

COUNCIL HAS BUSINESS SESSION

**Grinds Out a Big Grist and
Tells the Welch People to
"Shoot or Give Up
the Gun."**

The city council session last night was a peaceful as a Hague convention, gentle as a turtle dove, and mild as milk and water. Everything was unanimous and all "aye."

The bicycle ordinance was reported back without action by the committee on ordinances, and on motion it was referred to the street committee.

The canvass of the vote on refunding city bonds and on Fairmount park was read and filed.

No bids having been received for placing the outlets of the sewers below low water mark, the street commissioner was ordered to have the work done.

Councilman Low reported the old fire engine out of commission and the committee on fire and water was instructed to have it put in good repair.

The street commissioner was also instructed to construct a concrete culvert over the creek on Winter street and the committee on streets was authorized to purchase another car of cement and also to take up the matter of filling and grading Trade street with the Southern Pacific company. Councilman Stolz stating that Mr. Fields of that company had stated the company was willing to put on its gravel trains and do the filling.

An application for a liquor license from Ralph Swartz was referred to the license committee. Specifications for the construction of a sewer in block 9, engineer's estimate of cost \$402.50, was adopted, and the recorder instructed to advertise for bids.

Application of J. C. Stapleton to do his own improvement work on Pine street where it passes his property was referred to the city attorney.

The Warren Construction company submitted a bid for the improvement of Ferry street from Front to Liberty streets with bitulithic pavement.

The Capital Improvement company a bid for the improvement of Sixth street with gravel from Hood to Market streets, bid was \$1,573.92, and a bid from J. C. Stapleton and E. C. Minton for the improvement of Pine street from Front to Fourth streets at a cost of \$844.47.

The aforesaid bids were referred to the committee on streets with power to act and enter into contracts with the bidders.

Stolz addressed the council in regard to a request from the Salem Fruit union to allow the Southern Pacific railroad to construct a switch to the union's packing house on Trade street. This was granted, and at the same time an ordinance

was suggested covering the building of switches generally on Trade street.

Several resolutions from City Attorney Keyes were read and adopted, of which the following is a summary:

Publication of notice of street assessment for the improvement of Miller street from Commercial to Rock, Twelfth street from Ferry to Bellevue, Twelfth street from Court to Ferry, directing the engineer to make a survey, plat and report on the opening and extension of Chocketa street between Twenty-first and Twenty-fifth streets.

Publication of rebate on street assessment for the improvement of Miller street from Commercial to High streets, and rebate on assessment of Broadway from the bridge to Madison street.

A motion from Stolz to allow the Salem Fruit union to use a gang plank across the sidewalk and a portion of the road in order to load cars from their packing house to the Southern Pacific tracks was adopted.

On motion, the Welch people, who hold a franchise for a street railroad tracks on Ferry street, were instructed to lay their tracks within 20 days or their franchise would be forfeited.

The improvement work on this street will be started in a short time and it is necessary to have the tracks laid before the contractors begin the preliminary work on the street.

An ordinance providing for the vacating of a certain portion of Seventeenth street, passed.

Ordinance declaring the surplus in the assessment of Winter street from State to Trade, passed, also an ordinance declaring a deficit on the assessment for the improvement of Broadway from Madison to Highland passed.

The grist having been ground out in about an hour, on account of the council running out of business that was ripe for action, adjournment was taken to Monday night next.

X-RAYS AND SMILES

Since Jim Hill got his bust uncovered at Seattle, Harriman doesn't look so big to him.

Senator Borah has promised to find an Idaho husband for Miss Grace Hartman. One who isn't dressed up and who wears overalls is what Miss Hartman wants. She probably feels that she can wear all the good clothes for the family. Just as a suggestion, the senator might present that friend of his, "Harry," more commonly known as Orchard.

Two girls in a Portland store had a fainting bee yesterday because one of them swallowed a pin. Why did not someone rise to the occasion and feed the frightened damsel a pin-cushion?

Harriman is surely up against a problem. He has secured two railroads clear across the continent and can't even get a right-of-way up the Deschutes. He has tackled the biggest hill he ever tried to run a railroad over.

Any Willamette valley man who drew a so-called prize in Uncle Sam's land lottery was out of luck. He would have to live out of the valley to perfect his title.

Ella Wheeler Wilcox is delivering "lectures to husbands." Most married women will object to Ella jumping their private snaps.

Irrigon is bragging about her potatoes. Never sampled any of them, but wherever the sagebrush grows big and rank the spuds are the best in the world. Down in Nevada they take the place of apples, either raw or cooked.

Alva Bacon, who mistook Marshal D. Ferguson for a deer and killed him, has been pronounced responsible for Ferguson's death by the coroner's jury, but they pronounced it an accident. Now Mr. Bacon should adjure firearms and the woods.

There is a "hot time" in a number of the old towns in the middle west and it extends over several nights.

How would you like to be the tea man? is a foolish question down Kansas City way.

Katherine Elkins is going to marry d'Abrazzi as soon as he gets back from the Himalayas. Now that a rich royal yellow streak has been found in the remote ancestors of the lady the objections of the royal family to accepting Stevo's millions as a shroud have been removed.

Journal Bargain Day—August 31. Don't fail to take advantage of it.

SUPREME COURT RENDERS OPINIONS

**Walsworths, Who Killed Mankins, Get New Trial—
Murderer of Wolfe
Must Serve.**

After serving nearly two years in the penitentiary of a life sentence for the killing of James F. Mankin in Jackson county, Chas. H. Walsworth and Norval Walsworth were granted a new trial, in an opinion handed down by the supreme court today and written by Justice McBride.

The killing of Mankin was a culmination of a series of disagreements with the Walsworths in Jackson county over property. The Walsworth family resided in a house belonging to the Mankins, who were trying to make the Walsworths vacate the premises. Mankin called one day for the purpose of talking the matter over with Chas. Walsworth and the two men quarreled. While they were quarreling the Mankin son Carroll approached them with a walking stick in his hand and Walsworth, thinking it a gun, ran into his house and securing his rifle came out and opened fire on the Mankins. The Mankin daughter was a witness to the occurrence and ran back to the Mankin home, where she also got guns, and gave them to her father and brother, and then the deadly conflict took place. Before the elder Walsworth reached his house in quest of a gun his son called to him and tried to explain that the younger Mankin did not have a gun and tried to allay his fears and avert trouble, but the father did not heed him. The boy then ran into the house and secured a rifle, and after going out the back door saw Mankin and shot him. It was contended during the trial that the elder Walsworth ran for his gun and as he stepped into the door with it in his hands it accidentally went off, and after laying it on a bed near at hand he came to the door and threw up his hands as a sign of submission and peace, but was shot by Mankin in the head, and at this juncture it was alleged that the Walsworth boy began shooting with intention of protecting his mother, who was then in the house, and James Mankin was shot dead while the Mankin boy was not mortally wounded. Young Walsworth also received a gunshot wound in the face.

In the bill of exceptions filed with the supreme court it is alleged by counsel for the defendants that the court made an error by not instructing the jury to the effect that young Walsworth had the right to protect his mother when under the impression that she was in immediate danger of being killed. Justice McBride holds that the lower court did err in not instructing the jury accordingly, which was about the only error he could find, but which was sufficient to grant the defendants a new trial, and it is so ordered. The Walsworths—father and son—are now confined in the penitentiary, having been refused a stay of execution on account of the delay in submitting the brief.

Edward Hugh Martin, who was tried and convicted of manslaughter by killing Nathan Wolf in Portland in 1908, will be compelled to serve his fifteen-year sentence for the crime. The judgment of the lower court being affirmed in an opinion written by Justice Slater.

Nathan Wolf, the deceased in this case, was a pawnbroker in Portland and was found one morning beaten up in a horrible manner. Evidence tended to point towards young Martin and on trial he was found guilty of manslaughter. The appeal sent up by Martin's counsel was brief, there being very few exceptions taken to the proceedings of the trial court. One exception which was dealt with by Justice Slater in particular was that there was no intent to assault and no intent to kill alleged, nor was the time of the death of Wolf stated. Inasmuch as these omissions would probably hold tenable in a charge of murder in the first degree, they were not necessary in the charge of manslaughter.

Seven other opinions were handed down by the supreme court of more or less importance, they being principally cases in equity, as follows:

Joseph M. Rogers, plaintiff and respondent, vs. Portland Lumber company, defendants and appellants, appealed from the circuit court of Multnomah county, Thos. O'Day, judge. Motion for rehearing denied by Justice Eakin.

State, respondent, vs. P. A. McDonald et al., appellants, appealed from the circuit court of Union county, J. W. Knowels, judge. Mo-

tion to affirm judgment denied per curiam.

State, respondent, vs. J. H. Miller, appellant, appealed from the circuit court of Grant county, Geo. E. Davis, judge. Lower court's judgment affirmed, opinion by Justice Slater. This is a case where Miller was convicted of peddling medicine without a license from the board of pharmacy. Several insufficient objections were made to the judgment of the trial court, but none were plausible enough to grant him a new trial in the opinion of Justice Slater.

Staro, respondent, vs. B. F. Germain, appellant, appealed from the circuit court of Multnomah county, Earl C. Bronaugh, judge, affirmed opinion by Justice McBride. Germain conducted an employment agency in Portland and was accused of obtaining money under false pretenses.

Jessie Alexander, plaintiff and respondent, vs. Edith Monroe, defendant and appellant, appealed from the circuit court of Washington county, T. A. McBride, judge. Motion for rehearing denied by Justice Eakin.

Isabelle Taylor, plaintiff and respondent, vs. Moses Taylor, defendant and appellant, appealed from the circuit court of Umatilla county, H. J. Bean, judge. Reversed and remanded; opinion by Justice King.

August Zenske, plaintiff and appellant, vs. Emma Zenske, defendant and respondent, appealed from the circuit court of Umatilla county, H. J. Bean, judge. Reversed; opinion by Justice Eakin and dissented to by Justice King.

SCHOONER DRIVEN

(Continued from page 1)

the men, who had lashed themselves to the rigging, they crawled to the deck of a raft.

For a time it was feared that the schooner and its crew would be lost. After the life-rafters had been beaten back for seven hours the wind suddenly veered, driving the vessel out to sea.

Making a final desperate effort the rescuers finally reached the Arlington and succeeded in taking the men from the stranded vessel.

Notice of Street Assessment.
Notice is hereby given that the

common council of the city of Salem, Oregon, will, on or about 8 o'clock p. m. on the 23d day of August, 1909, at the common council chambers at Salem, Oregon, proceed to assess upon each lot or parcel of land liable therefor, its proportionate share of the cost of improving Twelfth street in the city of Salem, with Warren Brothers' Special Bitulithic Waterproof Pavement, between the south line of Ferry street and the south line of Bellevue street in said city. All persons interested in said as-

essment shall appear at said time before the said common council and present objections, if any they have, to said assessment, or file the same with the recorder within the following five days and apply to said council within five days from said date, for the privilege, if they so desire, to make said improvement in lieu of their assessment.

Date of the first publication of this notice, August 17th, 1909.

W. A. MOORES,
City Recorder.

ROSTEIN & GREENBAUM New Price List

Ladies' Sweater Coats, all wool\$2.00
Ladies' \$3.00 Mohair Dress Skirts for\$2.00
Ladies' \$3.75 Voile Dress Skirts for\$2.50
Ladies' Black Sateen Petticoats, good value50c

Boys' Sweater Coats35c
Ladies' \$1.00 Wrappers68c
Ladies' Lisle Gloves25c
Pearl Buttons, dozen2 1/2c
Children's Dresses25c

Boys' Waists25c
Rompers35c
Khaki Rompers50c
Men's Underwear25c
Ladies' Vests10c

Boys' two-piece Khaki Suits75c
Tablecloth, red or white, yard25c
15c Heavy Linen Toweling, yard10c
Men's Half Wool Socks, pair12 1/2c

Best Calico, yard5c
Sunbonnets10c
Cotton Batts5c
Garden Hats25c
Tooth Brushes5c
8-ounce Duck, yard12 1/2c

Best Table Oilcloth17c
Plaid Silk, yard50c
Plain Silk, yard25c
Toweling, yard5c
Toweling, all linen, yard7 1/2c

Comforters Cotton Blankets Gloves
Overalls Clothing Hats
Overshirts Underwear Shoes

240-246 Commercial St.

\$3.00

**SAVES A
BIG DOLLAR**

\$3.00

**BARGAIN DAY
Tues., Aug 31**

**THE ANNUAL
BARGAIN DAY**

All subscribers to the Daily Capital Journal—except city carrier lists—who pay up all arrears to September 1, 1909, can secure the Daily Capital Journal one year in advance for \$3. If you are paid a little in advance of August 31, pay for a year from the date you are paid to, and save the dollar

Saves the people hundreds of dollars. Start at once to take advantage of our BARGAIN DAY. Remit by mail or call at the Journal office on or before Tuesday evening, August 31, to secure this reduction

**Do not ask for this
Rate after Aug. 31**

CAPITAL JOURNAL
Salem, Oregon

MUST BE DEPENDABLE

Your Medicine is one thing that must be dependable. Every ingredient of a prescription must be pure, and the mixtures carefully compounded.

We are prepared to give you both pure drugs and careful attention in compounding. You will make no mistake by letting us handle your prescriptions.

**Red Cross
Pharmacy**

German & Ward, Props.