

DEFENSE MAKES LAST PLEA FOR BINGER HERMANN

Colonel Worthington Closes Argument in Land Fraud Case and Case Will Reach Jury About Noon Tomorrow.

Earnestly appealing to the jury to wipe off the slate and return a verdict of acquittal for Binger Hermann, Colonel Worthington closed the arguments for the defense at noon today in the United States court, and thus ended the contentions of Hermann and his counsel that he is innocent of the charges being brought against him.

Mr. Heney will take up all of the time this afternoon until 5 o'clock in making the closing argument for the government, and court will convene in the morning at 9 o'clock to listen to the charge of Judge Wolverton.

Goes to Jury at Noon.

This will take most of the morning, and the case will be given to the jury for final consideration by noon. It is believed that a verdict will be returned before Sunday morning.

The whole question was summed up by Colonel Worthington in his closing in his contention that the one great question before the jury was whether they were convinced beyond a reasonable doubt that Hermann had entered into a conspiracy with Mays and Jones and the rest, particularly with Mays and Jones, tacitly or directly, by which he was to aid them in getting their fraudulent scheme through the land office to completion in exchange for their votes

EASIER TO PREVENT

Most physicians are agreed that the best way to combat most ills is by the indirect method of stimulating the body's natural powers in fighting and destroying the germs of disease. Consumption, for example, is much easier to prevent than it is to cure, and throughout the land a determined warfare is being waged to lessen the danger of infection by this insidious disease. Coughs and colds are a prolific source and should not be neglected.

At the first sign of a cold, steps should be taken to check it at once, and this can best be done with a simple mixture of two ounces of Glycerine, a half ounce of Virgin Oil of Pine compound pure and eight ounces of pure Whiskey. These can be mixed together in a large bottle. Shake well and take a teaspoonful every four hours. It is claimed by the Leach Chemical Co. of Cincinnati, who prepare the Virgin Oil of Pine compound pure for dispensing through druggists, that this mixture will break up a cold in 24 hours and cure any cough that is curable.

and efforts to put him in the senate of the United States.

By Mr. Heney's admission, Colonel Worthington said, the idea that Mr. Hermann was to have benefited financially through the completion of the conspiracy was wiped out of the case.

In the same way all idea that he was to receive any of the lands to be secured was eliminated, so that the one sole question was his reward through the senatorship for what he was alleged to have agreed to do.

Says Evidence Lacking.

There was not a line of testimony in the case, Colonel Worthington contended, that went to show that Hermann ever entered into any such agreement, or to show that Mays or Jones knew of his senatorial ambitions. In fact, there was the testimony of Hermann that they did not know of it, and the record of the legislature of 1903 to show that at no time during the 40 day fight they voted for him.

The jury was asked to return a verdict on this kind of evidence, which was, in fact, no evidence, and this in the face of the fact that Hermann had defeated the scheme of Mays and Jones by withdrawing the lands in the Blue Mountain reserve from settlement, which put a stop to all frauds in the lieu lands contained within its boundaries. The geological survey had recommended the creation of the reserve, and Ormsby had done the same.

Considered Reserve Good.

Langille, the confidential man of Secretary Hitchcock, had also made a report favorable to it and contended on the stand in the present trial that he considered the reserve to have been a good one, yet in the face of this condition of affairs, Hermann had made only a temporary withdrawal, and had insisted that there be a full investigation before the withdrawal was made permanent and that the situation stood in that place when he went out of office.

Colonel Worthington, after speaking through yesterday afternoon, summed up his argument this morning. He did not float away into oratory, but talked evenly and earnestly to the 13 men in front of him, presenting his points from the evidence of the case, calmly and quietly, as one man talks to another.

Sorenson Strongest Witness.

He contended that it must not be understood that the defense had admitted that the government had proven the Mays-Jones conspiracy. The only witness the government had to show that conspiracy was George Sorenson, himself an accomplice and uncorroborated. In addition to the fact that Sorenson was a convicted man, under indictment for perjury and other offenses, he had become tangled in his testimony.

Hermann had tried to have the lieu land act amended or repealed, and had kept at it continually until it was finally accomplished in 1905, while he was a member of congress.

Heney had contended in his argument, Colonel Worthington said, that no conspiracy was ever openly made, and yet he had come before the jury with the argument that Hermann and Mays had talked openly about the Blue mountain deal in the presence of Melidrum and others.

The defense had made a demand for the report of the geological survey on the Blue mountain reserve, and the government had not produced it. Therefore, Colonel Worthington contended, the government had left the Blue mountain case up in the air, by not showing that action was finally taken on the reserve, following the recommendation of Hermann that it be referred to the geological survey for further consideration.

Hermann had written a letter to O. L. Patterson in the fall of 1902, telling him, in answer to his protest, that be-

fore any final action was taken on the Blue mountain reserve that there would be a full investigation and all parties would be given an opportunity to be heard so far as his office was concerned. This did not look like Hermann was in collusion with Mays and Jones to rush their schemes through the office.

Called Mays Explosive.

Colonel Worthington called attention to the testimony of "that explosive German, Professor Roth," former chief of the forestry division, who had testified that Hermann had always taken up each reserve personally for investigation and whose whole idea seemed to be the prevention of frauds or collusion. This, coming from the government's own witness, the speaker contended, did not go to prove their case of conspiracy with Mays or Jones.

Too great consideration should not be given to testimony of employees of the government, Colonel Worthington contended. They were compelled to look out for their jobs and feared that should they not support the government's case that they would lose their positions.

Mr. Heney put in here and asked the speaker if he believed that his pull with the present administration or the present secretary of the Interior was so great that the employees had anything to fear from his recommendations.

Recalls Muller Case.

Colonel Worthington replied that it was not a case of what the employees knew, but what they feared. He recalled the case of Muller, who had refused to talk to Worthington, saying he would have to ask Heney, and of Hough, former secretary of Hermann, who, in Washington, had said he would have to ask District Attorney Baker before he could confer with attorneys for the defense and then reported that he had been ordered not to talk to any one for the defense.

Passing to the testimony of Tarpley, Sorenson and C. E. S. Wood, Colonel Worthington argued that the jury was not to give credit to any witness that were satisfied from the other evidence that Hermann was guilty of a conspiracy.

Emmett Callahan's testimony was characterized as ridiculous. Colonel Worthington asked how the government could expect the jury to believe it, when Callahan said in one breath that he was on intimate terms with the president of the United States, the secretary of the interior and with Hermann, and then in the next admitted that Hermann did not remember him when he appeared in his office in Washington.

What Heney Asked.

In the face of these conditions Heney was asking the jury to believe that Hermann told this practical stranger to all intents and purposes that he was conspiring with Mays and Jones, and had then told him to go tell the secretary of the interior about it.

Again, Worthington argued, Callahan had said that he had told Hermann the greatest objection to the Blue mountain reserve was the charge of fraud in the school lands, and had asked if there was not some way to cut those lands out, and Hermann had said that they could be checkerboarded out.

Acting on this statement, Hermann brought in a map and showed how he had done this in the case of the San Francisco mountain reserve. Yet, Worthington said, Heney was asking the jury to believe that Hermann was in the conspiracy when he would explain to Callahan how it would be possible to defeat the very object of the conspiracy.

"Citizen's Letter."

The speaker went into the question of the "Citizen's letter," calling attention to the school land frauds of Hyde and Benson, and said that this letter had gone to the

division and not to Hermann, and that it had there fallen into the hands of Harlan and Walk, who were in the employ of Benson, and who undoubtedly suppressed it.

Walk was the only man who had testified that Hermann had seen this letter and thus gained knowledge of the school land frauds. Walk had been in the employ of Benson. He had told of this to the government and yet in the face of this had been kept in office for four years or until after he had given his testimony against Hermann in Washington. He was afraid to tell the truth now, for fear that he would be prosecuted for perjury committed at the Washington trial.

Put Case to One Side.

The Hyde-Benson case had no connection with the Blue Mountain case, and should be put to one side by the jury, Colonel Worthington contended. Heney would say that Hermann knew of these frauds and would not tell the secretary of them for fear that he would throw some obstacle in the way of the Blue Mountain reserve, but the records showed that the special agents of the department had been busy uncovering nearly 3000 frauds during that same time.

Why did not these frauds endanger the Blue Mountain reserve, and why did not Hermann try to stop these investigations if he were afraid the secretary would prove unfavorable to the Blue Mountain case because of suspicions aroused?

In speaking of the Zabriskie letters, which told of the Hyde-Benson frauds, Colonel Worthington contended that the records and the evidence showed that Hermann had pushed that investigation, taking up the letters and acting on them as soon as they were received.

Ordered Claims Suspended.

As soon as he received the Holsinger report he ordered that all of the Hyde-Benson claims be suspended pending investigation, and they remained so tied up until after the commissioner went out of office.

The speaker also made the point that Benson would not have had to bribe subordinates in the commissioner's office to secure favorable action on the claims presented by them if the commissioner had been his friend.

There had not been a word in the Mitchell correspondence that could be construed against Hermann, the speaker contended, and he charged that had there been anything of that kind that the government would have produced it.

At the beginning of court this morning the jury asked that court be convened at 9 o'clock tomorrow in order to give as much time as possible for the consideration of the verdict, following the charge of the court to the jury. This was agreed upon by Judge Wolverton.

PULL TOGETHER FOR SUBMARINES FOR THE PACIFIC

(Continued From Page One.)

present battleships to the west coast. Taft informed them that he must regard the effective water fighters as a unit and must retain them, as in the past, on the Atlantic coast.

The western men went over the submarine question with the president. They argued strenuously for the ten year plan, and Mr. Lamont thus analyzed it:

"A Dreadnaught battleship costs \$10,000,000 to build and \$1,000,000 a year to maintain. Ten submarines may be built for \$5,000,000, and the cost of maintaining one battleship is equal to the cost of maintaining 40 submarines. Only four submarines are building

on the Pacific coast—two at Seattle and two at San Francisco. Our people demand the protection which the submarine program would give."

Dangerous in Present Situation. Congressman Humphrey said: "It would be possible for a foreign warship to enter Puget sound in a fog without watches on shore seeing it."

Congressman Kahn of California said: "We are not predicting war with Japan, but we demand that preparations be made that Pacific coast cities may be protected in case of emergency." Of course, the Seattle and San Francisco men are the most active factors in the propaganda, but the plan has the support of the Oregon delegation as well.

Boastful Appear Confident.

Senator Perkins of California, chairman of the senate naval affairs committee, is believed to be favorable to the plan. Indeed, though those who are urging it as ship builders do not assert that it will be adopted, their manner and recently manifested confidence leads one to believe that they have had some confidential assurances from the senate and house managers which warrant the jovial countenances they show when one asks them about the matter. It looks somewhat as though the Moran company and the Union Iron Works were about to do a whole lot of work for the government.

Inventor Edison's 63d Birthday.

Fort Myers, Fla., Feb. 11.—Thomas A. Edison, the inventor, quietly observed his sixty-third birthday at his winter home here today. No special plans were made for the celebration of the anniversary. Mr. Edison is apparently in the best of health and spirits. He expects to remain here with his family until April, when he will return to his home and workshop at West Orange, N. J., to resume his labors for the perfection of a storage battery to be applied to streetcars.

Journal picture coupons are appearing on page 2 every day. The first one was printed Monday. Don't fail to cut them out.

FIRST SHOWING SPRING STYLES

We place on display this week a full line of Young Men's College Clothes for spring.

DISTINCTLY DIFFERENT from those that will be shown elsewhere. They are made with BROAD ATHLETIC SHOULDERS and long roll lapel—two and three-button effects—with full peg-top trousers. You are invited to inspect same.

MEN'S MANHATTAN SHIRTS ARE HERE. THE NEW SPRING BLOCKS IN BREWER HATS.

BEN SELLING

Leading Clothier

Going! Going! Going!

BOUGHT BY

DAVIDSON BROS.

THE ENTIRE NEW AND UP-TO-DATE STOCK OF

Joe Bernhardt, BANKRUPT

Consisting of Men's Clothing, Overcoats, Cravenettes, Pants, Hats, Shoes, Suitcases, Furnishings, Etc.— Forced to Vacate the Building at Once—They moved this stock into their own big store at the COR. DAVIS and NORTH SIXTH—at this season of the year it leaves them heavily overstocked therefore we must unload

Beginning Tomorrow Morning Promptly at Nine o'Clock

The Bankrupt Stock bought by them UNDER THE HAMMER OF THE UNITED STATES COURT, together with their own mammoth stock of Men's Up-to-Date Toggery, goes on sale—all at

BANKRUPT PRICES

Forty thousand dollars' worth of Up-to-Date Men's Goods, from head to foot, to select from. THE ONE OPPORTUNITY NOW AWAITS YOU. Come—come early—come sure.

SUITS

\$10.00 and \$12.50 Suits at \$4.95
\$15.00 All Wool at \$7.65
\$18.00 All Tailored at \$10.85
\$25.00 and \$30.00 Bench Tailored. \$15.85

Overcoats

\$10.00 Overcoats at \$3.85
\$20.00 Overcoats at \$7.85
\$25.00 and \$30.00 Overcoats. \$15.85

SHOES

Men's \$2.50 Work Shoes at 95¢
Men's \$3.00 Work Shoes at \$1.60
Men's \$3.50 to \$4.00 Dress Shoes. \$2.35

Men's Pants

\$2.50 All-Wool Pants go at \$1.45
\$3.00 All-Wool Pants go at \$1.85
\$4.00 All-Wool Pants go at \$2.85
\$6.00 All-Wool Pants go at \$3.35

MEN'S SHIRTS

\$1.00 Pilot Shirts go at 29¢
\$1.00 Piquant Shirts go for 40¢
\$1.00 Soft Cashmere Shirts go at 60¢
\$1.50 Negligee Shirts to go at 85¢
\$2.00 Negligee Shirts to go at \$1.15

UNDERWEAR

75c to \$1 Derby Ribbed Underwear at 39¢
\$1.50 Cashmere Wool Underwear. 95¢
Cooper's Reg. \$3.50 Suit, garment \$1.35
\$2.50 Silk, best on earth, garment. \$1.35

OPEN EVENINGS During This Sale

Get the Place Right in Your Mind Then Come

DOORS OPEN PROMPTLY AT NINE A. M., TOMORROW, SATURDAY

ELLIOTT BROS. (Selling This Stock) Davidson Bros., 61-63 North Sixth St. Corner Davis and North Sixth Streets