

HARMON AND FOOTE IN A SERIOUS TANGLE.

Misunderstanding Regarding the Intervention Suit.

SOMEBODY IS IN ERROR.

A Pertinent Reply to a Pointed Letter Sent to Washington.

THE HUNTINGTON PROSECUTION

There Is Good Promise of the Matter Again Going to the Grand Jury.

Recent developments in connection with the intervention proceedings brought by the United States in the suit of the Southern Pacific Company against the Railroad Commission of this State would seem to indicate that the Attorney-General of the United States is not as familiar with the important work of his department as the public generally believe or that he is endeavoring to shift the responsibility for certain acts of the Department of Justice to other shoulders than his own.

About two weeks ago George W. Monteith of this City addressed a communication to the Attorney-General of the United States, the full text of which was published exclusively in THE CALL of December 15. It called attention to the alleged failure on the part of United States District Attorney Foote to properly press the prosecution of C. P. Huntington on the charge of having issued a pass to Frank M. Stone in contravention of the interstate-commerce law; recited the possession of new evidence in the case which it was claimed would insure the conviction of Huntington, and suggested that special counsel be employed to prosecute the case. The letter then continued as follows:

You evidently have but little knowledge of the conditions prevalent in San Francisco with reference to the prosecution of cases in which the Southern Pacific Railroad is interested. I assume this from the fact that every man who has been made by your office during your incumbency and during that of your predecessor, Mr. Olney, in all the cases undertaken in the Federal courts, both civil and criminal, in which the railroad company is interested, has been entirely in the direction of the interests of the Southern Pacific.

This is not said as a taunt or insult, but merely as a self-evident fact borne out by the record, and it is attributed to your ignorance of the conditions that exist here, because it is the only excuse that can possibly be made to justify the course of your department in this judicial district. If you have any doubt on this proposition I will refer you to the most recent action of your department in intervening in the case of the Railroad Commission on a proposition where it was proposed to make the railroad-ridden farmers of this State the small pittance of 8 per cent, and where your department deliberately interposed at a time most opportune for the railroad company, while it has lain dormant for thirty years, during which period of time the Government's financial interests in the Central Pacific Company have been almost ruined by as scandalous and bold-faced species of larceny as was ever witnessed in a civilized community.

In other words, you come into that case and say that the act of the Government to pay the Government will be affected by the proposed reduction of freight rates, while you have permitted the Southern Pacific and Central Pacific thieves to denude the road of its rolling stock by the simple application of a paint brush, to the conditions that exist here, because it is the only excuse that can possibly be made to justify the course of your department in this judicial district.

When you refuse in terms or by this appeal in some convenient pigeon-hole, to be buried in the dust of ages, it will be time to ask Congress to investigate that strange influence that always seems to control the Washington Government in the interest of the railroad whenever opposed to that of the people.

To this communication of Mr. Monteith's came a reply yesterday as follows:

"DEPARTMENT OF JUSTICE, 'WASHINGTON, D. C., Dec. 21, 1895. 'George W. Monteith, Crocker Building, San Francisco—Sir: I have just received your letter of the 14th inst. It is couched in most extraordinary terms, and, considering that it is written to one who is an entire stranger to you personally, and almost a stranger officially, it makes charges and assumptions against this department which I might very well resent. But I am here to discharge my duty, as I understand it, and therefore prefer to consider the business suggestions of your letter only.

"As the Government prosecuted persons who violated the laws in California during the strike of 1894 it certainly has not declined and will not decline to prosecute any others, no matter who they are, who were shown by the developments of those trials to have violated the law also. But as I have no reason to distrust the fidelity of Mr. Foote to his sworn official duties, I, to-day, write to call his attention to the matter and direct him to take such action as ought to be taken.

"I shall inquire into the matter of the intervention of the Government to which you refer, which was taken without instructions from this department, and if it shall appear to have been improper will act accordingly. Very respectfully,

"JESSE HARMON, Attorney-General. In view of the fact that this letter, while expressing full confidence in United States District Attorney Foote, stated that he had been directed to take such action as ought to be taken" in the Huntington matter, and that the intervention proceedings had been instituted without instructions from the Department of Justice, a call was made on District Attorney Foote to ascertain the exact status of affairs in connection with these two most important matters. Mr. Foote admitted that he had received a letter from Washington bearing on these subjects, and, also, that he had prepared his reply, but declined to make either public, on the ground that they were on official business of a confidential character. In reference to the Huntington matter, however, he said:

"If they have any new evidence, such as they claim to have, and which is alleged to be sufficient to convict Mr. Huntington, the matter can be and should be brought before the United States Grand Jury. It does not lie with me to initiate the prosecution for such an offense. It lies entirely with the Grand Jury, which must first investigate the circumstances and then file an indictment. When the case comes to trial my duty begins, and I shall certainly perform it fully in this case, as in all others."

So far as the intervention proceedings in the railroad case are concerned, I had instructions and full authority from the Department of Justice to begin them, though I am not at liberty to divulge the contents of the letter containing this information. The letter was not signed by the Attorney-General himself, but by Holmes Conrad, who was then acting Attorney-General and who is now Solicitor-General, and who on that occasion wrote for the Attorney-General. It is probable that the Attorney-General has not examined the files to see whether this letter was written or not.

"I may add that before the intervention matter was heard before Judge McKenna, Attorney-General Fitzgerald demanded to see my authority and instructions for bringing the intervention suit, as he had a right to do under the Throckmorton decision, being a party to the suit, and I submitted the letter to him and to two of his associates in the case, Judge Hayne and W. W. Foote.

When Attorney-General Fitzgerald subsequently went into court he stated that he had seen this letter of instructions, the contents of which, however, were not at that time divulged."

From another source Mr. Foote's statement regarding the letter of instructions was fully confirmed. It was learned that the letter bore date of November 7, 1895, and was of considerable length, but that one clause was admitted to convey explicit instructions to act in the matter. This clause, as remembered by the gentleman from whom the foregoing facts were obtained and who was undesirous of having his name made public, reads as follows:

"You will please appear for the United States by such form of pleading as in your judgment will best serve to secure to them such rights as they may have in the subject of this suit and to protect them against loss and injury."

PIONEER OF PLYMOUTH.

Dr. Boyson's Mine on the Mother Lode Has Been Incorporated.

KENNEDY MEN SHAREHOLDERS.

Another Abandoned Mine of Early Days That Promises Big Returns.

A deal has lately been made that means the opening up of another big bullion-producer on the mother lode. Dr. Thomas Boyson, one of the largest stockholders of the Kennedy and one of the men who put a big fortune into that mine before a ton of ore was crushed, has, with several of the shareholders of the Kennedy, formed a corporation for working the Pioneer at Plymouth, in Amador County, which he has been handling alone for several years. The 500 and 600 foot levels will be opened up immediately. The history of the Pioneer is similar to that of the Kennedy. It was opened early in the '50's by Mr. Hooper, whose sons are now leading lumbermen in this City, and was worked down below the drain tunnel until the heavy cost of handling water in those days and imperfect milling caused its abandonment. The ore had become richer, however, as they went down.

When Martin & Ballard started up the New London mine at Plymouth they gathered all the mines at mining, including the Pioneer, which they did not open up. When they gave up the New London and went over into Tuolumne County to open up the now famous Rawhide they sold all these mines to Dr. Boyson.

In the spring of 1893 Dr. Boyson began work on the Pioneer and has since expended a large amount of money in developing it and putting up a twenty-stamp mill. A shaft was sunk to the 400-foot level equipped with a large steam hoist. The ore which has been milled was partly of high grade, as rich as any of the old workings, but not sufficient to work alone. In addition to this an extensive ledge of low-grade ore came in on the 300-foot level, when did not pay for milling, but on the 400-foot level everything taken out went to the mill.

In all these operations Dr. Boyson had spent a large amount of money, and before the mill began to yield, realizing that the undertaking had grown too large for one man to handle, he accepted a proposition last summer to sell the mine to a French syndicate on a short bond. He went over in October to conclude negotiations, which were satisfactorily arranged, but between his departure from Paris and his arrival here the big panic in the Paris exchange came on and the Parisians defaulted in their payments.

On the suggestion of some of his old friends in the Kennedy Company he incorporated the mine and disposed of one-fourth of the stock to them. The mine is now being run as a close corporation with some big names on the board of directors. They are: Ex-Judge John Currie; John Barton, president of the Kennedy; Louis Reichling, secretary of the Kennedy; George Goodman, a director in the same company, and Dr. Thomas Boyson. The mine is in charge of Robert Robinson, a well-known mining engineer.

THE JOURNEY OF A RABBI.

Rev. A. E. Hirschowitz's Trip to Japan to Perform a Ceremony.

WILL DIVORCE RICH PEOPLE.

He Went Away in the City of Peking on a Remarkable Mission.

The one topic of all others in orthodox Jewish circles during the past week has been the mysterious journey of Rabbi Abraham E. Hirschowitz to Japan. The reverend gentleman left this City on the City of Peking December 21, without having taken a formal farewell from his congregation, though he had received a temporary leave of absence that enabled him to visit the Orient.

Rabbi Hirschowitz is the pastor of a strictly orthodox synagogue on Mission street, the congregation of which is not blessed with an abundance of this world's possessions. As he himself, and indeed, as his people do admit, the really orthodox Hebrews are nearly exclusively composed of the poor of their race who faithfully ad-

here to old forms of worship, without the introduction of innovations of any kind; so the rabbi is not an opulent divine, familiar in society.

Yet he traveled to Japan in style befitting a man of wealth accustomed to luxury, for he occupied a selected stateroom on the fine steamer, and gave evidence of having command of considerable money at his departure.

This fact impressed itself on his friends and caused all the more speculation, since it was known that their rabbi could not afford to make such a long journey in luxurious fashion. Questioning prevailed. The purpose of the rabbi's journey was kept secret from his congregation, even from his friends; although it has since transpired that he went to the Orient to perform a very important function of his office, Jewish law.

But what that ceremony was could not be ascertained by those who knew of the rabbi's going away. Every movement in connection with the matter was studiously concealed in that direction. Some had it that he was called across the wide ocean to marry a wealthy couple in the Mikado's kingdom—a couple who would not accept the civil marriage by the United States Consul-General at Yokohama as binding, or in fact, as those of the Federal courts in this City. This was an ultra-orthodox view, and it found many ready adherents.

The truth was, however, quite opposite from the generally accepted belief. Rabbi Hirschowitz was taken to Japan to perform a divorce according to the tenets of the strict orthodox observance. So much is certain, but who it is that seeks the divorce is a mystery here.

It is known that the interested married couple dwell in Yokohama, that they are very wealthy—even millionaires—and that they would not accept a divorce from the hands of the United States Consul-General in that city, although his powers are tantamount to those of the Federal courts in the United States. A civil separation was not enough in their eyes; it should be strictly in line with their religious convictions.

They secured the services of an orthodox rabbi, of whom the most accessible to Japan was nearly 5000 miles away, and paid all his expenses and undoubtedly a handsome round sum in addition for his time and trouble and services.

That the United States consular decree of divorce should not have been accepted is regarded here among Jewish people as extraordinary, since a civil divorce is usually taken by members of the Hebrew faith in America. For that reason, too, it is surmised that the couple in Japan belong to the ultra-orthodox church, and possibly are Russian Jews.

Miss Hirschowitz, a daughter of the rabbi, stated last night at her home, 61 Lehigh street, that her father had come to Japan on private business and would possibly return on the next steamer leaving after the arrival of the City of Peking at Yokohama. "He has gone there to divorce a married couple," she was asked.

"Well, you know as much as myself," the young lady remarked, smiling blandly. "These people would not take a civil divorce."

"No, it will not be accepted by orthodox Jews. You know orthodox Jews could not marry again unless divorced by their rabbi—otherwise it would not be a divorce at all."

Further than this she would not discuss the matter, explaining it was confidential with a few friends in San Francisco.

JOHN SULLIVAN'S ESTATE.

Incorporation of the Heirs of One of the Earliest Pioneers.

FAMOUS IN MINING HISTORY.

Was the Founder of the Hibernia Bank and a Very Charitably Disposed Man—The Estate.

The heirs of the late deceased capitalist, John Sullivan, filed letters of incorporation yesterday afternoon. The property is capitalized at \$1,000,000, with 10,000 shares at \$100 each. The articles are signed by Francis J. Sullivan, Charles A. Sullivan, Ada E. Sullivan, Belle Sullivan Turner, Henrietta Sullivan, Frances V. Sullivan, Georgia B. Sullivan, Emmet V. Sullivan and Mary Pigott. All are children of the late capitalist except Mary Pigott, who has been their guardian.

The property of the corporation embraces valuable land in San Francisco, San Mateo and Santa Clara counties. It preserves the estate of one of San Francisco's very early pioneers. John Sullivan came to California in 1847 from St. Joseph, Mo., by way of the Truckee Pass. He settled in San Francisco and bought real estate. The title deeds of his two fifty-varas on the corner of Pacific and Dupont streets bear the date of 1846. When gold was discovered he located at Sullivan's Creek, Tuolumne County, which rich claim he discovered. Bancroft states that in one day he made \$20,000 by mining. He opened a store at that place and sold merchandise at fancy prices. All the profits he invested in San Francisco real estate. With riches came benevolence and charity. He was a devout member of the Catholic church and gave liberally to its cause. He assisted materially in building old St. Francis Church on Alamo street. He gave the lot on California street where the old St. Mary's now stands.

He bought and deeded the site of the present Palace Hotel to the Catholic Orphan Asylum. He built, as his books show, the old St. Francis' Church for \$10,000. This old church, now known as Holy Cross Church, stands on Eddy street, near Scott. To the Presentation convent and the Sacred Heart College he contributed liberally. A. B. McCarty also donated five blocks of land, part of the Perry & Edwards Tract, to Calvary Cemetery. In fact he was foremost in all charitable works. Nor did he neglect financial matters. On April 2, 1859, he organized the Robert J. Williams, McCann, John C. Horan, D. J. O'Callaghan, Michael Cody, N. K. Masten, John Mel, C. D. O'Sullivan, James Ross, Edward Martin and John McHugh, the now celebrated Hibernia Savings and Loan Society. He became its first president, John McHugh vice-president, John Mel treasurer and Richard Tobin attorney. It was then a stock institution, with a capital of \$600,000, divided into 600 shares.

If he had done nothing else his name should be cherished by the people of small means, as the great institution has been a rock of safety for depositors from that time to this. The elder son, Alexander Frank J. Sullivan, after thirteen years and over as executor of his father's estate he relinquished his great trust and the estate of one of the very earliest of the pioneers was divided among his heirs-at-law. The San Francisco Art Association, the Hopkins Institute of Art will the original pictures of my published books—the income from my works published by Messrs. B. Lippincott Co., and hope to leave my Manuscripts in form that they may be able to produce much better books than those already published. After all the above has been arranged—Of the remainder—I will—share and share alike—with my wife, W. C. Morrison, and George Hugh Morrison (my brothers) and the family of my two sons (both dead) I will four shares and each share alike. To the firm of E. Mastick, I consent that the remainder of the money, after all indebtedness has been paid, I will give: \$500 to Grace Church for the poor. To the San Francisco Art Association, \$200, to be kept for my son and members of his family; to William Gridley Toland, the son of Dr. Charles Gridley Toland, who took my Testament after my marriage (now dead), he being my son by a former wife (now dead), as I had given to Doctor Charles all his father's money—also all my works of art—librarianship, as I will \$2000, together with all my wardrobe, that she may dispose of them as she sees fit, for I trust to her noble, gentle nature; to the San Francisco Art Association, Mark Hopkins Institute of Art I will the original pictures of my published books—the income from my works published by Messrs. B. Lippincott Co., and hope to leave my Manuscripts in form that they may be able to produce much better books than those already published. 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