

this act prohibiting gaming. Now, if any police officer or other officer, no difference who he is, has any reasonable cause to believe that any person has committed an offense against this law prohibiting gaming, and he does not diligently inquire into it, he is guilty of a violation of the law, and is guilty of a misdemeanor. If any policeman goes into a gambling house and sees men gambling there, and he does not have it investigated and prosecute them, or do the best he can toward that end, he is guilty of a misdemeanor; he is a criminal, and he ought to be punished more severely, really, than some men who may be inveigled into the gambling house and commence to gamble. Public officers who knowingly violate the law should be rigidly dealt with and punished, no difference who they are.

Mr. Bradley—Subordinate as well as superior officers?

The Court—All of them, subordinate and superior. A superior officer has no right to license subordinates to commit crime. Are there any further instructions you wish on this matter? (No response.)

There was a question asked this morning with respect to the evidence relating to forgery.

Mr. Devine—I would like to make one further remark on this, your honor. I don't know that you exactly understood me when I stated my position on it before, or the position of some of the jurors, rather; that is, as to the proprietor of a certain place. A witness will testify that he believes so, when any man listening to that witness knows that he knows so, or that he understands that Mr. So-and-So is the proprietor, he knows him to be the reputed proprietor. Now, whether that is material evidence, without that witness positively testifying that he knows it to be the case. As one witness whom we had before stated that he didn't know anything—he didn't know anything except as he saw it; he didn't know that Mr. Auerbach kept this store of Auerbach Brothers, and similar cases of the kind. Of course we don't know those things, any of us. Now, as to the reputed proprietor of a place, is that evidence sufficient to convict a certain man as the proprietor of a certain place is the point that I would be pleased to have the jury thoroughly understand.

The Court—The question is as to whether you have a right to receive evidence of general reputation as to who keeps the house?

Mr. Devine—Yes, sir.

The Court—Who conducts the business. As I stated before, while general reputation is competent evidence where a person is indicted for keeping a house of ill-fame, or keeping a disorderly house, under this statute in reference to gambling I do not suppose general reputation would be competent evidence. You have a right, as I stated before, to elicit from the witness the facts from which he infers that the man conducts the gambling house, not to allow him to draw inferences; but you should inquire of him as to the facts, why he thinks so, and if the facts upon which he bases his opinion is competent evidence to go before you, why then you have a right to form your opinion upon it. You have a right to scrutinize the evidence of

witnesses carefully, and to cross-examine them, and re-examine, if you think they are unwilling witnesses, and are endeavoring to conceal and evade what they do know. It is your duty to examine them carefully.

With respect to the evidence as to forgery, I understand that the difficulty you had was as to whether the testimony of experts could be received.

Mr. Devine—That was the question.

The Court—If you have the handwriting of a man whose conduct you are investigating before you, which he admits to be his handwriting, you would have a right then to call in an expert and let him compare that with the handwriting in dispute and express his opinion; but you would not have a right merely to investigate and prove his handwriting from other paper than the one you have under consideration, merely for the purpose of letting an expert institute a comparison, to express his opinion as to whether it is the same or different. The general rule of evidence is, in a court, that when there is a paper already in evidence, written by the party whose handwriting is in dispute, or if there is a paper that he concedes and admits to be his handwriting, then an expert may compare that with the handwriting in dispute and express his opinion about it. That has been held by this court and others.

I will call your attention to another matter. It is reported that there is a theatre in this town where liquor is sold in the auditorium, or in the building, during the performance. The law makes that a misdemeanor, and it is your duty to investigate as to such disorderly places as that where the law is being violated.

I will state further to the grand jury that they will be very careful not to talk with persons outside. You have no right to go to lawyers who may be employed by parties, or in the interest of certain classes of criminals, and talk with them as to what the law is, or as to what your duty is, or with any person. You have no right to take the advice of law breakers or their attorneys on the outside. If you wish any advice at any time, take it from the district attorney, or ask the court.

Mr. Bradley—I did not quite understand your honor to answer the question which I asked, as to where the evidence showed that one of the co-owners of a building, rented for unlawful purposes—the evidence showed that he was really and truly an owner—that there was a number of co-owners who were not shown to be owners, but admitted to be—whether we could indict him alone upon that evidence?

The Court—If he was the owner of the building, or the owner of an interest in it, and if he rents his interest for the purpose of conducting any business that is unlawful, he could be indicted; or if they all consent to it, they could be indicted.

The grand jury had no further questions to put and retired to their room.

The report for the fiscal year ending June 30, in Mexico, shows a gain in export of merchandise of \$1,000,000 over the year previous. The exports were coffee, tobacco, fruits, silver ore and gold bullion.

CITY COUNCIL.

The regular weekly session of the City Council was held Tuesday, Oct. 20, Acting Mayor Pickard presiding. The members in attendance were Spafford, Heath, Folland, Pendleton, Smith, Hardy, Hyde, Tuddenham Young, Lynn, Parsons. Absent—James, Karlick and Anderson.

PETITIONS

were read and referred as specified below.

John P. Johnson presented a bill for \$50 alleged to be due him for certain property sold by him to the city. Committee on claims.

M. H. Walker and others asked that John Grattan be appointed to a position on the police force. Referred to the Mayor.

T. P. Murray represented that he had secured sufficient capital to construct a railroad from this city to the Nevada line, and asked that he be given a right of way through the city from east to west. Committee on streets.

The Salt Lake Street Railway Company asked that it be allowed to remove a certain wall on its premises, thirty feet south of its present location. Granted.

B. F. Whittemore asked that the old cobble street crossing between his premises and the Union Pacific depot be repaired. Committee on streets.

Christensen and Jensen asked for the cancellation of assessments on certain improvements on their property, which were not made until May of the present year. Laid on the table.

R. K. Thomas asked to be allowed to connect his premises with the sewer main. Committee on sewerage.

A. J. Bean asked to be allowed to lease the old silk factory. Committee on public grounds.

Johnston & Raymond asked the rebate of certain license money paid by him. Committee on license.

Frank Monroe petitioned the Council for the privilege of erecting a variety theatre, on Commercial street. Committee on license.

Frank H. Dyer and others, and T. S. Jones and 250 others asked that the "Wonderland" Theatre management be allowed to conduct Sunday concerts. Committee on license.

J. H. Bowman, who has the contract for the erection of the joint city and county building asked to be allowed to lay a switch from Eighth South street on Second East to the Eighth Ward Square, for the purpose of delivering material for the construction of the building. Granted.

Frank H. Dyer and others asked that Officer B. Randolph be appointed as third desk sergeant. Referred to the mayor.

The Salt Lake Equitable Co-op. asked permission to pile building material at the corner of First South street and Richard's avenue. Committee on streets.

Clara E. Kelly asked for the correction of assessment on certain personal property. Referred to the city attorney.

Simon Bamberger and others asked for an extension of watermain on Market street. Committee on waterworks.

Frank H. Dyer and others asked for the appointment of Henry Roberts as