ASKED NO BRIBE

Contention of A. B. Thomson, Now on Trial.

LAND FRAUDS ARE AIRED

Receiver of La Grande Office Smiles at Testimony.

THE DEFENSE CRIES POLITICS

Star Witness for Prosecution Says Defendant Demanded $50 for Each Homestead Claim Held Up Before Allowing It.

The trial of Asa B. Thomson, receiver of the United States Land Office at La Grande, upon a charge of soliciting bribes to influence his decision upon final proofs on land claims, was commenced in the Federal Court yesterday morning. The prosecution is attempting to show that Mr. Thomson used his official position as a means to get money from land claimants, under the excuse that it was for his fellow-official. The defense, on the other hand, is attempting to prove that the whole affair is the outgrowth of a land-grabbing scheme, and that the prosecution of Mr. Thomson is but the revenge of those who tried to use him as a tool to further their nefarious plans.

The testimony of the prosecution is to the effect that ten homestead claims in the vicinity of the property of Charles Cunningham, the "sheep king" of Eastern Oregon, were held up for lack of proof, and that Thomson offered to see that they were put through for $500.

The defense is endeavoring to bring out, by the prosecution's own witnesses, that Cunningham is at the back of a gigantic land-grabbing scheme, and that he attempted to bribe Thomson to certify to certain claims that were lacking in proofs. It is trying to show further that Cunningham failed, and that this prosecution of the Receiver is but the result of his revengefulness.

Charles Cunningham was the star witness for the prosecution, and was on the stand the greater part of the day. On cross-examination, he "couldn't remember" and "didn't know" when pressed for explanations relative to his part in the affair. His ire was aroused several times, and his facetious replies to avoid direct answers created no end of amusement in the courtroom.

Asa Rayburn, another star witness for the prosecution, admitted that he sometimes followed the profession of "booster" in a gambling-house, that Cunningham had put up the money for his claim, had pointed it out to him, had leased it, and that the property was worthless as a home for him.

The defense is being looked after by T. G. Hailey, Judge James A. Fee and Judge James H. Raley, attorneys of Pendleton.

Personnel of the Jury.

One hour was consumed in selecting a jury, and the following men will determine the guilt or innocence of Mr. Thomson: Horace Nicholson, Medford, Jackson County; W. A. Taylor, Macleay, Marion County; Charles Hegele, Portland, Multnomah County; D. B. Troutman, Tallman, Linn County; Charles N. Cable, St. Helens, Columbia County; W. R. South, Lacombe, Linn County; William Sheehy, Portland, Multnomah County; Joseph Hume, Brownsville, Linn County; W. L. Smith, Wasco, Sherman County; F. B. Churchman, Sheridan, Yamhill County; C. Lystrop, Reedville, Washington County; J. K. Fisher, Haines, Baker County.

District Attorney Hall, in stating the case to the jury for the prosecution, read the statute which the defendant is accused of violating.

"The facts as they will appear," said Mr. Hall, "are that the defendant was Receiver of Public Moneys at the Land Office, and his duty was to pass upon claims and certify them or rule against them. The Receiver and Register are the first to pass upon the efficacy of proofs on land claims. There were a number of claimants whose claims had been held up by Thomson and Bartlett because of lack of proof. It seems that Cunningham had been having certain boys get land to be bought later by himself. Thomson took Cunningham into a saloon and informed him that, if the proofs on the claims of the boys were to be passed, it would cost Cunningham $50 for each claim. He wanted $500 for ten claims.

"Cunningham became angry at such an effort to hold him up, and started away. Thomson then told him that the money was not for himself, but that Bartlett, the Register, demanded it before he would allow the proofs to pass. Some of the claimants met Thomson, and he informed them that Bartlett was demanding $50 a claim for his approval on the papers.

"The defense will claim that this is a put-up job on Mr. Thomson, but I only ask you to listen to our witnesses and see if there is any job indicated in their testimony."

What the Defense Alleges.

Attorney T. G. Hailey presented the case for the defense. "We will show," said he, "that Thomson had no incentive to commit such a crime as the one charged. He has wealth outside of his official office; he is a young man of reputation and standing. We will show that he did not commit any crime. He did not make any appointment with Cunningham, but the latter made it a point to meet Thomson. He proposed to Thomson to pay him if he would pass the proofs through. It was Thomson who got angry and left. Cunningham threatened to get even with him, and said that, if he did not pass the proofs, he would make him wish he had never seen the Land Office.

"We will show you the reputation of this man Cunningham. When we have done so, I am sure, if you were sent out to find the biggest liar in town, you would put your hand on the shoulder of Charles Cunningham and say, 'We have him in the "sheep king" and "land-grabber" of Umatilla County.'"

A. R. Green, inspector for the Department of the Interior, was called to the stand as the first witness for the prosecution. His testimony was to the effect that Thomson had shown him nine cases of suspended proofs and no more when asked for these papers. The Receiver admitted that they were held up. On cross-examination, Mr. Green admitted that, after asking for all the suspended proofs, he had qualified the request and designated only those from a certain district. He admitted that the proofs should have been held up, and that he had told Thomson that he did right in refusing to pass them.

Thomson Made Full Statement.

The witness admitted that Cunningham had refused to give him a statement of the facts, but that Thomson had made a full statement.

"From whom did you get information about the conversations mentioned by Mr. Hall?"

"I must decline to say."

"Was it Mr. Cunningham's attorney, Judge Balleray?"

"I don't remember that he told me anything."

"What did you go to see him for?"

"Oh, I knew him, and just went up to chat with him."

"Didn't he say something about affidavits?"

"Yes."

"Did he tell you whom they were made by?"

"No; he would not."

"What did he say he wanted them for?"

"For his own protection."

"Didn't you try to see them?"

"Yes; but he would not show them."

Other questions were asked in an effort to show that much of the information upon which the case is based was secured from Cunningham's attorney.

In the afternoon the first witness called to the stand was Charles Cunningham, the principal witness for the prosecution. After testifying that he was a livestock man, living at Pendleton, he was asked if he had had any conversation with Thomson about some land claim proofs. He said he had.

"I was at the ranch, when a wagon and team came for me. I went to Pendleton, and on the following morning met Thomson. We stepped into the private office of a saloon, and he remarked to me that, as he was going through, he thought he would stop and see me about those homestead claims. He said that Bartlett had looked over the claims and discovered that they were in my district. Then he told me that Bartlett would not let the proofs go through unless I would pay $50 per claim. Thomson said he did not want the money himself, but that it was for Bartlett and the special agent. I told him that I had nothing to do with the claims, and would not put up any money. That was about all that occurred."

On cross-examination Cunningham stated that he owned about 15,000 or 20,000 acres of land. The witness protested that he did not know the location of Glen Darling's or Dallas O'Hara's claims, which figure in the case. He did not know whether they were within the boundaries of his property. He could not tell anything about his Butter Creek ranch, relative to its size, location, or anything else.

Offered to Loan Boys Money.

Cunningham admitted that he had offered to loan the boys money to prove up on their claims. He explained that they were working for him.

"Haven't you been grazing your sheep on these homestead claims?"

"Yes."

"What did you have to do with these homesteads?"

"The boys asked me for money to prove up on them."

"Did you take any notes of security?"

"I don't know whether my bookkeeper did or not."

"Did Rayburn tell you to come to town to see Thomson?"

"Yes."

"Did you have any interest in these homesteads?"

"No."

"Then why did you go to town to see Thomson about them?"

"I didn't know what he wanted to see me about. I guess I had a right to see him, didn't I?"

"You have been in the habit of buying lands from homesteaders?"

"Yes."

"That's what you expected to do in this case, wasn't it?"

"Yes."

"Then you did have an interest in their proving up on the land?"

"No."

"How were you going to be secured for the money you put up?"

"I was going to get a mortage on the property."

"Then you were interested in seeing the proofs get through?"

"No."

"Well, how would you be secured if the boys failed to prove up?"

"I don't know."

"Isn't it a fact that you authorized the parties before whom the final proofs were to be made to draw upon your account for all money that was necessary to prove up on the land?"

"I don't remember."

"Didn't you tell Macracken that the Land Office had held up some of your claims and that you would raise the roof on that house?"

"I don't remember."

Homesteaders Were Strangers.

The witness continued stating that some of the homesteaders were comparative strangers to him, though they had worked for him, and that they did not tell him where their claims were. He had simply taken their words without making any investigations and was satisfied with the assurance that he would get security upon the land after it had been proved up. He declared that he had no interest in what became of the land, but admitted that he had thought of buying some of it if the price were satisfactory.

"You heard the testimony about the affidavits that your attorney had, did you not?"

"Yes."

"Isn't it a fact that you had them taken to get those proofs through, and that if they had gone through you would not have prosecuted Mr. Thomson?"

"I don't know anything about those affidavits."

"How did those boys come to go to Balleray?"

"I don't know."

"Isn't it a fact that you told them to?"

"I don't remember."

"Isn't your memory about your business affairs pretty good?"

"No."

"Then it is because of this defective memory that you cannot recall what you told these boys, is it?"

"Yes."

An interview in the Pendleton Tribune was shown to Cunningham. He declared that he never gave an interview to a Tribune reporter in which he was alleged to have said that the prosecution of Thomson was the outgrowth of politics. He said that if he discussed the case at all he was full when he did it and didn't remember it.

Lot of Mush in Case.

"There's a whole lot of mush in this case," he remarked.

"What do you mean by mush?"

"I mean you fellows trying to job me into telling something I don't know anything about. That is mush."

"Didn't you say that there was a bigger man in the case than you and he would win out?"

"No, I did not."

"Who is the bigger man in the case?"

"I don't know."

"Didn't you say that Thomson was innocent, that he had never asked you for any money?"

"That's a damned lie. I never said any such thing. This rot is all churned up by you."

"Now, is it not the case that you were sober that night when you gave the interview?"

"No."

"Then you were full?"

"No."

"Well, at what stage of inebriety were you?"

"I'm not a philosopher, how can I tell?"

The next witness was Ulysses Rudd, the bartender at the saloon where the alleged interview between Thomson and Cunningham took place. He swore that he heard a part of the conversation.

"I heard them speak about some land," said he. "Then I believe Thomson said to Cunningham that he would have to pay some money. I heard Charlie say it was none of his business. He asked who the money was for and Thomson said it was not for him. They parted and I heard Charlie say he would see Thomson again."

On cross-examination Rudd denied that he had told a party that he was carrying Cunningham's money sack and looking after his witnesses. He admitted having said something about borrowing money from Cunningham. Rudd admitted that he and Cunningham went out together often and that they had a good time occasionally.

Asa Rayburn testified that Judge Balleray met him and told him to go to Thomson and see how much he wanted to let those proofs go through.

Money Wasn't for Him.

"I and three of the boys went to see him and he said it would take $50 per claim. I said that that was pretty steep and he said that it was not for him, but for Ed Bartlett."

The witness admitted that he had not lived on his claim, that Cunningham had the property leased and that it was his money that paid for the filing. He admitted that it was Cunningham's man who helped build the shack on the property, it was his team that hauled the material and that he was to buy the property when it had been finally proved up.

Rayburn admitted that he had filled the position of "booster" and dealer in gambling-houses in Pendleton.

"This is what you have been doing?"

"Yes."

"And have been proving up on land claims by living on them three days?"

"Yes, sir."

"How did you come to file on this property?"

"I talked it over with Cunningham and the boys."

"Who pointed out the land to you?"

"Cunningham."

"Is the property any good for farming?"

"No."

"You couldn't make a living on it, could you?"

"No."

"In fact, it is good for nothing but grazing land, is it?"

"That's all."

"And Cunningham is using it, isn't he?"

"Yes."

At this juncture court adjourned until this morning.

Will Not Be Deported.

Louise Lea, the French woman who was arrested for entering this country in violation of the act of 1903, has been given her liberty. Judge C. B. Bellinger decided some time since that she was not here in violation of this act, and the District Attorney gave notice of appeal. Yesterday he announced to the court that the Attorney-General had notified him not to appeal from the decision of the court here, and that no further steps would be taken by him.

Hearing Is Postponed.

William Mills, George Willis and H. Carpenter, who are accused of altering postal money-orders at Oregon City, appeared before United States Commissioner McKee this morning. Their hearing was postponed until Friday that they may have an opportunity to secure legal counsel. The prisoners, it is claimed, raised two money orders from 15 cents to $15, and attempted to cash them at Oregon City.

MUST APPLY FOR LICENSES.

Saloonkeepers Required to Present Petitions Before December 10.

The law requires that every person desiring a license for selling liquor in this city during the coming year shall present an application therefor on or before December 10. Such application shall state where the proposed business is to be conducted and shall be required but once a year. Deputy Auditor Lotan is now engaged in sending notices of this requirement to all the saloonkeepers in the city, each accompanied by a blank application, and as there are over 350 of them, he has been supplied with a stenographer temporarily.

All applicants are required to show that their saloons are not within 400 feet of any block in which a schoolhouse is located, to promise that no disorderly conduct, opium-smoking or gambling shall be permitted therein, that no liquor shall be sold to minors or intoxicated persons, or to any person between the hours of 1 and 5 A. M., and that the laws relating to traffic in liquors shall be faithfully complied with, otherwise the license may be forfeited.

This is the anxious season for saloonkeepers, and those who have maintained a good reputation for orderly places during the the past year will find it beneficial to them now. Saloons have increased in number so rapidly of late that many are beginning to imagine that something ought to be done to diminish the increase. The charge for a liquor license in Portland is only $400 per year, while in most Eastern cities of this class it is $1000 a year, and this is the charge in Spokane. It is thought by many that the best and most feasible method of reducing the number of saloons is to increase the license to $1000 a year, or even $600, but any attempt to increase it even to the latter figure creates such a rumpus that the Council dislikes to undertake it, and there is but little prospect of any attempt being made to increase it to $1000 for some time.

Officials Responsible for Conditions.

PORTLAND, Nov. 29.—(To the Editor).—May I be allowed to say a few words in regard to the tragedy that happened at the City Jail this past week. I think it one of the cruelest and most heathenish incidents I ever heard of happening in a civilized country, and a shame and disgrace to the fair City of Portland.

I have read several items in The Oregonian in regard to the matter, but no one seems to know just where to place the blame.

Gertrude Metcalfe says in today's Oregonian:

> If the people do not care, why should the City Council care? Why should the Mayor care? The City Council and the Mayor are the servants of the people and will do their bidding.

It looks to me as though they were the very ones to blame, especially if the Chief of Police has complained to them of the condition of the jail. When the people elect these men to fill their offices, is it not their place to attend to such things and to raise money for them as they raise it for any other improvement that is needed in the city? The people do care, but how many of them know of the state of these things until they read of them in the papers? Not because they do not care to know, but if every one was to go to the jail to see the condition it is in, how long do you suppose the people in charge would stand the annoyance of showing them over the place? Not a great while, I fancy. But I hope this will be a lesson that will not need to be repeated, and we will have the needed improvement at once. At least it seems to me there can be cleanliness. There is no excuse for the lack of that, there is plenty of water and soap in Portland.

MRS. B. WILLIAMS.

FERRY BONDS AWARDED.

Edmund Seymour & Co. Pay $624 Premium on $15,000 Worth.

Despite a technical error remedied barely in time, the $15,000 worth of Sellwood-ferry bonds were yesterday awarded to Edmund Seymour & Co., of New York, by the special committee. Their offer was a premium of $624. A certified check covered the bonds, but not the premium. Just as the committee met to decide, a representative of the bond house handed in a check for the necessary amount.

J. W. Cruthers, one of the two Portland bidders, made a vigorous protest against awarding the bonds to Seymour in the face of the technicality. City Attorney McNary decided that it could safely be done. Cruthers threatened to stop the issue of the bonds, and to raise all kinds of trouble. His was the highest bid in perfectly legal form, but was lower by $241 than that of the New York house. The $241 looked good to the committee, so it overruled Mr. Cruthers' objections, considering that he was not deciding the case.

The bonds will cover the expense of the new Sellwood ferryboat, as well as its maintenance. Work on the ferry is progressing satisfactorily.

All certified checks had to be drawn upon a Portland bank. The highest bidders neglected this clause.

The bidders were:

J. C. McGee, San Francisco, $401, disqualified by uncertified check on California bank.

Seasongood & Mayer, Cincinnati, $787, check on Cincinnati bank.

J. W. Cruthers & Co., Portland, $383.

Security Savings & Trust Co., Portland, $37.50.

N. W. Harris & Co., Chicago, personal check.

Edmund Seymour & Co., New York, $624.

The committee which controlled the awards was composed of Edward D. Curtis and Joseph Weber, of the Executive Board, and J. M. Nickum.

BORROWS CAPE—GOES ON BEAT

Patrolman Hoesley on Duty in Hemsworth's Discarded Robe.

Wearing the military cape of Policeman Hemsworth, who will be let out of the Police Department for eating on duty, Patrolman Jacob Hoesley went back to work yesterday morning. Hoesley was suspended for not wearing the cape in which all policemen are supposed to be clad. It was a case of cape or get out for Hoesley, so donned in the flowing garment of the officer who, strange to say, grew hungry while on duty, he once more was allowed to wear his star.

At the meeting of the police committee of the Executive Board tomorrow a recommendation will be drawn up to the effect that Hoesley be reinstated, but that Hemsworth look for another job, where he may eat whenever he feels hungry.

Vain Search for an Almanac.

A farmer was seen in a book store yesterday inquiring for an almanac, but was told that they had none. He said he used to purchase an Oregon almanac, published by S. S. McCormick, but of late he had not been able to find any. He valued it on account of the weather prognostications it contained, which were very reliable. The bookseller said that the publication of this work had been discontinued many years ago. It was a good almanac and should have been continued, but Mr. McCormick and his family and the printer who printed the book had all disappeared and its place was now supplied by advertising calendars. The farmer said these would tell a man on what day of the week a certain day of any month would fall and give the phases of the moon, so that he could tell when to cut thistles and other weeds, but they did not give the names of state and county officials, members of the Legislature, etc., nor tell when the shortest day of the year came and the days began to lengthen, nor did they contain many useful recipes and other information which he used to find in the almanac. Some one who has the necessary knowledge and a little leisure will do well to compile an almanac adapted to this latitude. It could be produced more cheaply than books of biographical sketches and would be more useful to farmers.

BAUMAN ON TRIAL

Charged With the Murder of Young Burkhardt.

AN EYEWITNESS TESTIFIES

Defense Will Attack Character of Those Who Testify for the Prosecution, Claiming They Are Liars and Thieves.

The Samuel Bauman murder trial is exciting much interest and the courtroom yesterday was crowded, mostly with persons living in the vicinity of Bertha, where the Bauman home is situated. The prisoner is attended by his wife and little son, besides numerous friends, and Ed and A. R. Mendenhall appear as his counsel.

The parents of Adolph Burkhardt, the victim of the tragedy, were also present, and Mrs. Burkhardt at times was deeply affected at what she saw and heard. District Attorney John Manning is assisted at the trial by Arthur C. Spencer, his chief deputy.

The principal witnesses examined were Harry Fuller, who was the companion of Burkhardt on the fatal night, and H. B. Hayward, whose home the young men were on their way to visit when Burkhardt was shot down.

Fuller is the only witness who claims to have seen the killing. He testified that he and Burkhardt were going along the road near Bauman's house when a shot was fired about 150 feet ahead of them, the bullet coming dangerously near to where they were. Both then started to run for the bank when there was a second report and Burkhardt fell, saying, "I am shot; I am going." Then Fuller picked Burkhardt up and, seeing he was dangerously wounded, ran to Hayward's house for assistance. Fuller said he ran straight towards the man who did the shooting, which caused Juror Malcolm to ask.

Juror Asks Question.

"Do you want this jury to understand that after your companion was shot down, you deliberately proceeded towards the man with the rifle on your way to the Hayward home?"

"Yes, I went up the road and noticed him enter the house."

Fuller said he could recognize the person who did the shooting as Bauman. On cross-examination by Ed Mendenhall, attorney for the defense, he was asked if he did not testify before the Coroner's jury that the man who did the shooting was 100 yards away and still at that distance he could see plainly that it was Bauman. Fuller stubbornly asserted that what he said before the Coroner's jury was that the distance separating them from the man who did the shooting was from 75 to 100 yards. The testimony taken before the Coroner's jury was read to him, showing that four different times he said 100 yards, and still he insisted that his answer had always been 75 to 100 yards and that the reporter who took down the evidence at the inquest was guilty of errors.

Fuller's attention was also called to the fact that before the Coroner he stated that when the shooting occurred he and Burkhardt were walking along the road, and in answer to a second question, "Were you walking or running?" said: "Walking."

This contradicts Fuller's evidence given in his examination in chief to the effect that they were running when Burkhardt was shot.

Before they neared Bauman's house on their way along the road, Fuller said they heard quite a number of shots in that direction. They answered the shots, and after they were first shot at they became greatly excited because the bullet came so close.

Some time after Burkhardt was shot, Fuller admitted that he fired two shots.

"You were very much frightened after Burkhardt was shot?" said Mr. Mendenhall, "and yet you followed the man with the loaded gun on his shoulder and got within ten feet of him, did you?"

"I thought he had got the man he wanted."

Baumann Didn't Care.

The only item of importance in the testimony of Hayward was that after Burkhardt was shot, and Fuller had told him of it and he had seen the body, he went to Bauman's house and called out: "You have shot a fellow."

Bauman answered: "I don't care. You shot my dog." This evidence is intended to show an admission on Bauman's part.

Ten minutes or so before Burkhardt was shot, Hayward testified, there was considerable shooting in the neighborhood of Bauman's house. Twelve or 15 shots were fired from the middle of the road. The witness said he did not know who did the shooting.

On cross-examination Mr. Mendenhall forced admissions from Hayward that he served a term in jail at Kalama for stealing a keg of whisky, and also was guilty of stealing a wagon-load of corn. He also made Hayward admit having stolen money at Castle Rock. Hayward said he did it because he was in distress and returned it later. Hayward acknowledged that he was arrested on a charge of threatening to kill, but said he was falsely accused and 78 men at Castle Rock signed a bail bond for him.

Rastus Richardson, a colored man employed by J. P. Finley, the Coroner, testified that he went to Bertha and assisted in bringing in the body of Burkhardt, in company with Deputy Coroner Skews. They found a trail of blood from the bank to where the body laid in the road, a distance of 18 or 20 feet.

Going to Give Himself Up.

On cross-examination the witness said Harry Fuller went out from Portland with them and they met Bauman and another man driving in. Fuller did not recognize Bauman, and Mr. Skews asked Bauman's companion where the man was who did the shooting. He answered, "I have him with me."

Skews testified in a similar manner, and stated that Fuller did not recognize Bauman when they met Bauman coming to Portland to surrender himself to the officers.

Dr. A. Filzer, who made the post mortem examination, testified that the bullet which caused Burkhardt's death entered his back and pierced both lungs.

In his opening address to the jury Mr. Mendenhall, for the defense, gave notice that he would attack the reputation of Hayward and Fuller, and his language in this connection was plain and unmistakable. He said:

"Harry Fuller is the most consummate liar on earth. He is utterly irresponsible, a hoodlum and a tough. H. D. Hayward is a jailbird and a deadbeat and was run out of Castle Rock. These things I will prove. On the say-so of such characters the state expects to hang a man who is a hard-working farmer, honest and law-abiding, and a man of family."

Assistant District Attorney Spencer, in addressing the jury, said a boy had been shot down in the morning of his life. He was walking along a public highway attending to his own business when Bauman, without provocation, shot him.

The trial will probably last for several days.

PAID NO TAXES ON TIDE LANDS

Water Frontage at St. Helens Is Now Claimed by Muckle Bros.

A case involving the ownership of some valuable tide lands in front of the business portion of the town of St. Helens was heard by Judge Frazer yesterday. The plaintiffs are Charles and James Muckle, prominent citizens of Columbia County, doing business as Muckle Bros. The defendant is James Good, a well-known pilot and owner of the steamers Young America and Republic. The property in dispute is described as the tide land in front of lots 17, 18 and 19, block 10, St. Helens, and was purchased by Captain Good for wharf privileges from E. E. Quick, former Clerk of Columbia County, and W. H. Dolman in 1902.

Briefly stated, the contentions involved, as shown by the evidence, are these:

Muckle Bros. have for many years operated a sawmill and been engaged also in other business at St. Helens. They had the privilege under the state law of 1874, for a period of three years, of purchasing tide lands adjoining their property, but, it is stated, did not do so.

In 1882 the lands were surveyed by the County Surveyor of Columbia County and part of them were purchased from the state by Judge F. A. Moore and the other portion by F. F. Victor. Judge Moore subsequently disposed of his rights to Sintzer & Cole and they sold to Mr. Quick. Victor sold to W. H. Dolman and Dolman and Quick deeded to Good.

The Muckle Bros. allege adverse possession covering a period of over ten years—in fact, dating away back into the 70s, but do not claim any paper title. They assert that they have always used these tide lands more or less during June and Winter freshets and other occasions for rafting and booms, and say it was generally understood that they were the owners. Charles Muckle, in testifying, admitted that they never paid any taxes on the land, but they paid on all their other property. He said, however, that his brother, James, attended to tax matters.

On the other hand, it was shown that Judge Moore, Victor, Dolman and others of the defendants always paid the taxes, and there was also evidence of witnesses for the defense that sometimes Muckle Bros. used the land and sometimes others did. Witnesses testifying in favor of the defense included S. A. Miles, W. H. Dolman, Charles W. Blakeslee, J. Hayburn, C. N. Goble and J. H. Sheldon, all old residents of Columbia County.

The suit was precipitated when Captain Good recently moved a house on the land, to which Muckle Bros. objected.

Judge T. A. McBride, who holds court at St. Helens, was familiar with many of the circumstances surrounding the case, and therefore did not care to sit as trial judge. For that reason he assigned it for trial in Multnomah County.

C. E. Runyon, official court reporter, took testimony covering 384 typewritten pages, which was submitted to Judge Frazer.

An interesting question involved is "what do tide lands along the Columbia River consist of?" The lands in question are not covered at low water and are about one-third covered at ordinary high tide, and fully covered during Summer and Winter freshets.

Dillard & Day, of St. Helens, appeared as attorneys for the plaintiffs, and S. H. Gruber for Captain Good. A decision will be forthcoming soon.

BOUGHT WORTHLESS STOCK.

Man Bitten in Mining Deal Wants His Money Back.

Edward Dieck yesterday began suit against John W. Tollman and Jared A. Brassfield in the State Circuit Court to recover $290, which he alleges he lost in an illegal stock deal. He states in his complaint that on June 5, 1902, Tollman and Brassfield, intending to cheat him, fraudulently conspired and organized the Deadwood & Thunder Mountain Mining Company, capitalized at $1,000,000. The capital stock was to be fully paid in exchange for the proposed transfer of certain worthless mining locations, which Tollman and Brassfield knew were of no value whatsoever.

Dieck further sets forth that Brassfield and Tollman falsely represented to him that the corporation owned nine quartz mining claims, named respectively: Black Diamond, Magnet, Black Hornet, Red Warrior, Blue Jay, Yellow Jacket, Black Bard, Charley Boy and Johnnie, and four placer claims, which properties had been improved by the expenditure of a large sum of money. Ore worth many thousands of dollars was said to be lying upon the dump, when, in fact, the defendants both knew the company owned no mining properties, and the properties Brassfield pretended to transfer to the corporation had never been improved and no ore had been extracted.

Dieck also avers that he paid $300 on September 17, 1902, for certificates of shares and that at that time only three of the pretended claims, namely Black Hornet, Red Warrior and Blue Jay, had ever been discovered and the development work required by the laws of Idaho had not been performed.

Dieck further asserts that Tollman and Brassfield told him that they had sold $1000 worth of stock to parties in the City of Washington, which statement was false, and that they deceived and misled him in every way. He says the stock is worthless and he wants his money back. Gantenbein & Veazie appear as his attorneys.

WILL RESIST PAYMENT.

Tannery and Star Lumber Companies Don't Want to Be Taxed.

Today District Attorney John Manning, in behalf of the State of Oregon, will file suits in the State Circuit Court against the Portland Tannery Company and the Lone Star Lumber Company to enforce the collection of the corporation tax, the payment of which has been resisted by these corporations, which desire to test the constitutionality of the law. This will be the principal question raised in the complaints which will be filed. A number of companies banded together some months ago to resist the payment of this tax, and the District Attorney, in bringing these actions to recover, is obeying the advice of Secretary of State Dunbar. Charles J. Schnabel represents the corporations which are seeking to defeat the law. The corporation tax has proved very profitable to the state.

LEGISLATURE TO BE CALLED.

Utah Solons Will Be Asked to Provide Way to Pay Troops.

SALT LAKE, Dec. 1.—Following further fruitless efforts to bring about a settlement of the Utah coal miners' strike today, Governor Wells said that in all probability he would call a special session of the Legislature to provide funds for keeping the state militia in the field. A protracted conference was held at the Governor's office today between Vice-President Kramer and Manager Williams, of the Utah Fuel Company; Colonel Holmes, of the Salt Lake Commercial Club; Adjutant-General Burton and others in an attempt to agree on a basis of settlement, but nothing resulted.

"The settlement of the strike hinges on the recognition of the union," said Governor Wells this afternoon. The coal officials positively refuse. The difference over wages, it is apparent, can be easily adjusted. The state troops will be kept in the field and I shall in all probability call a special session of the Legislature shortly to provide the necessary funds."

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