# JURY MAY LEARN IF HERMANN KNEW

Court Admits Letters Writen to Commissioner Telling of Conspiracy.

CLAIMS VICTORY HENEY

Way Declared to Be Open for Chain of Evidence Showing That No Action Was Taken in Face of Repeated Warnings.

Judge Wolverton yesterday held that the jury had a right to know whether Binger Hermann possessed knowledge that school lands were being acquired fraudulently in Oregon at the time when the Commissioner recommended the with-drawal of the Blue Mountain Forest Re-

serve in 1902.

The decision came at the close of a five hours' argument between Francis J. Heney and Colonel Worthington. The latter lawyer strenuously opposed the admission of an anonymous letter signed admission of an anonymous letter signed "Citizen," which was sent to the Commissioner in 1900. It called attention to the frauds being perpetrated in Oregon and California by F. A. Hyde and John A. Benson, and declared that those men were the real owners of 40,000 acres of school lands which had been purchased in Oregon reserves, and which the newspapers charged to be owned by E. P. McCornack, of Salem.

"Citizen" Sends Warning.

Heney had brought on Irwin Ritten-house, stenographer for Binger Hermann part of the time that he was Commis-sioner of the General Land Office, and desired to prove that Hermann was fa-miliar with the contents of the "Citizen" letter. Heney announced that his purpose in introducing that communication, as well as others signed by Colonel J. A. Zabriskie, of Tucson, Ariz., and J. H. Snyder, of San Francisco, was to fasten an intent upon the defendant, as well as to show that when the Blue Mountain Reserve was created he had knowledge that the Government was being dethat the Government was being de-frauded. Hency contended that with such knowledge Hermann was equally gullty if he falled to protect the Government lands from the operations of the land-frauders, as he would have been had he actually participated in the profits of the

Judge Welverton ruled that it was proper for the jury to ascertain whether Commissioner Hermann had knowledge that the school lands were being pur-chased by private individuals in antici-pation of the creation of a forest reserve, to ascertain next whether the Commis-sioner possessed knowledge of the man-ner in which those lands were being procured in violation of the laws of the state and the United States, and as to whether he knew that the title was void to the school lands which the department accepting under the operation of the Heu land act.

Letter Conveys Some Knowledge.

"The anonymous letter," said the court, "would probably not be evidence that the Commissioner had such knowledge of frauds being committed, but if shown by witnesses that its contents were brought to his attention it would convey

fornia and Oregon, and that such a prac tice was being carried out in the Cascade Forest Reserve. Mr. Hermann was a publle officer, and, occupying such a post-tion, it was his duty to take notice of even the smallest items of information which might indicate that the laws were being violated."

By the prosecution the decision is considered to be the turning point in the trial of the conspiracy charges. The Government has shown that in 1901 the defendant was present at the office of Surveyor-General Meldrum when F. P. Mays consulted with him concerning the formation of a new reserve in the Blue Mountains, and that a few days afterward Mr. Her-mann advised Meldrum to purchase school lands in that district. At that time Mr. Hermann had been advised through the letter of "Citizen" as to what the plan of acquiring school-land titles was and how it was being carried out in this state.

"We intend to bring home to Mr. Her-mann the knowledge which we claim he possessed at the time he is charged with having entered into an agreement with Mays concerning the Blue Mountain Re-serve," said Heney.

Zabriskie Letters to Be Read.

In doing that, the Government this morning will read to the jury several letters written in 1901, almost a year before the Blue Mountain Reserve was created, by Colonel Zabriskie, of Arlzona. The Arizonian there unfolded the entire plan of operations and urged an investigation through inspectors who were not known personally to the men engaged in the conspiracy. The information, which was then communicated to the Commissioner had been obtained from J. H. Snyder, a

Snyder was the man whom the Callfornia land-frauders used as their office agent and who handled all the papers connected with the various purchases of school lands. He received a large salary and promises of other sums of money for his services. In 1900 Snyder and the Hyde-Benson combination failed to agree over a division of the profits from their operations in Eastern Oregon, and Snyder resigned his frauditation to Colonel Za-Oregon, and Snyder resigned his fraudulent land transactions to Colonel Zabriskie, who promptly took the subject up with Mr. Hermann, and wrote that the Hyde-Benson conspirators were being supplied with advance information by some of the employes of the General Land Office.

An effort was made by the Commissioner, it was said, to ascertain the name of the clerk suspected of the treachery, but after failure to secure that information, an investigation of

er employe of Hyde & Benson, in

that information, an investigation of the questions alluded to by Colonel Za-briskle was refused on the ground of economy. The Commissioner did not have the funds to employ men un-known to the land-frauders, but he did order the regular agent for that dis-trict to interview Snyder and report. With the submission of that report the case was dropped.

Inconsistency Is Charged.

The prosecution will attack Hermann on still another ground, that of inconsistency. Hency will endeavor to prove that for a long time prior to 1962, when Hermann recommended the withdrawal of the Blue Mountain forest reserve lands, the Commissioner had discouraged the organization of more forest reserves, and had pointed out that advantage was being taken of the lieuland law to defraud the United States. With the presentation of such a record it is hoped by the prosecution that the jury will draw the conclusion that Hermann's recommendation of the Blue

Mountain forest reserve was the result of an understanding with Mays, Jones and Smith, all members of the Legislature. Evidence will be offered in the endeavor to show that in the Blue Mountain case the Commissioner made an exception from his policy.

Emmett Callahan will be placed on the stand to confirm a conversation had with the Commissioner prior to the cre-

the stand to confirm a conversation had with the Commissioner prior to the creation of the Blue Mountain reserve, and at a time when the people of Grant and Harney Counties were strongly protesting against that action. Callahan said to Hermann that a "certain crowd of Oregonians" were making a business of buying the school lands upon applications obtained in the slums of the North End of Portland, and signed by members of the under world. Hermann is accused of having asked Hermann is accused of having asked Callahan why they should worry about that, as Oregon people were profiting by the transactions. "Callahan states

PIONEER MOUNT TABOR RESI-DENT WRO DIED THURSDAY.



George H. Andrews,

George H. Andrews, who died at his me, 125 West avenue, Mount Tabor, Thursday, had been a prominent resident of Portland for the past 35 The funeral will be held noon at 1 o'clock, and the interment will be in Riverview Cemetery. Rev John Simpson will officiate. Andrews was born in Birmingham, England, 66 years ago, had been a member of Willamette Lodge, A. F. and A. M., was connected with the Oregon & California Railway Company in the days of Ben Holladay and Henry Villard and also served as Auditor of the Oregon Steamship Company. He was married to Miss Elspatch Patterson, daughter of a ploneer, who survives him. His children are: Mrs. William L. Patter-son, Miss Alice C. Andrews, Mrs. Ben Holladay and Henry Villard Andrews, of Portland.

that at that time Hermann named Mays as one of the men," said Heney.

Hency Seeks to Close Gaps.

In the letters which were sent to Hermann by Snyder and Zabriskie it was written that all actions concerning the establishment of Forest Reserves by the Secretary of the Interior were "tipped off" from the Washington office in time for the Western consultators to purchase for the Western conspirators to purchase for the Western conspirators to purchase the school lands before the order of with-drawal should reach the local Land Of-fices. In an endeavor to show that Her-mann was assisting Mays and his friends, he prosecution will introduce a telegram thich the Commissioner sent to Mays and the morning that the proclamation is received by Hermann, and which it is stated, proves that Mays knew that he was saying when he told Sorenon that he would get a "tip" from Vashington.

All of this evidence will be introduced his morning and on Monday in an effort the prosecution will introduce a telegram which the Commissioner sent to Mays on the morning that the proclamation was received by Hermann, and which some knowledge.

"Other letters which have been read to the court indicate that certain lands were being taken fraudulently in Cali-Washington.

this morning and on Monday in an effort by which Mr. Hency expects to close up the gaps in his case of circumstantial evidence against Binger Hermann. Hency promised the court last night that he would conclude the trial on the part of the Government not later than noon on Monday. In that case the defense will

fidential communications and that the Commissioner was advised by a member of the Land Office force that it would be inexpedient to supply the information re-quested, or to start the investigation outside regular channels. It will be contended that many forest reserves were being contemplated from 1900 to 1902 and that if the knowledge conveyed by the letters charged the Commissioner with knowledge sufficient to justify him in stopping the work in Oregon and the Blue Mountains, it would have required that he take that action in all parts of the United States. Colonel Worthington contends that if that knowledge makes Hermann a party to the Blue Mountain conspiracy, it also lays him open to the charge of fraud in every place where fraud was practiced.

Mays and Jones Unwilling.

There is no probability that F. P. Mays r W. N. Jones will be called to the witless chair, as both are unwilling to testify

Colonel Worthington announced last night that he would utilize a portion of the records and exhibits used in the trial of Hyde and Benson at Washington. Hency has telegraphed for the documents and they are on the way. Hyde, Benson and Snyder and, their

Washington agent, were tried last year in the District of Columbia. The jury was out four days and stood about evenly divided. The trial Judge called the jurors into court at the end of the fourth day and after being informed that a verdict was improbable, ordered the jurors at the law years. returned to the jury room. After they had departed the court began prepara-tions for discharging the jury, but the jurors supposed they were to be confined until a verdict was returned. A compro-mise was reached, it is understood, by onvicting two of the defendants and ac quitting the others. Hyde and Snyder

GOVERNMENT GETS '11-7' CLAIM

Half Section of Helen McClure Is Ordered Returned.

Another of the "11-7" claims, which were obtained fraudulently by the Mc-Kinley-Puter conspirators, was re-turned to the ownership of the Gov-ernment yesterday by the United States

The title to the land was claimed at the time the suit was brought by the Government by Helen McClure, who has announced her determination to appeal the case. The decision yesterday involves half a section.

#### ANNOUNCEMENTS.

For the best eye examination, the best glasses and the best results, consult Thompson, eye specialist, second floor Corbett bidg. Fifth and Morrison.

# TO MRS. CHAPMAN

Letter Saying Separation Was Best for Both Followed Goodbye Kiss.

WIFE'S CHARMS EXTOLLED

Husband, However, Wishes Her "Full Measure of Independent Success' - Decrees Are Granted in 12 Cases.

DIVORCES GRANTED IN CIRCUIT COURT YESTERDAY

A. L. Brazee, steamboat captain, from Ora D. Brazee. Catherine R. Chapman, from C. C. Chapman, manager Chapman Advertising Company.

Boyle, alleged amateur pugilist, E. Q. McKneely from Levina Mc-Jennie D. Looper from John F.

Stella M. Boyle from Hosephy C.

Nellie Larson from C. W. Larson. James O. Jones from Minnie Jones. Georgie Kelsay from Leston N. Keisny, of Lake County. Christiena Martschinsky from Ella Allen May from James Mel-

dram May. Yetta Pallay from Sam Pallay. New Divorce Suit Filed. Susie Shipley against Roy W.

Shipley.

To Catherine R. Chapman was granted a divorce by Circuit Judge Gatens In the Circuit Court yesterday morning from C. C. Chapman, manager of the Chapman Advertising Company. Both are well known in Portland. Mrs. Chapman narrated how her hus-band kissed her goodbye one morning, three days before Christmas, 1908, and how shocked she was a few minutes later to receive a letter, delivered by the office boy, who said there would be no answer. The letter was from her husband, and told her in the first line that he would not live with her any longer. The letter read:

any longer. The letter read:

Dear Catherine—I have decided to live apart from you henceforth, and to spare you as well as myself the pain of personal parting. I write you this letter.

Our marriage has been a failure, and my decision to leave you is irrevocable.

I sincerely believe that if you are not at once relieved that I have taken this step, you will realize upon reflection that it is the wise and right thing for both of us. I know that with your indomitable will, tremendous pride, lofty ambition, strong personality, firm character, tireless energy, mighty apirit and splendid abilities you will accomplish much for yourself as well as for others, now that you are released from dependent bondage and relieved from perplexing responsibilities.

ing responsibilities.

Wishing you the full measure of independent success you so intensely yearn for as an individual, and sincerely believing that in giving you freedom I am doing the best I can to be of actual service to you,

Captain's Wife Deserts Him.

Circuit Judge Gantenbein granted ten divorces yesterday morning. Among them was one to A. L. Brazce, a steamboat captain. The Judge signed a decre separating him from Ora D. Brazee, be-cause he said she deserted him and re-Monday. In that case the describe will cause he said she describe him and renormal form the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Snyder were private and control of the letters from "Citizen," Colonel Zabriskie and Citizen and Citi of Captain Brazee's friends, told of Mrs. Brazee's visit to his home, where Captain Brazee was living when in port and asking for her personal belongings. Fallow told her, he said, she would have to see the captain. But she did not want to see the captain, he said she told him, desiring simply to obtain her belongings. Stella M. Boyle secured a divorce after telling how her pugilistic husband, Joseph C. Boyle, took her across his knee and spanked her. She accused him of associating with ex-convicts, and of expecting her to entertain them, at the Boyle home from Saturday night until Monday morning. He brought home beer by the keg for entertainment purposes, she

> Mrs. Boyle said that her husband broke her breast bone and two ribs one even-ing in August, 1908, when they were mak-ing preparations to go to the theater. "I was lying upon my back upon the lounge," said Mrs. Boyle, and we were talking pleasantly, when I remarked that I did not have proper clothing to wear to the theater. He replied that I was always complaining, and made a lungs at me, knocking me unconscious.

Bones Broken Second Time.

"One day last March we were talking about religion. He pushed me away from him with such violence that the bones, which had partly knit, were again

Mrs. Boyle alleged in her complaint that her husband usually went about with a pair of black eyes on account of his tendency to fight, and that she was ashamed of it. Judge Gantenbein allowed her to resume her former name, Stella M. Baumgartner.

A domestic row, in which boiling hot coffee was used to squelch what the wife calls a drunken frenzy, figured in the divorce suit of Christiena Martschinsky against George Martschinsky. They were married at Napoleon, Mo., April 26, 1892. When Mrs. Martschinsky brought the di-vorce suit, alleging that her husband choked her until she was nearly senseless choked her until she was nearly senseless one day in Jyouary, last year, the hus-band answered that she was about to pour the boiling coffee upon him, so he seized her by the arms and shoulders. He dealed having choked her. She se-cretly removed the furniture from the while he was at work one day six months later, he said, and he was unable to find her and his four children. When the divorce case came on for trial yes-terday he did not appear. Judge Gantenbein gave the woman the divorce.

Both Sides Makes Charges. Leston N. Kelsay was too handy with the revolver, according to the charge of Georgie Kelsay, who obtained a divorce. She married Kelsay at Patsley, Or., Oc-tober 28, 1903. She was allowed \$25 a month allmony. Kelsay had entered a cross-complaint, but failed to appear in court yesterday. His wife was nagging and avirayagant he said. She was frevantage was being taken of the lieuland law to defraud the United States.
With the presentation of such a record
it is hoped by the presecution that the
jury will draw the conclusion that Hermann's recommendation of the Blue

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telling of heing assaulted with a butcher knife and with a revolver, he said that his wife associated with a woman known as "Kitten" Fine, to which he objected. He also named various alleged paramours of hers, among them Roy Shirk, A. E. Murphy, W. Z. Moss and Raiph Baker. He once surprised Moss, "Kitten" Fine and his wife in close embrace, he alleged. James O. Jones secured a divorce from Minnle Jones. She deserted him September 22, 1908, he said. The last he heard she was in Spokane, but another witness testified Mrs. Jones is in Colfax, Wash., and wanted her letters addressed. witness testified Mrs. Jones is in Collax, Wash., and wanted her letters addressed as Miss Mabel Wright. She married Jones in Portland, September 21, 1994.

E. Q. McKneely testified that his wife's parents sent for her soon after she was married, and his efforts to have her return had since been prayalling. She is turn had since been unavailing. She is 19 years old, he says, and now living in Albany. He married her in Portland, September 17, 1908. The judge gave him a divorce.

Wife Left Penniless.

Yetta Pallay also secured one, separating her from Sam Pallay, whom she mar-ried December 3, 1899. He left her penniless for six weeks in the Summer of 1908, she said, while their two children were ill. Last February she was slapped on the street and beaten when she reached home after having attended a dance, she said. The children are in care of the grandparents, Mr. and Mrs. M. Pallay.

Jennie D. Loeper said she married John

F. Loeper at Ditter, Neb., May 29, 1883. He accused her of unfaithfulness, she asserted, rendering her life wretched. She was divorced.

Desertion was the ground upon which Nellie Larson secured a divorce of sepa-ration from C. W. Larson. They were married in 1899, and have a child 7 years

Ella Allen May secured a divorce decree from James Meldram May, whom she married in Jewel County, Kansas, March 12, 1882. She is now living in Center Addition, says her husband left her in the Fall of 1905, and that she has since been supporting herself and the three children by washing and other labor. The Judge gave her the custody of the children. Susie Shipley has filed a divorce suit in the Circuit Court against Roy W. Ship-ley, alleging that he knocked her down one day last April. They were married in Portland, December 16, 1998.

ADOPTION OF CREMATORY PLAN BY COUNCIL EXPECTED.

Leading Members of Council Willing to Abide by Mayor's Judgment as to Plan.

Mayor Simon is confident that the City council next Wednesday will vote an appropriation of \$119,500 to pay for the con struction of a modified Decarie incinerator, as recommended by the Board of Health last Wednesday. While some op-position to the proposed plant has de-veloped, it is considered not to be of sufficient importance to cause any anxiety All the leading members of the Counci have expressed themselves as being willing to accept the judgment of Mayor Simon, as it is with him and the Board of Health that the responsibility lies. The Council has only to make the necessary appropriation. The charter places the construction of the plant with the board, and should there be any dissatisfaction or should the incinerator fall to work properly, the Council would in no sense be blamed; the board would have the full

burden.
Councilman Lombard is thus far the only avowed opponent of the modified Decarie plant, the one selected by Mayor Simon and the members of the Board of Health. He first favored the Heenan-Froube type, which was the highest priced of any in the list submitted. Neither the Mayor, any of the three physicians on the board, the City Engineer or crematory superintendent favored Mr. Lombard's choice. Mr. Lombard was vehemently opposed to the Lewis & Kitchen burden. ently opposed to the Lewis & Kitchen plan, submitted by the Public Works Engineering & Construction Company at first, but now contends the board should have selected the Lewis & Kitchen plan, it being cheaper than the one decided There is no need at this time so urgen

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as the proposed garbage crematory. Health conditions depend very largely upon it, according to Mayor Simon and City Health Officer Wheeler. There are hundreds of tons of all manner of refuse, gathered from all over the city, that is decaying on the dump at the old crematory. This condition cannot be remedied unless the City Council will appropriate funds with which to build a medern funds with which to build a

city, but probably will return in time to participate in the Council session next Wednesday. It is said that be and Councilman Rushlight will support the recommendation of the Board of Health. Councilman Wallace will do likewise, as will also Councilmen Ellis and Menefee. With these strong members of the Counil all in favor of voting the appropriation, it is said there will be little, if any, trouble over the subject next Wednesday.

#### GOOD THINGS IN PORTLAND MARKETS

BY LILIAN TINGLE. OLUMBIA River smelt are coming in, a pleasing thought alike for epicure or economist. Brolled smelts with Bernaise, fried smelt with crisp parsley, baked smelt with Spanish sauce, pickled smelt with cress sandwiches, swelt salad in apic-these are only a few of the gastronomic vistas opened up by the market sign "fresh smelt, 10 cents a pound." Other varieties of fish are more still costs 35 cents, best quality chickens plentiful than they have been lately. and geese 25 cents and ducks 35 cents.

Fresh lobster at 40 cents is again to be had. There are particularly fine black bass at 30 cents and striped bass at 40 cents a pound. Catfish, sole, salmon, cropples and halibut cost about 15 cents, flounder, herring and silver smelt 19 cents a pound. Very fine prawns are sold at 25 cents a pound, crabs cost 15 to 25 cents each; razor and hard clams 15 cents a dozen and 5 cents a pound, respectively. a dozen and 5 cents a pound, respectively. plant, and this the Mayor says he thinks will be done next Wednesday.

President Baker, of the Council, one of the majority leaders, is absent from the council and spinach give an encouraging hint of Spring. Green peas are again to be had, but at 3 cents must be classed as luxuries, as are also mushrooms at \$1 a pound. English hothouse cucumber. slim kind, cost 35 cents each, and hothouse tomatoes, 50 cents a pound. Les expensive, but still "choice," are Brussels sprouts at 15 cents a pound, and extra large celeriac at 15 cents each. Celery and cauliflower are still good, but less plentiful. Kale is again to the fore, and excelent white cabbage at 5 to 10 cents a head. Sweet potatoes are stil attractive. There is good head lettuce to be had, and tiny new radishes—"tender, sweet, yet peppery, with all the piquancy of the young girl, not quite a child nor yet a woman," as they are described by a perhaps over-poetical gourmet.

There is nothing exciting in the fruit market at present. Lemons are slightly lower and invite to marmalade making. Oranges are increasingly sweet and juicy, and cost 25 to 45 cents a dozen. Winter pears and apples make a cheerful show-ing. There are some fairly good-looking pineapples at about 50 cents each, and imported grapes at 35 cents a pound. Eggs and butter seem in no hurry to become cheaper; nor does poultry. Turkey

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