GAMBLERS DEFY STATE LAW'S BAN

Milwaukie Club Thus Advised by Lawyer.

ATTORNEY HEDGES' BROTHER

Says Town Charter Allows License of Games.

UNDER STATUTE OF 1905

This Being Later Enactment Than Prohibiting Gambling, Club's Counsel Says That State Authorities Can't Stop It.

DEVELOPMENTS IN GAMBLING SITUATION.

A lawyer of Milwaukie Club, brother of District Attorney Hedges, says state authorities cannot suppress gambling in Milwaukie. Officials and citizens of Vancouver,

gambling to their city from Mil-Baker City is "wide open" to

gambling and officials are making no move to drive it out. Astoria contains 12 gambling joints

run by white persons and six lotteries and seven fantan games run by Chinese, all of which will close next

OREGON CITY, Or., Aug. 7 .- (Special.) -Insisting that the city of Milwaukie has from the Legislature in its charter to license gambling, State Senator Joseph E. Hedges, counsel for the Milwaukie Club, announced this afternoon that the club will resist attempts to suppress it under the state anti-gambling and that the reported plan of the club to move from Milwaukie to Vancouver or some other place is buncombe Senator Hedges is a brother of District Attorney Gilbert L. Hedges, by whose tardy order the club was closed last Sat-

State Licensed the Club.

Senator Hedges says that in 1903 the Legislature enacted a charter for Milwaukle, giving that town power to suppress gambling houses, and that in 1966 giving the city power to license, tax and regulate and restrain all offenses, trades and occupations and to license the different branches of business or professions which in their (Council's) judgment, should be licensed. As these acts were passed subsequently to the general state law against gambling, Senator Hedges maintains that the general law is not operative in Milwaukie.

Senator Hedges has been the legal representative of the Milwaukie Country Club for several years, and appeared for it two years ago, when Isaac Gratton and M. G. Nease were indicted by a Clackamas County grand jury. The case at that time never went to trial, the two defendants pleading guilty and paying their fines. Mr. Hedges, however, has always believed that the situation at Milwaukie is such that the club cannot be gestrained from pool-selling and gambling, and cites numerous authorities to prove his contention.

Senator Hedges Opinion.

Senator Hedges this afternoon gave out the following opinion.

the following opinion.

Much has been written in the past two weeks respecting the maintenance of the Milwaukie Country Club, and urging the officials of this county to close the club and arrest the proprietors.

I am convinced that many of the writers are innocent of either the law or the facts relating to this undertaking or the husiness in which the owners are engaged.

"The legislature of this state has power to license pool selling, poker playing, or even maintenance of the so-called "social evil." Only the first two of these, as I read, are maintained or carried on at the club. Let us assume, therefore, that this is true.

The Legislature further has the right to delegate to a municipality the power within its boundaries to makelawful, sofar as the publi cls concerned, a wark or business or an act, or state of affairs generally, which without such authorization would constitute a public nuisance, and he person for whose benefit the authorization is made will be exempt from liability to suits, civil and criminal, at the instance of the state, provided always, he keeps strictly within the eterms of the legislative license or permission.

If, therefore, by the act creating the mu-

sion.

If, therefore by the act creating the mumicipality or in the charter the power is
granted to license pool-selling and poker
playing, and, under ordinance, duly and
regularly passed and approved, a license is
granted to a person to prosecute this line
of business or conduct such vocation, the
licensee is immune from punishment for
pursuing the calling or business.

The state cannot prosecute as a nuisance
that which it has authorized. The term
"public nuisance" applies only to something
occasioned by acts done in violation of lw.
A work whilh is authorized by law cannot
be a nuisance.

A work whilh is authorized by law cannot be a missance.

Further, a general act will be repealed pro tanto by a subsequent special act when the two acts cannot stand togother, and our own Supreme Court has said that it is a rule of law, sanctioned by this court, that whenever two acts are repubnant, one mimical to the other, so that both cannot stand, the latter will operate as a repeal of the earlier by implication, without any express words of repeal; and such will be the effect even when they are not repugnant in all of their provisions, if the new statute revises the subject matter of the old and is plainly intended as a substitute for the old in toto.

In toto.

Such rule is not inimical to the doctrine that repeals by implication are never favored, nor to that which gives effect to several statutes upon the same subject whonever it is possible to do so. And again, the same high authority says that when two statutes are inconsistent and repugnant so that both cannot stand, the one last enacted shall be considered in force and to peocal by implication all prior acts, or ports

of acts, that conflict with it. And yet again, that when two statutes that are in conflict are enacted by the Legislature upon the same general subject, the last enactment furnishes the rule of action and repeals the prior act by implication so far as they con-

prior act by implication so far as they conflict.

Another court of last resort in an opinion on a matter similar to the one in hand, says:

"The Legislature has a right to change the common law; it has the right to allow the legislative authorities of — (a city) to regulate the subject now under consideration, differently from what it is in the other portions of the state. It is a naked assumption to say that any matter allowed by the Legislature is against public policy. To say that such law is of immoral tendency is disrespectful to the Legislature, which no doubt designed to promote morality. Whether the ordinance in question is calculated to promote the object is a question with which the courts have no concern.

in question is colcuisted to promote the object is a question with which the courts have no concern.

The last-named authority further says. The question then arises whether this general prohibition or this special permissive existence under regulation must prevail, and we are clear that a particular specified intent on the part of the Legislature overrules the general intent incompatible with the specific one."

And finally Mr. Dillon, in his work on Municipal Corporations says that the presumption is not lightly to be indulged that the Legislature has by implication repealed, as respects all municipalities laws of a general nature elsewhere in force throughout the state; yet a charter or special act passed subsequent to the general law and plainly irreconcilable with it, will to the extent of the conflict operate as a repeal of the latter by implication; but by a well-known rule, founded on solid reasons, such repeals are not favored.

Now the Legislature of this state in the year 1903 incorporated the City of Milwaukie, and in the charter granted to the City Council the power to prevent, remove and abate nuisances by general ordinances and to suppress bandy houses and gaming.

In its wisdom, in 1903, the Legislature changed these powers and gave to the City Council power within Milwaukie to license, that and occupations, and to license the different branches of husiness or professions which in their judgment should be license, the City Council passed an ordinance nodi-

trades and occupations, and to incense the different branches of business or professions which in their judgment should be licensed.

Pursuant to this authority from the Legislature, the City Council passed an ordinance in the Summer of 1905, which was at once approved by the Mayor, making it unlawful to maintain or carry on such business as that of the Milwaukis Ciub, without first obtaining a license therefor. And thereafter the then proprietors paid the license fee and procured a license. This method has been continued till the present time, and in July of this year the corporation owning the business paid the quartely fee for July, August and September and have a license covering this period.

It will be noted that the special act creating Milwaukie and granting the powers above enumerated to the Council was passed long after section 1930, B & C. Code, so often referred to in the press during the past few days.

In strictness, therefore, if those who are so persistent in having the officers of this county compel obedience to the law but knew it, they are urging that the Milwaukie Club be permitted to continue its business unmolested.

MANY GAMES IN BAKER CITY

Officials and Business Men Unwilling to Suppress Them.

BAKER CITY, Or., Aug. 7 .- (Special.) The crusade against gambling in Milwaukie and Astoria has not caused a noticeable flutter in this city. Baker City under constant surveillance continues to be a wide open town and there are no indications that steps will be taken immediately to close up the games. Probably the principal reason for gambling being carried on here in the open is because many business men are in favor of it. City officials also desire to see the games carried on. Many think they are a benefit to the city.

The nearest to a reform movement was the passage of an ordinance by the City Council Monday night, which provides that all boxes in saloons and restaurants shall open on a hallway and shall have a floor space of 160 square feet. If the gambling dens, at Astoria are closed Baker will be the only city in Oregon that permits gambling to be carried on in the open. At present, half of the 25 saloons have gambling paraphernalia and allow gambling to be carried on day and night. The other saloons have boxes where games may be played between private parties. The gambling is carried on in the back rooms and anyone who so desires may try his luck at faro, roulette

The city officials and the members of the police force know that gambling is going on. Some of them go into the saloons and watch the progress of the games or take part in them if they so de-It is estimated that the income from this source amounts from \$5000 to \$10,000 a year, which the city fathers are loth to give up.

or any other game that please his fancy.

ASTORIA GAMES STOP AUG. 18

Have Been Running Many Years

Except Nine Months in 1905.

ASTORIA, Or., Aug. 7 .- (Special.)-There are in this city at the present time 12 places conducted by white persons where public gambling is carried on, and all but one of them are in saloons. Two of the places contain but one game each, and at 12 resorts there are about 50 games in operation. Besides these, there are six Chinese lotteries and seven fantan games, also conducted by Chinese. Except during about nine months in 1905, when the town was "closed" by ex-Sheriff Linville, gambling has been allowed in Astoria for years, and the number of games running now is about the same as is usual at this season of the year. However, the number is changing constantly, as during the past six weeks five games have closed down and three

As to the number of men employed. it is difficult to estimate them, but there are probably between 100 and 125, and they receive an average wage of about \$6 per day. The closing of gambling in Portland had no apparent effect on the situation here, and did not increase the gambling houses in

the city. Only One Portland Gambler.

While certain employes of the Portland houses may perhaps have found employment in some of the local places, only one of the Portland gamblers has since conducted a house here, and he took a place in which gambling had been in operation for years. Each one of the games, including the Chinese lotterles, pays the city \$25 per month in the nature of a fine. Nominal arrests are made, bail is deposited, and the cases carried through the Police Court, where the ball is declared forfelted.

In addition to the regular gambling games, there are about 140 slot machines, including both card and money machines, each of which pays a quar-

PORTLAND, OREGON,

Government Fights Standard and Roads.

SEGRET SERVICE MEN BUSY

Alton Expected to Spirit Away Witnesses.

EVERY ONE TO BE WATCHED

District Attorney Will Attack Alliance by Hastening Trials on Rebate Indictments - Move to Frustrate Plans.

CHICAGO, Aug. 7.-(Special.)-Secret agents of the Government attached to the Chicago branch of the Federal service have been compelled to abandon or defer their vacation periods to aid in the pending prosecutions of the Standard Oil

for every available man who can be used I am going to discharge her because of to frustrate the plans of the new allies. I am going to discharge her because of her husband's conduct previous to the Captain T. I. Porter is said to have assigned every man at his command to signed every man at his command to District Attorney Sims and a score will be summoned from other points. The subpense commanding the attendance of 2 and lived together 18 days. minor employes of the Chicago & Alton Railroad before the grand jury August 14 cials and employes whose testimony is desired by the Federal body will be kept

It is felt in the office of the District Attorney that the first move of the raliroads in their allied fight against the Government will be the transferring of all employes whose testimony is essential to the hearing to points where they cannot be found by the agents of the pro

A hastening of the nending trials of the Standard Oil Company on the numerous indictments in connection with the Chicago, Burlington & Quincy and Chicago & Eastern Illinois roads is probable in the shall not be more than seven feet high, face of the alleged protective pact formed by the participants.

> STATES WILL ACT TOGETHER Attorneys-General Will Arrange Combined Attack on Trusts.

> AUSTIN, Texas, Aug. 7 .- (Special.)-Texas will be represented at the conference of Attorneys-General to be held Louis next Monday, by J. P. Lightfoot, Assistant Attorney-General. who is in charge of the anti-trust prosecutions that have been instituted in

this state during the administration o Attorney-General Davidson.

The plan which they have in view and which is to be put into working order at a convention of Attorneys General of all states to be held in St Louis or Chicago later this Fall, is to make a concerted attack upon the larger so-called trusts, which are alleged to be operating in the different states The alleged lumber trust is one o those which are thus to be attacked all along the line. By a simultaneous at-tack upon that combine and a free in-terchange of evidence by the chief law officers of the different states, the prosecution can be made more success-

ful, it is believed.

Mr. Lightfoot said today that the
Attorneys-General of a dozen states
had signified their intention of being

Extra Dividend of Tobacco Trust.

NEW YORK, Aug. 7.—The American Tobacco Company today declared on its common stock the regular quarterly dividend of 2½ per cent and an extra dividend of 7½ per cent, against 2½ regular and 5 per cent extra at the last previous declaration. The dividend is payable September 2.

MUSCULAR WIFE DEPARTS

EIGHTEEN DAYS.

Heinen, Whose Spouse Hit Him With Hammer Intends to Sue for Divorce.

CHICAGO, Aug. 7. - (Special.)-Mrs. Glenada G. Heinen, 23 years old, who was arrested yesterday, charged with striking with a hammer her husband, to whom sh was married last month, was given \$100 and a rallroad ticket home to her mother pending prosecutions of the Standard On Company and the railroads named with it in charges of rebating.

The alliance between the railroads and the oil corporation, of which Federal attorneys have been notified, has caused a torneys have been notified, has caused a torneys have been service bureau to the secret service bureau that the woman is not altogether without blame." Said the Judge, "and yet without blame." without blame," said the Judge, "and yet

will be served without delay. The off- KILLING HEAT IN THE EAST Humidity at St. Louis Responsible

for Seven Prostrations.

ST. LOUIS, Aug. 7.-Seven prestrations were reported tenight as caused by the heat. The thermometer registered only 89 degrees, but the humidity made suf-fering general.

Kansas City Most Uncomfortable. KANSAS CITY.—Aug. 7.—Six persons were prostrated by the heat here today. The maximum temperature of 93 degrees was accompanied by great humidity, making this the most uncomfortable day

MUST BE MADE OF RUBBER Ironworker Falls Four Stories, Only

Breaks Ankle.

SAN FRANCISCO, Aug. 7 .- Rudolph Rudlow, a structural fronworker, who weighs 270 pounds, today fell from the construction at New Montgomery and Minna streets, and escaped with ore serious injury than a broken

"NOBODY LOVES ME"

"HIGHER UP"

AUGUST 2, 1907.

Officials of Harriman Lines in View.

INTENDS CRIMINAL ACTION

Attorney-General Follows Up Commission's Work.

WOULD SEND MEN TO JAIL

END OF MARRIAGE LASTING BUI Proposes to Proceed Against Superiors, in Violation of Anti-Trust Law. Whenever He Can Be Hopeful of Conviction.

> NEW YORK, Aug. 7 .- A special dispatch to the New York Times from Lenox, Mass., sent under today's date says: That criminal prosecutions will

taken in the near future as a result of the Interstate Commerce investigation of the Harriman railroad system was the information obtained here upon authority this afternoon on the virtual eve of the return of Attorney General Bonaparte to Washington.

Mr. Bonaparte was asked if action, per sonally, against individuals would be included in the prosecutions. He replied somewhat emphatically: "I have no ticed a good many complaints that criminal prosecutions against trust magnates and sentences of imprisonment for them have been very infrequent and, in fact, for practical purposes unknown. It is perfectly true that, in my opinion at east, a better moral effect would be pro duced by sending a few prominent men to jall than by a great deal of litigation however successful, against the corpor

ations they controlled. Officers of Company Guilty.

"Some time since two corporation and their respective presidents were in dicted jointly for violation of the antiguilty of such, it would be hard for the lay mind, at least, to see now their presidents could be innocent. Nevertheless the jury convicted the corporation and acquitted their presidents.

"It is the avowed purpose of the De inally any one who is really responsible for violations of the anti-trust law, able probability of success. It does not care to prosecute mere underlings who under the direct authority of their su-

periora Will Prosecute Individuals.

"If it can get a case against any o the superiors such as justifies a reasonable hope on the part of experienced sonally the department will undoubtedly

take advantage of the opportunity as as it is presented." RAILROADS MUST OBEY LAW

Ultimatum of Alabama Governor to

Southern Lines.

MONTGOMERY, Ala., Aug. 7.—E. L. Russell, vice-president of the Mobile & Ohio Railroad, representing President Finley, of the Southern Railway, and Mr. Weatherly, an attorney of Birmingham, continued their conference with Governor Comer today regarding the controversy between the State of Alabama and the Southern Railway. The Governor later gave out a statement in which he says he is standing out for the 2½ cents fare bill, saying:

bill, saying:
"Every time a ticket is sold for more than 2½ cents a mile, the roads violate the law and the person selling the ticket commits a misdemeanor. It is the duty of every court so to charge the jury and the duty of every solicitor to make out a case. I have told Colonel Russell that with his reputation for fairness I shall expect him to realize and concede that the railroads must obey the laws the same as any other person." with regard to the removal of the case from the Talladoga Court to the Federal Court, over which the license of the Southern Railway was revoked, and which the railroad people admit was hasty and not intended, the Governor

says:
"The Administration understands that the offense was committed against the state laws by the removal of the suit regardless of the motive prompting it. The laws are made for all slike and to be observed by all and enforced by the Administration impartially."

Administration impartially.

It is given out by the members of the Legislature that, in case an extra session is called, the members will stand solidly behind the Governor in his fight. solidiy beaund the Governor in his agnit.
The evident intention of the Governor to hold that the passenge: fare law which has been enjoined by the United States Court, is being violated and to encourage arrests upon it, shows a possibility of conflict between the state and the Federal Courts even to a greater extent then was thought. extent than was thought.

FEARS TO BE IN CONTEMPT

Acting Secretary of State of Arkansas Declines to Annul Charter.

LITTLE NECK, Ark., Aug. 7.—Assist-ant Secretary of State McHanney has not received official notice of the issuance of Railroad in Arkansas. The Attorney General urges the Assistant Secretary to revoke the charter before the injunc-

tion arrives.
El I. McHanney, Acting Secretary of Et I. McHanney, Acting Secretary of State during the absence of Secretary Ludwig Issued a statement late this after-noon criticising the opinion issued by At-torney-General Korby today in that the state Secretary of State is urged to annul the charter of the Rock Island Railroad in Arkansas as he would not be in con-tempt for violating the injunction granted by Ludge Vanderventer at St. Paul. by Judge Vanderventer at St. Faul.

Mr. McHanney says he did not call on
Korby for an opinion and he would never

do so unless legal principles were in-volved. He says he will take no action in the matter as he does not wish to go to jail for contempt of court.

Mysterious Plague in Arizona.

PHOENIX, Ariz., Aug. 7 .- News com from Wickenburg, a mining town 60 miles northwest of Phoenix, that some sort of a plague has broken out there which local doctors are unable to diagnose and treat successfully. Several deaths have occurred during the past few

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ROOSEVELT IDEAS

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Declare Himself on Railroads, Tariff, Labor.

MEET ENEMIES' ATTACKS

Columbus Speech Will Show How H& Stands Towards Unions-Burton

> to Be His Champion on Floor of House.

WASHINGTON, Aug. 7 .- (Special.)-Secretary of War Taft will be back in Washington next week-the first of the Cabinet officials to return from his vacation. On the way from his retreat in Canada, the Secretary will stop at Oyster Bay for a long and final talk with President Roosevelt before leaving on his trip to the Philippines.

Some facts have leaked out within a day or two regarding the character of the talk which Mr. Taft will deliver First in many particulars will be the address at Columbus, Considerable data has been supplied relative to the railroad situation in all its phases, the deduction therefrom being that the Secretary will declare at the start a policy in furtherance of the Roosevelt principles, which will be prosecuted at his hands if he is elected Chief Executive

Will Discuss All Issues. It is stated that the speeches will be general in character, covering all the topics that have been brought to the front of late with respect to political issues. This means that definite ideas with regard to the tariff will be advanced, that the railroad question will be treated exhaustively, that the Brownsville affair and other issues raised by Senator Foraker will be met

sonal platform will be outlined. An important subject to which Mr. Taft is likely to devote considerable attention is that pertaining to various phases of the labor question. Enemies of the Taft movement have assiduously sought to cultivate a prejudice against his prospective candidacy by openly declaring that he would not be strong in

squarely, and that, in short, a full per-

labor circles. Burton Taft's Champion.

The announcement by Representative Theodore Burton, of Ohio, that he will retire from the chairmanship of the House committee on rivers and harbors may have more political significance than appears on the surface. Mr. Burton is likely to become the recognized floor champion of the administration in the lower House. Politics of strenuous character will be played every minute of the time throughout the session. A vigorous leader of the Burton type will find plenty to keep him busy.

RUMORS OF BURNT BALLOTS

Canvass in Mississippi Today May Cause Serious Trouble.

JACKSON, Miss., Aug. 7 .- The Demacratic state executive committee meets here tomorrow at noon for the purpose of canvassing the returns and declaring the result of the recent primary held in this state for United States Senator and state officers. So close is the race in the Senatorial contest that interest is at fever heat.

For the past day or so there have

been all sorts of rumors of destroyed ballots and lost ballot boxes, but, when traced down, the reports have been found to be without foundation, It was said that a lot of ballot boxes in Copian County that gave Governor James K. Vardaman a majority of 251 over Congressman John Sharp Williams in the Senatorial contest had been burned, but the committee tonight certified that this was not so and that every precinct had been counted and that every ballot was safe in the hands of the proper officials,

The meeting tomorrow promises to be sensational, there being predictions that trouble will arise in the event that any compromise measures be resorted to. Both candidates are claiming that a canvass of the vote will show their election, Vardaman by a bare majority, while Williams' friends claim it by

NEW ORLEANS, Aug. 7.-Dispatches from Jackson, Miss., say that a second Senatorial primary for John Sharp Williams and Governor James K. Vardaman is regarded with favor by many followers of both. Secretary of State Power up to last night still had ten counties to hear the official returns from and the count up to that time showed Williams' lead to be about 440 votes.

Choose New Mayor of Salt Lake.

SALT LAKE CITY, Aug. 7 .- Leaders of the American party today selected W. J. Halloran, a real estate man, to succeed Exra Thompson, resigned, as Mayor of Sait Lake. The Council will elect Mr. Halloran to fill the vacancy.

ALONE, ALONE, ALL, ALL ALONE, ALONE ON A WIDE, WIDE SEA!

AND NEVER A SAINT TOOK PITY ON
MY SOUL IN AGONY.

—An

-Ancient Mariner.