

# COUNCIL MAY GRANT GAS

## Power to Condemn Under the Eminent Domain Provision Claimed.

### THREE FRANCHISES ISSUED

#### No Doubt That the State Legislature Has the Right to Amend or Alter the Perpetual or Other Provisions.

In all probability, the City Council will meet Monday at its regular meeting to inquire into the present status of the franchise under which the Portland Gas Company is operating. This course was practically determined yesterday, after a vigorous effort will be made to bring the monopolistic character of the concern to a close.

Several members of the municipal legislative body have indicated a desire to probe the matter to the bottom, and City Attorney McNary last night acknowledged that similar suggestions had been made to him. He was not, however, prepared to express any decided opinion concerning the legal phase of the situation.

W. D. Fenton, resident chief counsel for the Southern Pacific Railway Company, yesterday expressed the belief that the city had not lost absolute control over the operations of the gas company, even though its franchise would seemingly give it a perpetual monopoly.

#### Eminent Domain Prevails.

"The Legislature reserved the right to alter, amend or repeal their franchise," said he, "and it is clearly set forth by the United States Supreme Court in the celebrated Dartmouth College case (1819), that whenever this was done the doctrine of eminent domain prevailed. In that case Judge Story said that if the Legislature wanted to modify the grant or impose new conditions or repeal the same, it was necessary for the original act to reserve that right to the Legislature. Otherwise, the corporation would be endowed with a right which could not be impaired by any subsequent municipal regulation."

"I do not think there is any doubt that the City Council is clothed with authority to take action against the gas company, especially where it is so well defined that the Legislature did not part with absolute control when it granted the corporation a state franchise."

Councilmen Masters, Vaughn and Shepherd, each of whom is an attorney, agree with Mr. Fenton that the city has not lost the right of control over the gas company.

City Attorney McNary admitted last night that there has been considerable discussion of this matter among the councilmen relative to taking action against the gas company, and he thought it probable that it might assume definite shape in the body instructing him to commence condemnation proceedings in accordance with the doctrine of eminent domain. In such an event it would carry with it compensation for whatever rights of the company were impaired or abridged.

#### Council May Take Action.

McNary stated further that he was not fully prepared to express any decided opinion in the matter, but was desirous of consulting certain legal authorities before doing so. He thought it quite likely, however, that the Council would ask him to take steps in the matter, looking to a complete investigation of the situation.

Councilman H. A. Belding was in favor of the Council sitting the matter to the bottom. "I entertain no feelings of animosity towards the gas company," he said, "but if it is operating under an invalid franchise, I think we ought to look into it."

School Director Herman Wittenberg was emphatic in his opposition to any franchise or so-called legal form of monopoly. "If the Portland Gas Company is proceeding under an exclusive right," he said last evening, "I think it ought to be brought up with a round turn. I have no particular complaints to make against the company, as it has generally treated me all right, but I do not believe in monopoly in any shape."

Councilman Shepherd was of the opinion the operations of the company should be made the subject of inquiry by the proper municipal authorities, while Councilman Wallace stated that it was not sufficiently familiar with the details of the situation to justify any opinion in the matter.

#### How Others Stand.

It is known that Councilmen Kellaher, Dunning and Dunlight are in sympathy with the movement to curtail the monopolistic tendencies of the corporation in any way possible and last night John Annand, president of the Council, who had just returned from a trip to Seattle, expressed the opinion that if there was any way of reaching the corporation so as to regulate the price as well as the quality of its goods he was very much in favor of it. He likewise thought the company should be compelled to pay the city something for its right to operate here. "I am in favor of the people getting compensation for every franchise," said Mr. Annand, "and no exceptions should be made in the case of the gas company if we can possibly reach it."

Mr. Annand stated further that while he had not used gas for some time, he had heard a great deal concerning the inferior quality of the article manufactured by the local concern and was of the opinion there ought to be some way of regulating it.

#### Consumer Pays for Meter.

The \$5 deposit graft of the Gas Company is the price of the meter to the company; therefore the company is doing business on the people's money. The list price of the meter that is used in dwellings, as quoted by the American Gas Company of New York, Philadelphia and Chicago is \$7.50, but from this price the Gas Company gets a discount of at least 20 per cent, making the cost of the meter not more than \$5.00.

The requirement, by the Gas Company, of a deposit of \$5, compels the consumer to advance the money for the company, or, in other words, is a reimbursement to the company of funds invested by it in meters.

#### Has Three Franchises.

The hold of the gas graft on Portland is secured by three franchises, as follows: First—One granted by the Territorial Legislature of 1859 to H. D. Green, conferring on him or his successors, "The exclusive right and use to lay and extend gas pipes and apparatus for the conveyance of gas through the said City of Portland, and beyond the limits of said city as now incorporated and throughout the additions that may be made to the said city."

Second—One granted by the State Legislature in 1874 to Al Zieher, or his successors, now the Gas Company, this franchise being the same as that granted to Green, except that "the exclusive right

to lay gas pipes" was omitted, and being evidently intended only to secure the company against any doubt as to the validity of the territorial franchise. This later franchise conferred the right "to lay gas pipes and extend the service of gas, throughout the present and future corporate limits of said city."

Its Third Franchise.

Third—One granted by the City Council of Portland in 1893, on the East Side, this franchise being intended to make secure the privileges of the company in the East Side part of the city, but also had just been consolidated with the West Side.

It will be seen that the gas graft holds an exclusive monopoly not only in the original West Side area, but also "throughout the additions" that "have been made to the said city" since 1859, under the territorial act of that year, which has not yet been repealed; that this franchise was confirmed by a later enactment of the Legislature, in 1874, granting a gas franchise to Zieher, who assigned it to the company, though the exclusive monopoly was omitted for the reason that the territorial franchise of 1859 was still in existence; that the East Side monopoly was still further confirmed by the City Council in 1893; that the city authorities, under existing franchises, cannot regulate gas rates nor compel the gas graft to compensate the public for the use of the streets.

Rests With Legislature.

The act of 1874, like that of 1859, declares "that the Legislative Assembly of this state shall have power to alter, amend or repeal this act, whenever it shall satisfactorily appear that the said Al Zieher, his heirs, executors, administrators or assigns, have violated any of the provisions of this act."

The act of 1859 and the East Side grant of 1893 were published in last Saturday's Oregonian. The Legislative act of 1874 follows:

The Legislative Permission.

An act to authorize Al Zieher to establish a gas manufactory in the City of Portland, Multnomah County, Oregon.

Be it enacted by the Legislative Assembly of the State of Oregon:

Section 1. That Al Zieher, a citizen of Multnomah County, State of Oregon, his heirs, executors, administrators or assigns, be and are hereby authorized and empowered to commence within 24 months after this act becomes a law, and within the corporate limits of the City of Portland, State of Oregon, the erection and establishment of a manufactory of gas, with all the necessary buildings, apparatus, machinery and fixtures, and, under the direction of the proper authorities of said city, to lay gas pipes and extend the service of gas throughout the present and future corporate limits of said city. Said gas manufactory shall be located on a suitable site, to be selected by said Zieher, his executors, administrators or assigns, in connection with the corporate authorities of said city, and whenever, on account of the growth of the city, the site at or at any time fixed upon shall be decided by said city authorities to be improper or unsuitable, it shall be competent for them to order a removal of the same, at the expense of said Zieher, his heirs, executors, administrators or assigns.

Sec. 2. That the said Al Zieher, his heirs, executors, administrators or assigns, shall have the right to lay and extend gas pipes and apparatus for the conveyance of gas throughout the present and future corporate limits of said City of Portland, and he or they shall, with as little delay as possible, repair or replace the streets, alleys and public places thereof, and leave them in as good condition as they were previous to the laying of said pipes and apparatus.

Sec. 3. That the said Al Zieher, his heirs, executors, administrators or assigns, after the erection of the gas manufactory and the laying of the pipes and apparatus, as herein provided, shall provide with gas all the lamps and burners provided and maintained by the City of Portland, or the corporate authorities thereof, for lighting the streets, public buildings and places at a fixed rate or price to be agreed upon by the parties from time to time.

Sec. 4. That the said Al Zieher, his heirs, executors, administrators or assigns, shall furnish and supply gas to other persons, societies or companies, upon such terms and conditions as may be agreed upon between them.

Sec. 5. That the Legislative Assembly of this state shall have power to alter, amend or repeal this act whenever it shall satisfactorily appear that the said Al Zieher, his heirs, executors, administrators or assigns have violated any of the provisions of this act.

Approved October 26, 1874.

### IRRIGATION THE THEME

#### Discussion Will Take Place Under Board of Trade Auspices.

At a meeting held at the Board of Trade rooms last evening the new irrigation committee of that body, composed of W. H. Moore, W. W. Cotton, McKinley Mitchell, M. Mortensen and Phil Metcher, organized by electing Mr. Metcher chairman, and then proceeded to prepare the programme for the first fortnightly meeting of the board, at which irrigation will be the special topic for consideration. Economic questions of vital interest to the business community of Portland will be discussed at these meetings, which will be held every two weeks on Tuesday nights.

For the first of these meetings, January 15, the irrigation committee last evening resolved to secure as one of the speakers H. L. Holgate, who is connected with the United States Reclamation Service at North Yakima, and who worked on the Klamath irrigation project.

The Carey irrigation act, for the amendment of which there is now considerable agitation, will be discussed on its merits by J. J. Hutoulinson and E. W. Allen.

A. C. Black, of Eugene, will be asked to speak on "Private and Associated Irrigation Projects." W. W. Cotton, of the law department of the Oregon Railroad & Navigation Company, will talk on "Vested Rights."

A. H. Devers will be asked to present the subject of "The Interest of Portland's Business Men in Irrigation."

Inasmuch as it is expected that the attendance will be too large for the Board of Trade rooms, the secretary was instructed to engage a hall suitable for the meeting.

#### File Incorporation Papers.

Articles of Incorporation of the Portland Stone Brick Manufacturing Company were filed in the County Clerk's office yesterday by M. B. McPaul, Thomas K. Muir and F. King; capital stock, \$75,000. The objects are to manufacture sand, lime brick under the Schwarz scientific system, etc.

Incorporation articles have been filed of the Interior Development Company by J. R. Thompson, T. A. Newell and John Madden; capital stock, \$10,000. The objects announced are to build and operate canals, ditches, flumes, etc.

Supplemental articles of incorporation of Inman, Paulsen & Co. have been filed by R. D. Inman, president, and H. M. Calk, secretary, increasing the capital stock from \$50,000 to \$100,000.

#### Will Ask High School Bids.

The School Board last night decided to advertise for proposals for the construction of the assembly hall and lower floor of the East Side High School. The bids will be opened on January 20, and the award probably made at the meeting of the board on the Monday evening following.

#### Stomach Coughs.

A rough winter long after every other symptom of a cold has disappeared should have attention, as it indicates the beginning of lung trouble and may result seriously. Mr. Alexander McMillan, of Maple Ridge, Mich., recommends Chamberlain's Cough Remedy for this trouble. He says: "I used this remedy for a stubborn cough with the best results, and I think there is nothing like it. I cannot speak too highly of it." For sale by all druggists.

"Willamette" Sewing Machines—15 Models—\$15 Up to \$35 Ea.—10 Years' Guarantee  
Trunks and Traveling Bags—The Largest and Best Selected Stock on the Coast—3d Floor

## The Meier & Frank Store

### Clearance Sale Women's Raincoats

Our entire stock of Women's Raincoats on sale at exceptionally low clearance prices—This season's best styles—¾ or full length—English box effects, plaited and tight-fitting styles—A garment every woman finds much use for—Tans, Oxfords, olives, black and green—The largest variety to be found in the city for your choosing



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|---------------------------|---------------------------|
| \$10 Raincoats at \$ 6.65 | \$12.00 Raincoats \$ 7.85 |
| \$14 Raincoats at \$ 9.25 | \$16.50 Raincoats \$10.85 |
| \$20 Raincoats at \$12.85 | \$22.50 Raincoats \$15.25 |
| \$25 Raincoats at \$17.25 | \$28.00 Raincoats \$19.25 |
| \$30 Raincoats at \$20.45 | \$42.00 Raincoats \$29.85 |
- Men's Cravenette Raincoats—"Priestley's"—Guaranteed rainproof materials; all grades; best styles; all sizes:  
Men's \$12.50 Raincoats \$9.65 \$20.00 Raincoats \$14.69  
Men's \$15 Raincoats \$10.85 \$25.00 Raincoats \$18.85  
Men's \$18 Raincoats \$14.15 \$27.50 Raincoats \$21.85
- Women's Jacket Suits; the very newest and most approved styles in chevots, serges, broadcloths and mixtures; fancy braid and gimp trimmed; all the latest shades; wonderful values at:  
\$16.50 Suits for \$11.55 \$28.00 Suits for \$19.60  
\$22.50 Suits for \$16.85 \$30.00 Suits for \$21.00  
\$27.00 Suits for \$18.90 Clearance of Suits to \$100
- All Walking and Dress Skirts at low clearance sale prices.  
All Evening Costumes and Wraps at greatly reduced prices.  
All Waists, Petticoats, Wrappers and Kimonos at clearance sale prices.

### Men's "Monarch" Shirts 69c

### Men's "Cluett" Shirts \$ 1.05

The celebrated "Monarch" Shirts for men; stiff, pleated and plain bosoms; attached or detached cuffs; all new, up-to-date patterns in great variety; all sizes and sleeve-lengths; value extraordinary at, each ..... 69c

Men's high-grade "Cluett"; stiff, soft and pleated bosoms all the very latest patterns; best \$1.50 shirt money can buy your choice of all colored "Cluett's" at ..... \$1.05

All our "Manhattan" Shirts at clearance sale prices.

Men's extra quality heavy fleeced Underwear, Shirts and drawers; well made and finished; all sizes; wonderful value at this low price ..... 38c

Another great special lot of Men's Four-in-Hand Ties; made reversible; light and dark patterns in great variety; 25c values at 2 for ..... 25c

Men's Lisle and Web Suspenders; made with reinforced kid ends; regular 25c and 35c values, for ..... 19c

Men's 25c and 35c fancy Half-Hose; per pair ..... 17c

### Clearance Sale of Couch Covers

Heavy double-faced Tapestry Couch Covers; fringed all around; Oriental patterns.—Third Floor.

\$3.00 Values at \$2.40	\$5.00 Values at \$4.00 Ea.
\$4.50 Values at \$3.60	\$7.50 Values at \$6.00 Ea.

Values Up to \$35.00 at Clearance Sale Prices

All our Portieres at low clearance sale prices.  
All our Lace Curtains at clearance sale prices.  
All Curtain and Uphostery Materials at clearance prices.

## Great Purchase of Women's Hats

### Marvelous Values at 98c Each



Two months ago we purchased this special lot of Women's Hats from a leading New York manufacturer—A careless shipping clerk sent them to Portland, Maine—The delay in transit costs the manufacturer half their their cost—It's an ill wind that doesn't blow some good—The lot comprises 400 women's spangled jet hats, Paroxline braid hats and hair braid hats in Napoleons, Colonials and turbans—Splendid midseason headgear values \$3 each—Your choice while they last at the wonderfully low price of, each ..... 98c

See Fifth-Street Window Display—Entire Stock of Women's, Misses' and Children's Headgear at Clearance Sale Prices

### CLEARANCE SALE OF CARPETS AND MATTINGS

10,000 yards of Windsor Brussels Carpets; a variety of 20 patterns in the leading colors and combinations; regular, \$1.25 value; sewed, laid and lined, at low price, yd. .... \$1.09

15,000 yards of Melrose Ingrain Carpets, 12 patterns; neat Goral designs, in splendid colorings; 6c value; sewed, laid and lined, at, yd. .... 44c

Axminster Carpets, Velvet Carpets, Wilton Carpets, Tapestry Carpets, Brussels, etc. all at reduced prices.

28 patterns of new Body Brussels Carpets; very best designs and colors; sewed, laid and lined; wonderful values at, each ..... \$1.42

10,000 yards of Linen Warp Mattings, carpet designs, assortment of colors, reg. 25c and 35c value, on sale for, yard, ..... 18c

### \$2.50 to \$4 Shoes at \$ 1.48



400 pairs of women's Shoes; broken lines of well-known makes; patent leather, vici kid and box calf; heavy or light soles; lace and button styles; nearly all sizes; val. to \$4, at \$1.48

Women's fancy leather strap Slippers; patent leather and kid; \$2.00, \$2.50 values for, ..... 98c

Three styles of women's patent leather and kid strap Slippers; all sizes; great values at, pair ..... \$1.48

Women's fancy party Slippers, in patent leather and kid; plain or beaded, hand-sewed; \$5.00 values for, pair \$2.50

Broken lines of women's fine Shoes, in patent leather, vici kid and velour calf, turns and welts, heavy and light soles, French, Cuban and military heels; \$3.00, \$3.50, \$4.00, \$5.00, \$6.00 values for, pair, ..... \$1.98

Johnson Bros.' famous Shoes for women—kid and box calf lace shoes, with spring heels and vici kid, button shoes with regular heel, light or heavy soles, at low price of, ..... 98c

## A Great January Clearance Sale of Laces

### THE BEST BARGAINS PORTLAND WOMEN EVER SHARED IN

Clear, fresh stock of dainty Laces and Embroideries at lowest prices ever known—There's been no frenzied buying here—Instead, complete assortment of just the merchandise you want is to be found for your choosing at prices below what other stores ask you to pay for mistakes of over-enthusiastic buyers

85c EMBROIDERIES 25c

Swiss, nainsook and cambric edgings and insertions, 5 to 18 inches wide, very prettiest designs; values up to 85c yard for, yard, ..... 25c

Swiss, nainsook and cambric edgings and insertions, 3 to 15 inches wide; values up to 60c a yard on sale at this low price, yard, ..... 19c

All our fine sets on sale at low clearance sale prices.  
Corset cover embroideries at very low clearance sale prices.

GREAT LACE SPECIALS

Special lots of white, cream, ecru and black lace appliques and bands, best styles and grades; great bargains. Values up to \$ .45, 9c yard Values up to \$ .85, 19c yard Values up to \$1.00, 29c yard 30c Point de Paris Lace 10c yd.

White dotted net in the best styles; \$1.50 quality on sale for, yd. 59c  
Fancy tucked black chiffon; values up to \$2.00 yard for, yard 29c



\$2.00 EMBROIDERIES FOR 89c YARD

Allover Swiss eyelet embroidery for shirtwaists, handsome styles in good assortment; values up to \$2.00 yard, for, yard, ..... 89c

Magnificent allover Swiss embroidery, beautiful designs; values up to \$5.00 a yard on sale at the low price of, yard, ..... \$1.98

15-inch Swiss flouncing; \$1.50 value, yard 69c

Allover gold embroidered chiffon; 85 and \$6 val. on sale at this low price, yd. .... \$1.69

Entire stock of laces at clearance prices.

BEAUTIFUL LACE ROBES REDUCED

Black spangled robes at ridiculously low prices; our entire stock is included.  
\$15 Robes \$8.98—\$45.00 Robes \$22.00  
\$30.00 Black Spangled Robes for \$18.00  
\$11 White Net Robes on Sale for \$7.50

Beautiful white and cream Lierre Robes; regular \$20.00 values on sale for, each, ..... \$11.00  
New Spring and Summer line of batiste embroidered robes on sale at clearance prices; \$15.50 values \$12.75 \$20.00 values \$14.75

## Handsome \$50 Steel Range on Sale for \$39.25 Each

"Peninsular" Planished Steel Range; the highest grade Range money can buy; no paint to burn off; full asbestos-lined; steel-head rivets; ventilated firebox; for coal or wood; ventilated oven; steel overrack; handsome nickel trimming ..... \$39.25

Fifty per cent more heating and cooking capacity than any other make; fully guaranteed in every particular; \$50.00 value for Steel Ranges from \$27.50 to \$50.00; all at special prices.

"Peninsular" Wood Heaters; planished steel body; cast top and bottom; swing top and swing front door; nickel trimmed; best \$9.50 model on sale for, ..... \$7.60

The "Block" Gas Heater for bath-rooms and bedrooms; adjusts over the tip; wonderful little heater. .... 55c

### A Clearance Sale of Wash Goods

50 handsome white Persian Lawn Waists; embroidered; splendid styles; \$1.50 values on sale for, ..... 98c

50 pieces of fancy Japanese Kimono Crepes, in beautiful patterns and colors; great values for this sale at, yard, ..... 21c

40 pieces fine silk warp printed Dress Crepes; the best 50c values on sale at this exceptionally low price, per yard, ..... 25c

20 pieces fine printed Dress Net; 50c to 75c values, yard, ..... 25c

23 pieces heavy mixed cotton Suitings; 25c values, yard, ..... 18c

All grades of Gingham and Percales at clearance prices.  
All White Goods, Lawns, Nainsooks, etc. at clearance prices.

## Rogers "1847" Silverware Very Low Priced

Teaspoons, set of 6, for, ..... \$1.02  
Dessert Spoons, set of 6, for, ..... \$1.50  
Tablespoons, set of 6, for, ..... \$2.03  
Dessert Forks, set of 6, for, ..... \$1.50  
Medium Forks, set of 6, for, ..... \$2.03  
Butter-knives, each, ..... 45c  
Sugar Shells, each, ..... 45c  
Sugar Shells, gilt bowl, ..... 57c  
Cold-Meat Forks, ..... 85c, 90c  
Chip Beef Forks, ..... 54c, 70c  
Gravy Ladles, ..... \$1.13  
Cream Ladles, ..... 85c, 90c  
Pie Server, each, ..... \$1.50  
Soup Ladles, each, ..... \$2.12  
Bouillon Spoons, set, ..... \$2.25  
Salad Forks, set, ..... \$2.48  
Nickel Baking Dish, ..... \$3.19

All our beautiful Cut Glass at low clearance prices.  
All Sterling Silver at low clearance sale prices.  
All Cutlery at low prices.  
All fancy Nickelware at low clearance sale prices.  
No. 2 Rochester Lamps, nickelled, white dome shades, ..... \$1.44  
150 Japanese Tomopots; values extraordinary, at, each, ..... 10c

### Clearance of Table and Bed Linens

72-inch bleached satin Damask Table Linen; the \$1.15 grade for, per yard, 90c

Bleached satin Damask Table Linen; best patterns; reg. \$1.25 value on sale at, per yard, 98c

Bleached satin Damask Table Linen; reg. \$1.50 grade, yard, ..... \$1.28

Bleached satin Damask Table Linen; 81 inches wide; reg. \$1.75, for, yard, ..... \$1.32

All grades of Table Damask marked at the lowest clearance sale prices. All Napkins at clearance prices. All Doilies, Traycloths and Table Sets at low clearance prices.

Full size white Marseilles pattern Bedspreads; regular \$1.75 grade on sale at the low price of, each, ..... \$1.21

Full size white Marseilles pattern Bedspreads; beautiful patterns; regular \$2 grade on sale for, each, ..... \$1.48

Fringed white Marseilles pattern Bedspreads; the regular \$2 grades on sale at this low price, each, ..... \$1.38

\$2.75 white Marseilles Spreads for low price of, each, ..... \$2.16

\$3.25 white Marseilles Spreads for low price of, each, ..... \$2.48