

The Daily Capital Journal

SALEM, OREGON, THURSDAY, JANUARY 9, 1908.

NO. 8.

MAYOR SCHMITZ IS RELEASED

Canadian Pacific Gets Control of Great Western

MIGHTY POLITICAL BOSS WHO IS NOW FALLEN

Fate of a Talented Man Who Pursued the Mistaken Idea of Plundering the Public Through Politics

(United Press Leased Wire.)
San Francisco, Jan. 9.—Abraham Ruef, but little more than a year ago the boss of San Francisco, has made his last desperate fight to avoid the everlasting ignominy of incarceration in a prison cell—and lost. He spent last night in a narrow cell in the county jail, hemmed in by steel bars, and with only the memory of his one-time power to keep him company through the long vigil of the night.

Where the fallen are now imprisoned: Cell No. 169—Abe Ruef. Cell No. 161—J. Dalzell Brown. Cell No. 164—James Treadwell. Cell No. 181—Walter J. Bartnett. Cell No. 182—Louis Glass. Cell No. 194—Eugene E. Schmitz. Ruef, the dominant, the masterful, as serene, the scoffer at human interference, has passed forever. In his place is Ruef, the meek, the whipped, the felon convict, the companion of petty criminals. The final fall did not come, however, without a struggle, and it was a struggle in which Ruef summoned to his aid every vestige of influence and friendship that remained to him. Emisaries sought audience with every man whose official position might serve as a lever in his behalf, and it was only with every resource exhausted and with the peremptory order of the court placed in his hands by a determined officer of the law that Ruef at last bowed his head in submission to the inevitable.

JAPAN AIMING AT INDIA

TOLD A FACT ONCE

GUN MANUFACTURER DECLARES THAT THE ORIENTALS ARE FEIGNING POVERTY, BUT ARE SECRETLY PREPARING TO STRIKE A BLOW AT US.

(United Press Leased Wire.)
St. Petersburg, Jan. 9.—Men high in Russian court and army circles, as well as the St. Petersburg press, are openly ridiculing Okuma's repudiation of the version given of his Kobe speech, in which he was quoted as urging India to rise against British rule.

The reports of the speech fell into the hands of Russian diplomats directly after Okuma delivered his utterances, and were forwarded to the capital. It is said they do not agree with the press reports, in which Okuma declares he was misquoted.

Dealer in Firearms Is Talking War.
Washington, Jan. 9.—"Japan is making preparations for war, and may strike us at any minute." This was the startling announcement made today by Hudson Maxim, a member of a big company that manufactures arms, who is visiting in Washington.

"It is a sad mistake to think that Japan is financially embarrassed," he continued. "It is Japan's old game to rush war preparations, and complain about being poverty stricken at the same time."

was installed in office, Judge Dunne terminated the elisorship yesterday afternoon, and issued an order of commitment to Sheriff Dolan. Schmitz had not testified in regard to this matter on direct examination, but Judge Dunne not only allowed the prosecution to question him in regard to it, but demanded that he answer and threatened to send his counsel to jail for contempt of court for advising him that he would be entirely within his rights in refusing to answer the questions.

The Contract for Immunity.
The court also reversed the ruling of Judge Dunne in refusing to allow the attorney for the defendant to question Ruef while on the stand in regard to his contract for immunity with the district attorney's office and the question directed to him in regard to whether or not he had promised to testify in relation to certain facts upon a promise being given him that he would not be sent to the penitentiary.

"The cross-examination was entirely improper," the decision says, "and especially so in regard to the question addressed to the witness, Ruef, in regard to whether or not he had ever given part of his \$5000 fee to the defendant. It was not confined to the matters upon which the defendant had been examined during his direct examination."

PETITIONS FILED
SECRETARY OF STATE
Charles W. Fulton for United States senator from the state of Oregon.

Hal D. Patton, of Salem, for representative. Takes statement No 1, and stands for good common schools for all children.

Gus Newberry, of Jacksonville, for prosecuting attorney, first district, comprising Jackson and Josephine counties.

THE THAW JURY NOT SECURED

ONE IS ARCHITECT

New York, Jan. 9.—Shortly after the Thaw trial resumed this morning Frank Manning, an insurance broker, qualified as the tenth tentative juror.

There is a strong likelihood that Edna Goodrich, the actress, who introduced Harry Thaw to Evelyn Nesbit, will be held for contempt—that is if the story that reached Justice Dowling today, is true.

According to the story, Edna was sitting in the audience of the Grand opera house last night when she was served with a subpoena taken out by Attorney Littleton. The man who served the writ reported today that she tore it in halves, and threw it in the street, declaring she would pay no attention to it.

The jury box was filled again, with half of the number subject to peremptory challenge. John Dehant, an architect, was chosen as the twelfth juror.

The prosecution challenged jurors seven, ten and eleven, and the defense eight and twelve, leaving only six of the originals in the box.

Lincoln A. Stuart, a bank teller, was accepted as the tentative seventh juror.

LUCY IS GONE FAR OUT TO SEA

(United Press Leased Wire.)
San Pedro, Cal., Jan. 9.—Anxiety is felt for the safety of the schooner Lucy, Captain Peterson, now out 40 days from this port, bound for Umpqua river in ballast. The schooner Caroline, which left this port at the same time as the Lucy, has since made a round trip to and from the Umpqua river, and is once more on her way north to load. The last report from the Lucy came several weeks ago, when she was sighted by the Caroline off the Umpqua, as the latter was bound south for San Pedro. Since that time terrific storms have prevailed off the Oregon coast, and it is possible the Lucy may have been blown many hundred miles to sea.

MICHIGAN MOTHER WHO LOST CHILD.

(United Press Leased Wire.)
Plainwell, Mich., Jan. 9.—Charged with manslaughter, Mrs. David Neeley, of Sacramento, Cal., mother of the 2½-year-old boy who died here Friday from pneumonia, after having been treated by Christian Scientists, instead of a physician, is under arrest. She is held under \$5000 bonds. Testimony before the coroner's jury shows that Mrs. Neeley did not call a physician, although she was advised to do so by her husband, then in California, and by her parents, at whose home she has been visiting.

The jury is expected to return a verdict today.

Andrew Carnegie offers \$14,000 towards a free public library at Salem. Mayor Rodgers thinks \$25,000 or \$30,000 would be more like it.

THE CALIFORNIA SUPREME COURT UPHOLDS SCHMITZ

San Francisco Boodle Mayor Barely Got Into Jail Before He Will Be Released On Bail

SAN FRANCISCO, JAN. 9.—THE APPELLATE COURT THIS MORNING REVERSED THE DECISION IN THE CASE OF EX-MAYOR SCHMITZ, WHO WAS FOUND GUILTY OF EXTORTION AND SENTENCED TO FIVE YEARS' IMPRISONMENT.

AN IMMEDIATE EFFORT WILL BE MADE TO SECURE SCHMITZ'S RELEASE ON BAIL, WHICH, IT IS BELIEVED WILL BE GRANTED.

Schmitz Overjoyed.

When informed that the appellate court had reversed the decision of the trial court, Schmitz was overjoyed. He said that he believed all along that the case would be decided in his favor. This was particularly good news to the convicted ex-mayor, in view of the fact that he spent last night in the gloomy cell that the new sheriff had provided for him.

Although not willing to give an interview on the case until he could get the complete text of the decision, Abe Ruef was also apparently pleased at the news.

Points of Decision.

The decision not only reverses the case of ex-Mayor Eugene E. Schmitz convicted of the crime of extortion, and sentenced to five years in San Quentin penitentiary by Judge Dunne but ordered the trial court to sustain the demurrer of the defendant upon the ground that the indictment did not state a public offense or an unlawful injury, and ordered that the defendant be discharged upon this indictment.

It is probable that, as a result of the decision, Schmitz will never again be tried upon any of the extortion indictments, and that the other four now resting against him will be dismissed in the near future. Whether or not the decision of the appellate court will in any way affect the standing of Abe Ruef, who pleaded guilty to the same charge upon which the appellate court has ordered Schmitz to be set at liberty cannot be stated.

Ruef May Also Escape.

However, the fact remains that Ruef has pleaded guilty to an act which the appellate court has decided is not criminal in its nature, and the only point to be decided is whether or not in pleading guilty Ruef forfeited all right of appeal. Ruef at the time he pleaded guilty to the charge declared his innocence of any crime, but admitted that he was willing to plead guilty.

Henry Badly Beaten.

The decision of the appellate court reverses nearly every important ruling made by Judge Dunne during the trial of the case.

Before entering into the merits of the case the appellate court denied the motion made by the district attorney's office to dismiss the appeal upon the technical ground that it was prematurely filed before the entry of the judgment had been made. One of the first grounds given by the court for the reversal is the fact that Judge Dunne allowed the prosecution to peremptorily challenge certain jurors after they had successfully passed their examination at the time the box was filled.

Points of Reversal.

The refusal of Judge Dunne to allow the attorneys for the defense to make a showing to the effect that William J. Biggy, the elisor, appointed to take charge of the jury, was prejudiced against the defendant, was declared to be entirely erroneous.

"Fair dealing and the right of the defendant required that he should be heard upon this proposition," is the way in which the decision reads.

Another strong reversal was upon the mass of hearsay evidence admitted by Judge Dunne. Especially was this so in regard to the testimony of Loupy Blanco, Malfanti and Debret, the French restaurant keepers, who claimed that Ruef and Schmitz had blackmailed them.

Another point made by the appellate court was the fact that Judge Dunne allowed the prosecution to ask Schmitz during his cross-examination whether or not he had received any part of the \$5000 fee which the testimony had shown had been given to Ruef by the French restaurant keepers.

Cross-Examination Bad.

The court refers to that section of the penal code which declares that a witness when taking the stand in his own behalf can be cross-examined by the prosecution only in regard to all matters upon which he testified on direct examination.

In regard to Judge Dunne's refusal to allow the defendant's attorneys to cross-examine Ruef in regard to

(Continued on page five).

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