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# Oregon Journal

JOURNAL CIRCULATION YESTERDAY WAS 29,650

## FLAWS IN MANNING INDICTMENTS

### NEW BILLS REQUIRED

#### Title Guarantee & Trust Company Affair Again Muddled -- Information That Can Stand Test Must Be Drawn.

Presiding Judge Cleland in the circuit court this morning sustained the demurrer to all three informations pending before him in the cases of J. Thorburn Ross and the other indicted officials of the Title Guarantee & Trust company. He found the indictments presented by District Attorney Manning to be full of flaws, but the decision also shows that informations that will stand the test can be drawn.

Deputy District Attorney Bert Haney was the only representative of the district attorney's office in court this morning when the blow to Manning's informations fell. Mr. Haney at once asked for an order resubmitting the cases to the district attorney, so that new informations may be filed, and the order was granted. Making use of the pointers given by Judge Cleland this morning, the district attorney will set himself once more to the task of trying to draw an information that will hold water. But his hope of an early trial of the cases has gone glimmering, for the slate is now clean and it will be necessary to start over again. Then, no doubt, will follow the usual delay incident to motions to quash and the filing of more demurrers.

In one important point the contention of the state was sustained. This is the claim that section 1887 of the code applies to private persons as well as to persons occupying public office. Had the demurrer of the defendants been sustained in this regard it would have meant an end of the cases. The opinion of Judge Cleland is that this statute does apply to such cases as those of Ross and his associates, and that they are liable to prosecution. Escaping what would have been a fatal defect, Mr. Manning's problem is now reduced to preparing an information that is flawless in its phrasing, and in which he will be materially assisted by the suggestions of the court, and if he is an apt pupil he may be able to master the test on the second attempt.

#### Reviews Argument.

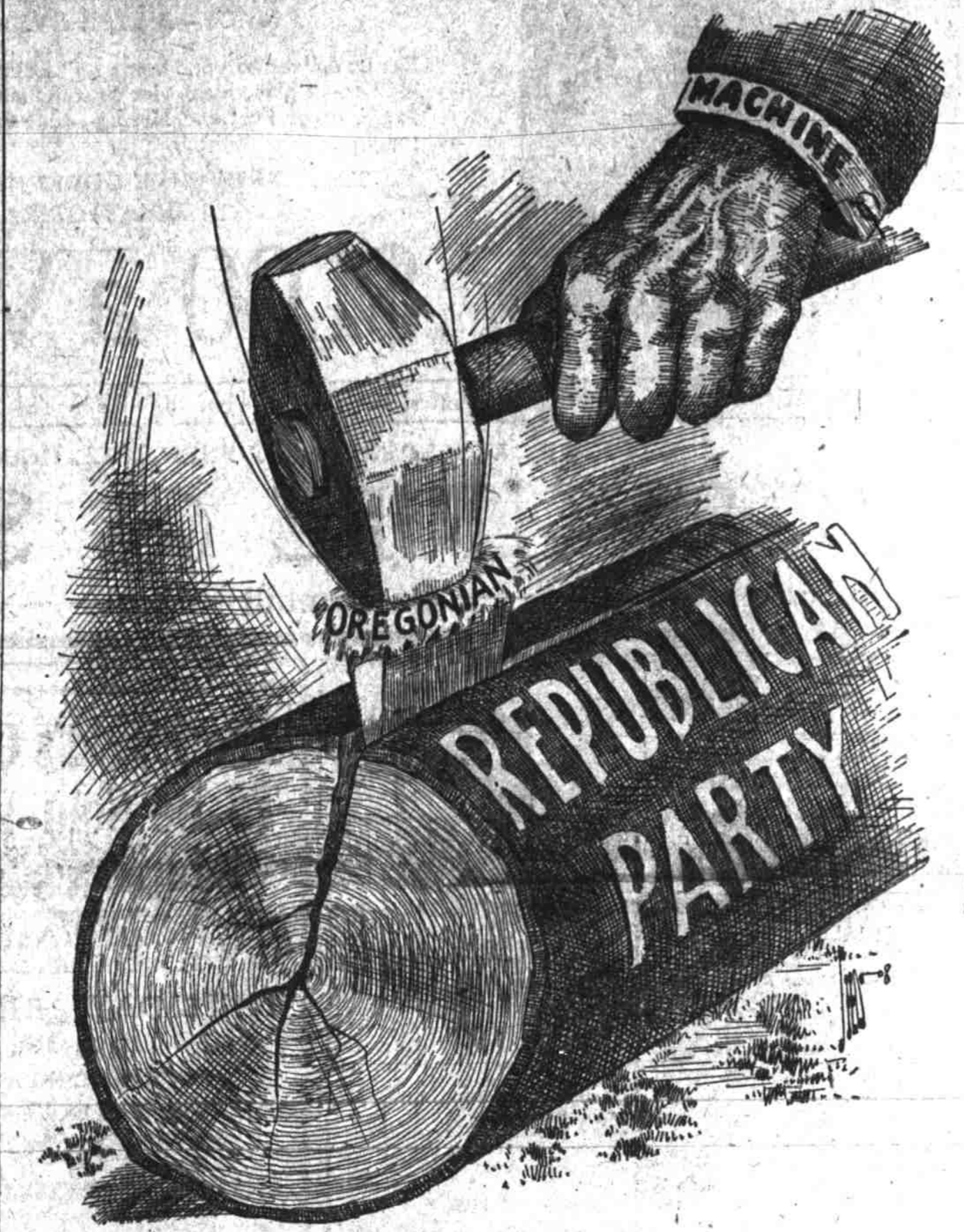
Striking to the kernel of the question at the outset of his decision, Judge Cleland took up the arguments in behalf of the defendants on the point common to all the informations, that there can be no prosecution of private persons in violation of the provisions of the code relating to misuse of the state school fund, it being insisted that the different kinds of larceny are entered into in the statute, and that the school fund is the property of the state, and that the demurrer was not proper. The court disagreed with this view, saying that while the statute is phrased in terms of public officers it also includes persons who are not public officers. He described the present cases as proper ones under the statute, referring to persons not officers who are in possession of money for the state.

#### Facts Not Set Forth.

The demurrer was likewise sustained on the ground that the facts and circumstances surrounding the alleged crimes are not set forth sufficiently. Judge Cleland touched on this only briefly, saying that it is necessary to charge to be crimes, and that it is not enough to plead the conclusion of the district attorney that these things are crimes. As to the point that two crimes are charged in the same information, the court is sustained as to information No. 680, in which the conversion of \$25,000 of state money is charged, and the loaning of \$10,000 to M. B. Rankin and refusal to repay State Treasurer \$25,000 on demand are charged. In regard to No. 680, which may be called the hub of the wheel, the court said that if the time and place had been given the charge of simple larceny would be complete, in addition to the allegation that the defendants wrongfully appropriated and converted to their own use the money of the state. This is a form of both general and special pleading, which the court held amounts to charging two crimes in the same information, and therefore objectionable.

Judge Cleland also passed on the motion of attorneys for T. T. Burkhardt and John E. Atchison in case No. 684, in which they sought an order of discharge, claiming that they cannot now be proceeded against because they were

### THE WEDGE THAT SPLIT THE PARTY



"Machine" Has Found It a Useful Tool

## E. R. BRYSON AND JOHN McCOURT ARE CONSIDERED FOR POSITION

Oregon's delegation in Washington has picked two candidates for the position of United States district attorney for Oregon and one of the gentlemen for whom the position has not been heard from. The job that Christian Schuchel sought seems to be going begging, and a man for the place appears to be about as hard to find, from a delegation viewpoint, as a needle in the proverbial haystack.

Some days ago the names of E. R. Bryson of Corvallis and John McCourt of Pendleton were whispered among the wise ones. Inquiry at Washington developed nothing more definite than "We are looking into the matter and considering several men eminently fit to hold the important position."

This morning The Journal sent to Corvallis for a confirmation of Mr. Bryson's candidacy. The correspondent learned from the gentleman that it was true that he had been approached on the subject in an indirect way, but he added that he would not accept the position even if it were offered him.

"I am not a candidate," said Mr. Bryson, "and I do not intend to be one. This morning I sent a telegram to Washington to the delegation saying that I would not consider the proposition."

Mr. Bryson's friends are urging him to accept, since it became known that

his name was under consideration by the delegation.

Telegrams were received at Corvallis this morning from Washington making inquiry as to his qualifications and experience.

Mr. Bryson added: "My first intimation as to the federal district attorneyship was received this morning. I could not consider the appointment, if for no other reason than I have announced my candidacy for district attorney of the Fourth prosecuting attorney district and do not care to become a miscellaneous candidate."

Mr. Bryson is 32 years of age and has been practicing law for 11 years. He has had no relation as counsel for land fraud defendants. As deputy district attorney he broke the illicit traffic in liquors here under the so-called club plan after the local option law went into effect.

#### MCCOURT IS RECEPTIVE.

Not Making Fight for Attorneyship, but Would Take It.

(Special Dispatch to The Journal.)

Pendleton, Or., March 3.—Attorney John McCourt of this city, who is mentioned in today's Washington dis-

patches as a candidate for United States district attorney, is not making an active fight for the place. His name has been presented by friends and urged by Congressman Ellis, and if the nomination comes he will accept it.

Mr. McCourt is a native of Canada, 34 years old. He practiced law at Salem four years and has been at Pendleton eight years. He is city attorney and deputy district attorney and is a member of the firm of McCourt & Phelps. He is very popular and is considered one of the ablest lawyers of eastern Oregon. He has made a good record as a prosecutor. He is not allied with any faction in politics.

## PORTLAND SHOULD TRY TO GET CRUISER SQUADRON

Portland may get part of the cruiser fleet to visit the city during the Rose carnival. There has been no definite arrangement by the navy department for a detail of ships to stop here, but a dispatch to The Journal this morning from Washington states that it would not be a difficult matter to arrange for the detail of ships if representatives of the state in congress will make an urgent request for it.

The message says that there will be no detail of battleships for Portland, as the fleet will go to Puget sound direct as programmed, but that the torpedo flotilla and cruiser squadron might be sent here if circumstances permit.

Prompt action by local commercial bodies might bring a number of fine cruisers here during the flower carnival, and it is worth while trying to get them.

Robert Tucker, one of the new appointees, served as assistant United States attorney under John J. Sullivan in the western district of Ohio, for five years. He came to Portland as the counsel of the Home Telephone company and was appointed to accept the appointment in clearing up the work of the office.

Walter H. Evans, the second appointee, was in the government service as an attorney for seven years. He was in the jurisdiction of Judge W. M. Hunt, who presided over the land cases tried in Portland, during the time Judge Hunt was in Portland. He was later sent to other parts of the country on government business and at last retiring to his home in Portland about two years ago.

#### Office Business Imperative.

In making his request for the appointment of the deputies and for the calling of the grand jury, Mr. Bristol explained that he did not know what the plans of the department of justice or of the Oregon delegation in regard to the district attorney's office were. He knew that the business of the office demanded that the accumulated business be cleaned up. He therefore called for the appointment of the two deputies and the grand jury.

Mr. Bristol said that he wanted to make arrangements for the grand jury and later a petit jury. He desired to also provide for night sessions if possible in order that the court calendar be cleaned up as soon as possible for, he said, "I understand that the entire state is to be turned upside down and torn to pieces in April when the grand jury returns to Portland."

Mr. Bristol said he did not know what T. C. Becker was going to do. All he had understood was to take the remainder of the land cases, but there now seemed to be some doubt on the subject. He did not know what would be done with the land cases or who would try them.

#### Becker to Try Land Cases.

Judge Wolverton interrupted to say that he had understood that Mr. Becker would try the land cases and that no additional information had come to him to change this program. As far as he knew the land cases would be taken up on April 13 by Judge Becker and tried out. The court said that the object of having the deputies appointed and the grand jury called was to clean up the county jail of men held to await the action of the federal court or to await the examination of the grand jury. It was not to go into the land cases in any way.

Mr. Bristol in asking for the grand jury suggested that a venire of 125 names be drawn. Judge Wolverton, however, held that 80 would be sufficient, stating that should it be impossible to get 125 names, the venire should be reduced to 80.

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## FEDERAL DOCKET TO BE CLEARED

#### Bristol Refuses to Wait Longer--At His Request Judge Wolverton Appoints Attorneys Tucker and Evans Assistants.

#### Grand Jury Called for March 16--Petit Jury April 13--Transgressors Against Uncle Sam's Laws Will Be Rushed to Trial.

The criminal docket of the United States court is to be cleared at last. With that end in view Robert Tucker and Walter H. Evans were this morning appointed assistant United States attorneys, by Judge Wolverton, upon motion of District Attorney Bristol. The two new appointees were sworn in open court and at once entered upon the discharge of their duties.

A grand jury has been called in the circuit court for March 16 at 3 o'clock in the afternoon, a venire of 60 names having been ordered by Judge Wolverton. A petit jury for the trial of all indictments returned by this grand jury, or all criminal cases pending outside the grand cases, will be ordered by Judge Wolverton in due time to report the second Monday in April, that date falling on April 13, at which time the whole docket will be swept clear of cases.

The appointment of the two deputies grows out of an agitation which has been going on by Judge Wolverton for some time. The court has been urging Mr. Bristol to take some action tending to relieve the congestion of the docket. There are at the present time some 16 men in the county jail awaiting the action of a grand jury. Some of these men have been awaiting consideration for nearly eight months and Judge Wolverton desired that they be brought before the court for trial.

Mr. Bristol some time ago sent word to the department of justice that unless some different instructions were given his office would appoint two deputies for him to assist in the work of cleaning up the docket. He heard nothing from the department until the latter part of last week when he received word from the attorney-general that the department would appoint two deputies to assist in the work of cleaning up the docket. He was later sent to other parts of the country on government business and at last retiring to his home in Portland about two years ago.

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#### Battleship Colorado Goes into Drydock

Bremerton, Wash., March 3.—The battleship Colorado went into the drydock this morning at 10 o'clock. She will have some new plates and some new guns installed.

## FEDERAL GRAND JURY WILL DEAL WITH BOMB TOSSERS

#### Miss Harriman Weds Mr. Gerry



MISS CORNELIA HARRIMAN, WHO WEDS ROBERT L. GERRY TODAY.

(United Press Leased Wire.) New York, March 3.—One of the most brilliant weddings of the winter took place in Grace church at noon today, when Miss Cornelia Harriman, daughter of Mr. and Mrs. Edward H. Harriman, was married to Robert Livingston Gerry of Boston, in the presence of a distinguished company, which included many persons prominent in New York and Boston society.

The church, which lends itself to a beautiful floral decoration, was profusely adorned with Bride roses, lilies and white lilies, with masses of delicate ferns and the choicest tropical greens banked about the pulpit platform. The music was another attractive feature of the ceremony. This included a full choral service by the choir of the church and organ selections by Nathan Franko.

The maid of honor was the bride's sister, Miss Mary Harriman. The bridesmaids were the Misses Carol Harriman, another sister of the bride; Marion H. Clarke and Ruth Averell, cousins of the bride; Elsie Howland, Anita Feabody and Margaret Dix. The bridesmaids wore attractive costumes of pink and white chiffon and each carried La Tosca clusters of pink and white roses. The bride, who was escorted by her father, wore a superbly built gown of rich cream satin, with bodice and sleeves heavily embroidered in silk and finished in a full point lace. The bridegroom had as his best man his brother, Peter Goeliet Gerry. The Rev. Dr. William R. Huntington, rector of Grace church, officiated and was assisted by the Rev. Dr. J. H. McGuinness of Arden, New York. Bishop Doane of Albany pronounced the benediction. The ceremony at the church was followed by a reception and breakfast at the Harriman home in Fifth avenue.

The bride of today is the second daughter of the noted railroad magnate and is a direct descendant of John Neilson, who fought under Washington and was a member of the continental congress. Mr. Gerry, the bridegroom, is likewise of Revolutionary stock, being a great-grandson of Eibridge Gerry of Massachusetts, a signer of the Declaration of Independence and a member of both the continental congress and the constitutional convention.

## TAX MONEY COMES EASY IN MARION

(Special Dispatch to The Journal.)

Marion, Or., March 3.—Marion county, judging by the flow of taxes into the county treasury, has not only been unaffected by the recent panic, but money is to be more plentiful than it was at this same time last year. During February, 1907, but \$4,217.64 was collected in taxes, whereas this year for the same month \$36,718.47 has been paid, nearly all taxpayers being able to pay and secure the rebate of 3 per cent. It is estimated that before March 15, the date on which the rebate privilege ceases, nearly half as much again as has been paid during February will be collected.

## JAPS TRY TO SCARE CHINA

#### Mikado Makes Return of Steamer Satsu Maru Occasion of Naval Demonstration--Fourteen Warships to Take Possession of the Smuggler.

(United Press Leased Wire.) Tokyo, March 3.—Japan intends to make the return of the steamer Satsu Maru from Macao the excuse for a naval demonstration, and its vessels of the Japanese navy left today to act as an escort to the ship on her return trip. The Satsu Maru was seized by the Chinese several weeks ago on the grounds that its owners were attempting to smuggle a large amount of arms and ammunition into China for the benefit of the Chinese rebels. The vessel was ostensibly bound for the Portuguese port of Macao, but was held by a Chinese warship in the roadstead and not allowed to make port. The Chinese found many cases of rifles on board. The Japanese government immediately took steps to secure the release of the vessel and the return of the cargo. In this they were supported by the Portuguese at Macao, who asserted the guaranteed treaty rights of their port had been violated by the action of the Chinese. After considerable negotiation the Chinese assented to the Japanese proposal and informed the Japanese government that the vessel would be returned to them if they would agree to the Japanese proposal. The Japanese and Portuguese warships were bound for the

## CONSPIRED TO MURDER

#### Chicago Police Detect Plot to Kill Prominent Men--United States Officials After Firebrand Newspapers.

(Special Dispatch to The Journal.)

Chicago, March 3.—District Attorney Sims announced that the federal grand jury which convenes today will deal with some phases of the anarchistic agitation and that his office with those of postoffice and immigration departments will unite in a campaign to stamp out the evil.

Denunciation of the government and law and order is often the authority in incendiary attacks and vicious appeals in newspapers will now receive a careful scrutiny from the postoffice officials.

At the same time anarchists who came here from Europe and who are not now citizens of the United States are to be sent back to places from whence they came under the immigration laws of 1907, which District Attorney Sims declares are broad enough to include all shades of anarchists.

Unearthing of a significant anarchistic plot in which Mayor Busse, Chief of Police Shippy and Captain E. J. O'Brien of the detective bureau were marked for death by a lot of anarchists, the Chicago police force today planned a complete roundup of anarchists with the intention of striking a blow that would rid the city of terrorists. Six alleged accomplices of Lazarus Avebuch, the 20-year-old Kishinev man who sought the life of Chief Shippy and met his own death in the attempt, are now under arrest.

The latest suspect taken is Isadore Maron, 26 years old, who was known as the "curly headed boy" and who the sister of the dead assassin declared took part in her brother's studies.

The police plans include the complete roundup of all known anarchists or radicals. Every "holed" will be seized, literature will be seized and the cult exterminated.

#### Maron Denounces Police.

Battling with his captors and denouncing law and organized government, Isadore Maron, 26 years old, who is said to have been the adviser and associate of Lazarus Avebuch, was arrested today at his home. He lived with Avebuch and his sister. His arrest is considered most important by the police. It is believed that it will expose the anarchist conspiracy which was intended not only to strike down local representatives of the law, but was expected to other prominent men in public life.

Maron suddenly changed his tone when under arrest. He said: "I will be terribly misled." The attempt to assassinate the chief was the result of his order suppressing a meeting at which Emma Goldman, the notorious woman anarchist, was advertised to speak.

The police are not certain whether Lazarus Avebuch had accomplices in

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