

KELLNER TRIKELY NOW TO GO FREE

Supreme Court Decides That Convicted Man Shall Be Given a New Trial.

VICTORY FOR THE DEFENSE

State Has Played Its Strongest Hand and Court Now Decides There Is No Evidence to Corroborate Turner's Testimony.

W. T. Slater and W. R. King were today confirmed by the Supreme Court as Supreme Court Commissioners and were sworn in. They sat upon the bench today in the trial of the case of White vs. Joyce, from Lane County. Mr. Slater was given a seat at the right of the Supreme Court and Mr. King at the left. They will sit at the hearing of all cases, and will prepare opinions in cases assigned to them. They will also participate in conferences, but the decisions will be handed down by the decision of the Supreme Court.

SALEM, Or., Feb. 26.—(Special.)—A. T. Kellner won a decisive victory in the Supreme Court today, and will probably not be compelled to serve the two-year term in prison as adjudged by the Circuit Court. While the case is sent back for a new trial it is generally understood that the prosecution made as strong a case as it could in the first instance and a new trial is not likely to result in a conviction under this decision of the Supreme Court. The most important feature of the decision is that there was no evidence to corroborate that of Turner, who was the principal in the crime.

Kellner was jointly indicted with H. H. Turner upon a charge of forging the name "G. I. Rice" to an assignment of a certificate of sale for state land. This name was fictitious and was used to defraud the state and to implicate Kellner by testifying that Kellner said, "Sign them yourself," while they were discussing one of the applications. The prosecution contended that Kellner was the beneficiary of the crime and that this was one of many acts in pursuance of a common design to defraud the state. The Supreme Court holds that the name "Sign them yourself," might reasonably be held to refer to cases in which the applicant had made his mark and could not write. The opinion further says that while there may have been corroborating evidence that the appellant was a party to a common design to defraud the state by procuring persons to sign affidavits to purchase land for the benefit of the appellant (Kellner), this is not the crime with which he is charged and does not tend to connect him with the forgery.

Where the common design of the appellant and Turner was to procure persons to sign affidavits to purchase school land for appellant's benefit, and this is the only common design shown, receiving the benefits of such acts by the appellant with knowledge of their character does not tend to show that appellant was accepting the benefits of applications made by such persons with knowledge of the fact, or to show a common design to commit forgeries.

Justice Moore, having been for a number of years a personal friend of Kellner, took no part in the decision of this case.

Haines Mercantile Company, respondent, vs. M. H. Knapp, appellant, from Baker County, Samuel White, Judge; affirmed; opinion by Chief Justice Beasly.

Nicholas O. Greenbeck et al., respondents, vs. John J. Greenbeck, appellant, from Union County, Robert Eakin, Judge; affirmed; opinion by Chief Justice Beasly.

E. W. Haines, respondent, vs. J. W. Connel, Sheriff, and J. F. Schoch, appellants, from Washington County, T. A. McBride, Judge; petition for rehearing denied; opinion by Chief Justice Beasly.

Rehearing was denied in the case of A. P. Sprague vs. A. C. Schotte, and motion to recall mandate was overruled in the case of L. F. Gullfame vs. K. S. D. Fruit Land Company. Motion to strike out objections to cost bill was overruled in the case of E. W. Haines vs. J. W. Connel et al.

BRINGS IN CHARGE OF MURDER

Astoria Grand Jury Returns True Bill Against Captain Forest.

ASTORIA, Or., Feb. 26.—(Special.)—The Circuit Court grand jury returned a true bill this afternoon against Captain C. M. Forest, formerly master of the schooner Annie Larsen, charged with the murder on December 13 of Gysbertus Visser, known as George Fisher, a member of the schooner's crew.

The grand jury also returned an indictment against D. J. Ford on the charge of forgery. He is accused of passing a bogus check for \$18. Both the indicted men will be arraigned before the court tomorrow.

A not true bill was returned by the grand jury in the case against Frank Holbrook, a boy who was accused of assaulting his stepfather, J. D. Johnson, with a dangerous weapon.

Expends Million on Terminals.

BELLINGHAM, Wash., Feb. 26.—San Francisco capitalists today reached an agreement with the Bellingham Bay & British Columbia Railway, whereby the latter company will spend \$1,000,000 within six months in improving its terminal facilities in this city, to enable it to handle the output of the Northwestern Portland Cement Company's plant at Kendall. Twelve miles of track on the water-front and a new ocean dock are included in the contract.

Harrison Allen Has Resigned.

ASTORIA, Or., Feb. 26.—(Special.)—Harrison Allen, of Portland, was in the city today and confirmed the report that he had filed with Governor Chamberlain his resignation as Prosecuting Attorney for the Fifth Judicial District, to take effect March 1. He said the resignation was submitted without reservation and he has no knowledge of who his successor will be.

Conflict Over Indian Lands.

VICTORIA, B. C., Feb. 26.—A serious conflict has arisen between the Dominion and British Columbia governments with regard to the Port Simpson Indian reserves on Difby Island, which the Indians are willing to sell to the Grand Trunk

Pacific Railway and the Dominion government is willing to grant to the company for a terminus. The British Columbia government has submitted a claim to Ottawa claiming absolute jurisdiction over Indian reserves in British Columbia.

HUMAN SKELETON IS FOUND

Mystery of Skull Creek, Idaho, Is Partially Unraveled.

LEWISTON, Idaho, Feb. 26.—(Special.)—By the finding of a skeleton minus the skull on the banks of Skull Creek, named after the incident, the mystery has been partially unraveled. The skull was discovered several years ago and no one could ever tell where it came from. The remainder of the skeleton has just been found by Neil Willis and Charles Smith, while en route to Lewiston. The feet were still encased in boots that were almost rotted away, and encircling the ribs was a cartridge belt. Near the skeleton was a revolver and an ax, the wooden handle of which was rotten. On bushes below the skeleton were bits of a man's clothes, washed there by high water during the progress of disintegration. The last flood of the creek which could have carried the bits of cloth as high up as they were found was in 1894, showing that the man was killed at least 13 years ago. The supposition is, from the position in which the body was found, that the man climbed up the hillside under a rock to get out of the storm; that rocks slid down, pinning him in a crevice where he starved to death. Who the man was is not known.

FIRST TRAIN THIS MONTH

BETWEEN WALLA WALLA AND PENDLETON.

Only Temporary Tracks Rebuilt, and Should Heavy Rains Come Again Road Would Suffer.

WALLA WALLA, Wash., Feb. 26.—(Special.)—For the first time since January 20 trains will be operating tomorrow on the O. R. & N. directly between this city and Pendleton, and the regular Spokane-Pendleton trains will be running on schedule time. The regular time card will be put into effect tomorrow and trains will be running in all directions for the first time during the past month.

The damage to roadbeds has not been repaired, but the track has been cribbed up and traffic communications are possible. Owing to the soft condition of the soil, which has been thoroughly soaked with water, permanent repairs cannot be made, and another heavy rain would put the railroads out of business in this section of the country. Trains are running over the W. & C. R. to Dayton and Pasco, but the Oregon branch is still out of commission and officials do not expect to have it open until the last of the week.

She Gets Divorce and Alimony.

PENDLETON, Or., Feb. 26.—(Special.)—W. D. Burford, local manager of the telephone company, lost out in the sensational divorce suit which was tried last week. Late yesterday afternoon Judge H. J. Bean awarded Mrs. Burford the decree of divorce and directed Mr. Burford to pay her the sum of \$15 a month as long as she lives and remains single, which according to life tables will amount to more than the \$2000 alimony she asked for.

Woman Cause of the Trouble.

SEASIDE, Or., Feb. 26.—(Special.)—Louis Marcello, an Italian, familiarly known as "Gearheart Louis," had an extensive business in Seaside today on a charge of repeated threats to kill Antonio Scappati, another Italian, with whom he had been chums for 35 years until within the last few months. The origin of the trouble seems to be a woman. After hearing all the evidence, Justice Young put Marcello under a bond to keep the peace, especially toward Antonio Scappati, for a period of one year.

Seaside Mills Will Resume.

SEASIDE, Or., Feb. 26.—(Special.)—The plants of the Seaside Lumber Company, which have been idle for over three months, are to begin active operation tomorrow. The company has installed new machinery and the output is to be much greater than heretofore. During the time the mills have been shut down shipments of doors and windows have almost emptied the warehouses and the run during the coming year is to be a steady one.

MORE BOXES OF GOLD

And Many Greenbacks.

225 boxes of Gold and Greenbacks will be sent to persons who write the most interesting and truthful letters of experience on the following topics:

1. How have you been affected by coffee drinking and by changing from coffee to Postum?
2. Give name and account of one or more coffee drinkers who have been hurt by it and have been induced to quit and use Postum.
3. Do you know any one who has been driven away from Postum because it came to the table weak and characterized by the last trial?
4. Did you see such a person right regarding the easy way to make it clear, black, and with a snappy, rich taste?
5. Have you ever found a better way to make it than to use four teaspoons of spoonfuls to the pint of water, let stand on stove until real boiling begins, and beginning at that time when actual boiling starts, boil full 15 minutes more to extract the flavor and food value. (A piece of butter the size of a pea will prevent boiling over.) This contest is confined to those who have used Postum prior to the date of this advertisement.

Be honest and truthful, don't write poetry or fanciful letters, just plain, truthful statements.

Contest will close June 1, 1907, and no letters received after that date will be admitted. Examinations will be made by the Postum Cereal Co. Ltd. Their decisions will be fair and final, and a neat little box containing a \$10 gold piece sent to each of the five writers of the most interesting letters, a box containing a \$5 gold piece to each of the 20 next best, a \$2 greenback to each of the 100 next best, and a \$1 greenback to each of the 200 next best, making cash prizes distributed to 225 persons.

Every friend of Postum is urged to write and each letter will be held in high esteem by the company, as an evidence of such friendship, while the little boxes of gold and envelopes of money will reach many modest writers whose plain and sensible letters contain the facts desired, although the sender may have but small faith in winning at the time of writing.

Talk this subject over with your friends and see how many among you can win prizes. It is a good, honest competition and in the best kind of a cause, and costs the competitors absolutely nothing.

Address your letters to the Postum Cereal Co. Ltd., Battle Creek, Mich., writing your full name and address clearly.

VETO AX IS SHARP

Governor Chamberlain Is Putting in Full Time.

JOHNSON ROAD BILL SLAIN

Expense Would Be Too Great; People Are Already Taxed Enough—With No New Source of Revenue—Other Bills Are Killed.

SALEM, Or., Feb. 26.—(Special.)—The most important veto the Governor has filed since the legislature adjourned was placed on record this afternoon. It puts an end to Senator Johnson's road bill, which provided for state, county and local co-operation in permanent road improvement. It carried an appropriation of \$200,000, but Governor Chamberlain expressed the opinion that it would cost the state \$400,000 for the year 1908-9.

He disapproved it for four reasons: That the county and state officers are given no initiative in the matter; that it would very greatly increase the accumulation of money in the treasury; that the local debt certificates are non-taxable; and that the Legislature made many large appropriations without bringing any new subjects under taxation.

Senator Beach's voting-machine bill was vetoed by the Governor this morning because it "smacks of an effort to legislate in the interest of one or more establishments" making machines. It was worth \$500. The Governor thinks that if any discretion is given in selecting machines, the selecting board should have discretion in the purchase of the machine might be secured at a little higher price.

"Skidoo" was the word the Governor said this morning to House bill 23, by Jackson, to regulate fishing on the Umpqua. The same act had been incorporated in House bill 25, which has become a law, hence the veto.

Governor Chamberlain took a whack at the fee system today, vetoing Senate bill 181, by Johnson, requiring inspection of concentrated stock foods and the issuance of licenses for the sale of the same.

Senator Kay's bill permitting the garnishment of wages of public employees was also vetoed by the Governor today. The Governor says such a law has been held unconstitutional and that it is also contrary to sound public policy. If business men extend credit to public employees who are not trustworthy, public officers should not be harassed and annoyed because of such carelessness.

Beasly's House bill 260, for the appointment of a state cheese, dairy and creamery inspector met executive disapproval this morning, because the duties should be performed by the Oregon Dairy and Food Commissioner.

Senate bill 77, by Hodson, to authorize reclamation companies operating under the Carey act to sell surplus water, was vetoed by the Governor today, because some of the companies have not now enough water and there are no means provided for ascertaining whether any of them have a surplus. He deems the act dangerous to the interests of the settlers and of the state.

Chapin's House bill 245, requiring partnerships under an assumed name to file in the County Clerk's office a copy of the articles of partnership, was vetoed by the Governor today because he thought that if people do not want to deal with a firm without assuming the names of its members, they can inquire and find out who the partners are.

All bills passed by the recent session of the Legislature creating new district agricultural societies or increasing appropriations for the different fairs, will be vetoed by the Governor. Several bills have already fallen under his disapproval. Those already vetoed are Senate bill 62, by Smith, of Umatilla; Senate bill 192, by Johnson, of Grant; and McConrad, and House bill 200, by Belknap. All district fairs will run in the future as in the past.

In his veto message the Governor says that "hoarding" is usually a prominent feature of many of the fairs held under the auspices of these societies, and I question very much if the good done by them in the way of displacing the resources of field, farm and range justifies their further extension or constantly increasing appropriations asked for their support."

TACOMA CAN NOW PLAY BALL

Court Grants Northwest League the Right to Lincoln Park Grounds.

TACOMA, Wash., Feb. 26.—(Special.)—Tacoma baseball fans can have their baseball grounds on the South Tacoma line near Lincoln Park if they want to, says Judge Miller in the Superior Court, and before whom the arguments on the application of S. T. Keller for an order to restrain the baseball managers from proceeding with the preparation of the park was made.

Judge Miller held that it would be impossible to reasonably manage the grounds because the location of the grounds in the vicinity of the plaintiff's property had impaired its value, as that had not been shown. He also held that as the matter of Sunday baseball being a nuisance had not yet been proven, he could not restrain on that ground.

George M. Shreeder, the manager of the local team, was the recipient of many congratulations this morning on the decision of the court, as the question of whether Tacoma was to have baseball this year depended on this decision.

WANT SQUARE DEAL ON CARS

Billingham Shippers to Lay Case Before Interstate Commission.

BELLINGHAM, Wash., Feb. 26.—Following the refusal of President Elliott, of the Northern Pacific, to raise the embargo on forest products, pursuant to a resolution passed last night, the Northwest Shingle Manufacturers' Association issued a signed statement today, declaring for "a square deal on cars, and claiming that Northwest Washington was being discriminated against, while lumber shipments were accepted from points on Upper Puget Sound.

In this statement a plan is outlined for checking every car coming into this part of the state, where unloaded, where loaded and what disposition is made of it. In this manner, the statement continues, it is expected that proof of discrimination will be secured, when the matter will be laid before the Interstate Commerce Commission.

Probably the owner of the largest number of dogs in the world is a Russian cattle king, who has 35,000 shepherd dogs to look after 1,500,000 sheep.



ROSENTHAL'S CHOICE

The Opinion of the Great Artist on Musical Instruments.

The opinion of such a master of the piano as Moritz Rosenthal, who is coming to the Heilig theater on March 12, should carry a great deal of weight in all things of musical interest. With this in mind it is very interesting to note that Rosenthal considers the Weber piano superior to all other makes and uses it exclusively on his tour. From a musical and artistic point of view the Weber piano is unequalled. The Weber piano of today receives the homage of the musical world and the patronage of the public, not only in our country but on the unequalled platform that it is absolutely the best piano made. Come in and see our stock of these magnificent instruments. Ellers Piano House, Sole Agents for the Weber, 123 Washington street.

HILL PROMISES RELIEF

WILL RAISE EMBARGO ON LUMBER SHIPMENTS EAST.

Replies to Bellingham Chamber of Commerce He Hopes to Supply Cars Within Two Weeks.

BELLINGHAM, Wash., Feb. 26.—Secretary of the Chamber of Commerce received a dispatch this afternoon from James J. Hill, promising that the embargo on forest products from Northwestern Washington would be raised within two weeks. At present 90 per cent of the mills in this district are closed, and several thousand men are out of employment, owing to the inability of the railroads to handle shipments to the East.

"Evelyn Nesbit Shy and Unsophisticated," Says Amelia Rose

MISS AMELIA ROSE, a celebrated New York model, is at present in Portland appearing in one of the minor roles in the Augustin Daily Musical Company at the Heilig. This dark-eyed corymb, whose pictures are widely advertised, is a contemporary of Evelyn Nesbit.



Miss Amelia Rose

Nesbit Thaw, having posed for many of the same artists—Sarnoy, Haskell, Coffin, Henry Mosler and Elekmeier. The latter knight of the brush is responsible for Mrs. Thaw's well-known "Beauty and the Beast" portrait.

"Evelyn Nesbit," naively remarked Miss Rose, "was a dainty, quiet-natured girl and impressed us all as being shy and unsophisticated. She made an ideal model, with her perfect features and expressive brown eyes, and was highly esteemed by her employers."

Miss Rose adhered to the fact that Evelyn Thaw's eyes were of the melting sapphire tone, which is contrary to the "Irish blue type," which she is generally accredited to possess.

It was obvious that Miss Rose entertained strong antipathy for Stanford White, and she declared that this aversion was common among the chorus girls and models of Gotham.

"While posing for a New York sculptor

The "NEW PROCESS" GAS RANGES

Cooking by gas is far and away ahead of any other method, and the gas range is unquestionably the greatest of all modern kitchen conveniences. The "New Process" Gas Ranges embrace in their construction distinctive features that combine for the most satisfactory results in cooking, baking and broiling, and for economy of fuel. This remarkable efficiency and economy is secured by reason of the scientifically correct construction of burners, by which the proper mechanical mixture of gas and air is obtained, thereby producing the greatest amount of heat for the gas used. Thus it is that in using a "New Process" Range your cooking and baking are done at less expense and in a quicker and more satisfactory manner than by other methods. The many sizes and styles of this complete line will meet all demands for such a cooking apparatus. The liberal payment terms of



\$1.00 Down—\$1.00 Per Week

Cover all styles and sizes.

CROCKERY AND GLASSWARE BASEMENT DEPT.

TULL & GIBBS

COMPLETE HOUSE-FURNISHERS

SHOWING OF THE 1907 GO-CART PATTERNS

HATCHET IS NOT BURIED

Juvenile Court Deputy Yet to Be Agreed Upon.

No understanding as to who shall receive appointment as Deputy District Attorney for the Juvenile Court has been reached by Circuit Judge Frazer and District Attorney Manning. While both Ernest Brand and Robert V. Galloway are being spoken of for the place, neither is making a campaign for the position.

Concerning the animated discussion of the subject between Judge Frazer and Mr. Manning several days ago, Judge Frazer said yesterday that he meant no reflection on Mr. Brand, who was suggested by the District Attorney for the place.

He says he did not know Mr. Brand personally or by reputation at the time, but has since become convinced that any reflection on him or upon his ability as prosecutor would have been an injustice.

Charges Theft of Keys.

Constable Lou Wagner went to St.

Several charges of theft of keys were made by Constable Lou Wagner today. He says he has several keys which he believes were stolen from him.

LUCKY STRIKE

Sliced Plug Pipe Tobacco

Cured by a secret process—it does not bite the tongue. Burns well, gives a long, cool, sweet smoke, without waste. Pocket size, tin box, 10c.



Few tobaccos suit all tastes. The one that can, most justly, lay claim to that distinction—being an exquisite blend of choice flavors, is the famous

LUCKY STRIKE

Sliced Plug Pipe Tobacco

Cured by a secret process—it does not bite the tongue. Burns well, gives a long, cool, sweet smoke, without waste. Pocket size, tin box, 10c.

Miss Rose adhered to the fact that Evelyn Thaw's eyes were of the melting sapphire tone, which is contrary to the "Irish blue type," which she is generally accredited to possess.

It was obvious that Miss Rose entertained strong antipathy for Stanford White, and she declared that this aversion was common among the chorus girls and models of Gotham.

"While posing for a New York sculptor

Hamilton Must Go to Prison.

WASHINGTON, Feb. 26.—The President approved the court-martial sentence of First Lieutenant John S. Ham-

ilton, Twelfth Infantry, convicted of embezzlement, desertion and disobedience, to 18 months' imprisonment in Fort Leavenworth Penitentiary.

The cyclon pearl fishing season lasts three or four weeks, but 2,000,000 oysters are brought to the surface in that time.

Brown's Bronchial Cure

For fifty years a staple remedy of superior merit. Absolutely harmless.

Through arrangements with Ellers Piano House The Oregonian is enabled to offer all old or new subscribers to this newspaper a

\$25.00 VIOLIN

Bow, strings, rosin and case included, or a \$25.00 PHONOGRAPH

And six records, with a year's subscription to The Daily and Sunday Oregonian, all for \$25.65, on very liberal installments.

FORM OF CONTRACT

I hereby subscribe for The Daily and Sunday Oregonian for twelve months, for which I will pay on demand 75 cents a month, and I agree to receive a \$25 Violin with case complete, or a \$25 Phonograph and six standard ten-inch records (my selection), all for \$25.65. I agree to pay \$1.50 on delivery of the machine and six records and 60 cents a week on the machine until all payments have been paid in full.

In case of failure to comply with the terms of this contract, I agree to return said machine upon demand without legal process.

Signed.....

ELLERS PIANO HOUSE

PARLOR, 123 WASHINGTON

PRIVATE EX. 23

THE OREGONIAN

MAIN 7070

ROOM 200

WE WISH TO CALL THE ATTENTION OF THE PUBLIC

To the fact that we have been Specialists for more than 25 years. We are still the leading specialists in Portland and the Northwest. Our low fee makes our services within the reach of everyone, as low as \$10 in most cases. Our fee may be paid when cured, if you are responsible. If you need treatment see us at once. You want the best treatment you can get—therefore consult a reliable specialist now. Our reliability is unquestioned and our services the best you can get anywhere. Consult us at once—no matter what your ailment is. Remember we cure all acute and chronic special diseases.

If You Cannot Call, Write For Symptom Blanks

HOURS—8 to 5, 7 to 8:30, daily; Sundays, 9 to 12. Consultation free.

ST. LOUIS MEDICAL AND DISPENSARY

CORNER SECOND AND YAMHILL STREETS, PORTLAND, OREGON