

ish of trumpets a few days later," together with the following other words concerning the said plaintiff, to wit: "Again Bonfield in his interview declares that he had no business here except the looking up of election frauds. Was that Barton's business when he wrote the letter charging the United States Court and the Utah Commission with direct corruption?"

The ninth cause is given as follows:

That on the 2nd day of February, 1890, the *Tribune* contained the following:

"Barton's Stats. The News comes to the defense of James B. Barton, the shyster attorney dismissed by Registrar McCallum from practicing before him. It tells his standing and endorsements. Imagine one of the first-class lawyers of this or any other city accepting the position of a common detective, going to a strange place and being introduced as 'No. 1,' agreeing with some conspirators to try to obtain membership in a club of gentlemen so as to obtain secrets of the plans of a political party, making reports nightly to a chief; accepting money for his services as from a man who demanded such services as Frank Jennings imposed; applying for admission to the bar and then writing up dirty falsehoods about the Court to be published under cover in a newspaper two thousand miles away; drawing \$1500 at one time, as he alleged, to whom a Liberal detective whom he had bribed for that sum, and generally aiding and abetting all the devilry and nastiness on foot, and winding up as a full-fledged attorney in the defense of illegally registered voters.

"It is all too thin. The Mormons needed no more fourth-rate lawyers. They have plenty of that kind. Barton came here simply as a detective, and Bonfield's assertions that he needed a legal adviser to help him work up possible election frauds is too gauzy for any sensible person to believe for an instant. The appearance of Barton before the Registrar as the attorney for the challenged men was a full give away of the contract which he is under, and his status is fixed permanently in this community. The *News* ought to know that its endorsement of him is in itself full confirmation of the truth of anything that has been charged against 'No. 1.'"

For a tenth cause of action plaintiff alleges: That on the 6th and 8th days of February, 1890, the defendant published the following words concerning him:

CHICAGO, Ill., February 3, 1890.

O. W. Powers, Chairman Liberal Committee:

Answering your telegram, Jesse B. Barton is supposed to be a lawyer of little practice and no standing. He is interested in some mining property in the West with a fellow named Goldberg. Barton permanently located somewhere in Utah. Might be recommended by parties you name;" and then and there and in said publication subscribed to said word, the name "W. A. Pinkerton;" and plaintiff alleges that W. A. Pinkerton is the chief, or one of the chiefs, of a prominent detective agency with headquarters in the city of Chicago, in the State of Illinois and is generally known as such throughout the entire United States.

For an eleventh cause of action it is alleged that on the 8th day of February, 1890, the *Tribune* contained these statements:

"Our friends, the enemy, are a shrewd generation. When, two months ago, the houses of Gentile were being robbed nightly and our vigilant police were unable to arrest any of the prowlers, none of us thought it was due to the plan of

the People's party to make the campaign on their side self-supporting by turning their trusted experts out at night to earn an honest penny. We mean, of course, their imported experts—the men whom they have brought here to advance the cause of righteousness and extend the reign and power of their holy church. God moves in a mysterious way, His wonders to perform. No one at that time understood the significance of the remark of the *Herald* when it predicted that this would be an 'intellectual campaign' on the part of the People's party. If they had they would have double-bolted their door. We all know that necessity knows no more law than does Jesse B. Barton, and that when our friends, Mr. Richards, Mr. Jennings, Lieutenant Young & Co. sent away for the peculiar order of talent, which they needed for this emergency, they must have known that such experts as they employed, to be persuaded to leave their broader fields in the East, would demand heavy retainers. They doubtless understood, too, that the expert thief and pickpocket, in order to retain his proficiency of touch, must keep in practice. What, then, considering all these things, was more natural than to have them posted as to which houses their friends live in, and which houses, like that of Mr. Wallace, had no dogs, and to conveniently close their eyes to the action of the experts after the moon went down? Moreover, it was re-enacting the old trick, for by it the Egyptians were being spoiled once more. We can judge, too, how fine a discrimination was made. The experts, for the glory of the kingdom of Christ, robbed Governor Robertson and the other depraved Commissioners without remorse, but not a hair of General McClelland was singed, or a pair of his trousers rifled. As this is a strictly honest campaign on the part of our friends, the enemy, we trust the *Herald* will publish the exact terms of contract which inaugurated the intellectual campaign. Were the spoils that night prowlers secured deducted from their salaries or just turned in as perquisites leaving it to their sense of gratitude to properly remunerate the police for their forbearance? Or were there two contracts, one with the People's Central Committee, for general work, and one with Marshal Solomon by which experts acting as detectives were to have all the proceeds of their robberies on the same plan that the experts were engaged to raid the saloons and houses of ill fame some months since and for which, at its last meeting, the City Council gave the Marshal a certificate of character? If this last was the agreement, why did not the Council, while whitewashing the Chief of Police, include the last exploit, and add a vote of thanks for it? Marshal Solomon is a sententious and modest gentleman, and may be reticent about explaining his part in the noble work of building up God's kingdom; but Mr. Richards, Lieutenant Young, and the others are devout men who pride themselves on possessing the only true religion, and, moreover, they have openly published to the world that this must be 'an honest campaign,' so we think that an explanation from them is due the public. They have, apparently, of late been exceedingly anxious about a phantom train that on a certain dark night rolled down a phantom railroad; but that does not relieve public anxiety as to the connection, seemingly direct, between the management of an intellectual campaign by the People's Party and the operations of a corps of sneak thieves and burglars. If not prior to Monday, we trust that so soon after that day as the *Herald* shall recover from the earthquake, it will arise and explain, even if the explanation necessitates another four-column paragraph from Brothers Richards and Young."

For a twelfth cause of action plaintiff alleges that on the 8th day of February, 1891, at Salt Lake City, the defendant published the following words:

"They hired a miscreant to write a prominent eastern journal that the Courts and the Commission were creatures of an unscrupulous gang of speculators bent on making fortunes by robbing innocent and hard-working honest men of their life-long earnings."

The thirteenth cause of action is thus given:

That on the 9th day of February, 1890, at Salt Lake City aforesaid, the defendant published in said newspaper the following words concerning plaintiff:

"Groo and Whitney of the *Herald* did appear, and their behavior on the stand caused even those who despised them to sincerely pity them. The latter admitted that he prepared the flashing head lines in yesterday's local, and wrote the charges on the simple word of a skulking liar and reprobate whom he had known but ten days," meaning thereby to denigrate and denominating plaintiff as a "skulking liar and reprobate."

In his fourteenth cause of action plaintiff alleges that on the 12th day of February, 1890, the *Tribune* came out with the subjoined remarks:

"As for Barton, he had better accept the situation which he claims has been offered him in Chicago. He is not of the caliber that is calculated to succeed here. As a detective, he is the scorn of the men who make that a profession: as a literary man, his efforts lack two serious material essentials, trust and intelligence; as a lawyer, Registrar McCallum sized him up at his full value on his first assay. Great cities always have a provincial side. They always contain a certain class of men who know less than any other class to be found anywhere. Probably Chicago has this contingent, and in gentleness and sincerity we recommend Mr. Barton to return and build up a practice in this class. In that way he may actually make a living."

Plaintiff denies that he has ever been guilty of any misconduct or malpractice in his capacity as an attorney; that during all the time, from January, 1876—when he was admitted to practice—until the present time, he has borne a good and high reputation in legal circles and has never been charged with misconduct except by the defendants and those repeating the charge; that during all his life he has borne a good reputation as to honesty and gentlemanly acts.

The plaintiff sets forth that the object of the defendant in publishing the foregoing articles was to blacken his character, destroy his reputation in his profession as an attorney and counselor at law, to injure him in his standing at the bar and in the courts of Utah Territory, and to hold him up to scorn and contumely; which publication was false and defamatory, greatly injured his reputation aforesaid, and he has lost and been deprived of great gains and profits, which would otherwise have arisen and accrued to him in his said business and profession.

He further insists that each and every of said publications was and is false and defamatory, and published by the defendant maliciously and wrongfully and with intent to injure him.