"FIRM'S BOOKS WOULD NOT ONLY INDICT, BUT CONVICT"-MITCHELL

that the list referred to in the letter the matter by calling the attention as being enclosed?

A. Yee, sir; that is the list, I find my mark on the back of it.

Q. The indersement on the back is in your handwriting?

A. Yee,

Q. And the indersement is "Kribs were they inclosed in the same en in mailing them?"

A. Yes.
Q. Did you receive a reply from Senator Mitchell to that letter of April 30, 1902, or those two letters?
A. Yes, sir, I did.
Q. Is the paper you now hold in your hand that reply?
A. Yes, sir.
Q. Does it bear his signature?
A. Fes, it does.
Q. Received by you in due course of mail about the date it bears?
A. Yes.
Mr. Honey: We will offer this in evidence.

Mitchell Receives the Lists.

Government's Exhibit, No. 36: Committee of Coast Defenses, United States Senate, Washington, D. C., May 8, 1992. Hon, A. H. Tanner, attorney-at-law, Commercial block, Portland, Or. law, Commercial block, Portland, Or.—
My Dear Judge: I beg to scknowledge
receipt of yours of April 30, inclosing separate letter relating to other lands in the
Roseburg land district, which have been
selected in lieu of forest reserve lands
under set of June 4, 1897. Kribs, No. 4.

I will look the matter up, ascertain
status and see what can be done.
Sincerely yours.

JOHN H. MITCHELL.
Q. I hand you on letter unper appear

Sincerely yours.

JOHN H. MITCHELL.

Q. J hand you on letter paper appearing to be a carbon copy of a letter. Is that taken from the files of your office?

A. Yee, it is.

Q. Is that a carbon copy of a letter mailed by you to Senator Mitchell at or about the date it bears?

A. Yes, sir.

Q. And signed by you?

A. Yes, sir.

Q. It refers to the inclosure of a separate letter. Can you identify the letter of five sheets which appears to be a carbon copy as to whether or not that is a carbon copy of the inclosure referred to?

A. I suppose that is a copy of the letter which was inclosed.

Mr. Heney: Under the rules we are required to offer the inclosure as well, if coursel desires.

efer to matters set out in

I is not relevant.

Mr. Heney: It does not. But I will
have it marked for identification as a
copy of the inclosure referred to in the
jetter of May 5, 1902, and I will read the
jetter of May 5, evidence. other letter in evidence.

Same was read in evidence as Govern-ment's exhibit 37 as follows:

Mitchell Sent \$380.59.

Government's Exhibit No. 37:

"Hon. John H. Mitchell. United States Senate. Washington, D. C.:

"Dear Senator—I inclose you berewith duplicate deposit tag for 1890.39, being your share of the proceeds of our business for the month of April.

"I am just in receipt of your favors of April 28 and 29, that of the 28th relating to Colonel Teal's matter, which I will explain to him, and the one of the 28th relating to the forest lieu selections of John A. Benson, concerning which I will inclose a separate letter.

"I understand from your dispatch of April 29 that all of the lands included in lists 1, 2 and 3, being timber entries in the Roseburg Land Office, have been passed by the Honorable Commissioner to the Secretary of the Interior, with the recommendation that they be ordered to patent. Am I correct in this? Lists 1, 2 and 3, you will remember, were the lands in which Mr. Kribs is interested and are all timber entries. Have you sny idea when we may expect action on the part of the Secretary of the Interior in the matter?

"With kind regards to all, I remain, yours truly." matter? With kind regards to all, I remain,

yours truly."

Q. I hand you a paper bearing the printed heading of the Western Union Telegraph Company "Received at." Is that paper taken from your files?

A. Yes, sir, it was.

Q. Was that telegram received by you at about the date it bears?

A. Yes, sir,

Mr. Heney: We will effer this in evidence.

Same was received as Government's Ex-hibit 38, and read as follows:

"All Right in a Few Days."

Washington, D. C., May 9, 1902. A. H. Tanner, 738 Johnson street, Portland, Oregon:
Oases before Secretary will be all right in a few days. Patents will issue.
JOHN H. MITCHELIA.
Q. I hand you a paper bearing the printel heading of the Western Union Telegraph Company "Received at." Is that a paper taken from the files of your office?

office?
A. Yes, sir, it is.
Q. Was that telegram received by you at about the time it bears date?
A. Yes, sir.
Mr. Heney; We offer that in evidence.
Mr. Bennett: We object to this on the same general ground, and, in addition, that no foundation has been made for the introduction of secondary testimeny.
Mr. Heney; This is one of the papers referred to in the notice. Will you produce the original?
Same was admitted in evidence as Government's Exhibit 29, and read as follows:

"Entries Passed to Patent."

Washington, D. C., May 21, 1962.

Hon. A. H. Tanner, Attorney-at-Law,
Comemicial block, Portland, Oregon:
The Secretary of the Interior has passed
to patent all the timber entries which I
wrote you had been sent up for approval,
by the Commissioner some time since.

Q. I band you three sheets of pagers
purporting to be carbon copies of two letters, both bearing date May 27, 1952. Were
those papers taken from the files of your
office?

A. Yes, those are copies of letters.

hell?
Yes sir.
And signed by you, each of them?
Yes sir.
Yes sir.
Theney: We will offer them in evidence. Mr. Bennett: We object to the letter offered of May II in addition to the general ground as being irrelevant and immaterial and having no reference to any matter in the indictment, and to the last clause of the second letter upon the same ground. ground.

The Court: If that is the fact, the objection is well taken.

The Witness: I think it relates to another matter entirely.

Mr. Heney: The first letter does. It may be marked at the present time as having been identified as a carbon copy of a letter mailed at that date.

As to the second letter, it is admitted that it relates to the matter, except the last peragraph. last paragraph.

Mr. Bennett: That is all we make the special objection to.

Mr. Heney: But if the letter is competent at all it should all go in, and the last paragraph will be made competent later. The Court: Only the relevant parts Mr. Heney. Then the accomp part of at-te will reserve until later.
Q. I will sak the witness now: It states sere 'in regard to the enclosed lists, pay-nents about which I enclose a separate that there is a separate of the series of the state of the seen identified here, this one?
A. Yes, I think it does.

Wanted More Expediting.

Mr. Heney: We will read in evidence at this time only the first paragraph of the letter which is marked Government's Ex-hibit 41, as follows:

hibit 41, as follows:

May II, 1902.

Hon. John H. Mitchell, United States Senate, Washington, D. C.:

Dear Senator—I was gind to receive your dispatch some days ago saying that the Honorable Secretary of the Interior had passed to patent the timber entries in the Roseburg land district about which I have been writing you. These lands are comprised in the three lists number 1, 2 and 2, which I sent you, and I presume have all been passed to patent. We are entitled to an additional fee of 1000 in this patter; but I suppose the party will not want to pay until he has some evidence of the final action in these cases, and I suggest, therefore, whether it would be proper or possible to get a letter or certifying to the action taken in these cases, or a notification to the local office of the action taken. This, no doubt would be utilimately done, but you might expedite

Q. To that letter did you receive a re-

A. I did, yes.
Q. As to those two letters about which you have just been questioned before, were they inclosed in the same envelope in mailing them?
A. I suppose they were, yes. I have no recollection about it, but I suppose they were, being the same date.
Q. And one referring to the other.
A. Yes, sir.
Q. This letter bears the signature of whom?

Yes, sir. . Heney: We will offer this in evi-

Mr. Heney: We will offer this in evidence.
The same was received in evidence as Government's Exhibit 41, and a portion of it only was read.
Mr. Heney: I think the other portion bears on the other part of that letter, and I will not read it at this time.
The portion read it as follows:
Committee on Coast Defenses, United States Senate, Washington, D. C.
Hon, A. H. Tanner, Attorney, Commercial Block, Portland, Oregon:
My Dear Judge—I beg to acknowledge receipt of yours of May Z. inclosing list of land selections in lieu of forest reserve land surrendered in Vancouver land district, State of Washington, up to June 4. 1951. Sincerely yours.
JOHN H. MITCHELL.
Q. Whose signature does the paper bear which is now beanded you?
A. This bears the signature of Senator Mitchell.
Q. Was that letter received by you in the state of the state of the signature of the

Asks Condition of Business.

Committee on Goast Defenses, United States Senate, Washington, D. C. May 12, 1962.

Hon, A. H. Tanner, Attorney-at-Law, Commercial Block, Portland, Oregon: My Dear Judge-i beg to acknowledge receipt of yours of May 5, enclosing duplicate deposit rag on the Merchants National Bank, to my credit, for \$385.59, being my share of the proceeds of our business for the month of April, for which accept my thanks.

for the month of April, for which accept my thanks.

Judge, I wish on receipt of this, or, rather, I mean when you send me next month's deposit, you would have your clerk make out a statement from the books of the firm showing the business since my leaving Oregod in November last; giving an itemized statement of cmen received, from whom, and on what account; in other words, a full statement of business up to June 1 of this year.

Sincerely yours.

JOHN H. MITCHELL.

Q. I hand you a paper and ask you if that is a carroon copy of a letter mailed by you to Senator Mitchell, kept on file in your office?

A. Yes, it is.

A Yes, it is.
Q. Was that mailed at about the date it bears?
A. Yes,
Q. And signed by you?
A. Signed by me,
Q. Was the enclosure referred to there sent with it?
A. Yes, it was,
Mr. Heney: We offer this letter in evidence.

\$727.55 for Mitchell in May.

Hon, John H. Mitcheil, U. S. Senate. Washington, D. C. Dear Senater. Enclosed please find duplicate deposit tag for F22.26, being the amount of your share of the net proceeds of our business for the month of May.

I also enclose you herewith a copy of our books from November to the present date as per your request.

require in the matter.
Have you any idea yet when Congress will adjourn or when you expect to be in Oregon. Very truly yours,
Q. Did you receive a reply to that let-

A. Yes, sir; I did.
Q. Whose signature is upon the paper which you now hold in your hand?
A. That is the signature of Senator Mitchell, but it is in the handwriting, I should judge—it is not in his own handwriting. Do you want to know whose it is in?

Are there some initials after the sig-

usture?

A. Yes, the initials are H. C. R.
Q. Did you receive that letter in due ourse of mail about the date it bears?

A. Yes, I did.
Mr. Heney: We will have this letter dentified. our reading it now, except the general bijection.

Mr. Heney: Then we will offer it in evitence and read it now.

The same was admitted in evidence as
lovernment's Exhibit 84, and read as foi-

Mitchell Sends His Thanks.

Washington, D. C., June 2, 1962.

Hon, A. H. Tanner, Attorney, Commercial Block:

My Dear Judge—I beg to acknowledge receipt of yours of June 2, enclosing duplicate deposit tag to my credit on the Merchants National Bank for \$127.56, being the amount of my share of the proceeds of our business for the mouth of May; also a copy of our books from November up to the present date, for all of which accept my thanks.

Hastily and sincerely.

JOHN H. MITCHELL.

Q. What book was the copy made from which was sent to Senator Mitchell?

A. It was the copy of the daybook, being this book now handed me.

Q. Is it the book that contains the entry which was offered in evidence on page 18, under date of February 12, 1962, in relation to the employment and payment by Fred A. Kribs of \$200.

Q. Was that entry included in the copy sent?

Objected to as secondary evidence?

Q. Was that entry included in the copy sent?
Objected to as secondary evidence?
Q. Who made the copy of the books, Judge Tanner?
A. I think Miss Spencer was the cierk in the office at that time.
Q. You saw the copy which was made?
A. Yes. sår.
Q. And you know that it was a copy of the daybook?
A. Yes. sår. I have a carbon copy of it in my office.
Q. I will ask you to produce that copy the next time you come on the witness stand, I hand you a paper marked Government's Exhibit 6, a check on the First National Bank of Roseburg. Whose indersement does that bear on the bank?
A. It bears the indorsement of the firm of Mitchell & Tanner, in my own handwriting.

Ung.
Did you receive that check at about date it bears?
Yes, I did.
From whom?
From Mr. Kribs.
For what purpose was it given to

you? A. Let me see the daybook. That payment relates to the timber claims, the lists 1, 2 and 2, about which I have already testified.

Q. What did you do with the check after receiving it?

A. It was deposited to the credit of the firm in the Merchants. National Bank.

Q. Was it collected?

A. It was yes.

Q. Was the entry made in your books of the receipt of that money—in your daybook?

A. Ites, sir.

book?
A. Yes, sir.
Q. It appears on page 133 of the book from which you have already been testifying, does it?
A. Yes, sir.
Q. At the top of the page?
A. Yes, sir.
Q. There is an entry immediately under it, which relates to the same transaction, does it?
A. Yes, sir.
Mr. Heney: We will offer both of these entries in evidence.

FXTRACTS USED BY PROSECUTION TO EMPHASIZE MITCHELL'S KNOWLEDGE

Extracts from letters, relegrams and account books introduced in evidence by the prosecution to emphasize the knowledge on Senator Mitchell's part of the exact nature of Tanner and Mitchell's relationship to F. A. Kribs: Page 166 (Daybook.)

February 12, 1902.-Fred. A. Kribs: To cash retainer in SECOND LIEU list of lands, and he to pay \$900 more when oved for patent, \$500.00. By cash, \$500.00. portion underscored in above entry has been written over a very distinct erasure; it is in Tanner's handwriting, and was changed by him during the Puter trial, the original entry being "To cash retainer in S. a. D.

A. H. Tanner-To cash above amounts. 206.00: by deposit in bank, 200.00. Statement showing how the net proceeds were divided for the month of Pebruary, D02, and that Mitchell received one-half of the \$300 paid by Kribs: Total receipts, \$1001.00: total disbursements, \$154.15-2508.25. A. H. Tanner, to check No. 196, \$462.87; John H. Mitchell, to check

March 4, 1992, Tanner forwards to Mitchell, at Washington, D. C., duplicate deposit tag for \$668.13. March 10, 1862, Mitchell acknowledges receipt of Tanner's letter of March 4, as follows: "My Dear Judge-I beg to acknowledge receipt of yours of March 4, enclosing duplicate deposit tag in Merchants National Bank, to my credit for \$465.12, being my share of the proceeds of our business for the month of February, for which accept my thanks." March 14, 1962. Tanner to Mitchell-Refers to Lists 1, 2, 3 (comprising about 70 timber and stone claims), and states: "The only thing I fear in the matter is that there is so much clamor and talk of fraudulent entries from this part of the country that the Honorable Commissioner may be intimidated into a refusal to pass these entries to patent. . . . I trust you will give the matter your very best attention, and if he feels disposed to call a halt somewhere and hold up some entries of a similar character, he can miss these of OURS, as they affect Oregon people . . . and are in no way tainted with fraud upon the law.

Please do not miss the opportunity of having a personal conference with the Honorable Commissioner about these lands, and represent and urge upon him, in the strongest manner possible, favorable action."

March 21, 1802, Mitchell to Tanner-Acknowledges Tanner's letter of March 14, and states: "I have not forgotten

these matters, and am giving them my constant attention."

that one S. A. D. Puter is in some way interested in List No. 2; he has no connection with the other two lists. 4 am informed that he has started East, taking with him F. P. Mays, who will probably abortly turn up in Washington and endeavor to prevent List No. 3 from being passed for patent . . . and try to get the list remanded for hearing in the local office so as to hold it over our people as a club to try and force a settlement of the other matter. You probably know something of Mr. Puter, and I do not need to warn you as to the character of the man. situation to you so that if they should come there asking your assistance in the matter, you will understand that it refers to one of the lists of lands that I am interested in having passed to patent for the reasons which I have

April 22, 1962 (telegram), Tanner to Mitchell-"Puter and Mays there soon about list. Three timber entries. They hostile to interests of my clients. Do nothing for them in matter. Malled you letter on subject April 19th explain

April 29, 1900 (telegram), Mitchell to Tanner-"On Saturday last Hermann reported to Secretary of Interior, I think, all of Rosburg land and stone cases in which you are interested, with a recommendation that they be ordered

to patent. The case will be taken up before the Secretary of Interior and considered."

May 5, 1902, Tanner to Mitchell—"I understand from your dispatch of April 19th that all of the lands included in May a rate taken that are on the same included in the Roseburg Land Office, have been passed by the Honorable Commissioner to the Secretary of the Interior, with the recommendation that they be ordered to patent. Am I correct in this? Lists 1, 2 and 2, you will remember, were the lands in which Mr. Kribs is interested, and are all timber entries. Have you any idea when we may expect action on the part of the Secretary of the Interior on the matter?" May 5, 1860, Mitchell to Tanner (telegram)-"Cases before Secretary will be all right in few days. Patents will

May II, 1902, Mitchell to Tanner (telegram)- "tue Secretary of the Interior has ressed to patent all the timbe entries which I wrote you had been sent up for approval of the Commissioner sometime since."

May 27, 1802; Tanner to Mitchell—'I was glad to receive your dispatch some days ago saying that the hon-trable Secretary of the Interior had passed for patent the timber entries in the Roseburg land district, about which I have been writing you. These lands are comprised in the three lists numbered 1, 2 and 3, which I sent you, and I presume, have all been passed for patent. We are entitled to an additional fee of \$1000 in this matter, but I suppose the party will not want to pay until he has some cyldence of the final action in these cases, and I suggest, therefore, whether it would be proper or possible to get a letter or certificate from the Land Department certifying to the action taken in these cases or a notification to the local office of the action taken. This, no doubt, will be ultimately done, but you might expedite the matter by calling the attention of the depart-

Note, May 12, 1905-Mitchell asked Tanner to send him, when he sends next month's deposit. "a statement from the books of the firm, showing the business since my leaving Oregon in November last; giving an itemized statement of cash received from whom, and on what account; in other words, a full statement of business up to June I, up to this year."

June 3, 1903-Tanner encloses the deposit tag for May, 1902, and \$725.55, and encloses copy "of our from November to the present date, as per your request."

him on May 27, asking to get a letter or something from the Secretary of the Interior showing that the list of timber entries had been passed to patent as Mitchell wired him, "but since writing that letter I have received your inclosures, being a copy of the opinion of the Secretary of the Interior, which is all I require in the matter."

and "copy of our book from November up to the present date." This statement was made from the daybook, which contained the Kribs entry of February 12. Final payment by Kribs on this 1, 2 and 2.

It was deposited in the Merchanis' National Bank, June 14, 1962, to the credit of "Mitchell & The amount was equally divided at the next division of net proceeds, July 2, 1962, and Mitchell received half of the \$1000 in his half of the net proceeds, which was \$723.05, and which was deposited to his credit in the Merchants' National Bank, July 5, 1902. Tanner forwards deposit tag July 7, 1902, and Mitchell acknowledges it July 18, 1992. This \$1000 was the balance of the fee from Kribs from this 1, 2 and 3, \$500 due on this 1 and 2 and \$500 due on this No. 3. June 16, 1902; Tanner to Mitchell-Forwards list No. 5, lieu selections: "I desire furthermore to

Mr. Kribs has paid up the fee which he was to pay for the services in the matter of the timber-land entries Kribs lieu selections-April 30, 1902-Tanner to Mitchell-Forwards "Kribs No. 4" list (lieu selections). States

that he is to get a fee for "getting the information desired in these cases." "I would like to get the present status of the cases and also have them made special so that you may be notified of any step taken therein and of any defects or omissions which we may have to correct or supply. I inclose you also a copy of this list and have marked it, "Kribs No. 2 so that in our subsequent correspondence you will know the list referred to by that name and number. February 16, 180-Tanner to Mitchell (3 letters)-(1) Forwards "Kribs list No. 3" of lieu selections.

cludes 21 selections, in which C. A. Smith, of Minneapolis, is interested, as well as the estate of John A. Pilisbury. (2) Incloses affidavit from Kribs asking to amend selection 258, included in said list. (2) States that he forwards separate letters relating to Kribs affidavit in re-selection 3788, and list of lieu selections." (3) "I desire furthermore to add that Mr. Kribs has paid up the fee which he was to pay for the services in the matter of the timber land entries in the Roseburg Land Office."

June 21, 1903-Mitchell to Tanner (2 letters)-(1) Acknowledges Tanner's letter of June 16, inclosing affidavit. of Kribs in re-selection 238. (2) Acknowledges Tanner's letter of June 16 and states he will "endeavor to have action taken as soon as possible.

approved) \$300 By cash \$500. Sections Page 170 (daybook). September 20, 1902. Frederick A. Kribs. To services approved - \$500. By cash - \$500, Kribs drew this check to the order of "A. H. Tanner," but it was deposited Se tember 22, 1802, to the credit of "Mitchell & Tanner" in the Merchants' National Bank. The amount was equally divided at the next division of net proceeds, October 2, 1903, and Mitchell's portion, \$457.23, deposited to his in the Merchants' National Bank.

November II, INC-Tanner to Mitchell II letters -(I) Forwards list (I) to Mitchell again, and states that books there is nothing now in the way of favorable action. (2) To this letter is attached the following

mitted on bill, \$2.50, by cash on account of Bat No. 5, 1300. Notes-Kribs drew this check to the order of Mitchell & Tanner, October 8, 1994, on the Merchants' National Bank. A. H. Tanner-To cash above amounts, 1965; by deposited in bank, \$165.

Note-Tanner retnined \$100 of the above payment, but the amount was charged to him at the next division of the net proceeds on November 2, 1904, and Mitchell received one-half of the \$300 check of Kribs.

Mitchell's share of the net proceeds for October, 1904, was \$334.83, and the amount was deposited to his credit in the Merchants' National Bank, on November 3, 1904.

transaction on part?
Yes, sir: that includes the 1000.
That includes that thousand dollars?
Yes, sir.
Theney: We will offer the fourth

firm.
The Court: The same character of en-tries as the others?
Mr. Heney: Yes.
The court thereupon admonished the Jury and a recess was taken until 2 o'clock P. M.

AFTERNOON SESSION. Tanner Continues to Testify.

Direct examination of A. H. Tanner, Mr. Heney: We will now offer idence the last entry to which I called our attention just as court adjourned, page lis of the daybook. "A. H. Tanner to cash above amount,

A. H. Tanner to cash above amount.

350.00.

By deposited in bank, \$1150.00.

C. I will show you the daybook of the firm of Michell & Tanner, from which you have been testifying, and call your attention to the entries commencing on page 150, and going over onto he receiblis for the month of June, 1902.

Were divided and if so, when?

A. They were yes, sir; July 2, 1902.

Q. Was the entry of that division put in the firm books?

A. Yes, sir; on page 161 of the dayook.

Q. In whose handwriting does it.

In whose handwriting does it apThat is in the handwriting of Seencer, the clerk in our office at time.
Did you see the entry at about time it was made?
Ten, sir.
Was it made at or about the time in evidence.

The sir made at or about the time in evidence. that time.

Q. Did you see the entry at about the time it was made?

A. Tes, sir.

Q. Was it made at or about the time
of the date it bears?

A. Tes, sir.

Mr. Heney: We will offer this letter in evidence.

The same was received in evidence as

Mr. Bennett: The same general objection goes to all these.

The entries were read in evidence as follows:
Portland, Oregon, June 12, 1902.

Kribs Paid \$1900.

14-Fred A. Kribs by cash for services and advice in reference to timber land purchases in Reschurg district, 1800.

A. H. Tanner, to cash above amount, 1800.

Q. The second entry means that you received it?

A. It was: yes, sir.
Mr. Heney: We will offer that entry in evidence.

Portland, Oregon, July 3, 1903.

Paid following bills by C. K. irwin, Hodson & Co., No. 832, 193.86, and then scratched out: Pacific Monthly, No. 834, 11.50; Guide Publishing Co., No. 836, 310.9; office rent, \$50.90; A. C. Spencer, No. 846, 230.00. Total expenditures is added as \$31.20. Total expenditures in Total disbursements, \$159.00. Not cash, 11561.00.

A. H. Tanner to one-half net cash,

\$1851.00.

A. H. Tanner to one-half net cash, \$780.50. Expense, \$1.30; less one-half amount overdrawn as shown by bank book, A. H. Tanner's proportion being \$10.00 more than J. H. Mitchell's, \$51.41. Carried out in the column, \$730.58.

John H. Mitchell to one-half net cash, \$780.50; less one-half amount overdrawn as shown by bank book, J. H. Mitchell's proportion being \$10.00 less than A. H. Tanner's account, \$41.42; carried out in the column, \$739.08.

Q. Does the net cash there—\$1551.00

the column \$739.08.
Q. Does the net cash there—\$1561.00
—include the thousand-dollar check represented by Government's Exhibit No. 67
A. Yes, air; it does.

Mitchell Paid One-Half of Check.

Q And does the portion of the net cash charged to John H. Mitchell include one-half of that check?
A. Yes, sir.
Q. Did you pay to John H. Mitchell the one-half which is charged against him here in the book, July J. 1902, for the month of June, and if so, in what way was it paid? I can refresh your memory.

rollows:

"Hon. John H. Mitchell, U. S. Senate, Washington, D. C. Washington, D. C. Dear Senator.—Enclosed I hand you duplicate deposit tag for \$133.98, being your share of the proceeds of our business for the month of June.

Q. I hand you what purports to be a letter dated July 18, 1862. Whose signature is upon the paper, if you know?

A. That is the Senator's signature.

Q. Did you receive that letter in due course of mail, about the time of the date it bears?

A. Yes, I did.

Mr. Heney: I will offer that letter in evidence.

Receives \$739.08 for June.

Washington, D. C., July 18, 1902. Hon A. H. Tanner, Attorney, Commer-cial Block.—My Dear Judge: On my re-turn here after ten days' absence on a vacation I find yours of July 7, inclosing vacation I find yours of July 7, inclosing duplicate slip in my name, for \$28.08, being my share of the proceeds of our business for the month of June, for which secept my thanks.

The President has turned Dufur down, and I find it will be impossible to do anything for him, all of which is an outrage. Sincerely your friend,

Q. I now band you three sheets of paper, letter size, all bearing date June 18, 1802, and ask you if those are carbon copies of letters taken from the files of your office?

A. I ex, those are copies of letters I

A. Yes, atr. Mr. Heney: We will offer these in evi-

More Kribs Business.

June 15, 1802.

Hon. John H. Mitchell, U. S. Senais, Washington, D. C.—Dear Senator: I enclose you separate letters pertaining to the affidavit made by Mr. Kribs asking leave to amend an application for forest lieu land selections and also a list of forest lieu land selections in order that you may forward the letters with the matters to which they pertain to the date it bears?

Honorable Commissioner and give the matters such attention as you can.

I desire furthermore to add that Mr. Kribs has paid up the fee which he was to pay for the services in the matter of the timber land ontries in the Roseburg Land Office, which were ordered passed to patent by the Honorable Sterretary of the Interior. He has considerable money tied up in those lands and is of course exceedingly anxious to have patents insisted, as he cannot get his money out until patents have been issued, as they no doubt will be in due course of business. If there is any way you can expedite the issuance of patents in these cases, I there is any way you can expedite the issuance of patents in these cases, I wish you would do so, and have them forwarded to the local office for delivery. Very truly yours.

P. S.—The copy of lieu-land selections enclosed is for you to keep, so as to keep track of this list.

A. H. T.

Two letters are enclosed which urge prompt action on both matters referred to in the foregoing letter.

Q. I hand you dovernment's Exhibit 2 and ask you if that is the list referred to in your letter of June 15, 192, the last one read? There is a mark of some kind on the back of R.

A. Yes, sir, I think that is the list.

Q. In whose handwriting is that?

A. It is in my handwriting. This is No. 5.

Q. I think you have already identified

No. 5. Q. 1 think you have already identified Government Exhibit 3 on the back of it, the Indorsement, as being in your hand-

writing?

A. Yes, sir.

Mr. Heney: We neglected to offer the back of it in evidence, which we do now. The same was marked Government's Exhibit is.

Q. And Government Exhibit 6 I believe you have already identified the undorsement of Mitchell and Tanner on the back as in your handwriting?

A. Yes, sir.

Mr. Heney: We offer the back of that dorsoned of Alichel and lather on the back as in your handwriting?

A. Yes, sir.

Mr. Heney: We offer the back of that check in evidence. The same is marked Government's Ex-hibit fa.
Q. Did you find the stub book contain-

check in evidence.

The same is marked Government's Exhibit far.

Q. Did you find the stub book containing the stub of the check for the division of the money that was received by the firm for the month of October, 1901?

A. Tes, sir, I have it here.

Q. That is the division which appears on page 134 of the daybook, which is already in evidence. Does this stub book contain a check showing that division?

A. Yes, the checks were returned by the bank to the firm, in due course of business, after being paid and were prated back onto the stub so as to keep them identified with the stub in that way.

Q. The amount of the division as charged to John H. Mitchell in the daybook is \$85.53. Will you explain from this stub book in what manner that amount was paid to him?

A. It was paid in two separate checks; one check was made payable to H. E. Mitchell for 100; that is the Semator's son; and the other check was made payable to the Senator, for \$35.52.

Q. Can you state from examining that whether or not Senator Mitchell was in Portland at that time?

Mitchell Indorses Check.

Mitchell Indorses Check.

A. I should judge from the fact that he has indorsed this check, and that it was made payable to him personally, that he must have been here at that time, though I have no recollection about it. Q. You have no independent recoilec-

Q. Mr. Thurston: What is the date of that check?
A. November 2.
Q. I will call your attention to the indorsements upon the back of the check of 100 to H. E. Mitchell. Do you know whose signature that bears?
A. That is the signature of H. E. Mitchell; yes, sir.
Q. You are familiar with his handwriting?

Q. I call your attention to a check drawn in favor of John H. Mitchell for 198.8. Whose signature is on the back of that check? A. That is the Senator's signature, John H. Mitchell.

H. Mitchell.
Q. By whom were those checks filled out, in whose handwriting?
A. They are in the handwriting of H. C. Robertson.
Q. What position, if any, was he occupying with the firm of Mitchell & Tanner at that time?
A. He was the clerk or stenographer in the office.

A. That is in my handwriting, I signed that myself. Who signed the one to John H.

In whose handwriting are they? They are in the handwriting of Mr.

Q. Were they made at about the time of the date they bear?

1891. No. 742. Merchants National Bank. Pay to the order of H. E. Mitchell 1809 (one hundred dollars). Signed, Mitchell & Tanner.

The indorsement on the back of that check is H. E. Mitchell. A perforated stamp, "Paid. Merchants National Bank. Paid. Portland, Oregon." Stamped on with purple ink.

Mr. Bennett: I think it ought to be understood that these checks do not refer to any matter that is charged in the indictment. They are so intimately connected, being a part of the same transaction, that it does not seem to us that the same rule applies as to these other matters, and therefore we have made no special objection; but it seems to me the jury ought to understand that this is not a matter that is charged in the indictment.

Mr. Heney: This is the first payment of \$500 on the contract of October 15, 1901. The second payment is February 19, 1902, and that is the second payment of the first one alleged in the indictment. The date of the return of the indictment shows that the statute of limitations would have run against this particular payment at the time the indictment was turned in.

Not Included in the Indictment.

Not Included in the Indictment.

Not Included in the Indictment.

Mr. Bennett. You do not claim that this is included in the indictment?

Mr. Heney: No, it is not included in the indictment.

The stub to the other check reads: No. 743. Date, Nov. 2, 1991. To John H. Mitchell. 335.53. one-half net cash, 3481.23. Expense, 34.50. Less check to H. E. Mitchell for 1994.090.

The check reads: Portland, Oregon, November 2, 1991. No. 743. Merchants National Bank pay to the order of John H. Mitchell \$355.83, three hundred and eighty-five and 83-109 dollars. Mitchell and Tanner. Endorsement on the back, John H. Mitchell.

Q. I will ask you if you received an answer to the letter of June 16, 1992, which has just been read in evidence, consisting of three sheets?

A. Yes, sir; that is the answer I received.

Q. There were three separate sheets elved.

Q. There were three separate sheets ach dated the same date. Can you say rhether or not they were all mailed in he same envelope?

A. I expect they were, though I have o recollection on the subject.

Mr. Heney: We will offer this letter a evidence.

Received Kribs' Affadavit.

Received Kribs' Affadavit.

Committee on Coast Defenses.
United States Senate.
Washington, D. C., June 21, 1902.

Hon. A. H. Tanner, Attorney at Law, 809
Commercial Block, Portland, Oregon.
My Dear Judge.—I beg to acknowledge receipt of yours of June 18th, enclosing affidavit of F. A. Kribs, in which he makes application to be allowed to amend the application so as to make the same in the name of F. A. Hyde, for lands in lieu of those conveyed to the United States by power of attorney.

This relates to Lieu Selection No. 3793. I will bring the matter to the attention of the Department at once, with the recommendation that the permit be allowed.

Yours very sincerely.

Q. I hand you what purports to be a letter dated June 21, 1902. Whose signature, if you know, does that paper beart.

A. That is the signature of Senator Mitchell.

Q. Was that letter received by you in

possible.

I will bring the same to the atter
the department at once and endr
have action taken as soon as pos

in evidence?

A. Yes, sir, I have the copy here
least I suppose it to be a copy. It
carbon copy. I do not remember the
compared it with the books, but it
made by Miss Spencer.

Q. And kept on file in the office
since?

Yes, sir.
You saw it at that time?
Yes, sir.
Y

Mr. Heney: We will offer the copy is evidence.

Mr. Pennett: I suppose the same rule would apply to this as to the original book, that it has nothing to do with the matter. It covers private transactions of the first for quite a long time.

The Court: Of course, the matter the is really material consists of those particular entries.

Mr. Heney: Yes, that is the material matter, but it is necessary to put the whole thing in as being the paper that was sent, and we will read only the material paris.

The Witness: Of course, there are a great many entries that have no reference to this matter at all.

Mr. Heney: We will read that portion only which is in controversy here.

Mr. Bennett: I suppose, then, that is the only matter, then, that will be in evidence?

Tends to Show His Knowledge.

Mr. Heney: No, I offer the whole papecause it goes to the integrity of it, a the question that the jury will bave determine is whether from the receipt this paper they can infer that Sena Mitchell's attention was called to i matter, which will depend somewhat a the appearance of the paper and howentry appears therein.

The Court: Well, I think it is not necessry to read it at this time.

Mr. Heney, No, only that one entry. The Court: But let the whole matter introduced and counsel can make it comments on it as they desire to in an entry.

Seeks to Show Knowledge.

Mr. Heney: In order for the jury to determine the purpose of putting this in is to show the probability it is a circumstance tending to show—and if not it is not competent at all—that the defendant had knowledge of the fact that this money was received from Kribs. Having received this paper, he may or may not have read it, but as to whether he saw that entry or not, something might depend upon whether it is at the top of the first page of the middle of the last page or in an obscure place.

The court: You can show the jury that entry as it is there.

Mr. Bennett: We are willing the whole paper shall go in for that purpose, with the understanding that these private matters are not to be commented upon.

Mr. Heney: Oh, I will not comment upon any private matter that does not go in evidence. I read from page 1, and it is the third and fourth entries. The heading of the page is "Portland, Oregon. February 4, 1862." I think you will find that it is an exact copy of the page of the book. It starte just below the last settlement. "Fred A. Kribe to gash retainer in S. A. D. Puter list of lands, he to pay 1500 more when approved for patent, 5500. By cash 1500. A. H. Tanner to cash above amounts, 556." (There is a S. entry just above.) "By deposited in bank, 1564." Now, I want the jury to look at the entry.

The entries were exhibited to the jury