

CIRCUIT COURT OF THE UNITED STATES OF AMERICA
FOR THE
SOUTHERN DISTRICT OF NEW YORK, IN THE SECOND CIRCUIT.

At a Stated Term of the Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit, begun and held in The City of New York, within and for the District and Circuit aforesaid, on the third day of January in the year of our Lord one thousand nine hundred and eleven, as of the first Monday in said month and year, and continued by adjournment to and including the third day of March in the year of our Lord one thousand nine hundred and eleven.

SOUTHERN DISTRICT OF NEW YORK, ss: The Jurors of the United States of America within and for the District and Circuit aforesaid, on their oath present that before and at the time of the commission of the offence in this count of this indictment hereinafter set forth, Shelton C. Burr, Eugene H. Burr, Charles H. Tobey and Edwin Wesley Preston, late of the City, County and Southern District of New York, hereinafter designated as the defendants, did unlawfully and willfully devise a scheme and artifice to defraud divers persons hereinafter designated the persons intended to be defrauded, - that is, David H. Rines, James M. Fisher and divers other persons whose names are to the grand jurors unknown, - by obtaining money and property from them by means of false and fraudulent pretenses, representations, and promises; that the said scheme and artifice was to be effected by opening correspondence and communication with the persons intended to be defrauded, and by inciting said persons intended

to be defrauded to open communication with the defendants, by means of the Post-Office Establishment of the United States.

That at all the times hereinafter mentioned the defendants Shelton C. Burr, Eugene H. Burr, and Charles H. Tobey did business under the name, and as officers of, Burr Brothers, Incorporated, a corporation created under and existing by virtue of the laws of the State of Connecticut, having an office for the transaction of business in the building commonly known as the Flatiron Building, in the Borough of Manhattan, in The City of New York, in the Southern District of New York.

That, in general, the aforesaid scheme and artifice to defraud, to be effected as aforesaid, was that the three defendants last aforesaid, and the defendant Edwin Wesley Preston, should engage in the promotion of a company to be formed for the ostensible purpose of acquiring and developing oil lands and leases, such company to be known as Peoples' Associated Oil Company, a corporation created under and existing by virtue of the laws of the Territory of Arizona: that the defendants should themselves fraudulently acquire large personal holdings of the capital stock of the said Peoples' Associated Oil Company, and that Burr Brothers, Incorporated, in consideration of the payment of large brokerage commissions, should act as the so-called fiscal agent for the sale of shares of the capital stock of said oil company to the persons intended to be defrauded: that for the purpose of creating a fictitious market value for their said personal holdings, and for the purpose of procuring the payment to Burr Brothers, Incorporated, of the said brokerage commissions, and for the purpose of procuring money wherewith to make a showing of activity in the development of such oil lands as the said oil company might acquire

an interest in, the defendants should fraudulently induce and incite others to induce the persons intended to be defrauded to purchase shares of the capital stock of the said oil company by making to said persons false and fraudulent pretenses, representations, and promises concerning the title to, situation of, and value of the lands to be worked by the said oil company; concerning the probable amount of oil to be produced from said lands by the drilling of oil wells thereon and the probable profits to be thereby obtained; concerning the business and financial ability and the trustworthiness of the persons to be active in the management of the affairs of said oil company; and concerning the character of the capital stock of the said company and the status as stockholders of the purchasers thereof.

That having procured the incorporation of Peoples' Associated Oil Company for the purposes and in the manner aforesaid, the defendants became active in the management of its affairs – the defendant Shelton C. Burr as president, the defendant Edwin Wesley Preston as vice-president and field manager, the defendant Charles H. Tobey as secretary, and the defendant Eugene H. Burr as a director.

That while acting as officers and directors of the said oil company as aforesaid, the defendants, for the purpose of carrying out the aforesaid scheme and artifice to defraud, by means of advertisements, circulars, and letters, and by means of a monthly publication known as "Securities", inspired and controlled by the same individuals who acted as the officers and directors of Burr Brothers, Incorporated, - which said advertisements, circulars, letters, and publications were to be sent through the United States Post-Office Establishment to the persons intended to be defrauded, - intended with knowledge of their falsity make and incite others to

make, to the persons intended to be defrauded, the false and fraudulent pretenses, representations, and promises hereinafter specifically set forth, each of such pretenses, representations, and promises being a part of the aforesaid scheme and artifice to defraud, as follows:

(1) That prior to the time when the said oil company should own any lands whatever, it should be pretended, represented, and made to appear to the persons intended to be defrauded that the said oil company owned certain oil lands acquired by purchase.

(2) That it should be pretended, represented, and made to appear to the persons intended to be defrauded that the lands alleged to be owned by the said oil company were situated within the proven area of the Coalinga Oil District of California, notwithstanding that such lands were not only not within the said proven area but were even outside the known limits of possible production of said district.

(3) That it should be pretended and represented to the persons intended to be defrauded that the lands alleged to be owned by the said oil company were the choicest lands in the Coalinga district, as good as any and better than most lands in said district, and absolutely, the best property that could be bought therein – notwithstanding that the defendants well knew that the value of said lands was slight.

(4) That it should be represented and promised to the persons intended to be defrauded that the oil to be developed on said lands would be produced in such quantities and

sold at such prices as would, within two years, result in an annual net profit to the said oil company of at least one million dollars, and that the chances for successful development of said lands were ninety-six out of a hundred – notwithstanding that the defendants well knew it to be improbable that any oil at all could be developed on the said lands.

(5) That it should be represented and made to appear to the persons intended to be defrauded that the defendants Shelton C. Burr, Eugene H. Burr, and Charles H. Tobey were successful and upright business men of such ability that since Burr Brothers, Incorporated, had started business not one single company whose stock they had sold had failed, and of such integrity and trustworthiness that those who should purchase shares of the capital stock of the said oil company could look to them for “a square deal” – all of which representations the defendants well knew to be false: and that it should be represented and made to appear to the persons intended to be defrauded that the defendant Edwin Wesley Preston was a man who was well fitted to act as field manager of the said oil company both by reason of his knowledge of the oil business and by reason of his trustworthiness – notwithstanding that the defendants well knew that the said Preston was ignorant of the oil business and was not trustworthy.

(6) That it should be represented to the persons intended to be defrauded that the shares of the capital stock of the said oil company were all fully paid and were all non-assessable shares of stock; that no promotion stock and no stock in the nature of promotion stock had been or was to be issued to anyone; that all stock which had been issued, including the stock issued to the defendants, had been issued in consideration of cash payments of twenty-five cents a share; that the stockholders were all to be of the same status so far as concerned the conditions upon

which they might acquire stock; and that the proceeds of all sales of stock were to go into the treasury of the said oil company, no one to make any profit save from the production and sale of oil developed on the said lands – each and every one of which representations the defendants well knew to be false.

And the Jurors aforesaid, on their oath aforesaid, further present that on the 19th day of September nineteen hundred and eight at the Southern District of New York the said defendants willfully and feloniously, for the purpose of executing said scheme and artifice and attempting so to do, did place and cause to be placed a certain writing enclosed in a postpaid envelope addressed to

D.H. Rines,

78 No. Beacon St.,

Allston, Mass.

in the Madison Square Station of the New York, New York Post Office of the United States, to be sent and delivered by the Post Office Establishment of the United States; against the peace of the United States and their dignity, and contrary to the form of the statute of the United States in such case made and provided.

SECOND COUNT.

And the Jurors aforesaid, on their oath aforesaid, do hereby repeat and by reference do here incorporate as fully as if actually here re-written and at length transcribed, each and all of the words and figures set forth in the first count of this indictment beginning

“The Jurors of the United States of America
within and for the District and Circuit
aforesaid, on their oath present” x x

down through and ending with and inclusive of the paragraph numbered 6, on page 6 herein above, ending,

“each and every one of which representations
the defendants well knew to be false”.

And the Jurors aforesaid, on their oath aforesaid, do further present that on the 17th day of October nineteen hundred and eight at the Southern District of New York the said defendants willfully and feloniously, for the purpose of executing said scheme and artifice and attempting so to do, did place and cause to be placed a certain writing enclosed in a postpaid envelope addressed to

J. M. Fisher,

849 E. 134th St.,

N. Y. C.

in the Madison Square Station of the New York, New York Post Office of the United States, to be sent and delivered by the Post Office Establishment of the United States; against the peace of the United States and their dignity, and contrary to the form of the statute of the United States in such case made and provided.

Harry A. Wise

U.S. Attorney.