

MAYOR INVOKES HIS FIRST VETO

Declares Interest Cannot Be Paid on Property Condemned for Park.

MESSAGE IS DIFFERENT

Unlike ex-Mayor Lane, Mayor Simon Quotes His Own Authorities and Looks Up Own Law—Thought Council Will Sustain.

When the City Council meets next Wednesday morning, it will have for consideration the first veto message ever sent in by Mayor Simon. This is in regard to the payment of interest on funds held up pending the outcome of condemnation proceedings, instituted by the city, W. H. Morehouse being the interested party. The Council sought by ordinance to repay him, in the sum of \$700, but the Mayor took exception to this, and therefore decided to use the veto power.

The veto message is much different in tone than those sent in by ex-Mayor Lane, as he carries his own legal opinions, decisions of the courts being cited to justify the action of the Mayor in his veto of the ordinance. It is regarded as certain that the veto will be sustained.

The veto message in full is as follows: To the Council—Whereas, I herewith return without my approval, ordinance No. 19,835, entitled, "An Ordinance to Appropriate Seven Hundred Ninety-eight (\$798.00) Dollars from the Park and Boulevard Fund in Favor of W. H. Morehouse."

The purpose of this ordinance is to make an appropriation and provide for the payment to W. H. Morehouse, of \$798 in addition to the amount awarded him by the jury in the condemnation suit, commenced by the city of Portland against him for the purpose of condemning to the use of the city for park purposes, a tract of 15.03 acres in Sellwood. I have been unable to find any authority justifying this appropriation.

The facts upon which the claim is based are these: Condemnation proceedings were instituted by the City of Portland against W. H. Morehouse in the Circuit Court of Multnomah County, on March 1, 1909, and the case proceeded so that the verdict of the jury was rendered on May 19, 1909.

On June 12, 1909, following this verdict, in order to provide the compensation required to be made before the taking of the property, a warrant was issued, drawn on the Treasurer of the City of Portland, made payable to W. H. Morehouse, for forty-seven thousand (\$47,000) dollars, the amount awarded by the jury, signed by the Mayor and Auditor, and deposited for Mr. Morehouse, with the City Clerk, in accordance with Sections 5102 and 5107 of B. & C.'s Annotated Code.

Mr. Morehouse contends that in addition to this sum of \$47,000 which the jury assessed as his damages, he is entitled to interest from the date of the commencement of the condemnation proceedings up to the time the city warrant was deposited with the City Clerk for his benefit, and to pay him this interest, the ordinance in question was passed.

Article II, Section 4, of the Constitution of Oregon, provides: "No person's property shall be taken by any corporation under authority of law, without just compensation being first made or secured in such manner as may be prescribed by law. It must be apparent from this provision that the title of the property sought to be appropriated remained in Mr. Morehouse, until the same was appropriated by the City of Portland, and paid for by it."

His loss of title did not occur until the date of taking the land by the City of Portland, which was when the verdict of the jury was found and the judgment of condemnation was entered in pursuance of the verdict. Up to that time Mr. Morehouse was rightfully in possession and was the owner of the property involved in the condemnation proceedings.

As the owner is entitled to the use of his property until the taking, he is not entitled to interest where under the law compensation must be and is ascertained and paid before the owner is disturbed in the enjoyment of his possession.

10 Am. & Eng. Ency. of Law, 1185 and cases cited.

In the case of Gay vs. City of Gardiner, 54 Main, 476, it was held that "if interest upon their verdict was allowed at all by a jury summoned to assess damages sustained by a landowner by the location of a town way, it can be allowed only from the time when the land was taken and not from the time of location."

In the case of Kinsinger vs. New York & Harlem Railroad Company, 56 N. Y. 233, it was held: "It would require very great evidence of legislative intent to warrant such a construction of the eminent domain statute as would give the owner with the use of his land and interest upon the purchase money."

A very instructive case in which the principle involved in the matter under consideration is discussed and passed upon, is that of Shoemaker vs. United States, 147 U. S. 252. This was a proceeding instituted by the Government of the United States to condemn certain lands for public parks and squares in the District of Columbia. Mr. Justice Shiras, speaking for the court, says: "It is true this case is distinguished from proceedings to condemn the possession and enjoyment by the owner as to some extent interfered with. He can make no permanent improvements on the land, nor sell it, except subject to the condemnation proceedings. But the owner was in receipt of the rents, issues, and profits during the time occupied in fixing the amount to which he was entitled, and the inconvenience to which he was subjected by the delay are presumed to be considered and allowed for in fixing the amount of compensation. Such is the rule laid down in cases of the highest authority. *Reid vs. Hanover Branch Railroad*, 193 Mass. 303; *Kidder vs. Oxford*, 116 Mass. 163; *Hammesley vs. New York City*, 36 N. Y. 331; *Norris vs. Philadelphia*, 70 Penn. St. 332; *Chicago vs. Palmer*, 80 Illinois, 125; *Phillips vs. South Park Commission*, 118 Illinois, 401.

Finding no authority for making this additional appropriation and payment to Mr. W. H. Morehouse, I am compelled to veto this ordinance.

JOSEPH SIMON, Mayor.

CITY PARK CONCERT TODAY

Rosebrook and His Band Will Play at 2:30 This Afternoon.

Rosebrook and his band will play at the City Park at 2:30 o'clock this afternoon. The programme follows:

Overture to "Marianne".....Wallace
Two short pieces.....Herbert
(a) "Ocean Breeze".....(b) "Bridal Song"
Waltz, "Tost Paris".....Waldteufel
(1) "Santo Adieu".....(2) "The Rose Tree"
(b) March, "Enterpriser" (new) Lampe
Fantasia on Scotch, Irish and English Airs
INTERMISSION, 10 minutes
From Donizetti's Opera by Godfrey
Including themes from "Mary Stuart," "La Favorita," "Lucia di Lammermoor," "The Daughter of the Regiment," and ending with the famous "Cavatina" from "L'Idiote de Chamouni."
(a) "Thoughts of Love".....Mann
(b) "Amoreus" (Waltz-Lento) Berger
Airs from the "Prince of Wales".....Luders
Paraphrase on "The Palm".....Greenwald
Medley of National Songs.....Moses
Star-Spangled Banner.

LAST TRIP STEAMER POTTER

The O. R. & N. steamer T. J. Potter, from North Beach, will make her last trip leaving Megler, 9:00 o'clock P. M. Monday, September 6, Labor Day.

Oregonian Turkish Baths moved to the Drexel, 2d and Yamhill.

Vel Kept Teeth Repay the Cost a Thousandfold

Teeth Supplied Rebuilt and Repaired While You Wait.



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HARVEST DAYS OVER

Umatilla County's Grain Crop 4,000,000 Bushels.

FARMERS HOLDING WHEAT

With Money in Bank After Harvesting Expenses Are Paid, They Are Content to Wait for Dollar a Bushel.

PENDLETON, Or., Aug. 21.—(Special.)—Umatilla County's 4,000,000 bushels of wheat, the estimated yield for the present season, will soon be in the sack. The harvest is three-fourths over now, for while there will be threshing for two or three weeks yet, it will simply be the clearing up of the remnants. Another week will find little standing wheat left in the county, that remaining unthreshed having already been headed and stacked and is ready for the stationary threshers. The combines are rapidly bringing their season to a close and more than half those in the county are already in the sheds.

The season has been a very successful one and remarkable in many respects. It has been comparatively free from accidents in that there has not been a single life lost and the only serious injury received was the loss of one finger by one man. The loss of harvesters by smut explosions and from other causes has also been less numerous than in the past, while the owners of threshing outfits had little trouble in securing crews and no trouble at all in keeping them. This last phase of the subject is directly attributed to the banishment of the saloons a year ago. At the same time there has been no surplus of idle hands, every man desiring work having no trouble in securing it. There has been only one delay because of rain and that was brief. No damage whatever was sustained by reason of it.

Though the price of wheat is again inclining upward, very little is being sold. Not more than one-fourth of the entire crop has changed hands, the conditions in this respect being much different from former years. Last year by this time less than half the crop remained in the hands of the growers, practically all that was threshed having been turned over to the mills and the shippers.

Every year there are some farmers who carry their wheat over until spring in the hope of getting better prices, but this year the number will be greater than usual. This is due chiefly to the fact that many of the growers will have money in the bank after their harvesting expenses are paid and are not compelled to sell in order to secure money with which to meet their obligations.

JOSEPH SIMON, Mayor.

TESTS TO TRY RAINMAKING.

WICHITA, Kan., Aug. 21.—Nicola Tesla, the inventor, in a letter received here today by George G. Matthews, a "rainmaker" of Wichita, predicts a final successful solution of the problem of the artificial production of rain. He says: "I cannot recall that I have expressed myself on the subject before, but it is a fact that I have developed certain electrical appliances with which it will be possible to control the precipitation of moisture from the atmosphere."

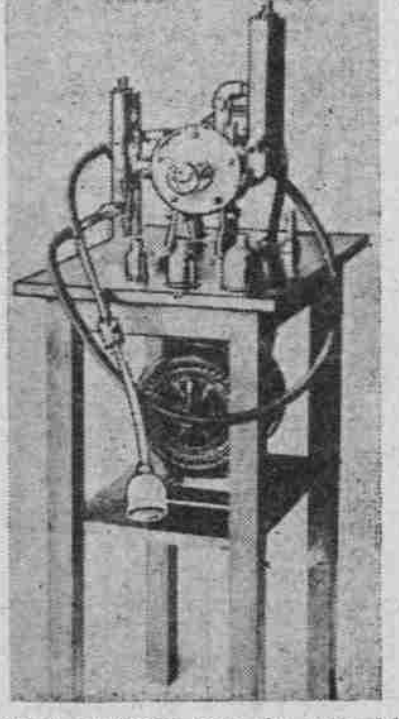
"A great problem of this kind cannot be solved by one man. But a successful solution will come, the result of the co-operation of many."

Mr. Tesla asks Mr. Matthews, who is trying to produce rain by putting chemicals in the air, to report to him regarding what is accomplished.

NEW VACUUM VIBRATOR

An Invention That Will Be of Much Use to Physicians.

J. G. Meyer, of the Electric Carpet-Cleaning Company, has invented a vacuum vibrator which should soon become in general use by physicians. Mr. Meyer says for the new machine:



"DRY CUPPING—Since the successful experiments of Dr. Bier, of Berlin, the principles of dry-cupping are receiving widespread adoption, the only problem being a thorough, compact apparatus. Our appliance is not only the most perfect device for hyperemic treatment, but it embodies scientific features never before attained, namely the Vibrating Vacuum."

"For massage treatment of the body, treating the face, treating the scalp, it has a wonderful effect on the skin; it takes the wrinkles out of the face. If bald headed, Vacuum treatment will make the hair grow."

"Our machine is well made, neat in appearance and of great power; it can be adjusted from an inch to a 24-inch vacuum."

"Send for our price; it is very reasonable."

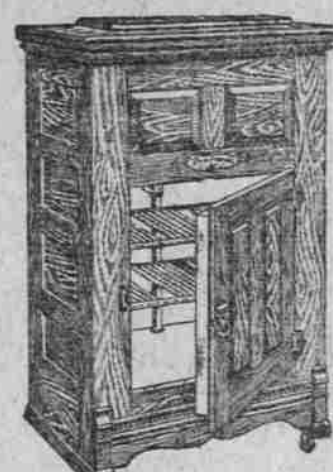
"In ordering a machine, please state what motor will be required, whether A, C or D C current." Manufactured by MEYER VACUUM VIBRATOR CO., 231 Holladay ave., Portland, Or.

Rogers Estate Appraised.

Three hundred and forty dollars is the total value of the personal property of the late Charles E. Rogers, who, at the time of his death, July 30, was telegraph editor on the Evening Telegram. The

SUMMER CLEARANCE SALE

This sale, lasting until September 1, is to close out all Summer goods. Gas Ranges, one-fourth off; Gasoline Stoves, one-third off; Refrigerators, at cost; Porch and Lawn Furniture and Hammocks, reduced one-third; Dressers, reduced one-fourth, and radical reductions on many other lines



Refrigerators at Actual Cost

80 Refrigerators, left from a large purchase recently made by us from the Globe Manufacturing Co., offered at actual cost.

Large Refrigerator, 200 lbs. capacity.....\$37.16
35 lbs. capacity.....\$ 8.57
45 lbs. capacity.....\$10.30
60 lbs. capacity.....\$15.75
100 lbs. capacity.....\$18.30

Monarch Malleable Ranges

Indestructible, Polished Tops Oven Thermometers Duplex Draft

We have Monarch hotel ranges, boarding-house ranges and combination gas ranges. The only range to buy if you want the best, and the price is little more than is asked for ordinary goods.

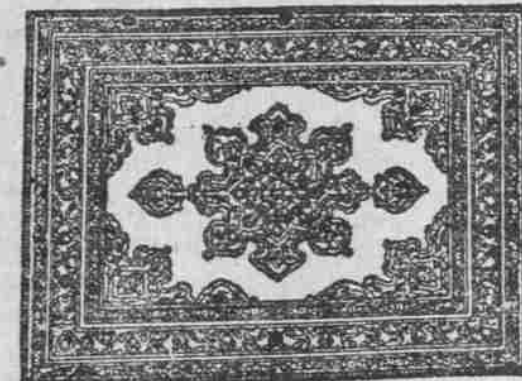


Price \$57.00 to \$139.00



Great Table Bargain

Solid Oak, \$3.50 Table, exactly as illustrated, top 24 inches square; first-class construction; sale price, \$2.25



Something New in Rugs

9x12 size, \$5.85. Made of extra heavy, high-grade woven China Matting in rug designs.
8 ft. 3 in.x10 ft. 6 in. Brussels Rugs, \$13.50 value, now only.....\$9.90

Specials for Monday and Tuesday Only



Clocks That Keep Time

This week we put on sale 50 Ingram's 8-day Clocks, accurate timekeepers; golden oak frames; worth \$3.50 each; at the exceptionally low price of \$1.95.

\$15 Silk Floss Mattress Special at \$8.95

These Mattresses are done in the finest art ticking, full 30 pounds in weight, and are guaranteed to be pure floss, with no mixture of cotton.



This Sale Is for Monday Only

185-191 FIRST ST. EDWARDS-CO. HOUSE FURNISHERS

A GOOD PLACE TO TRADE

report of the appraisers of the estate was filed in the County Court yesterday. It shows that the deceased owned a suburban lot, which is incumbered, had \$10 in cash and a few miscellaneous articles. The appraisers were W. L. Kearns, Frank L. Perkins and David W. Hazen.

Solons Auto 120 Miles.

HELENA, Mont., Aug. 21.—A special to the Record from Culbertson says that the Senate irrigation committee arrived there in its special train this morning after having covered 120 miles in an automobile yesterday. Today is being spent in the Milk River Valley, between Culbertson and Havre. This stream is to be augmented by the flow from St. Mary's River, and the committee received numerous delegations at Glasgow, Chinook, Har-

lem and other cities, who urged the hasty completion of the great undertaking. Conditions in Milk River Valley proper were found most favorable. The committee will reach Havre tonight and thence proceed westward, visiting St. Mary's Lake.

Greeks Raise Warship Fund.

SEATTLE, Wash., Aug. 21.—Members of the Greek Catholic Church here raised \$100 among themselves and turned the cash over to their pastor yesterday for the purpose of assisting in the building of a battleship to be given to Greece to use in case of war with Turkey. Local Greeks hope to raise \$300 to add to amounts being raised in other parts of the country. Rev. M. G. Andrade, who is in charge of the fund here, said that already \$35,000 has been raised by Greeks

in this country, who are convinced that Turkey which they believe will result from the present Cretan disturbance.

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