# CITY OWNS SPACE UNDER SIDEWALKS

No Rights Accrue to Propertyholders Through Their Adverse Possession.

#### OPINION OF CITY ATTORNEY

He Declares in Answer to Mayor's Inquiry That City May Use Space for Municipal Conduit When Needed-Text of Opinion.

That the city owns space under side walks and that it can be reclaimed from property owners is the substance oninion returned vesterday by

nent private interest in a street must establish his cialm with clearness and certainty. Such claims cannot be supported by permissive user. It must be acquired through legislative authority. The mode prescribed by the charter, and former charters of the city, is to secure the vacation of the street in accordance with the charter provisions. The city can lawfully relinquish its control of the streets in no other way.

I am aware that some authorities, while denying that prescriptive private rights can be acquired in a public way, have applied the doctrine of equitable estoppel against the municipality. But these rulings were based upon special circumstances, and present situations that are not presented by your communication.

The committee is advised (1) that the city has not lost its right to the use of the streets beneath the sidewalks by resson of having permitted the private use thereof for a period of ten years; and, (2) that the city has the right to use the space beneath the sidewalks and pavements for a municipal conduit.

J. P. KAVANAUGH, City Attorney.

#### MURDERED FOR REVENGE

Chicago Policeman Shot-Crowe Surrenders, but Denles Guilt.

CHICAGO, Nov. 16:-Policeman Robert Mackaneny was found shot to death early today at Sixty-third street and Wentworth avenue, only half a block from headquarters. His revolver was found in his hip pocket, and apparently he had not been given a chance to defend him-

First National Bank Receives \$1,000,000 Shipment.

COMES FROM CALIFORNIA

Double-Eagles Correspond to Consignment of British Sovereigns Received by Treasury Department From London.

Almost two tons of gold coin was re-Almost two tons of gold coin was received by the First National Bank yesterday. The consignment is valued at
\$1,000,000 and was secured in London for
shipment here. The money was shipped
to New York on the steamer Oceanic
and was in English sovereigns. It was
deposited with the United States SubTreasury there and the Sub-Treasury at
San Francisco was notified by telegraph San Francisco was notified by telegraph to issue an equal amount in American

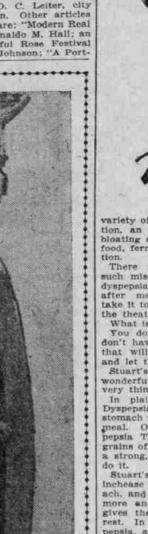
meet with general approval and will do much to aid the situation.

It is estimated that about 45,000,000 bushels of wheat remains in the interior to be moved. This immense crop will bring between 80 and 90 cents per bushel to the farmer. Tonnage now in the harbor will carry away 3,000,000 bushels, while 7,000,000 bushels will probably be shipped to San Francisco. Bank Examiner Claud Gatch was busy at the Merchants National Bank yesterday. His task is a big one, but he is making as good progress as can yesterday. His task is a big one, but he is making as good progress as can be expected, considering the mass of detail to be digested. Every mail brings in additional matters and collections to be made make up a big job. Mr. Gatch left last night to spend Sunday at his home in Salem. He will resume his work at the Merchants National tomorrow morning.

# ISSUES PORTLAND NUMBER

Mertz' Magazine Devotes Much Space to This City.

Considerable space is devoted to Port land and its interests in the special Portland number of Mertz' Magazine pub-lished this month. "Publicity for the City of Portland" is the subject of the intro-ductory article, being an address delivered before the Portland Ad Club at a recent meeting by O. C. Leiter, city editor of The Oregonian. Other articles included in the number are: "Modern Real Estate Methods," by Rinaldo M. Hall; an qual amount in American account of the successful Rose Festiva This coin was shipped by last June, by W. Wynn Johnson; "A Port



BIG GOLD SHIPMENT RECEIVED YE STERDAY BY FIRST NATIONAL BANK.

throughout the city to contain and wires. According to Mr. Kayanaugh the city may use space unwalks for this purpose and it now devolves on the committee as a ques-

tion of expediency.

Practically all basements in the business section of the city extend under the walks. This space is used for store rooms and for other purposes. It represents a large value to the owners of buildings, but all will have to be given up if the Council takes advantage of right that it has according to Mr. Kavanaugh.

The suggestion that space under walks be used for the subway was first made by Councilman Vaughn, chairman of the special subway committee. All plans for the subway have been awaiting the City Attorney's opinion, and the committee will doubtless now proceed to work out the details of the An appropriation of \$5000 made for its use in investigating the problem and authority was given to employ a competent engineer. opinion of the City Attorney in full

November 16, 1867. Hon. Harry Lane, Mayor, Portland, Or.—Dear Sir: I am advised by your recent communication that the subway committee by resolution submitted to me for an opinion the fol-

submitted to me for an opinion the following questions:

1. What right, if any, has the city lost to the use of its streets under the pavements and sidewalks by reason of having permitted the use thereof for a period of ten years?

2. Whether or not the City of Portland has the right to use the space under the sidewalks and pavements for a municipal conduit?

purposes.

The city has the right to stretch, or authorize the stretching of wires above the street for lighting, for the transmission of electrical currents or for telephone or telegraph service. It has the right to lay pipes beneath the surface for sewers and drains, or to supply water or gas; it may authorize the laying of pipes to convey heat or steam, and the construction of underground conduits and subways. These are all public and beneficial uses—for the most part necessities—and within the rights granted by the public casement.

The rights of the public in a street are paramount, and the rights of an abutting owner are subordinate to them. An abut-

onment, and he then threatened to have revenge upon the policeman. He was re-leased last Spring.

Pat Crowe, who was involved in the Cudshy kidnaping case in Omaha, and is known to the police all over the United States, was sought by the police and surrendered. While there is no indication that he is in any way involved in the murder, the police desire to question him. He denied all knowledge of the murder and told where he had been at the time. Officers were sent to substantiate his alibi. The police think he will not be identified with the crime.

# People's Forum Tonight.

"The Financial Situation" will be the The Financial Stuation will be the subject for discussion at the People's Forum tonight in the Mulkey building. Second and Morrison streets. The principal speaker will be C. J. McAllister. Owing to the timeliness of the subject, tonight's meeting promises to be one of the morrison. most interesting of the season. Dr. Jo-nah B. Wise will preside. The public is cordially invited to attend.

# Three Silk Mills Close.

YORK, Pa., Nov. 16.-Three silkmills in this city owned by the American Silk Company were closed at noon today. Be-

Caniff was sentenced to 20 years' impris- | ferred to the bank vaults in express wagons, upon which were armed guards. wagons, upon which were armed guards.

The arrival of this money will do a great deal of good in its bearing on the local situation. It will supply a large amount of currency to help out the current stringency and will have a decidedly cheering effect on the public mind.

There has been personnel of the

There has been no meeting of the Clearing-House Association for the past few days, but one is scheduled for Monday, when wheat exporters will at-tend and a plan will be formulated for moving the wheat crop of the interior and setting it affoat at Portland. It is proposed that farmers of the wheat-growing districts shall ship their wheat to Portland upon the application of exporters, and that they wait for their pay until the grain is londed on ships here. Then London 60-day bills, as they are called, will be available, and as they are negotiable paper they can be realized upon at once and the grow-

ors paid for their crop.

The railroads will co-operate fully with the exporters in hurrying the wheat crop to tidewater. There is a big fleet in the harbor waiting to be dispatched, and the demurrage bills are mounting upward because of delay in loading. Wheat men in the interior were communicated with yesterday and they were satisfied with the arrange-

to a request from Mayor Lane. The opinion was requested by the special committee appointed to ascertain the advisability of laying a general sub-way throughout the city to contain pipes and wires. According to Mr. Club," by Scott Bozorth, secretary; "Publicity That Pays-Two Examples," by A. S. Monroe.

The articles are illustrated with pictures of the Portland harbor and a num-ber of the prominent buildings. There are also several short sketches of men who have had an active part in exploit ing this city, its opportunities and advantages, through various advertising agencies.

# PROVIDES WINTER 'GYM'

Juvenile Improvement Association Reports on Work for Month.

The advent of rainy weather is not to put an end to the public gymnasium work at the old city reservoir. Arrangements were made last night at the regular monthly meeting of the Juvenile Improve-ment Association whereby a space 60 feet by 80 feet may be boarded in to keep out the rain and enable the boys accustome to using the place to continue gymnasium exercises all Winter. The necessary lumber, it was reported, has been contributed by the Portland and Eastern & Western work. the proposal of the clearing-house will for a public gymnasium in Columbia Park

# MEMORIAL SERVICES OF ELKS LODGE TO BE HELD SUNDAY DEC. 1

LODGE 1

The streets of the City of Portland embrace the area between the property lines on either side, and include the roadway and sidewalks. The fee in the land its owned by the abutting property-owners, subject to the public easement of the city. The public easement includes the right to the use not only of the surface of the street, but also a convenient and reasonable space above and beneath the surface of the street for certain public purposes.

The members of the committee laving the arrangements in charge said yesterday that the charcharge said yesterday that the charchard in the same of the same o





# Appetite-None.

The Woeful Reflections of a Withered Dyspeptic.

No substitute for good nature has yet been found. Smiles take root in the stomach. Without good digestion there never can be very much sunshine, for the very simple reason that the stomach and the brain are twins, and what affects one invariably affects the other. The adage that the best road to a person's heart is via the stomach, still holds good.

Gorged grub and pappy ple always breed gloom and sleepless nights. They also breed dyspepsia—quick dyspepsia, and dyspepsia shows itself in a



variety of ways-beiching, burning sensaion, an empty feeling in the stomach, cloating after eating, brash, aversion to cood, fermentation, or downright indiges-

There are few diseases which create such misery—long drawn out misery—as dyspepsia. It pursues you before meals, after meals, and between meals; you take it to bed with you; it is with you at the theater and at your desk.

What is the only way to get rid of it?
You don't have to stop eating, you don't have to diet. Just take something that will do the work of the stomach and let the stomach take a rest. Stuart's Dyspepsia Tablets are the most conderful little tablets on earth for this

In plain arithmetic, one of Stuart's Dyspensia Tablets equals one good strong stomach for one time for one good hearty meal. One ingredient of Stuart's Dyspepsia Tablets will digest perfectly 3000 grains of food in just the same way that a strong, robust, healthy stomach would

Stuart's Dyspepsia Tablets enrich and inchease the gastric juice in your stom-ach, and that is mostly what you need-more and better gastric juice. And it gives the stomach a rest, a good long rest. In the meantime it cures the dyspepsia, and all other stomach troubles Just a few of Stuart's Dyspepsia Tab-lets will prove to you what these little cherubs of health and happiness can do. Stuart's Dyspepsia Tablets are for sale at all druggists at 50c a box.

Send us your name and address today and we will at once send you by mail a sample package free. Address F. A. Stuart Ca., 150 Stuart bidg., Marshall,

were made so that the boys of the Pen Insula will have a Winter "gym."

The meeting of last night was presided over by Circuit Judge Frazer, and the at-tendance of members and those interested Southern Pacific. The express car was guarded by a detachment of special express guards, each armed with a rifle. Upon arrival here, the money was transferred to the bank vaults in express guards, upon which were armed guards.

Shaw; "Community Advertising," by C. Chapman; "Orient is Rare Field for Advertising," by David N. Mosessoin; "Combined Publicity of Portland and Oregon," by Tom Richardson, manager Portland Advertising," by Tom Richardson, manager Portland Commercial Club; "The Portland Advertising," by C. Chapman; "Orient is Rare Field for Advertising," by David N. Mosessoin; "Combined Publicity of Portland and Oregon, "by Tom Richardson, manager Portland Advertising," by Tom Richardson, manager Portland Advertising, "by Tom Richardson, manager Portland Advertising," by C. Chapman; "Orient is Rare Field for Advertising," by David N. Mosessoin; "ports of committees showed that all departments of the association's work work are gon," by Tom Richardson, manager Portland Commercial Club; "The Portland Advertising," by C. Chapman; "Orient is Rare Field for Advertising," by David N. Mosessoin; "ports of committees showed that all departments of the association's work are gon," by Tom Richardson, manager Portland Commercial Club; "The Portland Advertising," by C. Combined Publicity of Portland Advertising, "by C. Combined Publicity of Portland Advertising," by C. Combined Publicity of Portland Advertising, "by C. Combined Publicity of Portland Advertising," by C. Combined Publicity of Portland Advertising, "by Tom Richardson, manager Portland Publicity of Portland Advertising," by C. Combined Publicity of Portland Advertising, "by C. Combined Publicity of Portland Advertising," by C. Combined Publicity of Portland Advertising, "by C. Combined Publicity of Portland Advertising," by C. Combined Publicity of Portland Advertising, "by C. Combined Publicity of Portland Advertising," by C. Combined Publicity of Portland Advertising, "by C. Combined Publicity of Portland Advertising," by C. Combined Publicity of Port club. Mrsl, Charles T. Kamm told of the work of the girls' friend division. M. W. Esterley reported on the boys' club. J. R. Wilson reported on the gymnasium and playground, Miss Butler spoke on the Juvenile Court work and Miss McDonald gave a supplementary report of the work

of the girls' club.

This was followed by a committee meeting at which details of the various branches of the association's work were

# COURT WORK ON HOLIDAYS

Legal View as to What Kind of Business Can't Be Done.

PORTLAND, Nov. 16 .- (To the Editor.)-Much has been said in the last few days through the columns of The Oregonian with reference to what business may be legally transacted on these holidays of ours in Oregon.

As showing distinction between Sun-

days and other legal holidays, sections 3918 and 3919 of our code set forth what days are holidays in this state, and section 946 sets forth what are non-judicial days. This last section mentions the same days as the former sections and provides that the following judicial business can be legally done on a non-judicial day:

1. To give instructions to a jury

then deliberating on their verdict.

2. To receive the verdict of a jury.

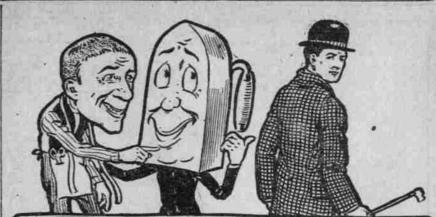
3. For the exercise of the powers a magistrate in criminal actions, i take the position that no judicial usiness of any nature, except as men-

tioned above, can be legally transacted on any holiday; but all ministerial acts performed by a court or any officers of the state, county or city which are not specifically prohibited by statute, are legal and lawful to be done on any holiday except a Sunday.

Some well-known authorities sustaining this position may be found in

the following cases: Sixty-seventh New Jersey Law Rep., p. 193, reads as follows: "The statutes on the subject of legal holidays enacts that the days and half-days therein named shall, for all purposes whatever as regards the presentment for payment or acceptance and protest, when dishonored, of bills of exchange, bank checks and promissory notes, be treated and considered

In the present officers of the public in a street are paramount, and the rights of the public in a street are paramount, and the rights of an abutting are personally as the paramount, and the rights of an abutting sowner may exeavate beneath the sidewalt or sirect in front of this property of the public in the street are paramount, and the rights of the public in the street in protect of the public in the street in the public in the street in the street in the street in the public in the street in the



# Have Style-Fit, and Shape in Your Clothes-Not Just Wear

By A. Frank Taylor.

Intelligent Tailoring put into it-to insure its all-around excellence-

cut and tailored that the Shape and

Style are sewn permanently into the Cloth—not merely "doped" in temporarily as in ordinary Suits.

And the most attractive part about "Sincerity Clothea" is the fact that while they cost more to make, they do not cost a penny more to

buy than the ordinary kind of

Gee "Sincerity Clothes" at your high-grade Clothes Shop—Look for the label in the next garment you

Clothing that is unreliable

Each "Sincerity" Garment is so

THAT is the secret of a Great Painting — what gives it its power? It's the Intelligent Work that is

in it. Now it's the same way in everything. Take the Clothes for instance, that have been improperly and care-lessly cut and tailored—that have been merely pressed into a temporary shape semblance by Old

Doctor Goose, the Hot Flat Iron-Those poorly made Garments will "go to pieces" a very short time after they have been worn— Whereas the Good Suit - that

which has had Intelligent Work put into it, will hold its Style, Shape and Fit for a good long time. Now, how's one to tell the differ-

ence between the Poor and the There's one sure way, so simple a child can do it.

And that's to see that the label "Sincerity Clothes" is in the Garment you buy-

Each "Sincerity" Garment has the maximum amount of Skilled and

Style book sent on request. Kuh, Nathan & Fischer Co., Chicago

# **AUTOMOBILISTS!** TIME'S UP!

This is the last chance to get MOTOR and SUNSET MAGAZINE at Half Price

SUNSET MAGAZINE . \$1.50 per year

MOTOR . . . . . . \$3.00 per year

# **BOTH FOR \$2.25**

And Free two premiums, a beautiful picture of Santa Barbara Mission, and one of Yosemite Valley, both in colors; mounted, ready for framing or hanging in your room or den

Send this advertisement with \$2.25, stamps, money order or check to

# SUNSET MAGAZINE

202 FLOOD BUILDING

San Francisco,

NOTE: The subscriptions may be new or renewal, and may be sent to the same or separate addresses

the phase, so far as it is prohibitory, by an express enactment, what shall not be done thereon. What it thus expresses is prohibited, what it falls to prohibit remains lawful to be done."

In Mueller vs. Egg Harbor City (26 Vroon, 245), it was held that a city ordinance might lawfully be passed on Saturday afternoon, which was a half-holiday. In construing the provisions holiday. In construing the provision of the statute, identical in language with the one now under consideration Justice Van Sycle, in the opinion, says "This provision only applies to the public officers of the state and to the public officers of the counties of this state, requiring them to close their several offices on such legal holidays. It does not, in terms or by implication, inhibit municipal legislation."

Inhibit municipal legislation."

In Walton vs. Stafford (162 New York, p. 558), in construing a similar statute the court said: "It is undoubtedly true that the state of the law on this subject is likely to prove embarrassing to many, such, for instance, and themselves obliged to tender a as find themselves obliged to tender a considerable sum of money on a day which is just enough of a holiday to allow the banks to close, from which allow the banks to close, from which he must obtain to make the tender, but not enough of a hollday to avoid the necessity of a tender if he would not breach his contract. But such faults, if faulty they be, in our business laws can be corrected only by the Legislature." WALTER G. HAYES.

# THROW EGGS AT SPEAKER

Socialist Finally Escapes Mob in Clothes of Policeman.

LONDON, Nov. 2.—A Brighton Social-ist—Mr. Hardy—has had a lively week-end experience in the Old World city of Chichester. As soon as Mr. Hardy took his stand near the market cross it was

legal status of Sunday to discover its three-quarters of a mile away.

Humphroys' Homeo. Medicine Co., Cor. meaning, for it proceeds to interpret He ultimately took refuge in the police William and John Streets, New York.

# MONEY FAILS, THEN HEART

Bankrupt Spokane Business Man Flees From Neighbors' Sneers.

SACRAMENTO, Cal., Nov. 16 .- Joseph Reott, a well-known business man of Spokane, was found dead in this this morning in a hotel. His clothing gave evidence that he was in financial straits. He arrived here on November 8 and worked as a laborer. He was taken sick a few days ago and expired from heart failure. He had stated to friends that all of his funds were gone and that he could not endure the sneers of his former business associ-ates. Ill-health was responsible for his losing his business.

With 17 mills engaged exclusively in the business. Germany leads in the manufacture of tissue paper.

Seventy-seven for Grip and

Humphreys' Seventy-seven does not ontain Morphine, Opium, Codeine, Cocaine, Chrloroform, Chroral, Phenacetine or any habit-creating drug. Seventy-seven is made of perfectly

pure Homeopathic remedies and is harmless. Seventy-seven cures by acting directly on the sick part, without dis-

turbing the rest of the system. At Druggists, 25c.