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## LAND FRAUD TRIALS

### Booth Case Up Yesterday-- The Day Consumed in Arguing a Demurrer

James Henry Booth, who took \$500 for advance information while receiver of the land office at Roseburg, does not deny that he committed an immoral act but insists he is innocent of an illegal one. This admission was drawn from his attorney, County Judge L. B. Webster, during an argument before Judge Hunt yesterday morning on the land fraud indictment that is being prosecuted by Assistant Attorney General Francis J. Heney. The money taken by Booth came from Frederick A. Kribbs, who has managed to scrip about 300,000 acres of Oregon's finest timber lands. Kribbs wanted to get first notice of the cancellation of land entries in order to claim more land for his masters. He first worked through James F. Bridges, register of the land office. To him Kribbs paid a bonus of 10 cents an acre for all the land he got. In the end there was a dispute over the amount due, Bridges figuring the bill at \$7000 and Kribbs refusing to pay more than \$3200. Meantime Booth was busy looking after the land-grabbing interests of the Booth-Kelly Lumber company, of which corporation he was secretary. Kribbs went to Booth, offering him a lump-sum for advance information. The lumber company was getting all it needed, there was room for more graft, and Booth accepted Kribbs' money with the understanding that the lumber company should get the lands released, in the vicinity of its

sawmills. Kribbs could have his pick of the rest.

After that Frank Alley, an attorney, sat in a room adjoining Booth's office with a deskful of scrip. As fast as notices of cancellation came in by mail he reached into one drawer or another and, according to whose turn it was, scripped the released land for either Kribbs or the lumber company. The ordinary citizen seeking to acquire a claim has no chance whatever.

When the frauds were exposed Bridges' punishment was confined to removal from office, but Booth was indicted. The leniency extended to Bridges was due to the fact that he furnished the government valuable evidence.

Now Booth comes to the front with a contention that the indictment against him does not charge a crime. This contention was urged yesterday morning by two attorneys, A. C. Woodcock of Eugene and County Judge Webster.

In beginning argument on the demurrer interposed in Booth's behalf Assistant Attorney General Heney read the indictment based on section 1782 of the revised statutes, which section forbids any officer in the employ of the United States from receiving compensation for any service to be rendered by himself or another in any matter in which the United States is a party, either directly or indirectly. It was argued that a wrong was done the government in giving Kribbs an advantage over all other citizens.

Judge DeHaven in the Mitchell case has inclined to the belief that some sort of contest had to be involved, but Mr. Heney did not agree. He pointed out that the same contention had been raised unsuccessfully in the Hyde-Benson case before the supreme court of the United States, and in the case of Senator Burton of Kansas before the supreme court of the District of Columbia. The United States was directly interested in the matter for which Booth took compensation, he said. All laws for the regulation of land offices are designed to give the public equal rights, and whenever a receiver seeks to give any person an advantage over others such act is a fraud against the United States, and therefore comes within the purview of the statute on which the Booth indictment was based.

Attorney A. C. Woodcock argued that the indictment shows no matter pending at the time the alleged offense was committed that could have been influenced by his action. It was not charged that the cancellation of entries were not made a part of the record. Therefore the defense would contend that the records were open to public inspection at the time of the offense charged. Kribbs had a perfect right to scrip the lands. Further than that, argued the attorney, if Kribbs had gone away leaving word with the receiver to telegraph to him as soon as word of the cancellation of certain lands was received it would be not only the right but the duty of the receiver to do as requested. The government was not interested in what person got the first information. That

advantage was the reward of diligence. No matter in what the government was interested was pending, and Booth had not committed any offense. Kribbs didn't want to influence any officer or get the land in an unlawful way. He merely wanted to know what the government had done.

County Judge Webster next took up the case of Booth. He argued that under the statute invoked it must be shown that an official had committed some act to influence another tribunal. The indictment was invalid because Booth was not charged with doing anything to influence anybody else. "Kribbs paid the receiver to notify him first," he said, "but is that a matter in which the United States was interested?"

Heney, in replying, pointed out that Booth had agreed to give Kribbs information in advance of all other persons who might be desirous of knowing and entitled to know the same. No one could scrip or file upon the lands until notice of cancellation was received at the local land office. This made it plain that Booth, by acting as the agent of Kribbs, deprived others of rights guaranteed them by the government. In speaking of the punishment for violation of section 1782, which is fixed at not more than two years and \$10,000 and carries with it debarment from ever holding office under the United States government, Mr. Heney said that the latter penalty was particularly appropriate in the case of Booth. He ridiculed the contentions of the defense and wanted to know if Judge Webster would approve of the action of Booth if he took Kribbs' scrip, kept it in his office and used it to claim land for Kribbs whenever notices of cancellation came into his office.

Judge Webster hastened to admit that he was not arguing as to the morals of Booth's action. His contention was that his act was not illegal. Several authorities were presented by Heney. The defense seemed to place its faith in the charge of Judge DeHaven to the jury in the Mitchell case. District Judge Hunt announced that he would look into the authorities and took the matter under advisement.

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