

Especially amusing is the third story of "The Gentle Grafter" series, by O. Henry, the celebrated humorist, which is to appear in

The Sunday Call

THE CALL



Every pioneer of California and the present generation, too, will be interested in the old photographs of San Francisco, which will appear in

The Sunday Call

VOLUME CII.—NO. 18.

SAN FRANCISCO, TUESDAY, JUNE 18, 1907.

PRICE FIVE CENTS

Board of Supervisors Wrests Mayoralty From Schmitz Calhoun's Counsel Seeks to Show That Graft Indictments Are Illegal

AKOKI DOES NOT BELIEVE HE IS TO LOOSE POST

Ambassador Discredits Report That Japan Will Recall Him

DIPLOMATS EXCITED

Statement of Tokyo Paper as to Change Agitates Washington

KANEKO AFTER PLACE

Peace Commissioner Said to Be Longing to Come to This Country

WASHINGTON, June 17.—State department officials and members of the diplomatic corps were much interested today in the statement in a Tokyo newspaper that the Japanese government probably would recall Viscount Aoki, the Japanese ambassador at this post, and was conferring on the appointment of Baron Kaneko as his successor. Officials of the Japanese embassy say that the progressive party has taken the San Francisco disturbance as a pretext in an effort to bring about the downfall of Viscount Aoki. It is pointed out that Marquis Ito has been inimical to Viscount Aoki for many years.

It was stated authoritatively tonight that "If the Japanese government had any intention of recalling Viscount Aoki the news would not be first announced to the world through the columns of the Hochi," and that "Ambassador Aoki did not attach any credence to the report."

Since his visit to the United States, when the peace conference was being conducted at Portsmouth, Baron Kaneko has had a great ambition to represent Japan as ambassador at Washington.

Baron Kaneko is not a member of the antiadministration party. He is a member of the privy council and a loyal supporter of the Saioji ministry and his appointment as ambassador to the United States would not be considered as a concession to the antiadministration forces. In discussing the proposed recall of Ambassador Aoki, Dr. Masuji Miyakawa, the Japanese lawyer, said: "The San Francisco-Japanese question is not an international question but a simple American constitutional question. The change of ambassador would not change the constitution of America. The federal and state system is the cause of the triumphs of the American government. The independent existence of national and municipal administration is the bulwark of liberty and the invaluable lesson for the American people if not for the world's people."

"The changing of ambassador would not end the conflict and trouble between groups of the Japanese race and groups of other races in San Francisco. The conflicts and troubles will never end but, on the contrary, will multiply more and more, for the trouble in San Francisco is not a question for vigorous diplomacy."

"The solution is all up to the Japanese themselves. So long as they who reside in San Francisco speak in their own language, write in their own language, think in their own language, and avoid communication with the American people they can never minimize the causes of the Japanese troubles. So long as the Japanese of America depend upon the advice or interference of their home government they must expect a continuation of troubles upon troubles. And for that matter even though the officials of the Japanese imperial embassy consisted of the twelve apostles of God they could never change the American constitutional theory of 'indissoluble union composed of indestructible states.'"

DEVLIN MAY AID JAPANESE

United States District Attorney Devlin received a letter of instructions yesterday from Attorney General Bonaparte concerning his future course with respect to the recent riots of white labor unionists in the Japanese restaurant and bathhouse in Folsom street. Devlin declined to make public the nature of his instructions, but from rumors that began to circulate in the Japanese colony two hours after the receipt of the letter, it is surmised that Devlin will be instructed to offer his services to the Japanese consul and the litigants who are preparing to file damage suits in the United States circuit court against the city government for injuries to person and property at the hands of the rioters. They will allege that the city has neglected to protect them from the attacks of mobs. These complainants will ask large sums for exemplary damages in addition to the actual damages.

The Japanese consul has been assured that President Roosevelt will do all in his power to protect the subjects of the land of the chrysanthemum.

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TUESDAY, JUNE 18, 1907

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THE CALL'S BRANCH OFFICES

Subscriptions and Advertisements will be received in San Francisco at following offices:

- 1651 FILLMORE STREET
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- 818 VAN NESS AVENUE
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- 3011 16TH ST. COR. MISSION
International Stationery Store.
- 1531 CHURCH STREET
George Prewitt's Branch.
- 2200 FILLMORE STREET
Woodward's Branch.

HENEY PREPARES NEW COMPLAINT AGAINST FORD

Announces in Court That Prosecution Is Ready for Attack

SPRECKELS TESTIFIES

Interrogated by Attorney for Calhoun and His Associates

JUDGE IS INDIGNANT

Refuses to Allow Defense to Use His Court for Politics

By George A. Van Smith

Judge Lawlor peremptorily refused yesterday afternoon to permit attorneys for the indicted officials of the United Railroads to turn his court into a political inquisition. The court's stern order for a change of tactics resulted in the disgusted dismissal of Rudolph Spreckels from the witness stand by A. A. Moore of the counsel for the defense.

Moore was disposed to bait and sneer at Heney and one of the exchanges developed the rather startling information that the prosecution has not shot all its bribery bolts at the indicted United Railroads officials.

Replying to one of Moore's sarcasms, Heney cried:

"We are prepared now to file another complaint for bribery against Tiley L. Ford, and if the court wishes to sit here as a committing magistrate we are ready to begin taking testimony tomorrow morning. You may have the testimony in open court, where you will be in no danger of losing any of it."

Any testimony received by Judge Lawlor in support of the motion to set aside the bribery indictments against Patrick Calhoun, Thornwell Mullanly, Tiley L. Ford and William M. Abbott must bear directly upon the alleged disqualification of the grand jury or individual grand jurors.

Judge Lawlor's emphatic refusal to submit to the tactics of counsel for the defense yesterday, brought the proceedings to an abrupt close in so far as the examination of witnesses was concerned. The motion to set aside will come before the court again this morning, but only for the purpose of setting a date for the examination of members of the grand jury.

The court's ruling was precipitated by the examination of Rudolph Spreckels by Moore. After a protracted exchange of unpleasantities between Moore and Heney and Cobb, the court put a damper on the defense by telling it very plainly that he was not interested in whom Spreckels might have employed or whom Spreckels purposed to make mayor of San Francisco. The defendants, the court said, must address themselves to the reliefs provided by statute.

Calhoun, Mullanly and Abbott came into court in company. With them was Mullanly's bodyguard. Ford came a few minutes later and joined the party, which had been augmented by A. A. Moore and Stanley Moore, their attorneys.

CALHOUN TAKES NOTICE

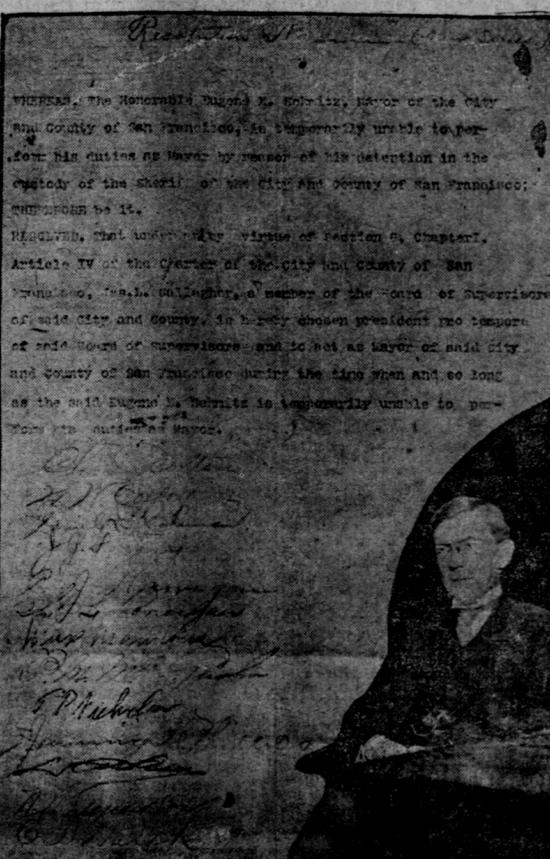
Calhoun turned from the perusal of a personal letter to give close and apparently deep attention to the court, who, upon ascending the bench, immediately began his charge to the jury trying Dr. Ralph Huntington for manslaughter.

In response to Moore, Judge Lawlor said he was not disposed to insist on the presence of the indicted officials during the taking of testimony. The court's assurances brought from Calhoun an emphatic "We are here," pronounced in a manner calculated to convey the impression that "we" meant to stay and see it out.

The fight was on at once. Stanley Moore moved three amendments to the motion submitted. The first amendment alleged that while the charge against the defendants was being investigated, Rudolph Spreckels, a private and interested prosecutor, Heney and Burns, employes of Spreckels, together with District Attorney Langdon, used their persuasion and influence with the grand jury to return indictments for which there was no justification. The second amendment alleged that Spreckels had contributed to and raised a large fund, part of which had been expended in furnishing members of the grand jury with automobiles.

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Scene at meeting of supervisors yesterday. Supervisor Tveitmoe speaking in opposition to removal of Schmitz, with O'Neil, who joined him in the attack, seated at desk. The lower portrait is of Acting Mayor Gallagher. The resolution which incapacitated Schmitz is reproduced.



Mayor Schmitz Is Permitted to Leave Prison

Granted special permission yesterday to leave the county jail to consult his attorneys at their offices, Eugene E. Schmitz, now mayor of San Francisco in name only, was whirled away from the prison in the Ingleside road at 1:30 o'clock in the afternoon in the big red touring car which the city purchased for the use of its chief executive. For several hours he was comparatively free.

Schmitz' egress from the prison was signalized by undue activity on the part of the deputies at the institution—not to guard against any matter of such secondary importance as to prevent his possible escape, but to clear the path from the jail of all spectators in order that the prisoner might not undergo the ignominy of being subjected to the view of curious eyes. One deputy was entrusted with the minor responsibility of maintaining custody of the prisoner; the remainder of the force was assigned to the task of dispersing a few newspaper reporters and photographers and a handful of children who had gathered in a group outside the gate.

The fact that those gathered outside were not on prison property but in the public road did not prevent the giving of gruff orders by the guards that they move on, nor the threatening display of a rifle by the man at the sentry box by the gate, acting under the instruc-

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Law Under Which Schmitz Loses Office

CHARTER provisions under which Mayor Schmitz was declared incapacitated and Supervisor James L. Gallagher appointed acting mayor: Section 6, chapter 1, article IV. "When and so long as the mayor is temporarily unable to perform his duties, a member of the board shall be chosen president pro tempore, who shall act as such mayor. When a vacancy occurs in the office of mayor it shall be filled for the unexpired term by the supervisors."



Langdon Tells Why Change Was Made

By William H. Langdon
District Attorney

THE action of the supervisors in appointing Gallagher acting mayor was due to the fact that it is necessary to have some one take control of the office at once to care for the business that needs attention there. Schmitz is absolutely incapacitated from carrying on the business of the office because of his imprisonment, and the action was taken under the clause of the charter which provides that a member of the board of supervisors shall be appointed acting mayor whenever the mayor is temporarily unable to perform the duties of the office. That is the condition which now exists. Schmitz has not been removed from office. He is still mayor, and Gallagher's power will continue only so long as Schmitz remains incapacitated.

No further steps have been taken toward putting a new man in the mayor's chair, as has been suggested. No supervisor has been asked to resign, and if any resignation were tendered now it would be necessary to wait until the next meeting of the supervisors before it could be acted upon officially. If Schmitz should succeed at any time in obtaining bail it would restore his right to resume office. I cannot say what action might be taken by the district attorney's office in such instance, for the possibility is at least remote, and we do not believe in crossing bridges before we come to them.

Gallagher Made Temporary Head of City Government

O'Neil and Tveitmoe Bitterly Denounce the Action of Their Colleagues

Mayor Eugene E. Schmitz has been declared incapacitated from performing the duties of his office and James L. Gallagher, chairman of the finance committee of the board and acting mayor of the city and county of San Francisco. Schmitz' imprisonment upon conviction of extortion is the ground for the action, which was taken by the board of supervisors yesterday afternoon.

Thirteen members of the board, not including Gallagher, signed the resolution on which the board acted. The step was taken at the instance of the district attorney's office and was bitterly denounced by Supervisors J. F. O'Neil and O. A. Tveitmoe, Schmitz appointees on the board, who took office after the first of the year and were not involved in the confessions of the hoodling members before the grand jury.

A serious legal question is involved in the action of the board and the courts doubtless will have to pass upon the question whether or not Schmitz, convicted felon, is qualified to sit as head of the municipal government while confined in the county jail. Between now and June 30 the mayor or acting mayor will have to sign the municipal budget for the ensuing fiscal year, the document on which the tax levy is computed, and, furthermore, he will have to approve, with the board, the tax rate for the coming year, which calls for an excess of the dollar limit. Should Gallagher perform those functions and the courts decide later that his appointment was illegal the tax levy might be nullified, though that probability is mitigated by the application of the law which sanctions the acts of de facto officials. It is possible that Schmitz will sue today for an injunction to retain his powers.

O'NEIL TAUNTS COLLEAGUES
Supervisors O'Neil and Tveitmoe put up a bitter fight against the resolution, though they knew that their words would not affect the men to whom they were applied. O'Neil taunted the no-

Impertinent Question No. 3

Why Aren't Wives Happy?
For the most original or wittiest answer to this question—and the briefer the better—The Call will pay FIVE DOLLARS. For the next five answers The Call will pay ONE DOLLAR each. Prize winning answers will be printed next Wednesday and checks mailed to the winners at once. Make your answers short and address them to IMPERTINENT QUESTIONS, THE CALL.

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