

Case No. 18,251.
[1 Deady, 657.]

CHARGE TO GRAND JURY.

District Court, D. Oregon.

March 1, 1869.

FRAUDS UPON THE REVENUE—COUNTERFEITING THE
CURRENCY—VIOLATIONS OF POSTAL LAWS—CORRUPTION AND
INTIMIDATION OF JURIES.

DEADY, District Judge (charging grand jury). You have been selected from among the body of your fellow citizens to inquire concerning the commission of crimes against the United States, within the district of Oregon. A more delicate and important trust you could not be called upon to fill. Upon the proper discharge of your duties depends the stability of government and the purity of its administration. Your official oath is a sufficient direction as to your general duties. By this you have become bound under the most solemn obligations to present no one from hatred, envy or ill-will, and to leave no one un-presented through fear, favor or affection. This oath binds you to make diligent inquiry, as well as to present truly. You cannot acquit yourself of this obligation by slight or careless investigation. It is not enough that you dispose of the cases laid before you by the district attorney, or one of your own number. Your power and duty authorize and require of you to make special inquiry for yourselves as to the violations of law throughout the district. Except by the consent of twelve of your members, no person can be put upon trial in this court on a criminal charge. You are a shield to protect the weak and innocent from false and unjust charges, and a power able to accuse the guilty, be they ever so great or popular.

In respect to the manner and extent of your inquiries, your own good sense will be your best guide. You ought only to act upon legal evidence, or what satisfies you that the legal evidence exists. The party accused, or concerning whom an inquiry is made, has no right to be heard before you, and you should not allow him in the jury room, or to be examined as a witness in his own behalf. The district attorney will be ready to assist you in your inquiries, and give you information upon matters of law. You may also at any time come into court, and propound such inquiries concerning the business before you as you see proper. If you have any reason to believe that any officers of the government possess information proper for your action, you should summon them before you, and examine them thoroughly. Officers connected with the assessment and collection of internal revenue may with special propriety be thus examined.

Upon the three subjects of internal revenue, counterfeiting and the postoffice, I will give you in charge the following, from the charge delivered by Chief Justice Chase, to the United States grand jury for West Virginia, in August last: "The first of these is the faithful execution of the internal revenue laws. The war in which the nation has been recently

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engaged for the preservation of the national Union and government endangered by rebellion, made the contracting of a large debt inevitable. This debt is the price of our national existence, and binds irrevocably the good faith of the people. Its inviolable obligation has been recognized by a solemn act of the nation in adopting the fourteenth amendment of the constitution of the United States, which declares that the 'validity of the public debt of the United States, authorized by law, including debts incurred for the payment of bounties for services in suppressing insurrection or rebellion, shall not be questioned.' There are differences of opinion as to the mode of payment required by the contracts of the American people made through their government; but nobody questions openly, if anybody questions at all, that the debt contracted must be paid, and paid in perfect good faith. The law of the amendment that the validity of the national debt shall not be questioned was already written upon the hearts of the people before they made it part of the constitution. To provide for the reduction and final payment of this debt, and for the annual expenses of the government, taxes are necessarily imposed. In other words, the equal proportion to be contributed by each citizen is ascertained by law. He who withholds his just proportion deprives the rest of the people of exactly the amount withheld. His fraud operates as theft. The sum total necessary to meet the obligations of the nation must be raised. Fraud upon the revenue does not reduce that sum: it merely shifts the burdens evaded by the fraudulent, upon others, who pay their full proportion besides. All honest men, therefore, have a common cause against the dishonest. You, gentlemen, represent the honest men, and it is your duty to see that no defrauder of the revenue who can be brought to justice escapes merited punishment. The higher in office and the higher in social position the delinquent may be, the more unremitting and searching should be your diligence in inquiry and presentment. Some of the observations just made might be properly enough repeated upon the next topic to which I must invite your attention. I refer to counterfeiting. It is to be regretted that the currency of the country now consists wholly, or almost wholly, of paper; but it is not the less important on that account that the people should be protected, as far as possible, against counterfeiting. Whatever the currency of the country may be, payments must be made in it, and exchanges effected through it. It is practically the common measure of values. Whoever imposes a counterfeit dollar on the public, robs successively all who take it in payment. Counterfeiting is continuous robbery, and it robs chiefly those who are the least able to bear the loss. Occasionally men are defrauded by counterfeit money in large transactions; but the principal sufferers are laboring men, whom it is the peculiar duty of government to protect from wrong. You will be vigilant, gentlemen, in your investigations concerning this class of crimes. What remains to be said concerns offences against the postoffice laws. Under our benignant system of government, the means of cheap and frequent intercourse between the most distant parts of the republic are provided; relatives and friends separated by the breadth of the conti-

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ment correspond freely with each other. Correspondence is nearly as cheap as talk. And not only do the mails-convey messages of affection, science, and business, but they are also the agents of immense pecuniary transactions, by remittances of bills of exchange and small government money orders. You see at once how important it is that the laws which regulate this vast interchange should be faithfully executed; and we are confident that nothing more is needed to insure your best endeavors to detect and bring to justice all those whose crimes and offences deprive the people of the great benefits which those laws are intended to secure." [Case No. 18,249.]

Before closing, I feel bound to call your attention to some supposed offences against public justice in this district, which, if true, should not go unpunished. By the second section of the act of March 2, 1831 (4 Stat. 488), it is enacted that: "If any person or persons shall corruptly, or by threats or force, endeavor to influence, intimidate, or impede any juror * * * in any court of the United States, in the discharge of his duty, or shall corruptly, or by threats or force, obstruct or impede the due

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administration of justice therein, every person or persons so offending shall be liable to prosecution therefor, by indictment and shall, on conviction thereof, be punished by fine, not exceeding five hundred dollars, or by imprisonment not exceeding three months, or both, according to the nature and aggravation of the offence." To endeavor to corruptly influence a juror in the discharge of his duty, is a crime which strikes at the very foundation of civil society. A verdict which is produced or prevented by any other means than the proper and natural effect of the law and evidence given in court, is a falsehood and a wrong, the evil consequences of which are enduring and not limited to the parties immediately interested. With honest and fearless juries, protected from the corrupting influences and misleading misrepresentations of unscrupulous and interested parties, all other forms of crime against society and individuals may be successfully combated and repressed. But so soon as it is understood in the community that jurors or juries may be tampered with by outside parties with impunity, then there is an end of an honest administration of the law, by jury trial, and the country will speedily drift into anarchy or despotism. Any improper attempt to influence a juror is forbidden by this statute. Of course it is improper to offer a juror any valuable thing or consideration to obtain a verdict, or prevent one being found, or to influence his opinion or action in any particular. It is also improper and criminal to endeavor to influence a juror by conveying or imparting information to him out of the jury box, for the purpose of affecting his conduct or judgment, or to endeavor to persuade him by arguments or appeals of any kind, except those addressed to him by counsel in open court.

It has been bruited abroad, that such practices have been resorted to for the purpose of influencing the action of jurors in this court, in a criminal case of great importance, lately tried herein. It is your duty to investigate the matter thoroughly, and if you find cause, present the offending parties for trial. I also deem it proper in this connection to warn you against hasty and inconsiderate action in the premises. At the same time, I repeat that it is your bounden duty, to probe this matter to the bottom, and present the offending parties, if any, for trial. If such evil practices are tolerated by the grand jury, unscrupulous men will engage in the manipulation of juries as a trade, and then whether a party accused of a crime is convicted or acquitted, will depend more than anything else upon the skill and influence of the jury-broker," whom he may chance to retain to manage the case on the outside for him. We often boast of our high civilization and not infrequently deplore the ignorance and barbarism of our ancestors. But as a means of determining the guilt or innocence of the accused, the ancient wager of battle was quite as trustworthy as such a jury trial, and much less demoralizing to the community at large.