

ded yards up the road and crawled into the ditch ahead of us. We worked up to him and found a slug had traveled from shoulder to trunk, under his ribs and into his thigh.

Topo's Grim Revenge.
They were fighting down the reverse slope of the Eternal Dragon, an outwork of the Cockcomb, and the Russian bullets, aimed at the foe above, cut a parabola in the air and came down with their initial velocity two miles off across the plain—where we stood. The Russians on the reverse: the Rising Sun must be above the Eternal Dragon.

It is now noon. We are back on Ho-o-zan, looking out to sea. Twelve warships are on the horizon. From one, the nearest in, comes an occasional puff of white smoke, then a low, low ho-o-o-m! A shell drops into the town. The eye follows.

Now we see how the brigade is avenged. The houses of the old town are charred and broken. The new town is gutted and

TRIAL ALMOST DONE

(Continued from First Page.)

incident tended to show anything wrong. Judge O'Day had brought out the injurious testimony himself, and now he was allowed to testify as another witness.

"You heard the testimony of Mr. Heidecke yesterday," asked Judge Pipes. "I did," answered Judge O'Day. "That in which he alleged that he had conferred with you as to his course in appearing before the grand jury in March?"

"The entire statement in that regard," answered Judge O'Day, speaking to the jury, "is absolutely and unqualifiedly false. I never saw that man in my life as far as I know, I never had any conversation with him and especially never in regard to this case."

C. E. Hardy then took the stand. "You heard the testimony of Miss

case where I could not go into the juryroom and vote for conviction. In this case I do not think that the Government has proved beyond a reasonable doubt that Marie Ware is connected with this particular conspiracy within the life of the state of Oregon. There is no doubt in my mind but that she forged the name of Mattie S. Lowell, but there is no evidence to show that she did it for the purpose of furthering this particular conspiracy. I would therefore ask that an order of acquittal be issued by the court in her case."

The court stated that such would be the action at the proper time and that the confession of Walgamot would also be ordered not to be taken by the jury as going to the prejudice of the other defendants in the case.

Spoke for Over Two Hours.
Mr. Hall then commenced with his statement, which occupied two hours and a half in its delivery. The attorney made no effort at oratory and did not speak for rhetorical effect. His statement was the simple recitation of the evidence as given from the commencement of the

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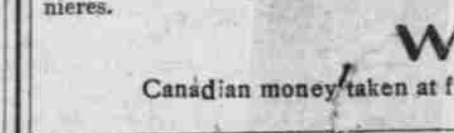
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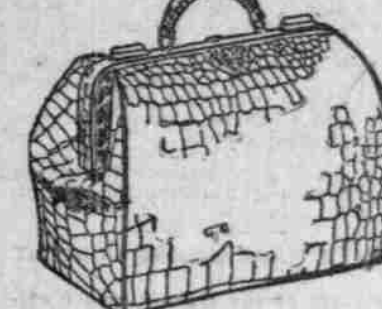
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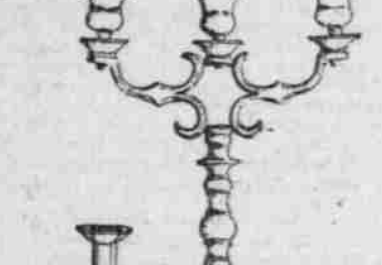


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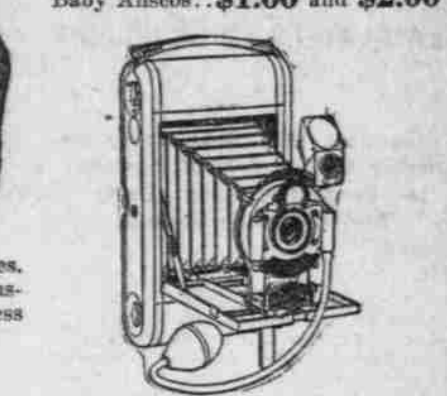
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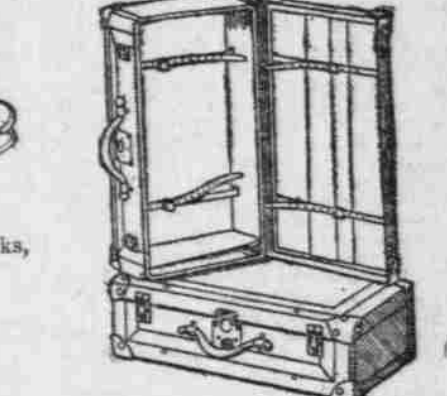
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GOVERNMENT HAS MADE STRONG CASE IN LAND FRAUD TRIAL

Allegations of the Prosecution of Conspiracy, Use of False Affidavits and Forgery Are Supported by Strong Testimony.

The conspiracy case of the United States of America against Emma L. Watson, S. A. D. Pater, Marie L. Ware, Horace G. McKinley, D. W. Tarpley, Frank H. Walgamot et al. has been tried, the testimony is all in, and District Attorney John H. Hall has made his statement to the jury. For 12 days the attorneys on both sides have been struggling one on the one hand for conviction, on the other for acquittal. The evidence has been damaging for the defense. Frank H. Walgamot has weakened the strain, and has, at the last moment, changed his plea of "not guilty" to that of "guilty," to the unavoidable prejudice of the chances of the other parties defendant. At the request of Special Prosecutor Francis J. Heney, Miss Ware will be recommended for acquittal by the court when the charge to the jury is given, on the ground that she has not been sufficiently identified with the conspiracy in the present case. The other defendants are waiting for the argument of Judge Thomas O'Day in their behalf, the answer by Mr. Heney and the charge to the jury, all of which is expected to have been finished by Monday evening. Then their fate will be placed in the hands of the 12 men sworn to return a verdict upholding the law, and each will face either conviction or acquittal. If the former comes, each defendant will be liable, under the law, to a fine ranging from \$1 to \$10,000, or imprisonment extending from one day to two years in the County Jail or at McNeil's Island, or both fine and imprisonment at the discretion of the court and jury.

In practically every allegation made in the indictment the Government has sustained its case. The following is a summary of the charges and testimony bearing on each charge: THAT EMMA L. WATSON, S. A. D. PUTER, MARIE L. WARE ET AL. DID, ON MARCH 20, 1902, CONSPIRE TO DEFRAUD THE UNITED STATES OUT OF A PORTION OF ITS PUBLIC LANDS SITUATED IN TOWNSHIP 11, SOUTH OF RANGE 7 EAST.—In support of this, the prosecution has shown that the defendants dealt in timber lands; that they falsely filed on the lands in question, proved up on them by means of fraudulent affidavits and forged signatures, and that they transferred these lands so acquired back to the Government, receiving in lieu thereof valuable timber lands in other parts of the state, which they in turn sold;

THAT BY MEANS OF FALSE AFFIDAVITS THE CONSPIRACY WAS ACCOMPLISHED.—In proof of which many witnesses have been brought to swear that the affidavits made before special agents of the General Land Office were false and untrue, and had no foundation in fact, and that the homestead filings were in part forged, and were wholly untrue.

THAT FALSE PROOFS OF HOMESTEAD ENTRY AND SETTLEMENT WERE MADE TO SECURE PATENT.—This allegation is shown true by the reports of A. W. Barber and others who went upon the lands and found them virgin forest and rugged mountain, unmarked by trail, uncultivated, containing no settlement and uninhabited.

THAT FALSE AFFIDAVITS MADE BY FICTITIOUS PERSONS WERE USED TO DEFRAUD.—This is shown by proof that Maude Witt, Thomas Wilkins, John F. Foster, William McLaughlin, James A. Taylor, Mattie E. Lowell, George A. Graham, George A. Howe and many other purported homesteaders had no existence, and were represented by various of the defendants.

THAT FALSE AND FRAUDULENT STATEMENTS WERE MADE IN REPORTS BY SPECIAL AGENTS OF THE GOVERNMENT IN FURTHERANCE OF THE CONSPIRACY.—This subordinate allegation is proved by the introduction of the reports of Special Agent C. E. Loomis and of Forest Superintendent S. B. Ormsby, which were shown to be flagrantly false, fraudulent and without foundation.

THAT FALSE AFFIDAVITS WERE SECURED IN SUPPORT OF UNTRUE REPORTS.—This allegation is proved by the confessions of L. Jacobs and J. A. W. Heidecke.

THAT FORGED AFFIDAVITS AND FINAL PAPERS WERE USED.—This is proved by the identification by experts of the handwriting of Emma L. Watson, Marie L. Ware, Horace G. McKinley, D. W. Tarpley and S. A. D. Pater, in the signatures of Thomas Wilkins, George A. Graham, George A. Howe, Emma Porter, Mattie S. Lowell and other of the signatories used.

THE DEFENSE.—In opposition to these allegations, the defense has offered no testimony and produced no evidence, and will depend upon the technicalities of the law to clear the defendants.

FUN WITH FIGURES.

A Frenchman Disports Lightly With Certain Sinister Statistics.

Courier des Etats-Unis.
Some people console themselves for everything and find an argument to keep them from worrying. Every one has read the account of the slaughter in Manchuria. The losses of the Russians in the eight days' battle south of Mukden are estimated at about 40,000 men. Add the losses of the Japs, approximately 20,000 men, and you have a total of 60,000 men. Now, if you divide this by 365, you find a total of 164 men a day, and you find a total of 164 men a day.

During the eight months since the commencement of hostilities the losses on both sides must have been 200,000 men. But that amounts to nothing, or so little that the thing is not worth speaking of. The average life of a man is 29 years on all points of the globe, and a man dies at the rate of one a second or a little over. Now the Russo-Japanese War has lasted eight months, and during these eight months in all the known world there has been a total of 200,000 deaths. In eight months amount to compared with the 20,736,000 who have died during the same period? The proportion is 1 per cent. It is just as if somebody discovered that in a town in which the mortality is usually 130 a week there died last week 152.

The philosophers who reason in this way leave little room for an answer. Statistics are admirably made for closing people's mouths. But let us put figures in a pleasanter light. The fortune of France is estimated at about 400 milliards, and its population is about 35,000,000. Consequently, each one of us is the happy possessor of about 10,000 francs. But go out into the street and tell every man you meet that he has a capital of 10,000 francs. Nine out of ten will be very much surprised at the good news; and some may ask you to be good enough to mention the name of your madhouse.

Sulky Steam Boilers.

E. P. Watson, in Engineering Magazine. All science is at fault at times, and though there is every reason present why a boiler should steam it simply will not; it refuses duty and sulks without any cause therefor that can be detected. On such occasions every one takes a hand at the fire, but the result is the same—no steam, or only enough to keep three-quarters speed. A variety of causes combine to produce this condition of affairs: while slight in themselves, their aggregate effect is to paralyze the motive power for the time being, or until the deadlock is removed by a change of wind, or course, or by taking coal from another bunker. Marine and stationary boilers are afflicted in the way described; there are "good days" and "bad days" in the performance of both.

Miles Accepts Appointment.

BROCKTON, Mass., Dec. 1.—Lieutenant-General Nelson A. Miles has accepted an appointment as Adjutant-General on the staff of Governor-Elect William L. Douglas. This information was given to the Associated Press tonight by Mr. Douglas personally.

Sicken—I say, but this is a fine football game. Patton—Yes, but that's not the point. It could be better settled by arbitration.—Boston Transcript.

Mida McCoy in relation to the fact that you had taken George A. Howe abstract to her for alteration?" asked Judge Pipes.

Had Never Seen the Abstract.
"I never saw the abstract until it was introduced at this trial," said Mr. Hardy. "I was not in Albany on November 21, 1901, and Miss McCoy is entirely mistaken."

Mr. Heney then started to cross-examine the witness, but was stopped by objection from O'Day.

"I have no objection in the matter," said Judge Bellinger, "other than to allow the cross-examination to proceed, and I cannot sustain the objection."

By the examination Mr. Heney showed that Mr. Hardy was a former resident of La Crosse, Wis.; that he had known McKinley before he had come to Oregon; that he represented, as one of the legal firm of Thomas & Hardy, four of the witnesses at La Crosse, who were large timber buyers and who have invested largely in Oregon timberland, and that he had traveled to Salem, and other places in company with McKinley for the purpose of buying school and other lands. As regards the George A. Howe transaction, however, Mr. Hardy stated that he had known nothing of the transfer until the firm had received the deeds from La Crosse with the instruction to file them in Linn County.

At the conclusion of Mr. Hardy's testimony the defense announced that it rested its case, and an adjournment was taken until 2 o'clock in the afternoon to prepare his argument.

In the afternoon the second great surprise of the day occurred. The first had been when the defense rested and brought the trial to its sudden close. But far greater than this was the effect of the announcement made by a newcomer in the courtroom. Claude Strahan was the man who sprung the sensation, which, while it was not great, all the prosecuting attorney had to do to indict people was to draw up a paper and take it into the jury-room to be signed. The grand jury is as solemnly enjoined by the court that there is not a charge on the evidence. I have no desire and no interest in returning an indictment in this court as are you, and I am simply an officer and wish to fulfill my duty to the Government.

"In my opening statement I said that we would show that the Government had been defrauded out of a part of its public lands in township 11 south, range 7 east, by a conspiracy. We have done that by the evidence brought before you. We promised to show that these defendants were the parties to the conspiracy and that they had conspired to do these acts. All this has been shown by the testimony of more than one witness. The testimony of Barber shows that there is not a trail on any of the claims, and none of the witnesses testify that there is a sign of a trail ever having been made."

Mr. Hall followed, the conspiracy through, and concluded by an appeal to the jury stating that, in the minds of the Government, there was no doubt as to the guilt of the defendants, and that upon the evidence offered they should be convicted.

The court was then adjourned until Monday morning at 10 o'clock, when Judge O'Day will present the argument for the defense, after which Mr. Heney will speak for the prosecution. It is thought that the case will go to the jury on Monday afternoon.

Following the settlement of the trial now closing, the second conspiracy case will be called, in which Emma L. Watson, S. A. D. Pater, Marie L. Ware and Horace G. McKinley are the defendants. This case alleges that the Government has been defrauded out of lands in township 21 and 24 south, range 1 east.

Following this case, Pater, Ware and McKinley will be tried on the charge of

Bad Eyes Brought Bad Luck

—Cross-Eyed Man a Hoodoo to Caesar Young, Barney Schreiber and Other Bookmakers.

CHICAGO, Nov. 23.—(Special Correspondence).—The reputation of racing at Los Angeles and the trial of Nan Patterson in connection with the tragic death of Caesar Young, the bookmaker, recall the incident of the cross-eyed man who caused the bookmakers such travail of soul and heavy financial losses on the Coast something more than a year ago. It is said that the somewhat erratic state of this cross-eyed man, Oscar Barney Schreiber, the St. Louis Plunger, more than \$7,000. The same uncertain gaze cost Caesar Young and other bookmakers thousands. The presence of this "hoodoo" is said to have been responsible for the disappearance from Oakland of Caesar Young, just prior to his tragic late in New York. The story, as brought to Chicago, runs on this wise:

The man with the bad eye—a pair of them, in fact—was first discovered on Christmas day. Things had been moving along in plain old-fashioned fashion, however, when, very suddenly, something went decidedly wrong. Three races had been run and Caesar Young's book was a heavy loser. Then the owner of Emolo, winner the opening handicap, stopped booking and called the attention of his crew to a tall man standing in front of his book. There was nothing peculiar about the tall man except that he seemed to be looking several ways simultaneously.

Caesar Young crossed his fingers and sized up the stranger. "He is looking at me!" he finally asked of his crew. "I can't make out clearly," responded the ticket writer. "I believe he is looking into his ears."

Meanwhile business was entirely suspended and Young got down and walked around the man. From every point and altitude, he seemed to cross the visage of stranger. Try as he would, he could not get out of the man's visual range. Finally, in desperation, he called the stranger up to the block. "Look here," he said, "I want to have a little conversation with you and while we are talking I want you to look me directly in the face. Do you catch that?"

"You're on," said the stranger. "Well, the point is just here. You have been standing in front of my book for a long time and I am a big loser. Are you looking at me?"

"Straight as a string," said Young. "Now if you will get over and stand in front of Barney Schreiber's book for the remainder of the day, I will give you a \$10 ticket on any horse you may select in the next race. Is it a bet?"

"It's a go," responded the mournful stranger, whereupon Young gave him a ticket calling for \$0 to 10 on Kenilworth to beat Gold Money, which he did and the stranger cashed in. Then he ambled over to Schreiber's stand, but had not been there long until the St. Louis horse-breeder saw him. Barney began to grow uneasy and when the race was over and his book showed a loss of \$250, he practically lost his reason. The cross-eyed man was not to be frightened away, however, and even had the audacity to place a bet in Schreiber's book. For three weeks Schreiber could not lose sight of the cross-eyed hoodoo. Neither could Caesar Young, for he would invariably cut in alongside the Schreiber club and then the cross-eyed man would line up just as soon as the betting commenced. Occasionally he would look at Jim Nell's book until Nell finally gave him \$10 to go back in front of Young's booth. Shortly after this the unfortunate Schreiber, however, hung on for three weeks, losing every day, until the sum total of his losses figured up more than \$27,000. To make matters worse, Schreiber

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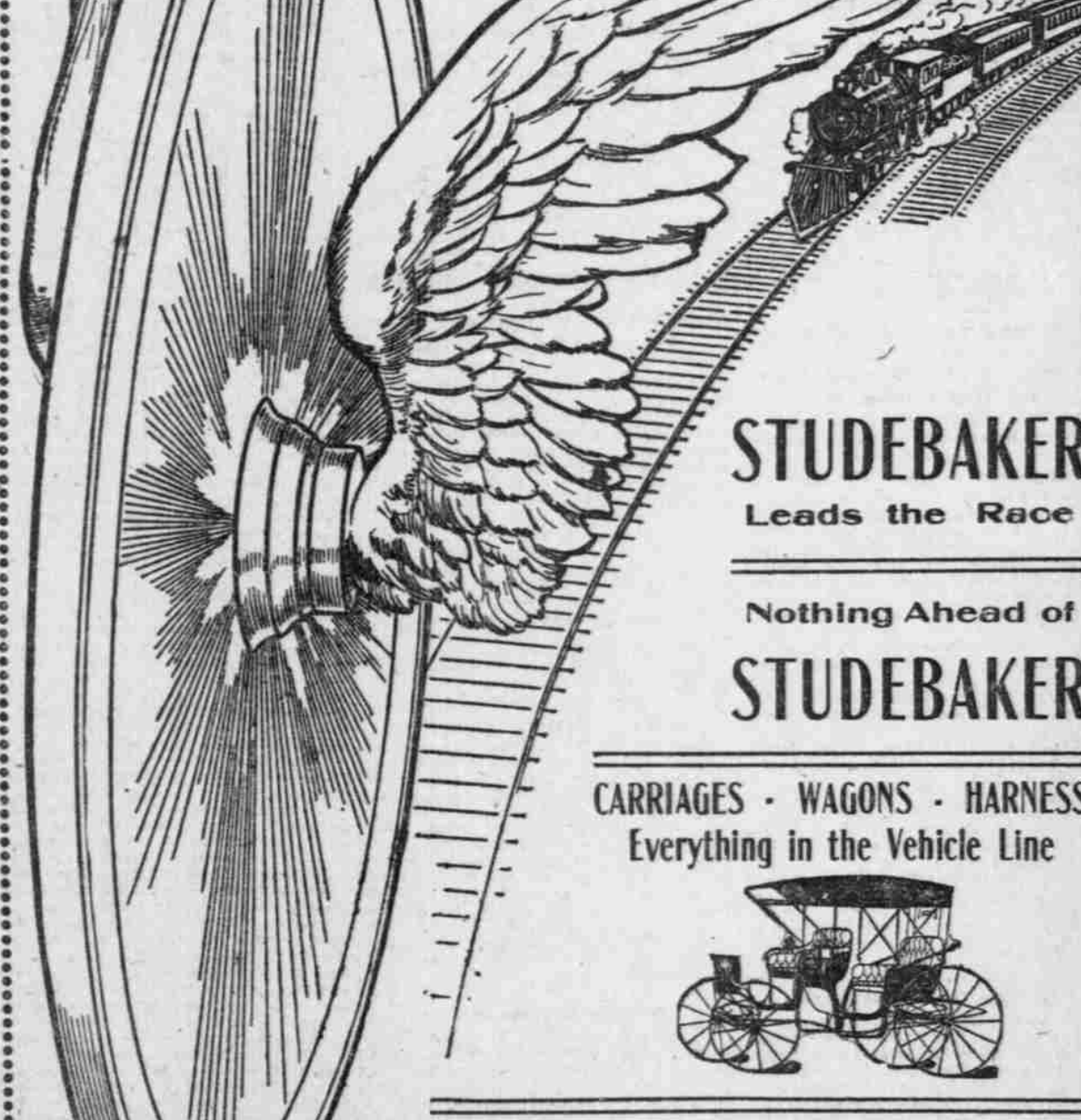
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