

Amelia Hertogs v. St. Paul Daily Globe

(1889)

On February 8, 1889, the *St. Paul Daily Globe* published a long profile of Amelia Hertogs, a Minneapolis milliner and dressmaker. Instead of critiquing the style and design of Mrs. Hertogs' apparel, the newspaper charged her with being a "procuress," who enticed young women to work in local houses of prostitution and later provided them with clothes. Mrs. Hertogs demanded a retraction, and the *Globe* complied.¹ She then sued it for libel in Hennepin County District Court in mid-March 1889.

Mrs. Hertogs retained Judge Eli Torrance to represent her while the *Globe* hired Eugene M. Wilson, a former Congressman and one of the state's most prominent lawyers.² The case was assigned to Judge Austin Hill Young.³ It was tried to a jury over five days in June.

The answer of the *Globe* raised alternative and seemingly contradictory defenses: first, that the article was in fact true and, second, that the retraction eliminated any claim of damages (taken literally the retraction admitted the article was false). Judge Young denied a motion by the defense to require the *Tribune* to elect between the two, ruling that the first defense related to the issue of liability, the second to damages.

After the trial, the *Globe* and other newspapers praised Judge Young's charge to the jury. After reading his instructions that were

¹ A retraction was required by 1887 Laws, c. 191, at 308 (effective March 2, 1887), a libel law enacted by the 25th Legislature. The constitutionality of the law was upheld in *Allen v. Pioneer Press Co.*, 40 Minn. 117, 41 N.W. 936 (1889)(Mitchell, J.).

² Eli Torrance was a probate judge in Missouri after the Civil War (he was known ever after as Judge though he never served on the bench in Minnesota). In 1881 he came to Minneapolis and practiced by himself or in a firm. For his profile see Hiram F. Stevens, *History of the Bench and Bar of Minnesota* 209-213 (1904).

For bar memorials, see "Eugene M. Wilson (1833-1890)" (MLHP, 2008-2016).

³ For obituaries, see "Austin H. Young (1830-1905)" (MLHP, 2008-2016).

paraphrased in the newspaper, the question arises as to whether his comments on the facts of the dispute were fair and even-handed. The statute on a judge's duty in charging a jury in effect at the time of the Hertogs case provided:

Charge of court. In charging the jury, the court shall state to them all matters of law which it thinks necessary for their information in giving their verdict; and, if it presents the facts of the case, shall, in addition to what it may deem its duty to say, inform the jury that they are the exclusive judges of all questions of fact.⁴

While comparisons are difficult to make, trial judges in the 1880s and 1890s may have been more likely to comment on the facts of a libel suit against a newspaper than in other types of litigation.⁵ In fact, in many such cases the jury received a directed verdict on liability.

Amelia Hertogs's libel suit was soon forgotten.⁶ But here it is retold through the contemporary newspaper accounts, which someday will aid a legal historian in her research into the blizzard of libel lawsuits against Minnesota newspapers at the end of the nineteenth century.

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⁴ Statute, c. 114, §13, at 957 (1878). At some distant future a study of Minnesota trial judges' commentary on the facts of a case will be posted on the MLHP website.

⁵ Decades later, delegates to the 1926 Minnesota State Bar Association Convention had a vigorous debate over a bill pending in Congress (the "Caraway Bill") that would prohibit federal judges from commenting on the facts of a case. The minutes of the 1926 MSBA convention are posted separately on this website.

⁶ It may have been recalled at the time as one of Eugene Wilson's last lawsuits. He died on April 10, 1890.

ST. PAUL DAILY GLOBE

February 8, 1889, Friday Morning

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SCARLET SORCERESS.

Her Business of Luring Young
Girls to Shores of Sin.

The French Madame and Her
Infamous Career in the City.

Virtue and Vice Alike Suffer
in Her Nefarious
Traffic.

A Procuress Who Should
Leave Minneapolis for Its
Good.

In an unpretentious house among the respectable homes that adorn Ninth street south, between Third and Fourth avenues, lives a large masculine-looking woman named Mrs. M. Hertogs. She is to all appearances a hard-working woman and has until a short time ago been regarded by most of her friends and neighbors as an honest, respectable woman, but among a few of those who knew her reports of a peculiar and highly unsavory character have been circulating, and of late they have been more decided in character and for the most part have become traceable to direct acts of her own. Mrs. Hertogs, more generally known as "the French madame," formerly kept a millinery and dressmaking establishment

at 54 South Fifth street, called the Louvre. While in business there she seemed to have a good trade, but began to cater to the tastes and inclinations of the fallen



women on First street to such an extent that respectable customers soon ceased to visit her place, and she was forced to depend entirely for her import of her business on the class of trade for which she had shown such decided preference in her palmier days. Money is needful, however, to carry on a business and she soon found that payments were often very uncertain in dealing with ladies of easy virtue, and

some time ago she closed out her business at No. 54, and since then she has done some private dressmaking at her house on Ninth street, and still continues to-do work for one or two of the First street establishments, but has been ordered out of some of them on account of alleged dishonorable business practices. The charges made against Mme. Hertogs are that through her connection with the houses she conceived the idea of bettering herself financially and building up her business at the same time by

ACTING AS A PROCURESS.

The girls which she furnished for a house of prostitution would, of course, need some expensive dresses and she would furnish them on time, thus getting the girls in debt and placing them to a large extent in her power. Lately things have begun to become known which led

respectable people who knew her to distrust the woman, and only a few weeks ago the Harmonia society, of which she had long been an active member, learned enough of her true character to justify the directors in dropping her name from the rolls, but when the world knows her for the procuress and betrayer of virtue and innocence which she is, it will be forever a disgrace to the community in which she lives if she is not either warned to leave the city or, suffer the punishment which just laws provide for those who offend against the purity and virtue of the young and innocent.

There is no lack of proof of case after case of her providing places in house[s] of prostitution for women from other houses who were indebted to her for dresses. About two years ago when the authorities closed Ida Dorsey's colored bagnio on Second avenue south. Madam Hertogs took one of the inmates, a quadroon girl who was indebted to her for dressmaking, to a house where none but white girls were allowed, and told the madam that the girl was a Spaniard and recommended her as a dancer and a girl who would sell a great deal of beer. At about that time she is said to have taken one of the young girls employed in her millinery establishment on Fifth street to a house of ill fame on First street kept by Hattie McBride at that time.

THE GIRL WAS YOUNG,

pretty and innocent appearing and even the hardened keeper of the place was moved to pity and asked if the girl was "on the turf and knew what she was doing." The French madame assured the woman that the girl was an old timer and well acquainted with the ways of the world. The McBride woman still doubted the statement, and on asking the girl privately, discovered that she was perfectly

virtuous and innocent and that she had been led to apply for a mission to the house by the glowing picture of the ease and luxury enjoyed there, as painted by Madam Hertogs, who had promised to trust her for any dresses she might need. Another one of her sewing girls, a pretty, quiet young thing who never did a vicious act in, her life, as is attested by all who knew her, was induced by this old fiend to accompany her to some of the palaces of sin in St. Paul, where she went to deliver work. The girl went several times, and was finally induced to drink heartily in a house on Jackson street and then was prevailed upon to stay over night. The poor girl awoke in the morning to realize that she was ruined. She remained in the house a week, but finally her

GOOD QUALITIES TRIUMPHED

over the influences that were brought to bear upon her, and she returned to Minneapolis and later sought employment in La Crosse.

The latest exploit of this really remarkable woman was the securing for an infamous den in Butte, Mont., of four girls from one of the houses on First street. It was on Saturday last during the absence of Hattie Brush, the proprietress of the place, that Madame Hertogs went to 207 First street south and asked the girls if they would like to go to Butte, Mont. She represented to them that money was very plentiful there; that they could soon amass fortune; and told seductive tales of the luxury and gayety of life in the mountain towns. Some of the girls thought they would like to go if they were only able to, but as they were in debt and had no money to buy tickets they, could not. She, however, told them that the landlady for whose house she was securing them would gladly pay their way; and advance money to pay their indebtedness here if they

would go, as pretty girls were hard to get, and she had come here with the express intention of inducing several to return with her. Four of the girls finally consented and the Butte landlady having paid off their indebtedness here,

THEY LEFT FOR MONTANA

on Sunday. Three of the four girls who were thus enticed away will be over \$150 each in debt to their new landlady, and no matter how hard the life or how rough the treatment they get, they will be unable to get away from the place for a long time.

But the saddest tale of a life ruined by this woman's scheming villainy is yet to come. About one year ago pretty Nellie Turcotte, a bright-eyed, black haired, rosy-cheeked country girl, whose parents lived just outside the city, came to the city to work in a restaurant as a waiter. She had a cousin, another young girl, who was employed by Mme. Hertogs as a sewing girl. Nellie often visited her cousin at the shop on Fifth street, and became more or less acquainted with Mme. Hertogs and the latter often invited the two girls to drink with her girls which they sometimes did. After a time Nellie found herself out of employment and without any place to stop. The old lady took the girl to the house on Tenth street and Sixth avenue south, where she then lived, and kept her there a week, all the time

POISONING THE YOUNG MIND

with stories of the gay, happy, luxurious life that the girls in the First street houses lived, and finally the poor child was persuaded to enter the house at 228, run by Jennie Jones, and become one of its regular inmates, but not until after she had been taken there several times to call and had been plied with drinks and assured again and

again that she would live a life of comfort and careless enjoyment. In that house the girl remained until about two weeks ago, when her grief-stricken mother, discovering where she was, came to the city, swore out a warrant for her daughter's arrest, and applied to the court for her commitment to the house of the Good Shepherd. The girl swore in the face of overwhelming evidence that she had never been in a house of prostitution, and the judge finally allowed her to go with her mother on her promising to go home and live quietly with her parents. No sooner, however, was she out of the court room than she refused to accompany her mother, and she is now living in rented rooms as the mistress of a barkeeper.

ANOTHER CASE.

There is another pretty little girl now in the city who was formerly employed by Madam Hertogs. She is an honest, respectable, hard-working girl, and is more than indignant at the conduct of her former employer in leading astray young girls who might have made honorable, useful wives and women. She herself was stopped in the street by the old friend only a week or so ago, and cordially invited to go with the party to Butte.

There are many other and worse stories than these that find currency among those who know the French madame best, but those above printed are only such as can be proved by reliable testimony.⁷

Mrs. Hartogs demanded a retraction, as reported in the *Tribune*:

MRS. HERTOGS DENIES IT.

⁷ *St. Paul Daily Globe*, February 8, 1889, at 3.

A French Milliner Will Demand Retraction for Being Called a Procuress.

Mrs. Hertogs, the French milliner at 311 Ninth Street south, who was charged with being a procuress in the *Globe* of yesterday, has about completed arrangements for a libel suit against that paper, through her attorneys, Torrance & Fletcher, unless retraction is made. She was seen at her home yesterday by a *Tribune* reporter, and with much emotion denied all charges made against her, with the exception of being associated with the houses of ill repute on First street in a business way. She said she had made clothing for the inmates and had commenced to do so since failing while engaged in the millinery business on Fifth street. She visited the houses in question to deliver goods, she said, and to collect her bills.

As to acting as a procuress for those places she offered emphatic denial, claiming instead to have rescued several inmates, given them employment, and doing what else she could to bring them back to lives of virtue.

Mrs. Hertogs showed several recommendations from influential members of both the English and French nobility, among them being Queen Victoria, in whose palace she says she spent a number of years as teacher of French, her family consists of a husband, two sons and five daughters. The husband and eldest son are employed in a retail furniture store in the city, and the oldest daughter at a leading millinery establishment. The other children attend school.

The family have resided in this city for about 10 years, during which time Mrs. Hertogs has been engaged in the millinery business.⁸

⁸ *Minneapolis Tribune*, February 9, 1889, at 5.

Three days later the *Globe* retracted this story. On Tuesday, February 12th, it published the following:

CHARGES RETRACTED.

Withdrawal of Statements in Regard to Mrs. Hertogs.

Last Friday morning the *Globe* published an article relating to Mrs. Hertogs, of Minneapolis, in which was given a sketch purporting to be her career in that city. This article was printed on the strength of information which was, at the time, deemed reliable; and as a public duty, not with any feeling or malice toward the subject of the matter.

It stated that she had at divers times induced young girls to leave the paths of virtue and enter upon a life of shame, and that she had arranged for the transfer of certain girls from Minneapolis to Butte, Mont. Mrs. Hertogs denounces the statements contained in the publication as false and defamatory, and demands their retraction. The *Globe* has no hesitation in righting any wrong it has unintentionally committed, and prefers the straightforward course at all times.

The publication in reference to Mrs. Hertogs is therefore retracted in every particular that could be construed as a reflection upon her. This retraction fully covers any and every statement charging Mrs. Hertogs with any improper act or conduct, and the *Globe* desires to remove from the public mind any impression or effect derogatory

to Mrs. Hertogs that may have been produced by means of the article of last Friday morning.⁹

Undeterred Mrs. Hertogs filed suit against the *Globe* in Hennepin County District Court on March 18, 1889.¹⁰ There was little if any pretrial “discovery” at this time and so the case was placed quickly on the trial calendar. For five days in June it was tried to a jury before Judge Austin H. Young. The accounts of the trial in the *Globe* were longer than those in the hometown *Tribune*. The first day of the trial, Tuesday, June 11th, was reported in the *Globe*:

THE JINGLE OF THE GUINEA.

That Mrs. Hertogs Wants to Help
the Hurt That Honor Feels.

The Hennepin county court house was yesterday the scene of a very interesting action at law brought by Amelia Hertogs to recover damages from the Globe Publishing company for an alleged libel. The article complained of charged Madame Hertogs with having conducted several questionable enterprises in connection with inmates of the sporting houses of the Twin Cities and with otherwise having misbehaved herself.

In its answer to the complaint, the publishing company had “justified,” or, in other words, had said it was

⁹ *St. Paul Daily Globe*, February 12, 1889, at 3. The *St. Charles Union* characterized the *Globe*’s article as follows:

Mrs. Amelia Hertogs of Minneapolis has sued the St. Paul Globe for \$50,000 damages for injuring her character, sustained by an article published in that paper under flaming headlines on Feb. 8. The article in question was about a column and a half in length, and contained her picture; in it she was represented as a procuress for houses of ill-fame.

March 22, 1889, at 4.

¹⁰ *St. Paul Daily Globe*, March 19, 1889, at 4 (listings new suits filed in District Court).

prepared to prove the truth of the charges, though they had been formally retracted as required by law. In the opening of the case, the defense scored a knockdown. The plaintiff endeavored to obtain a ruling of the court compelling the defendant to elect which of two lines of defense it would pursue—to plead retraction or justification; but the court held the defense was entitled to both ends of the situation and could plead the retraction, to limit to the actual financial damages, and justification as against damages of any character.

The plaintiff introduced very little testimony beyond the publication itself, the plaintiff admitting that, as well as the allegation that it had a large and general circulation. Mr. Hertogs, husband of the plaintiff, testified to her business; but admitted he knew little of it when he was pressed down to details. He admitted her customers were among the sporting houses and that he had accompanied her there and collected bills.

Marie Hertog's, plaintiff's daughter, admitted she had no share of the business, but attempted to show that business had fallen off since the publication. She named several persons who were patrons of her mother, before the publication and not since, but could give no exact locations. Her memory was equally at fault when she came to enumerate, by names, the girls who worked for her mother, though she said the number was nine before the publication and four afterward. She had accompanied her mother to sporting houses to deliver goods, but said she never entered them. She occasionally drank a glass of beer, she told her attorney.

The plaintiff then rested, and on motion of Mr. Wilson, for the defense, the oral testimony was stricken out, as it showed no damage suffered as connected with the publication.

A little technical testimony relative to the publication of a newspaper was introduced by the plaintiff, and more to show due diligence was used in gathering the facts. The real testimony was then begun, and the proprietress of a sporting resort "under the hill" in St. Paul was placed on the stand. She told a straightforward story to the effect that Mrs. Hertogs had once met a man in her house, apparently by appointment, and at another time had brought in a young girl, saying she "had brought her there to show her sporting life." The court then adjourned until this morning.

The presence in the court room of a large group of witnesses drawn from the Twin City sporting houses attracted some little attention, but a crowd was at no time present.¹¹

The second day of the trial, Wednesday, June 12, was reported in the *Minneapolis Tribune*:

Witnesses for the Defense in the Hertogs Libel Suit Give Very Plain Testimony.

The trial of the Hertogs libel case was resumed yesterday morning. City Editor Hall, of the Minneapolis department of the Globe, made a detailed statement of how he came into the possession of the facts contained in the alleged libelous article. One of the subscription agents had made investigations on First street, and reported that Mrs. Hertogs had induced Nellie Turcotte to enter a house of ill fame, and that she had also taken another young girl, who was employed in her dressmaking establishment, to a Third street saloon, where she was induced to drink, and

¹¹ *St. Paul Daily Globe*, June 12, 1889, at 3.

when intoxicated she was ruined. Mr. Hall said that when the girl recovered she tried to escape, but Mrs. Hertogs and others prevented it. She was finally taken to a St. Paul house. T. S. Varnum, a Globe reporter, said that he was told at Hattle McBride's place that Mrs. Hertogs had taken a young girl to Hattle's place and tried to have her received as an Inmate.

The McBride woman found that she was an innocent girl and declined to admit her. The McBride woman on the stand admitted that she had asked Mrs. McBride to recommend girls. Mrs. Hertogs' coachman, Abe Gorman, testified that he used to drive Mrs. Hertogs to First street nearly every day and that she frequently stayed as late as 1 o'clock in the morning. Nellie Kellar said that Mrs. Hertogs and Kate Whitney, a Butte "landlady," had induced her and three other girls to leave houses in Minneapolis and St. Paul to go to Butte. At the Clifton House, St. Paul, she saw the Montana madam pay Mrs. Hertogs some money.

Emma Brown, keeper of a St. Paul sporting house, said that Mrs. Hertogs brought two girls, who appeared to be working girls, to her and wanted them received. She was afraid of trouble and refused to take them.

Several other witnesses were sworn, but nothing additional was elicited from them. The case will probably continue at least two more days. ¹²

The third day, from the *Globe* :

HIS TOGS ON HERTOGS

Salacious Developments in
the Lurid Hertogs Libel Suit.

¹² *Minneapolis Tribune*, June 13, 1889, at 7.

**Witnesses for the Defense
Tell Hot Tales of the Plaintiff.**

The Hertogs case grows more and more salacious as it proceeds, and the presence of bald-heads in the court room becomes more and more conspicuous.

Yesterday's testimony was all in relation to the direct charges against Mrs. Hertogs, in the line of the defendant's answer. Further matters were laid before the jury to show the good faith of the publication and to show the extent of the investigation of the charges before the matter was printed. The witnesses, otherwise, were all women. Nellie Kellar, a dashing brunette from St. Paul, told the story of the procuring of the six girls to go to Butte. She said Madam Hertogs had brought Kate Whitney to her and in her presence had told the other girls of the alluring prospects in Butte. The Saturday night prior to their departure, Mrs. Hertogs had taken them to a saloon in St. Paul and liberally stood treat. The Minneapolis part of the story, the scene being at Hattie Brush's, was told by Effie Hastings, who heard the plaintiff use the same arguments with the girls there.

May Brown testified that Mrs. Hertogs had taken her to a sporting house and had endeavored to persuade her to go to Montana on the same errand. She went into details of the madam's plan of getting girls into houses of this character.

Nellie Marshall, a petite blonde, told a similar story with regard to herself; how madam had taken her to a First street house, and how she had introduced Nellie Turcotte into the same house, as charged in the article. She created quite a sensation when she described how, one night Mrs. Hertogs had come to Jennie Jones' house dressed in men's clothing and under the influence of

liquor, and accompanied by Nellie Turcotte, in the same condition. This last was corroborated by Sadie Smith later in the day.

N. W. King and Luke Kinney, formerly city detectives, testified that Mrs. Hertogs bore a bad reputation in police circles, and the former said she had sent girls to Washburn, Wis.

Sadie Smith, the last witness, testified that she had sewed for Mrs. Hertogs, and had by her been induced to enter a house of ill-fame at 378 Jackson street, St. Paul, where she had remained a week and then been reclaimed. She also testified to having heard Mrs. Hertogs tell how she (Hertogs) had gotten Nellie Turcotte into Jennie Jones' house. She began on other matters showing the practice of the plaintiff, but the testimony was ruled out as not being part of the original charge.

An incident of the day was a lecture Judge Young delivered to Attorney Torrance on his efforts to disgrace certain witnesses by dragging out their private histories, and the court announced he would permit it no longer.

This ended the direct testimony for the defense. The plaintiff introduced three men to prove her good character. One was a salesman who sold her goods, and he, of course, knew naught but good of her. The second was an ice man, who had, until a year ago, been a saloon-keeper, and was indicted for keeping a "blind pig." The third was Sidewalk Inspector De Harwell, who knew the plaintiff made dresses for the First street people, but thought her reputation all right.

The plaintiff herself has not yet taken the stand. She will introduce further testimony to-day in rebuttal, and there is a probability the case will be submitted to the jury by evening.¹³

¹³ *St. Paul Daily Globe*, June 14, 1889, at 3.

The *Tribune's* account of the trial's final day in which evidence was offered, Friday June 14th:

Mrs. Hertogs Libel Suit.

Yesterday was the last day in which evidence was introduced in the Hertogs' libel case. The crowd was not in the least diminished. In the afternoon not only Mrs. Hertogs and her husband, but seven of their 11 children were on hand to listen to the testimony introduced regarding their mother's character. Judge Young would not allow any testimony as to whether the girls had seen Mrs. Hertogs drink, holding that it was not in rebuttal. A number of sewing girls were put on the stand to testify as to Mrs. Hertogs' character.

Judge Eli Torrance, attorney for the plaintiff, said he wanted to get the sewing girls before the jury, and E. M. Wilson, the opposing counsel, suggested that he stand them up in a row. One of them admitted that she had sometimes gone with Mrs. Hertogs when, she went to deliver goods in houses of ill fame. Nellie Turcotte swore that she had never told a Globe reporter her history, and that Mrs. Hertogs was not in any manner responsible for her downfall. The testimony closed at 3 o'clock. Mr. Wilson argued for the defense that if the article was false, the retraction would clear the paper from all liability. He also argued that if the paper had heard of the rumors about Mrs. Hertogs, and had investigated them and found them true, it was their duty to make them public. Judge Torrance summed up for the defense, and the most of his argument was devoted to a denunciation of the Globe and its whole Minneapolis force. It was 5:30 when Mr. Torrance closed, and Judge Young deferred the charge

until 9 o'clock this morning. During the entire trial Mrs. Hertogs has not been called to the witness stand.¹⁴

The jury was instructed by Judge Young and returned a verdict for the *Globe* late in the afternoon of Saturday, June 16. This permitted the *Globe* to indulge in a lengthy self-congratulatory article on the front page of its Sunday edition:

AND THE GLOBE WINS

A Verdict for the Defendant
in the Hertogs Suit for Libel.

The Newspaper Is the Best
Guardian of the Morals
of the Public.

A Victory for the Press in Its
Duty of Uncovering Corruption.

The Globe Sustained by the
Jury in a Memorable Law Suit.

¹⁴ *Minneapolis Tribune*, June 15, 1889, at 7. The *Globe* took this swipe at Judge Torrance in its story of the last day of testimony:

Judge Torrance summoned up for the plaintiff. His specious plea for this woman's good name was marred somewhat by the fact that he read his address from type-written copy. He criticized the character of witnesses the defense had relied upon, and denounced the testimony as only an attorney can. When he concluded it was quite late, and the charge to the jury was reserved until this morning.

St. Paul Daily Globe, June 15, 1889, at 3.



udge and Jury have passed, respectively, upon the law and the facts in the libel suit brought by Amelia Hertogs, of Minneapolis, against the Globe, and the result is a complete vindication of the position taken by the Globe.

At 5 o'clock yesterday afternoon, after four days of the trial of the cause and 7 hours of deliberation, the jury returned a verdict for the defendant. This verdict was regarded by all who heard the testimony as a foregone conclusion, and though the defendant was the recipient of

the congratulations customary upon such occasions, there was no surprise manifested in legal and journalistic circles. The Globe had thoroughly investigated the facts in the case before the publication and had strengthened and fortified its position afterward and there was no time in the history of the case, from the filing of the preliminary papers to the retirement of the jury, that the slightest doubt of the result was felt in this office. The Globe did not court the suit, nor did it invite it, but having done its public duty in the premises, and having had the issue forced upon it, the situation was accepted, the light made and the battle won without the loss of a single case.

HISTORY OF THE CASE.

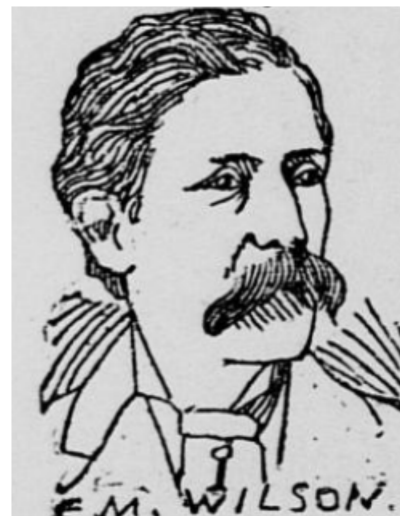
On Feb. 8 last there was published in these columns a sketch of some of the transactions of Amelia Hertogs, a Minneapolis dressmaker. Stories had been afloat con-

cerning her which tended to show her business was not confined to dressmaking, but was extended to transactions with certain houses of bad repute that did not greatly redound to her credit and that were more or less a menace to the public. These charges will not be reproduced here, as there is no feeling in the matter and the public welfare has been conserved. The article was accompanied by the following cut, purporting to be a picture of Mrs. Hertogs:

THE PICTURE

really did her an unintentional injustice, as she is a fine looking woman, with iron-grey hair, handsome figure and

good carriage. Immediately upon the publication Mrs. Hertogs employed counsel and, as the law directs, denounced the charges as false and defamatory. No paper



solicits the luxury of an expensive defense to a libel suit and a full retraction was published within the time prescribed by law. But this did not satisfy the subject of

the sketch, and she began an action in libel, demanding the munificent sum of \$50,000. The gage of battle was thrown and promptly accepted by the Globe, though with regret for what must follow. An answer to the complaint was filed by Hon. E. M. Wilson in which the paper justified, or in other words, declared its charges true. A competent detective was employed, and in two weeks' time a web of evidence was woven about the plaintiff from which escape was impossible

The trial of the case came on last Tuesday, before a jury of intelligent business men, and continued until yesterday evening. The publication of the full testimony has been purposely omitted, as the Globe had already performed its public duty and had no desire to needlessly humiliate the plaintiff or its readers. The case was admirably conducted by Mr. Wilson, and was finally summed up on Friday evening, though at an hour too late to admit of the charge to the jury on that evening.

THE JUDGE'S CHARGE.



When the suit was again called in the district court yesterday morning nearly every seat was occupied, the crowd in attendance including nearly a hundred lawyers, all of whom seemed greatly interested in the able charge of Judge Young to the jury, who were told at the outset that public newspapers, and especially a daily paper like the Globe, fill a very important place, one that we cannot do without.

Continuing, the judge said, in substance, among other things, that a daily newspaper is a powerful agent—one of the most powerful agents in society. It is proper that it should seek to uncover and expose corruption wherever found, but in doing so it is charged with a responsibility for its utterances which is also proper. It will not do to expose even a great wrong without proper investigation. But it is not to be expected that mistakes will not be made; the paper must make such investigation as will warrant a publication in good faith. A mere belief in the truth of the statements made will not suffice, unless the information is of such a character and from such a source as would warrant a prudent man in giving it credit. If the Globe, before the publication, made such investigation as would justify a belief in the truth of the same, then it acted in good faith, but of this the jury must judge. But good faith is not alone sufficient. The publication must be with good intentions, and

FOR A JUSTIFIABLE END.

The law will not permit even the truth to be published, if it be of a character to cast reproach upon others, unless to serve some good purpose, unless the welfare of the public demands it. You will see from this that when a newspaper seeks to uncover something that corrupts morals, it is a laudable object, but the statement must be accurate, or substantially. There can be no question but that the article published in the Globe was on its face a libel, that it contained charge upon charge of immoral if not criminal conduct on the part of the plaintiff, charges which, if not true, should entitle her to damages and heavy damages—not only actual damages as for loss of business, if any, but damages by reason of attacks upon her character and the bad reputation it is likely to give her.

The law imposes on the defendant the burden of proof—the presumption is that the charges are untrue; that no woman could do as the plaintiff is alleged to have done. But while a false statement is libelous, the legislature has seen fit to enact that after the publication of a libel, and within three days of a demand therefor, the paper may publish a retraction, and that if it does so, and the article is published in good faith, even though false in fact, then, in the event of a libel suit, the plaintiff shall take only actual damage. In this case a retraction was demanded, and the defense claims it to have been made. The retraction was complete in itself in that each and every statement in the article was withdrawn: but this is not enough; it must have been published as conspicuously, and of this the jury must judge. The court instructs you that the plaintiff, not having proven any actual damages by loss of business or otherwise, or attempted to do so, she cannot recover therefor; neither can she recover general damages if you find the retraction to have been complete in all respects, and this

WILL END THE CASE.

However, the defense do not rely upon this only—they have two defenses, and they are not conflicting. If the retraction is not complete, you may still consider it in mitigation of damages, and in the matter of good faith, or the inquiry upon which it is founded, it is not necessary that the same should have been made in what may be termed, in this case at least, the better walks of life; in the nature of things the inquiry had to be made largely among a disreputable class, but they may have been truthful for all that. You must determine whether or not information was sought and inquiry made where it would be most likely to get at the facts, whether a disreputable source

was not the best place; it could not be had from a dry goods merchant, but necessarily must have been looked for in the places and among the classes where the alleged immoral practices were carried on.

Independent of the retraction, the law permits what is called justification, that is, the defendant may prove the truth of its statement, and if it does so that is a complete defense. In this case the main charge, the gravamen of the article is that the defendant was engaged in the business of a procuress—that she induced innocent girls to enter houses and lead a life of shame and other girls to change from house to house. If she has done this then the defendant is justified, but of this you are to judge, because it is not claimed by the defendant that all of its charges have been proven. I do not recall any evidence to show that plaintiff induced girls who were absolutely innocent to enter such house. It would appear that while they may not have been pure, while their previous conduct may not have been without reproach, they had not entered upon what we know as a life of shame until induced so to do by the plaintiff, and by her taken to houses; and it also

STANDS UNCONTRADICTED

that she has taken girls from one house to another, or advised the same, and that she was at least largely instrumental in sending the girls you have heard mentioned to a house of ill-fame in Montana. You have heard the testimony, and if you believe it to be true many of the charges must be considered as sustained, because the plaintiff, who has had an opportunity to do so has not seen fit to contradict them. The evidence shows a very bad condition of things, a low state of morals in our midst, but you are to determine whether or not the publication is true. If you find that some of the charges are true and that

others are not—remembering that all not proven are to be deemed untrue—then you may consider the charges proven in mitigation of damages.

And, you will be justified, indeed, it will be your duty, to determine as to how the charges proven affect the character of the plaintiff because if you find from the evidence in the case that the plaintiff had little or no character to lose at the time of the publication you must consider this in determining what damages, if any, she is entitled to, for it will be evident to you that in such a case she would be entitled to much smaller damages than if her character was good, and in like manner you may determine whether or not her character was such as to entitle her to any damages at all.

You will also bear in mind that it is her character, her reputation that is to be considered; you are not to award damages because of her husband or children—they are not to be considered by you. Remember that she is not entitled to actual damages from loss of business in any event if you find the article was published in good faith and for a good purpose, even though untrue, and that the retraction was such as the law contemplates, you will find for the defendant; if you do not so find as to the retraction, but do find that the charges have been substantially proven, then you will also find for the defendant; if you find the charges not to have been proven, then you will find for the plaintiff, fixing the damages at such amount, not exceeding the amount claimed by plaintiff (\$50,000) as under the instructions of the court you may agree upon.

THE JURY RETIRES.

The delivery of the charge occupied nearly one hour, the foregoing being a mere synopsis and not the exact language of the judge, and at 10 o'clock the jury retired,

returning at about 5 o'clock with a verdict for the defendant. As on many other occasions, some of the secrets of the jury room leaked out very soon after the discharge of the "twelve men, good and true," and it seems that while they were out about twelve hours, but few ballots were taken. The first ballot stood 9 to 3 in favor of the Globe, whereupon the minority explained that they only wanted a verdict for costs for Mrs. Hertogs, because the Globe could stand it. The majority would not have it, and after a brief discussion a vote was taken as to what damages should be awarded, if any, to Mrs. Hertogs, the result being as follows: Goose eggs, 6; ½ cent, 1; 1 cent, 2; 6 cents, 1; \$25, 2. More discussion, and at 5 o'clock it being evident that Mrs. Hertogs could not get a verdict, one jurymen having surrendered earlier, the two in the minority yielded the point as to costs, "to save the disgrace of another trial," and the verdict was agreed upon as stated above.¹⁵

The account of the verdict in the *Minneapolis Tribune* was shorter:

The Globe Justified.

The Hertogs libel suit was given to the jury at 10 o'clock yesterday morning and at 5:05 p. m., a verdict for the defendant was returned. Judge Young's charge was somewhat lengthy. He said that the newspapers occupied a most important place in the world and he did not know how they could be dispensed with. It was a laudable object when a newspaper undertook to uncover something which corrupted morals, but at the same time, the

¹⁵ *St. Paul Daily Globe*, June 16, 1889, at 1.

statements must be accurate. It was the duty of the papers to put reliable men in charge of their departments.

The paper in this case claimed that it had no ill will against the plaintiff, but however worthy the purpose may have been, the law placed upon the paper the burden of proofs. The law allowed the papers to retract articles which are libelous, perhaps because of their office as exposers of evil.

"The plaintiff," he said, "seeks to recover two classes of damages, one general and the other actual. The defendant printed a retraction, and if that is held complete the plaintiff cannot recover general damages then the defendant attempts to prove the truth of the charges published. If that has been done the plaintiff cannot recover anything for actual damages. Regarding the information sought the jury must decide whether the paper believed the charges true. It need not be thought that because the Information was procured in disreputable places that it is unreliable. It could most easily be secured where the business was carried on. There has been no evidence that the plaintiff has induced innocent girls to enter houses of ill fame, but there is uncontradicted evidence that the plaintiff has induced them to visit houses with her." ¹⁶

Other newspapers in the state printed brief comments on the case which the *Globe* republished. From the *Globe*, June 18, 1889, at 4.

DUTY OF A NEWSPAPER.

Serving a Good Purpose.

¹⁶ *Minneapolis Tribune*, June 16, 1889, at 6.

The verdict for the Globe and the instructions of Judge Young to the jury in the Hertogs libel suit are of value as emphasizing the duty of a newspaper to expose vice. It is often a dangerous and always an unpleasant task, but vice can stand anything better than exposure, and when it is done in the proper way a good purpose is served. — Minneapolis Journal.

Rendered a Public Service.

The verdict in the Hertogs libel suit against (sic) the Globe was eminently proper. A properly conducted newspaper is a greater guardian of the public interests than any other one agency. It is oftentimes superior to the police and other authorities, and when it exposes a wrong it should not be mulcted in damages because it has told the truth relative to some individual. The fact that the Globe proved its case and won the suit shows that it rendered a public service. — St. Paul News.

From the *Globe*, June 19.

A Minneapolis woman named Hertogs is suing the St. Paul Globe for damaging her character, and claims \$50,000. The Globe probably told the truth about her. According to her own and her husband's admissions she was a sort of a go-between for houses of ill-fame.

The case should have been kicked out of court in the first place, and the Globe should never have been put to the expense of hiring a lawyer to defend such a suit. However, it is altogether likely that two years hence some pettifogging lawyer statesman will use this Hertogs case

as a text for a speech in favor of the repeal of the present State libel law.—Princeton Union.¹⁷

From the *Globe*, June 20.

CURB INTERVIEWS.

President Cyrus Northrop (of the State University)—I am very glad the *Globe* won the Hertogs libel suit; very glad. It is the duty of a good newspaper to expose vice.¹⁸

From the *Globe*, June 24:

STATE SENTIMENT.

The St. Paul *Globe* has just come out of a libel suit victorious by proving its statements to have been absolutely true. This is a great victory for the *Globe* in more senses than one.—Sherburne Star-News.

The St. Paul *Globe* came out first best in a suit for libel. It was not only a victory for the *Globe* but a victory for the press in general in its duty of uncovering corruption.—Wadena Pioneer.

The St. Paul *Globe* recently won a libel suit against it, brought by Mrs. Hertogs because her togs were not any clearer than the *Globe* charged and, besides, a retraction had been made. Thus the agency of the press as a moral factor is sustained. The charges made by the *Globe* was that Mrs. Hertogs was a "procuress."—Alexander Post.

¹⁷ St. Paul Daily *Globe*, June 19, 1889, at 4.

¹⁸ St. Paul Daily *Globe*, June 20, 1889, at 2.

The libel suit of Mrs. Amelia Hertogs against The St. Paul Globe for defamation of character was tried in Minneapolis last week, resulting in a verdict for the defendant. This is a great victory for the newspaper press, and likely to prevent considerable amount of petty and malicious litigation in future.—Hastings Gazette.

Grand victory that for the St. Paul Globe in the Hertogs libel suit. And all honor to Judge Young for his noble, comprehensive and guiding charge! The Globe served a great moral and beneficent end when it uncovered the corruption, and the Vidette heartily congratulates the great newspaper upon its complete and triumphant vindication. 'Tis well.— Spring Valley Vidette.

The libel suit at Minneapolis of Amelia Hertogs against the St. Paul Globe for \$50,000 damages has been decided in favor of the newspaper. The plaintiff not only failed to prove that she had been damaged, either in business or reputation, but the paper proved more than it had alleged in the original article.—Red Wing Argus.

In the libel suit brought against the St. Paul Globe by Mrs. Hertogs, of Minneapolis, whom that paper had charged with being a procuress, the jury brought in a verdict for the defendant. This verdict, with the charge of the judge, upholds newspapers while discharging their duty to the public in exposing what is evil and detrimental to society or the general public, and will have a wholesome influence.—St. Cloud Journal.¹⁹

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¹⁹ *St. Paul Daily Globe*, June 24, 1889, at 4.