

that the case referred to was a California decision. Our law on the granting of liquor licenses is entirely different from the law of California. I move that the petition be granted.

City Attorney Merritt (angrily)—I wish to inform Mr. Pembroke that I did not mislead anyone. The case cited was a recent decision by the Supreme Court of the United States, and not a California case. I was familiar with it and spoke understandingly.

Councilman Hall—I move that the matter be referred to the committee on license.

Before the motion could be put, Attorney W. H. Dickson rose and said: As attorney for the petitioners, I arise to demand that their application for liquor license be granted. If they are again refused, we wish the record to state specifically why so, that we can meet the objections in the courts, where the matter must necessarily go for settlement if the council persists in its refusal to grant the prayer of the petitioners.

Councilman Cohn—I think the subject has been fully discussed and should terminate now and here. It is useless to refer the matter back to the license committee; we have their opinion upon the matter now. They would report the same as heretofore.

Councilman Pembroke—I move that the matter be referred to the committee on license with instructions to report at once.

City Attorney Merritt—I think the matter should be settled immediately.

Councilman James—There is nothing to report; we have decided the matter, we cannot do more.

Judge Powers took the floor. He said: We, myself and Mr. Dickson, as attorneys for Perry & Company, wish to be plainly understood that we demand the issuance of this license. It is a cold question of law. Public sentiment cannot be considered. The law says the business that they wish to engage in is a legitimate pursuit. Our clients will contend for their rights.

The statutory requirements have in every way been complied with. Petitioner is more than twenty-one years of age. The bond is all right. The opinions of the councilmen on the question is as varied as their votes. The record of the council does not show that the license was refused. Of course it was refused, but arbitrarily.

The speaker then read a number of decisions bearing on the question at issue, and concluded by saying that "to place ourselves fairly and squarely in harmony with these decisions, we emphasize our demands for an issuance of the license."

Mr. Dickson followed Judge Powers and read several more decisions which he claimed were directly in point, and contended that the refusal to grant the license was arbitrary, tyrannical and illegal.

City Attorney Merritt—I contend that the council have the right to refuse any and all persons the right to conduct liquor houses that they choose. However, individually I

do not care a snap whether the license is issued or not, as I do not intend to patronize the place. As it is, I should like to see the matter go to the courts so as to ascertain just what power the council have in that direction.

Councilman Pembroke—It is not a matter of sentiment with me. In my opinion the city has no right to refuse this license. If the matter went to the courts it would cost the city a vast amount of money. Not many years ago \$60,000 was foolishly spent by the city in fighting a similar case. Are we going to make a repetition of that terrible blunder. I hope not. I again move that the license be granted.

Mr. Varian, upon invitation to speak, addressed the council in substance as follows: I admit the question is a vexed one, at the same time I do not think the council chamber is an arena for a legal discussion. The gentlemen made a serious mistake in bringing a library of law books to this place. The council had decided that the saloon and "Variety" theatre could not go hand in hand in this city, and rightly, too. If the council did not have the right to say who should and who should not be permitted to take out a license, they ought to have that right.

Councilman Pembroke—The money that we can collect for licensing such institutions is necessary to carry on certain proposed improvements and to help defray the city's expenses; if the money is not raised in that way another tax will have to be levied. The circumstances of the case require that the money be raised.

On a vote being taken to refer the matter back to the committee it resulted in a tie, and Mayor Scott decided the matter by casting a negative vote.

Councilman Hall—I don't know but what the gentlemen would like me to keep still, as it is growing late, but I will ask them to listen a moment. Mr. Perry is not a proper person to appear before this council, because he has violated an ordinance and defied this council. It doesn't comport with the dignity of this council to allow this man to appear here. He has violated the law and is already in the courts. The learned gentleman informs us that we didn't know what we were doing, and that the city attorney was wrong. I take it that we do understand what we are about. I am opposed to entertaining this petition because this person is an improper person to appear here. Let the courts decide upon the action we have already taken.

Councilman James—I am fully convinced that when we go into court we are going to beat them. I want some action taken now.

Councilman Pembroke moved to refer to the committee with a request to report at the next meeting. This was voted down, only Councilman Hall voting with the mover.

Councilman Pickard here moved to adjourn. The vote resulted in a tie, and the mayor voted against adjournment.

Councilman Parsons moved that

each man give his reason for voting against the license.

Councilman James didn't approve this. He thought the council should refuse to give the license and refuse to give any reason. The attorneys were able men, and could make a case without the assistance of the council.

City Attorney Merritt agreed with Mr. James.

Councilman Pembroke here moved that further consideration be deferred for one week, and Councilor Karriek seconded it.

This got the Council into another tangled discussion, and Mayor Scott finally decided that the ayes and noes should be called. This was done and resulted as follows:

Ayes—Pickard, Pembroke, Karriek, Lyun.

Noes—Parsons, Pendleton, Spafford, Anderson, Heath, Wolstenholm and James.

Another motion to adjourn was voted down, and at last the motion to grant E. J. Perry a license came up. The vote resulted as follows: Ayes—Anderson, Pickard, Pembroke, Noble, Cohn, Karriek, Lyun. Noes—Parsons, Pendleton, Spafford, Heath, Wolstenholm, Hall, James. There being another tie, the mayor was called upon and he again voted "No," and the motion was defeated.

Mayor Scott reported that he had appointed E. M. Yocum on the police force, in place of J. O. McNair, whose name was withdrawn, also J. M. Cahoon, in place of M. J. Sullivan, resigned. Committee on police.

The superintendent of waterworks submitted the following report:

Cost of mains added during the quarter ending December 31.....	\$11,623.40
Material and supplies	26,139.15
Freights.....	19,370.31
Labor pay rolls.....	27,999.90
Guards City Creek.....	360.00
Total.....	\$73,869.36
Appropriation	\$61,938.16
Required to balance account.....	11,931.20
Total.....	\$73,869.36

Committee on waterworks. A number of applications for liquor licenses and for renewals were read, and Councilman Lyun at once moved that the council grant no more licenses until the Perry case was decided.

Councilman James thought this was a joke, but Councilman Lyun assured him that he was in dead earnest. He didn't believe in discriminating in regard to the liquor business any more than he did in regard to any other business.

A motion to refer all the applications to the license committee was defeated by the following vote: Ayes—Parsons, Spafford, Heath, Wolstenholm, Hall, James. Noes—Pendleton, Anderson, Pickard, Pembroke, Cohn, Karriek, Lyun. Lost.

A motion was then put and carried to the effect that all "renewals" be granted, but that all new applications be temporarily denied.

APPROPRIATIONS

The following appropriations were made: