

MACK TRIAL IS ON

Libel Suit for \$50,000 Against
The Oregonian.

PLAINTIFF GOES ON THE STAND

Says Publications Were False and
Malicious and Imputed to Him a
Crime—Defense Is That Plain
Truth Was Told.

The Mack libel suit for \$50,000 damages is on trial in the State Circuit Court. The jury was sworn yesterday, and several witnesses for the plaintiff were examined. Mr. Mack's chief complaint is that The Oregonian by its publications imputed to him the commission of a crime. The Oregonian's defense is that the article was entirely true, and that all the facts in relation to the sale of certain supplies by the firm of J. G. Mack & Co. to the county were stated accurately and without malice. The trial will probably be concluded today.

The suit of County Commissioner J. G. Mack against The Oregonian Publishing Company for \$50,000 damages for libel began in the State Circuit Court yesterday. Judge Frazer was on the bench. The article on which Mr. Mack bases his complaint appeared in The Oregonian on February 8, 1902, and related to certain transactions wherein the firm of J. G. Mack & Co. sold to the County of Multnomah linoleum and other supplies. It was pointed out in this and other publications that Mr. Mack was County Commissioner, and had procured for his firm the sale of these supplies in an improper manner by the employment of Levi Card to act as a dummy for him and J. G. Mack & Co. It was further stated that the Oregonian had passed an act that expressly forbade this sort of thing, and that all the transactions of Mr. Mack and his firm since this legislative enactment was placed upon the statute books were in clear violation of law. It was further shown that the statute of 1901 provides no penalty, and that the article in question was published in violation of the law. The defense was that the article was entirely true, and that the transactions of Mr. Mack and his firm since this legislative enactment were in clear violation of law. It was further shown that the statute of 1901 provides no penalty, and that the article in question was published in violation of the law.

The Oregonian in its defense pleaded the entire truth of its publications relative to County Commissioner Mack and the transactions as to the linoleum and other supplies. It affirmed that there was no malice, and that the article was inserted in the ordinary and proper discharge of its duties as a newspaper. The acts of Mr. Mack as a public official were legitimate subjects of criticism; that he had violated the law of March, 1901; and that the Circuit Court decision on the law of February 25, 1901, had nothing whatever to do with the case.

The trial began at 10 o'clock. The entire morning was consumed in securing the jury. There were one or two peremptory challenges on each side, and several talesmen were examined. The plaintiff was represented by Albert Abraham, W. T. Hume and Chester V. Dolph, and the defense by Rufus Mallory and John M. George. Questions asked would be answered quickly developed the line on which the trial would be conducted, and were in part as follows:

Do you know the plaintiff?
Have you ever had any conversation with him about this case?
Do you know the publisher or editor of The Oregonian?
Are you a reader of The Oregonian?
Did you read the article set forth in the complaint?
If so, did you form an opinion that the article was libelous?
Have you had any conversation with anybody as to whether it was libelous?
Have you now any opinion in that regard?
Are you an advertiser in The Oregonian?
Does the relation of debtor and creditor exist between you and The Oregonian?
Did you read the editorial with reference to this matter?
From what you read did you form any opinion that Mr. Mack had been charged with the commission of a crime?

The following jury was impaneled: William Keron, John R. Slavin, O. V. Monroe, Patrick Lynch, Ferdinand Floss, J. F. Foss, William Gaston, W. R. Zoller, H. W. Wallace, James P. Baker, W. E. Brainerd, L. C. Metzger.

In the course of the examination of one of the jurors, Attorney Abraham called attention to a statement of one of them with reference to his recollection as to whether The Oregonian had charged that Mr. Mack had committed a crime. "That is the very point this jury is to decide," declared the attorney.

from J. G. Mack & Co.," he admitted, "but Mr. Mack knew nothing of any pre-arranged plan with Levi Card. These circumstances did not warrant his being paraded before every person in this county and his name introduced in every home as a criminal. The article was a gross exaggeration, unwarranted by the facts. The whole question to be decided here is whether you have an honest County Commissioner."

For the defense, Mr. Mallory made a statement. "The law of the State distinctly declares," he said, "that no public officer shall be interested in any purchase of or contract for supplies purchased by a county. The law expressly forbids any County Commissioner to have any concern in any article furnished the county. We shall show that in this transaction Levi Card was put forward apparently to act as a dummy between County Commissioner Mack and the County of Multnomah. These supplies were not advertised for as required by law. The attorney then stated precisely what The Oregonian had done. It had published the exact facts about the purchase of the supplies. It quoted the statute of 1901, and said that Mr. Mack had violated its provisions, and that there being no penalty provided, he could not be punished, unless it might be under the general statute for malfeasance in office, basing its statement wholly on the opinion of the District Attorney, which had been obtained, and which was published. "The whole question," he said, "is not whether Mr. Mack is an honest man or a scoundrel, or whether he acted in good faith, but whether he had violated the law when he sold the supplies to the county." Attorney Abraham interrupted to say that "their position was that Card had sold to the county and had bought from J. G. Mack & Co."

"Well, the record shows that J. G. Mack & Co. sold the goods and were paid for them," replied Mr. Mallory. A very clear statement of what are and what are not privileged communications followed.

H. L. Pitcock, manager of The Oregonian, was called as the first witness. There were some questions and answers as to when the charge of libel was made and editorial articles were written. "The presumption is that whatever is published in The Oregonian is authorized by the publishers," declared Mr. Mallory.

"We simply want to get it in the record," answered Mr. Hume, who was conducting the examination. At this point the plaintiff introduced in evidence various editorial articles and statements from several issues bearing on the whole subject. The purpose, the attorneys said, was to show that The Oregonian bore malice toward Mr. Mack. Much time was consumed in the effort to get everything before the jury. The defense objected, but the court ruled that all the matter that had appeared in the paper, including several cartoons, might as well go in. Mr. Hume read the editorials, and the cartoons were passed to the jurors for their inspection.

There is a serious question about some of these, remarked the court. "Let them go. Legitimate criticism by a newspaper is certainly justifiable, and even ridicule."

"Cartooning is also most effective and penetrating," said Mr. Hume. "That is why we offer these cartoons, or caricatures. Let all these cartoons and other things go in, and if they are innocent, the jury will give them no weight."

"Your Honor ought to decide which of these things has weight," retorted Mr. Mallory.

Mr. Pitcock was finally allowed to resume his testimony, which related entirely to the circumstances and assets of The Oregonian.

H. Taubenheimer, a furniture and carpet dealer, was then called. Having testified that he read the article of February 8, he was asked by Mr. Hume: "What do you understand that this article imputed to Mr. Mack?"

Mr. Mallory objected. "What was said is actually here. The court must determine the meaning of the article."

"The jury has a right to determine what the article meant. We are trying to show by this witness what the ordinary understanding that it means," said the attorney. He then went into an extended argument in elucidation of his point. He claimed that the paper had imputed a crime to Mr. Mack.

"Did it charge a crime when it said he violated the statute of 1901?" interposed the court.

"I don't say whether that is a crime or not," responded the attorney. "The whole question is as to the effect on the public mind of a publication imputing to him the commission of a crime."

"There is no ambiguity, no uncertainty about the publications in The Oregonian," rejoined Mr. Mallory. "They were very full and explicit. The Oregonian said the statute of 1901 had been violated, but whether the criminal statute was violated was referred to the District Attorney, and he was in doubt."

The court ruled that Mr. Taubenheimer need not answer the question as to his understanding of the articles.

Mr. Taubenheimer had been interviewed as to the Mack matter by The Oregonian, and the interview with him had appeared in the article February 8. Mr. Taubenheimer in his testimony verified the interview, but added that he had said more, which had not appeared. He had prepared in writing an additional statement, and had left it at The Oregonian office for publication, he said. But it did not appear. He did not know whether it had left it or whether the person in the editorial rooms when he called was an authorized agent of The Oregonian. An attorney to publish this statement was commented on in the argument of plaintiff's counsel, as showing malice.

A. W. Witherill was called to show what he understood by the publications, but his testimony on this point was ruled out. Plaintiff offered other witnesses for the same purpose.

Hammocks

The new Hammocks are ready—All styles and sizes—Ranging in price from 75c to \$4.50—See them on the third floor.

Meier & Frank Co.

The largest and best line of Trunks and Bags in town—(Third floor.) "Vudor" Porch Shades are what you want for verandas—\$2.50 to \$3.75.

Exclusive Waist Patterns

at Greatly Reduced Prices

The season being well along finds us with too many high-class Summer Silk Waist Patterns in exclusive styles—A bit of bargain news that should be of intense interest to every correct dresser in town.

30 beautiful embroidered Pongee and white India silk waist patterns, embroidered in self and colored silks, handsomest styles shown this season at \$7.50, \$8 and \$10, your choice of the lot while they last, at..... **\$4.75** pattern

900 Bras, Extension Rods, white corrugated ends, 30-in. to 54-in. extension, the regular 25c values at..... **12c each**

2000 yards of beautiful Flor-entine Silks in Oriental designs, 32 inches wide, splendid quality, just the thing for shelf or corner draping, reg. 60c quality..... **47c yard**

1500 yards of dotted and figured Swisses, 36-inch, large variety of patterns to select from, 14c value..... **11c yard**

Baby Things Cheap

A great array of bargains in Infants' and Children's Wear for this week, and with every purchase a "Nazareth" knitted Underwaist, valued at 25c—Large window display on Fifth street—Hints of the values the second floor department has to offer.

Infants' long cambric Skirts, lace and embroidery \$1.19 trimmed, great value.

Infants' long cambric and nainsook Dresses, prettily made and trimmed..... **87c**

Pique carriage and go-cart Robes, embroidery and ribbon trimmed..... **84c**

Great lot of Linen Feeders at 3c ea

Great lot of Quilted Bibs at 19c ea

Special in flannel Bands at 12c ea

Christening Robes at special prices.

Special offerings in all lines of Infants' Goods—(Second floor).

A "NAZARETH" WAIST FREE WITH EVERY PURCHASE.

Wash Fabrics

Wash Goods that should sell like magic at these prices—All new this season's fabrics, and the saving considerable on every yard.

27-inch Windsor Papillon, a fine dainty wash fabric in light, dark or medium colorings, great value at..... **19c yd**

27-inch embroidered and lace striped fancy white goods in large variety of patterns, 35c value for..... **23c yd**

2000 yards of Silk Organdy in plain colors, fancy dotted and striped, special value at..... **33c yd**

This fabric especially desirable for Summer waists and dresses.

Croquet Sets

Thousands of Croquet Sets in all grades—There is plenty of enjoyment to be secured out of this popular lawn game—75c to \$3.50.

Meier & Frank Co.

The largest and best line of Trunks and Bags in town—(Third floor.) "Vudor" Porch Shades are what you want for verandas—\$2.50 to \$3.75.

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The season being well along finds us with too many high-class Summer Silk Waist Patterns in exclusive styles—A bit of bargain news that should be of intense interest to every correct dresser in town.

30 beautiful embroidered Pongee and white India silk waist patterns, embroidered in self and colored silks, handsomest styles shown this season at \$7.50, \$8 and \$10, your choice of the lot while they last, at..... **\$4.75** pattern

900 Bras, Extension Rods, white corrugated ends, 30-in. to 54-in. extension, the regular 25c values at..... **12c each**

2000 yards of beautiful Flor-entine Silks in Oriental designs, 32 inches wide, splendid quality, just the thing for shelf or corner draping, reg. 60c quality..... **47c yard**

1500 yards of dotted and figured Swisses, 36-inch, large variety of patterns to select from, 14c value..... **11c yard**

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A great array of bargains in Infants' and Children's Wear for this week, and with every purchase a "Nazareth" knitted Underwaist, valued at 25c—Large window display on Fifth street—Hints of the values the second floor department has to offer.

Children's Drawers, hemstitched ruffles, ages 1 to 6 years and 7 to 12 years, low prices..... **19c and 28c**

Cambric Skirts made on bands, with hemstitched and tucked flounce, ages 4 to 8 years, very low price of..... **28c**

Dresses made of nainsook, yoke trimmed, in Val. lace, insertion, tucks, ruffled neck and sleeves, great val. **47c**

Children's Dresses, 6 months to 3 years, Mother Hubbard and long waist styles, lace and embroidery trimmed, **\$1.69** great value.

Children's Caps, Booties, Shirts, etc.

Special offerings in all lines of Infants' Goods—(Second floor).

A "NAZARETH" WAIST FREE WITH EVERY PURCHASE.

Cloak Dept.

Ladies' Silk Dress Skirts in peau de soie or taffeta, fancy styles to select from, regular \$16, \$18.50 value..... **\$12.45**

Ladies' Silk Waists, in moire and taffeta, all the latest styles, black and colors, great values..... **\$4.92**

Ladies' Mercerized Sateen Petticoats, three ruffles and tucked, also double row of plaiting and cording, great value..... **\$1.29**

Ladies' \$14 and \$15 suits in etons and blouses, covers, homespun and chevrons; all the best shades, well made and trimmed; this season's \$14.00 and \$15.00 styles for..... **\$9.95**

We're selling \$3 Axminster Rugs (27x54) for \$1.98.

MEIER & FRANK CO. || MEIER & FRANK CO.

quiring that the County Court advertise for all supplies. The board started in to comply with the provisions of the law, though Judge Cake didn't think much of it.

Judge Frazer interposed to ask witness a few questions, inasmuch as he had been concerned in the purchase of the linoleum and courtroom furniture, and had made a preliminary inquiry as to prices. It developed that Breeden & Co. had offered to put down English imported linoleum for \$1.75 and \$1.85 per yard. The linoleum offered by Card and purchased by him of J. G. Mack & Co. was of a different kind.

Mr. Mack proceeded to tell of a decision of the Circuit Court in July, 1901, wherein it had been determined, he said, that the County Commissioners were under no obligation to advertise for supplies. A long controversy ensued between counsel as to the scope, effect and purport of the decision, and as to the action of the County Commissioners thereunder. The decision made by Judge Sears, and concurred in by Judges George and Cleland, was introduced and read. The decision was based on the act of February 25, 1901, and was substantially that warrants issued for the purchase by the board of certain unimportant and immediately necessary supplies were valid. Counsel for defendant declared that this decision and the statute of February 25, 1901, had no bearing whatever on this case, and submitted that The Oregonian had made no reference to this law or decision in its articles, but had declared that County Commissioner Mack had violated the statute of March 1, 1901, which provides as follows:

Section 8. All contracts relating to county business, and all purchases of county supplies shall be made by the County Court. All supplies shall be advertised for and purchased from the lowest responsible bidder, and no member of the court shall be interested in any way in any contract or purchase.

Judge Frazer remarked that this act had been evidently been overlooked by the judges in their decision.

There was some further colloquy between the attorneys, and Mr. Mack con-

cluded his direct examination. His cross-examination began this morning. The morning examination will begin this morning. The morning examination will begin this morning.

OLDS, WORTMAN & KING

Lines of Beauty

Stick out all over our pattern hats. If you would buy dressy headwear at a medium price, visit our

NEED A CART OR CARRIAGE

For baby? Our easy-running

SEMI-ANNUAL SALE OF PATTERN HATS

this week. All reduced, from our \$35.00 hats for \$25.00, to \$10.00 hats for \$8.50 each.

"WHITNEY'S"

Have style and quality. You'll appreciate the modern improvements, including the patent OIL-PROOF HUBS found in all our "Whitney's." Any price from \$3.25 up.

STYLISH BLACK GOODS

UNDER PRICE

The easy-to-brush kind, so satisfactory for Spring and Summer wear.

SERGES AND CHEVIOTS All-wool, 54 inches wide, \$1.75 and \$1.50 grades only \$1.25 yd.

MEN'S \$1.00 NIGHT SHIRTS

ONLY 73c

Strong muslin with fancy trimmed fronts. Tasty appearing, yet made to stand the wear and tear such garments receive. All sizes. Now 73c each.

COLORED TAFFETA SILKS

SPECIAL 62c YARD

It's more than an ordinarily nice line we're offering at this reduced price. Many shades if you come early.

THE PINGREE GLORIA

—\$3.50—

SHOE FOR WOMEN

Ladies' \$18.50 and \$20.00 Stylish Tailor Suits..... \$14.95 each
Special Sale Wash Laces at 4c; Black Laces at..... 25c yard
Colored Taffeta Ribbons, 4-inch widths, special..... 18c yard
Wonderful Reductions in All Dinner Sets
15 styles Royal Worcester Summer Corsets..... Prices 50c to \$2.75

Both 'Phones—Oregon, Main 457; Columbia, 116.

Lipman, Volfer & Co.

Newest, Ready-to-Wear

HATS

Purchased by our New York buyer to show the different styles of hats now being offered by such leading retail houses as B. Altman, Stern Bros., Wanamaker and others. In black, black and white, butter color, white. They come to us as show hats, being only one or two of a kind, so we offer them to you at prices not based on cost. Regular prices, \$7.50, \$8.50, \$10, \$12.50, \$15, \$20, \$25, \$30, \$35, \$40, \$45, \$50, \$55, \$60, \$65, \$70, \$75, \$80, \$85, \$90, \$95, \$100. So today we offer them at..... **\$5.00**

Thousands of Bargains in

MUSLIN UNDERWEAR

Yesterday almost doubled the biggest day's record of the past in the selling of Muslin Underwear.

Come today and see the vast supplies of neat and refined garments at prices so much below their regular values. Our accomplishments in the matter of improved productions have been quite extraordinary. The muslins tell it, the trimmings emphasize it, the shaping and sewing prove it to be incontrovertible.

Corset Covers..... 25c, 29c, 39c, 49c
Drawers..... 25c, 29c, 39c, 49c
Night Robes..... 45c, 59c, 79c
Skirts Chemise..... 59c, 79c
White Skirts..... 49c, 79c, 98c
Children's Muslin Drawers..... 25c
Children's Muslin Gowns..... 25c

Each and every garment a most decided bargain—the best muslin underwear bargains you have ever seen.

SALE OF BLACK DRESS GOODS

All-Wool Black Cheviots, Etamines and Serges, real value 65c and 75c, yard at..... **39c**
All-Wool Black Etamines, Mistral, Chev- iots, Hopsacks, Nattes, real val. \$1, yd at..... **68c**
All-Wool Bison, Canvas, Etamines, Unfinished Worsteds, Serges, Crashes and Cheviots, real value \$1.25 and \$1.50, at..... **87c**
A most remarkable offering of up-to-date black dress goods worthy of instant consideration.

SALE OF \$30.00 AND \$32.50 Ladies' Tailor-Made Suits at \$22.75

SALE OF SATEN PETTICOATS AT 98c.

CLARY'S "THE FAIR"

329 WASHINGTON ST., Imperial Hotel Building.

We are showing the latest thing in Ladies' Straw Suits. The Roll, with velvet-bound brims..... 70c
Panama Braids, with roll brims, each..... 80c
Ladies' and Misses' Crash Hats, colored bands..... 80c
Boys' and Gentlemen's Fedora Crashes, each..... 25c
The Rough Straws, three-plies brims, each..... \$1.50
Children's Suits, wide brims and colored bands..... 25c
Ladies' Summer Vests, ribbon sleeves and neck, each..... 10c