

HERMANN DEFEASE

Hitchcock's Testimony in Former Trial Barred as Evidence in Present Case.

VITAL REPORT CONCERNED

Defendant Denied Being Forced to Submit Document—Henny Would Prove Inadmissibility in Urging Idea Land Law Repeal.

Attorney Worthington, yesterday, in the Hermann trial, blocked a portion of the testimony of the late Secretary of the Interior Hitchcock given at the first trial of Hermann at Washington, D. C., in 1906.

In that trial Hitchcock testified that Hermann did not deliver to the Secretary the Holston report, which exposed land-fraud operations in California under the lieu land law, until he (Hitchcock) had demanded the document. He pointed out that when Hermann was to be heard, he had acted voluntarily, carrying the report to Hitchcock's office personally and called attention of the Secretary to the startling revelations it contained.

Attorney Henny stated that the Government had the right to introduce this testimony, Hitchcock having died since the Washington trial, for the purpose of showing that Hermann, in his testimony at that time, failed to deny the statements of Hitchcock directly. Henny cited authorities in support of his contention that under the circumstances the testimony was competent for the reason that Hermann, when given an opportunity, failed to refute Hitchcock's testimony.

Testimony Meant Denial.

In opposing this testimony Attorney Worthington argued that the testimony given by Hitchcock in the Washington trial was not admissible in the present trial. He pointed out that when witness in his own behalf at Washington, Hermann testified that after he had considered the report and had not done such action as he regarded was incumbent on his department, he then took the report direct to Secretary Hitchcock personally. He stated that Hitchcock maintained that this declaration on the part of Hermann amounted to a denial of the correctness of the statements contained on the same subject and constituted a valid and adequate barrier to the introduction of Hitchcock's recorded testimony from the Washington records.

Argument on the legality of this testimony consumed an hour and at its conclusion Judge Wolverton sustained the objection. In the discussion, however, Henny announced that he would call W. Scott Smith, Hermann's private secretary, to the stand to controvert the testimony of Hermann. On his cross-examination, Hermann declared that he took the report to the Secretary and that when he called at the Secretary's office he found Hitchcock alone. Henny declared that Smith would testify in rebuttal that Hermann did not deliver the report to Hitchcock until after Hitchcock had learned from outside sources that Hermann had been filed with Hermann. It was then that Hitchcock, averred Henny, telephoned to Hermann in the presence of Smith and demanded that Hermann submit to him the report immediately. But secure of the admission of Hitchcock's testimony on this subject, Henny evidently expected to bolster the testimony of Hitchcock. If, Smith does testify as Henny says he will, his sworn statement will stand against that of Hermann without further corroboration.

Secretary to Be Called.

Attorney Worthington intimated yesterday that he would object to any testimony by Smith in rebuttal. Recognizing the value of this testimony, however, Henny yesterday paved the way to recall Smith. He stated that he would specifically of Hermann as to how and when he came to take the report to Hitchcock. It was in answering these questions that Hermann was asked to act on his own judgment and found Hitchcock alone in his office when he called.

After questioning Hermann persistently as to his interpretation of the public land laws and more particularly as to the power of the Secretary to acquire reserves, Henny adduced from the witness that he was of the opinion that the President in the proclamation creating any reserve could exclude from the reserve all private holdings which might be included within the boundaries of the reserve. Henny then asked if the effect of this practice would not be to annul the lieu land law. Hermann admitted hesitatingly that, while it was a question of law, it would probably be the effect.

Henny Will Make Use of This Admission by Hermann.

Henny will make use of this admission by Hermann. He plans to employ it to declare that although Hermann was representing in his reports and correspondence that frauds in the acquisition of public lands could only be curtailed by the repeal or modification of the lieu land law, his understanding was that the President, by a mere proclamation, could exclude from a reserve all school, agricultural or mineral lands, thereby denying to the owners of such land the right to use their holdings as a base for exchange under the provisions of the lieu land law.

Inadmissibility to Be Alleged.

It will be the contention of Attorney Henny that Hermann was inadmissible in his advocacy of the repeal or amendment of the lieu land law as the only way to terminate the land frauds. Henny will take advantage of Hermann's testimony as to the authority he accredited to the President through his reserve proclamation, and present abuses of the lieu land law. He will contend that if Hermann was sincere in his position, it would be his duty to prevent further frauds by making wholesale withdrawals of the public domain and have the President stipulate in his proclamation that no school, agricultural or mineral lands, including school, agricultural and mineral lands, be excluded from the reserve. In this way the use of these lands would be based on exchange for more valuable lands under the provisions of the lieu land law which would be prevented.

Late in the Afternoon Henny Introduced a Number of Letters from Hermann to C. E. Loomis, then special agent, written from 1901 to 1906.

In these letters Oregon politics were discussed, Loomis being requested in one communication to inform himself about the situation in his state as to the approaching election of a Senator. The tone of the letters showed Hermann to be a receptive candidate for that office. In fact, in one of the letters, he informed Loomis frankly that in event of a deadlock between Corbett and McBride it might be possible

for Hermann's friends to secure the election for him.

It was also brought out in one of the letters that Loomis was appointed special agent in the service for some time after charges had been preferred against him. Hermann admitted that the trouble related to one of Loomis' reports which were not properly reported with vouchers. It seems to be Henny's purpose, by this testimony to assert that Hermann was responsible for continuing Loomis in the Government employ and that Loomis was used in a measure for promoting Hermann's candidacy for the senatorship.

Newspaper Articles Tabooed.

Judge Wolverton sustained the objection of the defense to the introduction of newspaper articles detailing the illegal operations of Sorenson and others in the acquisition of school lands as a base for lieu selections. These accounts were published in 1902. They were ruled out by the court, who held that it was improbable that the articles had been seen and read by the defendant and that reason they were not competent.

Almost the entire forenoon was spent by Henny in the cross-examination of Hermann as to the Commissioner's views of the powers of the President in the creation of reserves. The witness testified it was his understanding in 1901-02 that the President had the right to create a reserve by describing its exterior boundaries and exclude therefrom all lands of private ownership by simply making that declaration in the official proclamation by which the reserve was established.

Evidently this was the very testimony the Government prosecutor sought and he followed it up with several questions bearing directly on the subject. Referring to the annual report of Hermann as Commissioner in 1901, Attorney Henny asked the witness what objection he had to the withdrawal of the lands covered in the recommendations for reserves, which had been presented to him. The witness testified that he had no objection, but that he had no authority to make any modification of the lieu land law of the country were to be protected.

President's Word Enough.

Attorney Henny asked if the President, having the authority reputed to him by Hermann, was not in a position to suspend the operation of the lieu land law which provided specifically that every owner of private land which should be included within a reserve should have the right of exchange. That being the case, insisted Attorney Henny, why was there any necessity for modifying the lieu land law? The President's proclamation could simply prescribe that all school lands, mineral and agricultural lands should be included in the reserve. He pointed out that such lands were entirely within the exterior boundaries of the reserve. Hermann said it was his understanding that a reserve consisted of only the vacant and unappropriated public lands within the exterior boundaries of the reservation, all private lands being excluded. To such property owners, explained the witness, it was his understanding that the right of exchange, afforded in the lieu land law, did not apply. When asked what objection he had to making withdrawals of public land when, in his opinion, the President had the authority to exclude from the proposed reserve all lands held by private parties, Hermann replied that such a course was entirely too indefinite. He explained that it was his policy first to determine by a rigid investigation the character of all lands within a proposed reserve before deciding the area to be set aside as a reservation.

Annual Reports Cited.

Attorney Henny referred to Hermann's annual reports as Commissioner, showing the right of exchange, afforded in the lieu land law as well as the enactment of a law providing for the withdrawal and administration of all timber lands within the boundaries of the reservation. Hermann confessed conception of the authority of the President in the creation of reserves, but he explained that the provisions of the witness' or legislation was needless. Any abuse or condition complained of by Hermann at that time, urged Attorney Henny, could be corrected by the proclamation of the President without the necessity of further legislation. Hermann insisted that the provisions of the witness' or legislation was correct. Hermann admitted that the Blue Mountain Forest Reserve could be created and all school lands and other private lands included therefrom by proclamation to that effect incorporated in the President's proclamation. Hermann said it was not unusual for the boundaries of the reservation to be changed by the withdrawal of agricultural or mineral in their character, which were originally embraced in the reserve.

Hermann Afraid of Leak.

Hermann was questioned next as to the Holston report, filed in the Land Office. He testified that he had seen an exhaustive recital of the illegal operations of landgrabbers in California and other States, which had appeared in the report voluntarily to the office of Secretary of the Interior Hitchcock and did not do so in response to a telephone call from the Secretary. He explained the report. Hermann assigned as a reason for this action the fact that because of the Holston report which had appeared in the Land Office he did not want to leave a document of such importance in that department for fear that its contents might be divulged to interested parties. Hermann said that while there was friction between him and Hitchcock, he never allowed that fact to interfere in any way with the official relations frequently consulted with his superior concerning the policy of the Land Office.

GROCKER IS FOUND ON ICE

Adventures of Hugh McGonigle Prove Amazing to Friends.

NEW YORK, Feb. 3.—The crew of the tugboat Parkton, of the New York Navy-Yard, found Hugh McGonigle, a grocer, 45 years old, of Brooklyn, floating on a cake of ice in the waters surrounding the Cob Dock and rescued him after he had fallen from the deck, not wanting following the removal of Mr. McGonigle to his home the police arrested Patrick McGonigle. McGonigle is accused of having assaulted Mr. McGonigle following an argument in a saloon.

After the fight in the saloon McGonigle was taken to the Cumberland Street Hospital, where his wounds were dressed and 22 stitches taken in the cuts on his face and head. He was advised to stay in the hospital, but refused. How he passed the guards at the Navy-Yard and fell into the water is a mystery.

GIRL 16 TWICE WEDDED

Second Wedding Follows Divorce Within Eight Minutes.

KOKOMO, Ind., Feb. 3.—Mrs. Emma Miles, who, as Emma Thomas, was married to Delano Miles at the age of 16 years, after a short married life was divorced from Miles at the age of 16 years upon the ground of abandonment. Her complaint was filed, the divorce granted and she stepped directly across the hall into the County Clerk's office, where she obtained a license to marry. Within eight minutes after she had faced the Court she had become the wife of Frank Swafford.

ITALIAN PLAYERS TO PRESENT DRAMAS HERE IN NATIVE TONGUE.



MEMBERS OF VITTORIO ALFIERI DRAMATIC SOCIETY. Two interesting Italian plays will be produced by the Vittorio Alfieri Dramatic Society in Italian. The plays are 'The Two Sergeants' and 'The Secret of the Forest', both of which abound in stirring situations, and the lines of which afford ample opportunity for excellent dramatic work. Sparkling comedy and tense situations, bordering upon the tragic, are to be found in the plots; and the roles have been so cast as to bring out the best talent of the players in the different parts.

HARBOR HAS NEEDS

W. H. Corbett Points Out What Might Be Done.

ONLY ONE CHANCE IS LEFT

Upper Harbor Neglected, Middle Harbor Spoiled, Says Writer, but Nature Has Left Possibilities in Lower for City's Shipping.

PORTLAND, Jan. 22.—(To the Editor.)—Supplementing the general map, which was used in illustrating recent remarks in reference to Portland's opportunity for securing something really sufficient in the way of a harbor for deep-water shipping, I herewith submit a panoramic view intended to present this project in a way which will make it still easier of interpretation for those who have not been previously interested except in a casual way. The drawing is practically correct in its proportions and portrayals of the Willamette River and its local environment, as they would appear should one of our progressive citizens, such as Mr. Wemme, chance to try out his aerial-photographing apparatus for a moment over the middle of the river just north of Swan Island. Less daring ones, who prefer to keep their feet on the ground, may easily check up the correctness of the sketch by taking a St. John car to University Park Station, from which point a five-minute walk will take them out to the end of the promontory which extends beyond the site of Columbia University, and they will be amply rewarded by one of the grandest views in the United States.

The outlook shows at a glance not only the grandeur of the Oregon country in its natural state, but the wisdom of our pioneers in the selection of such a site for a great commercial city. While the limitations of a rough sketch give no conception of nature's beauty from an artistic standpoint, it at least develops the present handicap to our port and the possibilities of wise and consistent treatment for the best interests of our whole community. In the distance are the business centers of the city lying on both sides of the narrow portion of the river, just as they grew, better sketched, like any other 'baby figure of the giant mass of things to come.' Connected by a series

CAR JOZLS TRUE LOVE

PAY-AS-YOU ENTER TROLLEY BALKS NICKEL-LESS SWAIN.

Warrant Tells of Tribulations of Man Who Walked When Girl Rode, Yet Followed Her.

CHICAGO, Feb. 3.—The course of true love doesn't run very smooth on the car tracks in Chicago, especially when true love boards a pay-as-you-enter car without a nickel. Francis McKee, 26 years old, knows this now.

A warrant for McKee was obtained today by the father of Miss Eleanor Hangel, on a charge of disorderly conduct. The warrant declares that McKee, who was fined \$5 last December for thrusting his attentions upon Miss Hangel, accused her again at State and Adams streets, and when she refused to speak to him, followed her.

The warrant charges further that McKee boarded a streetcar with Miss Hangel, and according to the young woman's father, when the conductor asked McKee for his fare McKee tried to borrow money from Miss Hangel. She refused to pay his fare, and he was put off the car, the father says, at Lake street.

While the question is still under discussion in this country it is instructive and interesting to note that since the beginning of the year a postal savings bank has been in operation in Brazil, where it was introduced in connection with a recent reorganization of the postal service. Under the Brazilian plan deposits range from a minimum of 20 cents to a maximum of \$200, and bear interest at the rate of 4 per cent. Facilities are furnished for converting the deposits into government bonds, and such as are not claimed after a lapse of 30 years are covered into the public treasury.

Brazil's Savings Bank a Success.

Philadelphia Enquirer.

SEASICKNESS DEATH CAUSE

Severe Attack, Due to Unusually Rough Weather, Fatal.

ST. JOHNS, N. F., Feb. 5.—Excessive seasickness, caused by the unusual rough weather, was the cause of the death of Allan Lane Stearns during a succession of gales encountered in her 14 days' passage from Liverpool, resulting in the death of a steerage passenger. His body was given sea burial.

At 25 Eschylus was the most famous poet of Greece. Coleridge has finished the marvelous metrical poem, 'The Ancient Mariner,' Don John of Austria had won Lepanto and James Montgomery had written his best compositions.



PANORAMIC VIEW OF PROPOSED HARBOR, PREPARED BY W. H. CORBETT.

SENATORS AS

WANT TO GET RECESS

Senate Committee Reports in Favor of Placing Seizure Claims Before Courts.

MATTER LONG UNSETTLED

Americans Who Suffered Losses in 1892 See New Hope of Getting Payment From Their Own Government.

OREGONIAN NEWS BUREAU, Washington, Feb. 3.—The Senate committee on foreign relations has again made favorable report on the bill concerning jurisdiction upon the United States Circuit Court for the Ninth Circuit to determine the rights of American sealers under the award of the Bering Sea arbitration of Paris, and to render judgment thereon. This is the question that has been before Congress for a number of years, but never has the bill passed Senate and House in the same session, hence these old claims are unpaid.

In reporting the bill, the Senate committee briefly reviews the history of the Bering Sea sealers' claims against the United States Government, and wherein they are worse off than British subjects who suffered like damage and who already have been rewarded for losses incident to the raids.

It is recalled that prior to February 25, 1892, the United States claimed jurisdiction over all Bering Sea included within the boundaries of Alaska; Russia claimed jurisdiction over the remainder. Acting on this assumption, the Secretary of the Treasury directed the seizure of all ships engaged in seal hunting in the Bering sea over which this country claimed jurisdiction. A large number of vessels were captured, some the property of British subjects, and a large number the property of citizens of the United States.

International Tangle Results.

Russia, in like manner, made seizures on that part of Bering Sea claimed by the United States. This led to protest by Great Britain against the exercise of exclusive jurisdiction over Bering Sea by the United States and Russia. The issue was finally arbitrated at Paris, where it was agreed that the jurisdiction of neither the United States nor Russia extended more than three miles from shore.

Following this agreement, a commission was appointed to examine the claims for indemnity made by British subjects on account of the seizure of their sealing vessels beyond the three-mile limit. 22 claims being presented, aggregating \$1,259,005. In defending the interests of the United States against the claims of the British subjects, the United States presented, aggregating \$463,454, thus saving the United States \$825,554.

Americans Still Lack Funds.

Subsequently, American sealers whose vessels had been unlawfully seized by the Russian Government, presented claims against Russia, which were arbitrated at The Hague, and promptly paid. And yet, at this late day, the United States has never indemnified its own subjects, whose vessels were wrongfully seized, notwithstanding the fact that the United States has been appearing against British claimants, saved the United States over \$825,000. The change in the law, indemnifying British sealers; Russia has indemnified both American and British sealers, and the only group left without indemnity, are the American sealers who have lost their property, are American subjects with claims against their own government.

The pending bill is intended merely to give the British sealers the same right they may present their evidence, show the extent of their losses and leave with the United States the burden of the amount of indemnity to which they are entitled. With a spirit of the utmost economy prevailing in Congress, there is some question whether this bill, which, if passed, would open the way to an expenditure by the Government of several hundred thousand dollars, can be enacted at the present session.

'EMPEROR'S FRIEND' DYING

Woman Who Caught Napoleon's Fancy Is Now Public Charge.

PARIS, Feb. 3.—(Special.)—A story of the Empire has been recalled by the removal of an octogenarian, Mrs. Julia Mouton from a tumble-down cabin in the Impasse du Petit Parc, to the Saint-Antoine hospital. Mrs. Mouton, who had lived in the case for several years, was known in the district as the friend of the Emperor. She could look back on a distinguished career. When in the fulness of her beauty she attracted the attention of Napoleon III. She was in fact an equestrienne at the Imperial circus.

AGED MEN PHOTOGRAPHED

Thirty-two of Portsmouth's Oldest Citizens Total 4590 Years.

PORTSMOUTH, N. H., Feb. 2.—A local photographer took a group of pictures of 22 of the oldest residents of the city, whose combined ages reached 2590 years. The oldest two of the group were John E. Butler, who is in his 91st year, and Benjamin M. Parker, 81 years old. The others in the group there were three aged 83 years, one each 86, 86, 84 and 83 years, two 82 years, four 81 years, four 80 years, three 79 years, one 78 years, three 77 years, four 76 years and two 75 years.

IRRIGATED FRUIT

ALFALFA LANDS

ECHO, OREGON

Umatilla County.

This country, with its very deep, fertile volcanic ash soil, wide expanse, with gradual blending slopes, looking like a large sea of land, rich in the elements that produce plant life, as is shown by both Government analyses and the actual results as the farmers are getting today, makes this the best opportunity to the man that desires a small or a large tract of land, because this country enjoys the distinction of possessing the most equable climate, being pleasant for both animal and plant life. Here we have no killing frost for seven months. Here a home is a comfort and a money-maker. You will find more reasons why you should select a home here than any other place. Here you have the advantages of Schools, Churches and other social privileges. Here we have the very best of markets and transportation facilities. Butter Creek is the premier of all garden lands. The Western Land & Irrigation Company has a very fine system of canals, all substantially built, being practical throughout, as water courses its canals with certainty; it is always in the best of shape. The carrying capacity is voluminous. It will put over four feet deep on every acre. This is an ideal place to grow fruits and alfalfa, on account of the long growing season, freedom from frost, and the favorable climate.

We are now offering over 5000 acres of this choice garden and alfalfa land. We also offer 40, 80, 120, 160 acre tracts of unpatented land; being snags, are cash. Our terms on the small tracts are most liberal—exceedingly so; find out about it. We are having a railroad built right through the project, a cut-off. This is a live country, it is growing fast; it is the place for you. We cannot tell all here. We have a booklet just off the press. For all facts, write W. J. Stapish, Treasurer.

Western Land & Irrigation Co.

Walla Walla, Wash. 516 E. Main St.

DEATH BLOCKS BURGLARY

Thieves Tell Police That Drowning of One of Them Changed Plans.

LONDON, Feb. 3.—(Special.)—A remarkable story, in which death is said to have interrupted a burglary expedition, is reported from Manchester, where three men have confessed to the police that they intended to rob a warehouse in the city. One of the men, who was drowned in the canal while they were on their way to the scene of operations. The men had crossed the canal to reach the warehouse; the deceased man, Taylor, could not swim, and it was arranged that he should be assisted across by the others. When they got into deep water, however, Taylor began to struggle, and finally disappeared.

The men told the police that they dived for their companion, and did their utmost to rescue him, but all their efforts were unsuccessful. The police, believing that the men had told a true story, did not detain them in custody. Taylor's dead body was subsequently dragged from the canal, and an inquest will be held on Monday.

FAMILY JEWELS ARE FOUND

Police Accidentally Discover Valuable Heirlooms in Peasant's Hut.

VIENNA, Feb. 3.—(Special.)—Members of the family of a well-known Viennese family of Ghika, who are resident in Vienna, received some interesting information from Jassy the other day. A number of cases filled with objects of value and silver with jewels and diamonds, estimated to be worth several million kronen, were found in the course of a search made by the police in the house of a peasant woman named Saffa Grudinarin, living in the environs of Jassy.

UPPER SNAKE CRAFT DIPS

Auto-Boat Flier to Reach Mining Sections for Ore Traffic.

ASTORIA, Wash., Feb. 3.—(Special.)—The auto-boater, Flier, built by Glover & MacFarlane, was launched today and will be placed in operation on the Snake River. It will carry freight into the upper river mining sections, in Washington and Oregon, and also take ore down the river. The auto-boater has been built in Oregon and is believed to be the first of its kind in the state. All of them are active and will be the exception of Mr. Parker, who enjoyed his first automobile ride, walked