

NEW TRIAL IS ASKED

Senator Mitchell's Attorneys
Heard in Court.

JUDGE DE HAVEN TO DECIDE

Argument Is Made That Defendant
Was Convicted on a Count
Which Was Unsupported
by Evidence.

Whether or not Senator Mitchell will have a new trial without appeal to the higher courts of the United States now rests with Judge De Haven. Yesterday morning, for a part of the afternoon, the court listened to the arguments of ex-Senator Thurston, Judge Bennett and of Mr. Heney, contending for and against the motion entered in behalf of the defendant. For the first time since the night of July 3, when the jury rendered its verdict of guilty against him, Senator Mitchell appeared in the Federal courtroom. Yesterday he entered with Judge Bennett and sat during the arguments of the morning, seemingly as strong as before the trial, though the hours of care have left deeper wrinkles on his face. "This," said Judge De Haven, in concluding the court, "is the time set apart by the court to pronounce judgment in the case of the United States against Mitchell."

Ex-Senator Thurston Speaks.

Ex-Senator Thurston addressed the court. "We wish at this time to file a motion for the arrest of judgment to be considered with the motion for a new trial." Continuing with the motion for the arrest of judgment, the speaker said that he did not wish to take up much of the time of the court with arguments of the grounds mentioned in the motion had already been before the notice of the court. As to five of the counts of the indictment the speaker contended that they alleged five separate and distinct offenses. The indictment was not the same as an indictment at common law, where the same offense was charged in several different ways in order to cover each phase of the one crime alleged, neither was it provided for in the statutes for the jointure of separate allegations in one indictment for convenience in trial purposes, but in this indictment each and every count was set out as though it was a different and distinct offense capable of separate and distinct trial and proof. Then the speaker turned to the main ground for the new trial and discussed it.

"We are charged here in count six," he said, "that on January 4, 1934, Mitchell accepted \$55 for services rendered to the state. There are other offenses charged and the speaker evidently had in mind that this was a payment. In part, on the other three mentioned in the indictment, when the case came to trial, and it will be admitted by the District Attorney, the evidence showed that only two payments were made on the offenses charged, and that the amount charged in the sixth count was not included in those payments. I will show your honor by the proof that the payment of January 4 was made, but that it was in relation to an agreement of December 2, 1933, an entirely separate agreement."

"That this is true is shown by the fact that the District Attorney introduced the evidence in relation to this count as tending to prove outside matters and not the payment in the indictment. The defense had called the attention of the court and of the jury in argument to the fact that the count stood unsupported by evidence and that it charged a separate and distinct offense. The error charged applies not so much to the count as to the District Attorney. It appears that when he found no proof to sustain the count he had found where there had been a defective count and the attention of the court had been called to it, and a general verdict had been rendered, then the rights of the defendant had been violated. It was a general verdict to have the verdict set aside as to that count, and since it was a general verdict the only way to do it was to set it aside in toto."

Mr. Thurston also objected to the reading of the extracts from Bryce's "American Commonwealth," in which Mr. Heney depicted the Senate through the eyes of the English writer not to the credit of the body. He also contended that the decision made by Judge Bennett in regard to the plea in abatement was ground for reversal in a higher court. He argued that it was an important that errors should be corrected in the lower courts, if known to be existent, as that they should be passed to the higher tribunals where they would be considered after much time had passed.

Mr. Heney's answer was brief and to the point. He argued the question from the standpoint of common sense more than from weight of authority, which he had not had the time to compile. He showed that all evidence, as to the sixth count of the indictment had been introduced to apply to that count alone and not to the others; that it had been used the same as the other corroborative evidence introduced and that there had been no right of the defendant violated. He contended also that it was now, under the law, too late for the defense to bring any such contention. He argued that since the other counts had been proved, and since the general verdict carried with it but a single punishment the defense had lost nothing, that the count was a surplusage, in fact, and not considered.

In regard to the argument of the defense as to his allegation about the indictment, Mr. Heney contended that he had mentioned the matter incidentally, that it had not had great weight and that besides he had been challenged by the defense and forced to make the statement in order to overcome the implication of the remarks that he had not done his duty.

The speaker also defended the ruling on the plea in abatement holding that he had offered to introduce evidence in the case of the unnaturalized juror, alleged by the defense, but that that had not been done, though he had made affidavit and placed other evidence before the court.

Judge Bennett spoke for some time in the afternoon, reviewing the plea in abatement and the general course of the recent trial in support of the motion. He also criticized Heney for his statements concerning the indictment of the Senator for subornation of perjury and for his quotation from Bryce.

At the conclusion of Judge Bennett's argument the court announced that he would take the matter under advisement and would decide upon it at his leisure, as soon as it might be.

Demurrers Are Overruled.

Judge De Haven announced yesterday

morning, upon the convention of the Federal Court, that the demurrers in the case of the United States against Senator Mitchell and C. B. Zachary, indicted for conspiracy to acquire control of public land, and in the case of Brownell, indicted for subornation of perjury, would be overruled.

At the same time, George B. Waggoner, indicted for complicity in the land frauds of the Roseburg district, appeared in court and, waiting the reading of the indictment, entered a plea of not guilty.

WILL ARREST SOCIALIST

Refused to Move On When Ordered by Police.

For defying the police and refusing to move from Fourth and Washington streets when told to do so by Sergeant Hogeboom, Thomas Burns, secretary and organizer of the Portland Socialist party, will be arrested and tried in the Municipal Court.

For some time Burns and his associates have been holding meetings at Fourth and Washington streets, to which many merchants and citizens have objected. Furthermore, it is said the crowds that gathered to listen to Burns blocked the sidewalks and the street, causing much annoyance and constituting, it is alleged, a violation of the city ordinances.

Saturday night a larger crowd than ever gathered to hear Burns, and the sidewalk was literally jammed. Sergeant Hogeboom was dispatched with two other officers to order Burns to move on.

"In the name of the City of Portland and State of Oregon, I command you to move on," said Sergeant Hogeboom.

"Thank you, sir," replied Burns. "I am quite content here, and will remain, sir."

"You have received orders, and I will report to my superior officer as to your reply," said Sergeant Hogeboom.

When the reply of Burns was received by Chief Gritzmacher, he instructed the sergeant to present the case to Deputy City Attorney Fitzgerald. This was done yesterday morning, and a warrant was issued immediately.

The Socialists have brought this trouble upon themselves," said Mr. Fitzgerald. "There is no objection to street addresses, provided the laws are not violated. By their refusal to obey the order of the police, Mr. Burns laid himself liable to arrest."

The case will be called today before Judge Corcoran.

MAY BE DETECTIVES' CHIEF

Clerk Leonard Is Recommended for That Position by Gritzmacher.

A Chief of Detectives is apt to be appointed to take charge of the secret service branch of the local police department, and for the position Chief Gritzmacher strongly favors Archie Leonard, at present stenographer at headquarters.

Chief Gritzmacher spoke in high terms of Clerk Leonard yesterday, when asked concerning his choice for a head of the detective staff. The salary of clerk is \$2 a month, and the charter provides for a salary of \$100 a month for a Chief of Detectives.

"I believe there should be a chief for the detective force," said Chief Gritzmacher yesterday. "Clerk Leonard has been performing his own duties and the duties that fall to the office of Chief of Detectives also. He has a good knowledge of the business, is a hard worker and would make a good head for the detective force to work under. If there is to be an appointment, he would be my choice. He is in every way deserving."

Clerk Leonard has been connected with the department for many years. He is a young man and has proved himself to be a faithful and efficient man for the position he has occupied. As clerk he has helped the detectives with cases, has handled all of their correspondence and is familiar with the faces of numerous criminals and the methods of their operations.

Samuel Simmons was Chief of Detectives until his death, since when there has been a vacancy. The Chief of Police then in office advising that there be no new appointment.

There is also a vacancy on the detective staff, no one having been named to succeed Daniel Weiner, who resigned to accept another position. This vacancy will probably be filled.

RESCUES VALUABLE DOG

It Had Fallen Over Cliff to Ledge Below.

F. W. Torgler, while driving on Sunday to Blenheim, was told of a valuable setter dog, which fell over Elk Rock, near Oswego, while chasing some birds. The dog was missed soon afterwards, but as Mr. Torgler did not witness the accident, he supposed the animal had turned and gone home. The dog landed on a ledge 100 feet below and passed by who afterwards discovered its predicament sent word of the fact to Portland.

Det. Ben Beggs and W. T. Shanahan, secretary of the Oregon Humane Society, were among those apprised, and yesterday morning they went to the scene. Mr. Torgler, accompanied by his son, and soon after they arrived Messrs. Shanahan and Beggs came along, and Mr. Donnell, Mr. Whidden and Mr. Benson were also there. Ropes were procured and after securing the dog, both were hauled up by the party above to the top of the cliff. Mr. Shanahan nearly lost his balance and fell over the cliff, and was caught just in the nick of time by Detective Beggs, who had turned and returned to a place of safety. The animal does not show any signs of injury.

WATCH THE CROWDS GO

To Seaside and Gearhart Via the
'A. C. R. R.'

The great rush is on for \$2.50 two-day tickets sold every Saturday and \$4.00 tickets sold every day. Train leaves Union Depot 8:30 A. M. daily and 3:30 P. M. every Saturday.

Apply at 248 Alder street or phone Main 906 for official information. Clatsop Beach souvenir book containing 30 beautiful half-tone illustrations free to everybody upon application at above address. Tickets sold at Union Depot.

COLUMBIA RIVER TRIP.

Steamer "Bailey Gatzert" Leaves
Daily 8:30 A. M. for Cascade
Locks and Return.

Fine daylight trip up the Columbia. Grandest river scenery in all creation. Regulator Line steamer Bailey Gatzert leaves from foot of Alder street daily at 8:30 A. M., arrives back 5:30 P. M. Restaurant on board. Seats for everybody. Round trip ticket, \$1.50. Phone Main 914.

The Denver & Rio Grande has established through Pullman standard sleeping car service between Portland and Denver, leaving Portland at 5:15 P. M., spending seven days in S. L. Lake City and arriving in Denver afternoon of following day. For reservations call at 124 2nd street.



MAIL ORDERS

Our thoroughly equipped Mail Order Department gives the best service one could desire. Send us a trial order and be convinced.

Custom Shade and Drapery Work Our Specialty—Best Materials and Workmanship Always—The Very Lowest Prices Guaranteed—Third Floor

Trunks and Traveling Bags—The Largest and Best Selected Stock on the Coast—Every Good Size and Style—Third Floor

Principal Portland Agents for Butterick Patterns and Publications—August Delineator Now on Sale—15c a Copy—Subscriptions Taken Also

The Meier & Frank Store

Portland's Largest and Best Store

Our telephone service is the best in the city. Connecting every section of the establishment. Phone orders promptly and properly taken care of.

Keep the Porch Cool on Hot Days

A thousand Portland homes found a world of comfort in their porches last Saturday and Sunday, because they were fitted with "Vudor" shades, the kind that keeps out the sun and still permits the air to circulate—Made of linden fiber strips—Securely bound; handsomely finished. Complete with pulleys and ropes, etc.—Only practical porch shade on the market—Prices are unusually reasonable

4 feet wide x 8 feet long \$2.75 each
6 feet wide x 8 feet long \$3.50 each
8 feet wide x 8 feet long \$4.50 each
10 feet wide x 8 feet long \$6.50 each
50c each less if you do your own hanging

Our entire stock of high-grade Silk and Lingerie Waists at a saving—Our entire stock is offered for your choosing—Magnificent styles—Every one of this season's manufacture—Waists for dress and evening wear—Second Floor

\$ 8.50 Lingerie Waists \$ 7.45
\$10.50 Lingerie Waists \$ 8.45
\$11.50 Lingerie Waists \$ 9.25
\$12.50 Lingerie Waists \$10.85
\$14.00 Lingerie Waists \$12.25
\$15.00 Lingerie Waists \$13.25
\$18.00 Lingerie Waists \$15.75
Waists up to \$75 reduced—2d Flr.

\$12.50 Silk Waists \$ 9.85
\$15.00 Silk Waists \$10.55
\$16.00 Silk Waists \$11.85
\$18.00 Silk Waists \$13.25
\$21.00 Silk Waists \$14.45
\$22.50 Silk Waists \$15.45
\$25.00 Silk Waists \$17.65
Waists up to \$100 reduced

Double-faced tapestry Couch Covers, Oriental designs, blue and red, blue and terra cotta, red and green combinations; regular \$4.50 and \$5.95 value, on sale for, each.....\$3.15

Double-faced Bagdad stripe Couch Covers, 43 inches wide by 2 1/2 yards; regular \$3 values.....\$1.98

Oriental stripe Tapestry, for portieres, couch covers, cozy corners, etc., 43c value, yard.....29c

Another lot of India Stools, weathered or golden oak, \$1.25 values, for the low price of, each.....89c

Women's Knit Underwear Specials

90 dozen Women's Swan brand Swiss ribbed Vests; high neck and long sleeves; white, pink and blue; all sizes; our best \$1.00 values for the low price of.....73c

Women's low neck, no sleeve, fancy ribbed Vests, in white only; all sizes; regular 35c value for.....23c

Children's long and quarter sleeve Vests, knee length, plain or lace-trimmed; fine white lisle thread; all sizes; regular 35c values for the very low price of.....25c

Misses' and Boys' hot weather Underwear in all the desirable styles and grades at the lowest prices in the city.

3d Floor Specials

Double-faced tapestry Couch Covers, Oriental designs, blue and red, blue and terra cotta, red and green combinations; regular \$4.50 and \$5.95 value, on sale for, each.....\$3.15

Double-faced Bagdad stripe Couch Covers, 43 inches wide by 2 1/2 yards; regular \$3 values.....\$1.98

Oriental stripe Tapestry, for portieres, couch covers, cozy corners, etc., 43c value, yard.....29c

Another lot of India Stools, weathered or golden oak, \$1.25 values, for the low price of, each.....89c

25c Wash Goods 15c Yard

3000 yards of beautiful new fancy Etamines and Voiles for Summer waists, skirts and suiting; very best patterns and colorings; regular 20c and 25c quality, today at, yard.....15c

1500 yards of white mercerized Waisting, very prettiest patterns and effects, that have sold regularly at 30c and 40c the yard, on sale today at the very low price of, yard.....18c

Imported India Dimities, in large assortment of new styles, and extraordinary value for this sale at, yard.....21c

Leather Goods Bargains Today

Women's Walrus Hand Bags, in black and brown, fitted with coin purse, viruna handles; regular 85c value on sale for.....67c

New Souvenir Hand Bags, Exposition designs; your name or initials burnt on free; big variety; 50c to \$4.00

Special lot of white and colored Wash Belts; values up to 50c ea.; ea. 14c

Lewis and Clark Souvenir Fans, ea. 2c

Button Specials

Polished Pearl Buttons, 2 dozen on a card; regular value 10c dozen; sale price, card.....10c

Special lot of Smoked Pearl Buttons, 2 doz. on a card; 15c value, card.....9c

Hot Weather Housekeeping Supplies

Garden Hose, 50-foot lengths, with nozzle, etc., complete, \$5.25, \$6.25, \$6.50, \$7.00, \$7.75 and \$8.00; all are guaranteed for one year. Basement.

Lawn Sprays, 35c and \$1.00 each. Best models, Hose Reels, \$1.00. Meat Safes, \$1.35 each. 14-inch Lawn Mower, good model, \$3.50.

Ice Cream Freezers, \$1.75, \$2.10, \$2.50, \$3.75 each. "LaBelle" Refrigerators, charcoal lined, 2 adjustable shelves, 50 lbs. ice capacity, golden oak finish; regular \$12.50 value for the very low price of.....\$9.53

"Gurney" Refrigerators, portable ice compartment, 63 lbs. ice capacity, golden oak finish; asbestos and mineral wool lined; \$12.75 value at.....\$10.63

Wash Suits Specials

Boys' Khaki Suits, for coast and vacation wear; Norfolk style; ages 3 to 16 years; great value at.....\$1.50

Boys' Washable Russian Blouse Suits, in blue, tan, brown Chambray; ages 2 1/2 to 6 years; matchless value.....\$1.50

Boys' 2-piece double-breasted Suits, in good serviceable mixtures; 8 to 15 years; \$3.00 value, at.....\$1.98

Boys' Blouses in white and colors, Eton collar, 2 1/2 to 7 years; \$1.50 values, for the low price of.....\$1.15

Boys' white and colored Blouses, combination collar and shield, 2 1/2 to 7 yrs., reg. \$1.50-\$1.75 values.....\$1.15

Little Boys' and Girls' Rompers in blue Cheviot; ages 2 to 7 years; great value at low price of.....50c

Girls' Overalls of blue Denim, pair. 50c

Infants' Wear Sale—Second Floor

Infants' Nainsook Dresses; lace and embroidery; regular \$1.50 value for.....\$1.29

Infants' Skirts, trimmed in tucks, lace and embroidery; \$1.50 values for.....\$1.29

Infants' Open Front Gowns, each.....43c

Infants' Nainsook Slips, with round and pointed yokes; 75c values, for this sale. 68c

Infants' Kid Moccasins for the low price of, pair.....27c

Infants' Barefoot Slippers for the low price of.....43c

Infants' three-cornered, lace-trimmed Coat Bibs, great special value at the very low price of, each.....18c

Toilet Articles Low Priced

Dr. Graves' Talcum Powder for the toilet, infants, after shaving, etc., grand special value at this low price.....7c

Coke's "Rudolf" Cure and Hair Tonic; special at.....39c

Eastman's Toilet Waters, violet, carnation and crushed roses, triple extract, great value at, 39c per bottle.....39c

4-row Tooth Brushes, ladies' and gents' sizes, best quality; great value at this price.....12c

3000 bars of the famous "Fairy" Soap, for toilet or bath. It floats. Special at the low price of.....3c

Fairbanks' Glycerine Tar Soap, the very best, cake.....4c

La Proenza Castle Soap, the purest and best on the market; special at this low price.....7c

Bath Brushes, with detachable handles, special at.....39c

Adams' Shampoo Brushes, regular 9c values, for.....43c

Great Values in Laces and Embroideries

Swiss and cambric Embroideries and insertions, of fine quality comprise another grand bargain for Tuesday shoppers in our busy embroidery section. prettiest designs; immense variety; values to 40c yard, for 19c sale at, yard.....19c

White, black and colored Silk Chiffons, fine quality, large assortment of leading shades; regular \$1.95 value for the very low price of.....50c

Beautiful Net Top Laces, daintiest patterns; values to 60c a yard, for this sale, yard.....29c

Women's Golf Shirts 89c

Hundreds of women took advantage yesterday of the great bargains in Mannish Shirts for outing, vacation and hot weather wear—A hundred styles in mercerized lawns, madras, striped Oxfords, chambrays, etamines, linens, etc. Immense variety of the best patterns and colorings, all sizes—Shirts that sell regularly at \$1.50, \$1.75 and \$2 each your choice of this lot at the 89c phenomenally low price of.....89c

See Fifth-st. window display—Mail orders promptly filled

Women's \$3.50 Oxfords \$2.48 Pair

Women's \$3.50 Low Shoes; Bluchers and Oxfords; in kid and patent leather; your choice at, pair.....\$2.48

Misses' tan and black Blucher Oxfords; heavy soles; best models; all sizes, at reduced prices for this week only.....\$1.09 1 1/2 to 2, pair.....\$1.18

Misses' and children's patent leather or vici kid three-strap Sandals, all new styles, great values for this week, only.....\$1.09 1 to 2, pair.....\$1.18

5 to 8, pair.....85c 9 to 11, pair.....\$1.09 1 to 2, pair.....\$1.18

GREAT JULY SALE OF Table and Bed Linen Specials

Colored crocheted Bedspreads; fringed, pink or blue; regular \$3.00 values, on sale for this week at.....\$1.52

Colored satin Marcellies Bedspreads, fringed in pink, blue and red; \$2.50 values at this low price.....\$2.68

White Marcellies pattern Bedspreads; hemmed; 700 dozen of them; great value at this low price.....70c

White Marcellies pattern Bedspreads; hemmed; regular \$1.25 values on sale for the low price of.....98c

Hemstitched Damask Tablecloths, 26x36 inches; very handsome pieces; regular \$2.50 values, each.....\$1.28

Knotted fringe Damask Towels, 100 dozen of our 25c values to be sold at the low price of, each.....24c

Bleached cotton Huck Towels, 12 1/2c values, each.....12c

Bleached satin Damask Table Linen; handsome patterns; our best \$1.50 value on sale for, yard.....\$1.28

Bleached satin Damask Table Napkins; in pretty patterns; regular \$3.50 values on sale for, dozen.....\$2.68

Trunk Sale

26-in. canvas-covered Trunk, strongly built, iron corners, brass lock; two heavy straps; best \$4.50 value, on sale at this low price.....\$3.50

32-in. canvas-covered Trunk, full lined, lined with skeleton and top tray; division in hat box, strongly built; brass lock, \$11.25 value, on sale for.....\$9.98

24-in. imitation alligator Suit Case, lined lined; best case ever offered at this price.....\$2.49

25-in. leather Suit Case, figured canvas lined with drop skirt fold; \$7.95 value for.....\$5.00

Canning Season Is at Hand

Mason Fruit Jars—Pints, 60c dozen; quarts, 75c dozen; 4-gallon, \$1.00 dozen; best rubbers, 7c dozen.

Economy Fruit Jars—Pints, 45c dozen; quarts, \$1.00 dozen; 4-gallon, \$1.35 dozen; extra caps, 24c dozen.

17-quart granite Dish Pans; suitable for cooking fruit; great value, each.....72c

Large granite Mixing Spoons, each, for this sale.....12c

Cherry Seeders, for each.....68c

Fruit and Jelly Presses; great special value at, each.....19c

1000 covered Jelly Glasses, great special value, dozen.....31c

10,000 Jelly Tumblers, best value ever offered at the low price of.....24c

Tin Fruit Jar Funnel, each.....4c

Fruit Jar Wrenches, each.....5c

Paraffine Wax for, cake.....12c

1-burner Oil Stoves at.....40c

18 lbs. of Western Dry Granulated Sugar, full weight.....\$1.00

Mail orders promptly filled

Great Values in Laces and Embroideries

Swiss and cambric Embroideries and insertions, of fine quality comprise another grand bargain for Tuesday shoppers in our busy embroidery section. prettiest designs; immense variety; values to 40c yard, for 19c sale at, yard.....19c