

DEFENSE WAIVES ITS ARGUMENT

Submits Case to Jury Without Debate.

NO ANSWER TO MR. HENEY

Judge Bennett Leaves All to Jurors' "Intelligence."

COURT THEN GIVES CHARGE

At 10:35 P. M., No Agreement Having Been Reached, Jury Is Locked Up for Night and Judge Retires.

JURY REACHES NO VERDICT AND IS LOCKED UP FOR NIGHT.

The jury in the Williamson case failed to reach an agreement last night, it being understood that at 11 o'clock the vote stood 11 to 1 for conviction, one man standing out stubbornly for acquittal, while the rest favored conviction.

The case went to the jury at 8:15 in the afternoon and at 7:15 the jurors asked to have the testimony of Campbell Duncan and Ernest Starr read to them. At 8:15 the jury was led into court and listened to the testimony of Duncan as read by Mr. Starr and Judge Bennett, and of Ernest Starr as read by Captain Haden, chief of the court. At 9:20 the jury retired again to deliberate and not having reached a verdict at 10:25 Judge De Haven left for his home, stating that even should a verdict be reached during the night, he was not to be called. The jury was then locked up for the night, as Judge De Haven will not permit a sealed verdict to be rendered, if the jury has arrived at any conclusion before or by the time the court convenes this morning the verdict will be heard at 10 o'clock.

After 12 days of trial, the reputation of three of the prominent men of Oregon was given into the keeping of 12 jurymen yesterday afternoon.

When the last testimony for the defendants, Representative J. W. Williamson, Dr. Van Gesser and Marion B. Biggs, had been heard, as well as District Attorney Heney's opening argument for the prosecution, Judge Bennett spoke a surprise. He refused to discuss on behalf of the defendants, the case that had been made against them, or the reasons why the verdict should be one of acquittal. The whole contention was left to the judgment of the jury, without argument.

Judge Bennett, in making this request to the court, said:

"May it please the court, I do not feel that the opening statement of the District Attorney was very full or very fair in this case, and in view of the fact that the jury has been here now for 12 days, trying this case, and has listened to all the testimony offered by the Government, and the evidence and explanations on behalf of the defendants, and must thoroughly understand our position in the case from the arguments that have arisen during the course of the trial, we feel that we would not be justified in keeping them here for two or three days more to listen to an argument in the case. Therefore we have made up our minds to submit the case to the intelligence of this jury on the evidence in the case and the instructions which your honor shall give."

Yesterday morning, when the Federal Court convened, those present heard, after a few remaining questions had been asked of the last witness called in the case, a short statement of what the Government had attempted to prove, as told by Mr. Heney. It was milder than those who had followed the trial had expected. The defendants were not called to account in any great measure for what the evidence of the Government seemed to show them to have done. Inveective and attack were wanting. It was, as styled by Mr. Heney, a birdseye view of the case and the evidence.

Defense Makes No Argument.

In the afternoon those who assembled to hear the reply of Mr. Wilson for the defense and the following speech by Judge Bennett were surprised when the latter arose and stated to the court that he thought it would not be justifiable for the attorneys to keep the jury waiting through several days of argument, and that the defense would submit its case without further words to the judgment of the jury.

Judge De Haven asked the Prosecuting Attorney if he wished to make further argument, as he had a right to do under the law, and Mr. Heney stated that he would consent to submit the case and would waive his right to close.

Judge Bennett's move was a surprise to the jury and to the court, as evidenced by the fact that Judge De Haven had to order a recess to be taken for an hour while he finished the compilation of his charge to the jury, but the step had been suggested by Mr. Heney and his argument had been shaped accordingly. He gave a "birdseye" view of the case, and avoided going into the testimony in order that his remarks need not call for vindication from the defense while at the same time the cause of the Government should be well placed before the men who would decide the case. His closing statement was significant in the light of what came

after, when he said: "Gentlemen, I have now outlined, I think, fairly the case as it stands, and I will submit it to you at this time without further argument, reserving further discussion of the testimony and the evidence until I hear what may be said by the defense." No one heeded the words when spoken, but afterwards they served to show that the surprise to the general mind was not one to Mr. Heney, who was expected to be surprised.

The charge to the jury delivered by Judge De Haven at 3 o'clock was a comprehensive, fair and at the same time a direct statement to the men as to what their duties were under the law.

The Judge held that it was not necessary to show that the conspiracy had been accomplished, for, even if it had failed, the defendants might have been guilty of the crime, their intent might have been as unlawful as though they had actually consummated their desire. It was not necessary to show any set or stated agreement. If it were shown by the evidence that the matter had been discussed, that following this the overt acts of Biggs had been done, as argued by the Government, that the money had been lent and the claims taken up under the supposition that they were to belong to the firm of Williamson and Gesser after patent, then the conspiracy had been shown. But if, on the other hand, there remained any reasonable doubt as to whether this had been intended, then the jury should acquit. The Judge also stated that if two men had been shown to have entered into the conspiracy and in the minds of the jury the third had been connected by evidence or circumstance, then a general verdict might be returned, but two must be connected with the crime or there was no conspiracy while two might be guilty and one not guilty.

Case Goes to Jury.

The case was given into the hands of the jury at 8:15 o'clock, after which court was adjourned subject to the returning of a verdict or the call of the jury. Judge Bennett, in making his exceptions to the charge as delivered by Judge De Haven, asked for one covering the remark of the Judge that a verdict could be returned against one of the defendants singly, and the jury was recalled while the Judge explained that if he had made such a statement it was a mistake. He also asked for one covering the fact that the defendants were to be connected with the conspiracy before a conspiracy could be proved. The jury then finally retired. At 10:25 Judge De Haven retired, and the jury, having reached no verdict, was locked up for the night.

DEFENSE CALLS WITNESSES.

After Hearing Their Testimony, Mr. Heney Begins Argument.

In the morning when court was convened, Judge Bennett asked that he be allowed to call E. J. Johnson as a witness, something as to the nature of the lands in question. The permission was granted that he had been subpoenaed as a witness by the Government. Mr. Johnson stated that he had been subpoenaed on Friday and that he had not seen the witness at that time.

Judge Bennett asked the witness about a conversation that he had been reported to have had with Mr. Johnson in Prineville a short time after he had been subpoenaed as a witness. The attorney asked that at that time he could not be of much use to the Government, but that he had been subpoenaed in part over the land with a Deputy United States Marshal and had found that there was a "birdseye" view of the case.

Mr. Johnson stated that he might have had such a conversation and that he did not know at that time that Biggs claim had good timber on it, but that his opinion had been formed from a wrong hypothesis. The witness stated that he had started from the wrong point when with the Deputy Marshal, and had gone in the wrong direction, landing on a section of land belonging to the Wagon Road Company which was in reality heavily timbered. He had not discovered this mistake until after coming to Portland. Since then he had arrived at the conclusion told in his testimony of the previous day when he said that the Biggs claim had been discovered in part over the land with a Deputy United States Marshal and had found that there was a "birdseye" view of the case.

On the cross-examination, Mr. Heney asked the witness if he had been with Charles Graves since the opening of the case and if Graves had not spent most of his time with Gesser.

The witness stated that he had been with Graves since the opening of the case and that he had not seen Gesser in his company.

J. A. Schoonover was called by the defense to show that Charles Graves, the surveyor, could not be found when he was testified by the defense to be on the timber on the lands in question.

The witness stated that he had gone to the timber on the lands in question as a witness, but had found that the surveyor had returned to his home at Prineville.

"Did you call the last witness to show that you could not find Graves, or others, to testify as to the lands in question?" asked Mr. Heney when Judge Bennett stated that he would not be able to bring evidence as he had expected.

The witness stated that he had been subpoenaed to testify for the defense and that he had not seen Gesser in his company.

Dr. Gesser, being excused, Mr. Heney began his argument.

Gesser and Graves.

"How frequently have you seen Graves since he has been in town as a witness?" asked Mr. Heney. Dr. Gesser said that he had seen him often, but did not remember the exact number of times. Mr. Heney asked the witness if he did not see him nearly every day, to which Gesser replied that every time he had seen him it had been with someone else. Neither did he know when he had been excused by the Government.

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ARGUMENT OF MR. HENEY

Attacks Williamson's Testimony and Contends He Was in Conspiracy.

Mr. Heney opened his argument for the prosecution by stating that the trial had about reached its end and that he was glad, as he knew the jurors would be, that it was generally thought that argument was superfluous after a jury had listened to all the evidence in a case, yet he contended that short argument was needed to refresh the memory of all on the evidence, and to marshal it in order and connection so that it could be easily understood. The attorneys were only able to remember what had passed by taking elaborate notes, and it could not be expected of the jury that they would be able to retain all of the points which

AIRSHIP ANGELUS FLIES OVER CITY

Wind Too Strong for It to Return to the Exposition Grounds.

TRIP PARTLY SUCCESSFUL

In Mid Current in Earlier Part of the Journey the Airship Appears Under Perfect Control of the Aeronaut.

Man tried again yesterday to conquer the air.

Man tried again yesterday to conquer the air. It was the same old story of partial defeat. He must try yet again before he can slip the metaphorical harness upon the atmosphere and make it serve him as the giant Steam and Electricity have been brought to serve.

For nearly two hours yesterday afternoon the airship Angelus hovered over Portland and vicinity. To the casual observer it looked like a great bird moving slowly across the sky with ease and perfect control of itself. In fact there was a battle going on every second; a battle against a strong wind which has proved the evil genius of airship inventors since the first. Every inch the brave vessel moved to the southwest was an inch to the credit of the contending elements. It is noteworthy, however, that the Angelus bucked the capricious air currents yesterday with a greater degree of success than any previous air vessel. Captain T. S. Baldwin, of California, the inventor, is satisfied with yesterday's showing. He will make some delicate alterations and pit his vessel against the wind at once. He has no doubt but that his boat could navigate in any direction under favorable atmospheric conditions. He intends to make it all under any conditions.

Starts on Its Trip.

The Angelus made the first airship flight in Northwest history and the first of the Exposition competition. It started from the Exposition grounds and drove southeast bucking a strong wind from the north. Lincoln Beechey, of Los Angeles, went up with the machine, and displayed remarkable skill and courage in his work. He also appeared to have perfect control of the difficult monster at all times. After being drifted along an irregular southward course for about six miles he tacked east and made a safe landing on a dock at a Willamette River pleasure resort. The vessel was not damaged to any great extent and arrangements were made for its conveyance back to the Exposition whence other test-flights are to be made this week.

Takes His Course.

The airship was unleashed at 2:30 o'clock, Captain Baldwin had been awaiting favorable weather conditions for a week, past but high winds had prevailed nearly every afternoon especially in the upper currents. Yesterday reports from the captive bal-

WILL LAY SIEGE TO VLADIVOSTOK

Japan Lands Army on North and Will Surround the Fortress.

FLEET IS OUTSIDE PORT

Effort to Be Made to Capture Russia's Last Stronghold on Pacific as Another Argument for Peace.

LONDON, July 18.—(Special.)—A Japanese Army has been landed north of Vladivostok and the complete envelopment of the fortress is imminent.

The investment of Vladivostok is regarded here as a strong argument for peace.

SHIPS ONLY SLIGHTLY HURT

Japanese Will Recover Five of Those Sunk at Port Arthur.

TOKIO, July 18.—(4:30 P. M.)—An officer who has returned from Port Arthur reports that the extent of the damage to the sunken Russian ships was slighter than was anticipated. It has been known that the Russians applied explosives inside the vessels before they were abandoned and the resulting damage was expected to be serious. It has been found, however, that the vital portions of the ships were strangely unharmed.

SHIPPING TRUST'S DEFICIT

Losses \$1,142,098 in 1904 Through Rate War and Other Causes.

NEW YORK, July 18.—A deficit of \$1,142,098 for the year ended December 31 last, as compared with a surplus of \$1,767,730 for the preceding year, is shown in a statement given out by the International Mercantile Marine Company at its annual meeting in Hoboken, N. J., today. President Bruce Innes attributes the poor showing largely to the continued depression in freight rates on the North Atlantic during the latter part of 1904. While passenger traffic has been large, earnings were seriously affected by the all-round cut in passenger rates.

Cavalry Horses Roasted Alive.

SALT LAKE CITY, July 18.—A special to the Tribune from Lander, Wyo., says that the troop stable at Fort Washakie, 14 miles from Lander, has been destroyed by fire. Sixty horses belonging to F Troop, Tenth United States Cavalry, were burned, and also three mules and considerable saddletry. The horses were large sorrels and among the finest in the Army.

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SCORES KILLED BY BLAZING SUN

Whole Country East of Rockies Suffers

HIGHEST RECORD IS PASSED

Sweltering Thousands Flee to Seashore.

PEOPLE SLEEP IN PARKS

New York Mercifully Takes Down "Keep-Off-Grass" Signs—Bureau Promises No Relief for Several Days.

HEAT AND ITS RESULTS IN LEADING CITIES.

Following are the maximum temperatures officially recorded in the larger cities with the known cases of prostration and death:

City	Temp.	Prostration	Deaths
New York	92.3	5	3
Philadelphia	92.3	5	3
Baltimore	91.3	5	3
Washington	90.4	6	4
Boston	90.4	6	4
St. Louis	90.4	6	4
Buffalo	90.4	6	4
Chicago	90.4	6	4
London, N.Y.	90.4	6	4
New England	90.4	6	4
St. Louis	90.4	6	4
Portland, Or.	85	None	None

In the above table the totals of prostrations include the fatalities.

NEW YORK, July 18.—An era of oppressive heat that brings to mind with unpleasant vividness the record-breaking Summer of 1904 has settled down over the Eastern and New England States, already numbering hundreds among its victims and causing indescribable suffering to people in this and other cities.

From all points tonight came the story of the hottest day of the Summer, attended with frequent prostrations and a few deaths. Philadelphia reported a maximum temperature of 93.3, the highest figure officially noted. In this city the Weather Bureau's high mark was 93, while in Boston 94 was recorded.

The official thermometers located in exposed places above the street did not, however, indicate the temperature in which the ordinary mortal moved, and many street thermometers indicated a temperature of 100 or higher, some reliable instruments registering 104 and 106.

The above figures by no means represent the sum of human suffering today, as an endless number of victims who collapsed at home, in the office or workshop were privately attended.

Today all records for the Summer were broken in point of high temperature, but mercifully the humidity was correspondingly less. Only for this the total prostrations and deaths must have been doubled.

Fly to Beach to Breathe.

In New York the suffering was intense, especially in the crowded tenement districts, where scarcely a breath of air relieved the stifling atmosphere. Thousands who could afford the holiday fled to the beaches, but even in the consequent crowds women and children fainted and men were overcome, making the trip from home a doubtful experiment as far as securing any comfort was concerned.

At 8 o'clock this morning the mercury stood at 89 degrees, and rose until the maximum of 96 was reached at 4 o'clock. The humidity was 73 at 8 o'clock, but it lessened steadily until only 58 was registered when the temperature was highest.

It was a busy day for the hospitals, and the ambulances were continuously on the street.

Early in the day the hot wave invaded the Stock Exchange, and its effect was quickly apparent on the traders. Many of the leading operators deserted the floor and the market became listless and dull.

Water Famine Threatened.

To add to the unavoidable physical suffering, Brooklyn was threatened with a water famine while the whole city was stricken by the prospect of a strike of the loomen. The water supply in Brooklyn was reported as nearing the danger point, and the water department took immediate precautions, asking that street sprinkling be temporarily suspended and warning householders to be more economical in the use of water. Manhattan, it was said, had no cause for alarm as far as the water supply was concerned.

It was different with the ice question, though an expected strike today did not materialize. A few ice-wagon drivers stopped work, but deliveries continued.

Sleeping on Grass and Pavement.

Prompt measures were taken today by the Police and Park Commissioners to alleviate in some degree the suffering of the public. Orders were issued keeping open throughout the night the park gates and permitting those who wanted to spend the night in these places "Keep off the grass" signs were by permission discarded, and tonight thousands of men, women and children deserted crowded and stifling apartments for a bed on the cool grass. Thousands of others, too exhausted to reach the recreation grounds, slept on the pavements in front of their homes.

Late returns from the hospitals show ten as the total dead from yesterday's heat in and about New York. More than 100 cases of prostration were reported by the police.

The threatened strike of icehandlers



TOWING THE ANGELUS TO THE OARS AFTER ITS FLIGHT OVER THE CITY.