

DAILY CAPITAL JOURNAL

VOL. XV.

SALEM, OREGON, WEDNESDAY, JUNE 21, 1905.

NO. 144.

MITCHELL TRIAL BEGINS

Jury Completed Last Night Whose Verdict Is Final

Portland, June 20. The U. S. court room, in the post-office building began to fill up at 9 o'clock, an hour before the time set for the trial of Senator Mitchell. Officers of the court were preparing the place for the reporters. Outside thronged the 150 jurors who had been summoned from all parts of the state to serve on this momentous occasion. Some who were summoned from remote parts of the state were unable to reach Portland. Many got the summons only Friday or Saturday, and, with large farms on their hands, could not manage their work to leave, except at a great loss to themselves. At exactly 9:25 the bailiff opened the court room, and admitted the jurors, who practically filled all the seats. The court room is about 40x40, on the second floor of the post-office building, and is completely equipped for holding court. A large oil painting of Judge Deady ornaments the wall behind Judge DeHaven's seat. A massive sea-green chandelier hangs in the center.

The jurors are a solid looking lot of men, substantial farmers, with faces tanned and hands hardened from toil in the fields. I have met a great many of them, and they seem generally disposed to do justice, and find guilty any man who deserves the penalty of the law.

At 9:45 Senator Mitchell entered and took his seat. He stood erect, walked elastic and had a clear expression on his face. Judge Bennett came in next. His hair was not closely brushed, and there was a short, stubby growth of beard on his face that reminded one of a cross between Eastern Oregon sage-brush and Shakespeare's "new-mown stubble of harvest home." At 9:55 Frances J. Heney entered. His hair

was parted in the middle, he wears glasses, has a little bald spot on top of his head, red spots on each cheek, a nose slightly hebraic, set exactly in the middle of his face, and wears a gray suit.

At Heney's elbow sits Representative Banks, who made the famous speech about living in a house with battens, rather than not vote for C. W. Fulton for U. S. senator. He is now assistant U. S. district attorney, and does not have to live in a battened house.

The Beauty of the Bar.

John M. Thurston, of Nebraska, sits next to Judge Bennett, and is the tall, fine-looking man of the whole battery of lawyers engaged in the case. Mitchell wears black, and looks saddened over the deaths of two daughters in the past few months. Certainly he has been pursued by hard luck, and can say with Cardinal Woolsey, "If I had served my God all my life with half the zeal I have served the people he would not have abandoned me to mine enemies in my old age." After a request by Chas. J. Lord that his trial be set for next Monday, Marshal Reed called the panel of jurors, and nearly all were present.

Of 200 called 142 answered present. At 10:15 Judge DeHaven asked all who wanted to be excused to step forward. About 100 arose and crowded up in front. The judge talked quietly with each man. The excuses could not be heard by the reporters. The judge is a smooth-shaved man, all but a white chin beard about 2 1/4 inches long. He has clear gray eyes, a ruddy face and gray hair. He seemed to let men off pretty easy, and the relieved men fled out.

Right behind Public Prosecutor Heney sits the bull dog of the secret service force, William J. Burns. He is a short, full-bodied man dressed in gray store clothes, has a moustache with the tips curled up by the barber, brown hair and wears a brown derby hat.

Sickness, crops, visitors, business and family affairs were alleged. The men who wanted to go home were a nervous, distressed looking lot, while the jolly, well-fed, satisfied-looking fellows were keeping their seats, and willing to serve. More than half who applied were not excused from service.

It was 11 o'clock before Judge DeHaven had heard all who asked for excuses. The few excused fled slowly out, while those denied excuses dropped back into their seats wearing on their faces looks of disappointment. During this prolonged wait Heney was nervously thumbing his book of typewritten notes on the jurors, making new notes, and frequently conferring with Burns. Heney has the long head and heavy fowl of a born fighter. He and Burns are both inclined to be sandy, choleric and combative. Thurston is a tall, fine-looking man, with a high forehead, hair turning gray, a moustache that is graceful, and a mouth that speaks eloquence. He has a large manly face, a Roman cast of countenance, fine hands and a good figure that commands respect.

After considerable delay and several conferences the case of the United States versus John H. Mitchell was adjourned to 2 o'clock.

Selecting the Jury.

Portland, June 21. At 2 o'clock Monday the examination

of jurors was begun, and there was the closest kind of sparring for the rest of the afternoon over selections of jurors. To the surprise of every one G. Steiner was accepted after a close and searching cross-fire from Judge Bennett and District Attorney Heney.

There was a denser crowd present than in the forenoon. Quite a number of women were present. District Attorney John H. McNary, who has charge of the Marion county land fraud indictments, was present at the trial. H. Cleveland, of Liberty, was accepted quickly. Alderman Downing, of Salem, was accepted by the state. Heney tried to get him to say that Senator Mitchell helped his father get an office. Was asked if he knew A. B. Downs, of Washington. Heney and Burns had a long talk, and then Downing was asked how long he had been in politics. Burns dug up the fact that Downing had once been a member of a county campaign committee, and was now alderman. Asked if he was a Republican he said he was. Bennett excepted to this question. Heney asked if he would not support Mitchell if he were a candidate again. Said he might. Heney challenged him, and the court sustained him. Judge DeHaven said Downing admitted having formed an unqualified opinion. Ed. Dalley, of Kerby, was accepted by both. Frank E. Hart, of Portland, was excused. D. M. Kirby, Bellview, Yamhill county, was excused by defense. Heney objected to the challenge and Judge DeHaven sustained the challenge, so Kerby went off the jury. H. T. Hill was examined. Had read and heard it talked about. Couldn't help but have some idea about it. Could give defendant a fair trial. Accepted by defense. Heney developed that Hill knew Pierce Mays quite well, and that he was a brother of W. Lair Hill. Lives three miles from Portland. Heney had a long struggle with this juror, and tried to get him to admit that he had a prejudice against Mitchell. Hill proved to be a very cute jurymen. He evaded scores of traps set for him, and eluded any number of flimsies. He was finally challenged peremptorily. L. R. Oliver, a Pendleton grocer, was weighed in the balance of the prosecution and defense, and found not wanting. Bert Leabo, formerly of Forest Grove, was perfectly fair-minded, unprejudiced and dispassionate. Bennett was willing to try him as a juror. Heney discovered that Leabo had held no public office, did not know J. J. Fitzgerald, never made a timber entry, had a brother who never made a timber entry, did not know Pierce Mays, knew of no reason why he could not try case fairly, did not know Mitchell, nor Bennett. Was accepted by Heney. E. J. Jeffrey, of Portland, read Oregonian, knew Heney 40 years ago, lived in California, felt kindly toward Mitchell had never been influenced by any articles in the

Not Influenced by Oregonian.

Oregonian in the past, and would not be influenced by anything it might publish in future. Accepted by defense. Heney developed that Jeffrey was sheriff in the seventies. Knew Oscar Kendall. He was a dyer. Never got a pass for Kendall. Bennett objected to bringing this in. Objection sustained. Heney said he might want to call a witness to contradict him. Continuing Heney drew out that Bennett had been more than a casual acquaintance of Mitchell, and removed him by a peremptory challenge. Casper Wiseman del was drawn. W. H. Calland, of Newberg, accepted by defense. Was raised in Iowa, lived in Colorado, moved to Portland, went to Tillamook and stayed 18 years, had been at Newberg some years. Was challenged. Heney resisted this challenge, but DeHaven excused him. Wm. Otto Breyman was drawn. H. M. Lowden had lived at Astoria 25 years, and was accepted by defense. Heney developed that he was a farmer as well as logger. Got his summons Sunday evening. Had not met Senator Fulton or his brother. Reported to the marshal's office, but had not stated that he had talked with Fulton. Burns took a circle out in the lobby, and talked with Marshal Reed. Heney asked that Reed be sworn. Juror admitted talking with Judge Winston about a mistake in date of the summons. It was dated on the 13th, and cited him to appear on the 10th of June. Court ruled that it was not material who he had talked with about that matter, as he had expressed no opinion on the case. Heney and Burns held a long consultation. Then Heney challenged him peremptorily, and this exhausted their peremptories. J. A. Baxter, of Dallas, native Oregonian, 45 years old, knew Mitchell by reputation only, had formed no opinions, so one had talked with him, had heard nothing to prejudice him, would let nothing published in the Oregonian influence him. He was accepted by both

sides. E. Michael resided in Portland, kept rooming house, came from Kansas, knew Mitchell. Heney developed that Mitchell had helped Michael to get a pension, but accepted him. Then Michael asked to be excused, as he had serious urinary trouble. J. P. Clausen was a native of Denmark, lived in Coos county, and had no opinion. Accepted by both sides. C. P. Sharp, of Stafford, was born in Marion county, but was challenged for cause by defense. Heney resisted the challenge. Juror had it in mind that if the publication were true he would convict. Judge DeHaven gave him an overhauling, and decided to dismiss him. Casper Wiseman del had lived in Oregon City the last couple of years. Before that he lived in Macksburg. Came from Germany. Took up a homestead in 1869. Had his mind pretty well made up. He had not expressed it. But it was strong and unqualified. The court asked Wiseman del a few questions, and decided he would try to do the fair thing. Bennett thought the juror was too strongly under conviction to be a fair juror, but the court thought otherwise. Then Bennett took his prerogative. Wm. Otto Breyman had a fixed and definite opinion, and was excused. F. B. Gray, Russellville, Multnomah county formed opinion from published sworn testimony. Was excused. Frank Warren drawn. Joseph Huddleson lived in Lane county 40 years had read, formed opinions and expressed them unqualifiedly. S. D. Hobart lived in Silverton 40 years, was not prejudiced against Senator Mitchell, thought he could try the case. He was accepted by both sides. S. A. Carlson, of Jackson county, was accepted by both sides. B. F. Grant, Lincoln county, was accepted. Frank Walters was also accepted. W. H. Lewis, also of Clatsop, was accepted. This completed the jury, and the judge ordered that the jury be excluded in charge of the marshal, and be given no newspapers. Adjourned to 10 o'clock Wednesday.

The Jury.

Gid Steiner, Marion county.
J. P. Clausen, Coos county.
J. A. Baxter, Polk county.
R. L. Olliver, Umatilla county.
Bert Leabo, Yamhill county.
E. J. Jeffrey, Josephine county.
Homer C. Cleveland, Marion county.
S. H. Hobart, Marion county.
S. A. Carlson, Jackson county.
B. F. Grant, Lincoln county.
Frank Walter, Clatsop county.
W. H. Lewis, Clatsop county.

Who Is DeHaven

Portland, June 21.—(Editorial Special)—I have not met Judge DeHaven or Heney or Burns, because I never chase after celebrities or prominent people. But I have been talking with a man who was raised in California in the same county with DeHaven. He says he was a poor boy, who was made a protegee of Judge Wyman, of Eureka, one of the old pioneer jurists. DeHaven was elected District Attorney and served a term. He was elected superior judge of Humboldt county. He served a term, and was elected out of that office to congressman from the first district. He employed his opportunity so well that he was made United States circuit judge, the position he now holds. His political methods have been very successful—an unbroken career of office-holding, being elected to one office while still in another.

It is not believed that he has any sympathy whatever with the defendants in the Oregon land fraud cases. He has shown great fairness and independence of the prosecution so far on the trial.

E. HOFER.

Statement of the Case.

Portland, June 21.—The trial began at 10 o'clock this forenoon, and increasing interest is being shown. The jury is considered fair, and is from all parts of the state. The first indictment was selected, because it is believed to be the strongest case against Mitchell, and one where the government is surest of conviction. The most prominent attorneys of the state are attending.

It is charged that fees all the way from \$200 to \$1500 were collected by Tausner & Mitchell for services rendered in the departments at Washington by Mitchell, and divided by the firm with the full knowledge and consent of the defendant, and according to the terms of a contract.

Heney went into great detail in his accusations, reviewing all the testimony leading up to the indictments. He took 45 minutes. Judge Bennett defended the right of a senator to appear before the departments. It was no part of his official duties. It was common for congressmen and senators to appear for private citizens in such cases. There was no wrong in the act itself. It was made a wrongful act by the statute provided. The law was intended to prevent such officials from improperly influencing needs of departments beyond

what any private citizen might have. His position on the agreement as to division of fees is that the original contract was made during the time he was out of office. Subsequently they made a new agreement, dividing the fees on a different basis. He had come out of the senate a poor man, dependent on his friends for the expenses of this litigation. People convicted months ago had been let go to induce them to tell something satisfactory to Heney and damaging to Mitchell, Hermann and Williamson.

He charged that they were bribed by immunity to convict these men. In closing he claimed the senator had been careless, but had never knowingly or technically violated a law of the government. Frederick Kribs was the government's first witness. He knew defendant since 1900 as a member of the firm of Mitchell & Tanner. In October, 1901, he made a contract for \$1000 to help get patents of 40 claims in Douglas and Linn county. Checks and letters were introduced. Court adjourned to 2 o'clock this afternoon.

LOS ANGELES GETS SHRINERS

Los Angeles, June 21.—A telegram received from Niagara announces that next year the Imperial Shrine will meet here. The "Fiesta de Los Flores" will be revived for the Shriners.

Japanese Keep Busy.

St. Petersburg, June 21.—Linevitch reports that June 20th the Japanese retired along the entire front from the Mongolian frontier to Korea. The Russians immediately occupied their former positions, and later the Japanese made a vigorous attack on the left, ransacking several towns.

Stoessel Knew It.

St. Petersburg, June 21.—The commission appointed to investigate the circumstances of the surrender of Port Arthur by General Stoessel, today reported that the surrender of the place was justified.

The Auto Race Ended.

The "Old Scout" arrived in Salem last night, and, after getting a cleaning up, left for Portland at an early hour this morning, intending to reach there at 1 o'clock this afternoon.

GOOD ROADS MEETING

Fifth Annual Convention Called to Order in Portland This Morning

Portland, Ore., June 21.—The fifth annual national Good Roads Convention, one of the largest and most important conventions to be held in Portland during the exposition period, was formally opened today, and will continue its sessions until Saturday. The attendance is unusually large and includes the governors of several states, mayors of cities and accredited delegates from commercial, agricultural, industrial, civic improvement and transportation bodies throughout the country. Experts of the National Good Roads Association are on hand, and during the remainder of the week there will be many practical demonstrations in good road making in addition to the set programme of papers and discussions.

Georgia Federation of Labor. Atlanta, Ga., June 21.—The Georgia Federation of Labor assembled in seventh annual convention this morning, and was called to order in Federation hall at 9 o'clock by President Jerome Jones, of this city. Following the opening formalities the convention went into executive session for the consideration of business. The annual report of Secretary W. C. Puckett showed that the last year has been one of great prosperity and increased membership for the federation in this state. The convention will remain in session three days, and a number of important matters will come up for decision. The federation is particularly interested just now in the child labor problem, and a committee will probably be appointed to prepare a measure dealing with the question for presentation to the next session of the legislature.

Chicago Markets.

Chicago, June 21.—Wheat 80; corn, 54 1/2; oats 31 1/2 @ 31 1/2.



The Brown Process.
FLEXIBLE SOLE
WHITE HOUSE
SHOE FOR WOMEN

Remarkable Results from the Ladies' Brown's Process Turn Sole Shoe

Twice the wear of a welt sole, is the report we receive from customers who are wearing them. That's much better than we expected, but actual service proves it to be a fact.

The sole is the ideal of flexibility and having no insole is lighter than a welt, but in appearance can hardly be distinguished from the "Goodyear Welt" shoe.

Our prices at \$2.50 and \$2.95 bring them within the reach of all.

Barnes' Cash Store
Is the only store in Salem that has them.
E. T. BARNES, PROP.

When you want a drink of **SODA WATER** You want the best, and in that case go to **Zinn's**

The only confectioner in Salem who ever served an apprenticeship in the soda business. Why not profit by his experience?

Go. Meyers & Sons
SALEM'S GREATEST STORE
THE "WHITE CORNER" (TRADE MARK)

Today Only

Bobinet Curtains
44 inches wide, 3 yards long, two styles—one flat, one ruffled. Our \$1.75 and \$2.00 values **\$1.50 pr.**

Ladies' Tailor Suits
AT A GREAT SACRIFICE

A most remarkable sale with astonishing opportunities. To date it has met with tremendous response. One reason is because it consists of what one needs just now. Every price sensational. Every garment of this season's designing in approved materials and colorings.

\$35.00 LADIES' MOHAIR SUITS.....	\$17.50
\$50.00 LADIES' MOHAIR SUITS.....	\$15.00
\$25.00 LADIES' MOHAIR SUITS.....	\$12.50
\$20.00 LADIES' MOHAIR SUITS.....	\$10.00

JUNE WHITE DAYS
Prices in every department. Anticipate your summer wants and supply them now.

MERODE KNITWEAR
The best women's knit underwear made. Garments for Ladies and Misses. Every requirement is met here with this great variety. Remember all at **JUNE WHITE DAY PRICES.**
9c to \$2.70

Men's Clothes
Be well dressed and pay what you please. Plenty of styles in the new summer clothing and not a bad one in the lot. They are suits that possess all the snap of summer styles as well as summer coolness, and are distinguished from the commonplace usual ready-to-wear sort by the famous "concave" shoulder and "close fitting" collar. You can get an unusually good two-piece summer suit here at **\$8.50**
Better grades up to \$16.00.