

DOES NOT GRANT IT

Judge George Refuses Injunction in Poolroom Case.

GIVES SWEEPING DECISION

Holds That Pool-Selling is Gambling, and City Has No Power to Do Other Than Prevent It if Prevention is Possible.

JUDGE GEORGE HOLDS THAT— Pool-selling is gambling, and the city has no power to do other than prevent gaming. The license that the pool-seller has is no protection. The city has no power to grant any license for gaming or gambling of any kind. The city has no power to license gaming or gambling-houses. The license granted under the ordinance is invalid, and the ordinance is invalid. Whether pool-selling is gambling under the gambling act of 1876, now in force, may not be absolutely certain, but it may be contrary to section 1909 of the code as a mixed question of law and fact. This section provides against any act which openly outrages the public decency, and is injurious to public morals. A court of equity finding a man violating the gambling laws of the state, will leave him where it finds him and will not interfere with the Sheriff in any way. It will leave him to whatever remedy he may have in the law side of the court. It is the duty of Sheriffs to inform against and diligently prosecute any and all persons whom they shall have reasonable cause to believe guilty of violating the gambling or gaming laws of this state.

The application of M. G. Nease for an injunction restraining Sheriff Word from interfering with the possession by Nease of the Warwick Club, on Fourth street, near Alder, where Nease and others associated with him have been engaged in selling pools on horse races, was denied yesterday by Judge George.

The Council recently passed an ordinance licensing poolrooms, and Nease took out a license for one quarter, paying \$200 for it, which was the rate fixed by the Common Council. After the place had been running about two weeks, it was closed by Sheriff Word, who still has a deputy in charge of the premises. Nease refused to promise the Sheriff that he would abandon the pool-selling business. The Sheriff contends that he has a right to hold on so long as Nease continues to threaten to violate the law, and Judge George, in his decision, has refused to interfere with the Sheriff.

Cited State Laws.

The court, referring to the law governing gambling in this state, said: "Our gambling statute of 1876 makes unlawful the dealing, playing, carrying on, opening or causing to be opened or conducted, either as owner or employee, any game played with cards, dice or any other device, whether the same be played for money, checks, credits, or any other representative of value, and in many ways seeks to hamper the commission of such crimes by affording remedies to owners, and awarding damages to persons in consideration thereof, and punishing owners of buildings or places used for gambling. The city charter supplements this law and gives to the Council power to prevent and suppress gaming and gambling-houses, lotteries or places where any games are played in which chance predominates. It further provides that whenever the Mayor or Executive Board receives satisfactory information that any house, room, or premises within such city or within four miles of the corporate limits thereof is used as a common gaming-house or common gaming premises, for playing therein for wager or money at a game of chance, they shall direct the Chief of Police or any other officer of the force to enter such house, room or premises and arrest all persons therein found offending against any law, and to seize all instruments of gaming, lottery tickets or lottery policies, and bring said articles into court.

Seizes Poolroom Gambling.

"Poolroom gaming is certainly as bad as any kind of gambling. The element of chance enters into poolroom gaming as much as in any other form, and fine distinctions as to whether this or that constitutes 'any other device' may be set to one side when facing a statute which punishes 'any act' which 'grossly disturbs the public peace, or which openly outrages the public decency, and is injurious to public morals.' The law is against subterfuges on matters of 'devices,' and certainly a court of equity is not called upon to act by injunction. If there is any question of unlawfulness under the gambling policy of the law of the state. While horse racing in this state is not unlawful, yet it follows that gambling that gaming on horse racing is, for that reason, a lawful business. Betting on horse racing even may not be, in itself, violation of law, and there may be more or less mitigating excuse for it under excitement of presence at an actual race, but the evil of maintaining a gaming-house in the midst of this city to coolly lure or entice the cupidity of the ordinary human being into gambling for the chance of winning on some distant race, that, even conceding it not to be statutory gambling, is so subversive of public morals as to stay the arm of the court when asked to enjoin a Sheriff from interfering with such gaming establishment.

Refuses to Grant Injunction.

"In general, an injunction will not be granted to restrain persons from acting as public officers except in very clear cases of an injury immediate, pressing and irreparable, and this is not a clear case. The charter of the City of Portland is the latest expression of the Legislature of this state as to gaming-houses, and the prevention and suppression thereof. Its strong features, in regard to city officers entering gaming-houses and arresting all persons and seizing all instruments and destroying the same, may reasonably be read in pari materia with the provision of the state law, and certain it is that the state law made it the duty of the Sheriff to enforce against, and diligently prosecute any and all persons whom they shall have reasonable cause to believe guilty of violating the gambling or gaming laws of this state, and empowered him, as the county conservator, to defend his county against those who endanger the public peace or safety. But be that as it may, this court now holds that, on the present showing, it ought not to interfere with the Sheriff by any restraining or injunction order in the premises. The plaintiff, admittedly, has entangled himself with questionably unlawful business, but a court of equity must leave him and the Sheriff where it finds them. Equity will not issue any injunction to aid plaintiff in continuing a pool-selling

WORSHIP THE JOSS

Dedication of New Deities Now Taking Place.

CELESTIALS HAVE FEASTS

Chinatown is a Place of Happiness and Good Cheer, Where the New Josses Are Implored to Defeat Plans of Sheriff Word.

JOSSES BEING DEDICATED. CHIN LONG KWONG—Reputed to have been 200 years old when he passed from terrestrial existence; has temples in Peking, Hong Kong and Shanghai; supposed to have acquired great virtues. CHIN KOW CHU—Reputed to be 800 years old, and endowed with everlasting life; can mingle with spirits and mortals alike; he is the joss of laughter and is always represented with a smile on his face. GA GUIN—The great joss of good fortune, to whom Chin Long Kwong and Chin Kow Chu are subordinate, and over whom he rules; he is the best-beloved of josses, and will be formally dedicated during Chinese New Year. Today's Programme. 1 P. M.—Worship begins in joss-house. 2 P. M.—Secret and individual worship in joss-houses. 5 P. M.—Message of good cheer carried from new josses to the ill in the Chinese hospital. 9:00 P. M.—Great feast in all the restaurants, at which every one will be made welcome.

The first ceremony in the dedication of Ga Guin, the new joss of good fortune, which came recently to Portland's Chinatown from Canton, took place yesterday. The ceremony will culminate on the first day of the Chinese New Year, when Ga Guin will come into his own, breathe the breath of life, and take his stand in the proper niche of the joss-house on Second street to defeat the sinister purposes of Sheriff Thomas Word and all others inclined to make it disagreeable for the Chinamen.

Court Notes.

A complaint and summons in a divorce suit filed in Union County by Edna G. Dray against S. A. Dray was served yesterday by Deputy Sheriff Grant. Suit for \$15,000 damages for personal injuries was filed in the State Circuit Court yesterday by Fred Saastad against the Portland Lumber Company. On July 22, 1903, all of the fingers of Saastad's left hand, except the thumb and part of the index finger, were cut off by some machinery, and he was crippled for life. He says the defendants were negligent.

Arthur Wright Orton, who alleges that his wife, Ethel C. Orton, eloped with James G. Smith, going with him to Denver, yesterday filed suit against her for a divorce in the State Circuit Court. He accuses her of infidelity and also sets forth in his complaint that she stayed at a hotel at Tacoma under the assumed name of Mrs. C. Wilkes. They were married in Milwaukee, Wis., in July, 1892.

M. G. Nease, manager of the Warwick poolroom, indicted for pool-selling, surrendered himself to the custody of the Sheriff yesterday morning, and was afterward released on his own recognizance, to appear for arraignment Monday in the United States Court. The amount of his bail will probably be fixed. Sheriff Word still holds possession of the Warwick Club premises, and has not yet decided to vacate. The bail of a number of persons charged with playing poker was fixed, and also that of two Chinese fantan players.

Edward Stiles, who pleaded guilty to beating Annie Stiles in the face with his fists, was sentenced by Judge George yesterday to three months in the County Jail. The woman told Judge George she had known Stiles seven months and said he had no occasion to hit her as he did. Stiles as an excuse said he was drunk and the woman was also intoxicated, else they would not have quarreled. Deputy District Attorney Adams informed the court that the same charges had occurred before, and Stiles ought to be severely punished to make him let the woman alone. J. G. Seed complains that property which the Sheriff has attached as belonging to his father, John S. Seed, in lots 7 and 8, block 18, Caruthers' Addition, the father really has no legal interest in, and the son yesterday commenced suit in the State Circuit Court to have the attachment set aside. The attachment is on account of the judgment obtained by Orville O. Jennings against John S. Seed for \$5000 for alienating the affections of his wife, Cynthia Jennings. Jennings is trying to collect the judgment, and for this reason caused the Sheriff to seize the house and lot. J. G. Seed, the son, in his complaint alleges that before he went East in September, 1902, his father gave him a deed to the property. He was then under the age of 20 years, and unable to hold the legal title, but avers that it was understood that when he reached his majority the father would affirm the deed. Upon this showing the boy alleges he is the owner of the place.

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MANHATTAN CALENDARS.

Our 1905 office calendar has just been received and any one desiring one of these calendars can have one by calling at our office for same. MANHATTAN LIFE INSURANCE CO., William Goldman, manager, 29 Oregonian Bldg.

THE LARGEST THAT EVER REACHED THE COAST.

The M. J. Walsh Co. just received the largest shipment of gas fixtures and lamps that ever reached the Coast. Call at once and make your selection. Showrooms, 242 Washington street.

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SPECIALS FOR THIS WEEK

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WHEN YOU SEE IT IN OUR AD, IT'S SO

MOYER CLOTHING CO. THIRD AND OAK STREETS

this morning, nearly every Chinaman in the city partaking of the viands. This afternoon, at 1 o'clock, worship will again begin, and another feast is scheduled for tonight. A priest from San Francisco is conducting the ceremonies. In his address to the josses yesterday at noon, the priest delivered himself as follows, according to an interpreter: "Mighty guards of Ga Guin, we salute

you. To thy mercy we commend ourselves. We have need of you. There are enemies among us, and we are compelled to allow strife, to be disappointed, to give way to anger, to desire vengeance, to feel discord—all of which is so because we have not had thee. Help us now to live as we ought. Take away the influence of our tormentors. Guide us in these things and let us triumph, that we may laugh

and be merry and righteous, that we may have good spirits—the spirits over which Ga Guin and thou are kings." County Clerks to Meet. The Convention of County Clerks and Recorders of the State of Oregon will meet at the Courthouse Friday morning next, using one of the courtrooms for the meet-

ing place. The session will last for two days. County Clerk Fields, who has taken a great deal of interest in the matter, says that judging from letters he has received the gathering will be a large one. Various topics will be discussed. Milligan—Isn't that quarrel between you and Casey patched up yet? Quilligan—Now, but Casey's face is—Chicago News.

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