Morning Dregonian.

LITTLE PROSPECT JURY WILL AGREE

Hopeless Division on Case of Thaw.

JEROME'S TERRIBLE PHILIPPIC

Unsparing in Treatment of Thaw and His Wife.

ONLY TENDERLOIN MURDER

Incredulous of Evelyn Thaw's Story of Wrongs From White-He Calls Thaw a Cowardly, Brutal Murderer

POSSIBLE VERDICTS BY JURY.

There are four divisions of homicide on which the jury may bring in a verdict of guilty in the Thaw case: the penalty for which is death,

Second-Murder in the second deee, the penalty for which is life Third-Manslaughter in the first

degree, the penalty for which is imbenment for 20 years. Fourth—Manslaughter in the secend degree, punishable by 15 years'

The jury may bring in a verillet of not guilty on the ground that the defendant was insane at the time of the shooting

It may bring in a verdict of not guilty without any explanation.

The jury is not called upon to determine Thaw's state of mind at the present time; the lunary commission's report settled that point. The only question for the jury to deter-

"Is Thaw guilty of hemicide in any of the four degrees above named?"

NEW YORK, April 10.—Charged with the responsibility of deciding the fate of Harry K. Thaw, the jury which since January 23 has been sitting in judgment on the young slayer of Stan-ford White retired at 5:17 P. M. today to begin the consideration of its verdict. Six hours later it had failed to reach an agreement, and shortly after 11 P. M. was locked up for the night in the jury room of the Criminal Courts building. Justice Fitzgerald, who had been waiting for some word from the jury room, became convinced at that hour that the chances of receiving a verdict tonight were too remote to warrant his remaining up any later. Justice Fitzgerald had earlier in the evening gone to his club and held ar auto in readiness to make a quick trip to the courthouse, should he be needed. His instructions regarding locking up the jury were telephoned.

Jury Hopelessly Divided.

It was said that, when Justice Fitzgerald's message was received at the courthouse, the officer on duty there put the matter up to the jurors them selves, asking if there was any possibility of a verdict within the next few The reply was strongly negative. The jury was said to be almost hopelessly divided and nobody connected with the case tonight would venture the hope of anything better than a dis igreement as the climax of the long drawn out trial.

Thaw's Spirits Down and Up Again. Harry Thaw sat in the prisoner's pen adjoining the deserted courtroom during the long hours of the jury's delib erations. By his side were his wife and counsel, who remained with him until all hope of a verdict tonight was During the early evening all of the Thaw family were with the prisoner, but before 10 o'clock they made their way up town to their hotel, Thaw, who was much depressed at the close of District Attorney Jerome's impassioned attack on him as a "cow-ardly, brutal murderer-a rich illiterate, who siways had his own way until he fell into the clutches of the law," revived in spirits as the evening wore on and the chances of an unfavorable verdict seemed to him to become more and more remote. He was reluctant to wend his way back over the dimit lighted Bridge of Sighs to his cell in the Tombs, to say good night to his

Laughs at Family's Fears.

The disagreement of the jury is the possible unfavorable outcome that Thaw had not at any time anticipated during the progress of the trial. His family and counsel were much alarmed this afternoon, nowever, lest the jury under Justice Fitzgerald's charge might find a verdict of some less crime than murder in the first degree. The prisoner tonight did not share this gloomy outlook and laughed and joked dispel the serious looks on the faces his mother and wife.

of his mother and wife.

Justice Fitzgeraid is not expected at
the courthouse tomorrow until 10:30,
the usual court session hour. If the
jury should earlier notify him of an
agreement, he might consent to come hour, but this is not down at an early considered at all likely,

JEROME'S MASTERLY ORATION

Declares Thaw Was Sane and Crime Mere Tenderloin Homicide.

NEW YORK, April 18-It was District

Attorney Jerome's turn in the Thaw case today. In summing up for the prosecution against Harry Thaw, Mr. Jerome disclaimed all intention of entering into an oratorical contest with Mr. Delmas, but it is seidom that any address more powerful, more subtle, more logical has ever been heard in a courtroom. From cold logic he passed to biting sarcasm, then invective, with here and there a touch of pathos. He had the closest attention of the jurors and spectators, including the Thaw family. His defense of Stanford White, whose spirit, he said, seemed to be hovering in the courtroom begging to be heard before it was blackened forever, was uttered with impressiveness and with tears in his eyes. Former crowds were small compared to that which stormed the courtroom doors this morning. The court did not convene FORAKER DEFIES THE PRESIDENT

Will Submit to No Boss, Big or Little.

ACCOUNTABLE ONLY TO PEOPLE

that which stormed the courtroom doors this morning. The court did not convene-until 11:30, and two hours before that time the advance guard of spectators began to arrive and took up positions of vantage in the corridors leading to the courtroom so as to be among the first to be admitted when the doors were greened. The police

when the doors were opened. The police, however, were prepared for the rush and kept the doors closed until 11 o'clock. But this did not prevent a large num-ber of favored friends from getting into

ne courtroom before the hour. Court at-endants employed the side doors, leading

Harry Kendall Thaw, Whose Case Is Now in the Hands of the Jury.

to the ante-rooms, to good advantage, and so when the main entrance was

court, Mr. Jerome began his argument

Judge by Law, Not Romance.

Issue Between State and Thaw.

Dementia Americana No Defense.

(Concluded on Page 5.)

in closing the trial

Condemns Roosevelt's Activity in Politics.

ANDREW JACKSON

Only One Precedent for Attempt to Name Successor and That Bad One-He Defends Course in Congress.

CANTON, O., April 10 .- In the pres nce of 1200 people, Senator Joseph B. Foraker tomight delivered an address defending his actions as a pub-He servant and declaring his willingness to abide by the people's decision in the future. The occasion was the annual banquet of the Canton Board of Trade. Mr. Foraker was on the programme for an address on "Civic Pride," but his speech was largely directed to his work as Senator and is regarded as the opening of the Pres-

idential campaign in Ohio. Mr. Foraker discussed public, state to the ante-rooms, to good advantage, and so when the main entrance was opened, the trialroom was almost filled. The small enclosure in front of the Judge's bench was also taxed to its utmost capacity by the friends and assistants of the District Attorney, and altogether the scene in the courtroom when Mr. Jerome rose to address the jury was one of interest, in expectancy and excitement. In the corridors, the scenes were most stirring. Scores of disappointed men and women made an onslaught upon the police in a last effort to pass, only to be repulsed, fairly dragged back from the entrance. Men with imagined influence pleaded with the officers, cajoled, begged and threatened, but all in vain.

About five minutes before the session was begun members of the Thaw family began to arrive. The first to enter was Josiah Thaw, accompanied by the Countess of Yarmouth, Mrs. Carnegie and her husband were next. Mrs. Edward Thaw and Evelyn Thaw followed enterly accounts. ments regarding the President's attitude toward the Senator's speech at this time, replied to a speech tioning him as one of the anti-Roosevelt combination, reviewed the investigation of the discharge the negro soldiers on account of the trouble at Brownsville, Texas, stated his views regarding recent railroad legislation, protested against the infringement by one branch of the Government of the rights of another branch, declared that the representatives of the people in Congress are ac countable only to the people and are not "properly subject to any other influence," denied the right of any one except his constituents to call him to account, and sounded a note of warning against increased surveillance of business men who need "no moral egeneration."

ess of farmouth. Mrs. Carnegie and her husband were next. Mrs. Edward Thaw and Evelyn Thaw fellowed quickly, and the elder Mrs. Thaw came last. All looked hopeful and confident. Immediately after the opening of He quoted a published report that "President Roosevelt has drawn a deadline for Senator Foraker," and that "if he attacks President Roosevelt. President Roosevelt will be heard from in no uncertain terms."

Mr. Foraker said: Finds Only Bad Precedent.

Gentlemen of the jury, from all I can judge from the papers—I having been absent— you have been wandering through a mere field of romance for two days. The life of a human being is not to be judged on such premises. The issue here agents to deter-

That the President of the United State

FORAKER'S SHOTS AT ROOSE-

That the President should become personally engaged in a political contest to determine his successor is without precedent unless it be the had precedent set by Andrew Jack-

The time has not yet come, and no body knows that better than the President himself, when dead lines can be drawn in debate.

I never heard tell of any combins

tion or trust or conspiracy to oust the President in anything. No man ever occupied the White House who has been identified with

so many legislative measures, I have supported all measures that have come before the Senate with which he was identified, except only

I did not believe that even the

President has the right to deprive them (the negro soldiers) of this right (to a hearing). I have always understood that representatives of the people are only accountable to the people; that they are not properly subject to any other influence.

I will not submit to the dictation the state.

political contest to determine his successor is without precedent, unless it be the bad precedent set by Andrew Jackson as to Martin Van Burem. That he would enter upon such a struggle with a declaration that he is to set the limitations upon the freedom of speech of those who may differ from him and that they are to disregard those limitations at their peril is without precedent, even in the case of Jackson, and is so inconsistent with the dignity of his high office and the proprieties always to be observed that I feel it a duty toward the President himself to enter for him on my own motion a disclaimer of all responsibility for such a publication. dility for such a publication.



ensior J. B. Fornker, of Ohio, Who Attacked President Rossevelt in Opening Campaign Against Taft.

self, when "deadlines" can be drawn in de bate for anybody to observe, nor has the time come when any real man would re-spect them if they were drawn.

Conspiracy With Capital. Mr. Foraker characterized as

Harriman, J. B. Foraker and John D. Rockefeller. He continued: In view of this publication, I trust that I must without impropriety say that until (Concluded on Page 2.)

JUDGE R. P. BOISE **OBEYS SUMMONS**

Able Oregon Jurist Dies at Salem Home.

ONE OF STATE'S FOUNDERS

Helped Frame Code of Laws of Old Territory.

LATER ON SUPREME BENCH

Friends Pay Tribute to Man Who Had Served for 34 Years as Judge and Had Been Important Factor in the State's History.

SALEM. Or., April 10 .- (Special.)-Judge Reuben Patrick Bolse, one of the earliest pioneers, ablest jurists, founders of the fundamental laws, and moulders of the destiny of the state of Oregon, passed away at his old home in this city, shortly after 2 o'clock this afternoon. His malady was a combination of stomach and kidney trouble. He had reached the advanced age of 87 years, 9 months and 22 days. There was perhaps no better known

and prominent man in the public mind of the state of Oregon or the Pacific Northwest than Judge Boise. He was one of three who framed the first code of laws of the Oregon Territory; one of the few surviving members of the constitutional convention of the state. With the exception of about 12 years, he had presided over the Supreme and Circuit Courts of the state since the year 1857, and his demise has cast a gloom and shadow of deepest regre upon all who have been associated with him during his life of usefulness

in both official and private capacities Funeral services will be held at his late residence at 2 o'clock Friday aft-ernoon and interment will be in Oddfellows Cemetery. Rev. P. S. Knight who has ministered to the spiritual welfare of Judge Boise's family ever since his residence here, and has preached the funeral sermons of all his relatives, will deliver the sermon. It is probable that Judge George H. Williams, of Portland, will deliver the eulogistic address.

Life of Judge Boise.

Judge Bolse was born at Blandford, Hampden County, Massachusetts, June 19, His ancestors followed Washington during the War of the Revolution. He was a descendant of the French Hugusnots, and the third child of a family of eight of Reuben Boise, prominent in companion piece" a published statement Massachusetts politics up to the time of of the combination to "do him up" for his death. His mother's maiden name his attitude toward the capitalists, E. H. was Sallie Putnam, a relative of General was Sallie Putnam, a relative of Ge Israel Putnam, of Revolutionary fame He is survived by one daughter, Boise, who lived with him to the last; Reuben P. Boise, Jr., a pron ness man of this city, and Whitney L.

Boise, one of the leading attorneys of

Judge Boise was educated in the pub lic schools of Blandford, and was gradu-ated from Williams College with the de-gree of A. B., in 1843. He taught school in Missouri one year, and then read law under his uncle, Patrick Boise, of Westfield, and was admitted to the bar in 1847. He practiced law for two years at Chicopee, Wis., and came to Portland via the Isthmus of Panama, in 1850. He purchased a tract of 640 acres of land near Dallas, in Polk County, which still belongs to the estate, and on which he lived for four years.

In 1861 Judge Boise was elected Prose-cuting Attorney of the First and Second Districts by the Territorial Legislature, his field lying between Eugene, Lane County, and the Territory of Washington. In 1863 he was elected one of the code commissioners for Oregon and selected to compile the first laws of the territory, with two others, James K. Kelly and D. R. Biglow.

In 1854 Judge Boise was re-elected Prosecuting Attorney and represented Polk

Evelyn Nesbit Thaw, Love for Whom

three years. In 1857 he represented Polk

County in the constitutional convention

legislation, was instrumental in furnishing

the fundamental laws of the state gov-erament. In 1857 he was appointed by

President Buchanan one of the Supreme

Judges of the Oregon Territory, along with Judges Williams and Deady. After

Oregon's admission to statehood he was

elected to the supreme bench and sat with

Judges Waite, Stratten and Prim. In 1868, under the provisions of the constitu-tion, he drew lots for terms with his

Justice Stratton drew the four-year term,

Judge Bolse was elected a member of

the Capitol Building Commissioners in

1874, in which capacity he served until

1876, when he was again elected to the

(Concluded on Page 8.)

withdrew.

and, as chairman of the con

TOOK CLERKS' UNPAID SALARY

Farmed out Relatives

on Government.

BY PROSECUTOR

Government Draftsman Employed on His Business.

CANDIDACY FOR SENATOR

Real Purpose of Delay in Removal. Would Not Rent Hermann's House-Letters Contradict.

OREGONIAN NEWS BUREAU, Washington, April 10.-Binger Hermann made no better showing under cross-exam tion today than he did yesterday. His course was practically the same, his statements at times contradictory, and ome of his testimony was directly disproved by his own letters, which were introduced in evidence. As yesterday, unfavorable transactions were exposed which will not tend to prajudice the jury in favor of the defendant. Opinion is general that by going on the stand Hernann has done his cause more harm then

This morning Hermann admitted that he had been liberal in placing his relatives on the payroll of the Land Office, while he was Commissioner. He admitted appointing his uncle, W. A. Porter, forest supervisor; his brother-in-law, Edward Bender, an agent; his brother, W. G. Hermann, the son of the latter, forest supervisors; Arthur, his son-in-law, Kyle Miller, special agent, and his cousin, Ernest F. Glotfeity, a messenger.

Appointed to Pay Mortgage.

Hermann admitted that Porter was in "60's" when appointed, but said he was capable of patrolling a reserve notassociate judges, with the result that

withstanding his years. Hermann could not remember receiving s share of the salaries of any of his relatives except Porter. Here the attorney for the defense objected and the District

CONTENTS TODAY'S PAPER The Weather. STERDAY'S Maximum temperature, 57 iegrees; minimum, 35. TESTERDAY'S TODAY'S-Fair and warmer; northerly Thaw Trial.

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Judge Waite drew the shortest term of two years and presided as Chief Juntice; and Judge Boise the six-year term. He Attorney said he desired to show that held his position on the supreme bench for 12 years. His seat was contested by the late Judge B. F. Bonham, and, rather than enter into litigation, Judge Boise Hermann had appointed Porter for the sole purpose of discharging a mortgage held by the defendant. It was shown by vouchers that part of the pay of Kyle Milier was assigned to Hermann. An effort was made to show that Milier, though drawing Government money, was not performing service. Hermann did not

Appropriated Government Cash This afternoon a very questionable

transaction was brought to light by District Attorney Baker. He produced a copy of a letter written by Hermann to his receiving clerk in 1897, directing him to transfer from the Government fund to his (Hermann's) private bank account upwards of \$37, which had been left in the office by two former receiving clerks. This money remained to Hermann's private credit and drew interest for three years when it was by him transferred back into the Government fund, Although diligently plied with questions tending to show his motive for this peculiar transaction, Hermann could not intelligently explain his action, but he believed, "this was a fund for which the Commissioner was officially accountable.

The District Attorney sought to make him admit that just prior to the time the money was turned back to the proper officer, two old accounts, signed by former receiving clerks, had been preented for payment and that they called for the exact amount which Hermann had placed to his own credit. Hermann could not recall anything about these accounts.

All to Save 7 Cents. Another interesting feature of Her-

mann's testimony method of requiring Land Office employes to devote part of their time during office hours to the preparation of statements regarding his personal business affairs, such as collection of rents, payment of taxes, etc., for his property in Oregon.

It was shown that on one occasion he draughtsman prepare an elaborate it was completed after half a day's work, Hermann required him to make a duplicate on thinner paper. The clerk made a notation on the back of the original table saying Hermann's secretary told him the Commissioner would not accept heavy paper, "because it would cost him 7 cents more to send it through the mails than if thin paper was used," in other words, to save 7 cents postage, Hermann utilized the services of a Government draftsman for one full day.

Hopes of Being Senator.

In his previous testimony regarding his resignation as Land Commissioner, Rermann had declared that through Senator Mitchell be asked that the date of his retirement be postponed on account of the approaching marriage of his daughter. Today, on cross-examination, Hermann admitted that at that time he was a candidate for the United States Senate and, in view of the fight then on between two Republican factions in Oregon. he had considerable hopes of being agreed upon as a compromise candidate. He admitted that it was with this in mind that he sought to postpone his retirement from the Land Office. He left the Impression that this was the principal rea-

(Concluded on Page 5.)

