

HERMANN COUNSEL FIGHT

Both Attorneys for Defense Tell Jury Heney's Case Is Not Conclusive.

TRIAL MAY END TODAY

Defendant's Main Argument Is That ex-Commissioner Harped on Lieu Land Law Loopholes—Meldrum's Testimony Assailed.

HERMANN TRIAL IS DRAWING TO ITS CLOSE

The Hermann case will reach the jury late tonight or Saturday morning, Judge Wolverton has announced that it will require one and a half hours to read his instructions, and between the attorneys and the court it has been agreed that the instructions may be given at the close of the argument tonight if the jury so elects.

Attorney Worthington will finish the argument for the defense at noon, and this afternoon Attorney Heney will conclude his argument.

Attorney Gearin yesterday morning held the Hermann jury spellbound in an appeal for the aged defendant's acquittal. In the afternoon Attorney Worthington began his argument. He contended that the Government had failed to fasten fraud on Hermann, and recalled the action of his client to prove that Hermann had committed no wrong.

Attorney Worthington dwelt on the letter of recommendation in the Blue Mountain case as ordered by Hermann, and the instructions of Hermann that Secretary Hitchcock should apply and of the existence of 24,000 acres of school lands which were the property of Sorenson, Mays and Jones, alleged fellow-conspirators in the indictment.

In answering the argument that Hermann posed for the public to view him as a Senatorial candidate, and at the same time allowed Government lands to be stolen behind his back, the attorney brought out that in July, 1901, Hermann was editor of the Oregonian, secretary of the Interior advising that no further reserves be created until the lieuland law should be amended. A similar recommendation was made by the attorney, when Hermann recommended the Blue Mountain withdrawal.

Gearin Cites "The Test." At the close of his argument in behalf of Hermann, Attorney Gearin cited "The Test," a drama, which was produced here recently, to show the possibility of ruling the life of a man whose apparent crime was really an attempt to solve a mystery. Gearin did not attempt to analyze the evidence of the different witnesses closely, but recalled the most prominent points of difference to prove the impossibility of Hermann having been connected with the Blue Mountain conspirators, and to show that Hermann was actually the only man of the Administration at Washington who was sounding a note of warning from year to year in telling Congress the necessity of amending the lieuland law.

In opening his address, Attorney Gearin commended Attorney Heney, and assured him that in leaving Portland Mr. Heney would have the warm friendship of counsel for the defense, as well as its own hearty assistance.

Evidence Deemed Lacking. Attorney Gearin told the jury that the Government is asking at its hands a verdict which will consign Hermann to infamy and brand him as unfit to associate with decent citizens. He urged the necessity of being satisfied of guilt beyond a reasonable doubt.

"For five years the people of Oregon have been asking, 'Why is this man here?' and now we ask, 'Why is he here?'" said Mr. Gearin. "He is charged with an infamous crime, but no man worthy of belief would accept a particle of evidence to substantiate the straight accusation."

The speaker attacked the land laws of the United States at length, the historical grants to Oregon and the private concerns, which, he said, have been manipulated in behalf of corporations.

ited by Detective Burns at a time when other indictments were pending and Meldrum was under conviction. Burns, declared Attorney Gearin, told Meldrum that he had better "come through" with what he knew. Meldrum was taken to Washington under those conditions, and while there his conviction was affirmed by the Court of Appeals. It was natural that Meldrum should want to evade that imprisonment, said the attorney.

Mainly Resolution Forgot.

"Then we come to McNeil's Island," argued Attorney Gearin, "and we find Meldrum with Miller and his partner, to whom he said that he had not been given any money, but that he had testified at this trial he could clear Hermann, but the light of a manly resolution overtook him. Meldrum failed to do it. For these reasons I think that the testimony of Meldrum was false."

"But suppose Meldrum did tell the truth, what was there in the conversation at his office in 1901 to connect Hermann with a conspiracy? Heney and his witness, Langille, sent here by Secretary Hitchcock to investigate the Blue Mountain reserve, said that it was a proper place for a reserve. But they say Hermann ought to have known it was a conspiracy and that a peculiar brand of villainy was long ago was used. Why, Jones and the committee from Baker City did not know it when they came here to protest. Handsome, deposed land-traveler, Langille, who did not know it, and if there was anything in the line of fraud which McNeil knew, not of it, it was the dew of the morning of its birth upon it."

"Sorenson knew the game, and had smelled it out, as the bird dog scents the fox's tracks. In the fields, and he took it to Smith."

Letter Testimony Assailed. The attorney then dissected the evidence of Valk as to the "Citizen" letter, showing that at the Washington office he had testified that the Commissioner had the letter on his desk when Valk was called. At the present hearing the witness testified that Valk had the letter on the Commissioner's desk. It was argued that Valk would not have taken the letter to Hermann, as it contained reference to the men in his employ. Benson Valk, the Secretary and that Hermann passed them on to Ormsby for report in the usual manner. From that time said Gearin, Hermann did only the things which he should have done in accordance with the duties of his office.

Speaking of the argument advanced by Attorney Heney that Hermann was to be rewarded with the Senatorship and the action of his client, Gearin said: "I hope you will not return a verdict of guilty on that account. I have had many cases where the defendant has always considered them to be honorable."

In closing, Attorney Gearin alluded to the testimony of Hermann, given by prominent men of Oregon, and the attempt of Heney to disparage the same. "I may not acquit," he said, "but I will not let the Government use the criticisms of Hermann's political methods, as made by Mr. Scott, were tributes to his honesty and integrity. The reason that it had never been assailed."

"Honor and character," said Attorney Gearin, "are something that all of us care for. They may not acquire with the working girls of the great cities carry their dinner baskets in the morning and return with their earnings at about ten at night, rather than surrender honor and reputation to the allurements of vice and ease. It is the thing that we would die for."

Attorney Worthington Begins. Attorney Worthington, chief counsel for Hermann, followed. He opened with the announcement that since the return of the indictment in February, 1905, the Government had made the claim that Hermann was identified with the purchase of 24,000 to 30,000 acres in the Cascade reserve, secured by the Government in 1901. He contended that the incumbent on the prosecution to show that Mays, Jones and Sorenson had first entered into a conspiracy to buy the lieuland law, and that Hermann was a party to it.

Attorney Worthington asserted that it was conceded, from the date the forest reserve law was passed in 1891, down through the administration of President Roosevelt, that the Strawberry and Blue Mountain ranges were proper places for the establishment of forest reserves, and that the only question was as to their boundaries. He contended that in all probability the creation of a reserve in that district was under consideration by the Geological Survey in 1900, when Senators McBride and Simon protested. He then explained at length the operation of the Bureau of Land Office, and the manner in which each took up its business and sent it to the Commissioner. Following this the speaker outlined the manner of receiving and registering mail.

Meldrum's Testimony Assailed. Attorney Worthington argued that when ex-Surveyor-General Meldrum took the witness stand in this case he was under the influence of the Roseburg Land Office and that the Blue Mountain withdrawal had been approved, the attorney said no explanation had been offered in the evidence, but it was probably because there was a rule prohibiting clerks sending out information, and that in some way it was known that Mays had an interest in the case. The attorney reasoned that if Hermann had sent the message in carrying out an agreement he would not have had it made a matter of record.

Hermann Reports Cited. Attorney Worthington closed by recounting the opposition which Hermann had shown year after year to the lieuland law, and made a special feature of the attitude of the Commissioner toward the Blue Mountain reserve. When Meldrum brought the letter of recommendation to the Commissioner in July, 1902, McVean testified, Hermann instructed him to add a paragraph suggesting to the Secretary that the proclamation of the President should incorporate a clause making the lieuland law apply to lands of equal value.

PAID FOR JURY AS TAKEN FOR DAVIS

Counsel for Litigant Sent Emissary to Ascertain How Sentiment Stood.

BLUE CASE NOW ON TRIAL

Nurse Who Was Thrown From Mount Tabor Car Asks \$100,000 Damages — Minister Tells of Having Seen Accident.

The "jury-fixing" charges which have been made by W. M. Davis and other members of the Multnomah Bar Association received a blow yesterday morning in the course of the selection of a jury to try the damage suit of Ada E. Blue against the Portland Railway, Light & Power Company. Attorney Davis and Ralph W. Wilbur appeared as counsel for the plaintiffs and defendants, respectively, in the damage suit of Elizabeth Bolland against the streetcar company and in the Blue case.

The Bolland case was that in which the Bolland jury stood, but that he did not wish to ask them whether they had been approached by counsel for both sides. Each in turn swore that he had not been approached. Attorney Wilbur failed to ask the jurors whether they had been approached by counsel for Bolland until Albert Brodrie, the last juror, was being examined.

When he was questioned by Attorney Wilbur he hesitated at first, but finally said Mrs. Bolland's husband had been to see him after the jury had returned its verdict, and asked him how the jurors stood on the first and successive ballots. Attorney Davis then created considerable merriment by admitting that he desired to know how the jurors stood on the first ballot, but that he did not wish to ask them himself, so had requested Bolland to do it. This admission was made in place of his limitation throughout the selection of the jury in the Blue case that such action on the part of the corporation and its attorneys would have been highly improper.

Judge Morrow Lenient to All Who Plead Guilty. Every prisoner who has pleaded guilty before Presiding Circuit Judge Morrow since he took the presiding judgeship has been pardoned. Two were pardoned yesterday. They were Samuel Brautigan and J. R. Miller, alias F. Ford. Brautigan was sentenced to serve two years in the Penitentiary and allowed his freedom. Miller was cleared guilty of having stolen \$500 worth of copper wire last December. Miller could give no excuse, when questioned by the court, for having stolen a watch and chain from the vest-pocket of a planing mill employe last month.

The other three offenders thus far pardoned by Judge Morrow were: M. M. Whittier, charged with a statutory offense; H. D. Warnock, charged with obtaining money by false pretenses, and J. J. McClelland, accused of larceny by embezzlement.

\$7500 ASKED FOR FALL Union Meat Company Employee Sues Firm for Damages. E. L. Bloomfield asks \$7500 damages of the Union Meat Company for falling down a hatchway in the company's slaughter-house on the south side of Columbia Slough. To recover this amount he has filed suit in the Circuit Court.

Bloomfield, last October, was assisting in the cement in a room on the third floor of the slaughter-house. When the sacks were hoisted, three at a time, he came out on a plank. He fell, he would swing them in upon platform used as a landing. Just behind him was a four-foot hole in the floor. He fell into it, striking his left shoulder, and dislocating his right thumb.

WIDOW ASKS FOR ALLOWANCE J. Couch Flanders' Estate Estimated to Be Worth \$50,000. J. Couch Flanders' will was admitted.

OLEAR-HEADED Head Bookkeeper Must Be Reliable. The chief bookkeeper in a large business here is one of our great weak cities speaks of the harm coffee did for him.

"My wife and I drank our first cup of Postum a little over two years ago, and we have used it ever since, to the entire exclusion of tea and coffee. It happened in this way. About three and a half years ago I had an attack of pneumonia, which left a memento in the shape of dyspepsia, or rather, to speak more correctly, neuralgia of the stomach. Mr. cheer had always been coffee or tea, but I became convinced, after a time, that they aggravated my stomach trouble. I happened to mention the matter to my grocer one day and he suggested that I give Postum a trial.

"Next day it came out that I had made the mistake of not boiling it sufficiently, and we did not like it much. This was, however, soon remedied, and now we like it so much that we will never change back. Postum, being a food beverage instead of a drug, has been the means of curing my stomach trouble. I verily believe, for I am as well man today and have used no other remedy.

IS THINNESS EMBARRASSING?

Undoubtedly It Is to Many a Maiden and Youth—While Even Those Well Along in Years Prefer Well-Rounded Figures.

Prescription Increases Weight.

A scrawny, gauntling youth or maiden is almost invariably slighted, overlooked or ridiculed in any social gathering. The thin person is the power of the digestive functions and the ability of the stomach to absorb and assimilate the nutrients of the food eaten.

A recent accidental discovery has proven that tincture cadomene when blended with certain other ingredients will add from one to three pounds of flesh to the body in a month, while the general health and strength also improves wonderfully.

In a half bottle, three ounces of syrup of cadomene, then add one ounce of compound essence of sassafras and let stand two hours; then add one ounce of compound essence of sassafras (not cardamom). Shake well and take a teaspoonful before and after meals, drinking plenty of water between meals and when retiring.

MILTON W. SMITH BANKRUPT Sheriff Enjoined From Selling Law Library by Auction. Federal Judge Bean signed an order yesterday morning declaring Attorney Milton W. Smith a bankrupt. This action was taken upon the petition of the Kilham Stationery & Printing Company, John W. Mann, E. L. Latorre, and Smith himself. With the order of bankruptcy is an injunction restraining Sheriff Stevens from selling the law library and other property. This was to have been disposed of under the hammer at 2 o'clock yesterday afternoon. The law library is said to be one of the finest in the city.

Sheriff Stevens must show cause February 17 why the injunction should not be made permanent. The will of Ella M. Smith gave the Smith law books to the Portland Library Association, together with certain money and stocks. Smith was appointed executor, but when he died, the will was not probated. Attorney W. L. Brewster, representing the library, then obtained a writ of habeas corpus from the court, and placed it in the hands of the Sheriff.

MacDonald Named Bailiff. Judge Cleland appointed James H. MacDonald yesterday morning bailiff of his department of the Circuit Court. He will take the place of Estlin George N. Fawcett, who, on account of illness is unable to do duty.

Witness Tree Gavel Is Lodge Gift. VANCOUVER, Wash., Feb. 10.—(Special)—A gavel made from wood taken from the old "witness tree," that fell into the Columbia about a year ago, and degraded with solid silver elk heads, silver bands, will be presented to the Elks lodge of Everett, Wash., by the Vancouver lodge of Elks when the new Elks hall at Everett is opened Friday night. A committee from the local lodge, consisting of J. H. Ewell, J. A. Padden, Frank Eichenlaub, E. M. Scanlon, Gilbert Daniels, Dr. C. S. Irwin, and J. J. Padden left today for Everett to make the presentation.

SEASIDE SATURDAY. Special Train. Every Saturday, A. C. & C. R. train leaving Portland at 6:30 p. m. runs through to Seaside, stopping at all Clatsop Beach points. Excursion tickets, \$3.00, going Saturday or Sunday, returning Monday. S. A. M. train to Seaside daily.

Piper Heigelsbeck is the top netcher in chipping tobacco. No other is "just as good." Champagne flavor.

The Choice Fruit from a Million Peach Trees is Offered You

Six of every ten cans of Peaches on the market are put up by us. More than a million trees are required to supply this enormous quantity.

From this great quantity we obtain and pack all grades, the grades being determined by the size and quality, for only good fruit is used. We pack these grades under more than four hundred different brands, most of them our own; several of them are for individual dealers who own their own labels.

Our choice brand, though, is Del Monte. Under that label we take the pick. Only tree-ripened, hand-picked, perfect fruit is put into Del Monte cans. All Del Monte

Peaches are ripe, full-flavored. They are handled with the best care we know how to give them, and are packed in heavy, clear syrup, made from pure granulated sugar.

Some few dealers have us pack for them, under their own labels, this famous Del Monte quality. It would make no difference if you knew under what other brands the Del Monte quality is packed. But since there is no way of knowing what are safe brands, the best way is to get Del Monte. The price for Del Monte Peaches is the same everywhere—20c per can. Most dealers can supply you. Insist upon Del Monte, and thus be sure that you get the pick from more than one million trees.



All Del Monte Products Are the Choice from the Largest Gardens and Orchards

Del Monte is the brand under which we pack our choice qualities of canned and dried fruits, vegetables, jams, preserves, catsup and condiments. We are the world's largest canners, and put up more than 400 brands. Del Monte is our favorite. Under that label we put up only those

qualities that pass the most critical inspection as to quality, freshness and flavor. It is always safe to insist upon Del Monte. Some other of our brands may be offered to you, but Del Monte is our quality brand—our choice. Be sure you get Del Monte.

CALIFORNIA FRUIT CANNERS ASSOCIATION SAN FRANCISCO, CAL. The Largest Canners of Fruits and Vegetables in the World

to probate in the County Court yesterday morning, and Edmond C. Giltner was appointed administrator. He filed a bond of \$35,000. The appointment was made upon the petition of Mrs. Mabel C. Flanders, the widow. The Flanders estate is valued at about \$20,000. The widow says that all debts are paid, except the expenses of her husband's last sickness. She asks an allowance of \$250 a month. Mr. Flanders died January 21, at the age of 45 years.

ident to old age, is unable to continue in the position. Until yesterday Mr. MacDonald has been night watchman at the Courthouse. About two years ago Bailiff MacDonald was in the clerk of the Municipal Court. His claim for salary was contested, being paid only after a hard legal fight.

Nature's Gift from the Sunny South

Cottolene Never Makes Food Greasy

Food cooked with hog lard and compounds is so thickly coated with grease as to give the gastric juices little chance to assimilate and digest it. Cottolene contains no hog fat. It does not coat the food with grease, and food cooked with it is easily digested.

From the standpoint of health, there is no comparison between food cooked with Cottolene and food cooked with lard. Lard is just hog fat—Cottolene is a vegetable product of Nature.

Cottolene makes food which any stomach can digest and builds up the tissues of the body.

COTTOLENE is Guaranteed Your grocer is hereby authorized to refund your money in case you are not pleased, after having given Cottolene a fair test.

Never Sold in Bulk Cottolene is packed in pails with an air-tight top to keep it clean, fresh and wholesome, and prevent it from catching dust and absorbing disagreeable odors, such as fish, oil, etc.

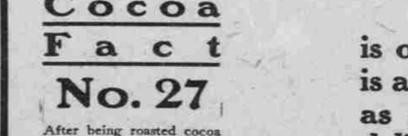
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OLEAR-HEADED Head Bookkeeper Must Be Reliable.

The chief bookkeeper in a large business here is one of our great weak cities speaks of the harm coffee did for him.

"My wife and I drank our first cup of Postum a little over two years ago, and we have used it ever since, to the entire exclusion of tea and coffee. It happened in this way. About three and a half years ago I had an attack of pneumonia, which left a memento in the shape of dyspepsia, or rather, to speak more correctly, neuralgia of the stomach. Mr. cheer had always been coffee or tea, but I became convinced, after a time, that they aggravated my stomach trouble. I happened to mention the matter to my grocer one day and he suggested that I give Postum a trial.



Ghirardelli's COCOA

is one thing we like and is as nourishing and good as it is fragrant and delicious.

Don't ask merely for cocoa—ask for Ghirardelli's.