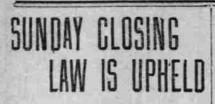
THE SUNDAY OREGONIAN, PORTLAND, JUNE 23, 1907.



Judge Cleland Decides Test **Case Against Portland** Liquor Dealers.

STATE STATUTE GOVERNS

City Charter Is Subordinate_District Attorney Will Clamp Lid Down Tighter-Clubs Must Not

Sell Any Liquor Today.

District Attorney Manning's Interpreta-tion of the state Sunday closing law was upheld yesterday by Presiding Judge Cleland of the Circuit Court. C. S. Stephens, in whose case a test of the law was made, was found guilty of violating the law last Sunday, the court holding that the state and not the circ holding that the state and not the city had jurisdiction in the matter. As Judge Cichand based his decision on similar cases in which the Supreme Court had ruled in favor of the state, it is believed an appeal will not be taken. After the decision was announced

District Attorney Manning announced that the lld would be clamped down tighter than ever today. The same orders to the police which governed the closing of the saloons hast Sunday will be in force today, but the bluewill be in lorce today, but the blue-coats have received further instruc-tions to see that no liquor is sold or given away at any of the private clubs. Orders have been given to keep a strict watch, not only upon all the as-loons and clubs, but on the drugstores. Any druggist who sells liquor will be promptly arrested promptly arrested.

promptly arrested. "I am going to see that the Sunday-closing law is rigidly enforced," said Mr. Manning jast night. "While I am well phased with Judge Cleiand's de-cision. I was confident all of the time there was no question about my stand on the matter. Judge Cleiand's de-rision was strictly in accordance with the law, and it should put an end to any further question about the matter.

Will Watch Druggists, Too.

full amount of the license charged. It is well understood that the practice of the city and county officials has been to recognize the right of the city to the license money. There is nothing in the law to justify this course of of-ficial behavior unless it be found in the language quoted from article 4. section 7.3, subdivision 33, that upon which the defendant rests his conten-tion. The court believes this clause was inserted for the purpose of secur-ing to the city the revenue to be de-rived from the liquor traffe and should be so construed. In several of the The police will watch the saloons, drugstores tomorrow, and cubs and drugstores tomorrow, and when they find a man selling or giving away liquor over a bar, or salling it over a drugstore counter, arrests will follow. There are to be no halfway measures; all places must remain closed."

There was a rumor that the saldons would remain open and serve soft drinks only, but whether this will be tried is not known. Mr. Manning has said that all saloons must be closed, and it is more than likely that should and it is more than likely that should any of the saloonkeepers open their places, even for the purpose of selling soft drinks, they will be arreated. The orders to keep the club bars closed will come as a shock to the club mem-bers, who have been boasting that it would not be necessary for them to go "dry." Last Sunday some of the club hars were open and drinks were served. This was because it was not belleved that Mr. Manning's closing orbelieved that Mr. Manning's closing or-der included clubs. There will be no doubt today. Through Mr. Manning, all the clubs were notified that if they sold liquor they would be violating the law, and they were told to "go dry" todar" since

today the decision "rendered in the By the similar demurrers filed by the four other saloonkeepers arrested last Sunday are also overruled. Following is the text of the decision:

Text of the Decision. Defendant (Stephens) is charged

tion 72, in terms repeals the state laws mentioned including Section 1974. Such a position could not be maintained, because none of the laws are mentioned or de-scribed. Counsel does urge that they are repealed by implication. "It is a rule of construction that stat-utes not expressly remealing others are nomsh County shall apply to the sale or disposition of the same in the City of Portland." This is not a new provision. The last "This is not a new provision. The hast charter (1895), after providing that no license should be granted by the City of Portland for a less sum than that fixed by the general laws of the state, con-cludes the subdivision in these words: "Nor shall any provision of the law concerning the sale or disposition of any spirituous, vinous or malt liquors in Mult-nomah County apply to the sale or dis-position of the same in the City of Port-land." utes not expressly repealing others are if possible to be so construed as to suf-fer both to stand. The contruction al-

Not a New Provision.

"The license law of 1854, in force in 1882, refers to a grocery license, and the Sunday law, by its terms, under

How License Law Reads.

of some exception or limitation in the several constents covering the subject the city during all the time mentioned would have been deprived of the reve-nue derived from the liquor traffic, at least to the amount of the annual state license which would have been collected by Multnomah County. "It appears there was necessity for the use of language that would leave the city free to collect and retain the full amount of the license charged. It is well understood that the practice of

1993 contains this clause:

ortland.

ready gives permits both statutes to be in force and each to accomplish as im-portant part in the scheme of govern-ment. No necessary connection exists be-tween a statute creating a city govern-ment and the repeal of the Sunday law or the law forbidding the sale of liquor to minare "The charters of 1893, 1891, 1889, in this to minors the charters of 1882, 1891, 1888, in this respect are substantially the same. The charter of 1882 is not; it reads (Laws 1882, page 151): 'Provided that no law or part thereof authorizing any tribunal or offi-cer of Multhomiah County to grant tavern or grocery licenses shall apply to per-gens yending liquor within the City of Portland.'

Precedent Is Adhered To.

"The court adopts the construction that has obtained for almost a score of years and rojects the one suggested. Further, these statutes are criminal laws. The Supreme Court of Oregon in Baxter vs. State, 88, Pácific 678, uses the language: "Section 1228, B. & C. Comp. defines a crime and it includes both felonies and misdemeanors and any offense either fellony or misdemeanor defined and made punishable by general statute, is one to which the municipal charters are sub-

ject. The court is of the opinion the Stat-The court is of the opinion the Stat-ute Section 1974 (Sunday Law) is valid, and has not been repealed or suspended by the charter either in express terms or by implication. Let the demurrer be

MILWAUKIE FEARS RIOTING

Closing of Portland Saloons Sends Rough Element to Open Town.

1882. refers to a grocery license, and the Sunday law, by its terms, under certain circumstances, does not apply to tavern keepers. This may explain why the officer of Multhomah County is designated as one who grants tav-ern or grocery licenses. In 1889 an-other license law was enacted, and the act of 1854 was repealed. Since that date no reference has been made to grocery or tavern licenses in any char-ter of Portland. The license law of 1854, by its terms, applied to all portlons of the state, including cities and incorporat-ed towns. It was in force when the charter of 1882 was enacted. In the absence of a saving clause in the obstate exempting the city from the operation of the laws, Portland would, under the charter of 1882, have been obliged to supervise the liquor busi-ness and bear other municipal re-sponsibility on its account, without de-riving any revenue from the traffic. This explains the presence of the clause quoted from the charter of 1882. How License Law Reads. The people of Milwaukie have been looking forward today with apprehension and what it may bring because of the closing of Portland's saloons on Sunday. Last Sunday gave them a forecast of what they may expect today and henceforth. When the supply of beer was exhausted a load was brought from Sellwood and it was 10 o'clock at night before the crowds and it from Portland began to start for home, and then only when ordered out of town by the Marshal and his Deputy. The "The state license law from 1891 to "Provided that the provisions of this acl shall not apply to any city or town within this state now incorpor-ated. The city of Portland was in-corporated three times after 1891, viz. in 1895, 1895 and 1902. In the absence of some exception or limitation in the several quarters covering the subject

bartenders at the two saloons could not hand out the beer fast enough after the saloon doors were opened at noon. A much larger crowd is expected in Milwaukie today than last Sunday, and many of the citizens fear the rough ele-ment will congregate. While no move-ment was made during the week to close the Milwardth a close the Milwaukle saloons on Sunday there is an impression that it will have to be done for self-protection. Milwaukle is a quiet country town, with only a town Marshal and deputy to enforce the law. It is feared that two officers can do little toward keeping order when from 1900 to 1500 men go there from Portland and drink without restraint.

MONEY VALUE OF ROSES

Proposition That Perfume Be Made From Oregon's Flowers.

FORTLAND, June 22 .--- (To the Ed-itor.) -- The unspeakable pleasure I en-joyed by witnessing the Rose Show dis-How shall we les? The tons play made me reflect: part with these beauties? The tons of roses displayed in a few hours will be thrown away as rubbiah. But, it seems to me that in this utilitarian age. seems to me that in this utilitarian age, we ought to be able to save the per-fume of roses. We also live in a prac-tical age, and whenever intelligent people take notice, they quickly con-vert nature's products to the use of man, which then takes on a commercial value. What is waste today is value tomorrow.

rived from the liquor traffic and should be so construed. In several of the charters the clause appears in connec-tion with another forbidding the city granting a license for a less fee than that fixed by the state laws. This implies at least that the relation of cluy and county to the license matter was under consideration. "If the words quoted do in fact re-peal or suspend the state law con-tained in section 1974, it is effectual to repeal or suspend all other state laws concerning the sale of liquor within the city limits, not only those enacted before 1952, but those passed since. tomorrow. The rose contains the most favorite perfume of the world, generally, civ-ilized and uncivilized; its petals yield what is called the essence of roses. The

Law Criminal in Nature. "Selling liquor to minors is de-nounced as a crime in section 1977, and is the act of 1884, amended in 1837, selling liquor to an intoxicated person is guade unlawful and a penalty pre-scribed by section 1975, and is the act of 1876. Selling liquor to women under 11 years of age is made a crime by laws of 1905. The laws of 1907 pro-vide no license shall issue to one here-tofore convicted of solling liquor to a minor. "Attention here the section 1976 and the section 19

M. L. KEIZUR BELIEVES HE HAS SOLVED THE FENDER PROBLEM

LIFE-NET FENDER NOW ON EXHIBITION. A carfender has been invented by M. L. Keigur, which he believes has solved the problem. He has attached it to a car in the Washington-street barn, where it is on exhibition. This is known as the "life-

net fender" because of the rope net which is said by the inventor to "bunt" a body without injury, "gradually checking the force of the blow and preventing cutting, bruising and disfiguring, as well as broken bones." It is also claimed that the fender in question does not interfere with the use of the switch

In addition to the fender proper, which projects some two feet in front of the car, a wheel guard is pro-

vided, which, upon striking an obstruction drops automatically to the track level. Mr. Keizur states he will next attempt to solve the trolley problem.





with the crime of selling intoxicating liquora on Sunday in the City of Port-land. A demurrer to the information which is drawn under section 1974, Code, raises the question to be decided. "It is claimed the present charter of

the City of Pertiand so provides for the government of the sale of liquor that the state laws relating thereto are repealed, or suspended, in their opera-tion within the city. The first posi-tion assumed by defendant is that the grant of power to 'regulate and re-strain' is so broad and comprehensive in its terms that the state in necessar-ily excluded from exercising any con-

ily excluded from exercising any con-trol over this particular business in the city. The particular portion of the Charter relied upon to support this contention is article IV, section 73, and especially subdivision 48 thereof. "Decisions of the Supreme Court of several states were cited by defend-ant's counsel, particularly those of Missouri, Illinois and New Jersey. These need not be discussed because, in the opinion of the court, the Su-preme Court of Oregon has held con-trary to the contention of the defend-ant. Faimer vs, State of Oregon, 2 trary to the concention of the detends ant. Palmer vs. State of Oregon, 1 Oregon, 66. This was a prosecution under the same Sunday law, and a con-viction was sustained, notwithstanding the fact that the charter of Salem gave acil exclusive power to license

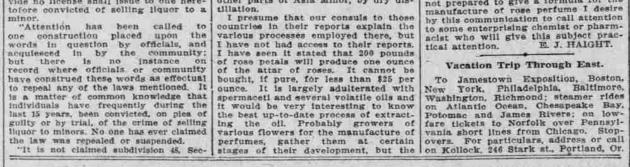
State of Oregon vs. Horton, 51 Oregon, \$2. This was a prosecution for selling liquor to minors. Defendant was convicted, but the Circuit Court declined to declare his license forfeited, and the state appealed. Judge Bean delivered the opinion of the court, in which occurs this language:

Power Can Be Delegated.

"The granting of such licenses may be regulated by a general law, or it is competent for the Legislature to delecompetent for the Legislature to the ex-clusive power to grant licenses for the sale of intoxicating liquors within their limits. But such licenses, when issued under the general law, or by issued under the general law, of by the municipal corporation, are sub-ject to be forfeited for any of the causes prescribed by the Legislature, unless it is otherwise clearly provided in the municipal charter or by some statute of the state. They have nei-ther the qualities of a contract, nor of property, but are mere tem-porary permits to do what other-wise would be an offense against either sceneral law or some municipal wise would be an offense against either a general law or some municipal ordinance. They are issed in exercise of the police power of the state, and are subject to the control of the Legislature, which may by appropriate legislation modify, revoke or continue them, as it may deem proper. "The case is an instructive one, and an

"The language relied upon appears in section 72, subdivision 68, and is so follows:

No provision of the law concerning sale or disposition of any spirituous, sinous, fermented or mait liquors in Mult-



WORK OF DANISH EDISON

The first telegraphone ever sent to the Pacific Coast is on exhibition in The Oregonian building. The invention is spoker of as the eighth wonder of the world and its inventor says it will do away with letter writing, stenography, printing of books and music and 1000 other things. It is the invention of Valdemar Poulsen, of Copenhagen, the man who is known as the Danish Edison.

The machine is simple in construction and is attached to the wall or a desk similar to the regular telephone, with which it is connected. A message may be sent to another point, where there is a similar machine, without a person being present to take the communication. If there is no person at home at the time, the mere touching of a button de-livers the measure through the receiver an hour or a month, or 50 years later. The message can be repeated at will thousands of times.

Records Every Sound.

In fact, everything that is spoken over a telephone with this wonderful attaca-ment is faithfully recorded. This feature will prove the machine a capable detec-tive, and those talking over the telephone will have to run the risk of having any-body who pleases sit down and hear what was said reveated.

was said repeated. One phase of the new phone makes all past conversations public to the person possessing the machine through which the mossages were transmitted. There is no such thing as privacy, un-less the attachment is locked up in a safe or demolished with an ar. Should the machine be used the world over, as there is every indica-tion it will be, it means that teachers, stenographers and numerous other em-

stenographers and numerous other em-ployes will become unnecessary to those using the machine. to

cords what is spoken into the trans-mitter, and a 3-cent stamp carries it to Europe, if necessary, where the speak-er's voice is heard by placing it in another machina

Another phase is the recording of rid conversations heard in a room where the machine has been set running. It may mean the breaking up of homes, hearing sermons without going to Sur

Telegraphone Puts Witchcraft Out of the Running. Used in the ordinary machine, will record messages for hours. The same wire is used over and over again. Machines are made so that conversa-tions can be recorded for 24 hours at a stretch, many miles of steel wire being used.

The instrument is being put on the market by the American Telegraphone Company. Frank O'Relliy is coast manager of the concern. Louis Living-stone and H. P. O'Reilly are agents in Portland with offices at 403 Oregonian

Mr. Livingstone asserted yesterday that Governor Charmberlain had or-dered instruments for the state build-ing, that the big rallroads had all placed orders for them, and that a cor-respondence school had ordered 10,000 for use in educational work.

REPAIRS TO POSTOFFICE Plans Come From Washington and

Bids Will Be Called.

Plans and specifications for enlarging the floor space of the Portland postoffice were received from Washington yesterday by Postmaster Minto, Bids on the work will be advertised for immediately in order that it may be finished during the Summer it may be finished during the Summer monthe, while the mail is not heavy. There will be a new stamp office on the Yamhili street side to the right of the door going out. There will be a second superintendent's window in the main hall. Mr. Minto's private office will be made smaller in order to leave more space for the reception office. The registry division will be extended and made 14x18 feet larger over the west floor of the lobby. Numerous minor changes will be made on the lower floor in order to use every par-ticle of space available. The changes have been contemplat-

The charges have been contemplat-ed for a long time, but it is only re-cently that the Treasury Department approved the plans. The cost will be in the neighborhood of \$5000.

H. W. Goode's Will Is Void.

H. W. Goode's will is void. H. W. Goode, late president of the Portland Railway, Light & Power Com-pany, left a will which, in the eyes of the law, is void. By failing to men-tion his children in the document his last testament bequeating to his widow an estate valued at \$210,000 is valueless. The will was filed for pro-bate yesterday and the petition re-questing that Samuel G. Reed be sp-pointed administrator sets forth the illegality of Goode's will.

CABD OF THANKS.

CARD OF TRANKS. The undersigned wishes to express her sincere thanks for the unfailing kindness, and many acts of benevelence and courtesy shown to her late husband. Benjamin P. Thompson, the blind post-man, and herself during his four years of affiltion, and at the time of his final ill-ness and death. The G. A. R., the Woodmen of the World, and leiter-car-riers were ever thoughtful of their af-flicted brother, and his family, and their prompt generosity and sympathy with that of the public, and triends and field bors will ever be gratefully remembered. Sincersiy, ALBERTA THOMFSON.

President of the State Board of

Health Suggests Source of Reform.

To the Public: Even as all great reorms have sprung from the will of the people, so must the reform regarding pure foods; legislation can do little if not backed up by interest and co-oper-ation of the masses. We are fortunate to have a Federal

law that compels the inspection of meats, but worthy as this law is, its meats, but worthy as this law is, its efficiency in accomplishing its purpose depends almost wholly on the firm stand of the women who buy the meat, all too many of whom order with careless indifference as to whether or

In fact, the very women, in many cases, who would work with the most heroic determination for the passage of protective laws fall when it comes to the day-by-day care required to see

to the day-by-day care required to see that only safe meats come onto their own tables. If every housekeeper in the Northwest would positively forbid the deliverance at har door of meat not Government-inspacted, and go into her own kitchen each day and examine the meat, acquainting herself with pure meat qualities, she would do more for the health of her family and the general good of the community than can be done by the advice, admonition and appeal of press and health offi-cers. It is in the hands of the women cers. It is in the hands of the women --how will they treat their responsi-bility? E. B. FICKEL, M. D. President State Board of Health.

Price of Our National Pride.

(New York Mail.) Twenty-five cents is the price of our National pride. It costs that sum to in-sult the uniform of the United States in Connecticut, according to the law as laid down by a Newport, R. L. judge A chief petty officer of our Navy was refused admission to a dance hall, not because he was intoxicated, noisy, dis-orderiv or objectionable in any way, but

orderly or objectionable in any way, but because he wore his country's uniform. President Rocsevelt and Naval officers of high rank decided that it was time to of high rank decided that it was time to make a test case. This has resulted in a decision awarding to Yeoman Busnale the price of the ticket he had purchased. With due respect for the court, we re-cord our contempt for the law. The case should be appealed until, if necessary, the United States Supreme Court apeaks the final word concerning the right of any individual to insult and humiliate a decent, sober, well-behaved American satior because of his service. And if that right exists Congress should loss no time in annulling it.

that right exists Congress should lose no time in annulling it. The country needs the best type of young Americans for collistment if the efficiency of our Navy is to be main-tained. A lowering of the personnel would be the inevitable consequence of allowing the impression to prevail that the uniform is a badge of degradation and not of honor.

"Can you look me in the face, and deny that you married , me for my money?" "Nope: I might deny it, but I can't

be gratefully remembered ALBERTA THOMPSON. look you in the face and deny it.

Two Varieties of Machine. There are two varieties of the ma-chine. One is the wire and the other the disc apparatus. The first will be used for short or long-distance tele-phoning. The disc machine also re-

was said repeated.

First of Marvelous New Inventions Brought to Portland-Combination of Telephone and Phonograph Works Wonders.