

Motion for New Trial, Whitman Trial

Transcription of 1850 Document (original document starts on page 2)

http://sos.oregon.gov/archives/exhibits/highlights/Pages/whitman.aspx

The United States vs. Telekite et al

Motion for a new Trial

The Defendent Telokite, Tomahas, Clockamas, Isiaaskelukas, Kiamiasumkin come and say that the court ought to grant them a new trial for the reasons following= to wit=

1st that the crime charged in the Indictment was not proved to have been committed within the County for Clackamas, the Territory of Oregon or the jurisdiction for the Court.

2nd that there is an error in the charge of the court to wit- "that there is no necessity to prove that the facts given in evidence occurred in the place alleged in the Indictment it is sufficient that they occurred within the County or other extent of the courts jurisdiction if the evidence raised a violent presumption that the offence which the prisoners were indicted (was?) committed in the District where they are tried it is sufficient"

And that that part of the charge of the Court in which the Court said "that the Jury might infer that the surrender of the Defendants

(page 2)

by the Cayuse nation as the murderers the nation knowing best who those murderers were, as an official fact communicated by him to the Jury should go to the Jury, and be received by them as evidence of the identity of the accused the Honorable O.C. Pratt not having been sworn and stated the same in evidence and tat there was no evidence before this court that the Cayuse nation had surrender the Defendents as the murderers.

Teloquoit his mark Tomahas his mark Clokamas his mark Isiaasheluckas his mark Kiamasumkin

The Monited States & Matim for a new Trial Telepite at al The Defendants Telekete, Tomakay blackames, Isiaachelukas, Some and say that the court ought to grant them a new trial for the icasons following - to mit -Not That the creme charged in the Indictment was not furned to have been committed within the County of Clackamas, the Turntoy of Origon as the purisdiction of the bound 2" That there was even in the charge of the Court tout .- That there is no necepty to prove that the "facts given in widine occurs in the place alleged in the Indictment this sufficient that "they occurred within the Country or other estint " of the County puris diction of the soidence raises " a violent presumption that the Mence " which the prisoners were indicted, was com "mitho in the heating where they are hird , the is sufficient, and that that part of the Charge of the Court "infor that the Summeter of the References

" by the bayne nation as the monderey " the nation Knowing best who those " Anndres werd, as an Africal Jack " communeated by him to the Long thould " go to the dury, and he received by the " In sindened of the tracticy of the accused " The Hermande O le Prate not having " bur swow I stated the same in selidence " and that there was no sendence before this " lout the Cayer action had surren " ded the Hefme dut as the new dudness. Velaquait hi Varadias mite Varadias mite belokumas mate Siancheluckas mate trainademite

Acaina comutain marke