H. W. BOWMAN FORMALLY ENTERS THE ARENA

He Says That Romanism Is Intolerant and Bigoted.

ON LIBERTY IN BRAZIL.

Quotes an Account of a Previous Religious Controversy in That Land.

FATHER YORKE TO DR. BOVARD.

The Catholic Champion Repudiates the Theory That His Faith Is Under Suspicion.

The following communication has been received by THE CALL:

Editor San Francisco Call—DEAR SIR: Will you please publish the inclosed article from the columns of the St. Louis Presbyterian of December 19, 1895? It is a complete refutation of Priest Yorke's assertion of religious liberty in Brazil. The very essence of Romanism is intolerant bigotry and fiendish persecution. Rome has never granted the right for other religions to stand on a par with her. A missionary from Brazil informed me that he was once assaulted by a mob of Romanists because he did not take off his hat and kneel down when the priest went past with his wafer-god. If it had not been for a company of soldiers he would have been murdered. Below I submit the article that reveals the love of Romanists in Brazil for religious liberty:

The following letter was received December 11 at the office of the secretary of foreign missions of the Southern Presbyterian church. It was written from Garanhuns, Estado de Pernambuco, Brazil, by Miss Eliza M. Reed, a missionary of the Southern Presbyterian Church, and is dated November 5, 1895:

"I seem to have a great deal to say and scarcely know where to begin. I think it was about the 17th of October that Dr. Butler and Mr. Potter met in Recife to call a meeting of presbytery. Doctor hurried home, saying he felt some uneasiness about his family and the Christians he had left here in Garanhuns, because a company of friars of Penha were expected there about that time.

"These friars are on a 'holy mission': they go from place to place building up weak churches, holding continued services of missas for a number of days—often erecting new church buildings. They are undertaking this here in Garanhuns. In order to get the work done they have called in from the country for miles around all the ignorant, fanatical people to confession and missa.

"Women and men come barefoot from great distances and carry stones and wood to the place where the new building is to be erected. The men are, most of them, armed with long, dagger-like knives and great clubs. They come by thousands, thronging the streets and largos of the city, an excitable, superstitious crowd.

"Knowing how easily such a crowd could be turned into a mob Dr. Butler had cause to feel uneasy as to the safety of those he had left in Garanhuns. He arranged that I should telegraph to him when the home mail came, as he wished to return then.

"On Monday, the 27th of October, I telegraphed for the doctor to return to the city, expecting him on the first train. He did not come, nor did he send any message. Wednesday I began to be somewhat uneasy. Thursday night at prayer-meeting one of the elders told me that rumors had reached the city Wednesday night that Dr. Butler had held a public discussion with the priest of Garanhuns; the people had risen against him, and that Dr. Butler was nearly killed. The elder immediately telegraphed to the doctor, had waited all day, but no answer had come.

"It was decided to send (by the first train) one of the deacons to Garanhuns. He left us early Friday morning. He was to telegraph to us early Saturday morning, and to return Saturday night if he was not needed. The same morning I sent for our American Consul, Mr. Johnstone, and told him of our trouble. He offered at once to help us. That day he sent two telegrams to Garanhuns, but could get no answer. We waited until midday Saturday, hoping to hear from our messenger. No word came.

"Then Mr. Johnstone went with Mr. and Mrs. McCall and me to the Governor. The promise was given by the State officers that we should have word from Dr. Butler and his family at the earliest hour possible; that special orders would be given for their protection, and that a proper guard would be furnished to take Mr. McCall and me to Garanhuns by the next train. The promise was faithfully kept. At 3 o'clock a telegram came, "They are in peace. I return Monday." It was from our deacon. He was to return Saturday if he was not needed.

"Sunday morning we left the city at 8 o'clock, reaching Dr. Butler's house at half-past 8 that night. We dismissed the guard at the door. Doctor was just closing the evening service. We had hardly been seated when the house was stoned, some of the stones being larger than my double fists. In a few minutes soldiers appeared, saying that the offense should not occur again; orders had been received from the Governor that we must be protected.

"We found our friends had been under a reign of terror for days. Their lives were publicly threatened. As soon as these friars reached the city they publicly declared they would break up our work here and drive us from the city. For five nights they openly taught these poor ignorant people that Dr. Butler was deceiving the people and taking them straight down to hell; that the only greeting they must give him was two stones in each hand; that our Bible was false; that doctor was an impostor; that they defied doctor to prove his Bible was true; finally sending an invitation to him to prove that our Bible was true.

"Doctor sent word that he would gladly accept the invitation with the understanding that:

"1. The discussion must be public—in the house of the priest or the judge's office.

"2. The audience must be from the leading citizens of the place; the judge, the Sheriff, the Mayor and City Council must be present, no others.

"3. The subject confined to the Bible.

"The priest sent word he would accept the conditions. The hour was marked for 11 A. M., Tuesday, October 29. Later word was sent that so many of the business men wanted to hear the discussion that no private house would hold them; they must have it in the church.

"Doctor hesitated, as he knew trouble might arise; but the citizens who came to escort him assured him that they were in good faith and promised him full protection. Just here let me say we believe the officers of the law and the best citizens of the city were innocent of the treason.

"Tuesday at 11 o'clock Dr. Butler was escorted to the church by some of the leading men of the place. Every influential man of the town was in church waiting for him. One of the friars met him and asked what he wanted. Doctor said he did not want anything, he had come by invitation of the priest to discuss the truth of our Bible. The friar said, 'Well, no, not an invitation.' 'Then,' replied Dr. Butler, 'I will leave.' One of the citizens sprang up, saying, 'Of course it is by invitation; we have them printed here in our pockets,' and they showed them.

"They began the discussion. It lasted two hours. Outside had gathered an ignorant, excited mob of about 3,000 people, every one of that 3000 armed, the women with bags filled with stones, the men with great clubs and long knives. They were there because Monday night the priest had sent word all through the country for all good Catholics to be at the church October 29, at 11 A. M., as the Protestant minister and his people were going to invade the church.

"Dr. Butler requested the judge to mark the time, giving each one half an hour at first, and then ten minutes to reply. The priest objected, but was compelled to consent. Doctor always uses the priests' Bible. He took that and one of our own. The friar acknowledged that it was approved by the Archbishop of Brazil.

"I think Dr. Butler realized that it was probably his last opportunity to preach the Gospel to such an audience; and he did it. He combated the confession, the primacy of Peter, worship of images, purgatory, celibacy of the priesthood, fast days and the perpetual virginity of Mary. The doctor stood with Bible open before him, and took his proofs from the priests' version, while our Bible was compared and found to be the same.

"In the priest's reply he stumbled around, and finally proved that "the Bible is not the only rule of faith of the Catholic church" (his own words), but they must obey the tradition of the fathers. He did not touch on points presented by Dr. Butler till he came to the Virgin Mary. He then said the Bible taught, "the woman should bruise the serpent's head," and closed by repeating a piece of child's poetry about the Virgin being a virgin before the birth and after the birth and forever, and he slapped his hands.

"It was responded to by a voice within, crying, 'Long live our holy religion; down with the Protestants!' In an instant the waiting mob outside rushed in, their terrible cry of "Kill him!" rising loud and clear through the city. One of the audience, a citizen, brother of the station agent, aimed a pistol at Dr. Butler. It was struck aside by another true citizen (not a Christian) who said, 'No, you or I die, Dr. Butler never!' Immediately the officers of the city, the best citizens and our ten Christian men, closed around Dr. Butler. They got him safely to the Sheriff's house and guarded him until the mob was quieted. Later on in the evening they brought him home and stationed a guard of soldiers here to protect him and his family.

"The whole city is talking of the discussion; some who were indifferent until now are studying their Bibles to see if these things are true. All of the citizens who heard the discussion declare there was only one side to it; that the priest in no way answered an argument of Dr. Butler's, and are chagrined that the priest could do nothing but blunder out, 'the Bible is not the only rule of faith of the Roman Catholic church.'"

Miss Reed's story concludes with an account of the public burning a few days after of all the Bibles and Protestant books that could be found, by order of the priest. Miss Reed concludes:

"It was necessary to have the soldiers at our door again that night. During the service three men came toward us armed with long knives. They were promptly arrested, and the knives taken from them. Later on in the evening fifty-five men were arrested for disorderly conduct, and each man of them had to give up to the police a great knife.

"Excepting that Sunday night and the Monday following, when the soldiers were present as our guard, we were stoned every single night while I was there—generally in the early evening, but several times, for good count, the stones came crashing on us after midnight; and twice in broad daylight single stones were hurled against the window. The roof is full of great holes, letting the hot sunbeams in on us, or the rain to pour in; whichever it may be.

"On Friday night a great stone came crashing in, just missing the head of little five-year-old Humphrey Butler. I am sorry to send you so much of the dark side, yet I think it best that Christian workers should know something of our danger, that they may the better know our need of their prayers."

Mr. Editor, with your consent, we would like to ask Priest Yorke the following questions:

First—If Rome favors religious liberty, why does she anathematize and excommunicate, hound and persecute all of her minions who dare think for themselves?

Second—If Rome believes in free speech, why do her most devoted adherents mob the speakers who dare show up her treachery and deceit?

Third—If Rome only maintains political principles that are in harmony with those of the country, why does she work in secret to promulgate them?

Fourth—If Rome does not hold and teach the doctrine of the temporal power of the Pope, when did she give up the belief? What Pope has denounced it? What council repudiated it?

H. W. BOWMAN.

FATHER YORKE REPLIES.

He Continues His Analysis of Dr. Bovard's Arraignment.

The following letter to THE CALL is self-explanatory:

January 3, 1896.

To the Editor of the Call—DEAR SIR: As I stated in my last letter Dr. Bovard's communication consisted of two parts, one dealing with certain theological propositions and the other giving a dozen reasons "why Roman Catholicism is under suspicion in America." The first part is designed as an answer to my refutation of his claim that the Bible should be introduced as a standard of morals into the public schools. The arguments which I urged against him fell under two heads. 1. The schools are open to the children of all taxpayers. We have no right to force the New Testament on the children of Jews, or any part of the Bible on the children of atheists or nothingarians. 2. Non-sectarian Bible reading is an impossibility. In the first place Protestants deny the non-sectarian character of the Bible by interpreting it through creeds and by enforcing this interpretation on the members of the churchs. In the second place the Bible is not a text-book of morals, and if read without note or comment would produce ideas of duty which might be more startling than edifying.

In answer to my first argument Dr. Bovard claimed (1) that the American Government was Christian. How unfounded is this claim I showed in my letter of yesterday.

In answer to my second argument he holds (2) that all the sects formed but one church. (3) That the Protestant creeds do not bind the conscience. (4) That trials for heresy do not affect the moral status of the individual tried. (5) That under the Protestant banner every man is his own priest. (6) That the Protestant idea of the Bible is that it contains all things necessary to salvation. (7) That the morals of the patriarchs can have no influence on young Americans.

Yesterday I showed (2) that the theory which would make all the sects branches of the one kingdom of truth contradicts the very notion of truth and (3) that creeds in Protestant churches are statements of belief which limit the judgment just as much as creeds in the Catholic church. To-day I intend to continue my examination of his other arguments, and, if space will permit, proceed to a consideration of the reasons he urges to justify suspicion of Roman Catholicism in America.

(4) I adduced the fact that members of the Protestant churches are tried for heresy as a proof that in practice these churches interfere with the right of private judgment just as effectually as does the Catholic church. Mr. Bovard replies:

> When a Protestant desires to withdraw from one of the denominations he is at liberty to do so, and bears with him the good will of all. He thinks as he pleases both before and after. The Protestant church simply asks the candidate for membership if he is acting freely, if he accepts the statements of faith as biblical. The private judgment is absolutely supreme. The Protestant church claims no power to change the moral status of any one. The trial and exclusion of a person from a Protestant church has nothing to do with his personal relation to God.

You will remark, Mr. Editor, that there was nothing in my argument which dealt either with the voluntary withdrawal of a member from one of the denominations or which considered his standing before God. My argument was that if private judgment is the rule of faith, no man, or no body of men, has the right to charge any one with heresy. Heresy means originally to "pick and choose." It means a choice of doctrines. It is the Greek for private judgment. If God has left the private judgment absolutely supreme is it not impious to call any doctrine heretical or false? If, in the exercise of his private judgment, a Mormon follows the example of the patriarchs or a Presbyterian believes that prelacy is unscriptural, why try him for heresy? If a Methodist comes to the conclusion by private judgment that the Catholic church is the church of Christ, why cover him with reprobation? Private judgment has no limits but the limits of reason, and every attempt to cramp it with creeds contradicts the theory.

As to the frame of mind with which Protestants behold their members leave any communion of course I can give no opinion. Human nature is much the same in all denominations and I do not suppose that the loss of members is looked upon exactly as a blessing. The "moral status" may not be changed, but I remark that the Methodists appear to have very small hopes of those who leave them. I quote from a little book called "The Doctrines and Discipline of Methodist Episcopal Church. New York: 1856." In chapter II, section 1, the rules to be observed by Methodists are given. Among them we find a prohibition against "uncharitable or unprofitable conversation, particularly speaking evil of magistrates or of ministers"; "the putting on of gold or costly apparel"; "the singing those songs or reading those books which do not tend to the knowledge or love of God."

We also read that the brethren are expected to "evidence their desire of salvation by doing good, especially to them that are of the household of faith, or groaning so to be, employing them preferably to others, buying one of another, helping each other in business—and so much the more because the world will love its own and them only." Now if any member does not observe these rules the discipline goes on to say: "We will admonish him of the error of his ways. We will bear with him for a season. But if then he repent not he hath no more place among us. We have delivered our own souls." Of course this may be a way of saying that the offender "bears with him the good will of all," but it is a very queer style of expression.

In chapter X, section 2, we find this question: "What shall be done with those ministers or preachers who hold and disseminate, publicly or privately, doctrines which are contrary to our articles of religion?"

Answer: "Let the same process be observed as in case of gross immorality."

In section 4 of the same chapter we read the following order: "If a member of our church shall be clearly convicted of endeavoring to sow dissensions in any of our societies by inveighing against either our doctrines or discipline, such person so offending shall be first reproved by the senior minister or preacher of his circuit, and if he persist in such pernicious practice he shall be expelled from the church." I have no doubt that Dr. Bovard would follow the erring brother with respect and not consider his moral status lowered, but I think these amiable sentiments arise from the natural mildness of the Alameda climate and not from the provisions of the Methodist discipline.

Mr. Bovard continues:

> It does not anathematize, curse and condemn people to purgatory, because it finds no such nonsense in the Bible.

I am very much surprised to find that Dr. Bovard believes that any church curses or condemns people to purgatory. Surely he cannot be thinking of that obscene screed from Tristram Shandy. The Catholic Church excommunicates her members just as the Methodist Church expels them. The effects are precisely the same in both cases. "As man by baptism is made a member of the church in which there is a communication of all spiritual goods, so by excommunication he is cast forth from the church and placed in the position of the heathen man and the publican, and is deprived accordingly of sacraments, sacrifices, sacred offices, benefices, dignities, ecclesiastical jurisdiction and power, ecclesiastical sepulture—in a word, of all the rights which he had acquired by baptism—until he makes amends and satisfies the church."

What astonishes me most of all is that Dr. Bovard should assert that cursing and anathematizing are not found in the Bible. I am afraid that he is neglecting that rule of the discipline which tells him to have the Bible always open before him. If he will but turn to the 28th of Deuteronomy he will find a ritual malediction, which for height, depth, width, comprehensibility and copiousness of cursing is unequaled in any literature. In the New Testament we read the very expression anathema, and St. Paul does not mince words when he hands the Corinthian bodily over to the devil. If Dr. Bovard considers this nonsense he will find plenty of it in the Bible.

I do not think that Dr. Bovard's answer meets my argument. Protestant churches expel members for heresy. When they had the power they burned them. Now to punish a person for heresy is high treason against the right of private judgment. It is a proclamation that the interpretation of the Bible adopted by the particular church is the true and only true interpretation, and as such it is under the Protestant theory an unjustified and unjustifiable interference with the rights of opinion.

(5) Dr. Bovard continues:

> Under the Protestant banner every man is his own priest.

This is another theory of Protestantism which is contradicted by everyday practice. Remember I am not arguing now whether these things are right or wrong. I am but showing that the theory on which the reformers based their belief is quietly set aside in everyday life. This theory is non-sectarian, beautifully so, but it has not worked. From the fact that it has not worked I am arguing that non-sectarian Bible reading is an irridescent dream.

The Protestant theory says every man is his own priest, but the Protestant churches are weighted down with Bishops, ministers, elders, deacons, preachers, exhorters, stewards, leaders and all the other titles claimed by the camp-followers of the gospel. What is the use of them if every man is his own priest?

Why does the Methodist discipline give the administration of Lord's Supper only to elders if any member is competent to celebrate it? Why send round "traveling deacons" to baptize and perform the office of matrimony if the residents of the locality are fully able to solemnize these ordinances? I can understand the reason for setting aside men to act as preachers, but I defy any one to explain on the theory that "every man is his own priest" the practice of confining certain sacramental or ritual functions to duly ordained members of a hierarchy. Here again in the Protestant, and especially in the Methodist church, practice contradicts theory.

(6) Dr. Bovard writes:

> The Protestant idea of the Bible is simple and easy to understand. "It contains all things necessary for salvation."

I am sure the statement seems easy and simple enough, but the fifth article of religion from which it is quoted is self-contradictory. I remarked in my first letter that there are two truths which are considered necessary to salvation and which are not contained in the Bible. The first is the truth that certain books are Holy Scripture, and the second is that Sunday is the Sabbath of the New Law. Neither of these truths is contained in Holy Scripture, yet a man who would reject, say the four gospels or the observance of the Lord's day, would be considered as in the way of salvation. Again and in a most glaring way Protestant theory is contradicted by Protestant practice.

(7) To offset my statement that it is very hard to reconcile the conduct of the Patriarchs with our ideas of morals Mr. Bovard states:

> It does not claim that all the characters in the Bible were saints at all times. It does not justify Abraham, Isaac nor David in the sins they committed. Protestants even go so far as to denounce St. Peter for his inclination to dodge a rather plain proposition.

Catholics do the same, but Mr. Bovard does not answer my argument. I am not dealing now with those actions which the Bible reprobates or which God punished. I am dealing with those questionable actions which God seems to bless or to command. If the Bible is to be read in a non-sectarian manner without note or comment, I wonder what young America will think of that sharp trick by which Jacob did his brother out of the blessing. Even so great a genius as Augustine was compelled to throw up his hands in despair and declare, "It was not mendacious but mysterious," which practically surrenders the whole question.

We will find the prophets doing some very peculiar things at the command of God, and Mr. Bovard surely does not forget the attack which Huxley made on the immoral nature of the history of the Gadarene pigs. As a matter of fact, the Bible is full of things which are hard even for men of mature minds to reconcile with elementary moral ideals, and we are asked to throw this volume at the heads of the youngsters in the schools, and expect that in some mysterious way it will become a text-book of morals.

Such, Mr. Editor, are the reasons I offer for the statement that non-sectarian Bible reading is impracticable. All the Protestant churches have in practice rejected their theory of private judgment and a free Bible. They have all come over to the Catholic practice, and only produce their theory for controversial purposes and for state occasions.

Of course the reason for their action is simple. They could not do anything else. The theory of private judgment is in religion what anarchy is in politics. It means the destruction of all religious organization and the reduction of truth to mere opinion. The great churchless multitudes are the true professors of the right of private judgment. The churches have held together simply because they have quietly set private judgment aside in favor of the plain and common-sense doctrine of the Catholic church.

Mr. Bovard now plunges into the reasons why the Catholic church is under suspicion. I have been so very diffuse in my answer to theological questions that I must defer a consideration of these reasons to another letter. I suppose I should ask pardon for my prolixity. However, I cannot say that I have used words unnecessarily. I wish to explain my ideas as clearly as possible and I cannot do that in apophthegms.

There is one point, however, in the second part of Mr. Bovard's letter which is purely theological and which I might as well consider now and have it off my hands:

> The working force of Protestantism is essentially different from that of Catholicism. Catholicism looks upon Christianity from a semi-physical or mechanical standpoint. The progress of Christianity is a sort of materialistic infusion and prolongation of the incarnation by means of transubstantiation the sacrament. The whole force of Catholicism is operated with the impersonal precision of a "drop-a-nickel-in-the-slot" machine. You do as you are told and the result will follow.
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> Protestantism holds that Christianity changes the relation of God's will to man's will and that the transaction is purely personal and direct; that each individual has the absolute right to appear before God for himself and settle his own case; that neither the devils in the nether region nor all the saints in the catalogue can hinder nor affect him in the least.

I must confess that I do not understand what Dr. Bovard means by his first paragraph. I will simply say that access to God is as personal and direct for the Catholic as for the Protestant. Between a man's soul and his Maker nothing can stand in the way. By the "change in the relation of God's will to man's will," I presume Dr. Bovard means "justification" and "sanctification." Let me explain what Catholics mean by these terms, and I think Dr. Bovard will admit that not only are his slurs about "semi-physical" or "mechanical" devices unmerited, but that Catholic theology contemplates a closer and more personal relation to God than is provideded for in the Protestant hypothesis.

In the first place, then, justification begins with the grace of God, which touches a sinner's heart and calls him to repentance. This grace flows solely from the love and mercy of our Father and cannot be merited. Man, of course, is free to accept this grace or to reject it. If he accepts it he is disposed or prepared and adapted for justification. He believes in the revelation and promises of God. His heart is especially set on the truth that a sinner is justified by God's grace through the redemption which is in Christ Jesus. He begins to fear the divine justice and to hope in the divine mercy. He trusts that God will be merciful to him for Christ's sake, and he begins to love God as the fountain of all justice, and consequently to hate and detest his sins.

This disposition or preparation is followed by justification itself, which justification consists not in the mere remission of sins, but in the sanctification and renewal of the inner man by the voluntary reception of God's grace and gifts by which a man becomes just instead of unjust, a friend instead of a foe, and so an heir according to the hope of eternal life. By the merit of the most holy passion through the holy spirit the charity of God is shed abroad in the hearts of those who are justified.

This is the description of justification as given by the Council of Trent. Put in ordinary terms it tells how a man who is a sinner becomes a friend of God. The work begins with God. Unless he gives the grace the sinner cannot turn from his sin. No mechanical device can save him.

When God gives the grace man has to do his part. Two things he remembers; God is just; God is merciful. He knows that of himself he can do nothing, that he has no hope of pardon; but he knows, too, that Christ has died to save him, and he hopes that he may share in the promises. Now, if in thinking over these things his mind is so inflamed with the love of God that because of that love he hates and detests his sins, then straightway without the interposition of priest or sacrament he is justified and made the friend of God. Every Catholic child is taught this doctrine—that an act of perfect contrition or sincere sorrow for sin, excited by the pure love of God, restores us to his friendship.

Of course such a disposition of soul means that we are ready to do everything that God has commanded. If he has chosen to send us like the cleansed lepers to the priests we are bound to go—in fact we are only too willing to go. If he has commanded that we should kneel at the feet of his minister and disclose the state of our souls, who are we that we should question his command? Does this make his dealings with us less direct, less personal? In fact, does it not bring us closer to him; that we know we are fulfilling his ordinance and trusting in his word. "Whose sins ye shall forgive they are forgiven; whose sins ye shall retain they are retained."

According to the common Catholic teaching santification or sanctifying grace is the indwelling of the Holy Ghost in our souls. He takes up his abode with us. Our very bodies become his temples. This is the uncreated gift; this is the very love of God inflaming our hearts. I cannot conceive of any relation of man to God closer or more direct or more personal than this. There is nothing in Protestantism like it nor like that fulfillment of the prophecy when we receive Jesus Christ under the sacramental veils and he is become Emmanuel—God with us. Yours truly,

P. C. YORKE.

CHINESE AS CITIZENS.

Judge Morrow Follows the Decision of Justice Field.

THIS WAS A TEST CASE.

It Had Been Brought Up at the Attorney-General's Suggestion.

NOTICE OF AN APPEAL GIVEN.

The Far-Reaching Issue to Be Laid Before the United States Supreme Court.

That Chinese born in this country of parents not in the Chinese diplomatic service are citizens of the United States, and may exercise the elective franchise, and may go and come whenever and wherever they please, is the effect of United States District Judge Morrow's decision of the test case of Wong Kim Ark.

The case was decided yesterday with an elaborate opinion that makes interesting reading. An appeal has already been taken to the United States Supreme Court by District Attorney Henry S. Foote. He gave notice yesterday, and, pending the final decision by the highest judicial tribunal in the land, the bond of Wong Kim Ark was fixed at $250.

If the United States Supreme Court should sustain Judge Morrow it is believed the result will be to admit to the polls every Mongolian as well as Caucasian who has been born in this country, whose parents have not been native born or naturalized, save that children of parents connected with the diplomatic service here of other nations are excluded from the privilege of citizenship.

Wong Kim Ark, the Citizen.
[Sketched by a "Call" artist.]

The bringing up of this case as a test case came about in a peculiar manner. Attorney George D. Collins of this City had written several articles in the American Law Review, and they eventually drew the attention of the Department of Justice at Washington to the question of the citizenship of native-born Chinese in particular and that of all native-born children of parents subject to foreign jurisdiction in general. The opportunity presented itself of making a test case for the United States Supreme Court to finally determine.

Justice Field had already delivered a Circuit Court opinion, with the concurrence of the jurists sitting with him at the time, and in that opinion he held as Judge Morrow has held. The Field opinion has never been quite satisfactory, however, but as it had not been questioned Chinese have been generally considered to be American citizens if born here of parents of ordinary residence, and such have been landed without any further ado upon their return from a trip to China.

Accordingly Attorney-General Judson Harmon sent instructions here to Mr. Foote to have a test case made of Wong Kim Ark, and Mr. Collins was appointed amicus curiæ.

All the facts in Wong Kim Ark's case were agreed to by the opposing counsel. He was born in this City in 1873 at 751 Sacramento street, his parents being Wong Si Ping, a merchant and member of the firm of Quong Sing & Co. at that place, and a woman named Wee Lee. His parents were admitted and domiciled under the provisions of the Burlingame treaty and were not engaged in any diplomatic capacity. In 1890 Wong and his parents went to China and he returned the same year on the steamer Gaelic and was allowed to land on the ground of his birth. He went again to China in 1894 and last August he returned on the Coptic.

His papers were all straight. On his first trip he carried a certificate signed by Chinese Consul F. A. Bee and bearing the names, as witnesses, of Mart R. Stevens of 7 Kearny street, F. W. Sanderson of 700 California street, William Fisher of 713 California street, and F. Berna of 615 Gough street. On the second trip he carried an identification over the signatures of William Fisher of 1308 Powell street, F. Berna of 615 Gough street and L. Selinger of 932 Powell street.

To make a case it was necessary to first have him refused a landing by Collector of the Port John H. Wise. He was accordingly detained on board one or another of the Occidental and Oriental Company's steamers. Then habeas corpus proceedings began in October, Hoo Lung Suey, a friend, being the petitioner, and Naphtaly, Friedrich & Ackerman and Thomas D. Riordan acting as his attorneys.

The writ was granted November 11, and Mr. Foote intervened for the Government on the same day, and two days later the opposing counsel agreed to all the facts so as to have the main question itself of citizenship decided.

The position taken by Wong's counsel was that he was entitled to citizenship under the constitution of the United States. On the other hand Mr. Foote contended that the word "jurisdiction" in the sentence, "all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States," meant political and not merely legal jurisdiction; that the Federal Supreme Court had already defined the meaning of the word; that the child as a matter of course is subject to the same political jurisdiction as his unnaturalized parents; that the common law doctrine of birth within the dominion of a king cannot apply to a republic; that as Judge Storrey decided early in the history of the United States, citizenship is governed by international law, and not the common law of any one country, and that as Congress had expressly legislated against the admission by the naturalization process of Chinese to citizenship, native-born Chinese should come within the same exclusion.

Judge Morrow in his opinion of twenty-four type-written pages treats at length all the objections raised by the Government. He goes right to the question at issue, which he puts in this wise:

> The question to be determined is whether a person born in the United States, whose father and mother were both persons of Chinese descent and subjects of the Emperor of China, but at the time of the birth were both domiciled residents of the United States, is a citizen within the meaning of that part of the fourteenth amendment of the constitution which provides that "all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the States wherein they reside."

At once he proceeds logically with the contentions made by Messrs. Foote and Collins against Wong's right to citizenship. Mr. Collin's position was that the doctrine of international law as to citizenship exists in the United States and not that of the common law, and that the citizenship clause of the fourteenth amendment is in consonance with the international law and should be so interpreted.

To give a synopsis of the argument, as Judge Morrow viewed it, of the Government's counsel, the logic was thus: First, Wong Kim Ark was not subject to the political jurisdiction of the United States; second, according to the rule of international law the political status of the child follows that of the parents; third, the mere fact of birth in this country does not, ipse facto, confer any right of citizenship. So much for the postulate. In support of it Justice Story's decision to the effect that "Political rights do not stand upon the mere doctrines of municipal law, applicable to ordinary transactions, but stand upon the more general principles of the law of nations," was cited to argue that the provision of the fourteenth amendment intended to follow and adopt the rule of international law.

Further, it was contended that common law doctrine could not apply for the reason that there is no common law proper of the United States, and finally it was maintained that the United States Supreme Court in the slaughter-house cases adopted the rule of international law, and the Supreme Court's interpretation in the case of Elk vs. Wilkins was also cited in support of this position.

Then on the other hand, as logically, the argument of the counsel for the petitioner was taken up, namely: that what the court said in the slaughter-house cases is but mere dictum; that the highest Federal tribunal has never directly passed upon the question at issue, but that the United States Circuit Court had adjudicated the question in the Look Tin Sing and Gee Fook Sing cases, and so far as this circuit is concerned the decisions in those cases should control Judge Morrow's court. Wong's attorney's had made use of the decision of Vice-Chancellor Lewis H. Sanford of New York in 1844 in the Lynch vs. Clark case. Speaking of the two decisions rendered by the Circuit Court here Judge Morrow says:

> While the two decisions rendered in this circuit would seem, upon the principle of stare decisis, to be conclusive upon the question raised here and controlling upon this court; yet, in view of the fact that it has been argued on the part of the Government, and very forcibly, that the Supreme Court laid down, in the slaughter-house cases, a doctrine at variance with that announced in these decisions, and as claimed in consonance with that of the law of nations, it will be necessary to examine these cases with care and at great length.
>
> The question is an important one, not alone from an abstract point of view, but because of the consequences a decision unfavorable to the petitioner would involve. For, if the contention of counsel for the Government be correct, it will inevitably result that thousands of persons of both sexes, who have been considered as citizens of the United States, and have always been treated as such, will be, to all intents and purposes, denationalized and remanded to a state of alienage.
>
> Included among these are thousands of voters who are exercising the right of suffrage as American citizens, and whose right as such is not and never has been questioned, because birth within the country seems to have been recognized generally as conclusive upon the question of citizenship.
>
> But the Supreme Court has never squarely determined, either prior to or subsequent to the adoption of the fourteenth amendment in 1866, the political status of children born here of foreign parents. In the case of Minor vs. Happersett, 21 Wall., 168, the court expressly declined to pass upon that question. Nor was there any definition in the constitution or in the acts of Congress of what constituted citizenship until the adoption of the fourteenth amendment.

He next explains the common law principle that "birth within the realm was deemed conclusive," and the rule of the law of nations that "birth follows the political status of the parents," but observes that the fourteenth amendment is controlling on the question presented irrespective of either the common law or international law doctrines. He admits, though, that in view of the ambiguous and uncertain character of the qualifying phrase, "Subject to the jurisdiction thereof," renders the question a debatable one as to which rule the provision was intended to declare.

The decision of Justice Field in the Look Ting Sing case is gone over at length. Justice Field held that although the petitioner was born here of parents subject to the Emperor of China, he was a citizen within the meaning of the Fourteenth Amendment. Look Ting Sing was born in Mendocino County in 1870. His father sent him to China when nine years old, and he returned in September, 1884.

The burden of Justice Field's decision in effect was: Look Ting Sing was born here; his parents were not engaged in the diplomatic service of any foreign Government; he was not born on a vessel of a foreign nation while within the waters of the United States; he had not renounced his allegiance to this Government; therefore the words "subject to the jurisdiction thereof," do not exclude him from citizenship. The jurisdiction of the United States over him at the time of birth was exclusive of that of any foreign country. The citizenship clause of the fourteenth amendment was to overturn the doctrine enumerated in the Dred Scott case. And Justice Field continued:

> Independently of the constitutional provision, it has always been the doctrine of this country, except as applied to Africans brought here and sold as slaves, and their descendants, that birth within the dominions and jurisdictions of the United States of itself creates citizenship.

The Gee Fook Sing case was decided by the United States Circuit Court of Appeals, Judge Hanford writing the opinion. It simply assumed Justice Field's interpretation of the citizenship clause of the constitution and recognized the right of a person alleging himself to be a citizen to hearing on habeas corpus proceedings.

As to the mere obiter dictum of the United States Supreme Court's decision in the slaughter-house cases Judge Morrow shows that the question of citizenship was purely incidental and subordinated to the main question of whether the State of Louisiana's concessions were police regulations for the health and comfort of the people. The question of citizenship arose when it was apprehended that the privileges of citizens of the United States might be abridged, and on this hinged the further question as to who were citizens of the United States. The court's decision simply amounted to a declaration that the fourteenth amendment protects from hostile legislation of the States the privileges and immunities of citizens of the United States as distinguished from those of citizens of the States.

But the question directly involved in the Wong Kim Ark case did not arise. The paramount point made by the court in its treatment of the citizenship clause of the fourteenth amendment was the distinction it made between citizenship of the United States and citizenship of any particular State. The court said:

> The first observation we have to make on this clause is that it puts to rest both the questions which are stated to have been the subject of differences of opinion. It declares that persons may be citizens of the United States without regard to their citizenship of a particular State, and it overturns the Dred Scott decision by making all persons born within the United States and subject to its jurisdiction citizens of the United States. That its main purpose was to establish the citizenship of the negro can admit of no doubt. The phrase "subject to its jurisdiction" was intended to exclude from its operation children of ministers, consuls and citizens or subjects of foreign states born within the United States.

Judge Morrow admits that this last sentence is mere dictum, but he points out the strength of the second observation of the Supreme Court as follows:

> The next observation is more important, in view of the arguments of counsel in the present case. It is that the distinction between citizenship of the United States and citizenship of a State is clearly recognized and established. Not only may a man be a citizen of the United States without being a citizen of a State, but an important element is necessary to convert the former into the latter. He must reside within the State to make him a citizen of it, but it is only necessary that he should be born or naturalized in the United States to be a citizen of the Union.

Nor did the interpretation of the phrase in the case of Elk vs. Wilkins determine its meaning, explains Judge Morrow. In this case the question was whether an Indian born in the United States, and who had severed his tribal relations, was a citizen within the meaning of the fourteenth amendment. Justice Gray recognized in his opinion the two sources of citizenship, birth and naturalization, and held that it was necessary for the native-born child to be completely subject to the political jurisdiction of the country.

In conclusion, Judge Morrow confesses that he has to follow the Field decision in the Look Tin Sing case, but he explains as to the propositions of the common law and international law:

> The doctrine of the law of nations, that the child follows the nationality of the parents, and that citizenship does not depend upon mere accidental place of birth, is undoubtedly more reasonable and satisfactory, but this consideration will not justify this court in declaring it to be the law against controlling judicial authority. It may be that the executive departments of the Government are at liberty to follow this international rule in dealing with questions of citizenship which arise between this and other countries, but that fact does not establish the law for the courts as dealing with persons within their own territory. In this case the question to be determined is as to the political status and rights of Wong Kim Ark under the law in this country.
>
> No foreign power has intervened or appears to be concerned in the matter. From the law as announced and the facts as stipulated, I am of opinion that Wong Kim Ark is a citizen of the United States within the meaning of the citizenship clause of the fourteenth amendment.

There was great rejoicing in Chinatown last night over Judge Morrow's decision. At the headquarters of the United Parlor, Native Sons of the Golden State, it was learned that the Chinese estimate that there are at least 1000 native-born Chinese in this City, and a big vote might be polled among those of voting age.

RATES TO BE ADVANCED.

Eastbound Freight via Panama to Pay a Higher Tariff.

The New Schedule Expected to Be Ready in Ten Days—Two More Steamers Coming.

Two important matters to shippers of freight to Central American ports and to New York via the Panama route can now be announced on the authority of R. P. Schwerin, the general manager of the Pacific Mail Steamship Company.

These are that two more steamers are to be added to the San Francisco-Panama fleet and that rates to New York are to be advanced about the middle of the present month.

Word was received in this City yesterday from New York that the Pacific Mail Steamship Company had decided to utilize the steamers City of Para and the Colombia, which had been withdrawn from the New York-Colon route, on this side of the continent. Just when they will leave could not be learned, but it is expected that they will make their appearance in this port within the next ninety days. From New York they will go to Newport News to take a supply of coal and will then start on the voyage to Panama around the Horn, which is expected to take them about fifty days. At Panama they will get rid of their surplus coal cargo and take cargo for San Francisco and way ports.

Their arrival will give the Pacific Mail Company five large and well equipped steamers for both passenger and freight business between this port and Panama, and is expected to place the company in a position where it will be able to handle all business promptly and in a most satisfactory manner.

For some time past—in fact, ever since the announcement of the new agreement between the Panama Railroad Company and the Pacific Mail Steamship Company—General Manager Schwerin has been busy working on the tariff sheets of his company with a view to putting advanced rates on eastbound business, via Panama, into effect at the earliest day.

Some idea of the work involved in a general change of rates may be gathered from the fact that this labor will not be completed until the middle of the current month.

When asked as to how much the rates would be advanced Mr. Schwerin stated that he was not prepared to answer, and could not give even an approximate idea of what average per cent advance would be made.

"We shall only make such an advance," said Mr. Schwerin, "as will insure us a profit in the operation of our steamers, and which we are certainly entitled to, considering the well-regulated service we have always given the public. It has been no uncommon occurrence under the low rates which have prevailed for us to find the balance on the wrong side of the sheet when the accounts of the steamers were made up. Of course such a state of things could not be permitted to continue. It would simply drive us out of business, and I am sure that that is not what is desired by the public.

"Regarding complaints made by shippers, they are generally with little or no foundation. We can and do handle all the freight that is offered as a rule. There is not a single steamship line, I don't care how well regulated its business may be, that is not now and again compelled to refuse a few tons of freight, and that is all that has occurred so far as Central American business is concerned."

Under the new agreement, previously referred to, the Pacific Mail Steamship Company has the right to make only the eastbound rates, while the Panama people preserve the prerogative of fixing those for the westbound business. When the attention of E. H. Hinton, the local agent of the Panama Railroad Company, was called to the proposed action of the Pacific Mail and he was asked whether his company intended to advance westbound rates simultaneously with the Pacific Mail he replied as follows:

"The eastbound rates are independent of the westbound rates. The conditions surrounding the westbound traffic are different from those surrounding the eastbound traffic at this time and I do not suppose it will be possible to make an advance at the same time. An advance in eastbound rates has no immediate bearing on the westbound rate situation."

Catered to Popular Taste.

A well-known scientist was walking along a London street when he came across an itinerant astronomer, who was inviting the passers by to gaze through his telescope at the moon at a halfpenny a time. The scientist in London was speculative enough to venture a half-penny, and on applying his eye to the instrument was astonished to see a beautiful picture of a full moon, although at the time the moon was only in her second quarter. Puzzled by the circumstance he examined the instrument and found that it was not a telescope at all, but simply a tube with a hole where the eyepiece should be and a transparent photograph of a full moon, with a light behind it, at the other end. On the scientist asking the exhibitor how he could so cheat the public, the man simply remarked: "It's all right, sir. People like a lot for their money nowadays. I used to have a proper 'scope once, but I turned it up for this after an Irishman pitched into me for showing him only 'arf a moon. This way pays better and gives more satisfaction."—Columbus Journal.

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Winter Tan Calf Lace, pointed toe, stylish and sensible	$3.00
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Best Patent Leathers in assorted varieties and styles	$3.25

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