

DISMISSES CALHOUN CASE

Judge Lawlor Denies Fickert's Motion and May Look Into Reason For It

District Attorney Rages and Threatens All Those Who Opposed Grafters

District Attorney Charles M. Fickert took the first important step of his administration with reference to the graft cases yesterday by formally moving in Judge Lawlor's court to dismiss all the pending indictments against Patrick Calhoun, Tiry L. Ford, William M. Abbott and Thornwell Mullally.

Judge Lawlor refused to grant the motion, declaring that in his opinion the issue was one for determination by a jury. He set the Calhoun case for trial on next Monday. Fickert announced that he would be ready, and Stanley Moore for Calhoun made the same formal announcement.

District Attorney Fickert subsequently announced sentimentously that he would "prosecute" and, as the result of inquiries respectfully put to him by a representative of The Call, flew into a childish rage and indulged himself in threats that some of the indicted grafters have made against the newspapers and men who have urged and supported the prosecution of crime.

INVESTIGATION PROMISED

If District Attorney Fickert redeems the promises or threats he made in his burst of anger yesterday, some grand jury will be asked to investigate The Call, former District Attorney William H. Langdon, Francis J. Heney, William J. Burns and presumably others, with a view to indicting some or all of them. The trial judges and the members of the grand jury were not included in the list of persons the district attorney purposes to subject to grand jury investigation.

Fickert based his motion to dismiss the alleged graft cases on the ground that he was unable to find evidence to support the charges. He was visibly perturbed as he read the long motion, which had been reduced to writing. He informed the court that he considered it useless to go through a court trial. He stated the affidavit made by Ruef in which Ruef deposed that there had been nothing corrupt in his relations with the United Railroads and its representatives.

In his formal motion Fickert made no reference to Gallagher, but he said that the presence of Gallagher would make no difference and that if Ruef testified contrary to the matter contained in his affidavit it would serve only to add perjury to Ruef's many crimes. He said that he would take any case as a part of the moving papers in support of this motion.

In further support of this motion I hereby make reference to all the records, papers, files and evidence introduced in the cases of the people of the state of California vs. Tiry L. Ford, No. 812, the people of the state of California vs. Patrick Calhoun, No. 1436, and by such reference adopt the same as a part of the moving papers in support of this motion.

In further support of this motion I direct your honor's attention to the fact that the issues to be tried in this case are identical with the issues tried in the cases of the people of the state of California vs. Tiry L. Ford, No. 812, the people of the state of California vs. Patrick Calhoun, No. 1436, and the people of the state of California vs. Tiry L. Ford, No. 823, of all of which this court may take judicial notice, and that 42 out of 48 jurors sworn to try the issues in said cases rendered their verdict for the acquittal of the defendants therein.

PECULIAR SITUATION OUTLINED

The district attorney was convinced that the hoodle supervisors had committed crimes. He said in an interview that they had confessed the taking of money and that he had no doubt of their guilt. Beyond that he declared there was nothing to show that any crime had been committed on behalf of the United Railroads. He insisted that there was nothing in evidence to show that such a crime had been committed, and that there was nothing in the record to show it and that no jury had believed it. He was determined, he said, to take the graft cases as he would any graft case.

Fickert admitted that he had advised the court of his intention to move for a dismissal, but denied that he had taken the counsel for the defendants into his confidence.

Fickert declared that he could see no chance of securing a conviction and that there was nothing to show that the money which the United Railroads had secured at the mint was the money taken by the supervisors. In answer to an inquiry touching the efforts to secure evidence the district attorney said he had given considerable time to running down rumors.

SAYS THE RECORDS WERE STOLEN

A great deal of evidence is missing, said Fickert. "The former district attorney has taken it away." "Do you mean to imply that former District Attorney Langdon has taken away the office records?" Fickert was asked.

"I do not mean to imply—I charge," declared Fickert. "Mr. Langdon took the records of this office away. I propose to take that matter up with the grand jury."

Burns and Heney were both accused of taking records and Fickert promised that both would be investigated by the grand jury.

The district attorney admitted that he had heard of Fickert's campaign and that he had been referred to as "Patrick Calhoun's man." Both accusations he denied briefly, but he lost his temper when he was asked courteously what he would make to the probable renewal of those charges as the result of his motion to dismiss the indictments.

FICKERT BECAME PEEVISH

Leaping from his chair and shaking his fist, Fickert roared that nobody would come into his office and make statements like that, and launched into a tirade of abuse of The Call. He also admitted that he was considering the matter of asking the grand jury to investigate the attack on The Call the district attorney had suggested that he would be glad to bring Gallagher back "if Burns would permit it," and intimated that he would later ask for the dismissal of the indictments against former Mayor Schmitz.

Fickert's motion for dismissal was made yesterday morning when the Calhoun case was called in Judge Lawlor's court. Calhoun was accompanied by Stanley Moore, Stanley Moore, William M. Abbott, John J. Barrett, Lewis F. Byington and Luther Brown. When the case was called Fickert presented his motion as follows:

Since the calling of this case on January 10, I have made a thorough and careful examination of the evidence left in the district attorney's office by my predecessor, Mr. Langdon, and he informed me, on my accession to the office, that he had delivered to me all the evidence of every kind and character in his possession or under his control in this case. I have also examined the transcript of testimony given at the former trial of this defendant. Besides this, I have made independent search for further evidence. These examinations convince me that there is not sufficient legal and competent evidence to justify me, as a sworn officer of the law, to present this case to a jury.

My opinion is confirmed by the fact that 42 out of 48 jurors, sworn to try this defendant and the defendant Tiry L. Ford, upon the state of facts, voted "Not guilty." I, therefore, "in furtherance of justice," move the dismissal of this case on the ground that the evidence is wholly insufficient to warrant another trial of this defendant.

JUDGE DENIES MOTION

After Fickert had submitted his motion, Judge Lawlor discussed the code provisions and then said: "It is not the disposition of the court of its own motion to order this action dismissed. The consideration, therefore, must resolve around the initiative of the district attorney as presented by the pending motion. In the present view of the matter it is not the disposition of the court to inquire into the attitude of the district attorney, because if the court shall deem such a course advisable, it will find itself obliged to make an exhaustive inquiry into the attitude of the district attorney. In the view of the court this action should be tried by a jury and a verdict should be rendered by a jury, if that is possible, in the full operation of the law. The motion is denied."

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Transportation Club Gives Its Ladies' Night at Palace

Seven of the guests at the Transportation club's ball last night. Left to right: Top row—Mrs. V. M. Smith, Mrs. H. E. Jarman, Miss Doris Grayson. Middle row—Miss Pearl Coffman, Mrs. W. H. Matson. Bottom row—Mrs. Henry Avila, Mrs. E. J. Schneider.



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ARMED DANCE ROW REVEALS ROMANCE

Miss Hesler's Engagement to Dr. Robnett Confirmed at Court Martial

Girl Is Witness in Behalf of Fiance Who Thrashed Her Annoying Admirer

BOSTON, Feb. 7.—Resentment of the attentions of a civilian to his fiancée, Miss Dorothy Hesler of Evanston, Ill., was the basis of the defense of Dr. A. S. Robnett at his court martial trial today resulting from the episode at the naval dance at the Charlestown navy yard on December 11.

The doctor Robnett's trial today on a charge of conduct unbecoming a gentleman and of profanity lasted only four hours. Much of the testimony was the same as that adduced at the trial of Paymaster George P. Auld last week on charges growing out of the same incident.

The trial was simplified by the admission by Doctor Robnett that he did use objectionable language when he called Dr. E. S. Cowles, the ejected civilian, to account for his attitude toward Miss Hesler. Doctor Cowles, who was again on the stand, denied that he attempted to make clandestine appointments with the young woman, and in this he was substantiated by his wife. She also supported him in regard to Robnett's words over the telephone, which formed one of the charges.

GIRL ANNOUNCES ENGAGEMENT

Miss Hesler took the witness stand and flashing a diamond ring she declared that Doctor Robnett had already been engaged to Doctor Robnett since November and that Doctor Cowles not only tried to meet, but wanted to send her flowers and call on her. Miss Hesler said that she appealed to Doctor Robnett to save her from Doctor Cowles and that the incident followed.

EXPLANATION CAUSES ARGUMENT

Doctor Cowles explained his effort to obtain an appointment with Miss Hesler at an elevated station by saying the young woman had been invited to dine at the Cowles house and Mrs. Cowles suggested that the doctor meet her on her way from Malden.

When Major Leonard asked Doctor Cowles why he did not offer the same explanation at the trial last week, the judge advocate objected and the testimony was suspended while arguments were made on the question.

After the court had allowed the question Doctor Cowles stated that he had told the incident last week as he had remembered it at that time. Today he said he recalled additional details. He denied he ever aggravated Doctor Robnett or that he ever accepted a challenge for a fight encountered. Neither did he call Doctor Robnett a "cur."

Mrs. Cowles explained the elevated station incident with Miss Hesler, saying that she invited that young lady to dine and to let her husband that he ought to escort her from the station to their house, as Miss Hesler did not know the way.

DEFENDANT TAKES STAND

Doctor Robnett took the stand in his own defense. He admitted that he asked Doctor Cowles by telephone if he had not received a request from Miss Hesler to return her picture. Doctor Cowles replied that he had, but that it was none of his business whether he had returned it.

He denied that he used violent language to Doctor Cowles, but admitted that he did use the epithet "cur." Doctor Cowles had mentioned this was after Doctor Cowles had called him a "cur." He did not threaten Doctor Cowles and the dance he proposed with Miss Hesler that he would not say anything to Doctor Cowles.

VICE GOVERNOR OF PHILIPPINES NAMED

Newton W. Gilbert Appointed by President

WASHINGTON, Feb. 7.—Newton W. Gilbert of Indiana was nominated today by President Taft as vice governor of the Philippines and Charles B. Elliott of Minnesota as a member of the Philippine commission and secretary of commerce and police.

Charles E. Magoon, former provisional governor of Cuba, was offered the position of vice governor and secretary of commerce and police, but declined because of his doctor's advice that he remain in this country.

HARD TO DROP

But Many Drop It

A young Calif. wife talks about coffee. "It was hard to drop Mocha and Java and give Postum a trial, but my nerves were so shattered that I was a nervous wreck and of course that means all kinds of ails."

"At first I thought bicycle riding caused it and I gave it up, but my condition remained unchanged. I did not want to acknowledge coffee caused the trouble, for I was very fond of it. At that time a friend came to live with us, and I noticed that after he had been with us a week he would not drink his coffee any more. I asked him the reason. He replied, 'I have not had a headache since I left off drinking coffee, some months ago. I'll last week, when I began again, here at your table. I don't see how any one can like coffee, anyway, after drinking Postum.'"

"I said nothing, but at once ordered a package of Postum. That was five months ago, and we have drunk no coffee since, except on two occasions, when we had company, and the result each time was that my husband could not sleep, but lay awake and tossed and talked half the night. We were convinced that coffee caused his suffering, so we returned to Postum, convinced that coffee was an enemy. Instead of a friend, and he is troubled no more by insomnia."

"I myself have gained 8 pounds in weight, and my nerves have ceased to quiver. It seems so easy now to quit coffee that caused our aches and ailments and take up Postum."

Read the little book, "The Road to Wellville," in pkgs. "There's a Reason."

Ever read the above letter? A new one appears from time to time. They are genuine, true, and full of human interest.

DO YOU GET UP WITH A LAME BACK?



Have You Rheumatism, Kidney, Liver or Bladder Trouble?

To Prove what Swamp-Root, the Great Kidney, Liver and Bladder Remedy, will do for YOU, all our Readers May Have a Sample Bottle Sent Free by Mail.

Pain or dull ache in the back is evidence of kidney trouble. It is nature's timely warning to show you that the track of health is not clear.

Danger Signals. If these danger signals are unheeded more serious results follow: Bright's disease, which is the worst form of kidney trouble, may steal upon you.

The mild and immediate effect of Swamp-Root, the great kidney, liver and bladder remedy, is soon realized. It stands the highest for its remarkable curative effect in the most distressing cases. If you need a medicine, you should have the best.

Lame Back. Lame back is only one of many symptoms of kidney trouble. Other symptoms showing that you need Swamp-Root are, being obliged to pass water often during the day and to get up many times during the night.

Catarrh of the Bladder. Inability to hold urine, smarting in passing, uric acid, headache, dizziness, indigestion, sleeplessness, nervousness, sometimes the heart acts badly, rheumatism, bloating, lack of ambition, may be loss of flesh, sallow complexion.

Prevalency of Kidney Disease. Most people do not realize the alarming increase and remarkable prevalence of kidney disease. While kidney disorders are the most common diseases that prevail, they are almost the last recognized by patient and physicians, who usually content themselves with doctoring the effects, while the original disease constantly undermines the system.

A Trial Will Convince Any One. In taking Swamp-Root you afford natural help to Nature, for Swamp-Root is a gentle healing vegetable compound—a physician's prescription for a specific disease.

If you are already convinced that Swamp-Root is what you need, you can purchase the regular fifty-cent and one dollar size bottles at all the drug stores. Don't make any mistake, but remember the name, Dr. Kilmer's Swamp-Root, and the address, Binghamton, N. Y., which you will find on every bottle.

SAMPLE BOTTLE FREE.—To prove the wonderful merits of Swamp-Root you may have a sample bottle and a book of valuable information, both sent absolutely free by mail. The book contains many of the thousands of letters received from men and women who found Swamp-Root to be just the remedy they needed. The value and success of Swamp-Root is so well known that our readers are advised to send for a sample bottle. Address Dr. Kilmer & Co., Binghamton, N. Y. Be sure to say you read this generous offer in The San Francisco Daily Call. The genuineness of this offer is guaranteed.

B. Altman & Co.

HAVE NOW READY THEIR SPRING AND SUMMER CATALOGUE, No. 101, OF WOMEN'S AND CHILDREN'S GARMENTS, ETC.

A COPY WILL BE MAILED UPON APPLICATION

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HOTEL POTTER

OFFERS THE MAXIMUM OF COMFORT AT A MINIMUM OF EXPENSE. Situated amidst the most perfect surroundings, facing the broad Pacific, with the beautiful Santa Inez Mountains forming the background. Can accommodate 1,000 guests and offers the best in service and equipment.

Has its own Country Club, situated in a beautiful park of 2,000 acres. Its Golf Course is the sportiest in CALIFORNIA, and a competent instructor is in attendance. Polo, Tennis, Boating, Fishing and Motoring every day in the year. Guests of the Hotel are entitled to all Club privileges.

Open all the year round, and is operated on the American Plan only, with rates from \$3.50 a day and upward for each person.

Wire your reservations at our expense.

MILO H. POTTER, Manager.

SANTA BARBARA

FAIR SEX GUESTS OF RAILWAYMEN

Members Trip Light Fantastic With Wives, Friends and Daughters

The members of the Transportation club gave their first ladies' night in the new clubrooms and in the Palace hotel ballroom last night.

The affair, while the first since the club entered its new quarters, was the most successful ever held by the organization. A large majority of the railroads of the country were represented, not only by the general agents, but by the wives and daughters of the general agents.

A Virginia reel was provided for those who did not dance the modern dances, while the younger set was provided with waltzes and polkas. The affair was arranged by the entertainment committee of the club, comprising J. G. Stubbs, chairman; Bode K. Smith and W. W. Webster.

The reception committee consisted of C. C. Crane, W. R. Alberker, S. F. Booth, W. E. Ingram, O. Rich, C. J. Jones and L. A. Phillips.

The following were in charge of the floor: Bernard F. Alfs (chairman), J. H. Steiger, Dr. S. J. Gardner, Robert Adams, C. Frye, F. O. Hatch, R. B. Patterson, H. E. Jarman, D. M. Swobe, H. I. Graham, H. A. Buck, J. G. Melvin, H. Fisher, J. E. Betts, S. M. Tate and O. T. Weber.

Among those present were the following: Mr. and Mrs. V. M. Smith, Mr. and Mrs. S. F. Booth, Mr. and Mrs. A. G. D. Ketchell, Mr. and Mrs. E. E. Weaver, Mr. and Mrs. Henry Avila, Mr. and Mrs. H. P. Ansell, Mrs. Charles Stokes, Mr. and Mrs. G. W. Grayson, Miss Doris Grayson, Mr. and Mrs. C. G. Swett, Mr. and Mrs. H. W. Thomas, Miss Olive Jordan, Mr. and Mrs. H. E. Jarman, Mrs. Ada Hunsaker, Mr. and Mrs. R. B. Bachrach, Miss Mabel Bass, Mr. and Mrs. J. W. Duffy, Miss Charlotte G. Willis, Mr. and Mrs. A. M. Dollar, Mrs. George H. Peters, Mr. and Mrs. G. E. Heise, Mrs. A. R. Hyde, Mr. and Mrs. John Leale, Miss Leale, Mrs. Adair Leale, Mr. and Mrs. J. D. Brown, Mrs. Anna M. Gilbert, Mr. and Mrs. Chester R. Rymon, Mrs. C. D. T. Berry, Mr. and Mrs. William Lippman, Mr. and Mrs. W. H. Matson, Mr. and Mrs. H. A. Jacobson, Mr. and Mrs. C. L. Brown, Mr. and Mrs. N. W. Hall, Mr. and Mrs. C. E. Bain, Miss Pearl Coffman, Mr. and Mrs. John McEwing, Joseph Melroy, Miss Florence Plummer, Mr. and Mrs. E. J. Schneider, Mr. and Mrs. E. H. Torrey, Mr. and Mrs. G. L. Blair, G. G. Fraser, Miss Belle Fraser.

Mr. and Mrs. F. E. Batters, Mr. and Mrs. T. G. Waitor, E. A. Graham, Miss Gertrude S. Eberle, Miss Clara M. Eberle, Mr. and Mrs. G. Larn M. and Mrs. T. H. V. A. Roberts, Miss Ruth Soule, E. M. Pomeroy, Miss Sadie E. Farrell, Mr. and Mrs. A. Schloss, E. A. Tingle, Mr. and Mrs. E. O. Hatch, E. M. Pomeroy, Mr. and Mrs. J. G. Melvin, Mr. and Mrs. F. R. H. Harrington, Miss Alice M. Harrington, Miss Mae Harrington, Mr. and Mrs. J. L. Chadlock, E. M. Pomeroy, Gus Koch, C. J. Hart, W. J. Martin, A. L. Morlan, J. E. Betts, H. F. Forster, E. R. Muts, T. D. F. Wilson, L. F. Cookfort, H. F. Borgholm, C. E. Frye, E. C. Priole, E. A. Tingle, C. B. Pinkham, S. M. Dickinson, E. N. Burdick, J. W. Scott, C. M. Roberts, F. H. Ellis, M. A. Podlech, James A. Keller, H. B. Jones, E. H. Prentice, G. A. Peterson, E. E. Penn, J. Abrahamson, F. Currier, E. B. Patterson, H. Jacobson, E. F. Alfs, B. F. Alfs, E. A. Tingle, C. A. Phillips, Charles A. Stewart, S. M. Tate, John G. Stubbs, J. E. Jones, F. Currier, James Madison, J. J. Clifford, E. B. Noble, T. A. Woods, S. L. Nantably, Oscar J. Weber, C. M. Roberts, Mrs. E. L. Fries, Mrs. J. Marovitch.

Eight witnesses besides Miss Keller testified during the day. They were: Dr. Edward L. Stewart, Dr. G. T. Twyman, who testified regarding the autopsy, and James Craig, R. B. Mitchell, W. F. Sline, H. S. Cowan and Thomas L. Nicholas, all of whom told of the burial of Colonel Swope's body.

Doctor Hyde filed suit for \$100,000, for alleged slander against Attorney John G. Paxton today, and service was obtained upon the attorney at the inquest.

A similar suit against Paxton was dismissed by Doctor Hyde in order to keep from giving his deposition before the inquest began over the body of Colonel Swope.

WIFE OF DEAD MAN APPEARS AT MORGUE

Spouse of Gas Victim Relates Story of Quarrel

Mrs. W. B. Schroeder, who lives with her mother, Mrs. J. Martin, at 559 Folsom street, insisted at the morgue yesterday that she was the wife of Alfred Parkinson, one of the three men who were asphyxiated in the Ancon house, 452 Drumm street.

She says they were married at Stockton a few days ago, but had separated Saturday night after a quarrel. Mrs. Schroeder's first husband died three months ago, leaving her with three children.

Mrs. Schroeder said that Parkinson had relatives in the east, and an effort was made yesterday to notify them of the death.

Shasta Water—a precious boon morning, night, also at noon.

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