

JURY MUST PASS ON BOOTH CASE

Court Denies Defense's Motion for Instructed Verdict of Acquittal.

WILL LET CASE STAND

Counsel for Booth Decides to Call No Witnesses and Will Let Verdict Be Returned on Government Testimony.

United States Judge Wolverton yesterday denied the motion of the defense for an instructed verdict of acquittal in the James Henry Booth case.

Following Judge Wolverton's ruling denying the motion, court adjourned at 4:30 o'clock until this morning.

At a late hour last night it was decided by counsel for the defense that they will submit their case at the opening of court this morning.

"We will offer no evidence or testimony," said Mr. Malarkey last night, "but will submit the case to the jury as it stands. We have decided upon this step because we are convinced that the jury cannot convict with the evidence that has been submitted."

When the government rested its case, Judge Webster advised for defense, moved for an instructed verdict, alleging that the government had failed to establish the charge alleged in the indictment.

Judge Webster maintained that the affidavit of Kribs was not substantive evidence and in addition, served only to discredit his testimony.

Mr. Malarkey closed the argument in support of the motion by emphasizing that the indictment against Booth charged him with giving information on final cancellations of lieu land selections while the testimony offered by the government related only to information given to Booth at a hearing which was held up for cancellation.

Judge Becker spoke briefly for the government in opposing the motion, laying particular stress on the fact that the indictment against Booth charged three specific acts: An agreement between Booth and Kribs to render certain services, the payment of money for services rendered and for services to be rendered.

In dismissing the motion, Judge Wolverton held that testimony had been introduced by the government tending to show that an agreement had been entered into by which Booth had taken and was to take compensation for services.

Mr. Malarkey immediately offered a motion to require the government to elect which of the two alleged unlawful agreements between Kribs and Booth the prosecution would rely on.

Mr. Malarkey immediately offered a motion to require the government to elect which of the two alleged unlawful agreements between Kribs and Booth the prosecution would rely on.

tified that he made an arrangement with Booth, Bridges not being present. Judge Wolverton ruled that the agreement alleged by Bridges to have been made among the three was relevant and should go to the jury as corroborating and leading up to the subsequent agreement alleged to have been formed between Kribs and Booth.

Mr. Malarkey demanded that the court instruct the jury to that effect before the defense proceeded with its case, but United States Attorney McCourt objected to the delivery of any instructions to the jury before the testimony had all been introduced.

The government rested its case at 11 o'clock yesterday morning, but, in answer to a question from Mr. Malarkey, Judge Becker admitted that the prosecution might desire to recall ex-State Land Agent West and John Givens, a timberland locator.

The final witnesses for the government were Walter S. Threlkeld, George W. Kruse and O. A. Howser, who, in January, 1935, filed timber land applications on three quarter-sections of land that were included in one of Kribs' cancelled applications.

Mr. Malarkey interposed an objection to the testimony of these witnesses and demanded that the purpose of its introduction should be limited to show that Kribs was aware of the fact that such testimony was admissible for no other purpose since the evidence was collateral and in no way related to the case.

First—Because it proved that Kribs lost the lands and was corroborative of the testimony of Kribs on the subject. Second—Because it showed the manner of filing applications at the Land Office after the original selections had been cancelled.

COURT DISCHARGES JURORS No More Land Fraud Trials After Booth Case Until Fall.

United States Judge Wolverton yesterday discharged all jurors, except those serving in the James Henry Booth trial, from further attendance on the court at this term.

It is generally believed, however, that the further prosecution of the land-fraud cases at this time actually depends on the result of the Booth trial.

Becker Opposes Motion. Judge Becker spoke briefly for the government in opposing the motion, laying particular stress on the fact that the indictment against Booth charged three specific acts.

In dismissing the motion, Judge Wolverton held that testimony had been introduced by the government tending to show that an agreement had been entered into by which Booth had taken and was to take compensation for services.

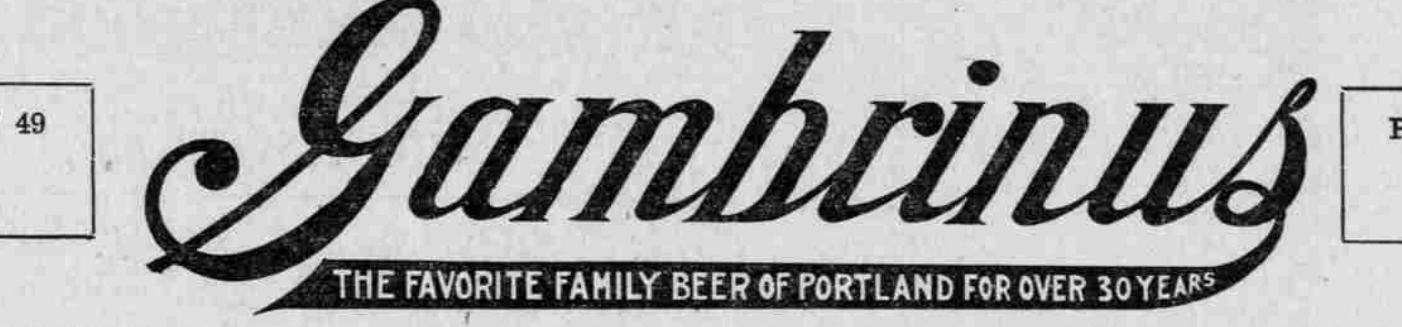
Mr. Malarkey immediately offered a motion to require the government to elect which of the two alleged unlawful agreements between Kribs and Booth the prosecution would rely on.



GAMBRINUS The Favorite for Over 31 Years

Every year that Gambrinus is brewed it becomes more popular with discriminating beer-drinkers. No one who uses GAMBRINUS for a week or more ever goes back to any other brew.

TWO DOZEN PINT BOTTLES, \$2.00-25¢ ONE DOZEN QUARTS, \$1.75-40¢ the dozen rebate when the bottles are returned.



PHONE MAIN 49 OR, A 1149

PHONE MAIN 49 OR, A 1149

Arrested and Quickly Discharged. Frank Washinski was arrested yesterday on a charge of opening and appropriating mail belonging to Martin Martinis.

Tearing Down Old Shacks. Gangs of workmen are wrecking the old buildings at Sixth and Alder streets, on the site of the ten-story building to be erected by the Meier & Frank Company.

Band Concert Schedule. Beginning next week Signor de Caprio's band will give five free concerts weekly in the public parks.

July Excursions. On July 6, 7, 22 and 23 the Canadian Pacific will have on sale special round trip excursion tickets to Eastern points at very low rates.

Workmen Clearing Site for Meier & Frank Annex. Ten-story steel frame building to rise at Southeast Corner, Sixth and Alder.

Old Landmarks of Portland Disappear. In London the taxicab are used by all classes of people, day and night, at the uniform rate of 16 cents a mile.

Old Landmarks of Portland Disappear. In London the taxicab are used by all classes of people, day and night, at the uniform rate of 16 cents a mile.

Daily City Statistics. Deaths. MOLENCIA—At 445 North Twenty-second street, June 29, A. Molenca, a native of Oregon, an infant.

Births. FERATI—At 491 East Twenty-ninth street, June 21, to the wife of P. E. Ferati, a son.

Articles of Incorporation. CLAY S. MOORE, INCORPORATED—Incorporated, Clay Moore, J. F. Schuster and Walter H. Evans; capital \$20,000; business transfer and storage.

Building Permits. A. R. MENDENHALL—To erect a two-story frame flat on Larrabee street, between Cherry and McMillen; \$7000.

Marriage Licenses. JEANS-LINDLEY—William S. Jeans, 24, St. John; Mary Myrtle Lindley, 19, city.

Wedding and visiting cards W. G. Smith & Co. Washington bldg. 4th and Wash.

MRS. W. COOK—To erect a two-story frame building on Fifth, between College and Hall; \$1000.

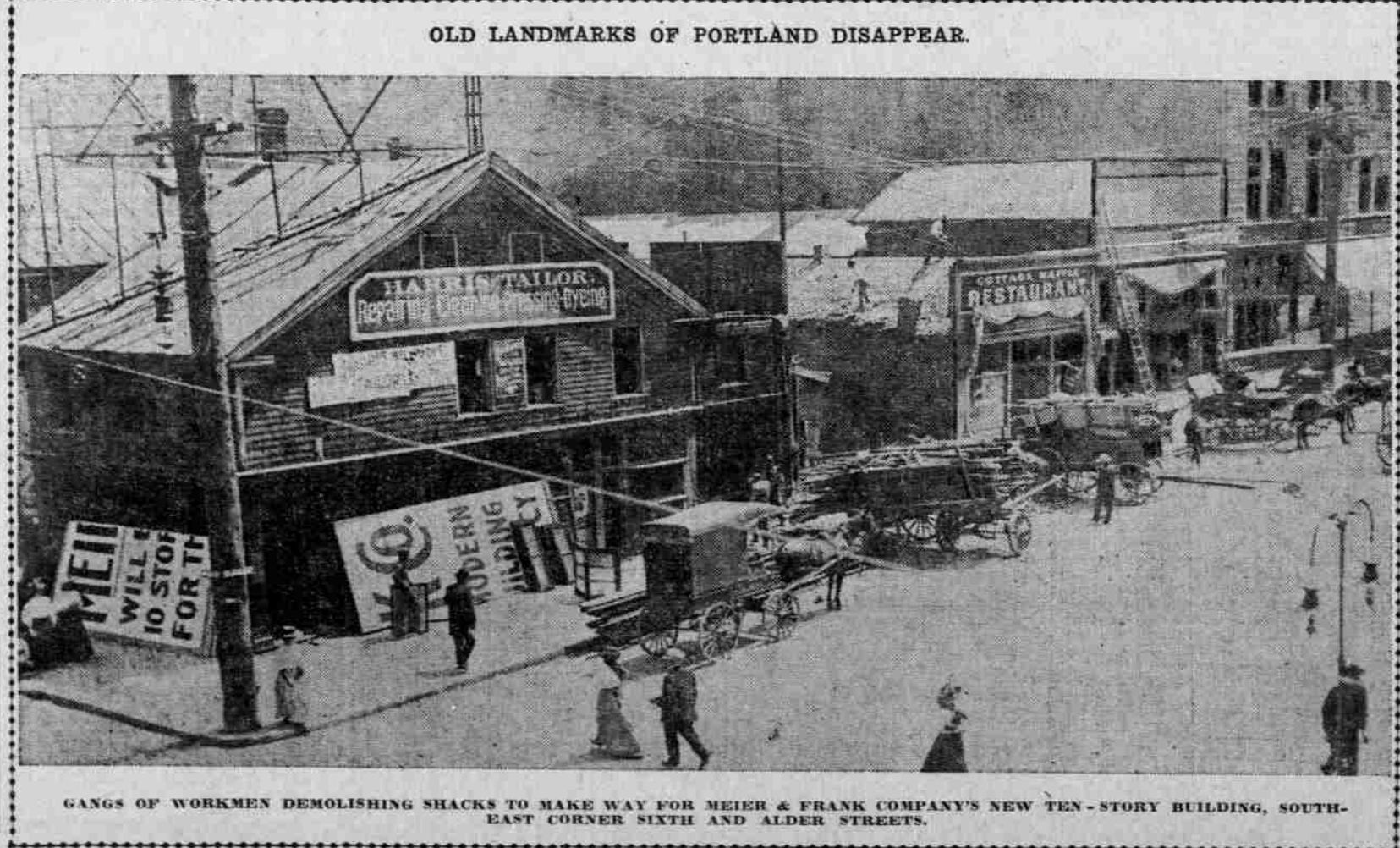
Articles of Incorporation. CLAY S. MOORE, INCORPORATED—Incorporated, Clay Moore, J. F. Schuster and Walter H. Evans; capital \$20,000; business transfer and storage.

Marriage Licenses. JEANS-LINDLEY—William S. Jeans, 24, St. John; Mary Myrtle Lindley, 19, city.

Highly Appreciated DR. PRICE'S WHEAT FLAKE CELERY FOOD

is highly appreciated, even by those who are much prejudiced against all breakfast foods. While most prepared foods are insipid, Dr. Price's Food has a distinctive celery flavor, making it tempting and appetizing.

For a Sane FOURTH—GO TO CLATSOP BEACH Via the Astoria & Columbia River Railroad. Trains Leave Portland Saturday, 8 A. M., 2:20 P. M. and 5:30 P. M.



GANGS OF WORKMEN DEMOLISHING SHACKS TO MAKE WAY FOR MEIER & FRANK COMPANY'S NEW TEN-STORY BUILDING, SOUTH-EAST CORNER SIXTH AND ALDER STREETS.