THE CAPITAL JOURNAL

E. HOFER, Editor and Proprietor. R. M. HOFER, Manager

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place of imminent danger would re-

second of time. Had the motorman

observed that deceased was likely to

put himself in peril by attempting

to cross the track, it would have re-

quired at least a second or more of

time to stop the car. The testimony

of Buchler the only witness who ac-

would be unreasonable.

both deceased and the car.

lear chance" rule.

person nearly a block away to see

Plaintiff, practically conceding the

the failure of defendant's motorman

to stop the car for a considerable

distance (from 40 to 50 feet) from

the place of collision, should entitle

plaintiff to recover upon the "last

It is contended with some plausi-

pility that the jury might have found

that deceased came to his death, not

from the effect of the original col-

ision, but from subsequent injuries

inflicted after he was thrown under

the fender, and dragged to the place

where the car finally stopped. We

ind nothing in any phase of this case

that justifies the application of the

'last clear chance" rule. It should

own part and seeks to avoid its con-

show, by the outweighing of the

estimony, that notwithstanding such

negligence the circumstances were

such that the opposing person after

perceiving his peril, could by ordi-

nary care, have avoided injuring

this case. Conceding for the pur-

was negligent in failing to slow its

car or in failing to ving a gong, the

L. R. A. (N. S.) 132; Halman v.

Nor can the "last clear chance"

An outsider reading the statements made on the primary campaign by the candidates for mayor of Portland about each other must come to the conclusion that not one of them is big enough for the job. All are too small for the dignity of the position, to judge from their utterances. The primary has killed off three of them ,and the voters will probably dispose of the other one. Under the Direct Primary system the question "can he come back" is more important than in the prize ring.

The Rush was Light at Portland Saturday.

The time was never more opportune for plain speaking than now. Ezekiel S. Condler, of Missippi, an alleged Democrat and "representative of the people," made a great talk in congress the other day on "economy in the public expense." He is one of the Four Hundred (about) members of the lower house, a body that has voted to pay itself \$7500 a year and mileage, and perquisites—each one has a clerk or several of them—frequently their own relatives-and free use of offices, stationery, free printing and postage-each congressman costing the people probably \$15,000 a year-and not many of them could earn \$5000 a year at anything under the sun-these men talk pages of rot in the Congressional Record about public expense. The Democratic caucus solemnly resolved in the interests of the "burdened" millionaires to cut off \$188,000 a year on "Running Expenses of the House." The average congress spends a billion. Its members pretend they cannot live on a salary of less than \$7500 a year. Most of them never earned over one-fifth of that in a year of their lives. Their families live on less than a thousand a year at home. To save \$188,000 a year on running expenses of the house-if it were \$200,000-would be less than two-tenths of one per cent on what congress costs annually. And that is the Democratic concept of economy. Fire a few laborers around the capitol and create 1000 new civil service jobs. So far as extending the official graft system called government is concerned there is no difference, but in name, between Republicans and Democrats. Politics is the science of reducing the benefits of the system from the concrete to the abstract, and handing the people a new package of nostrums.

Another idol has fallen, Melville D. Stone, of the Associated Press, is accused of misrepre-senting the attitude of the people of Japan towards the United States, of misstating the facts on important matters at Yokohama, and putting forth an article in the American Geographical Magagine that is denounced by the Yokohama Board of Trade as a tissue of falsehoods. This is a little rough on the head man of the Associated Press, but it is rougher on the people who have swallowed the stuff that is set up for them by such agencies.

Ralph Clyde is Republican and Democratic nominee for alderman at large at Portland. Mr. Clyde is the beginning of the revolution. He is the revolution.

OREGON SUPREME COURT DECISIONS

Full Text Published by Courtesy of F. A. Turner, Reporter of the Supreme Court.

Co., Multnomah County.

tor of the estate of Otto Brandes, de- intersects Glisan street at right an- necessary to require the jury to de- Take LAXATIVE BROMO Quinine ceased, appellant, v. Portland, Rail- gies, he stepped off of the moving part from the realm of proof and Tablets. Druggists refund money if way, Light and Power Company, a car on the south side and walked enter the domain of speculation; it fails to cure. E. W. Grove's signacorporation, respondent. Appeal around behind the car and started Rider v. Syracuse R. T. R. Co., 171 N. ture is on each box. Twenty-five from the circuit court for Multnomah in a northerly direction across Gli- Y, 139; Drown v. Northern Ohio cents. county. The Hon, Earl C. Bron- san street. This street has a double Traction Co., supraaugh judge. Argued and submitted railway track upon it. The width of The contention that the defendant April 13 1911. Wm. C. Benbow, for the track is three feet nine inches was negligent in falling to have a berlain's Cough Remedy to children. appellant. A. M. Dibble and (Wil- and the distance between the nearest proper fender upon its cars cannot It contains no optum or other nardent. McBride, J. Affirmed.

reason of such accident.

negligent in the following particu- an hour. He was carried by the car ests of the residents and inhabilars: (1) In using a worthless and a distance of from 40 to 50 feet and tants of any such city or town to insufficient fender, different from was so bruised and injured that he substitute in lieu of the apron fenthat prescribed by the statutes of died shortly thereafter. At the con- der or guard, hereinbefore provided Oregon. (2) In failing to have the clusion of the testimony the court for, another approved design of car under control when passing an- directed a verdict for defendant and apron, fender, or guard said mayor other car. (3) In failing to ring the plaintiff appals. Other facts will ap- and said city council shall have such gong as the car approached the pear in the opinion. crossing; (4) In failing to keep a McBride, J.: It is evident from the tered upon the records of said city and negligently failing to stop the deceased was the proximate cause of susbitution." Before this accident car after seeing deceased coming his death. He neither looked nor occurred the council and mayor, by danger. Defendant denied the al- insure his own safety, when it is evi- that the "Hunter Drop Guard Fenlution of the city council of Portland, have made known the fact that destruction adopted for use by the Portauthorizing the use of a fender of the fendant's car was in close proximity. land Railway company and the City character then used upon the car de- In addition to this he was attempt- and Suburban Railway company, was scribed in the complaint, and al- ing to cross the street not at the adapted for use in the City of Portly to the negligence of deceased in and under unusual circumstances, as accidents or injuries to persons than

The evidence introduced by plain- proached within a few feet of the in the City of Portland by such own it. I well as a nstall the bear tiff tended to show that deceased track. Even if he had been observed was on a car going east on Glisan nearing the track of the west bound

Plinkiewisch v. Portland Ry. L. & P. street in Portland, and that when jecture. The whole accident was one this for you. Red Cross Pharmacy. within eight or 10 feet of the west transaction and to attempt to cut it Edward Plinklewisch, administra- cross-walk of Eleventh street, which into fragments it would have been TO CURE A COLD IN ONE DAY bur & Spencer on brief) for respon- rails of the two tracks is six feet. be sustained. Sec. 7007 L. O. L. de- cotics and can be given with implicit The evidence shows that he walked scribes the character of fenders that confidence. As a quick cure for Plaintiff's intestate was struck and with his head down, without look- shall be used upon street cars in the coughs and colds to which children killed by one of defendant's street ing for an approaching car, and that state of Oregon, but has this provise; are susceptible, it is unsurpassed. cars, and this is an action to recover he stepped upon the track at the "Provided, that whenever, in the judg- Sold by all dealers. damages sustained by his estate by same instant that he was struck by ment of the mayor and the members a car, going west, which was moving of the common council * * * It It is alleged that defendant was at a rate of from two to four miles shall be deemed for the best inter-

headlight burning. (5) In carelessly testimony that the negligence of the or town the reasons for making such upon the track and into a place of listened, nor took any precautions to a resolution duly passed, declared leged negligent acts, pleaded a reso- dent that even a casual glance would der" of the design, form and conleged that the accident was due whol- cross-walk but at an unusual place land and better calculated to prevent going upon the track without looking his presence was concealed by the the fender provided for in the act of or listening for an approaching car. car that he had just left until he ap-

> It is not disputed that the fender actually in use on the car in question was of the design and character pre-Leave this tremendous alcohol scribed by the resolution, but it is contended that the proviso in the act is unconstitutional, in that it gives the mayor and council the right to arbitrarily set aside a state law. We do not take this view of the act. The Phone 125.

companies, and their assigns.

car the motorman would have been justified in supposing that he would halt before stepping upon the track. To step from a place of safety to a Sarsaparilla quire less than a second of time. A car going at the rate of four miles an hour would progress six feet in a

Cures all blood humors, all eruptions, clears the complexfeeling, gives vigor and vim, Get it today in usual liquid form or produced tablats called Sarsatabs.

tually saw deceased struck by the intent of the act is purely to precare, indicates that when deceased scribe in general terms what shall had reached the south rail of the constitute a sufficient fender until north track, the car was six or seven each distinct locality shall have set away. Here for the first time de- seen fit to legislate for itself on that eased was in a position of actual subject. This court has upheld local danger or in a position that would option in regard to the sale of liquor ndicate to the motorman that he in- and we see no good reason why ended to cross the track ahead of the Portland or any other municipality car; and to say that he had time to may not be permitted to exercise the realize the peril deceased was in, and same right in regard to fenders. The apply the brakes and stop the car in principle is the same; the regulation less than two seconds, and that he of each is the exercise of the police was negligent in falling to do so, power for the benefit of the public.

It is also claimed that the resolu-The fact, if it be a fact, that the tion is void because it discriminates ear had no headlight, can have no either in favor of or against two of franchises granted by the city we will assume that there are no others rather than that the authorities intended to make an unlawful discrimnegligence of deceased, contends that ination

It is also contended that the resolution is void because it discriminates in favor of a particular fender. The name "Hunter Drop Guard Fender" vice which the council intended statute that the device approved and Perry's. adopted should be described with convenient certainty and we think a description by name with the addition that it was of the pattern then in use by the two rallway companies merely served the intent of the e borne in mind in the beginning statute and did not unduly discrimithat he who admits negligence on his nate.

The judgment of the circuit court equences has the burden of proof to is affirmed.

Saved Many From Death. W. L. Mock, of Mock, Ark., believes he has saved many lives in his 25 FARM SNAP years of experience in the drug business. "What I always like to do," he him. We fail to find such proof in writes, "Is to recommend Dr. King's New Discovery for weak, sore lungs, evidence shows that the negligence sure that a number of my neighbors of deceased was concurrent and con- are alive and well today because tinued to the very moment of the in- they took my advice to use it. I Under such circumstances honestly believe its the best throat plaintiff cannot recover: Drown v. and lung medicine that's made." Northern Ohio Traction Co., 76 Ohio Easy to prove he's right. Get a trial 234; 10 L. R. A. (N. S.) 421; Dyerson bottle free, or regular 50 or \$1.00 Union Pasific R. Co., 74 Kan. 528; bottle. Guaranteed by J. C. Perry.

Southern Pac. C. R. Co. 97 Calif. 161. What Foley Kidney Pills Will Do for

Foley Kidney Pills are a true medrule apply to the alleged negligence of defendant in failing to stop its car icine. They are healing, strengthenmore quickly after the collision oc- ing, antiseptic and tonic. Foley Kid- General Banking and Trust Business curred. The evidence is clear that ney Pills take hold of your system the death was the result of de- and help you to rid yourself of your able and willing to take care of it, ceased having been struck by the dragging backache, dull headache, we solicit your Banking Business. car. Whether the whole injury hap- nervousness impaired eyesight, and Open an account with us and we will pened at the very moment of the col- of all the miserable feelings that re- extend you every favor consistent lision or partly then and partly af- sult from the impaired action of with good banking principles. terward and before the car was your kidneys and bladder. Remem- We Pay Four Per Cent on Savings stopped, is a matter of mere con- ber it is Foley Kidney Pills that do

Never hesitate about giving Cham-



Celebrated Lear Furner

The Best Heater

Let me give you figures. See Me

About an individual lighting plant for your home. The best thing is the market for cooking and lighting

A. L. Frasier

251 State Street

DEPUTIES GUILTY OF VIOLATING LAW

That the deputies working under Master Fish Warden Clanton not only kept a vigilant lookout for violatting of the fish laws during the closed seasons, as to the public, but they incidentally kept an eye on each other, is evidenced by the fact that ion, creates an appetite, aids Deputies A. L. Gustafsin and A. S. digestion, relieves that tired Mendenhall were arrested Saturday at Oregon City for violation of the law and upon information secured by another deputy-A. E. Wright. The two deputies were employed

on the Willamette river during the closed season. While Master Fish Warden Clanton did not have an acquaintance with either of them. they came strongly recommended. and had the appearance of being straightforward, and he employed them. They patroled the river near Oregon City during the night, and in the morning would return to Port land, and it was while journeying home on the train on the morning of May 1 that Deputy Wright happened to drop along and find that they had two handsome salmon in their pos session. He reported the matter to earing as the testimony shows that railways in operation in Portland his superiors, with the result of an the light was sufficient to enable a and as they can only exist by virtue investigation, and a confession from the two deputies that they caught the fish with a net.

> Master Fish Warden Clanton will prosecute the offenders to the full extent of the law.

> > Starts Much Trouble.

If all people knew that neglect of constipation would result in severe s evidently used to describe the de- indigestion, yellow jaundice or virulent liver trouble they would soon should be adopted. It is not shown take Dr. King's New Life Pills, and to be a patented article or one that end it. It's the only safe way. Best anybody is prohibited from making for biliousness, headache, dypepsia, or selling. It was the intent of the chills and debility. 25 cents at J. C.

> Chamberlain's Stomach and Liver Tablets will clear the sour stomach. sweeten the breath and create a healthy appetite. They promote the flow of gastric juice, thereby inducing

Children Cry FOR FLETCHER'S CASTORIA

120 Acres on

Howell Prairie, all under cultivapose of the argument that defendant hard colds, hoarseness obstinate tien, but a few acres timber, running coughs, la grippe, croup, asthma or water. Price, including implements, other bronchial affection, for I feel erop, furniture, etc., \$125 per acre. Let us show you this.

DERBY & WILLSON

With our assurance that we are

Liberty Street, Just Off State

****************** FAIR GROUND Feed and Seed Store

Valley Flour, per sack \$1,00,

Hard Wheat Flour, \$1.25 Best Sugar Cured Government inspected hams. fine goods, per pound, 16c.

The very best thin Breakfast Sugar Cured Bacon, per pound, 20c.

5 pounds best White Beans ,25c.

pounds Whole Grain Japan Rice, 25c. Try a sack of our High-

land Flour at \$1.25. 10 pounds Best Nebraska Corn Meal, 25e.

Remember the Place. Free Delivery

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Headquarters for Woven Wire Fencing, Hop Wire, Barb Wire, Poultry Netting, Shin- I e'es, Maithald Roofing, P & B. and Ready Roofing. Screen Doors and Adjustable Window Screens. All at the lowest

CHAS. D. MULLIGAN 250 Court street. Phone 124 3

of \$60,000 by the issuance and sale of bonds against the city of Salem. Oregon, for the purpose of raising funds for the construction of necoregon, for the purpose of Salem, Oregon; providing for the term of said indebtedness, and the terms, denominations, and interest of or said indetections, and the manner of disposing of the same; and providing for submission of the proposition of incurring such indebtedness and the issuance of such bonds to the legal voters of the city of Salem, at a special election to be called for such purpose, and matters kindred thereto: Be it ordained by the common council of the city of Salem, Oregon: That, Whereas, many prominent business men of the city have requested

ORDINANCE NO. 928.

For an ordinance providing for incurring an indebtedness to the amount

that the question of the issue and sale of bonds to raise funds to re-construct bridges recently destroyed on Mill Creek by floods, and to build other necessary bridges, be again submitted to the legal voters of the city at a special election, and

Whereas the general interest of the city and the inhabitants thereof demand the immediate construction of such bridges;

Therefore, Be it ordained:

Section 1. For the purpose of providing funds for the re-construction of bridges at certain points on Mill Creek where bridges were recently destroyed by floods, and constructing other necessary bridges within the city of Salem, Oregon, the common council of said city is hereby authorized and empowered to incur an indebtedness by the sale and issuance of bonds as hereinafter provided, to the amount of \$60,000.

Sec. 2. Such bonds shall be known and designated as "Salem Municipal Bridge Bonds" and shall be issued in denominations not less than \$25.00 and not greater than \$1,000.00, upon a popular loan plan, at a rate of interest not to exceed six (6) per cent per annum; such bonds shall be payable within ten (10) years from the first day of July, 1911.

Sec. 3. The principal and interest of said bonds shall be payable in gold coin of the United States of America, and the interest thereon shall be paid semi-annually on the first day of July, and the first day of January of each year after date of issue, at the office of the treasurer of the city of Salem, Oregon

Sec. 4. To each of said bonds shall be attached twenty (20) interest coupons printed upon the margin of the paper upon which is printed the bond itself, and representing the amounts of semi-annual interest to be come due upon the said first days of July and January, consecutively succeeding the said date of issue and pledging the payment at the times and place mentioned, and at the rate of interest agreed upon in the sale thereof. Such bonds shall be signed by the mayor of the city of Salem, Oregon. and attested by the recorder of said city, and each bond shall bear the impress of the seal of the city of Salem, Oregon, and shall pledge the faith and credit of the city of Salem, for the payment thereof according to the terms thereof.

Sec. 5. All such bonds remaining unsubscribed for and unsold when the subscription books for the sale thereof shall have been duly closed shall be sold upon the open market to the highest and best bidder bidding for all of said bonds so remaining unsold, but for not less than par, Such bonds shall be eexmpt from all taxation for municipal purposes and among equal bidders preference in the sale and allotment thereof shall be given to bidders residing in the city of Salem, and state of Ore gon, for the smallest amount and lowest denominations in due sequence

Sec. 6. It shall be the duty of the treasurer of the city of Salem, Oregon, when said bonds herein provided for shall have been sold and paid for, and the purchase price thereof shall have been received by such treasurer, to arrange and keep all funds arising from the sale thereof, separate and apart from all other moneys of the said city, and the same shall be designated "Emergency Bridge Fund", and the same shall be paid out only for the purpose of constructing and repairing bridges with-

in the city of Salem, Oregon. Sec. 7. For the purpose of carrying out the provisions herein contained, namely: To incur an indebtedness in the sum of \$60,000.00 for the purpose of re-constructing bridges destroyed by recent floods on Mill Creek, and constructing and repairing other necessary bridges, all by the issuance and sale of bonds, a special election of the city of Salem, Oregon, is hereby called to be held on the 19th day of June, 1911, which election shall be held in all respects in the manner in which general elections are held in the cty of Salem, at which time the matter of incurring such indebtedness by the issuance and sale of bonds shall be submitted to the legal voters of said city for their adoption or rejection Each voter shall designate his intention by voting "Yes" or "No" in an-

swer to the following question: "Shall the common council of the city of Salem, Oregon, incur an indebtedness by the issuance and sale of bonds for the purpose of re-constructing bridges destroyed by floods on Mill Creek, and constructing and repairing other necessary bridges in the city in the sum of \$60,000." Sec. 8. The ballot title to submit this ordinance to the legal voters of

the city shall be substantially as follows, to-wit: "To ratify Ordinance No. 928, providing for incurring an indebtedness by the city of Salem, by the issuance and sale of bonds in the sum of \$60,000.00 for the purpose of constructing necessary bridges. Vote Tes

Sec. 9. The city recorder shall, not later than twenty (20) days before the said proposed election, cause the full text and ballot title of this ordinance to be printed in a newspaper published and printed in the div

of Salem, Oregon, for five (5) consecutive publications. Passed by the common council this 24th day of April, 1911.

Attest: CHAS F. ELGIN,

City Recorder. Approved by the Mayor this 26thday of April, 1911.

LOUIS LACHMUND. 5-5-5t-dly

SYNOPSIS OF THE ANNUAL STATEMENT OF THE DELAWARE INSURANCE COMPANY

OF PHILADELPHIA IN THE STATE OF PENNSYLVANIA.

On the 31st day of December, 1910, made to the Insurance Commissioner of the state of Oregon, pursuant to law:

OAPITAL Amount of capital paid up \$ 1,672,651.06

Total income DISBURS BMENTS. \$ 928,550.50

Lesses paid during the year on capital stock

Commissions and salaries paid during the year.

Taxes, licenses, and fees paid during the year.

Amount of all other expenditures. \$ 1,656,530,77

Value of real estate owned. 2 200,000.60
Value of stocks and bonds owned. 1.0.8.880.50
Loans on mortgages and collateral, etc. 106,000.00
Cash in banks and on hand. 82,843.20
Premiums in course of collection and in transmission. 438,704.66

438,704,66 sion Other assets Interest and rents due and accrued..... Total assets Less special deposits in any state.....

Gross claims for losses unpaid \$ 184.938.00 amount of uncarned premiums on all outstanding 1.288.404.78 Tisks 1.288.404.78 Due for commission and brokerage 46.582.93 All other Habilities 159.775.93

Total liabilities
Total insurance in force Dec. 31, 1919.

Total risks written during the year.

Gross premiums received during the year
Premiums returned during the year
Total amount of risks outstanding in Oregon Dec. 31, 1919.

DELAWARE INSURANCE COMPANY

Statutory resident properal agent and atterney for service:

EDWARD HALL, Concord Bids, Portland

The Bosom Sets Flat



The stud button holes exactly meet, the neck band does not bind on your neck; button holes exactly mest buttons, no bulging front, in fact a perfect fit if we launder your shirts. It is done with our new STEAM PRESSES, which do not cub or burn the fibre, but MOULD the cuffs, neck band and bosom to a PERFECT SHAPE. Try the new work. Visitors welcome.

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Avoid It question to your doctor. The danger is too great for you to decide alone. Ayer's Sarsaparilla is a tonic, entirely free from alcohol. Take it or not, as your doctor directs. J. C. Arer Co.