THURSTON MAKES ELOQUENT APPEAL FOR SENATOR MITCHELL

EX-SENATOR JOHN M. THURSTON MAKES HIS PLEA FOR MITCHELL

they drove that animal off into the wilderness, that the sins of Israel might be forgiven. But, even in these old barbaric times, when kindness was unknown among men, they never picked a little ewe lamb, nor an old limping goat; they didn't attempt to put the sins of Israel on the lamb, or on the old crippled, helpless animal; they picked a billy goat; a big, sturdy strong billy goat to put the sins of Israel on, and they scourged him into the wilderness to relieve Israel from the rtransgressions. Gentlemen of the

might be forgiven. But, even in these solid barbarie times, were kindness was unknown among men, iney never any the state of control of the state of control of the state of corrected between the state of the state of corrected between the state of control of the state of corrected between the state of control of the state of correct of the state of the st

THURSTON MAKES ELOQUENT APPEAL

STORY For Table

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Denies Guilt of Accused.

The District Attorney says that, under this statute, a man may be convicted if he takes money for the rendition of services by himself or another before a department of the United States; and that is the provision of the statute. I don't know, because he didn't indicate in his five hours of argument which he made in a case which he insisted to this jury was perfectly simple and clear. In order to convince you of its simplicity and clearness—he didn't tell, so far as I heard, in anything he said what services Tanner had rendered in the department, or how he claimed under this indiciment that Mitchell could be held criminally responsible for anything that Tanner had done, or did, in these cases. I would like to hear from the honorable gentleman, if he claims that Mitchell is to be convicted because of what Tanner did, what did Tanner do in the department? What he did outside had nothing to do with it. The statute is "for services rendered by himself or another in the department." Now, I want you to just get right down, and stop and think, because I want to eliminate this idea, right here and now, from your minds that Mitchell can be convicted by you for anything that the evidence shows Tanner did in the case. I want to prove to you that Mitchell stands on his own record, and that you cannot convict him, and rob him of his honors and his laureis for anything that it is proven Tanner did in this case.

In the first place, is there a word of proof that Tanner ever went before Binger Hermann? He didn't. He was in Portland. Binger Hermann was in Washington. Tanner never went before him, never appeared.

Next, did he ever write a letter to the department? I challenge the

And, gentlemen of the jury, Binger Hermann is in the District of Oregon subject to a subpena and demand of this District Attorney, who holds his fate, maybe, as he does that of other men, in the hollow of his migaty offi-cial hand; and if Mitchell had ever at-tempted to persuade Binger Hermann cial liand; and if Mitchell had ever attempted to persuade Binger Hermann, as charged in this indictment, to do anything in this case that was improper or unfair, there is Binger Hermann, Mr. District Attorney, subject to your subpena and examination in court, it won't do for you to answer back: "Why, I have got Binger Hermann indicted, too, and I am afrail he would not testify the way I want off in the court, it is not a question of honest testimony, it is a question whether a witness will swear the tion of honest testimony, it is a question whether a witness will swear the way they want him to, and therefore he does not aars to call him, and, therefore, this case stands without a word of proof that John H. Mitcaell eversald one taing to Binger Hermann, or ever tried to induce him to do anything unjust or unfair. The District Attorney must know, or believe, that Binger Hermann would have so testified, else he would have had him aere with great speed. He and the Secret Service officers of the Government have raked the country, as has sometimes in slang been said, "as hell was raked with a fine-tootned comb," and there is not a letter, nor a telegram, nor a witness in all this great country that has escaped thele search and seisure; they have got it all here. They have not shown that Mitchell ever endeavored to persuade Hermar; to do anything in these cases by word of mouth.

Says Not a Grievous Wrong.

They have not shown that be endeavered to induce him to do anything unjust or unfair, and their whole case in that respect depends upon the technical proof that Mitchell, in three or four letters, did ask Binger Hermann to expedite the cases and make them special. Not a very grievous wrong. For the officers of the department tell you that when a case is made special it is treated like any other case: it gets heard a little quicker than it otherwise would, but when it is taken up for hearing it is considered just like every other case, and the request to make a stated case special does not convey that any request or suggestion, or any entreaty that it shall be considered in any other way than it

would otherwise have been considered. It does not carry with it any suggestion that favoritism shall be shown in determining on the merits of the case, or that in anything shall be done that does not fully, fairly and completely protect the rights of the Government and all its people. Tanner never appeared in the department in any way, personally or by letter; all his letters were addressed to Mitchell; Mitchell was the only man who went there; Mitchell never asked for anything unfair, for anything prejudicial to the interests of the people of this state or the country. So, gentlemen, look at that naked proposition, and this whole case is robbed, robbed of the charge of any charge of immorality; absolutely robbed of any charge of immorality or of wrong-doing, except, as they claim, there is a technical violation of a technical iaw. Then, if you are trying to convict my friend, this defendant, on a technical charge of a technical violation of a technical iaw. Then, if you are trying to convict my friend, this defendant, on a technical charge of a technical violation of a technical iaw. I don't want you to quarrel with me because I may make now, for a little while, some objections to the indictment and the proof that majth ordinarily seem somewhat technical in character.

Court Has Last Say.

Court Has Last Say.

Gentlemen, I do not know what the court is going to charge you on what I am going to speak to you about next. I wish I did, but we always have to walt, the court properly has the last chance. The court is the Judge of the law, and you are bound to take the law in the case. when I did, but we always have to walt, the court is the Judge of the law, and you are bound to take the law in the case as the court gives it to you. It is for you to determine the facts and to apply the law to the facts when you have determined them. Therefore, not knowing what the court will charge along the lines of my next discussion, it may be possible that what I say to you on this particular line will not be of any advantage or use, because, if the court instructs you differently from what I hope and be, lieve he will-because I think it is the law. I may be mistaken—then you need not consider any of the argument I make upon the next one or two propositions. There are six counts in this indictment, and it was the duty of the District Attorney to embody in those six counts all they had against this defendant. It was the duty of the District Attorney to allege facts in that indictment that he could substantiate by proof. Now, some times it is reasoned out by people who have not studied the rules of law and evidence, that if a man is charged with an indictment with stealing a horse, he is charged with larceny, and therefore you can convict him by proving that he stole a horse—that a horse is a cow; but you cannot do it, and it is not right that you should. If a man is charged with committing a murder by shooting a pistol into another man, you cannot convict him of murder under that charge by proving that he hit him over the head with a bludgeon and smashed in his skull; and you ought not to do it; because the District Attorney and grand Jury, in the investigation of every case, knows, in secret and in advance, what the proof is, and it is their duty to every man, woman and child in the country, to charge just what they intend and expect to prove, and they have no right to ask a jury to convict unless the proof corresponds absolutely with the allegation of the indictment. If they charge in the indictment that Mitchell a couple of hams, you could not convict him under the charge that he acceptance of a pig an

Argues for Acquittal.

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Now, it is not going to make much difference with Senator Mitchell whether you throw out two or three or four counts in this indictment, and then return a verdict, if you should, against him on even one of the other counts. I am not making this argument about these first two counts for the purpose of securing an acquittal for Senator Mitchell on a technical proposition, but I am making it for the purpose of endeavoring to advise this jury just now I think you ought to start in in the juryroom in considering this case; and you must take up these counts of the indictment one at a time, unless you are so far convinced of the innocence of the defendant that your general yote is for him at once. So I think the court will tell you that you cannot convict the defendant under toe first and third counts of the indictment; but that leaves all of the other counts charging what the fees were, that Kribs made payment in each case by check.

Whereupon a recess was taken until by check.

Whereupon a recess was taken until
2 o'clock P. M.

AFTERNOON SESSION.

that Mitchell received commensation by the accepted a pig and the proof shows the Mitchell and the proof shows the Mitchell and the convert him under the charge that he accepted a hog. Why? Because it is the duty of the District Attorney, if the court please, and gentlemen of his guard, so that the accepted a hog. Why? Because it is the duty of the District Attorney, if the court please, and gentlemen of his guard, so that the record will show forever what he was tried for, and that he may plead it if he acety prought to har again for the same offense.

First and Third Counts.

The first and third counts in this indicatement charge that Mitchell received the money. It charges, of course, that Mitchell received the money under this statute which is the proof of the performance of these by its payment to Tanner. I want to be perfectly fair; he could have received the money under this statute by its payment to Tanner. I want to be perfectly fair; he could have received the money with the statute of the testimony confined the count of the series of the statute of the series of the

provered the character of the switten correspondence along that the. Transver shows the proposal proposal proposal proposal provided to the proposal proposal proposal provided to the provided to the proposal provided to the provided to the provid

The second letter was Senator Mitchell's reply, and after stating something about the matter which is not material right here, he said, "But I will inquire into the matter carefully at once and find out just how these selections stand at present, and will advise you." So far, there is nothing done and nothing promised except what it was proper and right for Senator Mitchell to perform. Now, the next letter, Mr. Tanner says, December 5, 1992, he gives the numbers of these lieu-land selections, acknowledges the receipt of letter from

BUNCH TOGETHER

Coffee Has a Curious Way of Finally Attacking Some Organ.

lative, that is unless the coffee is taken away, new troubles are continually ap-

pearing and the old ones get worse.
"To begin with," says a Kansan, "I was a slave to coffee just as thousands of others today; thought I could not live without drinking strong coffee every morning for breakfast and I had sick headaches that kept me in bed several days every month. Could hardly keep my food on my stomach, but would vomit as long as I could throw anything up and when I could get hot coffee to stay on

my stomach I thought I was better.
"Well, two years ago this Spring I was