UEFENSE WAIVES

ITS ARGUMENT

Continued From First Pace)

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The Walter From First Pace Pace First Pace F were people who would not be very apt to speculate in it, because they were practically all people of small means, to whom \$15 for making the proof would be an object.

Now, then, having had these people file for the purpose of getting the graning and for the purpose of securing the control of this land, some of them made final proof; and before some others had, there was an article appeared in The Oregonian which showed that Secretary Hitchcock was going to interfere with the taking up of lands fraudulently in Oregon, especially timber lands, and that the matter was going to be investigated. Now, then, here we have Williamson in the scene again. Williamson is back up there, Henry Hudson had been asked by Van Gesner, according to Hudson's testimony, in the presence of Williamson on the scene again.

Now, then when Crain and Gaylord come to relinquish they go to the office of fice, after having the talk with Biggs and making the relinquishment, they go to the office of Williamson & Van Gesner, and when they get to the office Williamson is sitting there with Van Gesner, and Williamson reads this article in the paper, and having read the article in the paper, and having read the article in the paper he says to them—now, they both testify to this—that Williamson anys. "I am sorry, boys, that you cannot prove up now, but I am afraid there might be trouble, but this thing will quiet down after a while and you can prove up laier on." I may not get the exact language, but that is the substance of it. I will give you the exact language ister. Now, then, does Williamson deny that? He doesn't, and neither does Van Gesner's later and show you. What does williamson deny that? He doesn't, and doesn't receast ever having seen Gaylord until he saw hilm on the witness stand. Well, now, we know that Williamson's go williamson williamson of Crain is that up at the timber, at the time their pieces were selected for them. Williamson told them which pieces to take: that Williamson hut wrote it down in was to take; and Van Gesner admits that that talk did take place; that Williamson hold write in the book and expedited which quarter section each one was to take; and Van Gesner admits that that talk did take place; that Williamson herriered, and salid it of he would not have remembered whill make the head of the conversation, and does not remember be it yet, but thus he thinks that it is how will in the book and expedited which quarter section each one was to take; and van Gesner admits that that talk did take place; that Williamson hild them how to find the land, to go wall look at it, and thus he would not have remembered that conversation, and does not remember be it yet, but thus he thinks that it to his mine of the would not have remember; that be never saw Gaylord until he saw him upon this witness stand, then his knowledge

ing at that time with Gesner: that Gesner was making these loans and was goin was: before he made his filings now,
but after some of the locations of July
3 and been made.

It is always significant when a deflex mich he holds his influence might
be of some value to them afterwards in
the hope that they could get Wiliamson out of this, and I think, it is
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be of some value to them afterwards in
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the flew which he holds his influence might
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didn't have when any the less
guilty if they kept Williamson in, and
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set him out of it. Now, I say that the
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to be say on the face of it, it is improbable; it
be inherently improbable; it bears intermaking it up for the grass; that they were
taking it up for the grass; that they were
taking it up for the grass; that they were
taking it up for the grass; that they were
making bonn in order to get the grass;
the case of the creek for the first
and conduct this business for him, and
litigs had been telling people to go up
the say of the same day that all these point
and conduct this business for him, and
fliggs had been telling people to go up
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Weren't they trying to protect the road lands by taking the two adjoining sections?

Now, just look at Biggs' claim. Here is the Cadle ranch and here is Van Gesner's claim. Geferring to plant. Here is Williamson's claim. There is the Biggs claim. Here is land under lease all around it. Now, what was that taken for? What was that taken for? And that? Those were all three selected by Gesner. What were these taken for above that? They were belected by Gesner. Now, look on the outside of that one. Here was a school section on the outside of that one, and they get on the outside of that one, and they get on the outside of that one, and they get on the outside of this one; on every side as to this one.

That Horse Heaven Creek, the connection is not shown there, and I don't know, but I understood from Mr. Williamson's testimony that that ran about straight down here to there. There it circles around like that, and gets down into this Crooked Biver. Now, you will see that under lease they at that time had on the west side of the river only that portion of that section and the portion on that side of this section. And here were their main ranges. Now, we find that tittle piece of this section. And here were their main ranges. Now, we find that, these people being in the sheep business up there, and the question arising as to how they were going to protect their range and evidently secure additional range, and it having become fashionable to take up timber claims, they made up their minds that they would secure a range which they could hold on to by having people take up timber filings. And you will notice that the most of the people whom they selected

DR. VAN GESNER.

Budson's testimony, in the presence of Williamson, to file, and a plat was shown to him, and he was told he would get \$55 clear if he did file, and that Gesner would take the land. Hudson testifies that Williamson was sitting right there and heard it.

is son, just the minute he found out that the Secretary of the Interior meant bust mess, and that he was going to investiones, and that he was going to investion the should go up, but that she told him he had heard that Gesner was going to put up the money, and that he was going to put up the money, and that he was going to put up the money, and that he was going to put up the money, and that he was going to put up the money, and that he was going to put up the money, and that he was going to put up the money, and that he was going to put up the money, and that he was going to put up the money, and that he was going to put up the money, and that he was going to put up the money, and that he was going to put up the money, and that he was going to put up the money. And with the make it is own accuser. Ordinarily, the honest man does not fire form a charge, but goes right to its face foremost and control its boildy. That is the reason that it is proper to be considered, and that he was the set of the window of the set of the way to put the window of the set of the way to put the work of the was up there on June 15: that at its proper to be considered, and that is proper to be considered, and that he was tree, so the guity as the save, its mark upon the especialists tree, so the guity as the set its mark upon the conscience of the evildoer. And with that mark on the conscience the moment we open the window of the minutes of the put that and the put of a defendant that shows it to us? Any act on the part of a defendant that shows the tour any question about that the was a shown it to us? Any act on the part of a defendant that all the tree of the window of the minutes of the put that and the put that the put that and the put that and the put that the

THREE DEFENDANTS IN THE LAND-FRAUD TRIAL

J. N. WILLIAMSON.

tainly the Supreme Court of the United States has so decided—that they did have the right to loan money—if they took the advice of a lawyer in advance, and knew from the advice of two lawyers, mat they had the right to loan money upon mortgages, what were they afraid of? Why did they fear when they read that ritcheock was going to investigate land frauds in Oregon, or eisewhere? It was the fear that comes from a guilty conscience. It was the knowledge that in this case the mortgage was a mere subterfuge. It was because, as testified to by one or more of these witnesses, whose testimony I will refer you to later, when the talk was made by Van Gesner up in the woods, the proposition was this. Now, boys, I can't make a contract with you, a definite contract—and hair these people understood that a contract meant that it had to be in writing, as you can see by their testimony, or it wasn't a contract; one of them was Biggs told

nee by their testimony, or it wasn't a contract one of them says Biggs took to the when you get before the grand line will away the there was no contract, that was their understanding, purposety put into their minds by Geocar and Signe. I think hat is a fair deduction from the evidence, that Geomer says to them: "Now, I can't enter into a definite contract, boys, but will select the land for you to file on, I will pay all the expenses, and I will take a mortgage, but that will only be for a short period, until you get your sitle, because I will buy it off you and give you file, because I will buy it off you and give you file for in the minute you get your final receipt; but I can't make a contract in advance; but that is all right; this is just temporary, for the purpose of securing me until you do get your title you can deed it to me, and I will give you the Kon. And there in the in the woods? Inn't that exactly what occurred? And if that is what occurred? And it will ease the dummies, as the were taking it up for him; they were taking it up for him; they were taking it up for him; and it was wholly immaterial to them which piece they took. You see that none of them was particular as to which piece he took; he was willing to take any piece that he was tooking up had will take. Moreover, If he was borrowing the money, and that is what he understood, and that is all that he wanted to have some say about the piece that he was took if he was borrowing the money. The he wanted to sell it to the highest bidder, and was simply borrowing the money, and that se what he understanding the money of the proposition.

Now, take the way in which they he higher he would net about \$75, and that when he got through he would net about \$75, and that when he got through he wo

MARION R. BIGGS.

August 1, and Earnest D. Starr on August

"A. Yes, sir.
"Q. Where is it—about where from he sheep ranch?
"Q. It is about 22 miles from Prine-

ville.

Instructs the Jury.

At the close of Mr. Heney's statement the defense saked to be allowed until afternoon to begin their argument and the request was granted. Upon the re-sumption of the session at 2 o'clock, Mr. Bennett stated that, owing to the fact that the turn had been listening to the

Charges in Indictment.

The indictment in this case is voluminous, but it will be sufficiently accurate to say that it charges, in substance, that the defendants and divers other persons conspired together to instigate and procure a large number of persons, to-wit, one hundred, to make timber entries under the laws of the United States and in making such entries to willfully and corruptly commit perjury by appearing before one of the defendants, Marion R. Biggs, who was then and there a United States Commissioner, and stating, under oath, at the time of applying to enter such land, that the applicant was applying to purchase for his own exclusive use and benefit, and had not, directly or indirectly, made any agreement or contract in any way or manner, with any person, by which the title he might acquire should inure in whole or part to the benefit of any person except himself; when, in truth and in fact, the entry was made for the benefit of the defendants, Williamson and Van Gesner, under an agreement that the title to be acquired was to inure to the henefit of said Williamson and Van Gesner.

The indictment further charges that cer-

No Difference if Unsuccessful.

Conspiring to suborn perjury, which is the crime charged in this indictment, involves every element of subornation of perjury except the actual completion of the offense. It does not make any difference whether the conspiracy is successful or not. There must be the same intention to procure the parties to be suborned to swear to something which the party taking the oath does not believe to be true, and it must be intended by the person who procures the taking of such oath that the false statement therein shall be willful and corrupt.

Although you may believe that the defendants advised or induced various persons to make application to enter the lands referred to in the indictment, still if they believed that the applicants could trusfully make the statements set out in the indictment and required by the law, then the defendants are not guilty of the crime charged in the indictment.

The statute authorizing the sale of timber and stone lands, provides that any person desiring to avail himself of its provisions, shall file with the Registrar of the proper district a written statement in duplicate, duly verified by his oath, describing the land which he desires to purchase, and setting forth, among other things, that he does not apply to purchase the same on speculation but in good faith to appropriate it to his own exclusive use and benefit, and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which he may acquire from the Government of the United States, should linure, in whole or in part. to the benefit of any person except himself.

Any clitzen of the United States, or any person who has declared his intention to become such, may purchase lands under this statute, when such purchase is for his own exclusive use and benefit, not withstanding at the time of making application to purchase he may have in contemplation a future sale of the land.

Right to Borrow Money. sneep range out there by acquiring lands?

"A. The chances are if I was out there the 15th of June, we had talk along those lines."

"Q. Do you remember having a talk with a cattleman in regard to their keeping you from running sheep there? You heard the testimony of Mr. Gesner, didn't you?

"A. Yes, sir, I remember of having a talk with a cattleman.

"Q. Who was the man?

"A. Do you really want to know?

"A. Do you really want to know?

"Q. Yes, of course I do.

"A. Mr. J. H. Gray.

"Q. J. H. Gray. Has he a cattle ranch there?

"A. Yes, sir. the sheep ranch?

"Q. It is about 22 miles from Prineville.

"2. About how far is it from the
sheep ranch?

"A. From what?

"A. On the north? A. East.

"Q. On the east How far east is his
ranch, or any land that he owns; how
far east of Horse Heaven Creek?

"A. Well, the mouth of Horse
Heaven Creek—Horse Heaven Creek
empties into the river immediately
through his range; about through the
center of it. I am speaking of Mr.
Gray's range now."

That is all there seems to be on that
subject there. He says: "I think if I
had the opportunity, I could place myself exactly when that signature was
made in Prineville.

"Q. Haven't you had plenty of time?

"A. I didn't know you had that
kind of a signature. but he certainly
knew that Van Gesner had been asked
two or three days before if he wasn't
there an June 15, and if he didn't stop
at the Poindexter Hotel. What evidence
we had of that fact, I will admit that
he didn't know; and I will admit

Right to Borrow Money.

Charges in Indictment.

Contemplation a future sale of the land ranch, or any land that he owns; how far east of Horse Heaven Creek.

Heaven Creek—Horse Heaven Creek empties into the river immediately through his range; about through the center of it. I am speaking of Mr. Gray's range new.

That is all there seems to be on that subject there. He says: 'I tink if I had the opportunity, I could place myself exactly when that signature was made in Princeille.

'A I didn't know you had that kind of a signature.

Now, he didn't know we had that kind of a signature.

Now, he didn't know we had that kind of a signature.

Now, he didn't know we had that there so June 15, and if he didn't stop at the Poindexter Hotel. What evidences we had of that fact, I will admit that he didn't know; and will admit he wants know of the land and let the known has a right to offer any price he wants to b

A LETTER TO OUR READERS

53 Cottage St., Melrose, Mass. Jan. 11th, 1904.

Dear Sir—
"Ever since I was in the Army I had more or less kidney trouble, and within the past year it became so severe and complicated that I suffered everything and was much alarmed—my strength and power was fast leaving me. I saw an advertisement of Swamp-Root and wrote asking for advice. I began the use of the medicine and noted a decided improvement after taking Swamp-Root only a short time.

a short time.

I continued its use and am thankful to say that I am entirely cured and strong. In order to be very sure about this, I had

In order to be very sure about this, I had a doctor examine some of my water to-day and he pronounced it all right and in splendid condition.

I know that your Swamp-Root is purely vegetable and does not contain any harmful drugs. Thanking you for my complete recovery and recommending Swamp-Root to all sufferers. I am.

Very truly yours.

1. C. RICHARDSON.

You may have a sample bottle of this

You may have a sample bottle of this wonderful remedy. Dr. Kilmer's Swamp-Root sent absolutely free by mail, also a book telling all about Swamp-Root. If you are already convinced that Swamp-Root is what you need, you can purchase the regular fifty-cent and one-dellar size bottles at the drugatore everywhere. Don't make any mistake, but remember the name. Swamp-Root. Dr. Kilmer's Swamp-Root, and the address, Binghamton, N. Y., on every bottle.

At the close of Mr. Heney's statement the defense asked to be allowed until afternoon to begin their argument and the request was granted. Upon the resumption of the session at 2 o'clock, Mr. Bennett stated that, owing to the fact that the jury had been listening to the testimony for twelve days and it would be unjustifiable to force them to listen through several days of argument, he would consent to submit the case without argument. The court asked Mr. Heney If he would desire to make the closing argument, and the District Attorney waived his right, stating that he was willing to allow the jury to reach a verdict without further speech. The case was then sent to the jury after the charge by Judge De Haven. The statement made by the court was as follows:

Gentlemen of the Jury: It is a principle of law that a defendant upon trial is presumed to be innocent. This is a substantial right of the defendant, and the presumption juself is a matter of evidence in his favor, and is sufficient to entitle him to an acquittal unless it has been overcome by evidence which leaves in the minds of the jury no reasonable doubt of his guilt. By a reasonable doubt of his guilt. By a reasonable doubt of his guilt By a reasonable doubt of his required to act in returning a verdict; or stated in other words, a luror may be said to entertain a reasonable doubt of the weight of the evidence on which he is required to act in returning a verdict; or stated in other words, a luror may be said to entertain a reasonable doubt of the guilt of the defendant, that is, when he cannot conscientiously say that he is fully satisfied from the evidence of the truth of the charge made against the defendant.

Charges in Indictment.

The supplicant in whole or in part to the benefit of any person except himself.

The application to purchase the land made in good faith, for the except himself. The applicant to the case without further speech. The case without further speech. The case with the statute converted to entertie the state of evidence which l

Agreement May Be Implied.

Now the agreement here referred to need not be in writing: It need not be one which can be enforced in a court or law of equity; It is sufficient that in some way the minds of the applicant and some other person have met upon the proposition that when title to the land is acquired it shall be conveyed to such person, that it was definitely understood between the applicant and such person that the title should be conveyed for a consideration agreed upon, and that the applicant is really to enter the land for the benefit and use of another.

The offense in this case consists in two or more persons conspiring to advise and encourage one or more persons to commit the offense of perjury by taking their oaths respectively before a competent officer and person in cases in which a law of the United States authorized an oath to be administered, that each of said persons would declare and depositions by him to be subscribed were true, and by thereupon, contrary to such oath, knowingly and corruptly stating and subscribing material matters contained in such declaration that he did not believe to be true. The conspiracy need to advise, induce and encourage the commission of the perjury is sufficient to constitute the offense of conspiracy without the perjury being in fact committed, if any one of the parties has taken a step loward advising, inducing and encouraging its commission.

Money Paid by Gesner.

Now the more for all of these was paid by Van Gesner. The first 2000 was money borrowed at the Prineville Bank, on which they paid 10 per cent. The second money was 5000 that was borrowed at The Dallies, upon which they paid 7 per cent. The second money was 5000 that was borrowed at The Dallies, upon which they paid 7 per cent. The second money was 5000 that was borrowed at The Dallies, upon which they paid 7 per cent. The second money was 5000 that was borrowed at The Dallies, upon which they paid 7 per cent. The second money was 5000 that was borrowed at The Dallies, upon which they paid 7 per cent. The second money was 5000 that was borrowed at The Dallies, upon which they paid 8 per cent. The second money was 5000 that was borrowed and negotiated the loud with the paid 10 per cent. The second money was 5000 that was borrowed and negotiated the loud with the paid 10 per cent. The second money was 5000 that was been the paid 10 per cent. The first was December 18, 1844, and it wasn't deposited until December signed by Williamson evidently already and he had advised Gesner, and had seen the note up for Gesner to sign, and both of them admitted that it was borrowed largely for the purpose of making the paid to prove the purpose of making the per conveyed largely for the purpose of making to the facts in this case, and of what I conceive to be the seidence in the cases of these facts is offered by the attorneys for the defendants, I will attempt to add you further in reaching a proper concusion, if I think that it looks as if anything any conversation with Mr. Gener and Mr. Waskefield in the middle of June, 1967.

"A The chances are if I was out there have a said he wouldn't swest that he wasn't in regard to the talk with the man, and with Gesner in regard to protecting the wouldn't swest that he wouldn't swest that he wasn't in regard to the talk with the man and with Gesner in regard to protecting the wouldn't swest that he wouldn't swest that he wasn't in regard to the talk with the man

Joint Assent Must Be Inferred.

In order to establish a conspiracy (Concluded on Page 14.)

MINISTER'S TRIAL

. Coffee Hit Him Hard, Indeed.

Postum: "I was for years a sufferer from headaches; cometimes they were so violent that groaning in agony I would pace the floor or garden holding my throbbing

head for relief.
"I tried all sorts of remedies known to the allopathic and homeopathic schools, sometimes I thought it was caused by the stomach or biliousness and again I would stomach or biliousness and again I would suspect it was purely nervousness and treated myself accordingly, but nothing ever gave me permanent relief. Having to appear before the public nearly every night, it was sometimes almost impossible for me to fulfill my engagements. Finally I came to suspect that the use of tea and coffee had something to do with my disorder and abruptly discontinued the use of both and took on Postum for a trial.

the use of both and took on Postum for a trial.

"From that happy hour I commenced to mend; gradually I got better and better, and now I do not have a headache once in six months and all my other troubles are gone, too. I am now using Postum exclusively and want no better beverage.

"I know of others who have been benefited by the use of Postum in place of

fited by the use of Postum in place of coffee. A friend of mine here in Key West, a hardware merchant, suffered for years with stomach and other troubles while he was using coffee; finally he quit