excuse or

justification therefor, but designing and intending thereby to injure and defame the good name of Mr. Donnelly, and to expose him to public contempt, hatred, ridicule and obloquy, wickedly and maliciously published and caused to be published, of and concerning him, in the newspaper a certain article containing false and defamatory matter. The complaint then proceeds to set out in full a copy of the letter written April 17, 1880, by W. S. King to Mr. Donnelly.

The complaint then proceeds to further allege as follows: That defendant did, by the said publication, falsely and maliciously accuse and charge that the plaintiff had committed and been guilty of certain crimes and felonies, namely: That while the plaintiff was holding the office of representative of the state of Minnesota in the congress of the United States, he had accepted and received sums of money from divers persons as bribes to influence his vote and action as such representative. That plaintiff, while holding such office, accepted and received a bribe to influence his vote and action as such representative on a certain bill for legislative purposes then in his hands. That while holding such office the plaintiff by means thereof and in consideration of his supporting certain legislation extorted money from various parties, and did blackmail certain parties out of divers sums of money. That he did bribe a certain member of the legislature of the state of Minnesota by paying him a sum of money to induce such member to vote for plaintiff for United States senator. That he had solicited one W. S. King to bribe certain members of such legislature by paying money to them in consideration of their voting for plaintiff for such United States senator. That he had written a letter offering a bribe, and containing other improper and corrupt proposals, to William M. Springer in the year 1880, who then held the position of chairman of the committee on elections in the house of representatives of the United States, for the purpose of influencing his actions as such official in a certain election then pending—between plaintiff and W. D. Washburn—before

said house of representatives for the position of representative in such body from the state of Minnesota.

It is alleged that a notice of retraction was served upon the defendant, but it has wholly failed to make any retraction in the premises.³

It is asserted that by reason of this false, scandalous and malicious publication Mr. Donnelly has been brought into public scandal and disgrace, besides being greatly injured in his good name and reputation to the extent of \$100,000. Judgment for this sum, in addition to costs and disbursements, is asked.

The attorneys for Mr. Donnelly said yesterday that no notice had yet been served upon the Minneapolis papers that published the letter contemporaneously with the Pioneer Press, but that such a course is contemplated as to them. The Minneapolis Times and Evening Tribune are believed to be the intended objects of the forthcoming suits.⁴

Judge Frederick Hooker drew the assignment. He was 44 years old and had been on the bench only two years. He asked 59 year old William Lochren, who had served 10 years, to join him.⁵ Each issued rulings during the trial. Judge Hooker delivered the lengthy

³ This refers to the Minnesota law requiring a plaintiff to demand a retraction at least three days before commencing a libel suit. 1887 Laws, c. 191, at 308 (effective March 2, 1887). The constitutionality of this law was affirmed in *Dexter A. Allen vs. Pioneer Press Company*, 40 Minn. 117 (1889).

⁴ *St. Paul Daily Globe*, February 21, 1891, at 3.

⁵ See generally Douglas A. Hedin, "Multi-Judge Panels in the District Courts of Minnesota, 1875–1977" 21-22 (MLHP, 2022).

According to the front page story in *St. Paul Sunday Pioneer Press*, October 25, 1891:

The trial of the case on the part of Judges Hooker and Lochren, who sat together throughout the trial, was a model of fairness and impartiality. In all their rulings upon many points of law raised by the talented counsel during the progress of the trial, the spirit of even-handed justice was invariably paramount, and no favor was shown either side.

instructions to the jury, which the two must have prepared together.⁶

Reports of the trial were carried in all metropolitan dailies: the *Minneapolis Journal*, *Minneapolis Tribune*, *St. Paul Daily Globe* and *Pioneer Press*. The *Tribune's* reports of each day of the trial follow.⁷ They are sarcastic and slanted against Donnelly.

Most jurors found the trial difficult to follow. One “prominent” attorney attending the trial remarked, “But there was a large part of the testimony that the majority of the jury paid no attention to, and possibly could not comprehend if they had, and, as Wellington has the last speech, I am afraid that he will carry the jury with him.”⁸ The *Tribune's* reporter observed on the fourth day of the trial, “During this, as well as all the other testimony on any business matter, but three of the jury paid any attention or seemed able to understand it.”⁹ Every reader of the following articles will find herself perplexed and lost in the thicket of Minnesota politics of the 1880s—forced to frequently backtrack for information about an event or person. The following cast of characters in the trial may help.

Some characters in the litigation.

Ames, Oakes (1804-1873). Businessman; Republican Representative from the Second District of Massachusetts, 1863-1873. Censured by the House in 1873 for his involvement in the Credit Mobilier scandal.

⁷ The *Tribune's* reports were selected because they are accessible through the Historical Society’s “Minnesota Digital Newspaper Hub.” Actually the best reporting of the trial appeared in the *Pioneer Press*, which must have hired a court reporter to assist in covering the proceedings.

⁸ *Infra*, at 68-69.

⁹ *Infra*, at 72.

Donnelly, Ignatius (1831-1901). Politician and novelist. Lieutenant Governor, 1860-1863; representative in Congress, 1863-1869. Active in Greenback, Alliance Farmer's and Populist parties. He lived for many years in Nininger near Hastings ("the Sage of Nininger").

Flandrau, Charles E. (1828-1903). Served on the Territorial Supreme Court, 1857-1858, and on the state Supreme Court, 1858-1864 (known ever after as "judge"); a life-long Democrat, who represented the *Pioneer Press*, a strident Republican organ.

Hart, Francis B. (1839- 1925). Civil War veteran (known as "Captain Hart"); admitted to Minnesota bar in 1868; moved to Minneapolis in 1882. Represented the *Pioneer Press*.

Hooker, Frederick (1845-1893). Lawyer in Minneapolis, judge of the Fourth Judicial District, 1888-1893.

Huntington, Collis P. (1821-1900). Helped build the Central Pacific railroad as part of the first U.S. transnational railroad; lobbied for the Central Pacific and Southern Pacific in the 1870s and 1880s; acquired immense wealth.

Julian, George W. (1817-1889). Lawyer, Republican politician who served in Congress from Indiana, 1869-1871. Friend of Springer family and counsel for Donnelly. Mrs. Springer showed Julian the anonymous letter before anyone else.

King, William S. (1828-1900). Civil War veteran ("Colonel King"). Republican politician, businessman, Postmaster of House of Representatives, 1861-1865, 1867-1873. Represented the Second Congressional District, 1875-1877. Charged with corruption, he did not seek re-election in 1876.

He wrote the letter dated April 17, 1880 ostensibly to give Donnelly a sample of his handwriting to match that of the author of the anonymous letter to bribe Congressman Springer, but he went on for several pages to level libelous charges against Donnelly. This letter was reprinted in the *Pioneer Press* on February 16, 1891, and precipitated this litigation.

Le Duc, William G. (1823-1917). Civil War veteran ("General Le Duc"). Lawyer, flour miller in Hastings, United States commissioner of agriculture under President Hayes, 1877-1881; organized and secured a U. S. land grant for the Hastings & Dakota railroad.

Lochren, William (1832-1912). Civil War veteran. Lawyer in Minneapolis, judge of Fourth Judicial District, 1881-1903, U. S. District Court judge, 1896-1907.

St. Paul Pioneer Press. The result of a merger of the *Daily Press* and the *Pioneer*, both St. Paul newspapers. Published King's libelous letter on May 4, 1880 and reprinted it on February 16, 1891.

Springer, William M. (1836-1903). Lawyer who served as Democratic Representative from Illinois in Congress, 1875-1895. Chaired the committee investigating the 1878 election in Minnesota's Third Congressional District.

Squires, George Clarke (1852- _). Member of Flandrau, Squires & Cutcheon law firm in St. Paul. Graduate of the University of Michigan Law School; admitted to bar of Minnesota in 1875. Represented the *Pioneer Press* in this litigation.

Washburn, William Drew ("W.D.") (1831-1912). Lawyer, businessman, Republican politician, represented the Third Congressional District in the House of Representatives, 1879-1885, and U. S. Senator, 1889-1905.

Washburn – Donnelly election contest (1878). In the 1878 election in the Third Congressional District, W. D. Washburn defeated Donnelly 20,942 to 17,929 (there are many references to the margin of 3,000 votes in the libel trial). Donnelly became convinced that he was cheated out of the office; he challenged Washburn's election; a lengthy investigation ensued, chaired by Representative William M. Springer of Illinois. Just as the investigating committee was at a critical juncture (in close votes it had voted to oust Washburn but also to not seat Donnelly), an anonymous letter came became public promising a \$5,000 payment to Springer's wife if he voted for Washburn. A new investigating committee was formed and additional testimony taken. This inquiry focused on the author of the letter (this is one reason why "Bill" King is mentioned so many times in the trial). Eventually the second committee's reports were filed when the 46th Congress adjourned, with no action taken for or against Washburn.

William Watts Folwell has an account of this controversy in Volume 3 of his *History of Minnesota* 388-400 (1921).

Wellington, Cyrus (1844-1909). Civil War veteran. Member of Erwin & Wellington law firm in St. Paul. After reading law he was admitted to Iowa bar in 1870; moved to St. Paul in 1888. Represented Ignatius Donnelly.

Wheelock, Joseph A. (1831-1906). Journalist, founded the St. Paul Press in 1861; eventually became editor-in-chief of the St. Paul Pioneer Press.

The Libelous Article

St. Paul Pioneer Press
February 16, 1891, at page 5.

A REMINISCENCE.

Some Twelve Years-Old Correspondence Which May Be Interesting.

Twelve years ago Ignatius Donnelly was nominated for congress in this district by the Democrats against W. D. Washburn, and was beaten. After the election Mr. Donnelly filed a contest, and early in April, 1880, it was claimed that Mr. Springer, who was chairman of the congressional committee on elections, received an anonymous letter making improper proposals to him in regard to this contest. Mr. Donnelly, who was in Washington, wrote to Minnesota, giving a copy of the letter and claiming that it was written either by C. W. Johnson, Mr. Washburn's private secretary, now chief clerk of the United States senate, or more probably by William S. King of Minneapolis; and asking for specimens of Mr. King's handwriting to compare with that of the anonymous letter. Mr. King in those days was "in politics," and in reply wrote the following letter, which was published at the time, and no doubt will be found interesting reading now that Mr. Donnelly is again prominent in this state as a champion of purity and reform:

MINNEAPOLIS, Minn., April 17, 1880.—Hon. Ignatius Donnelly—Dear Sir: The telegraphic reports of congressional proceedings in to-day's paper inform me that the committee on elections have kindly responded to your pathetic appeal for the appointment of a committee to investigate into the authorship of a certain anonymous letter recently addressed to the Hon. Mr. Springer, chairman of that committee, which letter contained a most improper and corrupt proposal.

I am further informed that you have openly and publicly charged the authorship of such letter upon myself, and have, upon your own authority, written to parties in St. Paul to obtain specimens of my handwriting for the use of this investigating committee.

Here in Minnesota, where you and your peculiar tactics are well understood, no investigation is needed to satisfy the public as to the authorship of that letter. They know who the author was now, just as well as you did when you mailed it to Mr. Springer. But down in Washington there may possibly be those so ignorant of your ways and character as to accept your publicly proclaimed opinion that the letter in question was written either by Charles Johnson, Washburn's private secretary, or the notorious Bill King of Minnesota.

Without stopping to take any direct notice of the charge you publicly bring against me. I write this letter to assure you of my aid and co-operation in discovering and exposing the author of that letter, for I fully agree with you that any man who is base enough to write or to inspire the writing of such a letter is unworthy to hold a seat on the floor of the house, which is just what the people of this congressional district thought at the last general election when they decided by over three thousand majority to keep you off the floor of the house of representatives.

In this investigation which you have demanded, I am with you, "heart and hand," Mr. Donnelly, and it shall be no fault of mine if the guilty author of that wicked letter is not discovered and punished, as he should be. I therefore make haste to anticipate verbal or written request or subpoena, and forward to you, for the use of the committee, this extended specimen of my handwriting, which you will readily recognize, for the purpose of comparing it with your—I mean with the—letter to Mr. Springer.

In furnishing you with this specimen of my handwriting, I cannot refrain from expressing the gratification I feel at the evidences you afford me of your most remarkable reform in this matter of "bribery and corruption." There was a time, I recollect, when there was great danger that you might become as bad in those matters as ordinary men. For instance, when you were making your senatorial campaign some years ago, and invited me into your back room, where you tendered me a large package of money, containing, you said, \$3,000, which you begged me to take and bribe a state senator to vote for you for United States senator, pledging yourself to give me \$2,000 additional money, and your written promise that a friend of mine should be appointed surveyor general of the state, in the event of your election, which I heartlessly refused to do. My refusal to aid you in bribing members of the legislature to vote for you on that occasion was, I well recollect, very aggravating to your feelings, but my conduct was not so perfectly soul-harrowing to you as that of the member of the legislature whom you personally attempted to bribe, and who, upon consultation, with his friends "tied up" \$500 of your money, but did not give you his vote.

I well recollect the letter you wrote that party after the election was over, demanding the return of your money, and have often laughed at the ludicrous terms of the settlement finally made between you. I might, perhaps, stop right here, but lest you and the investigating committee may think the foregoing specimen of my handwriting was not sufficient for an exhaustive comparison, and as you publicly declare yourself so strongly of the opinion that I am the author of the letter you sent—there it is again—of the letter sent to Mr. Springer, I will add to the specimens still further by referring, in a pleasant and friendly way, to some of those other little trifles in your congressional experience, which will remind us both in the most striking manner of your great change of heart in this matter of bribery and corruption, from which your virtuous soul now shrinks with such unaffected horror. For you will recollect, Mr. Donnelly, that you did not always play on one side alone of this "bribery and corruption" business to which I have referred. By no means; as so many could, if they only would, testify.

When you were in congress, Mr. Donnelly, and held a pretty strong hand on a certain committee before which important interests had come for legislation, how you did "make the blood fly." How you followed parties through the halls of the house into the speaker's room, to their hotels, and even to neighboring cities, demanding money of them for the great service you claimed you were rendering them. I recollect the time, as I am sure you will also, when a party upon whom you had been "making a levy," not knowing that you and I "were out," but supposing, as you were the representative of my district, that we were personal and political friends, sent a draft or check for \$2,500 to me, with the request that I hand the same to you,

which I did; and I also remember how, amid the thickening blushes which colored to a deeper red your rosy cheek, when I handed you that tell tale letter and enclosure you generously offered, nay, more, fairly besought me, to accept a portion of the money, to which I replied that, having no proper claim to the same, I could not and did not accept. But, Lord bless us. Mr. Donnelly, what was \$2,500 to you in those days? Why, I recollect being told by a party in interest of your own "levying an assessment of \$5,000 on the agent of a party desiring action on a bill which was in your hands. Acting upon the demands of necessity, he paid you that amount, when you quietly jumped on the cars and, running over to New York, struck that agent's principal for \$5,000 more. Not having been advised of that agent's action, this principal gave him a check for another \$5,000, which he made payable to the order of his agent in Washington. When you went back to the

in Washington. When you went back to the agent in Washington to get his endorsement, how he did swear, and called you a swindler, a double-barreled blackmailer, a legislative pirate and such naughty names, and stubbornly refused to indorse the check, putting you to the trouble of another trip to New York to make the best explanation you could. But then, it came out all right, and you got your extra \$5,000. There are many other instances, which might be recalled, of your sleepless and virtuous vigilance in guarding the purity of legislation and your peculiar methods of opposing "bribery and corruption" when a member of congress. But I must forbear, as I am now acting only in obedience to courtesy and friendly desire to aid you in detecting the infamous scamp who wrote your—of course I mean who wrote that—letter to Mr. Springer.

Neither you nor the committee can reasonably ask for more copious or extended specimens of my hand writing to-day. But in the meantime, Mr. Donnelly, you may, I assure you, rely upon my best efforts to aid you in this matter. So long as you wish to continue the search for the author of your—of the letter to Mr. Springer—you need not look in the direction of Canada for me. I'll be "at home" now to you and your investigating committee until the authorship of your—I mean of the Springer letter—is satisfactorily settled.

Don't doubt, Mr. Ignatius, I'll stand by you to the last, and if you wish any more specimens of my hand writing "draw on me at sight." Yours for reform,

W. S. KING.

P. S.—I rely upon you, of course, to hand this specimen of my hand writing to the committee of investigation, for whose use it is intended. I am sure you will not forget to do so.

W. S. K.

Preliminaries

Minneapolis Tribune

Tuesday morning,
October 20, 1891, at 8.

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VERY BADLY HURT.

Donnelly's \$100,000 Injuries on Account
of the Pioneer Press Publication
to Be Investigated.

Ignatius Was on Deck Yesterday, but
the Case Was Not Reached—
Some Fun Today.

. . . .

The great and only Ignatius Donnelly, he who while looking after the Shakespearean cipher finds time to conduct the Alliance and write fatherly letters to the farmer advising him when to hold his wheat and when to sell it, was at the district court yesterday. The reason of his presence was that his \$100,000 libel suit against the Pioneer Press was the first on the call for that day.

The old building, in which the court rooms are located, seemed to know that a great weighty man was within its grim, time-stained walls that have withstood the shocks of many outbursts of eloquence, for it trembled and creaked as "the only" moved about. The case, however, was not taken up, but is expected to be reached in good season today.

The basis of the suit is a letter republished by the Pioneer Press Feb. 16, last. The legislature was in session and Donnelly was

making a big howl about corruption so the Pioneer Press went back to the congressional record and copied a letter from its pages that was written by Col. William S. King to "the only" when he was a congressman. The letter refers to the appointment of a congressional committee to find out who wrote a certain anonymous letter to the Hon. William M. Springer and states that Mr. King was informed that Mr. Donnelly had charged him with writing the letter. It stated that Mr. King understood that Mr. Donnelly wanted some specimens of his handwriting. Mr. King then hints that Donnelly wrote the letter himself by saying:

"I write this letter to assure you of my aid in exposing the author of that letter as unworthy to hold a seat on the floor of the house, which is just what the people of this congressional district thought at the last general election when they decided by over 3,000 majority to keep you off the floor of the house."

Mr. King also stated that Donnelly begged him to take \$3,000 and bribe legislators to vote for Donnelly for senator, offering to pay King \$5,000 more and appoint a friend surveyor general. King refused the bribe [and] charges Donnelly with trying to bleed people at Washington as a congressman. King closes his letter thusly:

"I'll stand by you to the last, and if you wish any more specimens of my handwriting draw on me at sight. Yours for reform,

W. S. King

"P. S. I rely upon you, of course, to hand this specimen of my handwriting to the committee on investigation for whose use it is intended. I am sure you will not forget to do so.

W. S. K."

It is very probable that there will be some lively and interesting times during the trial of the case for sharp lawyers are on both sides. Erwin & Wellington are Donnelly's attorneys, while Flandrau, Squires &, Cutcheon look after the P. P.'s interest. With the only Bill

Erwin to cross-examine the only Bill King in favor of the only Ig. Donnelly, it's a safe bet that there will be a circus.

<>==<>==<>

The Trial.

DAY 1.

Minneapolis Tribune

Wednesday morning,
October 21, 1891, at 5.

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BEGIN THE BATTLE

**Donnelly's Grand Onslaught Upon the Exchequer
of the Pioneer Press Opens Up Merrily.**

**A Little Preliminary Sparring Over the
Jury and as to the Order of
Exercises.**

**Attorney Wellington Opens the Case
With Some Shoulder Thrusts
at Col. "Bill" King.**

**Sage Ignatius Is the First Witness and
Plunges at Once Into Political
History.**

The fight is on. Ignatius has opened his battery and proposes to make the fight of his life. His great \$100,000 libel suit against the Pioneer Press was duly opened in the district court yesterday and Mr. Donnelly testified a little in his own behalf.

Mr. Donnelly has reached the down hill side of life without amassing a great number of Uncle Sam's dollars and he now thinks he will make a strong effort to lay his hands on enough of the bank account of the Pioneer Press to grease his pathway to the tomb so that he can take no thought for the morrow, but devotes all his time to unraveling ciphers and writing letters of guidance to the uninformed tiller of the soil, thus enabling the simple Alliancer to escape the snares set for him by the grain buyers of the world.

To this end he retained the only Bill Erwin and the irrepressible "Cy" Wellington. The only Bill could not be present yesterday but the irrepressible Cy did not need him.

Cy is a full hand all by himself on ordinary occasion, and yesterday he proved to be a straight flash, for he beat the four on the other side in the preliminary skirmishes that are but feelers preparatory to the opening of the big jack-pot.

The first thing that strikes the visitor to the trial is the entire inadequacy of the courtroom to the demands upon it and the utter absurdity of trying the most sensational case of the term in one of the smallest courtrooms. The case is being tried before Judge Hooker in what is known as the front court room, which is scarcely large enough to accommodate the court, jury, attorneys, and working reporters, to say nothing of the spectators who will be drawn to the trial in larger numbers than to any other case of the term. The table accommodations for attorneys and reporters was not sufficient, and the crowd, not half of whom could get inside the room, pressed into the space reserved for them so that moving about was out of the question without jostling a dozen or more persons.

For the Pioneer Press there was the well known Judge Flandrau with his partners, Squires and Cutcheon, assisted by Capt. F. B. Hart, of this city. They were supported by Editor-in-Chief Wheelock and other members of the staff, including the ubiquitous Joe Mannix.

The only Ignatius sat, during the opening scenes of the case, well back in his chair, as though he was utterly unconscious of the fact that he was the center of attraction for the comparatively few pairs of eyes that could get inside the little box called a court room.

Col. "Bill" King sat within the bar, calm and unruffled, as the scattering sentences of Wellington's opening roared around him, but a ghost of a smile hovered about his mouth as his sarcastic letter to Ignatius was read by the attorney.

It was 2 o'clock when the task of selecting a jury was begun. The plaintiff excused two and the defense three; the jury as agreed on boing Karl M. Schmidt C. H. Hanko, A. J. Foster, W. M. Crawford, P. J. Breen, P. Loubuer, Geo. Ollivor, J. L. Beckman, Geo. Hothouse, M. L. Gorder, F. G. Drew and Herman Rose.

After the jury had been sworn, Capt. Hart reached a perpendicular, loaned his elbows on the rail of the clerk's desk, and remarked that before the case was opened to the jury he would like to address a motion to the discretion of the court as to which side should have the opening and closing of the case. He cited the statute which gives the opening and closing to the plaintiff, unless otherwise ordered by the court. Judge Hooker suggested that council (sic) might agree on the question. Wellington, with a smile, stated that he should claim the right to open and close.

"That being the case I will call your honor's attention to a few decisions of the supreme court," said Capt. Hart. He then stated that the old common law rule, which has been adopted by the majority of the states, is that the side having the affirmative opens and closes. He read from two decisions of the supreme court to show that the court had ruled that in certain cases the nominal

defendant has the affirmative and burden of proof and, therefore, the opening and closing speeches. He argued that this case falls within the rule, as the defendant admits the publication of the article that it is libelous on its face but charges that it is true, and thus the burden of proving the truth of the article falls on the defendant.

Then Wellington, with his spectacles astride his nose, his thin gray hair combed with his fingers, got on his legs and proceeded to knock out the first blood. He told the court that the supreme court citations did not apply. The principal one was in a case where a man appealed from the decision of a commission to award damages for his land condemned by a railroad. The man asserted that his land was worth more than had been given him and of course the burden of the proof was on him to show that. In the case at bar the burden of proof is on the plaintiff to prove his good character and the extent of his damages. Also that there was malice in the publication. The defendant denies that plaintiff has been damaged in the sum of \$100,000 or any other sum whatever. They state that there was no malice in the publication, yet they printed another article, thus rebarbing their arrow and driving it into us again. "If they will concede that we have been damaged to the extent of \$100,000 we will let them have the opening and closing," he said with emphasis. Judge Flandrau then took a hand in the argument and tried to convince the court that his side had the burden of proof because it had refused to retract and thus had to prove the truth of the charges in the article. He argued that all the plaintiff had to prove was the simple question of damages if the article was found to be false.

Judge Hooker took Wellington's view of the matter and remarked that the trial would proceed in the regular way, the plaintiff having the opening and closing. Judge Flandrau said that the matter was in the discretion of the court, yet he would note an exception so as to save the point, if there is anything in it.*

* The jury seems to have been present during these oral arguments.

The irrepressible "Cy" then stretched his legs, shook himself together and got his talking apparatus to grinding out an effective and able opening speech to the jury. He told them that to properly portray all the dramatic elements of the case would require the ability of a Scott or a Dickens. He did not propose to play upon their feelings, but to ask them to consider the case as good, honest citizens. He spoke of the various kinds of property, and said that there is an intangible property that cannot be measured by dollars and cents. This is reputation and the right to have one's feelings respected by others.

This is known as the bill of rights and was given to us by blood and cemented by steel. He spoke of Mr. Donnelly as a man who had been before the people many years and said that the history of this state could not be written to the present time with Mr. Donnelly left out. Mr. Donnelly's life made him a shining light for the arrows of slander. Coming to the article he said:

"The man who penned this most scurrilous article is worthy of the task. A stream cannot rise above its fountain and those people whom they printed the article know the character of its author. They printed it to crush a political opponent with the same spirit that impels them to try crush a rival city."

He then took the complaint, held it before him as he struck a tragic attitude, and read it with all the elocutionary effect at his command. He followed this by reading the answer of the defendant, which charges Donnelly with trying to get Col. King, back in 1869, to take \$3,000 and bribe D. E. King to vote for Donnelly for United States senator with offering Chas. H. Clark, now dead, \$500 to vote for him with receiving a check for \$2,500 from a railroad to work for it in congress; with taking \$5,000 from the agent of the Canadian Pacific railroad and then making the company put up \$5,000 more; with getting H. H. Findlay to write the anonymous letter to Hon. Wm. M. Springer, and other short comings. The answer also claims that the

publication was a portion of a public record and is privileged. Also that Donnelly's reputation is not good, but is and was bad.

Mr. Wellington referred to the fact that back in 1868 or '69 Mr. Donnelly was a member of congress and Col. W. S. King was postmaster of the house of representatives, and said that just prior to this time King had been in Canada for his health. He said that no man in the United States has a more analytical mind than Bill King, and that he wrote the letter to Donnelly with an object. But he met a man who had as much nerve as himself and Mr. Donnelly promptly laid the letter before the committee. He said that the Pioneer Press, under a different name, but controlled by the same malign influence, was the first paper to publish the King letter in years gone by, and now when 11 years have rolled away and a new generation that never heard of Bill King or his letter has come on the stage of action, the paper, without cause or excuse, digs from the tomb this mummified specimen of Bill King's hate. He spoke of the law which requires a man to ask a paper to retract and said that this was complied with, but the paper refused to retract. On the other hand it published an editorial the next day that drove the venom in deeper. "It rose—no, it sunk into devilish, demoniac malice," he shouted in his most tragic style.

As Mr. Wellington sat down Judge Hooker told the spectators that they were welcome, but they must observe proper decorum and not laugh or in any way express approval or disapproval of what was said or done.

Ignatius, the sage, cipher, novelist and politician, took the stand, leaned forward with his hand on the bench and stated his age at 60 yours, his residence in the state 35 years.

"I was elected lieutenant-governor in '61; went to congress in '62, re-elected in '64 and '66; in '73 and '78 senator for Dakota county," he said, and followed it up with the statement that he had studied law in Philadelphia before coming to Minnesota.

"Do you know Jos. A. Wheelock?"

"Yes, sir. He is editor-in-chief of the Pioneer Press."

"Is he present?"

"He is."

"You may state your relations with him."

"For the past quarter of a century he has been my most bitter and persistent enemy, and without one spark of generosity."

He was shown a copy of the paper containing the article printed, and bonded, "Mr. Donnelly Demands a Retraction." He identified it and it was offered in evidence and read by the plaintiff's attorney. It was that same caustic editorial, which will be well remembered by all who have followed Mr. Donnelly's career. This finished the direct examination and Judge Flandrau took the witness.

"Mr. Donnelly, you were here several years before you were elected lieutenant governor?"

"Yes."

"What were your politics before you came to Minnesota?"

Objected to and objection sustained. Mr. Donnelly was about to answer when Wellington stopped him.

"Wait—that's objected to."

"But I have no objection to answer."

"But I have," cried Cy. The question was finally allowed, and he answered that he was an antislavery man and a Republican. He denied ever having been a Democrat. He explained that he was elected once on a low tariff platform by the Democrats and those few of the Republicans who were not in the ring. He voted for Horace Greely.

"You did?"

"Yes sir, and I think I shall have it inscribed on my tomb stone that I supported him." The history followed down to the time when he had run against Mr. Washburn, when he had lost. This was the contest referred to.

"Who represented you in the contest?"

An objection was made and allowed.

"Now, Mr. Donnelly, here is the report of the committee on the investigation of who wrote that letter. Did you state before that committee that you lived at Donnelly, Minn.?"

"I might have."

"Now isn't it a fact that Donnelly was in the district you ran from, and Nininger was not?"

"Yes. I will state that I didn't seek the nomination. It was public sentiment"

"I don't care about that."

"Didn't you once seek nomination on the Republican ticket?"

Mr. Donnelly described the fact of his accepting the nomination, if it should come to him. He said that fully two-thirds of the convention were for him, but his enemies had defeated him.

"Didn't you once say that you were a Republican still, but you had only kicked over the traces?"

"Isn't it a fact that the Press, under Mr. Wheelock, was for you at that time?"

"Yes, he had a quarrel with Ramsey, because he didn't appoint him postmaster, and wanted to get even by getting me elected governor."

Hero the plaintiff rested, and the court read iron bound rules to the jury, telling the members their duty, that they should not discuss the matter, either among themselves or outside, and the court adjourned until this morning at 10 o'clock.¹⁰

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DAY 2.

Minneapolis Tribune

Thursday morning,
October 22, 1891, at 1.

<>==<>==<>

FOR THE DEFENSE.

The Pioneer Press People Produce
Few Facts to Back Up the Alleged Libel.

¹⁰ On the first day of trial Donnelly was the subject of a political gossip column in the *Tribune*:

TALKS WITH TRANSIENTS.

Ignatius Donnelly is one of the best inventors of ideas in the state of Minnesota. His head is always full of plans, political, sociological and literary and whether one agrees with him or not he is certainly an entertaining man to talk to. While attending to his \$100,000 libel suit Mr. Donnelly is stopping at the Nicollet where he was seen yesterday afternoon. It is his opinion that the Alliance will carry Kansas, Nebraska and possibly South Dakota. In Ohio and Iowa the party is not strong enough to make its influence felt in any other way than affecting the tickets of the other two parties. On the subject of his position in regard to the Minneapolis Harvest Festival, Mr. Donnelly warmed up and proposed a scheme whereby Minneapolis could make reparation for the injury which he claims the festival has done the farmers by giving an exaggerated idea of the size of the crop and so lowering prices.

Minneapolis Tribune, October 21, 1891, at 5 (excerpt).

**Colonel King Proves a Very Valuable
and Entertaining Witness in That Connection.**

**Gen. Le Duc, Ex-Commissioner of
Agriculture, Helps Out With Some
Pertinent Points.**

**Attorney Hart Makes an Effective
Speech and Editor Wheelock Testifies
a Little Bit.**

"There is a tide in the affairs of men that, taken at its ebb, leads on to fortune" is an idea that has come thundering down the ages. The truth thereof has been demonstrated by many men of prominence in the social world.

Present indications, however, lead to the conclusion that the only Ignatius Donnelly has miscalculated the tide and has taken it at its flow instead of its ebb. It looks now as though "the only" will be "all by his lonely" so far as the \$100,000 of the Pioneer Press is concerned. The paper pleaded in justification to the charges in the King letter it published—that the charges are true—and it has made a good start toward proving it has made a good start toward proving them.

Mr. King testified yesterday that Donnelly offered him \$3,000 to bribe Dana E. King, brother of Wm. S. T. and promised \$2,000 more and the appointment of King's friend to office; also that Donnelly, through him, received \$2,500 from C. P. Huntington for helping the Pacific railroad land grants through congress; also, inferentially, that Donnelly gave Legislator Chas. Clark \$600 to vote for him for United States senator; that Clark did not so vote and Donnelly tried to get the \$500 back.

Then came Gen. Win. G. Le Duc, ex-United States commissioner of agriculture under President Hayes, to testify that the Hastings & Dakota Railroad Company gave Donnelly \$2,500 for land grant services and that Donnelly bragged to him of getting \$50,000 cash, or as good as cash, and \$200,000 in stock out of the El Paso road for land grant services.

Of course, Donnelly will have another inning by way of rebuttal, and will make an effort to explain away these little matters and may prove successful, but it is evident to any person that watched the trend of events yesterday that Bill King captured the jury.

The only Ignatius and his attorney, the irrepressible Cy, were there before the hour, and after shaking the hand of an admirer and



glancing about the room in search of another sage piled his hat and top coat on the table and assumed his erect, unconscious of observation position in a big arm chair. "Bill" King was there early and secured a vantage point in the corner opposite the door where he could look in the faces of everybody in the room, but was soon routed out to make room for some

spectators of the gentler sex. He then stepped toward the door and met Ignatius, who had gone to speak to some one in the hall, at the gate in the bar rail. Both let go a courtly bow at the other, and, as the only Ignatius appeared to have the right of way. King waited for him to enter. At exactly 10 o'clock Judge Hooker, preceded by the Pioneer Press' attorneys, entered the room and the deputy sheriff let himself out on the "Hear ye, this honorable court is convened pursuant to adjournment"

THE DEFENSE OPENS.

Capt. F. B. Hart Tells What Will Be Shown by his Side.

Capt. F. B. Hart then selected a good position before the jury and made a telling speech by way of opening the defense. He remarked quietly:

"It may have occurred to you, gentlemen, why this suit is in Hennepin county. Neither of the parties lives here. The Pioneer Press is a corporation and its place of business is in Ramsey county. The plaintiff lives in Dakota county, still farther south of us. It might be supposed that if the plaintiff wished to vindicate himself he would go to the home of the defendant—to its stronghold, so to speak—and there demand his vindication. But he availed himself of the privilege allowed by law, of serving his summons at one of the sub-offices of the defendant, the one in the city of Minneapolis. The plaintiff, in the opening of his attorney, referred to the fact that there is a rivalry between the two cities, and that the Pioneer Press has been active in that rivalry. It may be that the suit was brought here in the hope that the plaintiff would profit by this spirit of rivalry. If that be the motive, I am sure the plaintiff has reckoned without his host."

Capt. Hart said he know something of the temper of the citizens of Hennepin county and he knew that there is none so mean as to allow a spirit of rivalry to bias him in a duty of this kind.

The captain then referred to the Pioneer Press and said that it had never kicked over the traces and gone for the other party. "Who is Mr. Donnelly?" he asked, and then proceeded to say that he is one of the most noted and notorious men in the state. Mr. Donnelly has a dual character. He can write history so that it reads like a novel. He can entrance an audience by his eloquence and he has a command of language second to but few. The captain then suggested that the jury may have heard of Dr. Jekyll and Mr. Hyde or the book Dr. Huguet and Sam Johnson, written by plaintiff, and intimated that Donnelly is a man of that character. He then referred to Mr.

Donnelly's testimony that he was a Republican some years ago when elected to the office of lieutenant-governor, congressman, etc. The captain said that Donnelly selected the forum of congress to serve his country whose words flow instead of bullets. He did not select the field where he could have earned the right to wear the button that some of the jury wear. The captain found Donnelly later to be what Ignatius calls an independent Republican. The speaker does not know what "independent" means in either party except as he gathers it by looking over Mr. Donnelly's career.

"We find," said the captain, "that some ten years after he got out of office, and could get no more nominations from the Republican party, that he is an independent Republican, and he wants it inscribed on his tomb-stone. He was so independent at that time that he could not support that greatest of all men, who has done more for this country than all the authors that ever lived —Gen. Grant."

The captain then stated that speaking of tombstone reminded him of a story that illustrated the dual character of Mr. Donnelly in some respects. A Minneapolis citizen was abroad, and entering a cemetery saw a man leaning on a tombstone. The citizen asked if the man was a relation, and was answered: "No: I saw the inscription. 'A Politician and an Honest Man,' and I was wondering why they put both these men in one grave."

Capt. Hart then referred to Donnelly's charges of corruption during the last session of the legislature, and said that Donnelly never conceded honest motives to an opponent. Donnelly is a master of sarcasm and invective and always chooses those weapons. He stated that he agreed with Wellington that a man should fight, and die oven, in defense of his reputation. But in this case he wanted to know when is the time to fight. Mr. Donnelly has chosen the time when his opponent is dead. The letter complained of was written by Hon. William S. King back in 1880. Mr. King was then financially responsible, and Capt. Hart asked why did not Donnelly seek vin-

dication then. The letter was also published at that time by this same paper, and from a copy given its Washington correspondent by Mr. Donnelly.

"Why did he give it to the press for publication?" asked the captain. "Mr. Wellington says it was because it was brave. That is not the reason. Mr. Donnelly knew that the letter would get to the public and his genius told him that it would be a sharp thing for him to be the first to give it out. Then everybody supposed that he would, come along later and prove the charges untrue. But he did not. Years passed by, but no word came from Mr. Donnelly about vindicating his character."

The speaker slated that in the campaign of 1884 the letter was published as a campaign document and scattered broadcast over the state, but Mr. Donnelly never called anyone to account or put pen to paper to controvert the charges of the letter until the complaint in this case was filed, "What was the situation then—Feb. 16 last?" asked Capt. Hart. "Mr. Clark, one of the state senators who charged him with bribing, has gone to his grave. Mr. Frenchot, the agent of the Central Pacific, that we charged him with taking money from, is dead. And Wm. S. King was in poor health and not expected to live long. Then Mr. Donnelly puts on his war paint and comes out to fight and die in defense of his honor and his reputation. He waited a long time."

Capt. Hart then took the answer to the complaint and read the charges of bribery made against Donnelly and stated that every one of them will be proven. "With reference to the anonymous letter to Hon. Wm. M. Springer, offering \$5,000 to Mrs. Springer if Washburn was seated, he said that letter was not written by Donnelly's own hand, but by his paid attorney and was his letter to all intents and purposes. It was Donnelly's genius that wrote the letter. It was loaded to act by its kick. Donnelly wanted the committee to think that Washburn was using corrupt means and thus he, Donnelly, would profit by the rebound. But Springer was a man that fights for

his reputation at once. He don't wait 11 years. He wanted to know at once who wrote the letter and Donnelly suggested that Bill King did it and wrote to friends for a specimen of King's writing. Mr. King, that great-hearted, generous man that he is, promptly sent Mr. Donnelly a specimen of his writing. It was satisfactory and Mr. Donnelly has never asked for another. [Laughter that was checked by the court.]

Capt. Hart then stated that there were too many examples of dual character and cited Lord Bacon, of whom Donnelly is an admirer. Bacon was as brilliant and gifted a man as ever lived but he sold his decisions from the bench.

The captain said that he was sorry that Donnelly adopted the tactics that he did for had he remained honest he would have adorned the United States senate and might even be the chief executive of the nation, as he aspired to be through the People's party. He alluded to the interest taken in the case and said that it was not on account of the money involved for nobody would give Donnelly 5 cents for his prospective verdict, but it is because Mr. Donnelly's character as a public man is questioned.

At the close of Capt. Hart's address the case was moved to the large central courtroom, and it was at once crowded to its utmost capacity by attorneys and citizens. There must have been between 400 and 500 people in the room, and the audience was not composed of mere idlers and court loungers, but of the best people in the city. There were the prominent and lesser lawyers, politicians and business men, with a fair sprinkling of women.

COL. KING TESTIFIES.

The Genial Bill is a Good Witness and
Makes Some Fun.

Wm. S. King was the first witness for the defense, being interrogated by Atty. Squires. Mr. King stated that he is past 62 years old and has lived in Minneapolis 34 years. He was absent for nearly 14 years as member of congress and postmaster of the House of Representatives. Before that he was engaged in publishing a newspaper. He first went to Washington in 1861 as a clerk under Col. Forney for the short term of congress. This lasted until March 4, and at the called session the following July he was elected postmaster of the House. Col. King served one term as member of congress for this district, and first met Mr. Donnelly in 1858 or 1859. He was in Washington when Donnelly was a member of the house, and was there in the spring of 1880, stopping at Willard's Hotel.

The Washburn-Donnelly contest was on then. Mr. Washburn and Mr. Findlay, Donnelly's attorney, knew that he was there, for Findlay was at King's room nearly every day. Mr. King remembered writing the letter in question. I said:

"After my return from Washington my attention was called to an anonymous letter to Mr. Springer and later my attention was called to the fact that Mr. Donnelly was asking for specimens of my handwriting. I was righteously indignant that such a charge should be made, which Mr. Donnelly knew to be false. And in order to give him a specimen of my handwriting, I wrote that letter to give him a specimen that would last him his life time."

Mr. King stated that he kept no copy of the letter, as he wrote it hastily so anxious was he to oblige Mr. Donnelly. The first copy he saw was in the public press. His attention was called to the charges in the letter and he said some of the information was within his own knowledge and other portions came from Oakes Ames, of Massachusetts, Richard Franchot, of New York, and others. Those men were living at the time the letter was written but are now dead.

"If they were not dead Mr. Donnelly would not be here today," said the colonel, sotto voce.

Mr. Wellington asked that that be stricken out and the witness admonished not to volunteer anything. The remark was stricken out.

A moment later Mr. King's attention was called to the remark, "the letter was written by Charles Johnson or the notorious Bill King, of Minnesota," and he said "that is a quotation from Mr. Donnelly. "Cy" Wellington objected and this was stricken out.

Mr. King's attention was called to the statement in his letter that Donnelly offered him \$3,000 to get them to vote for "Ig" for United



States senator. Mr. King said that he would like Mr. Wellington's permission to state some things, and "Cy" thought he talked too last. He promised to stop quick when "Cy" said so, and was told to go ahead. He then said that in 1868-69 Mr. Donnelly was a candidate for United States senator, and King wanted the held kept open for Mr. Windom, and told Donnelly that if he and his friends would go for

Wilkinson, King and his friends would go for Ramsey. Donnelly took King, one day at St. Paul, into his room.

"I sat down on the bed," continued Mr. King, "and now is the time for you and your friends to come out for me for senator. I told him that it was not yet time and he said that I was not well informed. He then took a package from his side pocket and told me it contained \$3,000. He asked me to give it to my brother Dunn, and ask him and his friends to come out for him in the morning. I told him that I could not do that, and if Dana was going to support him he would not take money for it, and if he (Ig) wanted to offer this money he would have to get some other man to do it. I told him that I thought he could not

be elected. There was no use trying it. I was neutral between Ramsey and Donnelly, but if there was a chance for Wilkinson, I was coming out for Ramsey to beat Wilkinson at all hazards, as Wilkinson was from Ramsey's portion of the state, and his election would crowd Windom out two years later."

He was asked about the statement in his letter that Donnelly paid \$500 to a man who did not vote for him and Donnelly tried to get the money back.

Wellington sprang up and objected to King's stating where he got this information on the ground that it was hearsay. [The man was Hon. Chas. Clark, now dead.] Mr. Squires said that Col. King saw a letter from Donnelly and "Cy" suggested that they follow up the letter and give Donnelly notice to produce. The court thought this a good suggestion and Mr. King stated that he read a letter from Donnelly to Chas. H. Clark, a legislator, demanding the return of \$500 that Donnelly had paid him previously. Mr. King wanted to keep the letter but Mr. Clark preferred to keep it himself, and afterwards destroyed it. Mr. King said that he knew nothing of the terms of the settlement between Donnelly and Clark except as told him by Clark.

"I cannot ask you that," said Mr. Squires.

"I wish you could," replied Mr. King, "for it is a good story."

At this point court took a recess for dinner.

Mr. King stated that one morning after his return from Washington he received in his mail, a letter from a gentleman in New York. The letter stated that "enclosed is a check for \$2,500 which you will please hand to Mr. Donnelly, as for obvious reasons its writer did not wish to send it direct to Mr. Donnelly." It was signed by C. P. Huntington, president of the Canadian Pacific railroad. Mr. Donnelly was then a member of the congressional committee on railroads and having charge of the Pacific railroad land grants. "I read the

letter and then showed it to Mr. Windom, thinking it a good joke on Donnelly," remarked the witness.

"I object," said Wellington.

"Very well. I take that back," replied King.

"I got the letter in my pocket and started for the capital. I saw Donnelly standing on the hotel steps and gave him the letter. He read it and colored up. He soon said that he thought I had better got the money or the check and keep half of it. I told him that I had rendered no services to the company and could take none of the money and walked on."

Mr. King's attention was next called to Donnelly's getting \$5,000, according to the King letter, from the agent of the railroad company and then bleeding the company for \$5,000 more, and the manager of the company calling Donnelly a double-barreled swindler and other nice names. He was asked where he got this information, to which Wellington objected and the objection was sustained.

Mr. King first saw the Springer anonymous letter after he returned to Washington as a witness in the Washburn-Donnelly contest. Mr. Donnelly's counsel then were H. H. Findlay and Hon. Geo. W. Julian, of Indiana.

This closed the direct examination and Mr. Wellington asked: "Was anybody present when you gave Mr. Donnelly that check?"

Mr. King replied that he and Donnelly were alone. He then stated that Donnelly, later, manifested enmity to him over his course at St. Paul. Donnelly never said much but he was a hard looker and acted mad.

Mr. King was asked if he did not oppose Donnelly for United States senator and replied, "No sir. When I came out Donnelly was not in it."

He was asked if he supposed the check was to bribe Donnelly and replied, "Well, if you want me to answer I will say that I thought it was a piece of Donnelly's pie,"

Ho could not say that the signature to the letter was C. P. Huntington's, but he had no reason to doubt it. He was asked how he knows Frenchot is dead and replied that Senator Conklin said he helped bury him. He could not recall that he ever told any person on earth the information in the letter before he wrote it. He did not remember any other draft or check that was spoken of by him and Donnelly, though when Donnelly was running for congress in 1868, King agreed to, and did, contribute to Donnelly's election fund and Donnelly may have drawn a draft on him. When Donnelly offered the \$3,000 to King the latter said that there were bank notes in the package but he only had Donnelly's word that there were \$3,000 in it. Wellington asked if the other \$2,000, promised by Donnelly, was for King or his brother and King said it was for his brother Dana.

His attention was called to the statement in his letter that it was for himself and replied, "I don't care about that for it was understood the money was for Dana. ["]

"Then you were reckless in your statements?"

"I was not, that is where you are off."

He was asked about his deposition taken when sick and if he then told all the conversation. He thought he did, all that he could recollect though, of course, not every word. He was asked if he had told all of it today and replied "all that you wanted me to."

"I did not want you to tell any of it," said Wellington. "No, nor did Mr. Donnelly."

"What country did you visit before going to Washington?"

Capt. Hart objected and King said, "Oh, let him go." The objection as withdrawn and King said that the only foreign country he visited

was Canada. He went there to avoid the service of a subpoena to testify before a congressional committee and for no other reason on earth.

"I'll be perfectly frank with you," said King.

"I did not wish to be called as a witness before the committee, and did not propose to let them serve me with a subpoena. I carefully waited until congress adjourned and stepped out before I stopped into Washington."

He stated that he had been called before this committee at a former session. He was elected a member of the congress succeeding the one he escaped from, and was present when a resolution was adopted concerning himself and what action should be taken if any. After his election an indictment was found against him at Washington for perjury. It was because he refused to testify, though they called it perjury.

"At the time Mr. Donnelly offered you the money what was your financial condition."

"Well, I would not recommend any one to lend me money on the basis of my financial condition."

'You once said that your normal condition is that of impecuniosity.'

"Yes, sir, and I cling to my normal condition very closely."

He was asked if he had anything to do with Donnelly after the contest campaign, and replied: "I think not. We sorter met and loved and parted."

He was shown a letter from him to Donnelly, written in 1867, and acknowledged it, saying: "I hope you will read that letter, as it shows I kept my faith with Mr. Donnelly. I told Donnelly that I was for him as against Ramsey, but when Wilkinson was brought in would be against Wilkinson and everybody that favored him.

The letter simply stated that he had not said much to a certain person as he found him a strong Ramsey man and that he, King, would be on hand to help Donnelly.

While the letter was being shown to the attorneys King came down from the witness box and took it, asking if he could look at it.

He was shown another letter and hoped it would be read as it was a good letter. A third he did not wish read in full, "for obvious reasons as the other letter stated," he said.

The letter contained some cuss words and King remarked, "Some of my expressions were not elegant."

He was asked about C. P. Huntington and if there was not a strong Pacific railroad lobby at Washington. He replied with a wave of his hand and a wrinkling of his forehead: "Oh, don't ask me—I don't know anything about such things."

On redirect examination Mr. King stated that the questions he went to Canada to avoid affected others and not himself. As soon as he heard of the indictment he went to Washington and demanded a trial instanter. He kept begging for a trial, but the district attorney held it along until his term as member of congress expired and then nolle prossed it, saying he had no evidence to sustain it.

"Was that the last you heard of it?"

"No my friends, Mr. Donnelly and Mr. Wellington, reminded me of it."

He stated that at one time since 1880 he was better fixed than now, and was asked: "Could you have paid all this claim is worth then?"

"Well, I can pay all it ought to be worth at any time."

He then stated that the friends he went to Canada to save had done no wrong, but were in that peculiar position where they could not afford to have their names mentioned in connection with anything

looking crooked. Mr. King left the stand having the jury with him and leaving a most excellent impression.

GEN. LE DUC SPEAKS.

He Tells Some Hard Things About Donnelly.

Gen. Wm. G. Le Duc, ex-commissioner of agriculture, next came to the stand. He lives in Hastings but prior to 1856 lived in St. Paul. He was in the army for four years. He is the Wm. G. Le Duc that was president of the Hastings & Dakota railroad and is familiar with the transactions conferring stock to Mr. Donnelly. After the passage of the land grant for the road, which Mr. Donnelly was active in getting. Donnelly wanted witness to lay a claim of \$10,000 before the directors. The general demurred, and the matter was finally arranged to give Mr. Donnelly \$2,500 in stock. "That was for his services in congress in getting the land grant," said the witness. "He was elected attorney because it would look better. He never performed any legal services for the company. Seagrave Smith, now Judge Smith, and W. K. Lawrence were the attorneys of the road."

The record book of the company was shown Gen. Le Duc and he identified his signatures to the minutes of the meetings. He had a talk with Donnelly when the latter was in congress concerning the El Paso railroad. It was on Pennsylvania avenue, Washington.

"Donnelly said he had secured a good thing with the El Paso road—\$50,000 in cash, or as good as cash, \$200,000 in stock and a position as attorney of the road after his term in congress expired. I know the El Paso road had measures pending before congress."

On cross-examination Gen. Le Duc stated that his first conversation with Donnelly concerning stock in the Hastings & Dakota railroad was after the land grant was passed. He denied telling Mr. Allen that

Donnelly had rendered other services. He has had no relations with Donnelly since 1869.

"You have a feeling of enmity toward him?" was asked by Wellington.

"No, not enmity—it's more a feeling of pity."

"You are not a friend of his?"

"No. he is not a friend or my kind."

"Did not Donnelly subscribe for \$2,500 of stock in your road?"

"He was allowed to do so, the understanding being that it was a gift."

"Did not Donnelly pay \$125 as an assessment, and was it not returned to him by your order when he was elected attorney of the road?"

"I don't know about that—the books will show."

Gen. Le Duc was then shown some letters to Donnelly and identified five or six as having been written by him. [These letters were taken from a large bundle of yellow, old letters saved by Donnelly from back in the '60s and from which it appears that Donnelly, with his other accomplishments, had the foresight to save the letters he received years ago.] Gen. Le Duc stated that 100 cents on the dollar was paid on the stock of the road and this was all lost finally through the failure of Oakes Ames. When the stock was given to Donnelly none of the road was built. Later Donnelly introduced witness to Oakes Ames and the latter was induced to take \$200,000 stock in the road. It was in 1869 that the friendly relations between witness and Donnelly ceased. Gen. Le Duc was asked to identify a letter of Mr. Long, secretary of the Hastings & Dakota Company, to Mr. Donnelly and Wellington closed the cross-examination. On redirect he stated that he did not recall that resolutions for subscriptions to stock were ever passed for anybody except Mr. Donnelly.

"When was it that your friendly relations with Donnelly ceased?"

"Shortly after his boasting of receiving the El Paso bribe."

"What was the cause of the breaking of your friendly relations?"

"The El Paso matter and a conversation I had with Oakes Ames concerning Mr. Donnelly."

The general was here excused and Mr. Squires offered a joint resolution of the 43d congress, passed Feb. 22, 1869, relative to the land grant for the El Paso road. It granted the right of way to the company from El Paso to the Pacific ocean, and Mr. Donnelly voted for the resolution. The resolution was received.

T. Z. Cowles, managing editor of the Pioneer Press, 46 years old, was next called to the stand and asked to state the circumstances of the publication of the King letter, Feb. 16, 1891. It was received from the Minneapolis local end of the office the Sunday night it was received. He did not see it until the next day. The night editor was in charge of the paper that night and Mr. Jones was in charge of the Minneapolis end. He did not remember that the paper was fighting Mr. Donnelly then.

THE EDITOR-IN-CHIEF.

Mr. Wheelock is Questioned About the Bill King Letter.

Editor-in-Chief Joseph A. Wheelock came next and said that he has lived in Minnesota 41 years, mainly in St. Paul, and has been editor of the Pioneer Press since the consolidation of the Pioneer and Press. He was shown the file of the paper for 1880 and stated that the King letter was first published in the paper May 4, 1880, the copy of the letter being furnished by Mr. Donnelly to the Washington correspondent. The latter statement was stricken out as being

hearsay and the copy of the paper for May 4, 1880, was reoffered in evidence. [The article containing the letter states that Mr. Donnelly furnished the letter.] Wellington objected to the offer of the paper for the same reason and that the authority for the source of the

letter is the mere statement of the paper. The objection was sustained and Mr. Wheelock stated that the letter was again published in September, 1881, as a supplement to the Pioneer Press and for a campaign document. A copy of the supplement was admitted over Wellington's objection that it is immaterial and not pleaded.

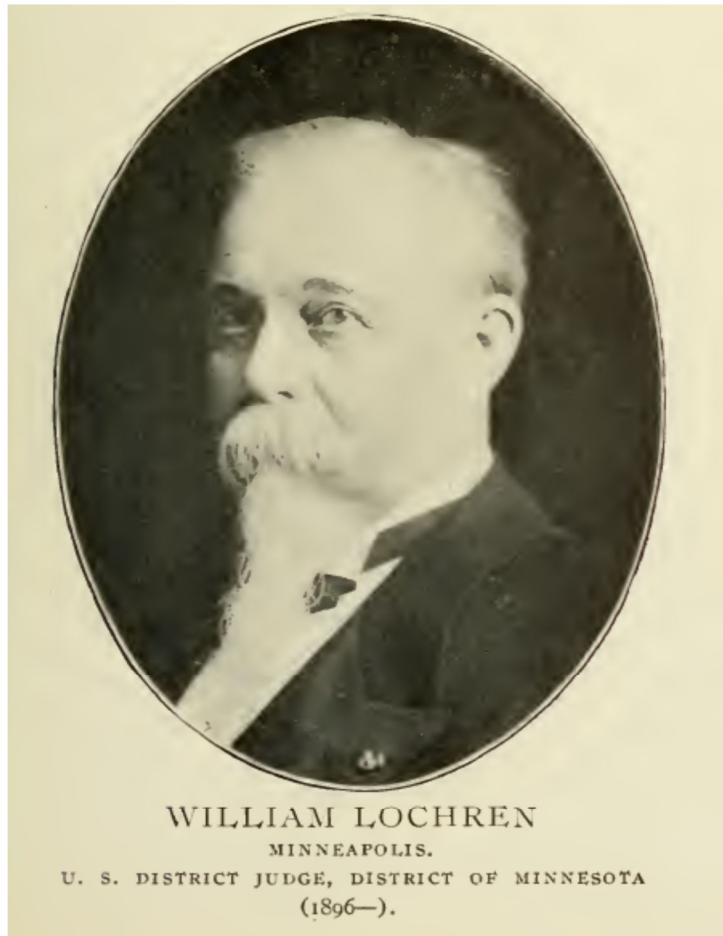


On cross-examination Wellington showed Mr. Wheelock a clipping from the St. Paul Press of Feb. 16, 1875, and asked the defense to produce a copy of the paper of that date. Mr. Wellington also took a big, fat scrap book that Donnelly brought with him, and showed an article in it to Mr. Wheelock. The witness identified the article headed "Another Vindication" as having been published in the Pioneer Press.

Mr. Wheelock stated that he wrote the editorial on the King letter the next day after its publication.

Court then adjourned to 10 a. m. today.

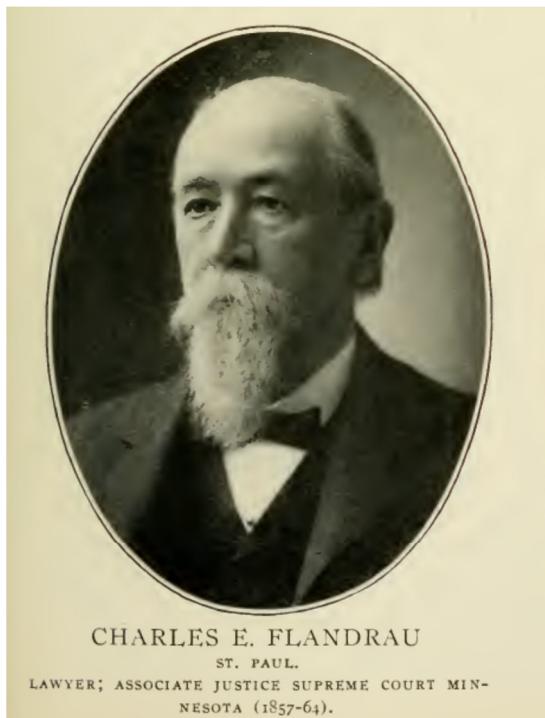
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WILLIAM LOCHREN

MINNEAPOLIS.

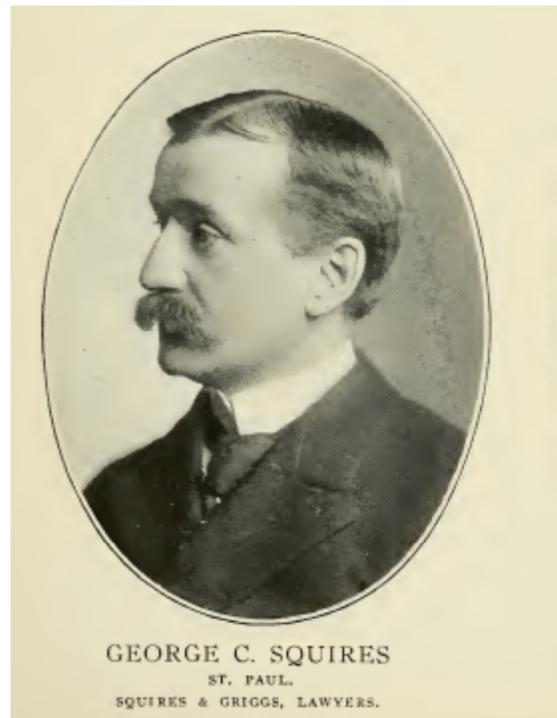
U. S. DISTRICT JUDGE, DISTRICT OF MINNESOTA
(1896—).



CHARLES E. FLANDRAU

ST. PAUL.

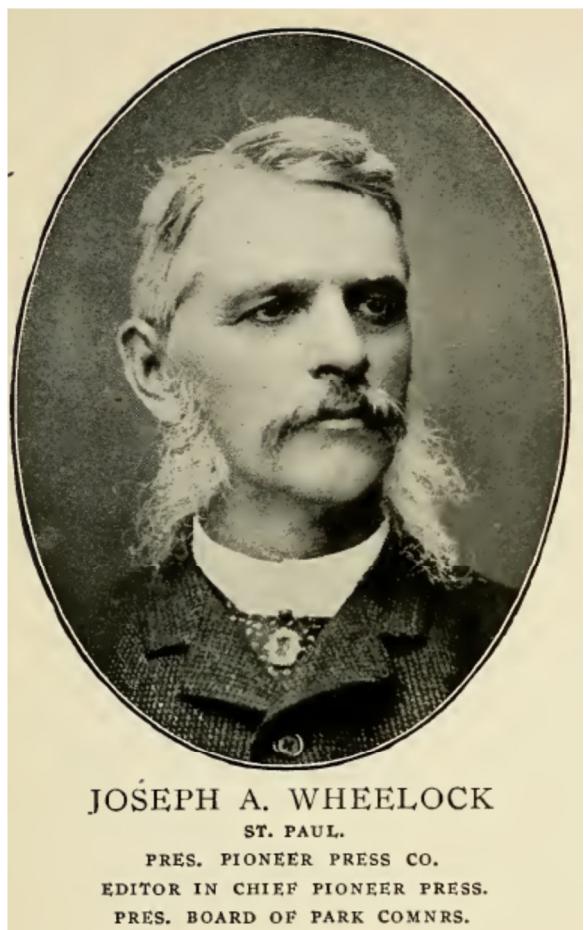
LAWYER; ASSOCIATE JUSTICE SUPREME COURT MINNESOTA (1857-64).



GEORGE C. SQUIRES

ST. PAUL.

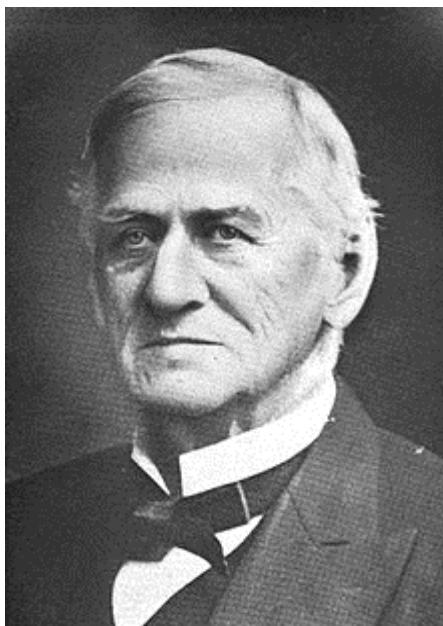
SQUIRES & GRIGGS, LAWYERS.



JOSEPH A. WHEELOCK

ST. PAUL.

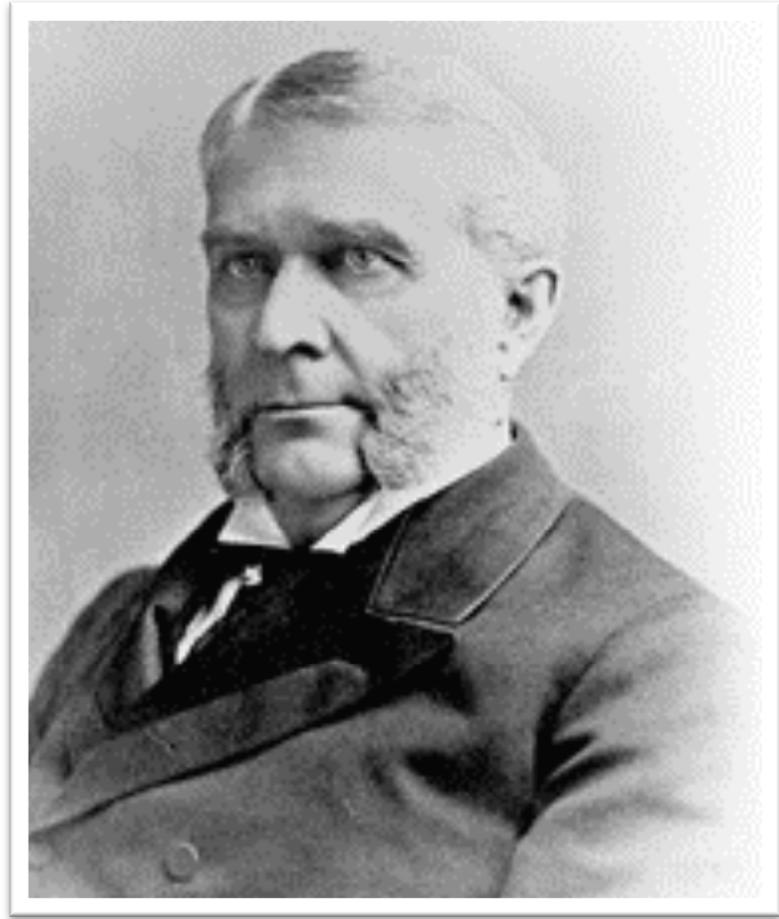
PRES. PIONEER PRESS CO.
EDITOR IN CHIEF PIONEER PRESS.
PRES. BOARD OF PARK COMMRS.



William Gates LeDuc



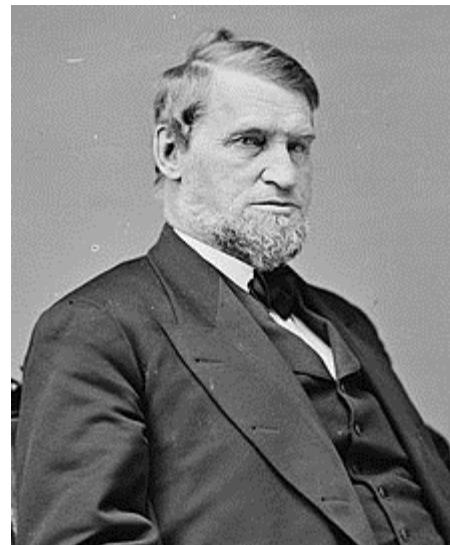
William Smith King



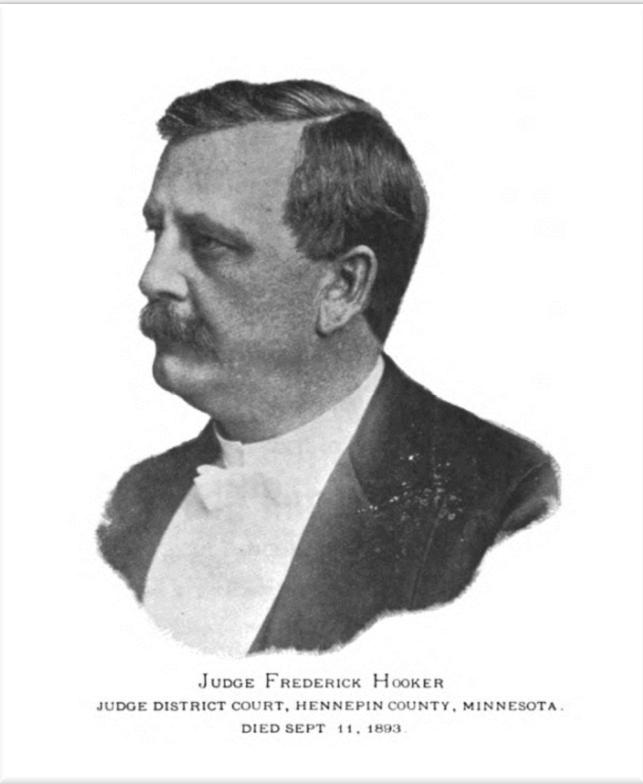
William Drew Washburn



William M. Springer



Oakes Ames



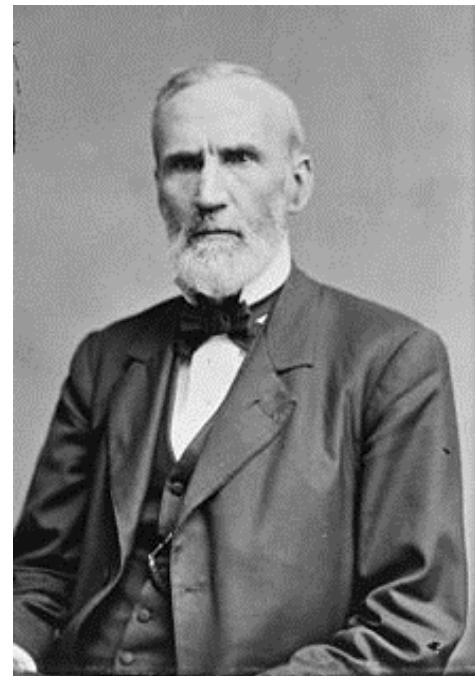
JUDGE FREDERICK HOOKER
JUDGE DISTRICT COURT, HENNEPIN COUNTY, MINNESOTA.
DIED SEPT 11, 1893.

1893



CYRUS WELLINGTON.

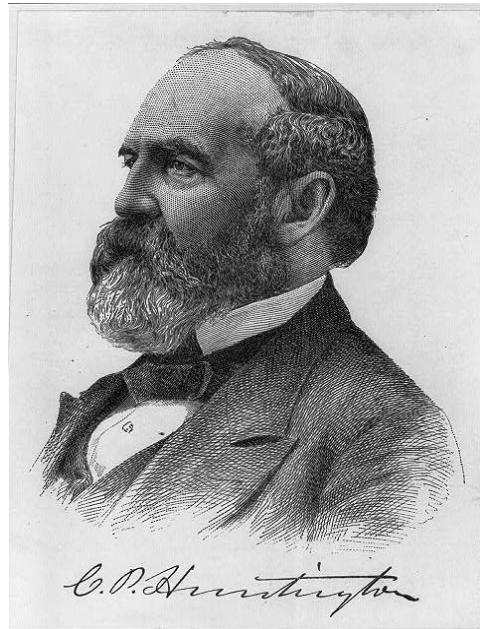
1891



George W. Julian



Ignatius Donnelly (c. 1865)



(no date)

DAY 3.

Minneapolis Tribune,
Friday morning,
October 23, 1891, at 2.

<>==<>==<>

WHAT'S IT WORTH?

Testimony Somewhat Conflicting as to
the Real Value of Mr. Donnelly's
Reputation.

Charles W. Johnson and Others Place
It at a Rather Low Figure,
but Then—

There Be Those Who Will Say These
Gentlemen Are Prejudiced and
Much Mistaken.

Much Time Taken Up With Long
Drawn Squabbles Over Technical
Legal Points.

"The Assyrians came down like a wolf on the fold, their cohorts all gloaming with silver and gold," is a quotation from Lord Byron that might be quite aptly applied to the \$100,000 libel suit in the district court of Hennepin county. The Pioneer Press cohorts fell upon the only Ignatius yesterday and smote him hip and thigh.

They did not find him wholly at their mercy, however, for the irrepressible "Cy" Wellington succeeded in spiking one of the heaviest guns of the Pioneer's array of legal talent. They wanted to introduce depositions of experts to show that Donnelly's attorney, H.

H. Findlay wrote the anonymous letter to Hon. Wm. M. Springer, but they had neglected to properly fortify the depositions so as to get them in over Wellington's objection, and thus a big item of expense was rendered of no avail.

A good share of the morning was spent in a legal scrap, but in the afternoon A. C. Rich, R. C. Libbey, John F. Norris, Chas. W. Johnson and Gen. Wm. G. Le Duc swore that Donnelly's reputation for legislative and political integrity was bad. Daniel Bassett sworn that it was good, and others will be called to say the same thing. Mr. Donnelly will also go on the stand today in his own behalf.

That the whole community is greatly interested in the case was again shown yesterday by the fact that the court room was crowded almost to suffocation by people of every degree. There were many gray haired men present who have personal recollections of the important events in the history of the state that are recalled by the case and have a part in the testimony. It was remarked by several prominent men in the audience that the like of this case is seldom seen in the fact that the witnesses out-class the attorneys in prominence and shrewdness and in the attention of the spectators. This case has brought out as witnesses Col. Wm. S. King, Gen. Le Duc, Chas. W. Johnson and the only Ignatius, who are far too much for the attorneys in repartee, and whose keen intellects grasp the force and effect of a question and enable them to answer so as not to appear to say what they do not intend to say.

Judge Lochren again occupied the bench with Judge Hooker and the two held frequent consultation on the fine points of law relating to the admission of testimony raised by the attorneys.

A LEGAL BATTLE.

The Forenoon Spent in Arguing Objections
and Citing Law.

Promptly on the opening of court Mr. Squires offered in evidence the report of the committee that investigated the anonymous letter to Hon. Wm. M. Springer.

Mr. Wellington objected to the report as being incompetent and immaterial. It could only be relevant under the third defense of the answer—that the letter is a portion of the United States records and therefore privileged—but he did not think even this would make it relevant. To make the report of the committee relevant it must appear, argued "Cy," that the letter was published as a fair and impartial report, without malice, of a legislative or judicial proceeding.

Little Mr. Squires contended that the report is competent in three aspects of the case—under the plea of privilege; under the charge that a certain man [Findlay] wrote the anonymous letter and in mitigation of damages.

It then appeared that a copy of the paper containing the King letter had not been introduced in evidence and the report was dropped for a moment while Managing Editor Cowles identified a copy of the Pioneer Press of Feb. 16, 1891. The paper was then offered in evidence and received without objection. The introduction to the King letter alluded to the investigation by the committee; the charge that Charles Johnson or Bill King wrote the anonymous letter, and that King wrote this letter in reply to the charge.

Mr. Squires then continued his argument in support of the admission of the report, talking mainly on the theory of privilege. He stated that the report fixed the authorship of the anonymous letter beyond question.

In reply Wellington remarked that he did not like to charge opposing counsel with unfairness, but his duty compelled him so to do. The statement before the jury that the report fixed the authorship of the letter he pronounced unfair and made with a purpose. The report is a divided one and only a part of the committee pretended to fix the

authorship. He touched up Mr. Squire's arguments and concluded that the report is not admissible on any ground.

Judge Flandrau felt impelled to say something in favor of the report and cited the 1890 volume of Nowell on defamation and libel, Sec. 144, which says that not only a fair report of a legislative or judicial proceeding is privileged, but the report of the doings of a legislative committee, though the matter therein be libelous. * This, he said, is the law and a digest of all the decisions. Judge Flaudrau stated that three of the committee found that Findlay wrote the letter, two thought he did and that King did not, and two did not know who wrote it.

Mr. King misunderstood the judge, thinking he said that two thought King wrote the letter, and got on his feet to correct the judge, with the permission of the court. Finding his error, he begged the pardon of the court, saying that he only desired to be set aright.

Mr. Squires then cited some recent English and American cases, showing that fair reports of all legislative and judicial proceedings, even ex parte legal proceedings, are privileged. New York and Massachusetts cases were cited to show that report of church and medical society proceedings are privileged and libel will not lie unless express malice is shown.

Judge Flandrau then called the attention of the court to the fact that this is a government of the people for the people and by the people and that the freedom of speech and of the press must not be repressed. He argued that any paper or any speaker on the stump has a right to quote the letter in issue.

Wellington had something farther to say and did not propose to be beaten out of his last speech. He had no contention with the law

* The text of Martin L. Newall's *The Law of Libel and Slander in Civil and Criminal Cases* (1898) is posted in the "Libel and Slander" category in the Archives of the MLHP.

quoted. That is all right but he recognizes the difference between liberty and license of the press. He argued that the article itself on the King letter did not purport to be a report of any legislative proceedings. It was only a portion of the proceedings published long years after the matter to which it referred had been settled.

Judges Hooker and Lochren consulted for a few moments on the question at bar, the older judge stroking his whiskers contemplatively. Judge Lochren announced that the report of the anonymous letter committee would be admitted in mitigation of damages if it be followed by proof that Mr. Donnelly made the letter public by giving it to the committee. Mr. Wellington took his exception and offered to stipulate that Donnelly gave his letter to the committee for the purpose of comparison only. The other side wanted Wellington to stipulate that Donnelly offered the letter to the committee for all purposes.

"I'll stipulate nothing of the kind," said Wellington emphatically.

He then raised the point that the report of the committee cannot be read to show that Donnelly gave the King letter to the committee, but that that fact must be shown by other proof.

Mr. Squires cited the United States statutes to show that records of congress are proof in all United States courts, and the Minnesota statute to show that all records that are proof in the United States courts shall be received by the state courts.

Judge Flandrau suggested that records are kept for the purpose of perpetuating facts and must be received in evidence, or, after the generation has passed away, the facts cannot be proven."

Mr. Wellington argued again that the records of congress go no farther than the records of a court and cited the fact that a bill of exceptions is not conclusive as to the evidence in the case. He also contended that the report is not certified to as a correct report. Judge Lochren remarked that there is an obvious difference

between the report and a bill of exceptions and the report must be admitted, the objections being overruled.

"Cy" then asked if the ruling included the findings of the committee as to who wrote the anonymous letter and the court stated that conclusions of the committee are not evidence. The defense stated that they have other expert testimony as to who wrote the letters.

[It was remarked by attorneys in the audience that the admission of the report settles the case in favor of the defendant.]

Mr. Squires then offered to read from the report Mr. Donnelly's testimony before the committee, but the court thought that was going too far. The report may be used to show that Donnelly was there and did certain things. Wellington did not object to certain parts and Mr. Squires read that Donnelly put in evidence the King letter that Bradley T. Johnson, one of Donnelly's counsel, spoke of the letter as being a part of the record, and that the chairman of the committee ordered it photo-lithographed as such record.

He also read from the testimony of Expert E. B. Hay that three letters from King to different persons were examined by Hay with the anonymous letter also from Expert Starkey to the same effect. The testimony of several other experts to the same effect was read, but none of the opinions of the experts as to authorship was admitted.

Mr. Squires offered the photo-lithographic copy of the anonymous letter and envelope and stated that it would be followed by photo-lithographic copies of letters from H. H. Findlay for the inspection of the jury.

Wellington objected on the ground of incompetency. It has not been shown that the photo-lithographs are exact copies, or that the exhibits attached to the report are photo-lithographs. "Cy" also said that he knows something about photo-lithography, and he has a right to examine the man that made the photo-lithographs to find out

how they were made, whether the stone retained its sharpness, and all the details of the job. The court sustained his objection.

Continuing with the report, Mr. Squires introduced more testimony to show that Donnelly offered the King letter to the committee. He then offered to read the depositions of the experts in handwriting on the authorship of the anonymous letter. Wellington objected on the ground that the comparisons of the experts were made of the photolithographs and not of the original letters.

Mr. Squires admitted the statement, but contended that the photolithographs are correct and were used by the committee during the investigation. The depositions were not admitted, Wellington's objections being sustained.

To save the point in the record, Mr. Squires offered to prove by depositions of D. T. Ames, Jos. Gaylor and A. S. Southworth that the anonymous letter was written by H. H. Findlay, which was, of course, excluded, and he took his exception,

HE DID NOT KNOW.

John Lathrop Disappoints the Attorneys for the Defense.

John Lathrop was then sworn and stated that he is 59 years old and has lived in Minnesota since 1856. He is a farmer but was a member of the legislature in 1869 when Ramsey, Donnelly and Wilkinson were candidates for United States senator. He had many conversations with Donnelly at that time concerning his (Donnelly's) candidacy.

Wellington objected to the witness testifying concerning any of the conversations unless they referred to the Clark or Dana King matters as those two items are all that is set up in the answer.

Mr. Squires contended that there is a general charge of bribery that the testimony of the witness would be material to. He admitted, however, that the item that Lathrop would testify to is not set up in the answer and he might have to ask leave to amend.

Capt. Hart tried to convince the court that the rule is more general than intimated by the court, but did not succeed and the objection of Wellington was sustained.

Mr. Squires then asked leave to amend. Wellington asked the nature of the amendment and Mr. Squires said that it was to the effect that Donnelly offered Lathrop a position under the government, if elected, if Lathrop would vote for him. Also that Donnelly told Lathrop he had made offers of money and position to others and there was no reason why Lathrop should not speak up and got a share. The amendment was not permitted and Mr. Lathrop, in reply to questions, stated that he first met Donnelly in 1861 or 1862.

"Have you known what Mr. Donnelly's general reputation has been in this state since 1869 for legislative and political integrity?" asked Mr. Squires.

Wellington objected to the question, on the ground that it should relate to the general reputation of Mr. Donnelly.

Mr. Squires contended that it was only Mr. Squires contended that it was only Donnelly's legislative and political integrity that was in question. The objection was overruled and the witness answered:

"I don't think I do."

Witness has had no political relations with Donnelly since 1869, but has been connected with the Alliance, so called, for five or six years. He has associated with Donnelly to some extent during this time.

HOT SHOT FOR DONNELLY.

Several Witnesses Testify That His Reputation Is Bad.

A. C. Rich has lived in Hastings since 1856 and has known Donnelly since 1857. He lives about three miles from Donnelly, and was a member of the legislature in 1873. He knows Donnelly's reputation for legislative and political integrity.

"What has been his reputation in that respect?"

"It has not been good."

On cross-examination he said that he is a friend of Mr. Donnelly, and is not his political opponent. He first heard Donnelly's reputation discussed 15 or 20 years ago, and heard it discussed every time he has run.

"He ran for state senator last fall, didn't he?"

"Yes sir."

"And was elected almost unanimously?"

"Well, he got quite a vote."

R. C. Libbey has also lived in Hastings since 1873, but has been in the state since 1854. He knows Donnelly well and lives but three miles from him. He also knows Donnelly's reputation on the points mentioned.

"What has it been?"

"It has been bad."

On cross-examination he said that he was one of the best supporters Donnelly had up to two years ago. He did not believe the

reports against Donnelly until he found them to be true. He was beaten last fall by Donnelly by about 300 majority.

John F. Norris has lived in Hastings since 1858 and has known Donnelly since '59. He also knows Donnelly's reputation on the points named.

"What was it?"

"Doubtful and uncertain. It was hard to place him or to know what his convictions are."

"What was his reputation for political honesty?"

"Doubtful and bad."

"You and Donnelly were rival candidates before a convention once?" asked Wellington.

"Oh, that is ancient history. We were rivals a good many years ago."

"And he beat you?

"Yes, sir."

"What you mean to say is that he goes from one party to another, is it not?"

"Yes, and that he does not always follow his convictions these changes."

STILL THEY COME.

C. W. Johnson and Gen. Le Duc
Take a Shot at Donnelly.

Chas. W. Johnson carried his cane and nose glasses to the witness box to state that he is 42 years old and is chief clerk of the United States senate and was secretary of the state senate from 1873 to

1878 and again in 1880. He knows Donnelly, and has since 1867 or 1868, and knows his reputation for legislative and political integrity.

"What has it been?"

"Well, it has been bad."

On cross-examination he stated that he was secretary of Washburn's campaign committee against Donnelly. He thinks Donnelly is an enemy of his.

"You are such a Christian that you can say you are a friend of his?" asked "Cy."

"Every one that knows me can verify that."

He said that he is the C. W. Johnson that was referred to by Donnelly, with Bill King, as one of the probable authors of the anonymous letters. In forming his opinion of Donnelly's reputation he considers the consensus of opinion.

Gen. Wm. G. Le Duc was recalled to say that he also knows Donnelly's general reputation for legislative and political integrity and that it is bad. He speaks from what he has heard people say and what he reads in the newspapers. He hears at Hastings nearly every day that Donnelly's political reputation is bad. In 1881 he canvassed the district against Donnelly.

"Your feelings of pity sprang up about the time he opposed your actions on the Hastings & Dakota railroad?" queried Wellington.

"About that time."

"Isn't it a fact that you sold your Hastings & Dakota stock to Oakes Ames so he could transfer it to the Milwaukee Company and beat the Hastings people out of their subscriptions and didn't Mr. Donnelly take you to task for so doing and wasn't that the cause of your ill-feeling to Mr. Donnelly?"

"That is wholly false and untrue.

The general wanted to explain the transfer of stock but was not allowed to do so by the court and the defense rested with the understanding that John J. Rhodes may be called on reputation when he is able to get out.

HIS SECOND INNING.

Donnelly's Rebuttal Is Set to Grinding by "Cy."

By way of rebuttal "Cy" offered a copy of the St. Paul Press for Feb. 16, 1875, containing a purported letter to Donnelly from one Schmoele and copied from the Philadelphia Press.

The other side objected that the letter was a clipping and was not addressed to the St. Paul Press and is not proven to be a genuine letter.

"Cy" claimed that it is competent as showing that the charges against Donnelly were not true and that the paper retracted them.

Mr. Squires stated that all the retraction there was is the statement that if the statements in the Schmoele letter are true some of the charges against Donnelly are not true. Also that the St. Paul Press and Pioneer Press are two different corporations.

The court sustained the objection, and "Cy" made his offer to prove what he had stated in his argument, and that the Schmoele letter and editorial comments related to the El Paso matter about which Gen. Le Duc testified, and that the defendant knew the charges concerning the El Paso matter were false when they were pleaded. It was excluded, and "Cy" called Mr. Wheelock to the stand to show that he, Wheelock, was the editor of the Press, and is now the editor of the Pioneer Press, which succeeded the Press. Mr. Wheelock did not know that the old files of the Press are kept by the Pioneer

Press, but knows that a new corporation was formed for the Pioneer Press and that the directorship is different.

"Cy" then offered a letter to the Press from Donnelly in 1874, and one signed by several persons to show that the charge concerning the Hastings &, Dakota railroad were known by defendant to be false. It was ruled out as incompetent.

Daniel Bassett was then sworn in rebuttal and said that he is 70 years old and has lived in Minneapolis 36 years. He knows Donnelly, W. S. King and Dana King, and remembers the senatorial campaign of 1869. He was at St. Paul during that campaign and knew Chas. H. Clark's position toward Donnelly, but not Dana King's. Mr. Clark was a supporter of Donnelly, he told witness.

On cross-examination he stated that he was a member of the legislature at that time, but only knew of Clark's position from what Clark said.

HASTINGS & DAKOTA AGAIN.

Secretary Lang Talks About Donnelly's Stock.

Chas. H. Lang came next. He is nearly 60 and has lived here since 1862. He knows Donnelly and Le Duc, and was secretary of Donnelly and Le Duc, and was secretary of the Hastings & Dakota Railroad Company when Le Duc was president. He was asked if Le Duc ever laid before the board of directors a proposition to give Donnelly \$10,000 worth of stock.

It was objected to for the reason that there was a large amount of talk had by the directors that Lang did not hear.

The objection was overruled, and Lang said that he could recollect no such thing. He recollected that Donnelly was given receipts for

assessments on \$2,500 of stock. He did not think Donnelly ever got a certificate of stock.

A letter from him to Donnelly was identified and from it he stated that he sent Donnelly \$125 as a balance due him and hence Donnelly must have had \$125 to his credit. Donnelly never called for stock and no stock was ever issued to anybody.

On cross-examination he stated that all measures were talked over by the directors before the meeting was called to order and he did not hear the talk.

Donnelly's Reputation Good.

Mr. Bassett was recalled to say that he knows Donnelly's reputation prior to Feb. 16, 1891, in the state and especially in Dakota county for legislative and political integrity.

"What was that reputation?"

"I think it was as good as that of any other public man."

He said that he had been postmaster, member of the legislature, county commissioner, and has held other minor offices. He has been a supporter of Donnelly.

E. B. Allen and Jay Bassett were not in the room and court adjourned to 10 a. m. today.

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Day 4.

Minneapolis Journal
Saturday morning,
October 24, 1891, at 1.

In this issue the evening *Minneapolis Journal*
printed three drawings of the lawyers.
They are enlarged.



JUDGE FLANDRAU'S CLINCHER.



MR. WELLINGTON WARMS TO THE SUBJECT.



DONNELLY AS AN ART STUDY—AS PAINTED BY
DIFFERENT ARTISTS.

<>==<>==<>

Minneapolis Tribune

Saturday morning,
October 24, 1891, at 1.

<>==<>==<>

THE FINAL TWIST.

**Eloquent Attorneys Will New Take
Few Parting Shots at the True Men.**

**Who Are to Decide How Much Pioneer
Press Money Ignatius Donnelly
Shall Have.**

**Lots of Breezy Testimony Brought 1\$
at the Finish—Donnelly Waxes
Warm.**

**Says a Certain Charge Is One of
King's Fabrications and Savors
of Hell.**

The testimony in the big libel suit is all in and the arguments to the jury will commence at 9:30 o'clock this morning. Speculations on the verdict are now in order and were very numerous last evening. One prominent attorney expressed the opinion of a considerable number in saying that he is afraid that Donnelly will get a small verdict. The weight of evidence is against him, though it is not as strongly against him it might have been under other circumstances. Still the Pioneer Press people have made a good case.

"But," said the lawyer, "there was a large part of the testimony that the majority of the jury paid no attention to, and possibly could not

comprehend if they had, and, as Wellington has the last speech, I am afraid that he will carry the jury with him."

There were others that were of the opinion that Capt. Hart builded well in getting G. A. R. and S. of V. men on the jury and that this will bring a verdict for the defendant or a disagreement

The interest in the trial grows from day to day and yesterday the court room was more densely crowded, if possible, than the day before. Sheriff Swensen was kept as busy as a hen trying to cover two broods of chickens, during the early portion of each session of the court, in looking after his deputies and seeing that nobody but those entitled so to do got within the bar of the court and that every one found a seat as far as possible by close crowding. Yet there was an overflow in the standing room part of the room, and in the hall and anteroom at the front and rear.

Bill King was on hand in good season and thereby hangs a little tale. Bill came out of the Bank of Commerce Building about 15 minutes before time for court to open and just as a Bloomington car had passed on Fourth street. Bill is no chicken, nor is he a feather-weight, but he settled his hat down tighter on his head, grasped his cane by the middle and started for that car, notwithstanding it had a good fifty yards the start. The car did not stop. It was not running 20 miles an hour, and Bill ran like a quarter horse. He caught it at the Second avenue crossing. As he sprang aboard he said, amid pants: "I'm nearly a hundred years old, but I can beat Tom Lowry's street cars yet."

Yesterday's proceedings brought John J. Rhodes to say that Donnelly's reputation is not good, and Joel Bassett, Harvey Gillett, James Bell, J. B. Lambert and Robert Eckford to say that it is good. The only Ignatius denied all the testimony against him and squeezed in a number of stump speeches and venomous remarks concerning his accused's. Bill King and Gen. Le Duc also had something to say of interest. Judge Lochren again sat with Judge Hooker for consul-

tation on knotty law points, and the young juror with the plastered dark hair and curled mustache continued to industriously chow gum and gaze around the audience all day.

As court adjourned for dinner W. H. Eustis said to Col. King, by way of joke on Donnelly's statement that King, put his arm around his (Donnelly's) shoulders affectionately. "Bill, can't you put your arms around me?" "Yes," replied King, "It's a wonder he didn't say that I kissed him."

DOWN ON DONNELLY.

John J. Rhodes Knows the Sage to Be Bad.

John J. Rhodes was called for the defendant. He is 54 years old, has lived at Hastings for 25 years and known Donnelly all that time.

"Have you known his reputation for legislative and political honesty during that time?"

"Yes, sir."

"What has it been?"

"I can't say that it has been good."

On cross-examination he denied being an enemy of Donnelly, though Donnelly has charged him with offering him \$100,000 to sell out to Jim Hill. Rhodes used to support Donnelly, but has not lately. Those charges have no effect on witnesses' testimony for he doesn't regard them as of any weight.

Mr. Squires, on re-direct, asked: "Did you ever offer Donnelly \$100,000?"

"I did not."

Wellington then asked: "Mr. Rhodes did you not in 1887, on Third Street, St. Paul, say to Mr. Donnelly, 'Now Donnelly you have been a d -n fool all your life, and might as well make some money now. Go with me to Jim Hill and we will arrange to sell out this Alliance movement?"

"No, sir, I never had any such conversation with Donnelly."

Mr. Rhodes was then excused and Wellington obtained permission of the court to present authorities on the question of the St. Paul Press and the Pioneer Press being practically the same paper which was ruled out Thursday. Judge Lochren, however, knocked him out on the argument as Mr. Wheelock where he claimed made the connecting link, was not in charge the night the publication complained of was made and "Cy" subsided.

NOW DONNELLY IS ALL RIGHT,

Old Hastings and Alliance Men
Say He Is Pure

Joel Bassett was called for the plaintiff and stated that he has lived in Minneapolis since 1853 and has known Donnelly since about 1855.

"Do you know Donnelly's reputation for honesty and probity?" asked Wellington.

Objected to and ruled out.

"Do you know his reputation for legislative and political probity?".

"I do."

"What has it been prior to 1891?"

"Good."

On cross-examination he stated that he has been a supporter of Donnelly, but never had the pleasure of voting for him except when he ran for congress. Donnelly ran on the Republican ticket. He did not think he had voted for Donnelly since, because he had not been in his district. If he had voted when Donnelly ran against Washburn he voted for Donnelly. Witness was United States Indian agent in 1866-7-8, while Donnelly was in congress. Donnelly had nothing to do with witness' appointment but was working for Edwin Clark's retention Bishop Whipple recommended Mr. Bassett.

E. B. Allen swung an ivory-bonded cane in the witness box as he stated that he used to live at Hastings and was a director of the Hastings & Dakota railroad and one of its executive committee when Le Duc was president. He was asked if Le Duc ever demanded \$10,000 or \$5,000 in stock for Donnelly and replied that he had no recollection of it. He remembered something about a resolution allowing Donnelly to subscribe for \$2,500 in stock, but knows nothing about the \$1,000 resolution. His recollection is Donnelly subscribed for the stock the same as others did, and that all stock was assessed at 5 per cent. Wellington asked what became of the stock finally but the matter was ruled out as immaterial.

On cross-examination he stated that he had no recollection of \$1,000 being voted to Donnelly, but he did recollect the voting of \$2,500 in stock to Donnelly. [Witness kept his eye on Donnelly almost all the time in an inquiring way while testifying.] He was shown the record book containing the resolution giving stock to Donnelly and was asked to find the record of such a transaction with reference to any other of the 40 or more stockholders. He could find none.

During this, as well as all the other testimony on any business matter, but three of the jury paid any attention or seemed able to understand it.

Harvey Gillett has lived in Hastings since 1861, and known Donnelly all that time. He also knows Donnelly's reputation as a legislator and politician for integrity, and that it is good.

On cross-examination he stated that he has been a farmer for six years, and before that was a merchant for 15 years. He came to Minnesota a Democrat and became a mugmump or independent when Lincoln was elected the second time. He has voted the National ticket twice and is now an Alliance man.

James Bell was also in the procession. He is 55 years old and has lived at Hastings 27 or 28 years. He has known Donnelly all this time and knows his reputation as a legislator and politician to be good. He never had much to do with politics, but looked after his sash, door and blind business. He knows nothing about the Hastings & Dakota railroad and never visited the capitol of the state.

J. B. Lambert also lives in Hastings. He is 46 years old and has been at Hastings 26 years, knowing Donnelly over 20 years. He was once mayor of Hastings and knows Donnelly's reputation as legislator and politician.

"What was that reputation?"

"Excellent. He was and very popular in Dakota county and his nomination is generally equivalent to an election."

On cross-examination he stated that he considered that Donnelly's election to office so frequently is evidence of his purity.

Robert Eckford was also in line. He is 41 years old and is agent for three Alliance insurance companies but has never traveled out of Hastings to any extent. He knows Donnelly's reputation as a legislator and politician, however, and that it is very good.

On cross-examination he stated that he first met Donnelly when 11 years old in his father's tailor shop in St. Paul. His correspondence and associations are confined to Alliance men and farmers.

Donnelly is president of the Alliance and of one of the insurance company's (sic) of which witness is secretary. Donnelly is also a director in another with witness.

RICHARD IS HIMSELF AGAIN.

Ignatius Waxes Wroth and Says Some Hard Things.

The audience then straightened up in the seats and stretched their necks as the only Ignatius went to the witness box with a large bundle of papers in his hand.

Mr. Donnelly said that he has known W. S. King since 1859 or '60, and that in 1866 he, Donnelly, was elected to congress, and Mr. King, while professing to support him, treacherously — Here Capt. Hart objected strongly, and insisted that Mr. Donnelly confine himself to the questions.

Judge Flandrau suggested that Donnelly was too eloquent to be permitted to make stump speeches.

Donnelly then stated that he and King were friendly prior to '67, and in that senatorial campaign King was to support him under all contingencies. Dana King was also pledged to support him. But Donnelly was never voted for senator.

"I withdrew," he said, "for I discovered the night before that Mr. King—

"Wait. Wait." I object," shouted Capt. Hart and Mr. Squires.

Donnelly continued:

"I had an interview with W. S. King in my bedroom during that campaign. I did not offer him a cent or a farthing. I had not \$3,000 in cash though I had more than that in property."

"Did you offer to give him \$3,000 for his brother Dana?"

"It is an absolute and unjust lie, made out of whole cloth."

He was then asked what did occur and replied:

"Soon after I reached the hotel Mr. King came in and I greeted him with great warmth. I asked him into my bedroom and we sat on the bed. He put his arm around my shoulders very affectionately and asked me to tell the whole situation. I was fool enough to unbosom myself and tell him all I knew. He told me that Dana and Clark were all right and not to pay any attention to any contrary reports. He came in several other times and seemed to be very earnest in my behalf. Regarding him as a famous politician and my friend. I always took him into the bed room every time he called for a private talk."

"Was there any conversation such as he testified to?"

"Not a word of that kind ever was spoken."

Mr. Donnelly produced letter from Dana King, written July 29, 1867, and said:

"In the fall of 1868 I had a conversation with W. S. King in Washington and he asked if I would make his brother Dana surveyor-general if succeeded in the senatorial fight."

Wellington offered to read the letter but it was ruled out as immaterial and too remote to W. S. King's testimony.

"Did you ever promise to appoint any friend of King's?"

"I repeatedly declined to do so."

Coming to the Clark matter, Donnelly said:

"I wrote Clark several letters demanding the return of \$500. I had loaned it to him during the congressional campaign of 1868 as one friend would loan money to another. I did not loan it to him for any

service he was to do me. After my congressional term expired I wrote him threatening to sue him as I was pinched for money. I did not sue him for I could not collect,"

His attention was called to the \$2,500 draft from C. P. Huntington through King, and he said that no such thing occurred nor anything like it.

"I can only recall one or two occurrences of money between King and myself," he said. "Once I opened a letter in his presence. It contained a draft for some wheat I had sold. It was a small amount, \$400 or \$500, and he said jokingly, that I had better divide. Again I received a draft on King for money he was owing a bank, but he did not pay it and I sent it back."

"Did you tell King to take a \$2,500 draft and get the money and divide?"

"Nothing of the kind. I would not trust King with such a draft."

Donnelly knows C. P. Huntington and that he is alive, "Cy" offered to show that Donnelly stipulated with Mr. Squires to take Huntington's deposition but it was ruled out.

"Do you know Wm. G. Le Duc?"

"I am sorry to say I do."

He then stated that he subscribed \$2,500 to the stock of the Hastings & Dakota railroad long after the land grant was paused and paid 5 per cent assessment on the stock. He voted for the land grant and was the means of carrying it through congress, but had no promise of present or future reward for so doing. He would be the merest fool to do so as it would blacken him in his own home.

"Mr. Le Duc asked me to take some stock as he asked everybody that had any means. I was in congress at the time and had some means from my salary. I did not expect to pay for it as we expected to borrow the money to build the road. The Hastings people had no

money to build the road and were in a state of impecunity and I would be not only a rascal but the veriest fool in this Western country to demand \$10,000 of a local enterprise. I took Mr. Le Duc to Oakes Ames, who did not know him from a side of sole leather, and my persuasion got Mr. Ames to take an interest and stock in the road."

"Le Duc says that when you could not get \$10,000 you asked for \$5,000.

"This is simply a lie and worthy of the author of it. That \$125 was my own money returned to me, and I never got a cent out of the road, though I promised an immense amount of labor for it and traveled all over the country trying to save the road from the grip of that man Le Duc. Oakes Ames owned half the stock and the citizens of Hastings the other half. Le Duc had his name down for \$10,000. The rupture between me and Le Duc occurred in 1868."

He was then asked the occasion of the rupture, but the other side objected to it as immaterial and something that Le Duc was not permitted to go into. The objection was sustained.

Continuing the Hastings & Dakota matter, Donnelly said:

"The road was turned over to the Milwaukee Company by the Ames interest. I had two or three talks with Le Duc concerning the Hastings & Dakota road. It was after my career as congressman closed."

Many of the stockholders gave me a power of attorney to sell the road to the Lake Superior system. There was a clash of views between me and Le Duc. Before that I had not a warmer supporter in the state than he. He was not cold to me over the El Paso matter. I have no recollection of any conversation with Le Duc in Washington about getting a good thing out of the El Paso road—\$50,000 and \$200,000 stock—and I don't think I ever had it. I was not the

possessor of any stock in the El Paso road prior to the passage of the right of way resolution for the road."

"Cy" read the resolution, and Donnelly continued:

"I voted for the resolution, but I was not promised or given anything for my vote. I do not remember meeting Le Duc in Washington in February or March, 1869. To the passage of this bill there was no objection, and after its passage the president of the company. Gen. John C. Fremont, and the treasurer, Mr. Shmoele, of Philadelphia. asked me what I was going to do when my term ended, I having been beaten for re-election. They asked me how I would like to act as attorney of the company before the next congress. I told them that that would be all right if the compensation was all right. They asked if I would be willing to come to Washington during the next congress and act as attorney before committees. They alluded to the big grants to Pacific roads and said they would like to get up a combination in favor of the South. They had no money but would give me a due bill for \$50,000 to be paid if the company got a subsidy. I said that was no good for there was no security and they said they would give me \$200,000 of stock in hand as security. The stock was worth nothing but the big contingent fee looked tempting to a young man and I asked if they could pay my hotel bill. They could not, but I stayed for a month. The whole thing went to pieces, John C. Fremont's brother being arrested in Paris and I never received a cent for my time or the money I paid out for hotel expenses. My recollection is that I was poor and wrote them all kinds of letters to get back the money I had paid out for them. Of course, it is some years ago and I can't say exactly, but I think I went to Shmoele in Philadelphia and gave him back the stock and due bill."

His attention was called to the first publication of the King letter in 1880 and he said:

"I never gave the letter to anyone for publication. I did show the letter to Mr. Hay and the president of the bank note company to compare the writing with that of the anonymous letter, and for no other purpose. I submitted it to the committee for the same purpose on my belief that Bill King wrote the anonymous letter. I stated that I did not wish it published for it was a lengthy screed of foulness and falsehood. I never copied it for any purpose, for I would not soil my hands with such smut.

"When the letter was published as a campaign document, I was a candidate for congress in the Third district, the nominee of three parties. I instructed Mr. Brisbin to bring suit and he did, but the paper demurred to the complaint as drawn by Mr. Brisbin and it was thrown out with the privilege of amendment on payment of costs. But I was too poor to pay and the suit failed. I have always been poor until recently, when my books have furnished me \$30 to \$100 a week."

He was asked concerning John J. Rhodes, and he said that Rhodes usually supported him politically, but they were never friends. "Cy" offered to show by Donnelly that Rhodes proposed to Donnelly to sell out the Alliance to Jim Hill and that Donnelly abused him for making the offer, but it was ruled out as immaterial.

DONNELLY WEEPS.

**The Sage Allows the Tears to Flow, Over
His Poverty, Presumably.**

Donnelly then let several tears run down his fat cheeks and fill his eyes, and was turned over to the defense for cross-examination. Mr. Squires took him back to the King interview, asking:

"Didn't you tell King there was \$3,000 in the package?"

Donnelly replied, with a smile: "Oh, no, not a penny; there was no occasion to pay a man that would vote for me."

He admitted that it would have been a good thing for him to have had some of the prominent legislators come out for him before the caucus. He did not think Wilkinson was a candidate until after he, Donnelly, withdrew.

"You withdrew just before the caucus?"

"Yes, I think so. I saw it was a battle of greenbacks, and had none to fight with."

Concerning the Clark matter, he said:

"I loaned a man who was my active supporter \$500 to tide him over a temporary embarrassment.

"Now Mr. Donnelly isn't it a fact that Mr. Clark sent you a \$500 advertising bill, saying, 'this makes us square?'"

"That is a fabrication of King's fertile brain, and savors of hell."

"Now, Mr. Donnelly, how many houses were there in Nininger when you say you could have sent the Hastings & Dakota road there?"

"Not as few as there are now I am sorry to say."

"Hastings was bigger than Nininger wasn't it?"

"Yes, and bigger than it is now, thanks to Le Duc."

Considerable time was then spent, without effect, to show how much stock was covered by Donnelly's power of attorney. He could not say when he introduced Le Duc to Oakes Ames but thought it was in 1866-7 or 8. He admitted that there were two or three other schemes for Southern railroads fighting the El Paso group and that the latter got their resolution through during the last days of the session. All the schemers wanted a subsidy and it was thought that the right of way would be a long stop towards it. Mr. Donnelly did

not know that it was charged that Dr. Shmoele distributed \$20,000,000 of El Paso stock among congressmen.

"Did you over see published a resolution of the El Paso Company confirming the giving of a \$50,000 due bill and \$200,000 in stock to you?"

"I am not sure, but it seems to me that I did see it some years ago."

Mr. Squires then read the resolution dated in April, 1869, stating that the due bill was to be paid from the Paris loans and Donnelly was to work for a consolidation of the company with the Northern Pacific to get subsidies.

Mr. Donnelly thought he saw the resolution in the St. Paul Press and that he made an explanation on the floor of the state senate in reply to the attacks of the Press.

"Did you state to the legislature that there was no truth in the statements of the resolution but that after your talk with Fremont you found the stock of the company to be worth nothing and you had nothing further to do with the company?"

"I remember no such matter and I think that report was as badly garbled as some that you have sent out of the proceedings here."

The original King letter was taken up, and Donnelly said that the letter was in his possession or that of the experts he submitted it to before the committee met. He thought that the action he brought before through Brisbin was in 1884. He thought that the King letter was in his complaint, but would not swear to it.

"I told Mr. Brisbin to bring in the whole villainous lot of abuse and lies from time down to eternity."

"It must have been a long complaint, then?" queried Mr. Squires.

"It was. There were many foul attacks on me that originated with Maj. Strait, were fathered by the St. Paul Press, and damned by the whole community."

"It was sorter damned by the court, too, wasn't it?"

"Yes, it got out of court by an error in the complaint."

"Because you could not pay costs?"

"Yes, sir."

"How much were the costs?"

"I think \$10. I could have raised that but I saw many similar ahead of me."

The sage was then excused and the plaintiff rested.

SUR-REBUTTAL.

Gen. Le Duc and Bill King
Take Another Go at the Sage.

Gen. Le Duc then returned to the stand and said:

"The statement made by Donnelly of the sale of the Hastings & Dakota road is absolutely fake. Half of the Hastings stock was sold to Oakes Ames and then he got a few more shares and it was his stock that went to the Milwaukee company. The difficulties of the company were settled up by issuing preferred stock to the Ames interest."

Mr. Squires offered a resolution passed by the stockholders in 1870, thanking the officers of the Hastings & Dakota road for their efforts in making the transfer of stock and approving the acts of President Le Duc and the other officers. It was admitted without objection.

On cross-examination Mr. Le Duc stated that he may have given Oakes Ames two shares of his stock to give him the controlling interest and that he (Le Duc) was the only Hastings man among the directors. Concerning the disagreement between him and Donnelly, Gen. Le Duc said:

"Donnelly told me he was going to Philadelphia to try and sell the Oakes Ames interest in the Hastings & Dakota road. He said to me 'you projected the road and I got the land grant. These other fellows have done nothing. Let's sell out the road and pocket the proceeds.' I did not like that and my friendship for him ceased."

Editor Wheelock was called to say what the former Donnelly suit was brought upon and said that the King letter was not in it and had not the remotest connection with it. It was founded on other matters altogether.

"Bill" King was recalled and his attention directed to Donnelly's statement about meeting him on the capitol steps and King's joking about dividing the draft. King replied:

"I thank Mr. Donnelly for partially confirming my testimony but I think he has got two stories mixed. I do not recollect such a scene as he describes."

Donnelly then went back to say that he can recollect no such conversation as Le Duc testified to about selling the Hastings & Dakota road and dividing the proceeds.

This closed the testimony and the jury was excused until 9:30 today.

SOME REQUESTS.

Judge Flandrau Has a Few
to Make of the Court.

Judge Flandrau then presented to the court requests to charge and stated that he will ask the court to charge that if the publication is privileged the verdict of the jury must be for the defendant; that if the jury find that Donnelly gave the King letter to the press and that there was no malice in the publication then the verdict must be for the defendant; if the jury finds that the charges in the letter are true then the verdict must be for the defendant; if defendant has failed to substantiate all the charges but has shown that plaintiff has been guilty of accepting bribes then the plaintiff can recover only nominal damages.

A brief argument on the charges was had by "Cy" and the ex-judge. Mr. Flandrau stated that he would argue to the jury that Donnelly gave the letter to the press for it was published the morning of May 4, the day it went to the committee, and, as Donnelly swears that it was in his possession, or that of his experts before it went to the committee, Donnelly must have given it out.

On the question of proving only a portion of the charges Wellington contended that it could not be given for the justification must be as broad as the libel.

Court then adjourned to 9:30 a. m. today, when Judge Flandrau will address the jury, and be followed by Mr. Wellington.

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Day 5.

Minneapolis Tribune,
Sunday morning,
October 25 1891, at 1.

<>==<>==<>

AN EVEN DOLLAR.

**Donnelly Can Have Only One of that
Hundred Thousand Dollars He
Called For.**

**It Took the Jury About Five Hours to
Arrive at This Little
Conclusion.**

**Forcible Addresses by Messrs. Flandrau
and Wellington Entertain
and Enthuse the Crowd.**

**Which Is So Big That the Floor of the
Old Court House Settled
Under It.**

The agony is over and the Hon. Ignatius Donnelly, sage, philosopher, author and politician can draw a draft on the Pioneer Press Company for \$1 and the costs has been put to in his libel suit, barring of course what he has to pay his attorney above the statutory fee, \$25. The case was on trial five days at a cost to the county of about \$500, and it ended at 9:25 last evening in a verdict of \$1 for the plaintiff. Mr. Donnelly soon after the rendering of the verdict said that he attributed the verdict to the King and Washburn influence and sentiment that prevails in Minneapolis and he is convinced that it was a mistake to come here. He will at once begin another suit against the Pioneer Press, based on an editorial of last March, in which he was charged with being an anarchist. The suit will be brought in St. Paul. He thinks that the jury men that voted for \$50,000 were very weak in the back to compromise on \$1 so soon. It was told him that some of the jury men thought he did not care for a large verdict and that \$1 and costs was as much of a vindication as

a larger would be and replied that the blockheads did not see that the Pioneer Press will say that \$1 is the measure of his reputation. He thinks that the court erred in leaving the question of his giving the letter to the Press and should have charged that there was not a particle of evidence to sustain that theory. He said that he thinks that King kept a copy of the letter and gave it to the Pioneer Press as King is an old newspaper man and was connected with the Pioneer Press about that time.

THE FLOOR SETTLED.

It is not often that the attorneys in a case jam wind enough into the large court room to crack the building, and in fact it is not on record that it was over done until yesterday, and unto the irrepressible Cy Wellington belongs that, honor. Some three years ago during the taking of evidence in the Barrett murder case, the floor in the center of the building settled somewhat and the throng had to be driven out of the court room and halls. But yesterday, while the eloquent Cy was in the midst of one of his strongest bursts, the floor settled three or four inches directly under his foot and the plaster over the head of County Auditor Ledgerwood cracked for a distance of 16 to 18 feet.

The room was literally packed with people and there must have been fully 600 persons present Deputy Sheriff Sanderson noticed the settling of the floor from below and spoke to Judge Canty about it. The judge saw that there was danger of the floor going down and injuring if not killing many persons, and at 4:15 p. m., he hastened up the back stairs and quietly notified Judge Lochren. The latter asked Mr. Wellington to pause for a moment and said to the audience: "Ladies and gentlemen you will pass out of the room and building as quietly and expeditiously as you can and ask no questions." The crowd knew that something was wrong and many thought of fire but, as no indications of it could be seen and there

was no other danger apparent parent, the people got out within a few moments and without a stampede. When but a couple of hundred remained, Judge Lochren directed the sheriff to admit no more and Mr. Wellington proceeded with his argument.

The court room was filled about 9, a.m., the members of the bar getting positions early so as to hear the speeches of Judge Flandrau and Wellington which were of more interest to them than to testimony. The people kept coming and crowding in and soon men were roosting on the window sills, the tops of the heaters and the backs of the benches.

Wellington showed up early with a clean shave so that there was nothing but his short mustache to impede the flow of his oratory.

JUDGE FLANDRAU SPEAKS.

He Says That the Issue is a Very Simple One.

It was 9:40 when Judge Flandrau arrived and Mr. Wellington presented his requests to charge: first, that the article is libelous and malice is presumed; that the article contains several charges and all must be proven to entitle the defendant to a verdict under the plea of justification; that the defendant has utterly failed to prove that plaintiff got \$5,000 from Richard Franchat and \$5,000 more from the Central Pacific Company for which he was called a double barreled swindler; also the charge of the authorship by Findlay of the Springer anonymous letter March 4, 1880. He also asked for a charge that the defendant had failed to show that plaintiff received a bribe of stock for getting the land grant for the Hastings & Dakota railroad; that plaintiff is entitled to damages for the loss of good name and in assuming damages the jury must consider plaintiff's condition in life and the effect the libel had on him and lastly that if

actual malice is formed then such further damages must be awarded as the jury deem just.

Judge Flandrau then remarked to the jury that this case is a very simple one. He went on to say that the time was when a jury could not be impaneled in Hennepin county but what he knew every face upon it. More than 35 years ago he sat upon the bench and opened the first court in this county. He was the first city attorney of Minneapolis and president of the board of trade and what property he has is invested here. He stated that Donnelly brought the case here to take advantage of the sentiment against the Pioneer Press and he is glad of it for the thing has turned around. The case has come to be a contest not between the plaintiff and defendant, but between Donnelly and Col. King, and he does not think that any Hennepin county people have a prejudice against Mr. King.

He then spoke of the old English rule that the greater the truth the greater the libel, so that neither press nor people dare speak if the crimes of public men. But this has all been changed and now it is the duty of every man and newspaper to make known everything about a man seeking public that goes to reader him unfit to hold that office. The judge referred to the time when Donnelly was a candidate for congress and supported by all parties, except Republican, which supported Mr. Washburn. He lauded the Washburn family for always being faithful to the party it had allied itself with. Mr. Washburn was elected by 3,013 majority over Donnelly. The election was as fair as any election could be but Donnelly contested it. Mr. Donnelly did not have any idea of showing that there was fraud, but he counted on the fact that the house was strongly Democratic and that Washburn was an anti-slavery man, and, therefore, abhorrent to the Southerners.

Donnelly is there every time when hypocrisy is needed and he was so smooth that he not the sympathy of Dan Manning, than whom there is no greater fire eater. The committee on the contest was composed of nine Democrats and five Republicans and Hon. Wm.

Springer was chairman. Donnelly succeeded so well in his charges that even the speaker, who has voted the straight Democratic ticket for 41 years without a scratch, did not know himself as a Democrat when he got to Washington

"Now I like a good healthy liar," said the judge, "but when it comes to bringing in this sneaking, sniveling hypocrisy it makes me tired." He then stated that Chairman Springer is an honorable gentleman and will not suffer a hint even of wrongdoing. Donnelly knew that Springer could not be bribed through Findlay, bungler that he was, would have went to him direct. But Donnelly was smarter and shrewder and he knew that would not do.

Wellington here objected that the judge was going out of the record, but the court overruled the objection, and the judge proceeded:

He said Donnelly knew Springer, and knew that the only way to help himself was to make Springer think Washburn was crooked. So he had the letter written to Mrs. Springer offering her \$5,000 if Washburn was seated. But Springer knew that the letter had not the earmarks of the Washburn family. He demanded an investigation at once, and the evidence that the letter came from the Donnelly camp was so strong that the contest did not get beyond the subcommittee, and Mr. Washburn held the seat to the end of the term. In order to show his teeth still further, and to further the villainous scheme he had concocted, Donnelly said that either Charley Johnson or Bill King wrote the anonymous letter. Now there were bushels of the handwriting of King and Johnson about Washington, but as soon as King heard that Donnelly wanted a specimen of his writing he was righteously indignant at the monstrous charge made against him, and he sat down and told Donnelly that he was a scoundrel from the ground up.

The judge then took up the claim of privilege for the reason that Donnelly gave the letter to the public. If Donnelly had torn up the

letter it never would have seen the light and there would have been no libel.

"If I should write Mr. Donnelly what I think of him." said the judge, "it would be a gross libel. That is, it would contain a lot of libelous matter, but it would be no libel between him and me."

The judge claimed that the publication was privileged because it was a part of the archives of the government. But for fear that Donnelly would quibble on this and claim that he did not put in it evidence before the committee for any purpose but comparison the judge would go farther.

"That," said the judge, "is the way he got into the Democratic party. He put one leg over the traces and kept the other in the harness so he could jump one way or the other as he thought would be the best for him."

But there is a stronger point of privilege, according to the speaker. Bill King kept no copy of his letter and Donnelly did not hand it to the committee until May 4, 1880. But on the morning of that day the Pioneer Press published it. It had been in Donnelly's custody and the correspondent could not have got it from anybody but Donnelly, for the correspondent got it May 3.

The judge cannot guess what object Donnelly had in giving the letter to the correspondent any more than he can tell the millions of the 10,000 wheels in Donnelly's head.

The case has narrowed down to question of credibility between Donnelly and King and Le Duc. Donnelly is as familiar as the man in the moon whom we see every night. Donnelly has been all things to all men, and you cannot find a man that knows him but has been a friend to him at some time. He is oily and smooth and he makes friends, but he doesn't keep them.

They say he has written five books. He wrote Atlantis, but the judge pronounced it rank plagiarism from the French. Donnelly's other

books were dissected as frauds and plagiarism from Bellamy and others and his Dr. Hueget and Sam Johnson is Donnelly's own autobiography. Dr. Hueget was a gentleman and Sam Johnson was colored chicken thief. Donnelly knows both characters well. *

"Why, Donnelly is so selfish and egotistic that he won't allow anybody to oppose him," said the judge, "and when he got out of office he started a party of his own. He has the gall of a Bengal tiger."

Turning to C. L. King, the judge said that he hoped some of the jury knew King so they could stand up in the jury room and say that King could not lie. King is almost the father of Minneapolis, and he has a larger heart than any of the bulls that he used to bring to Lyndale to improve the stock of the county.

The judge then assumed that Wellington will refer to the perjury charge against King and he referred to it. He said that King was one of the widest known men in Washington, and when the Pacific Mail subsidy investigation was on, King was a witness and sworn that he never received a cent of the money for any one. But it got noised about that he had been the trustee of a fund of about \$100,000 and he was indicted for perjury. When King heard that he was about starting on a pleasure trip, but he at once went to Washington and demanded trial. They put him off and finally dropped it. But King went to Canada, and the judge said he should be honored for so doing, for it put a period to his own ambition. King said that he would not go before that committee and give the names of the men for whom he held the fund in trust, as it had nothing to do with any government matter. Bill King sacrificed himself for his friends. Donnelly would have gone to Washington and testified to anything that would let him out. But King isn't that way. Donnelly can go on

* The text of Donnelly's *Doctor Hueget* is posted in the "Literature" category of the MLHP.

the stand and shed tears and he can swear to anything he thinks will help him. He swears here that he lives at Nininger and has always lived there. The judge said that the statement is true. Donnelly always has lived in Nininger. But when he ran against Washburn, he ran in a district that he did not live in, so when he got to Washington he swore before the committee that he lived in the village of Donnelly, which is in the Third district. The judge thinks that a man who will swear that way is entitled to no credence at all.

Judge Flandrau then took up the King-Donnelly \$1,000 interview in Donnelly's bedroom, and said that Donnelly hugged King.

Wellington called his attention to the fact that Donnelly said that King hugged him and the judge said that he didn't care. It was hugging and kissing, anyway but he did not suppose that Donnelly ever hugged anybody, man or woman. This caused Donnelly to smile.

The judge consider Mr. Donnelly's motive in the \$3,000 transaction, and said: "I can only speak of Donnelly's story as a damned lie."

On the question of motive the judge said that it is now to Donnelly's interest to deny all the charges against him, for if he admitted any of them it would drive him out of court. Then Donnelly's egotism is great that he even thinks he is a candidate for president. The judge said that Donnelly's ambition to be president is as absurd as his cryptogram.

He discussed the probability of the Clark matter and said that it is absurd to suppose, as Donnelly swears, that Donnelly loaned Clark \$500 without asking a word about his standing when Donnelly was so poor he could hardly support his family. Again, Clark would not make of an ordinary business loan to King and show him a letter asking the return of the money. No, Clark got \$500 from Donnelly for his vote; did not vote for Donnelly, and then showed the letter asking the return of the money to show the impudence of Donnelly.

On the C. P. Huntington letter with \$2,500 draft, the judge said that it was proven by the fact that Huntington was not called by Donnelly to deny writing the letter.

The judge discussed the Hastings & Dakota and the El Paso matters and said that it is significant that what Donnelly got in both cases what was called an attorney fee when he had done no local work. Such things have to be called attorneys' fees, for they cannot be called bribes, but the judge pronounced it preposterous to say that the El Paso gave Donnelly a \$200,000 retainer fee. It is common knowledge that the company gave \$12,000,000 of its stock to members of congress and we have learned where \$200,000 of it went to.

He concluded from all the testimony that Donnelly is without character and cannot be libeled. He referred to the fact that the letter was first published May 4, 1880 and that for four long years Donnelly did not feel aggrieved and did not ever deny the charges, to say nothing of bringing an action. It was again published in 1884 but Donnelly did not bring a suit upon it, though he tried to say that he had and was so poor he could not pay \$10 costs to give his case standing. The judge told the jury that a verdict for the plaintiff will drive Mr. King from the city with "perjurer" written in blazing letters on his brow, and Donnelly will be placed on a pinnacle of honor.

In closing the speaker warned the jury against the great eloquence of Wellington which rolls out of him like water from a spring and as freely for a common horse thief as anybody else. He told the story of Joe — who was approached in the early days with the statement "We have laid aside a couple of thousand in stock for you if this thing goes through," would say, "To hell with your stock, give me \$300." This man had more sense than Donnelly, said the judge, and if Donnelly had adopted the rule he would be in a better position today.

THE IRREPRESIBLE CY.

He Makes His Bow to the Jury and Speaks Effectively.

After dinner, Mr. Wellington made his bow to the jury and said:

"In presenting the closing side of this case, I feel that I stand at the close of a lifelong struggle, pleading for a justice that has long been denied us. Think for one moment of the elements that are in this case. What has called out this great concourse of people? What has brought out the best men, it is said, to watch this case?

"Something more than an ordinary libel suit. We are not here alone combatting the Pioneer Press. This struggle goes back to the early days of Minnesota. I would not say anything political, except that I am invited to this feast by the speech of the other counsel. He told you that he is a Democrat to catch the Democrats among you, and he was attorney for the Washburn family to catch the Republicans."

Cy then touched on the statement of Mr. Flandrau that he had voted the Democratic ticket 41 years, and said that when he thought of the four million slaves and the blood of the North soaking the soil of the South, he would blush to say he had voted the Democratic ticket without a scratch for 40 years. The ass might as well say that his ancestors had eaten thistles for a century without asking for a change.

"I have been a Democrat since 1874," said Cy, "but what has that to do with this case?"

He then charged that the whole plutocracy of the country is interested in this case. This power has got its grip on the country, as is shown by the history of the country, even down to the corrupt measures attempted to be pushed through our last legislature. This element never forgets a friend or forgives an enemy, and Cy expects to be under its ban from the remarks his duty compels him to make

in this case. He called on the jury to look at the men behind the Pioneer Press and opposed to Donnelly. This crowd has not said a good word for him for 35 years no matter what ticket he was on.

He referred to the wealth of the state, its virgin soil years ago, its pine forests stretching to the borders of Canada, and the incalculable mining wealth beneath the surface, and asked what has become of it? He then answered that the great many fine houses in Minneapolis, St. Paul and Duluth show that their foundations were laid in jobbery. He asked what pine land steal or mining job has Donnelly been connected with. Why, if there was anything in his career that they could hinge on they would have rung the changes on it for hours.

He then pointed to the array of eloquent counsel, and said:

"If there is a politician in the state on whom the money power has its grasp that has not been behind the counsel helping them, I want his photograph for the Dime Museum." [Applause!]

He stated that it had been charged that the issue is between Donnelly and Bill King but Cy denied it. King was called as any other witness. He referred to the statement of the judge that King would be driven from Minneapolis by a verdict for the plaintiff. "God forbid," said Cy, "that he should have to make a second visit to Canada." Cy took the jury back to Moses writing the Commandments on the mount, to the Egyptian hieroglyphics and the records of Hindoostan and said that in all of them we find the law "thou shalt not bear false witness against thy neighbor."

He then asked what is the first question asked when you seek employment and answered that it is "what is your character?"

"But," he said, "if your character has been maligned by the cancerous tongue of some bitter enemy you have but two resources left—to turn and go away disgraced or take the law into your own

hand and reek revenge for there is no justice in the law courts for a poor man."

He told the jury that the case must be considered on the pleadings and the testimony. The defense claim they had a right to publish the letter because the vile and scurrilous charges in it are true. But the defendant must prove this by a preponderance of evidence.

He then took up the Hastings & Dakota matter and stated that in 1866 congress made a land grant to the state of Minnesota and everything on earth impelled Donnelly to vote for it without pay. It was a local project to help his home and his state. Had he voted against it he would have laid himself open to the charge of being corrupt and he was up for re-election two years later.

Coming to Gen. Wm. Le Duc, Cy went into mythology and said there were two spirits contending for the mastery the world and they had trials for souls. The spirit of evil always had one witness and when trial was on he called for this witness. Cy did not remember the name of the witness, but it ought to be Le Duc. This witness would come from the slimy and pestiferous depths of the caverns of hell and he would win the case. Cy thought that in the last day, when the devil wanted a man to blast character without a wince he will call for Wm. G. Le Duc. But this was not enough, and Cy went at Le Due's war record, saying:

"I do not wear a G. A. R. button, but I was there and I remember that occasionally in the trenches, when firing in front wax slack, we would take two cartridges, put the powder into one and ram a bullet on top of it. Then we send that bullet to the rear two miles and call it hunting for a quartermaster. Le Duc was a quartermaster."

Cy is of the opinion, he said, that Donnelly is entitled to as much honor for serving his country in congress as Le Due in cheating soldiers to put half in his pocket. He then traced the history or the Hastings & Dakota Company and charged Le Duc with betraying the people of Hastings and letting the Milwaukee Company, of which

Judge Flandrau is attorney, swallow the Hastings & Dakota. "The lamb and the lion laid down together and the lamb was inside the lion," said Cy and the crowd applauded.

He next went to the El Paso matter and said that it was projected as a national blessing and was opposed by the lobby of the Monopolistic Central & Union Pacific, controlled by twenty time millionaires. Donnelly voted for the right-of-way as a patriotic man.

"When those defendants pleaded the El Paso charge they knew it was false and thoroughly false," said Wellington, "It had been explained and exploded in the columns of the Pioneer Press and by the virile, scurrilous and cancerous pen of Joe Wheelock, even."

Coming to the evidence of Wm. S. King, Cy said:

"Here, for the first time, we come to something tangible. King says positively that Donnelly offered him a bribe. If you believe that then I am frank to say that the defendant has justified that far. But if you find that there is no equilibrium between him and Donnelly then there is no preponderance and the justification fails."

He argued that Donnelly's statement is the more probable, as King and his brother were supporters of Donnelly and there was no occasion for Donnelly to buy them. In finding a motive for King to testify falsely, Cy called upon that attribute of a man that impels him to stick to a position though it be known to be wrong, and claimed that beyond this King is a man who sticks to his friends and punishes his and punishes his enemies. Cy said that when King was post-master of the house he know every man about Washington, and lived very high though his salary was but \$2,560 a year.

"King was one of the first witnesses called before the committee to investigate the Pacific mail subsidy. He testified that he never received a cent of that money, directly or indirectly, and yet a little later the cashier of a bank swears that King cashed a check for \$125,000, signed by the Pacific Mail Company, and a little later a

shorter man than King cashed one for \$275,000. When he was wanted to testify again he was found in Canada, the refuge of thieves and bank wreckers, a traitor to his country and a violator of the oath he took when he was made postmaster of the house."

Cy went over the Clark matter and concluded that it was simply an ordinary business loan and then came to the \$2,500 Huntington draft and asked:

"Why should C. P. Huntington select W. S. King as a go-between for himself and Donnelly? Why, it seems that there cannot be a job of bribery in these United States but this ubiquitous W. S. King is on the ground. He is in all this bribery business with an ubiquity that is supernatural, as a tube for all this filth to flow through, but none of it sticks to him. Why did not Huntington send the draft direct to Donnelly? Why did he send it to Wm. S. King, who has his arms covered with tentacles, reaching out for anything he can grasp? King could have cashed the check and held the letter for a weapon over C. P. Huntington and his enemy Donnelly. I tell you, gentlemen, that if King ever had such letter in his possession he would have cut his right hand off sooner than part with it."

Taking up the Pioneer Press he said that it always stands to crush everything that stands in its way. Its interference in the census matter resulted to the disadvantage of both cities. It was the same malign and partisan spirit displayed in the census matter that has impelled it to try to crush Ignatius Donnelly. Cy argued that the neglect of the defendant to call C. P. Huntington or take his deposition is proof positive that the \$2,500 draft transaction did not occur as King testified.

On the subject of how the King letter got to the press, Cy said that everybody knows of the snooping character of the reporters and how they pry into everybody's business.

"They will be expert burglars or go the verge of theft," he said, "to get at a sensational document. I say this not in condemnation of

reporters, but in compliment to their industry and faculty of being here, there and everywhere at the same time."

Wellington made a strong point on the introduction to the King letter in the Pioneer Press of Feb. 16, last. It said:

"This letter may be interesting rendering now that Mr. Donnelly is again prominent before the people as a champion of purity and reform."

Cy argued that it was not published because there was any occasion for it, but simply to put a check upon Donnelly's rising power.

In reply to Capt. Hart's statement that he did not know what an independent means, Cy said that it meant a man that does not wear a party collar; who has not voted the Democratic ticket for 41 years without a scratch; it means such men as Grant and Von Moltke in war, and Sumner, Webster and Donnelly in politics. This brought loud applause. Cy said that Judge Flandrau warned the jury against his eloquence to discount him in advance. It was like the anaconda that slimes its prey before swallowing so it will go down easy. This brought more applause and Judge Hooker for the second or third time said that he would clear the room on any more applause.

Cy then spoke of Judge Flandrau's comments on Donnelly's books and said they were uncalled for. He said that Donnelly's books had received the approval of the best minds in the world, including Wm. E. Gladstone, John Bright and others. He spoke of "The Little Cryptogram" being published by the Pioneer Press to discount the sale of Donnelly's book with the same hellish malignancy that impelled it to publish the libel complained of. He compared Judge Flandrau's criticisms to the efforts of an ass to kick down the pyramids of Egypt, and said that Donnelly's books will live long years after Flandrau's dust has been scattered by the winds.

He delivered a fine peroration on the wife and children waiting at Nininger to hear of the vindication and justification that rightfully belongs to the plaintiff.

THE CHARGE.

Judge Hooker Lays Down the Law to the Jury.

In his charge to the jury Judge Hooker went over the *prima facie* points of the case and the history of the parties, and said that the article upon its face is clearly defamatory. The defendant, therefore, under the plea of justification, must show by a preponderance of evidence that the plaintiff was guilty of the charges made, and, to be entitled to a verdict, must prove the truth of all the charges made. The judge did not discuss the testimony, but left the jury to weigh it, giving them the usual instructions about taking into consideration the probability of the stories, interest of the witnesses, their conduct and demeanor on the stand, etc.

He told the jury that there was no evidence to prove the charge of taking \$5,000 from Richard Franchot in 1868 and \$5,000 more from Frnnchot's principal, and that part of the justification fails. The judge told the jury that if it found that Donnelly gave the letter to the press for publication, as claimed by the defense, and that there was no malice in the last publication then the verdict must be for the defendant. But if it found that Donnelly did not give it out for publication then the verdict must be for plaintiff, in, at least, nominal damages because of the failure to justify on the Franchot charge. The question of damages was left entirely to the jury in case of a verdict for the plaintiff, but the court said that Donnelly bad or good reputation bears on the damage he has sustained.

THE LAST ACT.

The Jurors Take Ten Ballots and Ran From \$50,000 to Nothing.

The jury retired at 4:45 p. m. and at 6 o'clock were given a good supper. They had some very lively and animated discussions concerning the charge of the court and at 8:30 they came back for further instruction on the law, as to whether they should find a verdict for the defendant in case they found that Donnelly gave the King letter to the Pioneer Press correspondent for publication also in case they found that he did not give it out if they must find for the plaintiff. Judge Hooker reread to them the charge previously given on those points and they returned to the jury room. There was some loud talk for 15 or 20 minutes when the room became quiet and it was evident that balloting was going on.

At 9:25 there came a heavy knock on the inside of the door, and the deputy sheriff was told that the jury had agreed. There were in the room at this time Mr. Donnelly, Cy Wellington, Capt. Hart, the deputy clerk, deputy sheriff, two reporters and two visiting lawyers. Judge Hooker came from his room, and the verdict in favor of the plaintiff for \$1 was read and entered by the clerk as written by the foreman, F. G. Drew.

Mr. Donnelly was stunned by the smallness of the verdict, and remained with his hand at his ear, as he had placed it to catch the words of the verdict from the clerk, for a couple of moments and until the others began to leave. As one of the jurymen explained it later "His benign smile was gone, and he did not look at us as he did during the trial."

In conversation with members of the jury later it was learned that 10 ballots were taken after they went out the second time on the question of damages, the ballots running from \$50,000 by three men to nothing.

It was agreed by some that Donnelly did not want big damages but vindication, and \$1 is as good a vindication as more. It was remarked by the reporter that the Pioneer Press will say that the verdict is the measure of Donnelly's reputation, and he replied: "Well, it's too late now."

The foreman of the jury said that the verdict will teach those outsiders not to come into this county to wash their dirty linen. Another juryman said that it was the hardest case he ever sat upon—and he has been on many juries—for the reason that King and Donnelly both have good reputations and he could not tell which to believe. It was so with the other jurors. All seemed to be good, honest men, but their testimony was contradictory.

Capt. Hart said that he was satisfied with the verdict.

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Reaction of the Press.

The case was followed very closely by metropolitan dailies and out-state weeklies. The reactions of a few of these newspapers follow:

St. Paul Sunday Globe
October 26, 1891, at 4.

WHEELOCK SATISFIED.

The Verdict Regarded as a Vindication
of the Newspaper.

Editor Wheelock, of the Pioneer Press, was seen after the verdict was rendered. He said: "I am well satisfied with the verdict, as I look upon it as a vindication for the defendant, and a condemnation of the plaintiff. A plea of justification was made to the suit brought against the paper by Mr. Donnelly, and the answer thereto must be as broad as the charges made. It was an impossibility to prove some of the charges, simply because of the death of the people who could prove it. The charges made and the letter written by King eleven years ago were of events which occurred eleven years prior to that time. Had Mr. Donnelly brought his suit on the first publication, the charges could have been proved to the hilt. But he did not. He has waited until nearly half a century has elapsed, and when all the parties excepting King are dead. So accordingly our plea of justification was not substantiated as full as it ought to have been, and hence, under the ruling of the judge, the jury had to bring in a verdict for the plaintiff. They have done that, bringing in a verdict of \$1, which, under every circumstance, is eminently satisfactory to the defendants.

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St. Paul Sunday Globe
(editorial)
October 25, 1891, at 4.

APOTHEOSIS OF WILLIAM KING.

Not in vain have been shed all the gore and the sweat of the Donnelly trial. Had the floor of the court room given way yesterday, as it was for a moment feared it might, and had some limbs been broken and a few lives lost, even a calamity of this sort would not have been without its compensation. Weeks of hard work, large expenditures of money and a dozen or two of dead men would be a small price to pay for the important contribution to the history of

morality and the records of vicarious sacrifice which the evidence in that interesting case have given to the world.

Why did William King go to Canada once upon a time in his eventful career? For years this has been a great mystery, demanding solution and yet sealed against the inquiries of the most diligent. Everybody knew that it was not because William King himself had done some wrong. No one has ever even suspected that. Perish the thought. William King, like every other king, could do no wrong. There must have been some other explanation of this remarkable episode in this truly good man's life.

Many theories have been advanced but in general there has prevailed an impression that some of William King's friends had been guilty of at least some breach of etiquette, and that to shield them our saintly fellow-citizen had taken a hasty trip abroad. Even this was hard to believe. It did not seem possible that William King had been associating with people who could be guilty of a breach of etiquette.

One of his spotless character would be sadly out of place in the society of any but the very holy. And yet one cannot be held responsible for the misconduct of his acquaintances. The best men are exposed to this danger. One of the Prince of Wales' companions is said to have been a gambler, and a dishonest one at that. And so even William King, with his confiding, guileless nature, might have been introduced to people who did not always observe the same high moral standard for which he has ever been conspicuous. This has been thought possible by many who have been sorry for it, and grieved over it in secret.

William King's evidence at the Donnelly trial has put all these fears at rest and cleared up all this mystery, he did not go to Canada for his own sake. Everybody has known this all along. He went to Canada for the sake of his friends. This, too, everybody has long believed. But his friends were not bad men. They had done nothing

wrong. They were good, innocent, spotless men; as good, as innocent and as spotless as William King himself. But the world was speaking unkindly of them, and William King could not bear to hear the cruel world. Rather than do so he went into exile. Oh, sublime self-sacrifice! What heroic devotion to friendship! What tenderness of feeling! What sublimity of moral sentiment! Not in vain, indeed, the sore and the sweat, the work and the expense of the Donnelly trial, when it has brought to light truths like these and perfected the apotheosis of William King.

Come off, Bill King, come off.

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Minneapolis Sunday Tribune
Sunday, October 25, 1891, at 4.

ONE DOLLAR.

The jury have awarded Mr. Donnelly one dollar as damages for his wounded reputation.

The verdict is not a consistent one but was framed no doubt as jury verdicts usually are. Of course If Mr. Donnelly was libeled at all he was libeled more than a dollar's worth, though there may be those who will have doubts even about that.

The verdict will throw the costs on to the Pioneer Press, but that is slight punishment compared with the reproach it casts upon Mr. Donnelly. The finding of the jury is the rudest stroke his reputation has ever yet received. It is a practical declaration that the jury believed the charges against him well founded and that at most only some of the minor statements were untrue. No newspaper ever dealt as hard a blow as this verdict deals against Mr. Donnelly.

It is delivered under oath by 12 jurymen, charged by the court to render a verdict according to the evidence, and because of that has a peculiar and exceptional significance. And as this conclusion is a severe reflection on the plaintiff, so it is a vindication of Col. King, the principal witness for the defense.

In fact it was a direct question in fact of veracity between Donnelly and King, both upon their oath, and the result shows that the jury took the word of the latter: and all the people will say amen!

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Minneapolis Tribune
Monday, October 26, 1891, at 3.

THE DONNELLY CASE.

Cy Wellington Thinks the Pioneer Press Libeled the Sage Again Yesterday.

Cy Wellington, St. Paul's brilliant attorney who conducted Mr. Donnelly's side of the libel suit against the Pioneer Press, enjoyed a thorough rest yesterday. He had labored unassisted for five days and without a note (for the only memorandum he keeps of the points of a case is stowed away in some recess of his brain) he made what was regarded an one of the ablest efforts ever listened to in the Hennepin County Court House.

Last night he was seen at his comfortable home at Dayton avenue, and when a TRIBUNE reporter called, was talking over the great suit with another member of the St. Paul bar.

"How are you satisfied with the result of the case, Mr. Wellington?" was asked.

"Well, you know I'm inclined to be philosophical," he replied, and then he allowed that smile of his to cavort around his face for a few minutes.

"I don't think, however," he added, after a pause, "that the verdict was exactly in keeping with the facts. The court in the case limited us to the question of Mr. Donnelly's political and legislative honesty. The fact that he was elected from his own county time after time showed that his politics were satisfactory to those who knew him best. I claimed that we should not be confined to the question of his political and legislative honesty, but that we should be allowed, to maintain his honesty and integrity in all walks of life. In other words, to accuse a man of being a horse thief it wouldn't be necessary to state what kind of a horse thief he was. But the "court confined the case to Mr. Donnelly's political record."

"That was a reversible error of the court, wasn't it?" remarked Mr. Wellington's visitor.

"I think so," answered Mr. Wellington.

"Do you intend to accept the result as final?"

"I haven't consulted with Mr. Donnelly about that, so I cannot say anything definite about it. Each side asked for 30 days to decide whether or not anything further will be done."

"Did you have occasion to note many exceptions to Judge Hooker's rulings?"

"Oh, I noted a number of exceptions, as did the other attorneys, but as a whole I think the case was as impartially tried as it could possibly have been."

Mr. Wellington's attention was called to the editorial in the Pioneer Press of yesterday. He had not previously seen it. After reading it aloud his visitor said: "Part of that is libelous."

"Yes," rejoined Mr. Wellington, and he again read over the following:

"It is substantially a verdict for the defendant. It means simply that the jury found King's charges against Donnelly to be true, substantially and generally, that he had been guilty of receiving and giving bribes while representing the people of his district in congress and in the legislature of this state. They found it to be true that he was tainted all over and all through with the ignoble infamies which he is so good of attributing to others and ho goes out of that trial branded as one of the worst and vilest of the corruptionists with whom it is his stock in trade to class all his political opponents.

"That's the part I referred to. That is libelous because the jury's verdict established the truth of the libel no matter how small the verdict was."

"Yes," said Mr. Wellington, after a pause, "they are liable to hear from this again but I cannot say anything about it tonight."

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St. Paul Dispatch
Monday, May 26, 1891, at 4.

DONNELLY'S DOLLAR

There has probably been no verdict in recent times that has been or will be so widely discussed throughout Minnesota and even beyond the confines of this state is that which the jury gave on Saturday night and the libel case of Ignatius Donnelly against the Pioneer Press. Various are the interpretations that are placed upon it. Some are bold enough to contend that it is a vindication of Mr. Donnelly,

while others vigorously assert that the political death knell of the sage has been sounded. A good deal of amusement may, in fact, be derived from listening to the diversified comments, and a considerable amount of information as to the public estimation of the parties to this remarkable suit

In regard to the action itself, there was a certain measure of surprise when it was made unmistakably evident that the plaintiff was thoroughly in earnest and instituting it and that he had no intention of letting the matter drop. Many had been under the impression that he was indulging in a game of bluff, but they were never more mistaken.

A verdict has been rendered for Mr. Donnelly, but it is quite plain that it is not a sufficient solatium for his wounded feelings. That he expected very substantial damages he himself as intimated, Anna must've been a terrible disappointment to him when he heard the farm in of the jury pronounce those fateful words, "One dollar." In one brief instant the anticipated pleasure of extracting several thousand shekels from the vaults of the adversary were dashed ruthlessly to the ground, and the struggle into which he had entered with so much zest and determination was ended with a verdict of somewhat doubtful significance. No wonder that surprise and disappointment were pictured upon the face of the Sage and his eminent counsel as the verdict was read, and the awful truth forced itself upon their minds that the jury placed a value of only \$1 upon the unsullied character of the great high priest of the Farmers alliance. A severe blow could hardly have been dealt than that which the 12 good men and truly ministered to on Ignatius on Saturday night.

It is naturally a matter of speculation why Mr. Donnelly brought his suit in Hennepin County in view of the fact that it was apparently as much of an attack on Col. King as upon the Pioneer press. Why did the plaintiff institute an action, in which King was virtually on trial, in the city where that gentleman is so well known and so influential? Did

Donnelly count upon the prejudice which exists so strongly against the Pioneer press to counter the popularity of King? That he was relying to some extent upon such a combination seems evident, but the result is shown how mistaken was his judgment. If you wanted to attack King why not have gone elsewhere? It would been but fair to a Minneapolis jury to anticipate a verdict, according to the facts, independent of all prejudice; the people there simply have no use for that paper as a purveyor of news, and they look upon it with perfect indifference.

What a verdict of the one hundred thousandth part of the amount sued for has been given to Donnelly, that verdict cannot but be taken as equivalent to stating that the Pioneer press have proven what it undertook to prove. To the extent, therefore, that it is been successful in picturing a senator from Dakota County in a garb to which all thought but few knew him to be entitled, the thanks of the public are due, but inasmuch as the moving spirit which prompted it to pursue a course it took was more the desire to destroy a personal enemy than to render a public service there is lacking that one element in the affair that would earn popular approval. It is this feature which makes it possible for verdict of even \$1 to be given. Had the suit been against any other paper the verdict would unquestionably have been for the defendant.

An interesting situation now presents itself. Mr. Donnelly is still a state senator, but how can he stand up before the people who have placed him in the senate where men of the same class as those he represents have declared of him according to the tenor of this verdict.

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Minneapolis Journal
October 26, 1891, at 4.

The Donnelly Libel Suit.

The libel suit of Donnelly vs. The Pioneer Press did not, like the celebrated Jarndyce case, drag a slow length along. Five days of character dissecting, during which a good deal of ancient history was exhumed, resulted in a very meager finale financially for Mr. Donnelly. The dissent from \$100,000 to \$1 is like the descent from a cloud enveloped balloon in a hastening parachute. There is bathos as well as pathos in it for Mr. Donnelly.

Of course no one expected that the jury would give Mr. Donnelly \$100,000, even in the face of his tearful pleading touching the harsh assaults upon his character; but the narrow range of the defendant's testimony—being confined to a few persons who have been long in public life and politics—was suggestive that the jury might not be satisfied with purely professional testimony and might bleed the bumptious defendant to the extent of \$5,000 or \$10,000. But, even in the absence of proof for the allegations of bribery with reference to the Central Pacific, did not affect the jury to exceed 100 cents.

Under the instructions of the judge the jury, however, could hardly render any other verdict. It is probably a matter of no moment to Mr. Donnelly. He has a styptic for every cold sore which may happen to be reopened. It is, indeed, questionable if Donnelly is at all sensitive as to any phase of his remarkable career of tergiversation. If that is so, those who have tears to shed for Donnelly will probably dry their weeping eyes.

After all, the trial of this case hasn't altered anybody's opinion about any of the parties to the suit or about the witnesses. The same impressions that obtained among people of good judgment before the trial commenced will prevail now. The issues have been on trial before a higher tribunal than that which fixed the verdict at \$1. Public opinion was well made up before the hearing was had. It rested on broader grounds than the evidence admissible between their narrow restrictions of the technicalities of the law.

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St. Paul Pioneer Press
October 25, 1891, at 4.

DONNELLY VINDICATED

Mr. Donnelly is at last vindicated. He wanted the modest sum of \$100,000 from the Pioneer Press, that being his estimate of the damage to his reputation from the republication last February of Col. King's famous letter of April 17, 1880, to Donnelly arraigning him before the American people for several specific acts of legislative bribery and corruption. After a trial of five days' duration, in which Mr. Donnelly's own marvelous resources as a forensic strategist were supplemented by the splendid abilities of one of the most powerful advocates in the state, the Minneapolis jury, to whose supposed prejudices against the Pioneer Press he made a confident appeal, brought in a verdict in which they fix the damage to his reputation for this libelous publication at the magnificent sum total of one dollar. But even this was evidently a good deal more than the jury thought that torn and tattered remnant of his reputation worth after it had been through the judicial washing machine. For it was a reluctant verdict, rendered under the instructions of the court in a compulsory compliance with the technical requirements of the law. For the rule of law on the instruction of the court was that a libel suit, when the plea of justification is set up in the defendant's answer, the justification must be as broad as the several specific libelous accusations, and that if the defendant fails to prove any one of them the jury must render a verdict for the defendant for at least nominal damages.

Now Col. King's pungent epistle on Donnelly, which was the basis of this libel suit, was first published over eleven years ago, and is related to matters which had occurred in Donnelly's legislative and congressional career twelve or thirteen years before that, or nearly

a quarter of a century ago. When it was first published in May, 1880, nearly all the witnesses to those facts were living; and Mr. Donnelly took mighty good care to bring no suit for libel because of its publication while they were living. But since that time a great many of those dreaded witnesses to these facts have gone to their graves, and Mr. Donnelly waited till they were all or nearly all dead and beyond the reach of subpoenas but Col. King himself before he thought it prudent to undertake the task of rescuing his reputation from the very deep and dark hole in which Mr. King's letter had cast it. And thus it happens that the Pioneer Press, as to one of the charges, was unable to bring the requisite proof because it could not resurrect the witnesses to the facts from the graves in which they had long been buried. Hence the technical necessity for a nominal verdict in favor of the plaintiff, which the jury would very manifestly have been glad to have changed into a verdict for the defendant, if they had not been trammelled by the technical requirements of the law.

It is substantially a verdict for the defendant. It means simply that the jury found King's charges against Donnelly to be true, substantially and generally, that he had been guilty of receiving and giving bribes while representing the people of his district in congress and in the legislature of this state. They found it to be true that he was tainted all over and all through with the ignoble infamies which he is so fond of attributing to others; and he goes out of that trial branded as one of the worst and vilest of the corruptionists with whom it is his stock in trade to class all his political opponents. And though the long lapse of time and the ravages of death had swept into old graves all available proofs of one of the alleged instances of bribery and corruption referred to in Mr. King's indictment of nearly twelve years ago, the jury say in their verdict that the evidence in other respects so abundantly establishes his character as a giver and taker of bribes that he had no reputation left which could be damaged by the unproven specification.

Mr. Donnelly had counted in vain on the long lapse of time and the ravages of death to put beyond reach the proofs of his inequities. For there was one man living in whose memory they had been engraved as on steel, and he counted in vain when he believed that he could destroy the value of that man's testimony by covering him with a ashes of dead and rotten calumnies. It was one of the happy incidents of this trial that it afforded Col. King an opportunity to score a complete and triumphant resolution of this slanders with which Mr. Donnelly undertook to destroy his credibility as a witness, and the verdict of the jury, which is a blasting condemnation of Donnelly, is a splendid vindication of King. For mean that the jury believed King—believed in his integrity and truthfulness—and that they did not believe Donnelly in opposing the impudence of his unsupported denial to King's positive testimony. The verdict will stand not only as the deliberate judgment of the court and jury, but as the final decree of public opinion upon this man's public character.

The Pioneer Press is proud of its own vindication in the issues of this trial; but it is prouder still to owe that vindication to a Minneapolis jury. It is plain to everybody that this libel suit was brought in Minneapolis by Mr. Donnelly in the confident expectation that he could count on the local prejudices which has been recently aroused in that city against the Pioneer Press to aid him in perverting justice. The Pioneer Press had every reason to know the strength and intensity of these prejudices against; but it did not hesitate an instant to accept the arena which Mr. Donnelly had chosen for the contest and to trust its cause to the fairness of the people, the courts and juries of Minneapolis. The result has vindicated its confidence in the high character of the tribunals of our sister city, and it is one of the happiest compensations for all the inconveniences of such a contest that it is demonstrated the superiority of Minneapolis courts and juries to the local prejudices to which men would appeal in the interests of wrong and injustice. They will not venture upon that insulting appeal again.

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The Great West, a supporter of Ignatius Donnelly,
reprinted a host of editorials on the verdict.

The Great West
(St. Paul)
November 6, 1891, at 4.¹¹

Press Opinions of
the Dollar Verdict.

A citizen of McLeod County to the Pioneer Press: “Here is a dollar I give you as a testimonial of my hatred for Donnelly.”

Joseph Wheelock, (salting it down) “Thanks gentle sucker, thanks. The Pioneer Press accepts anything in the way of money, from a \$30,000 lump of Senatorial boodle down to the one-dollar donation of anybody’s dampool enemies. If there is anybody who hates anybody whom the Pioneer Press has libeled, let them pass in the evidence of their hatred; we take anything.” —*Midway News*.

Some of our citizens go as far as to say that the Pioneer Press was vindicated by the verdict the jury in the Donnelly libel Suit. This is a mistake. The charges against the Pioneer Press was sustained and the only question in the minds of the jury was as to how much the character and reputation of Mr. Donnelly was damaged. They thought \$1 would satisfy the sage.—*Sleepy Eye Herald*.

In the famous Donnelly libel suit the defense failed to substantiate their charges and a verdict for the plaintiff was rendered.

¹¹ *The Great West* also published a sampling of editorials from other newspapers on November 13, 1891, at 2.

Under the circumstances the damages seems at great variance with the verdict.—*Swift Co., Standard.*

BLUE NOSED JOE.

The libel suit of Mr. Donnelly against the piratical Pioneer Press is a thing of the past, and Mr. Donnelly stands before the people of the state fully vindicated from the slanderous abuse which that paper has heaped upon him for the past thirty years. From all accounts it appears that the judge was fair in his charge to the jury, leaving but two questions for them to consider; did Donnelly give the letter written by the fugitive from justice, Bill King, to the Pioneer Press for publication; if not, then what amount of damages was he entitled to. The jury found that he did not deliver the letter, but only fixed the damages at \$1.00, so as to give Mr. Donnelly a vindication, which it is presumed they supposed was all he wanted.

This has been the hardest fought legal battle ever had in the courts of the state, and clearly establishes the falsity of the charges which the blue nosed Joe has depended on for stock in trade for so long a time.—*Farmers Leader*, Edgerton.

The libel suit of I. Donnelly, vs the Pioneer-Press is now on trial, and a result will no doubt soon be ascertained. The amount of damages sought for are \$100,000.

Later—A verdict of \$1 was given in favor or Mr. I. Donnelly. This verdict would show that Mr. Donnelly was libeled, but that his good reputation was not very badly damaged.—*Sauk Rapids Sentinel*.

WILL TRY IT AGAIN.

The great libel suit, Donnelly against Pioneer Press, was closed last Saturday after a trial of five days. The jury brought in a verdict for Donnelly of \$1 damages instead of \$100,000 as claimed. The P. P. considers its charges sustained and proven, except a doubt or

two in one case, which the jury had to consider. Mr. Donnelly of course is not satisfied with the verdict and threatens to try it over again.—*Exchange*.

MOUTH PIECE OF THE PLUTES.

The result of the libel suit of Ignatius Donnelly against the St. Paul Pioneer Press for the publication of the notorious “King Letter,” a verdict for Mr. Donnelly of \$1, throws the costs of the case [12,000] onto the Pioneer and shows, in the opinion of the jury, that the paper was unable to prove the charges made in their publication. It would certainly have had a more salutary effect on the venomous reformer bating, monopoly-serving editor of the Press if the damages had been assessed at \$10,000 or \$20,000

There can be no question but what the Pioneer Press, as the special organ and mouth-piece of a certain clique of plutocrats in this state, published the article with the sole object of injuring Mr. Donnelly’s popularity and power at a time when he was waging a very vigorous war on the moneyed element in the legislature last winter.—*Labor Union*, Minneapolis.

VINDICATED HIS CHARACTER.

The great libel suit of Ig. Donnelly vs. the Pioneer Press has come to a close. The cause for Mr. Donnelly’s bringing action against the P. P. is too well known to need repetition. The Pioneer-Press accused “the Sage” of accepting bribes, Donnelly demanded retraction and the P. P. would not retract. Donnelly then brought suit against the Press for \$100,000 damages, employing Cyrus Wellington and W. W. Erwin for his attorneys. The case was tried at Minneapolis and ended last Saturday night. The jury was out four hours and a half and brought in a verdict against the Pioneer Press

of \$1, arguing that vindication was all that Donnelly could expect.—
Grant County Farmer.

WILL LIVE IN THE HEARTS OF THE PEOPLE.

The great Donnelly-Pioneer Press libel case has been decided in the jury rendering a verdict in favor of Mr. Donnelly and awarding him damages to the amount of one dollar. Of course this is practically a vindication in favor of Mr. Donnelly, and should forever quiet the rumors of boodleism so long afloat concerning him. No man in this State has been more prominent in political affairs, and no man in the State has been the subject of so much abuse on the part of the monopoly press.

He has been the target for years against which the poisoned darts of plutocracy have been hurled in vain. Everything possible was done to destroy the reputation of Mr. Donnelly in the late libel suit, but his friends every where may rest assured that he has lost nothing but has vindicated himself clearly and completely.

One thing was made evident during the trial, and that was that the present leader of the Peoples party of this State kept bad company—was thrown among evil associates—at the time he was serving the Republican party the most. These associations, too, destroyed some of the best known men of that epoch, and smirched the character of many of the statesmen of that period. We are told that Bill King ran away from this country to Canada to avoid the telling of certain facts on Windom and Blaine that would have politically damned these men. In fact that period of the history of this country is a history of boodle ism and political jobbery unparalleled in the history of his nation, and that any man succeeded in running the gauntlet of the plutes is indeed a wonder. Nevertheless Mr. Donnelly came out of the fiery ordeal wonderfully clear, and will continue to live in the hearts of the people of this country long after

the Wheelocks, Bill Kings, Flandreaus and their ilk are forgotten dust. — *Mankato Journal*.

THEIR SLANDERS FALL DEAD BORN

The life of Hon. Ignatius Donnelly is a warfare on earth. His enemies often seem to get him under, but he rises again triumphant over all resistance. He is now prosecuting the Pioneer Press of St. Paul for libel, claiming damages at \$100,000. We heartily hope he may win, because we believe the St. Paul papers have been too hard upon him. With all his shortcomings Mr. Donnelly is the one man Minnesota should be proud of. He has genius and ability, and no man but one possessed of the most signal courage, could ever have borne up against the war of calumny which has been waged against him for the last twenty years.

Yet he meets his enemies on every point, and wherever he strikes the cowards fall. Mr. King's letter charges the sage with trying to bribe him, King, by an offer of \$3000. This assertion bears its own refutation for we do not believe Mr. Donnelly ever had \$3000 at one time in his life, and from the character of King's letter we do not think it would require more than 30 pieces of silver to make Mr. King imitate Judas and betray Christ. It is no wonder Donnelly gets the better of his foes if they are all of the King stamp. One other point in Mr. Donnelly's favor strikes us as important, namely, that in all the flood of vituperation that has been poured upon him there is no charge that he ever embezzled or stole any money or property, public or private. In this his character stands out in bold contrast with the great body of his assailants, and as long as they cannot attack his honesty and integrity, their slander falls dead born, and only covers themselves with confusion and disgrace.— *Sentinel*, Chippewa Falls, Wisconsin.

MEASURES THE INFLUENCE OF THE P.P.

The great libel suit has ended in a verdict for \$1.00 for the plaintiff. The Pioneer Press people at once set up the claim that this was what the jury considered the value of Mr. Donnelly's reputation, but it is more likely that it represents the jury's idea of the ability of the P. P. to damage any one. The verdict can be constructed in only one way. The jury were compelled to believe that the charges made in the letter written by King were untrue, and that his testimony was untrue, else they could not have given a verdict for the plaintiff at all.

The amount of the damages cuts very little figure in the matter. It simply expresses the opinion of the jury, based on the evidence, that Mr. Donnelly's reputation has not been injured by the Pioneer Press, but is still good. A. E. Rich, W. G. LeDuc, John F. Norrish, John J. Rhodes and even R. C. Libby were called upon to testify for the defense, and testified that Donnelly's reputation for political and legislative integrity was bad. This testimony, if it had been given in a Dakota county court, would have made both judge and jury smile. If Mr. Libby thinks Donnelly's reputation is bad, he must certainly think that the voters of this country are a hard lot, with whom reputation doesn't count.

To offset the testimony of these witnesses the prosecution called J. B. Bassett, of Minneapolis, J. B. Lambert and Harvey Gillett, of Hastings, and Robert Eckford, of St. Paul, who testified that Donnelly's reputation is good. The jury, by their verdict, show that they gave more credence to the testimony of the last named gentlemen than to that of the former.

The result of the trial is a victory for the plaintiff and for that reason will be gratified to his friends; but it is not what it should have been. The result shows that friends of the plaintiff were right when they said at the outset that it was a mistake to bring the suit in

Hennepin county Mr. Donnelly would do better to try his cases at home.—*Farmington Tribune*.

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Litigation Over Attorneys' Fees.

Ignatius Donnelly's decision to not appeal to the Minnesota Supreme Court did not end this case. A dispute over the fees of the defense law firm and their client erupted. It became a lawsuit, which was jury-tried in November 1892 in the Ramsey County District Court. A letter to the former law firm, now represented by Cyrus Wellington, from Joseph A. Wheelock, the editor of the newspaper, claimed that daily newspapers usually were defending at considerable expense "one or two" libel suits and at one time in the past, the P.P. faced 15.

Accounts of the fee dispute trial from the *Minneapolis Tribune* follow.

Minneapolis Tribune
November 22, 1892, at 3.

Fight Over Fees.

Charged by Pioneer's Attorneys in
the Donnelly Libel Suit.

The suit of Flandrau, Squires & Cutcheon and for some \$1,061.25 from the Pioneer Press Company was up in court yesterday. The sum represents the amount the Pioneer Press Company consider excessive in the bid of Flandrau, Squires & Cutcheon, who acted as attorneys for the company in their Donnelly libel suit. Cyrus

Wellington is the attorney for the plaintiffs. He was attorney for Donnelly in the libel suit. T. T. Fauntleroy is attorney for the Pioneer Press Company.

Part of the fees sued for are for services other than those rendered in the libel suit. There are charges for services in connection with a suit involving the libel law that went to the Supreme Court, and for expenses incurred by Mr. Cutcheon and in looking up testimony in the Donnelly suit in New York, Boston and Washington. The principal point emphasized as a defense in the suit for fees is the claim made by the Pioneer Press, that it was learned a few days before the Donnelly trial, that Donnelly had given the King letter to the Washington correspondent of the Pioneer Press for publication, and that was therefore a privileged one. The claim is made that this would have been in an absolute defense.

The case continued over until today.

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Minneapolis Tribune
November 23, 1892, at 3.

END NOT YET.

The Suit Against the Pioneer for
Attorney's Fees.

The interest in the suit of Flandrau, Squires & Cutcheon against the Pioneer Press for attorney's fees in the Donnelly libel suit and for other services, occupied the entire time of Judge Egan yesterday. The entire day was taken up in the cross examination of Mr. Squires by Mr. Fauntleroy.

The court room was crowded during the day. A number of the prominent attorney of the city are in attendance as witnesses, and

will be called upon to give expert testimony as to the value of the services rendered by the able law firm.

Mr. Fauntleroy sought to show by Mr. Squires that he did not expect the Donnelly case to go to trial, but expected it to be dropped after the legislature should adjourn. Mr. Squires stated that he shared such a hope in common with Mr. Wheelock and Mr. Driscoll, who insisted that Donnelly was a bluffer. But Mr. Squires added that he know[s] Mr. Wellington to be a bluffer and left no stone unturned to prepare a defense.

Mr. Wheelock was present during the day and kept a close watch upon the case.

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Minneapolis Tribune,
November 24, 1892, at 3.

RAMSEY BAR AGOG.

Over the Suit for Attorney
Fees Against the P. P.

EDITOR WHEELOCK'S LETTER OF
PROTEST.

He says—"The Pioneer Press Has Had
Hard Scratching In the Last Two Years to
Make a Living"—So the Company
Refused to Pay Exorbitant Lawyer fees—
Fun in Court.

The Ramsey county bar is agog over the suit of Flandrau, Squires & Cutcheon against the Pioneer Press for fees in the libel suit brought by the sage of Nininger.

The legal firm referred to charged \$7,500 for its services, one item of which was the employment of Mr. Squires for 10 days in various Eastern cities, obtaining testimony.

The Pioneer Press thought the amount was too much and refused to liquidate the full claim. Suit was begun, and the fraternity of the law was exemplified by the plaintiffs in the employment of Cy Wellington, who had so vigorously prosecuted Donnelly's suit against the paper.

T. T. Fauntleroy, who handles "Greenleaf on Evidence" and a Commercial Club billiard cue with equal facility, appeared for the law firm. By yesterday the case had reached a point where it became necessary to call in expert testimony in order to determine just what, in the eyes of members of the bar, was considered a reasonable fee, and the diversity of opinion was sufficient to give the jury paresis.

The plaintiffs called Mr. Warner, Judge Young, Corporation Counsel Lawler and Mr. Bullitt, whose figures were high, while the defense summoned Freeman P. Lane, Squire L. Pierce and others, whose ideas were modest. Mr. Bullitt, formerly counsel for the Northern Pacific, thought that \$8,000 would be something like the right thing and Mr. Lawler was of the opinion that any figure between \$7,500 and \$10,000 would be perfectly reasonable, considering the labor involved.

The plaintiffs rested at that point, and Mr. Fauntleroy called Freeman P. Lane, of Minneapolis, for the defense. Mr. Lane thought \$3,000 would have been a reasonable figure for the service rendered, judged by the prices prevailing among the members of the Hennepin county bar.

"Do you have a fee bill in Minneapolis, Mr. Fauntleroy?"

"Yes, sir."

"And do you follow it?"

"I think not," Mr. Lane replied, naively, and the lawyers smiled aloud.

Taken in hand by Mr. Wellington, the witness was so positive as to the worth of the services and the outcome of the previous trial that Mr. Wellington said, genially:

"As matter of fact, then, Mr. Lane, you know that it is easy to predict the result of a case after it has been tried; that it was easy to find America after Columbus had discovered it or to set the egg up on end after he had broken the shell?"

"Yes, sir."

"I thought so. You may go."

And he went, while the lawyers smiled again.

Squire L. Pierce said that \$2 000 would have been a reasonable charge; some good lawyers, for the sake of reputation, would have taken the case for \$300 or \$403.

"An old lawyer is to encumbered with business," he said, "that if I had a case and wanted it well tried I should go to some young lawyer of whose ability I was assured."

"In other words, if you said the hydrophobia," Mr. Wellington suggested, the twinkle increasing in brightness, "instead of going to Pasteur for treatment you would call in some young practitioner around town here."

"Oh, that's not to the point," replied Mr. Fauntleroy. "He is not threatened with hydrophobia."

"I'm not so sure about that," said Mr. Wellington, blandly.

Mr. Wheelock, of the Pioneer, had written a long letter to the attorneys complaining of their exorbitant charges, in which he says: Finally, object to this charge because it is out of all proportion to the resources of your client. The Pioneer Press has had hard scratching in the last two years to make a living. It cannot afford to pay fees adjusted upon the magnificent scale exhibited in your latest bill.

Libel suits are the ordinary and constantly recurring incidents of every newspaper's experience. It is seldom that any daily newspaper of financial responsibility is without one or two, and the Pioneer Press had at one time 15 on hand. Even at the moderate rate of compensation heretofore demanded of us by your firm and others, the expenses of defending one libel suit have been so great as to be an almost crushing burden. But upon the entirely new and magnificent scale of charges inaugurated by you in your latest bill a very few libel suits would plunge our concern or any other in the state into irrevocable bankruptcy.

It is simply a physical impossibility for the Pioneer Press or another newspaper in this state to pay such charge for defending libel suits. If they occurred, like suits for the settlement of disputed title to valuable property, but once in a life time it would be different. There are other considerations which I might urge in support of this protest against your bill, but it seems to me that those should suffice.

Judge Egan charged the jury late in the afternoon.

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Minneapolis Tribune
November 25, 1892, at 3.

Reached a Verdict.

In the case of Flandrau, Squires & Cutcheon against the Pioneer Press, the jury, after being out a short time Wednesday, brought in a sealed verdict.

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Minneapolis Tribune

November 26, 1892, at 3.

The verdict of the jury in the action brought by Flandrau, Squires & Cutcheon against the Pioneer Press was brought in court yesterday,

The plaintiffs recover \$1,116.10. This is the amount of the balance demanded by the law firm when its bill was presented for payment

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St. Paul Daily Globe

November 26, 1892, at 3.

The Pioneer Press Lost.

The verdict of the jury in the case of the action brought by Flandrau, Squires & Cutcheon against The Pioneer Press was brought into court yesterday by the foreman and opened. The conclusion is that the plaintiffs are entitled to recover \$1,116.10. This is the amount of the balance demanded by the law firm when its bill was presented for payment. If the Pioneer Press had paid the bill originally presented for services in the Donnelly libel suit it would have saved a sum equivalent to the cost of defending this action.

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Freeborn County Standard

November 30, 1892, at 4.

The Pioneer Press having refused to pay its attorney's claim for services in the famous Donnelly libel case, they sued the paper and the case was tried in St. Paul last week.

A letter from Mr. Driscoll, the manager of the paper was read as testimony at the trial in which he said:

"Finally, I object to this charge (\$4,116) because it is out of all proportion to the resources of your client. The Pioneer Press has had hard scratching in the last two years to make a living, cannot afford to pay fees adjusted upon the magnificent scale of your latest charge."

The jury rendered a verdict against the paper for the balance of the fee about \$1,000, which the lawyers first claimed, but for less than they afterwards demanded. The fact that the Pioneer Press had had "hard scratching" is, however, one of the most interesting phases of the case. The Pioneer Press is a great newspaper and it ought to pay well.

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Appendix

The account in the *St. Paul Daily Globe* of the last day of the trial (day 5) was much more lively—and better written —than that in the *Minneapolis Tribune*. It also recounts Wellington's summation in greater detail ("the jury sat spell-bound as the volume of eloquence rolled from the master's lips..."). It follows:

St. Paul Sunday Globe

Sunday morning,
October 25, 1891, at 1.

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\$1.

Mr. Donnelly's Verdict Isn't
So Wide as a Church Door.

Nor Is It Quite So Deep as
a Dakota Artesian Well.

But It Is Something of a
Vindication, and Will Therefore Do.

Judge Flandrau's Caustic
Reference to Mr. Donnelly as
an Author.

And Maj. Cyrus Wellington's
Hot Shot at Col. William S. King.

The Charge of Judge Hooker
and the Verdict of the Jury.

A verdict of \$1.00.

So ends the most notable libel suit in the legal annals of the state. The case of Ignatius Donnelly against the Pioneer Press company to recover \$100,000 for malicious defamation of character will go down in history as an event with few parallels in legal litigation.

The case was given to the jury shortly after 5 o'clock last evening, and at 9:40 the verdict was made public. The result was a surprise even to the friends of the paper. When the court adjourned and the jury retired, the concensus of opinion was that a verdict would be rendered, away up in the thousands, and the guessers—many of them lawyers—varied in their prophesies from \$50,000 down to \$5,000.

The opinion obtained that the jury would naturally look upon a few thousand dollars as an immense sum of money, but it is quite evident that no such feeling influenced their deliberations. One juror related that he had voted for the nominal sum because he felt that a vindication pure and simple was all that Mr. Donnelly cared for or expected.

The day chronicled an event in libel litigation that will become historic as the beginning of the end of a most desperate battle of intellectual gladiators.

Judge Flandrau, of St. Paul, advised by his confreres—Capt. Hart, of Minneapolis, and Mr. Squires, of St. Paul—made the effort of his life in addressing the jury, and his exposition of legal conclusions, and assertions of proofs, **presented, and the rights** of his client in the premises, preceded Cyrus Wellington's address which ended the trial save the formal charge of the court. Neither attorney overlooked a point, mid each availed himself of every possible, vulnerable feature of the trial. Never has there been such a contest and zealous struggle in the history of the old court house.

Mr. Wellington presented a brief to the court prior to the beginning of the arguments. He summarized the answer that had been filed by the defendant, showing that the plea was justification because all the defamatory charges in the King letter were true; that Ignatius Donnelly had been guilty of all the corrupt political and legislative practices alleged in the letter. Mr. Wellington urged that the defendant had utterly failed to adduce reputable proof of such conditions, and asked the court to so charge the jury, and also to charge the jury that if they believed the defense had failed to prove

the charges in the letter, as broad as they were made, that the jury should find a verdict for the plaintiff.

The court, in charging the jury, was eminently fair and conservative. The whole thing hinged upon one point a tissue. If Mr. Donnelly had given the letter to the defendant for publication eleven years ago, as alleged, the jury must find for the defendant, but if, in the minds of the jury, the defense had failed to prove this, the verdict must before the plaintiff. There could be no reasonable exceptions, seemingly, to be taken from this charge, although it was rumored that in the event of a defeat the defense would analyze every phase to discover grounds for either moving for a new trial or for an appeal to the supreme court.

JUDGE FLANDRAU'S CLOSING.

He Claims That the Charges Had Been Proven.

The court room was packed to overflowing, and a deputy sheriff had to be stationed at the door to prevent others from attempting to crowd in, when Judge Flandrau began his closing address. The audience was comprised largely of politicians and the representatives of the bar of the Twin Cities. The political as well as the legal significance was the one powerful magnet.

Defeat meant a world to Ignatius Donnelly, and there were many who were ready to rejoice at seeing him crushed. "You have listened to my eloquent friend. Mr. Wellington," said Judge Flandrau, and also to my equally eloquent associate, Capt. Hart. There has been a great deal said why we bring this case to Hennepin county.

"Why, sirs, I am one of the oldest Minneapolitans living. Thirty-five years ago I sat on this bench and opened the first court in this court house. I was the first president of the board of trade and the first attorney."

The judge then spoke of Donnelly bringing the case into a city prejudiced against the Pioneer Press, but he hoped the jury wouldn't lose its virtue and honesty in letting Donnelly blind them in this manner.

"The case," he continued, "has come to that point where it is no longer a case between the Pioneer Press and Mr. Donnelly, but one of veracity between Mr. Donnelly and William S. King, of Minneapolis, who is the very founder of everything you have in this city. It is a question of who is telling the truth.

"Mr. King or this man Donnelly, who has invaded every party, society and organization. This is a libel case. There was a time in the history of the English courts when a man who knew of corruption and bribery must keep his mouth shut. There was a time when if a man saw another accept a bribe or commit an assassination he could be sued for libel and could recover according to how well he substantiated his charge. The duty of the citizen now in this free country is to expose wrong and show up a man's character. The newspaper of to-day is an indispensable institution of to-day.

"If all the papers of this city were suddenly stopped, they would resemble a lot of electric cars sleeping on the street without power. It is the bounden duty of the paper to be the guardian of the public purity and the ballot box."

Judge Flandrau commenced his story of the case by a high tribute to the Washburn family, who were the sturdy Republicans and anti-slavery men of years ago.

"Now Mr. Washburn in this state was elected congressman over Mr. Donnelly 13,013 majority, and you know, gentlemen, there is no place where fairer elections occur than in this country. I say that after a residence of forty years in this place. Mr. Donnelly contested Mr. Washburn's election. There must have been an awful lot of corruption in it. This Mr. Donnelly evidently went down to Washington posing as a red-hot Democrat, and said:

"Here, the Democrats in my section have elected me and I want the place. On the investigating committee there were nine Demo-

crats and three Republicans, among them being Daniel Manning, one of the red-hot slavery men in the country. Then this man, sniveling, comes on the stand here and says he was anti-slavery! Why, if Dan Manning had known that, he'd have put him out. I say to him: What were your politics?" 'Anti-slavery.' this man says, sniveling. Mr. Donnelly is a grand actor. He can take all characters. He can pump up a tear and utter a vehement oath. I don't object to a good robust lie, but this contemptible sniveling makes me tired."

Mr. Wellington objected to some of the judge's remarks, and he answered.

"I don't care. About that letter, I claim that Donnelly instigated that letter. I tell you that since this trial I have not much faith in human words. Circumstances are demonstrative proof, and it is demonstrated that this is one of the plainest facts in the case."

Wellington argued to keep the comments out, and the judge insisted that the King letter showed it as a fact. The King letter grew out of it. The court thought it had been shown, and as long as the counsel didn't misquote testimony he had a right to go on. This was a little knock-out against Donnelly.

That letter to Springer was the output of the brilliant head of Donnelly and the blockhead of Finley. This letter asked the Springers to vote for Washburn, knowing that it would turn them against Washburn.

Wellington objected, but the line of argument was allowed. That was the position they put Springer in, but they were too sharp. The Springers knew that it didn't come from Washburn. All the insignia of the Washburn was honesty. Hence they presented it before the House of Representatives, and demanded an investigation. A committee was instituted and it met, resulting in a printed book of some four hundred pages. He didn't think they were allowed to introduce parts of that book. The court had not allowed them to prove who wrote that letter, but one thing they did know and that was that Donnelly didn't get the seat.

If Washburn's side had been convicted of it, Washburn would have been ousted at once. The matter died there, which proved that the Donnelly side was the author of the letter. Donnelly shut up as soon as the report was through with.

"What better evidence of fact do you want?" cried he.

The moment the investigation was started, Donnelly, in order to show his teeth, immediately says that the letter was either written by Bill King or Charley Johnson, intimate friends of Washburn. This was to more bitterly further his villainous scheme.

He could have found all the handwriting of King he wanted, right there in Washington. The provocation, therefore, tor King to write that letter was immense. Then he wrote that letter in which he called him an infernal scoundrel from the ground up. That letter was sent to Mr. Donnelly, and he got it. The publication was a privileged publication because Mr. Donnelly himself published it and gave it to the world. He could have torn it up if he'd have wanted, and no one would have been the wiser. Now, I might sit down and write what I think of Mr. Donnelly, and it would be a grave libel in itself, I have no doubt, but it is only slander. It is the publication that makes it a libel.

He claimed that when a man gave a letter of that kind to the public prints, then anybody could publish it. Donnelly had said that he had shown it to several people, but had held it in his possession until he had put it in evidence on May 4. Then he was sworn as a witness, and placed the letter in evidence without any restrictions. They were going to come and tell the jury that he only put it there for the purpose of comparisons of handwriting, but nevertheless it became a public record. They had all seen in the public prints their own beautiful faces. Mr. Wellington's pretty features had been pictured in different attitudes. That was the libel.

He had put that letter in evidence May 4, 1880. Now to my point, he put that letter in on that day, but as a rule those committees do not meet until 10o'clock a. m. Yet on the same morning, at 5 o'clock, it was in the paper, so it must have been sent the day before. "Now. where dirt we get it?" he asked. Bill King said that he didn't keep

any copy. Where did it come from, then? It must have been from Donnelly. He gave a copy of that letter to the Pioneer agent in Washington. They had heard enough testimony in the case to make them disgusted with the oral testimony of men."

If a man could come and swear that he saw water run up a hill you would say that he lied. Now I show you facts to prove that water was running down hill. We got a copy of that letter on the 3d of May. How could we get it? It was in Donnelly's strong box at his house. He must have given it. What his motive had been he didn't know. It was one of the 10,000 wheels in Donnelly's head. If that was the case it was certainly privileged, first, because it was a record; secondly, because it was given by Donnelly.

The case had settled itself down to one point, who were to be believed —Mr. Donnelly or Mr. King and Mr. Le Duc. All knew Donnelly. His face is as familiar and looked a good deal like the man in the moon. He was every thing to everybody. There couldn't be a man brought there who wouldn't say but what he had been friendly with him at some time. But he was so grossly selfish and egotistical that he wouldn't allow anybody to do anything or say anything except for or about himself. They were friendly with him until they found him out. Many people who had not read his books were proud of the fact that he was a literary genius. His first book was stolen from the French—a direct steal. The next was an absurdity, and then the great cryptogram. In which the cipher says that Donnelly is a dandy, and he will discover the authorship. Then 'Caesar's Column,' stolen from Edward Bellamy. Why, he has never created anything. His whole life has been one long worship of I. Donnelly. He has never done anything but hold office and improved the importunities of I. Donnelly. He had been so poor he couldn't feed his family, yet he had loaned Clark \$500. In his struggles for office, when he couldn't set any more offices, he started the party of Donnelly.

"He has the gall of a Bengal tiger." He called everybody about the court room liars, he was about the toughest proposition for a

man he had ever come across in his whole experience. "We will leave him there for a time."

The judge turned to William S. King, and lauded him. "Why, gentlemen," said he, "that man "couldn't lie." [Laughter.] "He has a heart in him as big as one of the bulls he has brought to Lyndale for the benefit of the stock of Hennepin county."

He explained the Canada matter under the belief that Cy would spring that little affair against his record. He told the history of the investigation in which Bill King was called to testify. In some other transaction Mr. King had been made the trustee of money to give to the people who were not connected with that other matter at all. They heard of this matter and indicted him without evidence. He hurried back to Washington and insisted upon a trial. They puttered along and finally admitted they hadn't a particle of evidence. He had stood staunch and true for his friends, and like a grand man he had said he would not testify before them, and he did not.

"He has told you that the fact of his going to Canada was his ruin. There was suspicion about it, and he has suffered since as a martyr. Now they want this other man's testimony to set him down as a perjurer. Look at the facility with which he swears in his own benefit. He has tried to show that he lives in Nininger in a modest way, letting his mighty brain soar among cryptograms, etc. When he had gone to Washington, he had sworn that he lived in Donnelly. Without hesitation, he had sworn that he lived in Donnelly.

"A man who has so free a tongue, will you believe him as against William S. King?"

The judge finished by a reference to nominal damages and the one cent verdict. Said he: "If we call a man a horse thief, and say that he stole ten horses, and we go and prove that he stole nine; we might not substantiate all our charges, but he is a horse thief nevertheless, and we are but technically wrong."

He referred to the long delayed suit and drew the conclusion that at one time he had feared to do so. The noon hour had approached and eloquent glances were thrown at the clock, but the

judge ran over a little time with his discourse. For a close he warned the jury against the blandishments or the flowery tongue of Cy Wellington.

DAZZLING ELOQUENCE.

Wellington's Rhetorical Closing the Effort of His Life.

Mr. Wellington's closing address renewed the claim that has often been made for him that he is a man of eloquence and logic. He held the vast audience transfixed. There was never a more attentive assemblage, and it would have been painful were it not for his occasional relaxation influenced by the keen satire of the orator. Few men ever passed such a scathing and drastic arraignment as Col. W. S. King and Gen. Le Duc did. But the former sat there absolutely unperturbed, as though there was nothing in the slightest degree out of the ordinary.

As Mr. Wellington proceeded from phase to phase of his argument. Keeping the King and Le Duc testimony as the foundation. Col. King was the cynosure of all eyes, but there was a perfect absence of embarrassment.

After a few opening words Mr. Wellington plunged with precipitation and earnest zeal into the very spirit of the case. He amplified and philosophized, he illustrated by metaphor, and drew conclusions by mathematical and ethical analyses, and the jury sat spell-bound as the volume of eloquence rolled from the master's lips without hesitation, and superficially without effort. For three hours he forged a chain of logical conclusions that seemed unassailable strong enough to test the storm of the attacks of a multitude of statesmen.

Mr. Wellington began by elaborating upon the duties of citizenship and the fundamental principles of statehood and the

ethics of politics. He spoke in words of eloquence upon the opportunities and possibilities of Minnesota, and took the jury involuntarily back to the days when the broad and fertile prairies invited the cultivation that would reduce them to figurative gold beds. Then he deplored the manner in which the opportunities and natural resources had been perverted. Mr. Wellington pointed to the cities of Minneapolis and St. Paul in illustration of the point controlled by the wealthy classes, the buildings here have been constructed with money that had been obtained in jobbing — not in an honest way, or the fruits of honest labor. The fact is known as clearly as it is known that the sun rises in the east, that there is someone fighting, that there is someone who has been fighting these aristocrats and plutocrats — fighting this iniquitous system of spoliation of the people's inheritance in a free republican country.

"Who is it?" he asked with unction. "There is not a line written in the history of the state of Minnesota that does not record that Ignatius Donnelly is one of the men that is battling against this gigantic array of moneyed autocrats. I will ask you for what iniquitous measures has Ignatius Donnelly ever voted during his career in the halls of congress or in the legislature of the state of Minnesota? What railroad job has he ever been connected with? Bring in the records of the United States, and of the state of Minnesota and spread that broadcast.

"In this trial," he pursued, "there are banded together certain strong interests against one man. It is the final struggle, the Appomattox, and unless Ignatius Donnelly had the strength of manhood and the courage of a lion he must have laid down long ago. But with the vigor and courage of a great man he has stood and fought the battle alone against tremendous odds."

Mr. Wellington pointed to the aggregation that was gathered around the table the brightest intellect of the bar of the state, and to the assemblage. If there were a politician in the state who is not banded with the others in the interests of corporation, who was not

present to use their influence and energies to defeat the plaintiff, Mr. Wellington wanted his photograph to exhibit in a dime museum.

He reminded the jury of the verbal filth and vile vituperation that had been poured over the plaintiff, and how baseless and utterly unsupported it had been in the evidence adduced. He reviewed the assertion that this is not a conflict between the Pioneer Press and Mr. Donnelly, but as a matter of fact a fight between Ignatius Donnelly and W. S. King. This was positively and emphatically denied. There was no quarrel with King."

"If there were, W. S. King would be forced to leave Minneapolis," he urged, "and God forbid that he should be compelled to make a second trip to Canada. He is called the father and creator of Minneapolis. What an absurdity. It is the first time I had heard of it. I had been foolish enough to suppose that God almighty had made St. Anthony's falls and had given Minneapolis those magnificent and wealthy resources and not the wind, or say so of the gentleman that sits there." Pointing his finger at Col. King.

"Minneapolis doesn't depend for its existence and development, for its future progress upon any one more. No, gentlemen, W. S. King is not our prey. We are not fighting him. We are here to ask simple justice for this defendant because of the scurrilous and libelous slander published in the Pioneer Press in February."

The sin of slander was illustrated in rounded periods of eloquence. Libel was pronounced an ancient law, even in Moses' time, when he wrote the decologue, and Mr. Wellington recited "Thou shalt not bear false witness against thy neighbor." The principle had been brought down through all ages, down to the present day. The aggravated facts connected with the possibilities of redress for the poor man slandered were depicted. He has no money to go into court, and the plaintiff has had none until his fertile literary brain began to bear fruit. There are but two redresses for the poor man. He must either be driven forth disgraced, and his children must be the subject of sneers of their associates, and his

wife must walk the streets with averted head, or else seek redress through the strength and valor of his right hand.

The issues of the case were lucidly explained in detail, and the pleadings were carefully and searchingly reviewed, and the jury was cautioned that Mr. Donnelly not there to establish his innocence. The preponderance of proof devolved upon the defendant.

The publication was admitted and its libelous character proven beyond question. The defense must establish truth of the charges in the King letter must prove them all— else a verdict should be given to the plaintiff.

Then Mr. Wellington entered into the evidence with all the energy of his soul. The Clark matter was paraded in a logical chain — circumstance after circumstance. The utterly improbable, hypothesis that the \$300 could have been a bribe was shown in the fact that Mr. Donnelly had written letters dunning him for the amount of the loan. Again the money was given Clark while Clark was a supporter of Donnelly. What abject folly to bribe a man to vote for him when he was already a zealous supporter.

The course of the Pioneer Press for a long series of years was exposed. Its malignant attitude to the plaintiff was remarked in the course of the argument, and the vituperation and filth that had been hurled at Mr. Donnelly by the scurrilous pen of Joseph Wheelock was paraded in most caustic terms.

Then Gen. Le Duc's testimony was literally torn to pieces, shred by shred, when put in juxtaposition with the testimony of reputable citizens, who could have had no earthly motive to perjure themselves for or against either party to the suit. Gen. Le Duc had sworn that Donnelly had demanded stock of the road for his influence. Records proved that the grant was obtained a year prior to the issue of a dollar in stock. Then how could the \$2,500 in stock have influenced Donnelly? The fact that it was to the interest of Dakota county to build the Hastings Dakota road was fully rehearsed, and Donnelly had only done his duty as he always did in such cases. The attitude of Le Duc was pictured in realistic

language—the hatred and malignity that he evinced as a witness on the stand. In fact, Mr. Wellington showed the motive that every witness who testified in a derogatory tone of Mr. Donnelly's character were his bitterest foes. All this had been established by the testimony.

"I will ask you if you looked at his face? It would require no physiognomist to read him. Is his a face that would likely attract a child? Would a child lay its cheek against his knee and look up into that saturnine face for a caress?"

He was compared by Mr. Wellington to the participants in the inquisition and painted about as black as mortal was ever painted.

"Le Duc says he was a quartermaster. I see some of you wear the button. I do not, but I was one of you. Do you remember when we were in the trenches? When we got tired of loading and firing at the enemy; do you remember what we did? We elevated our guns now and then and fired high over the heads of our troops, so the bullet flew back in the rear four miles or so and said. 'Here goes for a quartermaster.' Le Duc was one of those fellows we used to send those bullets to search out. He was a brave man!"

Then Ignatius Donnelly's career was pictured in contradistinction. His service to his country while lieutenant governor of the state in organizing regiments to send them out to achieve greatness and to show their heroism and to die martyrs at Gettysburg. Gen. Le Duc's testimony was analyzed beside of the testimony that was diametrically opposite, and it was shown that Mr. Donnelly, to help the Hastings & Dakota road, had subscribed and paid an assessment to the corporation. Then the admissions of Le Duc to bribing Donnelly and swearing he thought it honorable and straightforward were illustrated.

The Oakes Ames transactions were exposed in a way far from complimentary to Le Duc's integrity. Ames owned one-half and afterwards got a couple more shares of the stock. How did he get them? Le Duc wouldn't swear he did not sell them to him, so that the

Milwaukee system would swallow up the Hastings & Dakota and the poor men of the county lost every cent they had in it.

"Each sold his birth right for a mess of pottage, but he got something to put in his stomach. Le Duc sold his birthright for the beggarly reward of sitting on the directorate with Alex Mitchell, twenty times a millionaire. And the poor laborers lost every cent they had invested in the enterprise."

Then the election of the directors was shown up. Only a fraction of the shares of stock were voted and they were voted by people under the control of the Milwaukee road, with Le Duc. The fact was reviewed that Le Duc had furnished items to W. D. Washburn to use in his campaign against Donnelly. Still Le Duc claimed he had no feeling of enmity towards Ignatius Donnelly.

After roasting Le Duc at length, Mr. Wellington related all the circumstances connected with the El Paso fiasco. Donnelly, after his term of office as congressman, had been elected attorney of the road. He spent a long time in the service of the corporation and never got his expenses—not a cent. A due bill for \$50,000 was executed to him and \$200,000 in stock, but both were valueless, and he returned the stock. In this connection the great lawyer trailed his guns on Col. King. He reviewed his career in Washington with acrid comments. Washington was flooded with money for corrupt purposes.

Mr. Wellington said that for the first time in the trial something tangible was found in Bill King's testimony. He swore he had been offered a bribe by Mr. Donnelly in the senatorial contest of 1869. King testified that both he and his brother Dana were supporters of Donnelly up to the time when Mr. Wilkinson appeared as a candidate, and that was not until the last moment, and Donnelly drew out before a ballot had been cast—the day before in fact. Yet W. S. King testified Donnelly tried to buy him and his brother to support him.

Col. King had written the letter, the publication of which formed the basis of the action, under the sting of what he considered a

wrong that had been done him. He is a man who helps a friend and punishes an enemy. Then Mr. Wellington returned to Washington, where the atmosphere, was surcharged with corruption—when Col. King was postmaster of the house. Col. King knew who were the men that were the easiest to be approached, and was a valuable man to the lobby. His entire salary was but \$2,560 a year, and yet he lived in splendor and magnificence. Mr. Wellington urged that he must have possession of some financial secret that multiplied his receipts many fold. Then the facts relating to the investigation were entered. Col. King was subpoenaed before the committee, and holding his hand to God, swore he had never had anything to do directly or indirectly with the Pacific road corruptions. He didn't know of a dollar that had been used.

Then a president and a cashier of a certain bank were called, and they testified that Col. King had cashed a check in their bank for \$125,000, signed by the president of the road, and Col. King was indicted. He claims that it was not for perjury, but because he has refused to testify. There was another check cashed at the same time for \$275,000, making a total of \$400,000 in one day to corrupt congress.

"A man who has nothing but truth to tell never ran away—never went to Canada, that Mecca for defaulting bank officials, that asylum of every thief, the place of escape of every villain. Canada is a veritable colony of American rascals. It is the place where the deserters of the flag fled to during the war; the objective point of deserters of their country during the hour of peril, and of bounty jumpers. W. S. King deserted his post and ran to Canada; he was a traitor to his country, and he violated his oath that he took when he was appointed postmaster of congress. He says he was not indicted for perjury, and that he only ran away to protect his friends. It was he who wrote this letter to Ignatius Donnelly. His personal pride had been assailed and he fumed in passion with malice and vicious motives."

Mr. Wellington then reviewed Col. King's testimony given in

rebuttal in the same strain and general tenor. Then came a comprehensive epitome of the whole — of Mr. Donnelly's evidence and an eulogy upon the reputation of the witnesses who had testified in behalf of the plaintiff.

"Mr. Donnelly testified that in 1868 Charles H. Clark borrowed \$500 from him. It was in the heat of a political struggle. Clark was a warm friend and an ardent supporter, and Donnelly let him have all he could spare as a loan, as one friend often helps another out of a financial difficulty. In 1869 Donnelly wrote Clark for a return of the loan. If it were a bribe do you think Mr. Donnelly would ever have written for its return? Do you believe that if he had accepted a bribe that Clark would have defamed his own character by making W. S. King a confidant? Mr. Donnelly has explained to you that he didn't prosecute Clark because he learned that Clark was execution proof. Clark died, and that ended it. Then we have over-whelming evidence here that Clark supported Donnelly, and did not need to be purchased."

Mr. Wellington then recounted the proof concerning the alleged \$2,500 check sent by C. P. Huntington. Col. King had testified that C. P. Huntington, the president of the Central Pacific railroad, had sent him the check with a personal letter asking King to hand it to Mr. Donnelly. Mr. Wellington commented that such a peculiar occurrence stamped Col. King as a remarkable man.

"Why should C. P. Huntington send this money to W. S. King? He was the postmaster. Why should the president of this colossal corporation, wish to place himself utterly and completely in the power of this ubiquitous and remarkable man? Isn't it passing strange that a man, twenty-eight times a millionaire, would do such a foolish thing?

"Why not send it directly to Mr. Dunnely? Or why not send it to the regular lobbist of the company? W. S. King has testified that he was in Washington. Why, if this is true, that it was sent through this conduit, or pipe, through which all the filth flowed and it did not have even the soil of it on him!

"Think of it, gentlemen! C. P. Huntington's offense might have sent him to the penitentiary, and yet this man says on oath that he placed himself in the power of that shrewd, cunning man, W. S. King. 'There were obvious reasons,' he says, why the money was not sent to Donnelly; but what were they? The check was not made payable to anybody. W. S. King could have had it cashed and C. P. Huntington could not have said a word. He showed it to William Windom; and Mr. Windom is dead. Isn't it a little strange that he should not have shown it to any member of the congress who is still alive, and who could have corroborated the story? There were other Minnesota members in congress, but King didn't show it to them! Why, gentlemen, the more you analyze the story the more thin it grows. It will not stand the test. W. S. King says he destroyed that letter. Now, if he had received such a letter he would have cut off his right hand before he would have destroyed it. He would have had Mr. Donnelly in his power. Moreover W. S. King comes before you by his own sworn statement as a blighted man—a tainted man."

They ask why we brought the case in Hennepin county, and say they are glad we did. I advised the plaintiff to bring it here, away from the home of both parties. It could be brought in two places—in St. Paul or here. We did not do it to take advantage of the census prejudices, and we knew we would want W. S. King in his home."

The course of the paper in the census trouble was recited with effect. The Pioneer Press had interfered with Minneapolis and the result was the census report did not indicate the number of citizens it really has, and it was the cause of cutting down St. Paul's population below what it actually is.

"Why didn't the defense produce C. P. Huntington if the King story is true. He is in New York, and we have stipulated that they may take his deposition in New York. They know that Huntington would not help their case, and they didn't want him. If he had given the money, he could have testified that it was a loan."

The course of the Pioneer Press in supporting railway companies was pointed out, and Mr. Wellington declared that there is not a

railway corporation in the United States that would not fly to the protection of the paper if they could. They are the foe of Ignatius Donnelly and would like to crush him out of existence, and if C. P. Huntington could have aided the Pioneer Press he would have eagerly deposed in New York. The charge that the letter found its way into the columns of the press through Donnelly's own agency was exploded upon logical grounds, and the speaker detailed the methods often employed by reporters in getting the news.

Mr. Wellington read the article in the Pioneer Press of Feb. 8, and showed that there was no excuse coupled with it for its production at that time. This showed malice. It was not used to throw any light on any matter. Donnelly was then a member of the state senate, and the article explained that the letter would prove interesting reading to those before whom he was posing as a reformer.

"What protection have you or your families against such defamation?" In commenting upon the oft-quoted liberty of the press, Mr. Wellington declared that it is the most tyrannical institution that civilization has brought forth. The czar of Russia is not equal to it. The only protection is the libel law against it.

"We asked for a retraction in the columns of the Pioneer Press. We told them 'your own paper has already exonerated Mr. Donnelly.' What did they answer? 'No!' They thought the time had come when they could destroy Donnelly. They hunted around for evidence and concluded they could prove the charges. Now they come here with the flimsy excuse that the letter crept in when the editor was away. If they had been willing to retract, this case would not have been brought. They said the letter was true and they would help investigate."

Judge Flandrau's arguments were next taken up and dissected as only Mr. Wellington could do it. Mr. Flandrau had asked "What is an independent man?" Mr. Wellington answered with a perfect climax. He gave a definition by pointing with fervor and burning eloquence to the career of the most famous men in the world's

history, and ended by ranking Mr. Donnelly with them. The applause ran through the court room, and Judge Lochren admonished the audience that they must observe decorum or leave the room.

The fact that Donnelly had been elected from his own county year after year his neighbors, who had known him during his entire career of over thirty years, was placed before the jury in a strong light.

"That is Ignatius Donnelly's certificate of character," said Mr. Wellington with emphasis.

He then asked the jury to return a verdict for a full recompense for the injuries inflicted by the libel. A vindication by returning a small amount was not a vindication the plaintiff deserves. He should be given an amount commensurate and equivalent to a complete justification and exoneration. A pathetic picture was drawn of a loyal and loving wife who had shared the plaintiff's burdens and his joys for so many years—sitting sadly at her home in Nininger, of the sons, and daughters, and grandchildren who keenly felt the sting of the defamation—all waiting for the burst of sunlight, for the exoneration that is justly due.

"Your verdict, gentlemen, will be flashed over the electric wires, burned in letters of life, all over the civilized world. Your names will be immortalized, and, in the name of the immortal Webster, 'Do your duty,' I will close.

THE JUDGE'S CHARGE.

A Comprehensive Review and Conservative Instructions.

As Mr. Wellington retired to his seat, Mr. Donnelly grasped him by the hand, grateful and deeply moved by the great man's eloquence. Then Judge Hooker began his charge to the jury. He reviewed the material points in the testimony, sequentially, and the

history of the plaintiff, his political career since 1850, and the effect a defamation of character might have upon him and his course and future prospects were illustrated with fairness and impartiality. The publication of the letter was reviewed, together with the technical legal phases.

He said the defendants must establish the truth of the letter. That the article is defamatory is admitted, and malice is presumed from such fact. The defendant pleads justification, and asserts that all the statements and all the charges are true. The burden of the proof is upon the defendant, and the justification must be as broad as the charge, and the defendant must have proven that all the charges in the article are true. The court instructed that it was incumbent upon the defendant to establish these facts by a preponderance of evidence.

The jury must not arrive at conclusions upon the testimony of witnesses alone. It must take into consideration the circumstances and the conditions and the opportunities that witnesses may have had for knowing the facts that they testified to. The conduct of the witnesses on the stand must also be taken into consideration, as well as any motive that they may have had for making certain statements.

The court instructed that the question of credibility of witnesses was a question for the jury to determine. Then the specific charges were recited separately, and the court gave the information that there was no evidence whatever to establish the truth of the charge that the plaintiff accepted a bribe of \$5,000 from the Central Pacific, and went to New York and got \$5,000 more on the claim that he had received nothing.

If the jury concluded from the evidence that Mr. Donnelly had given the letter for publication, then they must find for the defendant, but if they found that Mr. Donnelly had nothing to do with the incident they must find a verdict for the plaintiff. That was a question for the jury to determine alone, as was the matter of the

amount of damages to be awarded. The jury was told that they must weigh the reputation of the plaintiff in fixing the amount.

THE VERDICT.

Some of the Jurors Voted for \$50,000 at First.

The jury retired a few minutes after 5 o'clock, and returned their verdict at 9:40. It is known that the very first ballot showed that the jury was unanimous for a finding in favor of the plaintiff, but there was a wide variance as to the amount. Some voted for as high as \$50,000, while the others ranged all the way down from that sum to a paltry \$1. The \$1 men won the victory. They were persistent and remained unshaken to the end. They argued that vindication was all that Donnelly could expect.

THE END IS NOT YET.

Mr. Donnelly Sorely Disappointed at the Verdict.

Both Mr. Donnelly and Mr. Wellington were at the court house when the jury came in. When the result was made known, and the jurors declared that to be their verdict, a shadow of disappointment spread over their faces. It was not such a verdict as they felt they had reason to expect from the evidence that had been presented. Mr. Donnelly was the first to speak, while his attorney stood dumbfounded. The Sage's voice trembled for the first time during the trying ordeal.

"Can it be possible that is the price of a man's character?" he said, almost in a whisper.

Mr. Wellington sadly shook his head. "This is a surprise." he said. "This is the recompense for over twenty years' slandering," and the two walked out into the open air.

Mr. Wellington took an Interurban car for his home in St. Paul, but Mr. Donnelly returned to his room in the Nicollet house, where he was seen by a Globe reporter. Mr. Donnelly had no hesitation in confessing that the verdict was a sore disappointment.

"Under the charge of the court, the jury had but one course to pursue. The defense failed utterly to prove that I was instrumental in setting the letter into the columns of the Pioneer Press. They failed because the plea was totally false. It must have had its effect upon any thinking man, and it was a trick that does no credit to Joseph Wheelock's boasted sagacity. That I should want to publish broadcast a defamatory attack upon my character — too absurd to be entertained. There was not the slightest proof or it, and the court instructed so plainly there was no possibility of a misconstruction upon this point. Then it became a question of the amount of damages to be awarded. I have been told that was the first question raised when the jurors retired. The jurors evidently misunderstood the circumstances and conditions. They supposed a simple vindication was all I wanted. Were I a rich man that would be true, for I wouldn't care for a dollar of Joseph Wheelock's money if I had a goodly store. But Wheelock's persecution through these twenty years and more have cost me a great deal of money. You understand what I mean. And a poor man's reputation is his all; robbed of it, he is poor indeed."

"Is this your last step?" asked the reporter.

"Oh, no; I shall not drop Mr. Wheelock here. I know he will never cease his attacks upon me, and I cannot afford to sit idly by and suffer his attacks with meekness. I have already had a consultation with Mr. Wellington, and another action will be brought to recover, damages for libel. The virulence of the Pioneer Press has not been confined to the King letter— not by any means. There have been a large number of libelous, slanderous articles published in its

columns that are action able, and I am determined to seek full, redress, so long as there is justice in the courts.

"I realize I erred in bringing this action in Hennepin county. I had supposed that if I brought it in St. Paul I would be confronted by a perfect bulwark of Pioneer Press popularity. But I miscalculated. I had overestimated the favor with which the paper is held in the city of its home, and instead of avoiding a prejudice in favor of the Pioneer Press, I ran hard against the strange popularity of William King in Minneapolis. I shall bring my next suit in St. Paul, and I feel confident of a more signal victory."

"How do you account for the unanimous verdict?"

"I cannot account for it under the instructions of Judge Hooker. I fancy the jurors believed I only cared for a vindication — not for money."

Mr. Wellington also conversed freely with the reporter prior to his taking a car for St. Paul. His disappointment was marked. He had labored hard, for he said he felt right was on his side. Mr. Wellington acknowledged that another action for libel was to be brought at once, but he preferred not to discuss it until he had drawn up the paper.

WHEELOCK SATISFIED.

The Verdict Regarded as a Vindication of the Newspaper.

Editor Wheelock, of the Pioneer Press, was seen after the verdict was rendered. He said: "I am well satisfied with the verdict, as I look upon it as a vindication for the defendant, and a condemnation of the plaintiff. A plea of justification was made to the suit brought against the paper by Mr. Donnelly, and the answer thereto must be as broad as the charges made. It was an impossibility to prove some of the charges, simply because of the

death of the people who could prove it. The charges made and the letter written by King eleven years ago were of events which occurred eleven years prior to that time. Had Mr. Donnelly brought his suit on the first publication, the charges could have been proved to the hilt. But he did not. He has waited until nearly half a century has elapsed, and when all the parties excepting King are dead. So accordingly our plea of justification was not substantiated as full as it ought to have been, and hence, under the ruling of the judge, the jury had to bring in a verdict for the plaintiff. They have done that, bringing in a verdict of \$1, which, under every circumstance, is eminently satisfactory to the defendants.]”

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Credit.

The photograph on the first page was taken in 1891 by the Zimmerman Gallery. Minneapolis Newspaper Collection, Hennepin County Library.

The photographs of Lochren, Flandrau, Squires and Wheelock, are from Men of Minnesota (1902).

Those of Ames, King, Springer, Washburn, Julian, Le Duc, Donnelly and Huntington are from various sources on the Internet.

The photograph of Judge Hooker is from his obituary in the 1 *Minnesota Law Journal* 96 (September 1893)

The photograph of Wellington is from “The Bar and Bench of Ramsey County,” a section of *Illustrated St. Paul*, a book published by the *St. Paul Dispatch* in January 1892 (and posted on the MLHP, 2015).

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Further Reading.

Martin Ridge also gives an account of the events leading to the trial and the trial itself in his biography *Ignatius Donnelly: Portrait of a Politician*, 187-195, 290-292 (University of Chicago Press, 1962). ■

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