JUDGE A. H. TANNER TELLS OF FIRM'S DEALINGS WITH FREDERICK A. KRIBS

cash \$468.12.

In the low that is the entry of March 1922, and we offer the preceding four risks with the date and all that foilure the Fred A. Kribs entry of Februs 12, the whole of that page 7 in 15 to show the error in the date of that you is the show the error in the date of the page 8, but for that loose only.

Thurston: Just cover it by a ement that the paper shows four esponding dates as follows. There is objection to that.

Hency: We will only use it for purpose. I want to use the entries melves.

neelves. I again hand you the day book call your attention to page 176, top entry. After the notice of the ance of patents in the lists 1, 2 and 16 you make any other agreement if yed. A Kribs in regard to lands? Yes, sir. He brought in some—When was it that the agreement made?

About Servember 1862

Kribs Agreed to Pay \$1000 Fee.

Kribs Agreed to Pay \$1000 Fee.

He brought in a couple of lists leu selections; that is, land that had n selected under the forest reserve and said that the selections had made some two yars prior to that e and that he had not been able to action or to get any report or to artin what the condition was or if thing was wrong with them. Had been able to make any progress at in the matter, and ead so far as he we there was nothing wrong with m, but they were all right except to might be some defects here and e and the abstracts of title to the base is or some defects to supply in reference to the base lands in the abstracts of the wall e hold of the matter and look it up assist him in getting these lists roved. In he first place, to get the uns of the selections and find out if ould what was the matter, if anyon, and do whatever was necessary supply the omissions or defects that the exist in the abstracts of title er any other respect with reference the selection. And I made an arto ene-half net cash

to ene-half net cash

and do whatever was necessary
supply the omissions or defects that
the selection And I made an arany other respect with reference
the selection. And I made an arigement with him, to take nold of he
iter, and he agreed to pay me a fee
1100. 1300 cash and the balance
en the selections were approved.
Are those the lists, 4 and 5, about
the you have testifical?

Tes, sir.
And those nad been sent on April
they not?
I suppose they had, yes.

Did you make an entry in the
ment in regard to the
ment in the checks for October to the
ment in the checks in it.

Q. I wish yo

A. I suppose they had, yes.

A. I suppose they had, yes.

B. Did you make an entry in the book.

Beptember, 1902, at the time of the greement in regard to the fee?

A. Yes, sir. I did.

C. And that appears in the daybook of the firm of Mitchell & Tanner, does it?

A. Yes, sir. it appears in this same look at page 170.

C. And the first two entries related to did they?

M. Yes, sir.

Ari Heney: We offer those two entries dividence. The same were admitted and read as llows:
The same were admitted and read as llows:
Portland, Oregon, September 17, 1802, hen the figures 20. The first entry is the top of the page: Fredrick A. Kribs: services and advice in reference to rest lieu selections, lists, figure 2, and gure 4 written over it, 4 and 5 (\$500.00 offs to be paid when said selections are proved), and in the debtor column, 0.00. By cash \$500.00 in the credit column. The same date, A. H. Tanper to ask, above amount, \$500.00 in the debtor olumn, by each \$500.00 in the credit column.

date waich these copies sear.

A. Yes, sir.

Mr. Heney: We will offer these in evi-

Wants Matter "Punched Up."

can, as a part of our fee depends upon getting these selections approved.

Q. Did this first letter refer to the lieu lands that were the subject matter of that contract of September 20, 1902, which you have just testified about?

A. Yes, sir.

Q. The second letter contains the words "Referring to the enclosed letter." That means the letter first read, does it?

A. Yes, sir.

Q. That was the second payment of \$500.00 that was referred to in the agreement of September 20?

A. I suppose it was,

Q. Did you receive an acknowledgement of the receipt of that letter from Senator Mitchell?

A. Yes, sir. that is it.

Q. Whose signature does that paper bear?

A. That is the signature of Senator

A. That is the signature of Senator Mitchell.
Q. Did you receive that in due course of mail about the time of its date?
A. Yes, sir; I did.
Mr. Heney: I will offer that letter in. evidence.
The name was received as Government's Exhibit 52.
After enumerating the numbers of the

"Great Cry of Land Frauds."

in the year 1802 making a trip to olulu? Yes, I remember the circumstance

that the check was drawn to me ally.

Q. What did you do with the check when you received it? I will show the book.

A. It was indersed by me and deposited to the credit of the firm in the Merchants National Bank.

Q. On what date?

A. September 29, 190.

Q. Was the check paid?

A. It was yes.

A. September 20, 1992.

Q. Was the check paid?

A. It was; yes.

Q. Was there a division made of the net earnings of the firm for the month of September, 1902?

A. Yes, siz.

Q. I show you the daybook and ask you if you can tell on what day the division was made?

A. On October 2, 1992.

Q. Was there an entry made of it on the books of the firm?

A. Yes, there was.

Q. On wint page of the daybook?

A. It is on page 173 of the daybook.

Mr. Heney: We will offer that entry on page 171 in evidence.

Portland, Or., October 2, 1992.

Paid the following bills by check: Pacific Monthly, Els. Guide Publishing Co.

\$1: Pacific States Tel. Co., 25.20; office rent to October 21, 1902.

\$2: Pacific States Tel. Co., 25.20; office rent to October 21, 1902.

\$3: Co., paratched out, and in brackets, "charge to F. A. Kribe"), \$7.55 taleo scratched out; Wyckerf, F. & B. \$2.52; A. C. Spencer, malary September, \$20; to-tel 1942. It originally read \$198 and the one is rericken out. Total receipts. \$1.061.20; Total disbursements. \$17.20; had come half net cash \$40.22 Epense, \$7.20; less amount drawn during month, Els. Total, \$45.102.

Q. I hand you stub checkbook of the firm of Mitchell & Tanner. That is it, is it?

A. Yes, sir.

Q. Will you turn to the checks for Oc-

A. Yes, sir; that is the office copy of the letter.

Q. Was the original of that letter mailed by you at about the daie this copy bears, to Senator Mitchell?

A. Yes, it was.

Q. In this connection, I will ask you as to your office files. Did you have a separate file for firm business from your personal matters?

A. I had a personal letter file and cometimes the firm letter got into that file by mistake.

Q. Where were those letters in relation to these lands kept—these carbon copies? A. Generally in the letter files of the A. Generally in the letter files of the firm book.

Mr. Heney. I offer this letter in evi-dence dated December 5, 1902.

The letter was received in evidence as Government's Exhibit 53, and read as follows:

Tanner Urges Haste.

cial, and put them through without delay. I understand that L. T. Earin has been able to get a list through which was filled biter than ours, and has even already gotten the patents therefor. It seems that we ought to be able to do as much for this party, especially since the showing is made which is contained in Mr. Kribs affidavit. Can't you get Hermann interested in the matter and ineist on having these selections taken up and disposed of? I do not think the great cry of fraud as affecting land entries out here under the timber and stone ant can apply to forcet lieu selections under the act of June 4, 1897. Kitally advise me as to the result of this application, and oblige. Fours truly. Q. There is an affidavit referred to or suggested in one of your former letters: "I herewith enclose you affidavit of Fred A. Kriba." I hand you government exhibit for identification, and ask you whether or not that is the affidavit referred to in the letter?

A. Yes, sir, I think it is. Ex. 52.

Hon. John H. Mitchell. United States Senate. Washington, D. C.
Dear Senator:—I beg to acknowledge receipt of the copy of a letter from the Honorable Commissioner of the General Land Office, under date of Nov. 26, 1982, relating to lieu selections. (The numbers are given.) in which he says among other things, that the said cases are now in the files awaiting consideration in due course of business, and that when reached, they will be taken up said passed upon without interruption, etc. Would it be asking too much of you to ascertain from the Honorable Commissioner whether it will be possible to have these cases taken up out of their order immediately for the reason that as I have already explained to you, the estate of the late Governor Pilisbury of Minnesous, now in process of settlement, is interested in these selections and can not be settled un writed. these cases are disposed of. I believe there is a rule of the Department which upon a showing made of this kind, allows or rather provides that cases may be taken up out of their order and disposed of. If any affidavit is required to be made of this kind, we can furnish the same.

Very truly yours.

Q. I will ask you if you received.

Very truly yours,
Q. I will ask you if you received a
reply to that letter from Senator
Mitchell?
A. Yes, I did. This is the reply.
Q. Whose signature is upon that
paper?
A. It is the signature of Senator
Mitchell.
Q. Was this reply received in due
course of mail about the time of the
date it bears?
A. Yes, sir.
Mr. Heney. We will offer this letter
in evidence. rou state whether or not those are the lands that are contained in lists 4 and 5 about which you have testified?

A. Yes, sir, that is my understanding, that they are the same selections.

Q. The lieu selections involved in the 1892 timber agreement with Kriba?

A. Yes, sir.

Mr. Hensey: We will offer this affidavit in evidence, and, with the consent of counsel, we will not read the long lists of land. If it may be considered as read.

Mr. Bennett: We will not insist on that. The same were received in evidence as Government's Exhibit S. and the whose paper considered as read, and no portion read at this time.

Q. I hand you a paper hearing date January 5, 1556. Can you state whose signature it hears?

A. That is the signature of Senator Mitchell.

Q. Was that received by you in due course of mail about the time of the date it hears?

A. Yes, sir, it was.

Mr. Heppey: We will offer this in any contract the sir, it was.

"Great How!" Prevents Action.

Washington, D. C., Dec. 10, 1965.

Washington, D. C., Dec. 10, 1902.

Hon. A. H. Tanner, Attorney-at-Law, 100 Commorcial Block.—My Dear Judge: i beg to acknowledge receipt of yours of December 5, enchosing duplicate deposit-slip for \$22.04, being my share of the proceeds of our business for the month of November.

I note that you will forward me in a few days Patterson's petition for certiorari. I have made no arrangements whatever with Mr. Patterson's you had better have an understanding with him; be ought to pay something bestdes a mare contingent fee, as frankly I have but little faith in his case. You can have my name printed on the brief, that will be all right. I am glad that you are preparing the brief, as it would simply be impossible for me to do it now, as I occur was so busy in all my life.

Owing to the great how! now being made about land frauds, I do not think it is possible to get the cases you refer to taken out of their order. If you will have some person interested in the lands, however, to make affidavit showing why they should be taken out of their order. I will see what can be done.

With the compliments of the season, I am, Yours very sincerely.

P. S.—Tell Patterson my settled rule in to never appear in U. S. Supregue Court unless I have a retainer of \$30.

Q. I hand you three sheets purporting to be carbon copies of fayo letters of the same date, Decomber B, 192. Are those carbon copies of letters taken from the office files of your office?

A. Yes, sir. The same was received as Government's Exhibit 51, and read in evidence as follows:

Washington, D. C., January 5, 1908.

Hon, A. H. Tanner, Atterney-dt-Law, Commercial Block, Portland, Oregon:

My Dear Judge—I am Just in receipt of yours of the 28th ultime, inclosing affidavit of Fred A. Kribs. I will confer with the Commissioner and endeavor to have these cases made special. Everything is in such an upset condition here in the department, as you will see from the papers, that it is difficult to get anything done just now, but I will do my hest.

Yours very sincerely.

JOHN H. MITCHELL.

Q. Do you know when Binger Hermann went out of office as Commissioner of the General Land Office!

A. No. sir, I do not recall the date.

Q. Do you recall what year it was in?

A. No, sir, I cannot recall from memory.

Q. Do you recall from your letter as

A. No, sir, I cannot recall from memory.

Q. Do you recall from your letter as to what the "upset condition" referred to was?

A. No, sir, I do not; I don't know what it was.

Q. I hand you what purports to be a carbon copy of a letter of March 29, 1500, two sheets. Are those carbon copies of letters taken from your office files?

A. Yes, sir,

Q. Did you mail the original of those two sheets to Senator Mitchell at about the date these copies bear?

A. Yes, sir, I did.

Mr. Heney: We will offer them in evidence.

Yes, sir.

Was the original of these three
ts mailed by you to Senator Mitchell
about the date these carbon copies

bear?
A. Yes, sir.
Q. And signed by you?
A. Yes, sir.
Mr. Heney: We will offer these three sheets in evidence.
The same were received in evidence as Government's Exhibits 55 and 55a, and read in evidence as follows:

Haste Is Again Urged.

December 29, 1902.—John H. Mitchell, United States Senate, Washington, D. C. Dear Senator. As suggested in one of your former letters, I berwrith inclose you an affidavit of Fred A. Krim showing inat the estate of John S. Pilisbury, lately deceased, is interested in the list of lieu selections at tached to the affidavit, and that the administration of said estate is being delayed, and hindered on account of these selections not being reached and passed on and that the celair and heise unless said selections can be advanced. I state money was received, would be true, but it may now handwriting.

This is written after Mr. Hermann went out of office and a new Commissioner went in, and we are only charged with having taken pay for services readered with having relating to services that may have been rendered after be went out of office rouid not possibly be retired.

Mr. Heney: The act itself has now been proven, and the defense is want of knowledge. Any evidence of a similar arts, and especially any evidence of a similar transaction that would tend to show that the acts performed before Hermann were performed with knowledge of the fact will be put to great injury and loss unless said selections can be advanced.

I think the showing made in the affidavit is amply sufficient to authorize these cases being made special and disposed of at once. I think peasibly the state ment of Mr. Hency would be true, but it do not understand this fetter to be of such a character as that unless I have overlooked something in it.

Fracing Monthly, No. 785, \$4.90; payment of \$50. Examine this paper, and Thompson Co. No. 785, \$4.90; payment of \$50. Examine this paper, and Thompson Co. No. 785, \$4.90; considerable of the Interior that the matter of advance of the Interi of the department, it may be several years before the administration of this estate can be closed up. In the meantime, the lands might depreciate in value, the timber he burned off of them, if they are timber lands, thereby entailing great loss to the estate or the creditors or the beirs, I trust that you will be able to get the Honerable Commissioner to order these selections taken up out of their regular order and disposed of at once.

In reference to these selections. I wish you would also say the Commissioner to have the number as given in his office placed opposite the selections, on the inclosed copy of this list and return the same to me so that I will have his office numbers of the cases and can keep track of them by the numbers. Very truly yours.

"Get Hermann Interested."

"Get Hermann Interested."

Hon. John H. Mitchell, United States Sen-lite, Washington, D. C.: Dear Senator-With reference to these selections. I leave no doubt that the Hon-orable Commissioner can, if he chooses to, order these cases advanced and made spe-

his acts upon the defendant.

A. Yes, sir, I think it is. Q. Whose signature, if you know, does he second sheet, the affidavit, bear? A. It is the signature of Frederick A.

A. Yes, sir.
Q. It has attached to it as a part of it six sheets containing a list of lands. Can you state whether or not those are the lands that are contained in last 4 and 5 about which you have testified?

Government and del'sered to the grand jury.

statement a little too narrow. The law makes it an offense: "No Senator shall receive or agree to receive any compensation whatever, directly or indirectly, for any service rendered or to be rendered, so that the agreement to receive comes within the provision, and any evidence that tends to show that an agreement was made is competent. All evidence that tends to show that an agreement was made is competent. All evidence that bears upon the carrying out of that agreement of September, 182, is competent as bearing upon the establishment of the agreement with knowledge of the defendant, and that the defendant performed the service agreed upon.

Mr. Bennett: There is no allegation in the Indictment that we ever agreed to receive anything.

The Court: I supposed this was an action charging the defendant with having performed service before the department at Washington and having received compensation for it.

Mr. Bennett: Not before the department before and persuade the said Singer Hermann, an officer of the department: "To aspear before and persuade the said Singer Hermann to make special, expedite and approve the said selections. This letter is simply a request to Mitchell to go before the new Commissioner and get certain things done.

The Court: I think the indictment charges that he contracted to render his service, or that a contract was made to render service, and in pursuance of the contract compensation was received on certain dates.

Mr. Heney: Yes, for services rendered and to be rendered.

The Court: I was but do you understand that under the statute a mere contract to render services in an offense?

Mr. Heney: Yes, I do, if Your Honor pleases.

The Court: Is that what you charge?

Mr. Heney: Yes, I do, if Your Honor pleases.

CUMULATIVE MASS OF DOCUMENTARY EVIDENCE AGAINST MITCHELL United States Attorney Hency, in the Mitchell trial, is burying the defense under a mass of documentary evidence which requires one man to carry into the courtroom. In the prosecution of the case he is taking the matter up in chro-nological order, dating his case from the original partnership agreement made between Mitchell and Tanner, on March 1, 1991, to the time the Senator wrote and sent the letter to Tanner by H. C. Robertson which was intercepted by the

Mr. Hency has had introduced as evidence the first agreement, stated in March of 1901, which shows the province under which the business of the firm of Mitchell & Tanner was to be conducted, and setting out the fees to be

received by the Senator for his practice before the departments at Weshington. In addition to this has beer produced the supplementary agreement, differing in nothing except the proportion of the dividends to be secured by each nember of the firm. The last agreement, and the one of greatest importance, is the one written in Portland in December last, and dated March I, 1901. This is the agreement which the defense has admitted having altered, and which by its change in the clause relating to practice before the departments, tends to fasten knowledge of the illegality of

The letter written by Mitchell to Kribs in relation to his claims was also introduced, as were a wast number of personal letters passed between Tanner and Mitchell, all relating to the Frederick A. Kribs claims, the fees to be received from him, and those which were paid, the work to be done by the Senator before the Land Office, and the deposit checks sent by Tanner to the Senator as his share of the firm business.

Perhaps the most important document, or one of the most important, is the letter sent by Mitchell to Tanner asking him for a copy of the books between the dates of November, 1981, and June, 1892, the period during which the Kribs entries had been made. This is held by the Government as evidence that the defendant did know that his acts had not been according to law, and wished to see just what could be done to counteract the effect of the records. Of equal importance is the carbon copy of the daybook sent in answer to this letter, which copy was introduced yesterday afternoon, after strenuous objection by the defense.

All correspondence showing the knowledge of Mitchell, and having been writen either by himself or his partner, is below into the latter to the prosecution, as well as all checks said by Kribs and those sent by Tanner to

is being laid before the jury by the prosecution, as well as all checks paid by Kribs and those sent by Tanner

stubs of the checkbooks from which the checks were drawn. The original checks drawn by Kribs in favor of Mitchell & Tanner, and the checks drawn by Tanner for Mitchell have been introduced as showing the fact that Mitchell had knowledge and received the money.

The affidavit of Kribs in regard to the legality of his claims as sent to Mitchell in Washington, has been brought

forward as combatting the contention of the Senator that he had no knowledge of any transactions with Kribs.

The last document introduced yesterday was the jetter written by Mitchell to Tanner just prior to his indict-

ment, which letter was sent by Robertson, but fell into the hands of the Government. This letter instructs Tanner how to proceed, and asks him to bring the firm books, the checkbooks and the bankbooks with him secretly to Wash-

charged the receipt of the money as the offense.

The Court: That is what I was think-

The Court: That is what I was thinking.
Mr. Heney: (After examining the indictment): We appear to have charged both of them. I have a copy of the statute here, if Your Honor desires to look at it.
Mr. Bennett: We do not question the statute being broad enough to cover it.
Mr. Heney: To cover both?
Mr. Bennett: Yes.

Indictment Charges Both.

Mr. Heney: I think the indictment charges both.
Mr. Heney read a portion of the indictment, and continued:
It is alleged that he was the Commissioner of the General Land Office at that time and had these matters pending before him.

It is alleged that he was the Commissioner of the General Land Office at that time, and had those matters pending before him.

The Court: I think the contract as charged is that the appearance should he made before Binger Hermann, and that special influence was to be used with Hinger Hermann.

Mr. Heney: As such officer.

The Court: Well, he was the Commissioner of the General Land Office, but the contract was not that he appear before Ringer Hermann or any Commissioner of the General Land Office, but the charge is that he would induce Hinger Hermann. I think you will have to be confined to that.

Mr. Heney: Would not evidence of the fact that within a short time following the going out of office of Binger Hermann, and in relation to these same matters, the effort to secure patenta was continued, be a circumstance which might tend to prove the agreement alleged in the indictment?

The Court: I am not prepared to say.

Mr. Heney: I am not either. I am taken by surprise, and will go on another line of evidence, and address Your Honor on this subject again, if I conclude to.

Q. I will hand you another book and ask you. Judge Tanner?

A. Yes, it.

Q. Commencing September 4, 1968?

A. Yes, it.

Q. I will call your attention to an entry on page 5. After reading that entry can you state whether or not any payment was received by the firm of Mitchell & Tanner?

Kribs Paid \$200 in October.

Kribs Paid \$200 in October.

in evidence.

Mr. Bennett: I desire to make the same objection as to the last matter; that is, that it refers to services rendered before some other person, if rendered at all, besides Mr. Hermann, Objection overruled. Defendant excepts.

Objection overruled. Defendant excepts.

Mr. Heney: I will read the entry in evidence from page 5 of the book:

Portland October 7. 1904." Under the figures "16" in the middle of the page, indicating October 16, 1904. "Fred A. Kribs by cash \$25. By remittance on bill, 21.50; by cash on account of list No. 5, 1900. A. H. Tanner to cash above amounts 1200. By deposited in bank, \$155."

Q. I call your attention to the entry in the daybook for September, 1902, which has been read in evidence, of the agreement with Kribs, and ask you if the list No. 5, which appears in the entry of October 10, 1904, is the same list No. 5 referred to in the entry of September 26,

Kribs Paid \$200 in October.

A. Yes, sir; there was a payment made Ontober 10, 1904, of \$200.00.

Q. Was an entry of that payment made in the daybooks of the first?

A. Tes, sir; the entry is made here on page 5 of this book.

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

A. Yes, I made the entry myself; it is in my own handwriting.

Q. Was it made on the date it bears?

A. Yes, sir; it was.

A. Yes, sir; it was.

A. Weil, I was mistaken about that going on the date the dispatch bears; I see that I was mistaken in that, but it was some two or three days after the date of that dispatch.

Q. That is, you stood personally charged with \$100?

A. Yes.

Q. Was there a division made of the

proceeds of the firm business for the month of October, 1964?

A. Yes, str.
Q. When was that made?
A. November 1 1964.
Q. Was an entry made of it in the A. Yes, str.
Q. When was that made?
A. November 1 1984.
Q. Was an entry made of it in the ooks of the firm, and entry of the divis-

on?
A. Tes, sir,
Q. Upon what page?
A. On page &
Q. In the second daybook?
A. Yes, sir; the second daybook.
Mr. Heney. We will offer that entry in evidence. A. Yes, sit; the second daybook.
Mr. Heney: We will offer that entry in evidence.
Portland, Or. November 1, 1994.
Paid the following bills by check today (under the date of November 1): Title Guarantee & Trust Co., 200; Guide Publishing Co., 11: Pacific Monthly Co., 21:59; Pacific Coast Agency Co., 21:51; A. H. Tanner, Jr., 190; Pacific States Telephone & Telegraph Co., 28:55; John H. Mitchell to one-half net proceeds 1894.33. A. H. Tanner to one-half net 294.33. Expense, 1964.40. Total, 551.21. Amount debtor, 1875.35; different 1976.17. Amount carried out in the debit column, 273.72.
Q. Was the check for 200, and the whole of it, included in the net proceeds of the firm business which were divided on November 2, 1994?
A. Yes, sir; it was.
Q. By deducting from your share thereof the 100 retained by you?
A. Yes, sir; divided in the net proceeds of the firm business which were divided on November 2, 1994?
A. Yes, sir; it was.
Q. By deducting from your share thereof the 100 retained by you?
A. Yes, sir; was in Portland at the time of that division, November 2, 1994?
A. No, I cannot recall from memory whether he was or not.
Q. I wish you would look up your

checkbook for that date and bring tomorrow.

A. Very well.
Q. That makes two dates. The other one, was for October and November of the other othe

8?
A. Yes.
I notice an item, A. H. Tanner, Jr.,
in that last swittement account that
is read in evidence. Is that your son?
That is my son; yes, sir.
He was an employe in the office at
at time?

time? Yes, he was a stenographer in the

office.
Q. About when was he first employed in the office?
A. I cannot recall from memory now.
Q. Some time in the year 1994?
A. I think so.
Q. I will hand you a printed form of the Western Union Telegraphic Company.
Was that telegram received by you at or about the date it bears?
A. Yes, sir it was

Met Mitchell at Kalama.

Q. Yes, I understand.
A. That is the first that I ever knew of his expecting me to be his attorney, or to represent him.

EXAMINATION BY MR. HENEY CONTINUED.
Q. State the conversation that you had with Senator Mitchell on the train.
A. I met him on the train and at the time he was at dinner in the dining car, and I. of course, shook hands with him passed the time of day, and also with Mr. Hermann and his wife, who were on the train, and Mr. Baker, I think—Frank Baker—was also in the same car, and after this general taik, of course, there was anxiety to find out, if he could, what the charges were what the talk was here.

Mr. Beanett: I would inst like to ask

there was anxiety to find out. If he could, what the charges 76ts—what the talk was here.

Mr. Bennett: I would just like to ask one more question. I don't want to integrupt, but there is a matter comes to my knowledge that I did not know before. I desire to refresh the witness memory.

Q. (Mr. Bennett): I will ask you if Senator Mitchell did not telegraph to you in relation to the matter of your acting as his attorney before he left Washington to come out here? Didn't he telegraph you in relation to that matter, especially to see Mr. Heney and Mr. Hall, who was the United States District Attorney, as his representative, in relation to getting the privilege of going before the grand jury?

A. Fes, he did. Of course, I did not consider that an employment. I did it simply at his request, but I did not know before that he regarded that an retaining me. If he so considered it, of course, I suppose I was retained. But I did not so understand it. I simply did it at his request.

Q. (Mr. Bennett): Well, you had been acting for him in that matter?

A. I went and saw Mr. Heney and I saw Mr. Hall, also, who was then District Attorney, and tried to find out what the nature of the charges were against him.

Q. (Mr. Heney): Is that the telegram?

A. Yea, sir; that is the telegram.

Q. (Mr. Heney): Is that the telegram:

A. Yea, sir; that is the telegram.

The telegram was as follows:

Tam advised an effort will be made by Heney, Assistant Attorney-General, to indict me by grand jury to meet Monday. See him and Hall and if this is true, demand for me the right to appear as witness in my own behalf before grand jury, and wire me if this privilege will be granted. I demand a full investigation by grand jury. Wire quickly as possible. Confidential.

Mr. Bennett: In audition to that, I offer to show to the court that at that first time, or any time, that Senator Mitchell understood at the time he was talking to Mr. Tanner, that Mr. Tanner was his attorney and that he was talking to him confidentially in that relation.

Tanner Not Employed as Attorney. The court: That telegraphic dispatch s not an employment of the witness by

The court: time to the witness by the defendant.

Mr. Bennett: I think we will ask the court to note an exception to Your Honor's remark about that—also to the ruling of Your Honor, upon the ground that it was a privileged communication.

Mr. Heney: I suggest, Judgo Tanner, that you can confine the testimony to attements in relation to any proposed action. Well, give the whole conversation.

action, wen, give the same objection goes to this, Your Honor, I suppose, and to all of this testimony, if Your Honor will permit it?

The court: If the whole of it is in relation to this case, he may give it.
Q. Confine it to the subject matter of this case.

Q. Confine it to the subject matter of this case.

A. Do you want me to limit it to the conversation that took place on the train?

A. No. you can tell the entire conversation that you had with him; on the train first, and then the next conversation, if there was one; but confine it to the subject matter of this case.

Mitchell Spoke of Kribs' Matter.

Mitchell Spoke of Kribs' Matter.

A. Well, after some general talk, in which Mr. Hermann and he both participated, conjecturing what the charges were, and what it was that the grand jury was investigating, they both seemed to be in the dark, and of course anxious to learn, if they could, what the nature of the charges and what the rumors were around the city. I told them that I was not able to tell them very much about it. Then when the Senator and I had a chance to talk privately about matters he asked me whether I thought it was possible that the Government agents had got into the office and got at the letter files; got any evidence in that way. I told him that I did not think they had. I did not know that there had been anything of the kind, and I said the office is always kept locked, but those letter files are in the casco and, of course, accessible, if they get into the office. And some talk was then indulged in in regard to this Kribs matter. Spoke of this matter of Kribs and was the resulting of this kribs matter.

about the date it bears?

A. Yes, sir, it was.

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

Mr. Bennett: We will interpose an objection. Your Honor, in addition to the general one, on the ground that it is incompetent, and not comnected with the defendant in any way, and no sufficient foundation laid for its admission.

Mr. Heney: it is preliminary to showing a meeting and what took place.

Mr. Bennett: It is not proved to be the signature of Senator Mitchell in any way! I don't know anything about it.

Court: I suppose it is competent to show by the witness that he met the defendant at Kalama, and that he went there because of that paper that he received.

Mr. Heney: That is the purpose of it. Does Your Honor think the telegram itself is not admissible?

Court: It simply shows his reason for meeting him there. It is not very material. I suppose the material fact would be that they had a meeting there and something took place.

Mr. Heney: I think that in addition to that it is material to show who initiated the proposition for a meeting.

Court: I think if you propose to bind the defendant by any thing in that telegram, you would have to show that he sent it.

Q. On what day did you receive this telegram did you leave Portland?

Met Mitchell at Kalama. formation out of Kribe about the transactions.

Q. Can you state the aubstance? State
as nearly as you can his exact language
in regard to that matter and who brought
it up first, you or him.

A. He began to make inquirtes about
the matter.

Q. What did he say?

A. He said what was Kribs going to
do; whether they could get any information out of Kribs about the transactions
that had been had with the firm or not,
and I told him I dish't know what course
Mr. Kribs would pursue about it, and
that led to a sort of argument between
he and me as to whether there was anything in the transaction with Kribs that
would affect him as Senstor. I was supprized when he intimated that there might
be.

Mitchell Seemed Afraid.

Mitchell Seemed Afraid.

He shook his head and seemed afraid of it, and of course I said, "I don't see that there can be anything in that that would affect you." I said, "Kribs employed me and I did the work, and whatever assistance you rendered was the same as you would render any constituent who might call on you for assistance of that kind," I did not, so far as I was then advised, consider that there could be any case against him. I did not think that the grand fury was after him on any matter of that kind, and there was a general running talk from that time until we reached Portiand.

Q. What did he say in reply to that?

A. Well, he said that he was afraid of it. He seemed to shake his head and was not satisfied with the condition of things in reference to the transactions that had been had with Kribs and wondered if they had had the letters or could get at the correspondence. Also what the books and all about it as far as I could remember it then, and he said before we reached here that he wanted to see the books, that he would come to the office. I think, the next day; he wanted to see the books; that he would come to the office, I think, the next day; he wanted to show them to you." That is the substance of the conversation on the train until we reached here. I accompanie in him to his room at the hotel and left, him there.

Q. When did you next see him?

A. I saw him, I think it was the next day at the office.

Q. What conversation did you have with him there?

Goes Over Tanner's Books.

day as to whether it was before or after Christmas?

A. I think it was before Christmas, if I am not mistaken.

Q. Where did you meet him, on the train or in town?

A. I met him on the train.

Q. Was that train coming toward Portland.

this out: rewrite the books and leave out all those entries So I said we could not do that because I said we have had three or four clerks on these books and the Government would get hold of some of them or all of them. I said and it would sever do in the world to try to change the books and that was about the substance of that conversation. That was practically all that was said at that time.

Q. When did you next have a conversation with him?

A. Of course he was in very great distres of mind.

Court: You need not state that. He asked you when you next had any conversation with him.

A. It was at his room in the Portland Hotel.

Q. That same day?

Books Would Courtet Him.

Books Would Convict Him.

Books Would Convict Him.

A. I think perhaps it was. I called at his room at the hotel every evening while he was here, and one or two evenings I did not go down, and he telephoned me to come down to his room, and I went there to see him and be with him. Whenever we were alone—of course there were other people coming in to see him, to sympathize with him, and so on—but whenever we were alone, he would bring up this matter about the Kribs business and about the condition of the books. He said those books would not only indict but they would convict him. And I insisted iney would not. We had it hammer and tongs about whether they would or not. I told him in the course of the conversation that I thought the proper thing and the safe thing to do was to make a full breast of the matter, and he insisted that the books should be descroyed and that it would not do for it to appear that he had received any part of this Kribs money. And he insisted on it in his determined way and impatiently—would not listen to anything else.

Mr. Thurston: Your Honor, we object to this character of testimony. Let the witness state what was said.

Court: Yee, state what was said.

A. I do not mean to claim that all this took place at any particular time. I cannot segregate it so as to state just what took place at any particular time. I cannot segregate it as as to state just what took place at any particular time. I cannot segregate it as as to state just what took place at any particular time. I cannot segregate it as as to state just what took place at any particular time. I cannot segregate it as as to state just what took place at any particular time. I cannot segregate it as as to state just what took place at any particular one of these meetings, but, after as I say, this talk with him about what ought to be done, I finally said to him—I saw that it was necessary to—

Objected to.

Objected to.

Required "Lying and Swearing."

Required "Lying and Swearing."

A. Well, I will leave that out. I do not want to interject anything that is not proper. I said to bim finally. "Senator." I said, "to adopt the course that you want to in this matter and make way with those books, or destroy the books and change the face of things and try to make it appear that you did not get any part of this money, is going to require a lot of lying and swearing to it in court on the part of both of us. I said, "It is a thing I never did before in the world, and I hate like everything to do it, but if you think it is necessary, if there is no other way out of it, why, I am willing to go to any length in reason to help you and protect you."

His reply was, and I think I can give his exact language. He said: "Judge I consider anything justifiable under the circumstances." He said. "This is a case of persecution, We have done nothing morally wrong. Hitchcock has a grudge against me and is going to use his power to try to ruin me," and he said, "I want you to stand by and help me."

"Well," I said, "I will do that, Senator. I have always done that. And it is just a question of expediency what to do."

Well, "he said, "they must never get those books."

Offered to Burn the Books.

"Well," I said, "I will see that they don't get the books. I will ourn them up," I said, "I will refuse to produce them. But," I said, "I don't see much use of making away with the books when that partnership agreement is in existence, because," I said, "I I am called before the grand fury"—as I expected that I would be any minute at that time—"about the first thing I would be asked would be about the agreement."

And I said, "That agreement shows that you are to have one half of all fees wherever earned, and it also says something about your practicing in the department; that," I said, "does not look well on the face of it."

"Well," he and "me."

that," I said, "does not look well on the face of it." Well," he said, "we can change the agreement." I said that could be done. I think, by re-writing a single clause in it, and making it appear that I was to receive all those fees.
"But," I said, "you must remember that Mr. Robertson prepared that agreement, ran it off on the typewriter, and it would hardly be safe unless we could count on him in the matter."

"I Will Manage Robertson."

"I Will Manage Robertson."

"Well." he said. "you fix it up, and I will manage Robertson." or "fix Robertson." or something to that effect. That was in the evening. The next morning I prepared the contract, changed that clause, and turned it over to my son to copy on the typewriter, put into form. And when he had it prepared. I took it and went up to the hotel to the Senator's room and gave it to him. He read it over carefully, and said, "That is all right." And we signed the two copies of it; one for him and one for me to keep. At the time, after it was signed, while we were standing there in the room, he said, "Will your son be all right?" I said, "Yes, he will do wbestever I tell him to in the matter, but you will have to look out for Robertson." And he gave me his copy of the contract to put in the safe, and I took them back and put them in the safe.

Q. I hand you a paper. Is this the contract that was prepared by you in that manner—the paper now handed you?

A. Yes, sir, that is one of the copies of it. I don't know whether it is the original or the carbon.

Q. Whose signatures does it bear?

A. It hears the signatures of Senator Mitchell and myself.

Q. Dil you see him write that signature on that paper?

A. I did: yes, sir.

Q. In the Hotel Portland?

A. Yes, sir.

Q. In the Hotel Portland?

A. Yes, sir.

Mr. Heley: We will offer this paper in evidence.

Marked "Government's Exhibit 58."

Q. Which clause of the akreement is it.

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

Marked "Government's Exhibit 18."

Q. Which clause of the agreement is it that was changed?

A It is the first clause on the second page.

Q. And all the balance of it is the same as that first agreement that was put in evidence?

A. That is my understanding; yes, sir. Mr. Heney: Then I will only read that clause, and the whole may be considered as read:

the books, and all about it as far as I could remember it then, and he said before we reached here that he wanted to see the books; that he would come to the office. I think, the next day he wanted to look over the books. I said: All right, you can come any time. I will be glad to show them to you." That is the substance of the conversation on the train until we reached here. I accompanie him to his room at the hotel and left him there.

Q. When did you next see him?
A. I saw him, I think it was the next day at the office.
Q. What conversation did you have with him there?

Goes Over Fanner's Hooks.

A. He came to the office and said he would like to look over the books, of the firm. And I opened the safe and got out these books that I have been testifying about here, and took them that his private office and gave them to him. He took them and went over them gage by page. I was on one side of the table and he on the other, and he pretended to be surprised at the carries in the books. Well, I said: The books have long aget? and? The books have long and if you wanted them kept in any other way, why haven't you said something about it before? Well, he didn't say anything.

Mr. Bennett: Objected to. That matter is argumentative.

Court: Yes.

"Rewrite the Books."

A. He did not make any reply to it. He suggested, or asked me, how long it would take to rewrite the books.

"Rewrite the Books."

A. He did not make any reply to it. He suggested, or asked me, how long it would take to rewrite the books.

"Rewrite the Books."

A. He did not make any reply to it. He was the said to be a supprised at the carries and the said to be a supprised at the carries and the said to be a supprised at the carries and the said so the said so

Q. Where did you meet him, on the train or in town? A. I met him on the train. Q. Was that train coming toward Portland. A. Yes, sir, it was the overland Northern Pacific train. Q. Did you continue on the train with him into Portland? A. Yes, sir, I did. Q. Now, state what conversation you had with Senator Mitchell, if any, in relation to these matters, on the train. Mr. Bennetts I would like to ask a few questions in relation to the competency of this testimony. EXAMINATION BY MR. BENNETT. Q. Mr. Tannet, were you acting as attorney for Senator Mitchell in relation to this matter? A. No, sir, I was not. Q. When did you commence to act as attorney for Senator Mitchell in relation to this matter? A. After he had left Portland and statted back to Washington, he wrote me a letter from Chicago, dated from Chicago, on his way east, and saking me to take churge of the matter, and to see a certain lawyer in this city, and see if I could get him to assist me in the defense of this other case—this Puter case.