

THE TESTIMONY ALL TAKEN,

And the Arguments in the Star Route Trial Will Begin To-Day.

The Court Will Decide This Morning the Order of the Speeches.

A Suggestion That the Attorney General May Help to Close the Case for the Prosecution.

The Indictments Against Kellogg and Brady—Their Defense.

In the star route trial yesterday morning Mr. Bliss called John A. Walsh and asked if he had ever had any money transactions with Brady.

Mr. Wilson objected and the court called for a statement.

In response Mr. Bliss called attention to Brady's denial upon the point, and offered to contradict him. Mr. Bliss briefly related the alleged facts set out in the published affidavit of Price; that in the summer of 1880, after the passage of the star route deficiency appropriation bill, Price had been approached by A. H. Brown and requested to subscribe \$5,000 to the fund raised by the star route contractors to defray the expenses attendant upon the passage of that bill; that Price had a large quantity of unemployed stock, and had subscribed the money upon a promise that he should be given certain service in return, and that the money and drafts so subscribed by Price had been placed upon Brady's desk. He would prove that Brady had passed to Walsh the drafts given to him by Price, who would be here to-day.

He also offered to prove that Brady had requested the witness to deposit a certain sum of money to his credit, and that Walsh accordingly placed \$10,000 with Hatch and Foots, of New York, to Brady's credit.

Mr. Wilson argued the subject was purely collateral in character and evidence in that connection was not proper in rebuttal. He called attention to the pending civil suit of Walsh against Brady, and asserted that that issue could not be tried in this court, because it is now affected by the present case.

Mr. Merrick contended that as Brady had denied the whole conversation sworn to by Walsh, the prosecution had a right to corroborate its witness by proof of what had been described as a collateral matter. The court did not perceive how the proof would establish the truth of Walsh's statement of that conversation.

Mr. Merrick contended that the proof would be sufficient to meet the objection. He quoted Walsh's testimony, wherein he says that Brady referred him to the Price and Peterson drafts in proof of his assertion that it was the custom of the second assistant postmaster general to extend from contractors a portion of the allowance for increase and expedition. In denying the whole conversation Brady had denied that statement, and surely it was but proper that they be allowed to contradict him.

The court said that the object of rebutting evidence was to meet the case of the defense. The offer would tend to contradict Brady upon a collateral matter; a matter outside of the case. If Brady had testified truthfully he could not be contradicted by the Price and Peterson drafts, they were not connected with the matters set out in the indictment; they were collateral, and the prosecution had no right to rebut in that connection. Evidence in this respect is not admissible, and he rejected, and as the court saw no reason to reconsider that decision it was still more improper upon rebuttal. The offer was therefore overruled.

Mr. Merrick, well, your honor, that closes the government's rebuttal.

Counsel for the defense announced that they were all through.

"Now, we come to the important part of the case—the talk," said the court, smilingly. A question was asked as to the evidence adopted in presenting the prayers. Mr. Merrick advocated an adherence to the plan followed in the former trial.

Mr. Henkle thought that the court should limit the argument by defining the law upon disputed points.

Mr. Davidge believed that the arguments would consume the remainder of the year, unless some such plan should be adopted.

In order to avoid the repetition of arguments on legal points, Mr. Bliss suggested a recess until Friday.

The court dwelt upon the subject at some length, carefully reviewing the methods of practice in different courts, and concluding that it would be better to base arguments upon the facts in the case before disposing of the legal points, the course pursued in the last trial. The arguments to the jury would be first heard, and then the counsel might submit disputed points of law for discussion at pleasure. The jury might render a general verdict, but could not pass upon points of law.

Mr. Davidge said that there were certain organic points that should be settled before the arguments were begun. For instance, there was some doubt as to the statute upon which the indictment was based, whether upon section 5440 Revised Statutes, or upon the act of May 17, 1878.

The court remarked that where there were so many statutes it would be safe to shoot into the flock in the hope of bringing one down.

Mr. Davidge attached great weight to the point regarding the statute applicable to the case.

Mr. Carpenter demanded from the government a statement of their position in the matter, but his demand was not complied with.

The court finally agreed to hear argument upon the point after recess.

When the court resumed some discussion was had in regard to the order to be followed in the delivery of arguments to the jury. Judge Wells appeared to attach some weight to an English authority, allowing the government counsel to open the argument in one or two addresses and to close with the same number of speeches.

Mr. Ingersoll vigorously protested against the adoption of any such monstrous, absurd scheme. It was a proposition to allow the government to make several closing arguments after the defense had closed, and he did not believe that criminal history would disclose any such case. If the court decided to make such an order, he should absolutely refuse to make any argument, and leave the case to the jury.

Without making any definite arrangement, the court said that it would see that a fair division of time was had. If the counsel could not agree among themselves, the court would allow the government to open and to close, but would not now say that it would be allowed more than one closing argument. The court did not know that the government desired more than one closing argument, but had heard intimations that the attorney general might wish to speak.

"I don't know that I would call that two arguments," said Mr. Ingersoll, sneeringly, "but I object to the precedent. If the attorney general wants to say a word in this case let him have the courage to make his argument when he can be answered; and if he does not think he would do any particular harm, however, if he wants to make the closing argument, I should be delighted, but to two closing arguments, I object."

The court remarked that if there were two closing arguments it would not allow them to cover the same ground.

Mr. Ingersoll. "It is hard to tell what matter the attorney general would cover."

The court. "Probably it would be nothing in the case."

Mr. Ingersoll insisted that he would refuse to make an address if the government were allowed two closing arguments.

The court said that the defense were entitled to know that course the court would pursue. It would be better to sleep over the matter and arrange it in the morning.

After some further debate upon the pending question, the court reserved its decision until to-day and listened to an argument by Mr. Davidge upon the question raised by him regarding the statute on which the indictment is founded. At the conclusion of his remarks the court adjourned until to-day.

GRAND JURY CAME IN DURING THE DISCUSSION AND RETURNED THE FOLLOWING INDICTMENTS:

Against William Pitt Kellogg, for receiving money while a United States senator, for services rendered in relation to a contract with the United States witnesses, John A. Walsh, James B. Price, Joseph Cochran, and J. M. Brady.

Against Thomas J. Brady, receiving money while second assistant postmaster general for services rendered in relation to a contract with the United States. The same witnesses are named in the two indictments. The indictments are voluminous—apparently as large as the indictment in the star route case. There are five counts in each indictment, charging five separate payments of \$1,500 for one service rendered—expedition of the mail schedule on Price's routes from San Antonio to Corpus Christi, Texas, and from Monroe to Shreveport, La.

The indictments are printed in neat pamphlet form, and, except in the names of the persons indicted and a few minor points, are much alike. Beginning with a legal definition of the duties of the second assistant postmaster general, the indictments state that Brady entered into a contract with Price for the performance of service on the star routes from San Antonio to Corpus Christi, Texas, and that, on July 17, 1879, at the solicitation of Kellogg, Brady made an order reducing the time for carrying the mail on these routes, and allowing Price extra compensation therefor, receiving in return five separate amounts of \$1,500 each.

Kellogg is charged with having received five installments for \$1,500 each in lawful money as a consideration for using his influence (while in the United States senate) with Brady to secure the expedition of the routes above mentioned.

Mr. Ker gives the following statement of what the government counsel believe to be the facts in the case:

Price had attempted, without success, to get an allowance for expedition in connection with these two routes. He then took the papers to Kellogg and promised to give him \$30,000 if he would procure expedition of the routes. Kellogg told him to leave the papers and call in two days. At the appointed time Price returned and Kellogg told him that it was all right, that expedition would be granted. Price thereupon sat down and drew five drafts upon the auditor of the treasury for \$15,000 each, his pay for the deal of very valuable and well digested information. It will well repay a careful perusal:

"I have given the matter a great deal of patient labor," he said, "regarding it as of great importance to the people, and one which had but little attention (looking to practical results) from members of congress. As to the status of the public lands which have been granted by congress in aid of railway construction, the title to which is not absolutely in the grantee, it may be briefly stated, that there are two classes of grants: one to the states to aid in the construction of railways, in which cases the states, respectively, were treated as trustees, and the duty of disposing of the lands to the corporations entitled to them was left with the state. All the earlier grants were of this character, and the practice at the interior department was, as soon as the line of road was established so that the limits of the grant could be definitely fixed, to once certify all the lands to which the road would ultimately be entitled to the state. In every instance to which my attention has been called an excess of land has been certified, owing generally to the fact that the certificates are followed by the interior department of the railway company, and this for the largest possible allowance."

"The other class, the later grants, were made directly to the companies. In all of these grants was told by representatives of the prosecution a week or ten days ago that he could go away any time he might wish and that he would not be required to give bail for his appearance until he got ready to return. It is apparent to me in the different grants in this condition, showing approximately that about 138,000 acres, to which the companies are not legally entitled, and the title stands in abeyance for these reasons, are claimed by subsequent corporations."

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RAILWAY LAND GRANTS.

One Hundred and Thirty-Eight Million Acres to Which the Companies Are Not Entitled.

Judge Payson Thinks Congress Should Take Some Action to Recover.

He Believes the Garland Bill Would Intensify the Evil It Professes to Cure.

The Two Classes of Grants by Which the Railways Have Profited.

Probably no member of the next congress will be better qualified to grapple with the railway question than Judge Payson, of Illinois. He has been making a study of the subject for the past four years, and is the language of the budding generation of statesmen, "he has it down fine." He has made a specialty of the land grant phase of the question, and will put in his vacation drawing up bills concerning the case of each railway which is holding on to unearned lands, his aim being to restore forfeited lands to the public domain. He is outspoken in his opposition to the Garland bill, and declares that an examination of its provisions shows that it would have the practical effect of renewing the grants rather than providing for their forfeiture. As this bill is certain to be revived next winter, his observations are pertinent and touch upon an issue that is alive to-day—very much and decidedly alive.

He further says: "In the senate bill the rights of the people are not considered. The bill assumes that rights forfeited by railway companies shall be restored to the public domain, but should be placed before the power of control of the government."

The following interview with Judge Payson on the subject of railways and railway land grants will be found to contain a great deal of very valuable and well digested information. It will well repay a careful perusal:

"I have given the matter a great deal of patient labor," he said, "regarding it as of great importance to the people, and one which had but little attention (looking to practical results) from members of congress. As to the status of the public lands which have been granted by congress in aid of railway construction, the title to which is not absolutely in the grantee, it may be briefly stated, that there are two classes of grants: one to the states to aid in the construction of railways, in which cases the states, respectively, were treated as trustees, and the duty of disposing of the lands to the corporations entitled to them was left with the state. All the earlier grants were of this character, and the practice at the interior department was, as soon as the line of road was established so that the limits of the grant could be definitely fixed, to once certify all the lands to which the road would ultimately be entitled to the state. In every instance to which my attention has been called an excess of land has been certified, owing generally to the fact that the certificates are followed by the interior department of the railway company, and this for the largest possible allowance."

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ENTIRETY OF THE UNION MASTERY IN THE SOUTH.

Adopt a policy here in Washington that will recognize and renew original radical differences in the north, and the south can be republicanized and not otherwise.

Let me tell you further, while you are discussing this subject, that you are wholly mistaken when you spoke of the "Slaveholders' Rebellion." Slaveholders, as a mass, were old whigs—union men. The Jeff Davis-Thomas democracy used to call them the "broadcloth party." They were union men as are the survivors of them to-day. Their intelligence and generosity in dealing with slaves made them slaves feed and clothed confederate armies.

But I only present a fact. Have