

213

The Daily Astorian

EXCLUSIVE TELEGRAPHIC PRESS REPORT.

VOL. XL. NO. 80.

ASTORIA, OREGON, TUESDAY MORNING, APRIL 4, 1893.

PRICE, FIVE CENTS.

AT COST EVERYTHING AT COST
at **HERMAN WISE'S**,
The Reliable Clothier and Hatter,

THE ASSIGNEE'S SALE

Parker & Hanson's

Will be continued for a few days until further notice. Everything

MUST BE CLOSED OUT

PRICES - WILL - BE - CUT

To Suit the Condition and the times.

W. W. PARKER, Assignee.

DON'T DELAY! DON'T DELAY!

The Dinsmore Bankrupt Store

Will be open for only a short time longer. This is your last chance to buy at your own price. Everything must be sold.

Look at Our Prices. They Will Surprise You

40-inch all wool Black Cashmere worth \$1.00	50c per yard
40 inch Black Henrietta " \$1.00	55c per yard
40-inch all wool Black Serge " \$1.10	60c per yard
54-inch Ladies Cloth " \$1.25	90c per yard
Black Gros Grain Silk " \$1.75	90c per yard
" " " " " \$2.25	\$1.15 per yard

The Cyclone in Clothing Still Continues

Our \$6.00, \$7.50, \$9.50 and \$9.00 Men's Suits for.....\$5.00
 Our \$9.50, \$10.50, \$11.50 and \$12.50 Men's Suits for.....\$7.50
 Our \$13.50, \$16.00 \$17.00 and \$20.00 Men's Suits for.....\$10.00
 Best quality overalls worth 75c.....50c
 Shoes and rubber goods at half price.
 A \$300 Cash Register for sale cheap.

Fixtures For Sale.

Store For Rent

A PLAIN DUTY.

Pass the Gambling Ordinance.

OPINIONS OF EMINENT LAWYERS

They Maintain That There Is No Illegality Whatever in the Matter.

This Is a Measure That Is an Immediate Necessity for Astoria's Welfare.

Prominent Citizens Who Look for Support on the Question of the Hour.

It is probable that the gambling ordinance will be introduced at tonight's meeting of the city council, and wishing to give the people a few facts, The Astorian has decided to give particular prominence to some of the arguments brought forward in support of its stand.

The Astorian is in receipt of the following communication from Judge Raleigh Stott, of Portland:

JUDGE STOTT'S OPINION.
Office of Stott, Boise & Stott, attorneys at law.

Portland, Oregon, March 21st, 1893.

To the Editor of The Astorian:

Dear Sir:—I have considered the question you propounded in regard to the new city charter of Astoria empowering the city to license gambling. From your letter I understand that the new charter expressly grants the power to the city council to license gambling. If that is so and the city has the express power granted it in plain terms, an ordinance licensing gambling may be legally passed and enforced, in my opinion. Such a provision, giving the city council the authority, in express terms, would operate to repeal by implication the general law against gambling within the limits of your city.

In some states it has been held that the words "regulate" and "restrain" in a city charter imply the power to license; but this is denied in many other states, and the rule laid down is that the right to license must be plainly conferred or it will not be held to exist. This rule is sustained by the greater weight of authority and is, in my judgment, based on sound reason. The courts of the different states are united in further holding that a charter or special act passed subsequent to the general law and plainly irreconcilable with it will, to the extent of the conflict, operate to repeal the latter by implication.

Without having a copy of the provision of your new city charter before me, I can only say that if the power to license gambling is allowed by express terms in your charter, the council may pass and enforce an ordinance to that effect. Respectfully yours,
RALEIGH STOTT.

FROM DISTRICT ATTORNEY HUME.

Office of District Attorney, 4th Judicial District, W. T. Hume, District Attorney.

Portland, Or., March 31, 1893.

To the Editor of The Astorian.

Dear Sir:—In response to your request asking us to furnish you an opinion upon the legality of the new Astoria city charter, or that portion of it which permits and authorizes the city council to pass an ordinance licensing or recognizing gambling.

I will say that I have examined the proposition with considerable care and find that it is within the power of the legislature by special act to pass subsequent to a general law, to repeal the general law so far as it relates to the particular municipality.

That if the legislature has by specific enactment conferred to the City of Astoria the right to license, control or regulate gambling, this would by implication repeal the general law relating to gambling so far as it relates to said city, and an ordinance passed under and by virtue of a city charter as above described would be valid and enforceable, any persons carrying on gambling within your city by virtue of such license would not be liable to prosecution under the general law. In support of this proposition we cite: First, Dillon Municipal Corporations, third edition, Sec-

tions 87, 88 and 89, American and English Encyclopedia of Law Volume 15 page 974. See also Patrick D. Palmer vs. State of Oregon, 2 Oregon Reports, page 66. The great weight of authority while not unanimous in the several states, supports the proposition above set forth, and much as it may appear to be contrary and against public morality, and the general prevailing religious views, it nevertheless appears to be the law, and such is our opinion. Respectfully submitted,
W. T. HUME,
JOHN H. HALL.

SOME OF OUR SUPPORTERS.

- C. P. Upshur.
- William B. Adair.
- G. C. Fulton.
- George H. George.
- Dr. Jay Tuttle.
- Hon. C. W. Fulton.
- Ex-Mayor John W. Hume.
- Thomas G. Trullinger.
- Dr. H. W. Strickler.
- Judge F. J. Taylor.
- Dr. H. M. Walker.
- Grant Trullinger.
- J. Ferguson.
- Dr. H. I. Smith.
- W. L. Uhlenhart.
- E. H. Hawes.
- Dr. J. A. Fulton.
- Rev. F. Carlson.
- J. E. Wyatt.
- James Laws.
- J. H. Mansell.
- H. G. Van Dusen.
- Dr. A. L. Fulton.
- Theodore Bracker.
- Philip A. Stokes.
- Captain B. F. Packard.
- F. C. Reed.
- James Stokes.
- H. G. Mallett.
- Hon. John Fox.

TERMS OF THE ORDINANCE.

The City of Astoria does ordain as follows:

SECTION 1. That no person or persons shall, either directly or indirectly, in person, or by another, set up, maintain, keep, or carry on, any gaming or gambling house, within the City of Astoria, Clatsop County, Oregon, except as in this ordinance provided, and any person who shall set up, maintain, keep or carry on any gaming, or gambling house in violation of the provisions of this ordinance, shall upon conviction thereof, where no other punishment is provided, be fined, in any sum not less than one hundred dollars, nor more than three hundred dollars, or by imprisonment in the city jail not exceeding one hundred days, or both such fine and imprisonment, in the discretion of the auditor and police judge.

It is hereby made the duty of the chief of police, and of each police officer of the city, to see that this ordinance is strictly enforced, and to make complaint to the city attorney of each and every violation of any of the provisions of this ordinance, and of the city attorney to prosecute all persons violating the same.

SECTION 2. Before any gaming, or gambling house shall be set up, maintained, or kept, or carried on within this city, the person, or persons desirous of setting up, maintaining, keeping, or carrying on the same shall apply for, and take out a license therefor, which license shall be in the name of the person applying therefor, shall designate the place, or houses where gambling may be carried on, and shall not be transferable. Before a license shall issue under this ordinance, the applicant shall petition the common council in the manner provided in section 3 hereof, and shall also present to the common council with said petition, a bond in the penal sum of five hundred dollars, with two or more sufficient sureties payable to the city of Astoria, conditional that he or they will well in all things comply with the provisions of this ordinance, during the period of one year from the date of the beginning of said license. Attached to said bond shall be an affidavit of the sureties to the effect that they are freeholders in the City of Astoria, and are in the aggregate worth one thousand dollars, over and above all their just debts and liabilities, and property exempt from execution.

SECTION 3. The petition of the applicant for a license shall state: First, the name of the applicant. Second, whether such applicant has before held, or whether he then holds a license, and if so, at what time such license expired or expires, and the kind of license.

Third, At what date such applicant desires such license to begin, and expire, and the place where such gaming, or gambling house is to be carried on. Said petition shall be verified by the applicant, or if more than one, by at least one of such applicants, stating that such petition is true.

SECTION 4. The receipt of the treasurer shall be given to the applicant for the amount paid into the city treasury by him, and shall state that the amount paid by him is paid for a license for a gaming or gambling house, to be refunded in case the common council shall refuse to grant the petition of the applicant, otherwise upon issuing the license, to go into the police fund of the city. Upon the granting of the said petition by the common council, the mayor shall examine the bond of the applicant, and approve it if it is in compliance with the provisions of this ordinance therefor, otherwise to disapprove it.

SECTION 5. Upon a full compliance with the requirements of this ordinance by the petitioner, the granting of the said license by the common council and the approval of the applicant's bond by the mayor, the auditor and police judge shall issue to the applicant a license to carry on a gaming or gambling house for one or more years from a date to be specified in said license. Said license shall be numbered, and shall be for not less than one year.

LAST CHAPTER OF THE TRAGEDY

The Funeral of Miss Effe Clark at Evanston.

HER LOVE'S LAST LETTER

He Is Crased With Grief at the Loss of Her Love—Testimony of His Former Room Mate.

Associated Press.
Chicago, April 3.—In the Northwestern University chapel at Evanston, this afternoon, the funeral service was held over the remains of Miss Effe Clark, of Spokane, Wash., who was murdered Saturday night. The services began at 2 p. m. President Henry Wade Rogers, officiated. This forenoon the casket was placed in the chapel and covered with floral offerings sent in by young girls, and friends. Many friends of the deceased availed themselves of the opportunity to see the dead girl, before the funeral services were held. At one o'clock the body was taken to the chapel. Following the horse rode the pall bearers and representatives of the Woman's Club of the University. The chapel was crowded with students and towns people, and outside the grounds contained crowds of curiosity seekers whom the dramatic tragedy attracted. Miss Clarke's body was brought to Chicago, accompanied by a short procession of friends and pall bearers, and the casket was transferred to the Union Pacific station and sent westward this evening.

An inquest on the body of Ross Smith was held at Evanston this afternoon. Among the personal effects found on him was the following letter to his mother:

"I am nearly mad with suffering and I hardly know what I am doing. I am barely able to move about today. My sorrow is more than I can stand. I have asked help from Him on high, but as usual, I got the opposite of that, for for which I prayed. The only hope I have of recovering comfort is to get such control of my emotions that I can keep thoughts from entering my mind. As the hours go by and days pass, I feel that I am growing weaker under the awful strain. I wrote in my last letter, that Mr. Clark had only succeeded in separating Effe and me for a matter of time, and that I still have her affection, but now that is gone; the natural result from the position in which Mr. Clark's actions and demands have placed us. I went out to see her this week for the first time since she received her father's cruel letter, and she told me she could no longer give me affection and that she had been with me during the last five years. I asked her why her love had been withdrawn, and she said: 'Father told me I must give you up, and I can love you no more. I must do his will.' Oh, God! I am thankful my sorrow at this time came but once in a lifetime. I feel that the climax of my life is reached and my doom is close. How sweet would have been my sorrow if I had only followed her to the grave."
J. D. Wood, Smith's room mate, testified:

"I noticed that he had been nervous and excited for some time. Saturday morning his condition was worse. He seemed unable to keep his mind on any one thing and would take up a paper or book for a moment and then throw it down. He spoke of his affection for Miss Clark and the sorrow which had come to him on that account. Almost all Saturday morning he spent holding his head in his hands and weeping. He had her letter telling him of Mr. Clark's decision, and other letters from Miss Clark. During the morning he threw them all into the furnace. While they were burning and for an hour afterward, Smith stood weeping in front of the furnace."

LOOKING FOR SMUGGLERS.

San Francisco, Cal., April 3.—The revenue cutter Corwin, is cruising around Bolinas bay in hope of capturing a smuggling sloop rumored to have been seen in that vicinity lately. A short while ago, smugglers in Victoria, are said to have sent a vessel out with several hundred pounds of opium aboard to be landed, as it is supposed, in Puget sound. The vessel is believed to have made a dart for California with the intention of running her cargo in at some of the bays or shelters north of San Francisco.

TERRIBLE RAILROAD ACCIDENT.

Edwardsville, Ill., April 3.—A terrible railroad accident occurred at 6:15 tonight on the Jacksonville Southern railroad near Glen Vernon. The local freight going south and the passenger accommodation train going north, collided, completely wrecking the freight train. Both engines and one passenger car were wrecked, four men killed and a number of others seriously injured. The killed are: Cal Ashbaugh, engineer,

Jim Handley, fireman; Hugh Wood, fireman; Scotty Welsh, miner. Among the seriously injured are: J. H. Vanderwerter, baggage man; Walter M. Curran, engineer; Tom McKeenan, miner; and many others injured slightly. The accident is attributed to negligence on the part of the local train men.

NO HERO AFTER ALL.

George E. Richardson Arrested for Taking up the Rail.

Portland, Or., April 3.—George E. Richardson who dramatically flagged the Southern Pacific passenger train near Drain, last Friday morning, and informed the conductor that the track had been torn up, was arrested and placed in the county jail at 8:30 tonight, on a warrant charging him with having attempted to wreck the train. The first intimation that Richardson was suspected of being a wrecker came in a dispatch yesterday from Sheriff Noland of Lane county to Sheriff Kelly of Multnomah county. This afternoon Sheriff Noland came to this city and proceeding to the hospital where Richardson was confined, placed him under arrest. Noland says he has secured evidence sufficient to justify the arrest. A deputy sheriff has been in the hospital watching Richardson since yesterday. When seen at the jail tonight Richardson denied that he removed the rail from the track. His injuries are merely superficial and he is not suffering.

In October, 1892, Richardson flagged a Union Pacific train between Baker City and Pendleton when it was about to run into a bowlder on the track. He received \$3 reward from the passengers. The company, however, suspected that he rolled the bowlder on to the track, but they had no conclusive evidence. Before Richardson was taken from the hospital tonight Superintendent Fields of the Southern Pacific and Superintendent Minister of the Pinkerton's Detective Agency had an interview with him. They endeavored to secure a confession from him and were partly successful. He admitted that he rolled the bowlder on the Union Pacific track, but answered evasively when asked if he removed the rail from the Southern Pacific track. He will be taken to Eugene tomorrow.

MAY NOT TURN OUT A HERO.

Portland, Or., April 3.—The latest developments in the attempted train wreck on the Southern Pacific near Roseburg, indicate that Richardson is not so badly hurt as at first reported. Detectives are now at the scene of the attempted wreck, working on the theory that Richardson and other parties planned the affair for the purpose of receiving a large reward from the Southern Pacific. It is expected that arrests will be made soon.

A FATAL FIRE.

Two Men Jump From a Hotel Window and are Killed.
Point Arena, Cal., April 3.—A fire broke out in the Grand hotel early this morning and spread rapidly to other buildings in town. About a dozen structures, comprising most of the business portion of the town were destroyed. Graves and another man jumped from the hotel window and received injuries from which they died in a short time. There were a number of narrow escapes from death. The fire was caused by upsetting a lamp in the bedroom of the hotel.

AFTER THE ROSLYN ROBBERS.

Baker City, Or., April 3.—There was a ripple of excitement in the city this afternoon occasioned by the arrival of Deputy Sheriff Banks, and Detectives Francis and Farley of Washington. They were after Tom, George, and William McCarty, suspected of being the Roslyn Bank robbers.

The Washington officers called to their assistance Sheriff Condee and Deputies Francis and Kenneyson who started for Haines, twelve miles from this city, where William McCarty and family reside. Upon knocking at the door, the sheriff was covered with a Winchester in the hands of William, and the Sheriff was relieved of his rifle. The men then escaped. Deputies Kenneyson and Farley found George McCarty and experienced no trouble in effecting his arrest and conveyed him to the city. The Washington officers are of the opinion that Tom McCarty is the individual who robbed the Denver bank of \$21,000 about two years ago. A posse is in hot pursuit of William and Tom and their capture is probable.

A TRUCE AT ANTLERS.

Washington, April 3.—Secretary Hoke Smith received the following letter today from Agent Bennett at Waggoner, I. T., relative to the threatened Choctaw trouble:

"A temporary truce was arranged yesterday. The armed forces are disbanding but the situation is yet serious and seemingly uncompromisable under the present Choctaw government. Pending your consideration and action all hostilities cease."

The war department telegraphed Gen. Miles, commanding the department of the Missouri, to send officers to Antlers, the scene of the trouble, and investigate.

Continued on Third Page.