Land-Fraud Case Assumes Lively Aspect.

TRIAL NOW IN FULL SWAY

Lawyers Have Verbal Battle Over Objections.

BINGER HERMANN TESTIFIES

Sourtroom Is Crowded With Curious Spectators Who Enjoy Clash Between Attorneys and Follow Trial With Interest.

There is an adage some place in the world that a lawyer's tongue is a fearful thing. When the trial of the land conthing. When the trial of the land conspiracy case is a thing of the past it will no longer be an adage, but an axiom, for all promise points to a battle of lawyers, a war of words heated and hissing at times, a long array of objections and technical points with the possible revelations of the witnesses looming large, though as yet indistinct in the distance. The first day of the trial was simply the mapping out of the battleground. On the second, each general outlined his action and arranged his forces to the accompaniment of the scattering fire of the skirnelsbers. Yesterday the engagement opened along the front with the rattle of musketry and for the future is promised musketry and for the future is promised the booming of big guns, the shock of cannonade, and the annihilation of the Many Objections Made.

The early part of the session was a continuation of the objections of Judge Pipes as compiled and memorized during the two previous days. It was of no particular interest except to Judge Pipes, who seemed to enjoy it. No one cless apparently paid any attention. Marie Ware particular interest except to Judge Pipes, who seemed to enjoy it. No one cless apparently paid any attention. Marie Ware some reason with laughter than advertisements and land notices. The the advertisements and land notices. The

the advertisements and land notices. The rest of the defendants were contemplative until Francis J. Hency made his debut. Heretofore Mr. Hency has had a few things to say, but not much. Yesterday he pushed back the dinner hour for a while as he demonstrated to the satisfaction of the court that he could talk and talk forcefully. It all arose over one of Judge Pipes' objections to some papers desired to be submitted as evidence, and the man from San Francisco held the floor for a few minutes as he controverted the objections raised and argued for an overruling, which was given.

ruling, which was given.

The afternoon was enlivened by the appearance of Binger Hermann as a witness, and his story of the conduct of the general land office in Washington showing how business was carried on by the

Judge Galloway on Stand.

When the court was called at 10 o'clock, Judge Williams Galloway, of McMinnville, was called to the stand. The Judge testified that he was the receiver of the Oregon City land office from February, 1886, until July 1902. It was the custom of the office for the receiver to take the final proofs, but that was simply a division of labor and not a law. The Judge examined the supers submitted the day before as evipapers submitted the day before as evi-

testimony. It was late and I was very busy, so I told a man with the woman to busy, so I told a man with the woman to make out the testimony and that I would look it over and sign the paper. I remembered Mrs. Porter especially because she was dissatisfied and fussy and impressed me by her conversation. She represent the state of the first. "You have not examined it," suggest. sented that she had just come from her aim and wanted to go on to Portland

Couldn't Identify Her.

"Can you identify this woman Porter who appeared before you as Mrs. Emma L. Watson, now in the courtroom?" quesed Mr. Hall. "I cannot swear that the woman so representing herseif was Emma Porter," answered the witness, "but she had the appearance of that lady there," indicating

On cross-examination the witness said he did not remember Maud Witt, or Woi-gamot, at that time, neither was he ac-quainted with Puter at the time of the qualited with Fitter at the time of the filing of the papers. The witness also identified papers which had been part of his office files and which were desired to be introduced as evidence. Judge Pipes made the same objections as to all the rent of the proceedings of the prosecution and was overruled as before. Judge Gul-loway was then excused from further service with no cross-examination. H. F. Coleman, the head of the chief

H. F. Coleman, the head of the chief clerk's division in the general land office at Washington, D. C., was the next witness called by the prosecution. Mr. Coleman testified as to the manner in which the mall from the local land offices was handled at the Washington office, and, when asked, identified the papers which had before been submitted as evidence as part of the mall that had passed through the department. A record of the letters received from the state was introduced as showing that the papers submitted were showing that the papers submitted were genuine. Mr. Pipes objected because up to this time the defendants had not been cted with the papers, and was as

Battle of Words.

first little pleasantry of counsel or The first little pleasantry of counsel oc-curred about this time, when Mr. Coleman was asked if he could identify the signa-ture of the law firm of Dudley & Misch-ner, a Washington corporation.

"I want to object to this, your honor," commenced Judge O'Day, "for the reason that it is incompetent, irrevelent and im-material, and besides it is a statement of

marked Judge Pipes, rising, "I don't like to object, but the counsel is turning this case topsy-turvy. According to the usual course of procedure he should prove conspiracy first and then any overt act. Be far not a word has been said tending to prove a conspiracy, or to connect the defendants with the crime."

"I don't know how the prosecution is going to conduct the case," interrupted the court. "He may prove the act first or the conspiracy."

"You don't understand my point," began Judge Pipes,

"I understand perfectly," corrected the court, 'and if at the end of this trial there has been no testimony to show the connection of the defendants with the case, it will not get beyond the court. Not every case coming before this court gets to the jury, Mr. Pipes."

"No, indeed," smilled the objector, "and I am inclined to think that this is one of them."

Mr. Greene was excussed after having.

Mr. Greene was excused after having shown that he had charge of the papers now in testimony and that he had re-ceived them by registered mall on Febru-

"I want now." commenced Mr., Hall,
"to submit the patent in the case of
Emma Porter."
"I want to make an objection," and

Judge Pipes arose. "I suppose that it is the same objec-tion?" asked the court, sweetly.
"Oh, no; there are others to this."

Picked Flaws in Indictment.

Then Mr. Pipes picked flaws in the wording of the indictment. He said that the document did not allege lots of things, but his theme was on the word "she" as found. The Judge was absolutely certain the word meant Mrs. Forter when it should have meant Watson, and for this reason it was faulty and a monument of dishaped phrases.

lishaped phrases.

Mr. Hency defended the indictment and Mr. Heney defended the indictment and read from the Supreme Court sustaining his opinion and the court took the question under advisement until after the noon session. This was the first speech made by Mr. Heney, and it was closely listened to by the large crowd in the courtroom. He followed out the terms of the indictment, and showed that the pleadings of the opposing attorney were specious, and made one of the strongest presentations yet heard in the case.

Wanted to Square Himself.

"Before adjournment," said Judge Pipes, addressing the court, "I want to square myself with the court and the jury. I want the court to advise the jury that we of the defense have admitted nothing in this trini except for the sake of argument. We do not concede any connection with the case at all, but a layman, or the jury, might misconstrue my remarks."

The court interrupted:

The court interrupted:
"I don't think, Mr. Pipes, that the jury or anyone else will think from the conduct of the case that you had admitted anything. I do not think that there is any danger of a conviction under such a misapprehension or on those grounds." For some reason the courtroom was convulsed with laughter, which the balliff forgot to trown upon

In the afternoon the court overruled the objection of Judge Pipes to the introducthe defendants on the ground that the facts had not been fully set forth, or the means of the conspiracy alleged, and that various other mistakes had been made. The court held that if Mrs. Watson had made an affidavit purporting herself to be Mrs. Porter, a forgery had been com-mitted and the Government had been de-frauded.

Patents Submitted as Evidence.

Upon the ruling of the court the patents issued to Emma L. Porter, Harry C. Barr, Joseph Wilson, Frank H. Wolga-mot, Maud Witt, Henry Young, Zenas K. Watson, Alexander B. Brown, Thomas Wilkins, George Graham, Nellie Backus and George L. Pettus were submitted

These papers were objected to by Judge Pipes severally and as a collection. The

Pipes severally and as a collection. The objections were overruled.

At 3:20 o'clock Binger Herman was called as a witness by the prosecution, and everyone in the courtroom sat up with expectant interest, for it had been rumored that when the Representative was called there would surely be something doing.

Binger Hermann on Stand.

Mr. Hermann said that he was at the present time holding a public office as a Representative of the people in Congress in the case of Emma L. Porter were presented to the witness.

"Have you any recollection of having taken the testimony of the claimant. Emma L. Porter?" asked Mr. Hall. Judge Galloway thought he had.

"I remember it because she came into office one evening just about the time of the office one evening just about the time."

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"I remember it because she came into office as a Representative of the people in Congress. He had been Commissioner of the Surveyor-General's office, testified that he had drawn a map showing in the Surveyor-General's office, testified that he had drawn a map showing the location of the lands in question, which was introduced in evidence. A. W. Barber, a cierk in the General Land Office, testified to the correctness of the map. Judge Bellinger then announced that it was time to adjourn.

"Your Honor," said Mr. Hall. "the could not be taken until June, which all can agree. Tomorrow is a decision of the Supreme in the blocation of the lands in question, the location of the intended nearly a gear ago, when the location of the lands in question.

"Both the location

this," said Mr. Hermann, looking at it judiciously through his glasses. "I

"You have not examined it," suggest-"You have not examined it, suggested the lawyer. "Perhaps if you were to examine it you might refresh your memory." Still Mr. Hermann could not place it, but he remembered what it was about. Senator Mitchell had called upon him at his office in company with S. A. D. Puter and had said that Puter had some land cases which he was interested in and would like to have ex-

pedited by the department.

Judge O'Day objected to this admission because Senator Mitchell was not present and could not be questioned, but the objection was not heeded by court.

Tells of Senator's Visit.

"The cases had been pending for som" me," continued Mr Hermann, "and Mr. Puter was anxious to have them considered. I informed Senator Mitchell that I was very busy and had no time, but I referred him to Governor

Richards, my nesistant."
"Did Mitchell say to what lands he was referring or to any letters sent to you. Mr. Hermann?"

to you, Mr. Hermann?"
"I could not say. I referred the case
to Mr. Richards and found later that
they were lands about which there had
been some investigation, not by myself,
but by the department, and through the regular channel."

regular channel."
"Did any one accompany Mr. Puter?"
"There was a woman with him," replied the witness; "that is as far as I can remember: also a clerk named Valk. The clerk said that the papers were all right, that he had examined them and I sent them to Richards, who afterwards issued the final papers."
"Could you identify that woman as any one in the courtroom, as Mrs. Watson?" the witness was asked.

Mr. Hermann had been very busy, and having seen the woman but once she

having seen the woman but once she

CITY ENGINEER ELJIOTT, WHOSE REMOVAL IS RECOMMENDED BY THE COUNCIL, AND COUNCILMAN ZIMMER-MAN WHO BROUGHT IN THE REPORT OF THE SPECIAL INVESTIGATING COMMITTEE.

COUNCILMAN

Hency!" asked Judge Pipes in a surprised tone.
"Because I expected to identify them POWER TO AMEND

by Mr. Hermann," answered the attor-ney as his face flushed and his voice shook. "Because I expected to identify them by Senator Mitchell. I am after him and I expect to have him here. I am now trying to get him and I v#ll connect with this paper later. I expected to prove the letter by Mr. Hermann, and, failing, withdrew it until

The court soothed the speakers, Judge Pipes apologized and Mr. Hency smiled.
"I didn't like that word 'trap," he said. "In the courts where I practice we do not use it unless some

the incident closed.

Hermann Not Cross-Examined. After Mr. Hermann had explained that some cases were expedited in the office for special reasons and that it usually took in 1992 from four to six mouths to issue a patent; had talked of the duties of special agents and testified that they were empowered to take an oath for securing an affidavit, he was excused without cross-examination from further

Authority of the Legislature Is Questioned.

SUPREME COURT HAS DECIDED

doing something."
"I have apologized," said Mr. Pipes.
"and I do not intend to do it again."
Every one smiled with Mr. Heney and Amendments to Local Option Law Can Be Made, and by Tacking on Emergency Clause Referendum Avoided.

> local optionists deny the power of the Legislature to amend the so-called of the Legislature to amend the so-called local option law, which was enacted at the polls last June under the initiative. The Legislature has that power, however, according to a decision of the Supreme Court, rendered nearly a year ago, when the constitutionality of the initiative and referendum was sustained by that tribucal

bridges to safeguard the people and that the act must take effect immediately in order to insure the health, peace and safety of the public.

The constitution gives the people authority, within 90 days after the adjournment of the Legislature, to call for a referendum vote on any measure passed at the session, "except as to laws necessary for the immediate preservation of the public peace, health or safety."

As the street assessment was levied before the expiration of the 50-day period, it was contested on the ground that im-

It was contested on the ground that im-mediate operation of the charter was not nocessary to the public safety. Thus the validity of the emergency clause became

"It has always been the rule," said the court, "and is now everywhere under-stood, that the judgment of the legislative and executive departments as to the wisdom, expediency or necessity of any given law is conclusive on the courts and cannot be reviewed or called in question by them."

Power of Legislature.

As to the power of the Legislature to amend or repeal any initiated law, the surt said:

"Under this amendment (initiative and effect, veto or defent bills passed and approved by the Legislative and the Governor, but the legislative and executive departments are not destroyed nor are that reverse authority materials. their powers or authority materially curtailed. Laws proposed by the people un-der the initiative clause of the amendment are subject to the same constitutional limitations as other statutes and may be amended or repealed at will."

Amendments to Be Proposed. law Two amendments that are sure to be

which all can agree. Tomorrow is Thanksgiving day, and we would like to have the whole day to spend in thanksgiving."

The jury is a little interested in that," said the court, "and I will confer with them on the question." The jury is a little interested in that, "said the court," and I will confer with them on the question." The jury held a whispered conference.

"If it please the court," said one, "we are bere, and it is just as comfortable of the Supreme Court has de-

the other, prohis do not expect the league to be in a fit condition for business. The executive committee of the league had a meeting Tuesday night, but gave out that its deliberations were not yet ready to be announced to the public.

the public.

Dr. J. R. Wilson, president of the league in Oregon, has declared himself in favor of amendment, but prohis contend that he is not backed up unanimously in his own camp. They declare that a very vigorous part of the league is dead set against changing the law in any particular.

any particular.

"If the Legislature once begins to tamper with the act," suy prohis, "nobody will be able to recognize it after the Legislature shall have finlahed. The people knew what they were doing when they voted for the measure. The law should at least have a fair trial." Such was the sentiment of the prohi committee which met last night. I. H Amos was there; also B. Lee Paget, H. W. Stone, J. P. Newell, T. S. McDaniel and A. E. Davis, the last named of whom took the place of F. McKercher. Proble threaten to bring up the issue of prohibition in the entire state if the Legislature "monkeys" with the law.

"We'll do it by means of the initia-tive," exclaimed one of the cold-water partisans yesterday. "We've got a good thing in that initiative and we're going to have a good time with it."

The committee last night discussed plans for fighting liquor people who are seeking to have the prohibition elections in Yamhill and Coos Counties designed invalid. The certical control of the large invalid. declared invalid. The action of the County Court of Gilliam in setting aside the election, the committee regards as a high-handed act and will take measures to chase the County Court into the woods.

CONTRACT TO BE LET. Construction of Portage Road to Be-

gin Soon. contract for the Portage road will be let by Monday at the latest, and work

will commence on it in as short a time as is possible for the contractor to assemble his forces and material for the task. Yesterday the deeds were secured from the O. R. & N. Company for the right of way and were sent to the Governor for his approval and the concurrence of the other members of the Portage Road

After the meeting on Saturday last and before Monday night, the engineer fin-ished the work on the specifications and plans and drew up the formal contract which he aubmitted to Attorney-General A. M. Crawford for his opinion.

A. M. Crawford for his opinion.

Tuesday Mr. Crawford came to Portland,
where he met with the representatives of
the Open-River Commission, and the contract was amended and taken back to
Salem for another overhauling. It is now
being put into final shape and will, as
soon as completed be brought to Port.

who the contractor will be. At the meeting of last Saturday it was stated that a contractor acceptable both to the Commission and the Open-River Association had been found. Who this was is not stated, but rumor has it that the McCabe Contracting Company, of Walla Walls, will be the lucky firm to carry off the plum. A. J. McCabe, one of the members of that firm, is now in the city and has been here for several days. It is reported that he has satisfied the board and the association that his firm is able to carry out the work quickly, cheaply and well. The firm has done a great deal of work similar to the kind necessary in the construcflar to the kind necessary in the construc-tion of the Portage road, and if the con-tract is given to it, will be able to do the work acceptably to both parties concerned in its construction.

It is thought that the middle of De-ember will see the construction work in full swing.

TRIED TO COMMIT SUICIDE. Three Crazed Individuals Startle Officers at Police Station.

Yesterday was delirium tremens day in police circles. At headquarters Captain Gritzmacher and his staff wrestled with three men who had imbibed too much of the golden vintage. Of the tric, Martin F. Guthrie was the worst. During the day he tried three times to commit suicide by throwing himself in front of moving cars in the yards of the Termina Railway Company. He falled each time Railway Company. He falled each time, because "Tug" Wilson saw him and res-

because "Tug" Wilson saw him and res-cued him.

The last time Guthrie attempted to end

Oregon Militia Officers to Join Chinese Army.

ARE PROMISED HIGH RANK

Reported That Many Militiamen Have Applied for Positions, and All Are Promised Five Years of Servlee at Good Salary.

Officers for the Chinese reform army are being recruited among the officers of the Oregon National Guard. Applications have been submitted and an examination will be held before January 1. Trained officers to the number of 8000 are wanted by the leaders.

The following members of the militial

The following members of the militial companies here are said to have made applications for positions in the new army. Captains W. L. Gould, R. M. Dobie, L. H. Knapp, L. A. Bowman, R. O. Scott and C. T. Smith: Lieutenanis W. B. Odais, W. M. Denney, E. Kaltz, L. R. Kolloes, A. E. Jenkins, S. L. Dobie, W. H. Leabe, J. J. McDonell, A. J. Johnston, H. Hockenyos, J. B. Hibbard, W. W. Wilson, A. M. Brown, S. E. Rhenstrom and D. E. Bowman, Jay H. Upton and W. C. North, former members, are said to have received commissions as First Lieutenants.

Prominent members of the famous Sec-

ond Oregon are brushing up their military knowledge and preparing to apply. It has been rumored that Charles E McDonell, who on January I will step out of the County Assessor's office, had applied for a berth, but this was denied yesterday.

yesterday.

Captain Mumby, a former member of the Washington militia, is the recruiting officer for the Pacific Coast States. The man in general charge of the reculting of officers throughout the United States is General English, a high officer in the Chinese reform army. His headquarters are now in Wyoming. A few days ago he was in Yankton, N. D.

Secretary surrounds every move made.

Secreey surrounds every move made. But it is known that Captain Mumby is expected in Portland before the end of the present week, and that a board of examiners will arrive about the middle of

tion as to the workings of the organizabeing put into final shape and will, as soon as completed, be brought to Portland and signed. This is expected to take place not later than Monday.

There is a good deal of curiosity as to was to be gathered together, and at the appointed time a general insurrection against the Chinese imperial government was to take place. The recruiting officers who appeared in Portland, however, declared that the re-form association and the imperial gov-

form association and the imperial gov-ernment are now acting in conjunction. But the generally accepted object of the purpose of the new army is to over-throw the reigning power in China. All who have made application have been bound to secrecy. But the under-standing is that employment in drilling and officering Chinese troops was defi-nitely promised for five years. No con-tract was asked for, however, though transportation is furnished. The pay is to be 20 per cent more than received by be 20 per cent more than received by American officers in the tropics, perqui-sites and other attractions.

sites and other attractions.

What the applicants have been told is that they are to command 150,000 Chinese troops, who shall be dressed in something similar to the United States Army uniform, and without queues. A few enlisted men will be distributed among the Celestials for better drilling instruction but the officers desired are men competent to fill the place of Second Lieutenants, or higher.

Some weeks ago Colonel James Jack-

ants, or higher.

Some weeks ago Colonel James Jackson, United States Army, retired, and inspecting officer of the Third Regiment, heard of the recruiting work being done here and asked the War Department and the Chinese Minister for information. He was told no information was at hand.

GRANTED HIS FREEDOM.

Self-Confessed Criminal Allowed to Go Free Because He Is Soon to Die.

A self-confessed criminal, but with only a few months of life left for him, O. R. Holliday was shown a leniency yesterday rarely accorded in such cases.
Holliday was arrested under the charge of robbing the mails while acting as carrier between Frineville and Burns, Or.

rier between Frinceille and Burns, Or.
After the discovery of the crime Holliday
fied to Missouri, only to be captured there
and brought back to Portland.

Upon his appearance in the United States
Court yesterday it was shown that although only il years of age, the ravages
of a fatal disease had made his life but a
matter of a few months. Under these cir. of a fatal disease had made his life out a matter of a few months. Under these circumstances Judge Billings thought that the prisoner, although confessedly guilty of the crime, should be allowed his closing days in freedom, and therefore gave him his liberty, and especially since the youth was led into the crime.

ASSERTS HE WAS ROBBED.

Logger States That He Lost a Watch In North-End Saloon.

J. C. Wilson was locked up in the City Jail last night by Policemen Baty and Burke, who arrested him in the North End for being drunk. At the Central Station he told Captain Moore he had been robbed of a silver watch and Detectives Kerrigan and Snow were assigned to the case. He thought he lost the watch in a saloon at Second and Couch streets, but was not positive. He is a logger.

TOO WELL FED

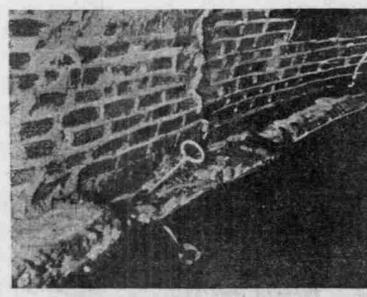
Clergyman Not Entirely Sure on That

There is an inclination among the la-dies to rather overfeed the Dominie sometimes, and while that indirectly helps the sale of Grape-Nuts, it offers no suitable excuse for the makers to en-

suitable excuse for the makers to encourage the practice.

A minister of Auburn. Ind., writes:
"Whether it was from irregular habits
and more or less badly prepared food
taken during some of my travels, or
whether I have been too well cared for
by my parishioners does not seem entirely clear, however, the fact remains
that indigestion set in and after a period
of hard work I came down with a genuine case of nervous prostration.

FLASHLIGHT PHOTOGRAPHS OF THE TANNER-CREEK SEWER



An Iron rod, 33/2 feet long, was pushed by hand under the bottom of the wall,



The examiners at work. The man holding the lantern is J. H. Cunningham.

These photos were taken nearly 50 feet underground.

material, and besides it is a statement of a third party and could not be introduced unless the defense had a chance to cross-examine the people who signed it."

"Well," said Mr. Hall, laying the paper back on the table, "I won't insist upon it at this time, so don't make a speech.

"I should say not." murmured the objection was cross-examined by the defense and an effort was made to have his testimony thrown out, but this objection was overruled.

Colonel A. R. Greene, of Portland, testified that he was a special inspector for the last eight years continuously.

A short time after that the first illinger type in last eight years continuously.

A short time after that the first illinger type in evidence from the department, and was now the custodian of them.

"Now, if it please your honor," re-"

A coused of Using Trap.

Accused of Using Trap.

"I object," said Judge Pipes. "The counts tands adjourned."

"I object," said Judge Pipes. "The counts tands adjourned."

Art Rooms Open Todsy.

Art Rooms Open Todsy.

The rooms of the Art Association in the Library building will be open this afternoon from 2 to 4 oclock with free admission. The photographs now exhibited are selected from the French Painting of the 1sh century. To this period belong the popular paintings of the 1sh century. To this period belong the popular paintings of the 1sh century. To this period belong the popular paintings of the 1sh century. To this period belong the popular paintings of the 1sh century. To this period belong the popular paintings of the 1sh century. To this period belong the popular paintings of the 1sh century. To this period belong the popular paintings of the 1sh century. To this period belong the popular paintings of the 1sh century. To this period belong the popular paintings of the 1sh century. To this period belong the work of the far greater artist, was the work of the far greater artist, was hown. Mr. Hency had offered another letter for him as a artist. The most important works of these and other painters of the time a

Mr. Hermann has been very outs, and having seen the woman but chose her the territorial was not compared to the territorial was not to have any the control of the capture of the capture