



The Daily Astorian

EXCLUSIVE TELEGRAPHIC PRESS REPORT.

VOL. XL. NO. 123.

ASTORIA, OREGON, THURSDAY MORNING, MAY 25, 1893.

PRICE, FIVE CENTS.

ASSIGNEE'S SALE

PARKER & HANSON

Continued till old stock is closed out at cost. New Goods arriving sold at liberal discount.

W. W. PARKER, Assignee.

Dinsmore!

Auction! Auction! Auction!

Special Sale Every Afternoon
For Ladies Only,
At 1 O'clock.

3 Sales Daily,
10 A. M.,
1 P. M.,
7 P. M.

Dinsmore!

SOCIETY MEETINGS.

Scandinavian Benevolent Society.
REGULAR MEETINGS OF THIS SOCIETY
at their rooms in Pythian building at eight
o'clock P. M. on the second and fourth Tues-
days of each month.

Ocean Excursion Co. No. 13, I. O. O. F.
REGULAR MEETINGS OF OCEAN EX-
CURSION CO. No. 13, I. O. O. F., at the Lodge,
in the old Fellows Building, at seven P. M.,
on the second and fourth Mondays of each
month. Following business ordinarily transac-
ted by order.

Astoria Building & Loan Association.
REGULAR MEETINGS OF THIS ASSO-
CIATION are held at 8 P. M. on the first
Wednesday of each month. Office on Geary
street, south of Cass.

Common Council.
REGULAR MEETINGS, FIRST AND
SECOND, on Monday evenings of each month
at 8 o'clock.

**Persons desiring to have matters acted upon
by the Council, at any regular meeting, must
present the same to the Auditor and Clerk,
on or before the Friday evening prior to the
Tuesday on which the Council holds its regular
meeting.**

K. OSBURN,
Auditor and Police Judge.

Board of Pilot Commissioners.
THE REGULAR MEETINGS OF THIS BOARD,
will be held on the first Monday of each
month at 10 A. M. in the rooms of the Astoria
Chamber of Commerce. W. L. ROBB, Sec.

G. A. STINSON & CO. BLACKSMITHING

Ship and Cannery work, Horseshoeing, Wagons
made and repaired. Go to work guaranteed
On Cass street, opposite the new Tank office.

JEFF'S RESTAURANT

Bon Ton Restaurant in the Town
(And the Finest on the Coast.)
Dinner Parties, Banquets a Special.
The Finest Wines and Liquors.

The Original and Genuine (WORCESTERSHIRE) LEA & PERRINS' SAUCE

Imparts the most delicious taste and zest to
EXTRACT
of a LETTER from
A MEDICAL GEN-
TLEMAN at Mad-
ras, to his brother
at WORCESTER,
May, 1851.

LEA & PERRINS'
that their sauce is
highly esteemed in
India, and is in my
opinion, the most
palatable, as well
as the most whole-
some sauce that is
made.

**SOUPS,
GRAVIES,
FISH,
HOT & COLD
MEATS,
GAME,
WELSH-
RABBITS,
&c.**

**Beware of Imitations;
see that you get Lea & Perrins'**

Lea & Perrins'

Signature on every bottle of Original & Genuine.
JOHN BUNCAN'S SONS, NEW YORK.

I. W. CASE, BANKER.

TRANSACTS A GENERAL BANKING BUSINESS.
Drafts drawn available in any part of the U
S and Europe, and on Hong Kong, China.
Office Hours—10 A. M. to 3 P. M.
Odd Fellows Building, Astoria, Oregon.

I. W. CASE, INSURANCE AGENT,

REPRESENTING
German-American, New York City, N. Y.
Union Fire and Marine, of New Zealand.
National Fire and Marine Ins. Co. of Hartford.
Connecticut Fire Ins. Co. of Hartford.
Home Mutual Ins. Co. of San Francisco.
Phoenix, of London. Imperial, of London.
New York Plate Glass Ins. Co.

THE ASTORIA NATIONAL BANK

DOES A
GENERAL BANKING BUSINESS.
Accounts of Firms and Individuals solicited
on Favorable Terms.
Interest paid on Time Deposits. Money
loaned on Personal Security.
Foreign and Domestic Exchange bought and
sold.

D. K. Warren, President.
J. E. Higgins, Cashier.
J. C. Bennett, Vice President
D. K. Warren,
C. S. Wright,
John Holman,
H. C. Thompson,
Theo. Bracker, Directors

THE ASTORIA SAVINGS BANK

Acts as trustee for corporations and individ-
uals. Deposits solicited.
Interest will be allowed on savings deposits
as follows:
On ordinary savings books 4 per cent. per
annum.
On term savings books 6 per cent. per annum.
On certificates of deposit:
For three months, 4 per cent. per annum.
For six months, 5 per cent. per annum.
For twelve months, 6 per cent. per annum.

I. W. CASE, President
J. G. A. BOWBY, Vice-President
FRANK PATTON, Cashier
W. E. DEMENT, Secretary

DIRECTORS:
I. W. Case, J. Q. A. Bowby, Gust Holmes,
C. H. Page, Benj. Young, A. S. Reed,
F. J. Taylor.

THE PORTLAND SAVINGS BANK

OF PORTLAND, OREGON.
Paid up capital \$250,000
Surplus and profits 60,000

BANK DEKUM, President.
D. P. THOMPSON, Vice-President
H. C. STRATTON, Cashier

J. B. WYATT
—Dealer in—
Hardware and Ship Chandlery.
Pure Oil, Bright Varnish, Durable Oil, Col-
ored Canvas, Hemp Salt Trawl, Lead Oil,
Wrought Iron Spikes, Galvanized Cut Nails

Groceries, Etc.
Agricultural Implements, Sewing Ma-
chines, Paints and Oils.

DR. BRIGGS IN HIS OWN BEHALF

interesting Session of the Presbyterian
General Assembly.

SITE FOR A COLLEGE REJECTED

One Million and a Quarter to Be Raised
This Year in Aid of the Foreign
Missions.

Associated Press.
Washington, May 24.—The Presby-
terian general assembly resumed its
session this morning. The committee
on aid to colleges recommended that
the proposition of Arthur Brown, offer-
ing one hundred acres of land near
Salt Lake City as a site for the location
of a college, be respectfully declined.

The report of the committee on for-
eign missions stated that an effort
would be made this year to raise
\$1,250,000.

At the afternoon session Moderator
Craig convened the assembly as a
court. Dr. Briggs ascended the plat-
form amid an intense quiet and made
a brief preliminary statement regard-
ing the time required for argument.

Dr. W. F. Birch, chairman of the
prosecuting committee, then took the
floor. After touching on the history of
the case Dr. Birch said:

"We here invoke this supreme court to
put an end to the dissension and dis-
putation which the New York Presby-
tery had vainly endeavored to silence."
In reply to the argument that appeal
cannot be taken from a verdict of acquit-
tal, Dr. Birch said he who teaches
that the power of the general assembly
can be nullified by the will of a single
presbytery lifts the banner of treason
against the presbytery and churches.

At 3:15 o'clock Dr. Briggs arose to re-
ply to the opening of the prosecuting
committee and protested against the
entertaining of an appeal by the gen-
eral assembly. Dr. Briggs went on to
argue that the form of appeal was in-
correct, and there were many things in
it which must be removed before the
assembly could entertain it. He also
pointed out a matter included in the
appeal which he said rendered it in-
valid. A much more fundamental ques-
tion was at stake, said Dr. Briggs, than
any principle or doctrine that has yet been
discussed—that was, whether the Pres-
byterian church should be considered
as merely a voluntary religious society
of the church of Jesus Christ. It was a
civil law of the land, he said, that no
man should be twice tried for the same
offense. Was the Presbyterian church
ready to ignore or violate a well settled
principle found by centuries of obser-
vation and experience to be essential
to the well-being of a people without
any sufficient cause? If this appeal
were sustained it would become an un-
fortunate precedent which would be
followed by public prosecutors who
would magnify their office and bring
differences of opinion and establish a
new and easy way for ambitious litig-
ants to secure an authoritative deci-
sion of the general assembly in many
matters which were now regarded as
a legitimate matter of private opinion,
and thus imperil the constitution by
an unending series of heresy trials,
and result in changes in the doctrine
and law of the Presbyterian church.

The public prosecutors were pushing
the Presbyterian church into a very
inconvenient and dangerous position.
Dr. Briggs spoke an hour and a half
and then yielded for a motion to ad-
journ.

FLOODS IN EUROPE.

Vienna, May 24.—Czernitich was
visited by a disastrous flood. Five
were drowned and many rendered
homeless.

Rome, May 24.—Rain has been falling
in torrents in the Piedmont Riers, over-
flowing the lowlands. Several villages
are under water. Bridges were swept
away, railroads flooded, and traffic sus-
pended in some places.

Berlin, May 24.—The drought remains
unbroken. Official statistics concerning
Prussian crops show the kingdom is
suffering heavy losses. The hay crop
is completely ruined in Bucharest. The
recent flood devastated whole cities.
Whole villages are submerged and
many railway bridges destroyed. Traf-
fic in some places is suspended.

A FITTING TRIBUTE.

New York, May 24.—James Gordon
Bennett announces in the Herald this
morning that in order to perpetuate
the paper as a monument to the mem-
ory of his father, its founder, he pro-
poses to make it a co-operative con-
cern, in which every employe of the
paper, from the highest to the lowest,
shall share.

DEATH THROUGH CARELESSNESS

Burlington, Wis., May 24.—The north
bound train on the Wisconsin Central
was wrecked last night near Gray's

Lake. There were some leaky gasoline
cars in the train, from which the fluid
spread over the water on each side of
the track. Some careless person lighted
a match from which the gasoline took
fire, and two hundred persons gathered
at the scene ran for their lives. A num-
ber of them were terribly burned, and
one of the section hands was burned
to death.

CANNOT BE CLOSED.

Eminent Authorities Say the Directors'
Orders Are Insufficient.

Chicago, May 24.—The Times tomor-
row will print a story claiming that
the World's Fair cannot be closed Sun-
days by injunction. According to the
Times, the United States as complain-
ant would have no grounds on which to
ask an injunction, nor would the Sab-
batarians for that matter. Commissioner
Clear satisfied himself on that point
by holding a conference with a num-
ber of attorneys. The Times will also
print a dispatch from Washington
agreeing with this opinion. Director
General Davis said today that from
his understanding the gates will be
opened next Sunday, and he should so
direct, unless restrained by a more
imperative mandate than the direct-
ors' orders.

THE WHITE CITY.

The attendance Rapidly Increasing—
European Excursion Arrives.

Chicago, May 24.—The people outside
Chicago are apparently beginning to
realize that the World's Fair is really
open, and business at the ticket offices
is beginning to fairly boom. Hotel prop-
rietors are realizing the fact, as their
rooms are rapidly filling up. Since the
opening day nearly three-quarters of
a million people have paid for admis-
sion to the "White City," and the at-
tendance seems to be on the steady in-
crease.

CLAIM THEY CAN PAY UP.

Moscow, Idaho, May 24.—Friday next
an assignee will be chosen for the Mc-
Connell Maguire Company, which was
closed last month by the sheriff, and
a representation of creditors will be
present to reach some agreement. The
firm claims to be able to meet all ob-
ligations if allowed to resume business
in its own name, but is anxious to ac-
cept any reasonable proposition so
that the house can open again immedi-
ately.

AT THE TOMB OF WASHINGTON.

Washington, May 24.—The Infanta of
Spain and suite, members of the cabi-
net, the diplomatic corps and other
distinguished people today visited the
tomb of Washington at Mount Vernon.

FAVOR THE EIGHT-HOUR DAY.

Brussels, May 24.—The miners' in-
ternational conference adopted a resolu-
tion to favor the eight-hour day, and
also a resolution in favor of an inter-
national strike.

HANGED FOR MURDER.

Lamar, Mo., May 24.—Amos Avery
was hanged here this morning for the
murder of Jas. A. Mills. On the gal-
lows he declared his innocence.

DROUGHT IN FRANCE.

Paris, May 24.—Two months' drought
in France, it is estimated, has des-
troyed every franc's worth of crops.

RAVAGED BY LOUSTS.

Moscow, May 24.—Locusts are ravag-
ing nearly the whole province of Sa-
toff.

BUSINESS AND INDUSTRIAL.

Pig skin is now used for men's shoes.
British India licenses 10,147 opium
shops.
Aluminum slate pencils are made in
Illinois.
Williamsport has the biggest sus-
pender mill.
A Paris telegraph office employs 900
persons.
There are 3,000 telegraph bureaux in
France.
It costs 2 1/2 cents to put up a can of
tomatoes.
Strawberries are 5 cents a quart at
Plant City, Fla.
An electric freight line is in opera-
tion in Maryland.
Melbourne has built the first Aus-
tralian locomotive.
Great Britain has more than twenty
thousand trained nurses.
There are nearly sixteen thousand
miles of railroad in Canada.
There are 20,000 American publica-
tions, a gain of 1,232 in a year.
Of the 51,000 breweries estimated to
be in the world 25,000 are in Germany.
The money circulation of the United
States is estimated at \$1,600,000,000.
Fully 25 per cent of all the cham-
pagne made is lost by the bursting of
bottles.
It requires more than 1,500,000 sheep
to supply the mutton consumed in Lon-
don.
Cleveland carpenters will be paid 30
cents an hour for nine-hour day, begin-
ing May 1st.

Decision in the Court Street Cases.

The Astorian was yesterday unable
to publish in full the decision of
Judge McBride in the case of "Irene C.
Parker et al. vs. the city of Astoria,"
better known as the "Court street
case," but recognizing the far-reaching
importance of the decision and the
general interest of it, the findings of
the court are today given in full, as
follows:

This is a suit brought by a large
number of plaintiffs to restrain defend-
ants from selling certain property of
plaintiffs for delinquent assessments
for the improvement of Court street
in the city of Astoria, and to cancel the
entries made in relation to said assess-
ments in the docket of city liens:

The plaintiffs claim that the pro-
ceedings in relation to said assessments
are void for substantially the follow-
ing reasons:

- 1st. That the council unlawfully
attempted to alter the grade of said
Court street, and that said improve-
ment was made to the grade so at-
tempted to be established, and that
the proceedings were therefore void.
- 2nd. That no proper notice was
given of the intention to alter or
change the grade of said street, or to
make the said improvement, or of the
assessment; and that no proof of the
publication of said notices was ever
made of record.
- 3rd. That at the time of the passage
and approval of said ordinances there
was no mayor, and that consequently,
the president of the council had no
authority to approve the ordinances.
- 4th. That said Court street had been
previously improved at the expense
of the owners of the abutting property,
and that consequently these assess-
ments were improperly made.
- 5th. That the assessment was not
properly entered in the docket of city
liens.
- 6th. That no levy was made upon the
lots of plaintiffs, and that no suffi-
cient notice of sale was given.
- 7th. That the date of sale was fixed
subsequent to the return day of the
warrants.
- 8th. Plaintiff Clatsop Mill Company
claim that lot 1, block 70 is not as-
sessed to its true owner.

propose to consider the objections
urged in the order that I have stated
them. To the first objection, that
ordinance No. 1400, which fixed the
grade at which the work was done on
Court street, was an unlawful attempt
to change the grade of the street, it
may be fairly answered that said ordi-
nance does not attempt to change or
alter the grade, but to fix it. It was
claimed that ordinance No. 75 intro-
duced by plaintiffs, and passed in the
year 1872, fixed the grade of Court
street, but it does not pretend to estab-
lish such grade, except at crossings,
and only incidental to the grade of
other streets. I do not think that fix-
ing the grade at crossings only, is fix-
ing the grade of the street, because
there is no law or practice that re-
quire a street to be improved on the
same grade between crossings that it
is at crossings. To hold that the grade
of the street may be established by es-
tablishing the grade at crossings,
would violate the spirit and intent of
the charter, which provides that
notice shall be given of an intent to
establish the grade of a street, and
that property owners on said street
shall have the right of remonstrance.
This would be rendered entirely nug-
atory if the council could, by giving
notice of intention to establish the grade
of other streets crossing Court street,
and acting on such notice, thereby do
indirectly and without notice, that
which they could not do directly with-
out notice. Aside from this considera-
tion, I am of the opinion that the estab-
lishment of the grade of a street is
an entirely separate proceeding from
that of improving a street, and that
the question of grade is a collateral
proceeding that cannot be inquired in-
to in this suit. It is a matter within
the jurisdiction of the common council,
and being so within their jurisdiction,
their decision is final except where it
is attacked directly, either by review
or other appropriate remedy, taken in
that particular proceeding, and not col-
laterally. It is a judgment and juris-
diction once attained, it must be given
the same force and effect as the judg-
ment of a court of competent juris-
diction.

Gay v. Bradstreet, 77 Amer. L'ce,
272.
Elliott on roads and streets, 223,
221.
In re Buhler 32 Barbour 79.
Baife v. Lammien 10 N. E. Rep. 92.
McEnery v. Sullivan, 25 N. E., 540.
Morrill v. Morrill, 20 Oregon, 96.
City charter, page 29, Section 5.
Lewis on eminent domain, section
557.

Plaintiffs' next contention is that no
sufficient notice was given of the in-
tention of the council to improve said
street. I am of the opinion that the
notice sufficiently describes the nature

of the improvements. Convenient cer-
tainty is all that is required.

Charter, section 77.

But it is urged that the notices were
not published the requisite length of
time. The charter provides that "no
grade or improvement . . . can
be undertaken or made without ten
days' notice thereof, being by publi-
cation in a newspaper published in the
city of Astoria," etc. It is contended
that this, in effect, requires that no-
tice shall be given each day for ten
days, and that, as in this case, two of
the ten days were Sundays, that there-
fore, the notice was void.

I cannot adopt this view of the law.
Sunday publications are to be included,
unless excluded by the statute.

Code, page 466, section 619.
Taylor vs. Palmer, 31 California, 240.
Miles vs. McDermott, 31 California,
271.

A statute requiring ten days' notice
to be given by publication, is complied
with if notice is published once more
than ten days prior to the proceeding
referred to in the notice. The first
publication in this matter was more
than ten days prior to the happening
of the event decided in the notice,
and thereby the statute was complied
with.

Savings Bank vs. Baltimore, 18 At-
lantic Rep., 809.

P. R. R. Co. vs. Shipley, 19 Atlantic
Rep., 1.

The objection that there is no proof
of publication of notices among the re-
cords of the council is not tenable. The
charter does not require proof of such
proof to be made a matter of
record, and it was sufficiently proved
on a trial in this court that the publi-
cation actually was made. This is all
the law requires.

Jolly vs. Foltz, 34 California, 321.

Blair vs. Hamilton, 32 California, 50.

Seattle vs. Doran, 32 Pacific Rep.,
105.

State vs. Landis, 13th Atlantic Rep.,
251.

The next objection, and one that
seemed to me on first impression, to
be a very serious one, is that Isaac
Bergman, president of the council, had
no authority to sign ordinances Nos.
1400 and 1482, upon which the validity
of these proceedings rests. On the trial
it appeared that on April 14, 1891, one
M. C. Crosby was the mayor of the
city, and on that day he sent in his res-
ignation and the council accepted it, but
instead of choosing his successor im-
mediately, they spent several weeks in
beginning wrangling over candidates, until
November 7, 1891, at which time Sam-
uel Elmore was elected mayor. After
Crosby's resignation and before the
election of Elmore, these ordinances
were passed and were signed by Isaac
Bergman as "President of the Council."

Council for plaintiffs rely on section
47 of chapter 7 of the charter, which is
as follows: "During the absence of the
mayor from the city, or if he be unwell,
or from any reason be unable to at-
tend, the president of the council shall
be the acting mayor and perform the
duties of such office during such absence
or disability, except as otherwise pro-
vided in this act." Counsel contend,
with much plausibility and force, that
before the president of the council can
act as mayor there must be a mayor in
esse and that he must have been absent
or unwell; that in this case, there was
no absence of the mayor or sickness of
the mayor, and that this contingency is
not provided for in the charter. If this
is true there is an end to defendants
case, but I cannot assent to the propo-
sition, plausible as it seems. The char-
ter provides that the mayor shall hold
his office until his successor is elected
and qualified. It also provides for his
resignation and the election of his suc-
cessor. Taking these sections together,
I think that it was never the intent of
the law-maker that the mayor could
lay down his office absolutely, and
leave the city without any responsible
head. He might resign and his resig-
nation be accepted by the council, and
thereby, for the purpose of electing
his successor, a vacancy could exist;
but for all other purposes he continued
mayor until his successor was
elected and qualified. The decisions
on this subject are few and not un-
iform, but the case of Badger, et al.
vs. The United States, 93, U. S.
seems to me to be so much
in accord with justice and public
convenience that I shall follow it
in this case. In the case cited En-
dger and his two fellow plaintiffs in
error, were, respectively, justices of
the peace, town clerk and supervisor
in the town of Ambry, Illinois. One
Bolles had obtained a judgment against
the town which it was their duty
to audit and pay; in order to avoid
this duty they sent in their resig-
nations to the selectmen of the town,
which resignations were accepted. The
selectmen, as in this case, failed to
fill the vacancy thus created; there
was a statute, as in this case, pro-
viding that they might resign by
sending their resignations to the select-
men; there was also a statute, as
in this case, providing they should
hold their offices for a certain term,

Continued on Third Page.