

Marin County Grand Jury Returns Indictment Against Flannery

PRINCE BOARD HEAD TO FACE FELONY CHARGE

Accused of Grand Larceny in Connection With Bunko-men's Dealings

District Attorney Fickert Announces That Local Inquiry Will Be Started

Expressed excitement about the court-house in San Rafael from earliest morning yesterday, as it was generally believed that the grand jury, after its adjournment over Thursday, would conclude its investigation quickly and that definite action would result. Attorney Robert W. Harrison, formerly an assistant district attorney of San Francisco under William H. Langdon, was at the courthouse early in the forenoon and was closeted for an hour with District Attorney Boyd before the grand jury itself was convened at 10 o'clock.

Harrison has represented the Good Government league while the investigation has been in progress, and it was announced yesterday afternoon that Boyd, personally, would be associated in the conduct of the prosecution of the Flannery case when it comes to trial. He will be engaged to assist Boyd by the management of the public welfare fund.

Pistolesi in Evidence

Supervisor Louis Pistolesi of Marin county, whose name has been brought into the scandal growing out of the indictment against Flannery, was under investigation by the grand jury, remained around the corridors of the courthouse while the grand jury was in session and even until late in the afternoon, taking the liveliest interest in all the proceedings. It came out at one of the earlier grand jury hearings that Pistolesi had been introduced to Frank McSherry, one of the indicted bunco-men, by William Hazel, but the supervisor has strenuously declared that he had no illicit dealings with any of the crooks.

Only two witnesses were called before the grand jury during the session, prior to the time the indictment against Flannery was returned, the first of them being Robert N. Wood, the complaining witness in the cases against all the poolroom men. The second being Sheriff Taylor, who is still being held by Sheriff Taylor to prevent the possibility of his being kidnaped, and never leaves the sheriff's office without a deputy at his side.

Wood Adds New Details

Wood again went over his story of the manner in which he was swindled out of \$300 in the bogus poolroom by the Western Union telegraph company, supposed to have been secured by wire tapping. He added several details which had not been discussed at the time he was first called as a witness and cleared up a number of points concerning which questions had been raised by the grand jurors. Joseph Abbott and Frank McSherry, the two bunco-men who are still in the Marin county jail under indictment, were rushed upstairs to the grand jury anteroom while Wood was before the inquisitors and were kept waiting for a considerable time, but finally were sent back to their cells, being called as witnesses. Both of them continued their avoidance of public notice as much as possible, covering their faces as they passed the group of newspaper photographers who were gathered in the anteroom and refusing to indulge in any conversation relative to the case.

Theodore Kytka, the handwriting expert, was recalled following the examination of the telegraph company enlarged photographs of the telegram sent by Flannery to Abbott in Seattle November 3 of last year and the envelope containing Flannery's address in his own handwriting. The telegram to Abbott, was given to him by Flannery.

Fail to Find Telegram

Efforts have been made by District Attorney Boyd to secure the original copy of the telegram which is alleged to have been sent by Flannery to summon Attorney James W. Cochran from the Western Union telegraph company, and Hazel after their arrest in the poolroom raid, but if the document has been discovered it has not been put in evidence. Superintendent O'Brien of the Western Union telegraph office in this city, who produced the copy of the telegram from Flannery to Abbott, reported that the other message was not to be found in his company's files. A subpoena was issued to the telegraph company records, if it should be found on file there, but no official of the latter company appeared yesterday before the grand jury.

It was shortly before 12 o'clock that District Attorney Boyd withdrew from the grand jury room and a quarter of an hour later when the adjournment was made the grand jury was ready to report. In the meantime the rumor had spread that the session was about to end, and Judge Lennon's courtroom was well filled with spectators when the grand jurors filed in.

The proceedings in court were decidedly brief. In answer to the court's interrogation as to whether a report was to be made, Foreman E. H. Samuels announced that an indictment had been found, and handed the document in question to Judge Lennon. The latter scanned it while the roll of the jury was being called and then handed it to the clerk to be placed on the secret file, made an order for the defendant's bail at \$2,000 and dismissed the grand jury.

Conclusions Quickly Drawn

Although no official admission was made until late in the afternoon, following the receipt of Flannery's bail money, that he was the defendant or regarding the exact nature of the charges against him, the finding of the grand jury was generally known within 10 minutes of the time the trial was filed. So closely had the trend of the case been followed and the nature of the charges against Flannery disclosed that the deductions drawn from the filing of an indictment were the only ones possible.

Two members of the grand jury, Mr. Herzog and Fred Mehl, voted against the finding of the indictment, but the remaining 17 voted solidly in favor of it. There was no quarrel or discussion in the grand jury room over the matter, however, Herzog and Mehl simply stating they did not believe the evidence warranted the

FLANNERY POINTS TO HIS RECORD TO REFUTE THE CHARGES

The following statement was issued last night by Harry P. Flannery:

"I can not understand why, at this time of my life, after having lived in California for 32 years, and having been engaged in active business during all that time, it should have remained to this time to charge me with the offense of the character of this one, based solely upon the word of a man of Abbott's character. For seven years I had the concession from the Southern Pacific company for the cafes on the ferry boats between San Francisco and Oakland, and during all that time conducted that business in such a manner that no disgraced whatever of any character attached to my business or to my name.

"I was engaged in the liquor business at the place where the Richeieu saloon now is, at the corner of Geary and Market streets, for five or six years before the fire of April 15, 1906, and during the entire time I was in business there no discredit of any character attached to my business or my name. Within a week after that fire I was making arrangements for the lease of a property where the Flannery building now stands. The lease was secured, plans were drawn and that building—the first class A building after the fire—was erected by me at a cost of nearly \$90,000. I have been conducting business at that place ever since November, 1906, and no word of reproach has ever been heard against my conduct or the conduct of my place of business.

"I did take an active interest in Mr. McCarthy's campaign. I did all in my power to assist his election, and thereby I undoubtedly created bitter political enemies. I did not seek the appointment of police commissioner and did not want it, and I took it only at the urgent solicitation of Mayor McCarthy. Since that time it has been my one endeavor to refute the aspersions that have been cast upon the mayor and myself on account of his appointing me to the office I hold because of the fact that I was engaged in the saloon business. I firmly believe that during the time I was police commissioner there have been a larger percentage of licenses refused than during a like term under any administration for the past 10 years.

"I have at all times given the strictest instructions to the chief of police and the property police officers to enforce the law as it is written. I have especially enjoined upon the proper officers of this city to drive the disreputable characters of all kinds, and have especially attracted their attention to bunco-men.

"On March 3, 1910, I gave specific instructions to Captain Duke of the Central station to suppress gambling at several places, as the following order will show:

"Order No. 407—Captain's Office, Police District No. 1, San Francisco, March 3, 1910.

"A gentleman with high authority in the police department informs me that he has positive information that illegal gambling is being conducted at the following places: "1043 Kearny street, conducted by Brizzolari. "1005 Kearny street, and sometimes on Saturdays and Sundays at a tailor shop located at 2185 Powell street. "Cassassa & Marshall, 920 Montgomery street. "Schivos, 547 Montgomery street. "Kid Sullivan's club at 53 Ellis street.

"I am authorized to inform the sergeants and patrolmen in this district that if illegal gambling is not stopped immediately the officer of any rank responsible for the existence of these conditions will be charged with inefficiency before the police commissioners.

"No further warning will be given, and this order will be introduced as evidence to show that due notice was given.

"I have repeatedly issued instructions on this subject, but apparently without effect. If any officer thinks that this order is issued merely for effect, let him ignore it and then observe the consequences. I now have obtained positive proof that illegal gambling has been conducted at some of these places which have never been reported by any of the officers.

"Wherever search warrants are required, the officers will procure the same.

"The platoon commanders will make careful note of all officers absent when this order is read and see that they are notified of its contents when they return to duty. It will also be read to the gambling detail.

"The other members of the body who voted for the indictment were Foreman E. H. Samuels, Secretary Hans Christoffersen, George F. Butler, L. C. Bailey, Peter McLaren, E. Rudolph, Robert Pearson, Peter Williams, Charles J. G. Martin, J. Fred Schilling, T. Bowers, A. Coutts, Fred Croker, James H. Kelley, Q. Codoni, W. T. Price and John Dias.

"Another brief session of the grand jury was held at 1:20 o'clock in the afternoon, but Joseph Abbott was the only witness examined. He was asked concerning his knowledge of the alleged connection between Supervisor Pistolesi and Frank McSherry or any of the other gamblers, but declared that he knew nothing about the matter if any such connections actually existed. This ended Abbott's examination. District Attorney Boyd announced that he had no other matters in shape to be taken up immediately, and the adjournment was taken subject to the call of the chair, with the understanding that there will be no further meeting of the grand jury, until after next week.

"Armed with the warrant for Flannery's arrest, Sheriff Taylor and Deputy Sheriff George A. Martin left San Rafael at 3 o'clock and came to San Francisco, the intention being that if Flannery was found too ill to be taken to the jail, he would be taken to the left in charge of him at his home. The receipt of the \$2,000 bail by bank transfer led to the making of an order by Judge Lennon for the defendant's

"The patrol sergeants will notify all officers having beats adjacent to any suspected gambling place that they will visit these places and will be held equally responsible with the officers on the beat, and remain at such places as long as may be necessary; and, lastly: "I want to warn patrol sergeants that I will look to them for a strict enforcement of all the provisions in this order.

"The officers in this district are furthermore instructed to arrest Kid Sullivan or any of the rest of his kind on a charge of vagrancy if they are found hanging around this district.

"THOMAS DUKE, "Captain of Police, "Captain's Office, Police District No. 1—San Francisco, Cal., April 29, 1910.

"Hon. Harry P. Flannery, President Board of Police Commissioners, Dear Sir: On March 3, when I returned to the station from Judge Dunne's court, where I was a witness in the Golder matter case, my clerk, Officer E. J. McNamara, informed me that you had telephoned phoned that you desired to see me.

"I proceeded from your place of business, and you took a paper from your pocket upon which was a list of six places where you stated illegal gambling was being conducted. (For location of places see attached order.) "You informed me that you attempted to communicate this information to the chief of police, but he was not in, and as you desired immediate action taken you referred the matter to me. You instructed me to do all in my power to prevent all violations of the law and to warn the members of my command that any officer found guilty of dereliction of duty would be summarily dealt with.

"I remember that you particularly denounced one "Kid" Sullivan, and stated that he and his kind should be driven from the city.

"After promising to do all in my power to carry out your instructions I proceeded at once to my office and issued order No. 407, an exact copy of which is attached. This order was immediately read to all members of the command, and is now on file in the central station. Respectfully submitted, "THOMAS DUKE, "Captain of Police."

"I have repeatedly instructed the proper officers of the police department to suppress all gambling and drive out disreputable characters of all kinds. I have conducted my business all on an honorable basis.

"How can it be charged that I with a record of this kind that I could be guilty of the shameful act of betraying my city into the hands of men of Abbott's character. His life, as now disclosed, has been one of continual crime. He has lived by crime, and not at all from his very youth. I intended to have him reinstated on the racetrack, but I did it without knowledge of his true character, and on account of my friendship for his father, who was an honorable police officer of Virginia City, and an old friend mine. I never had the slightest conception of the disreputable character of this man until his arrest in Sausalito.

"The bringing of the indictment against me by the grand jury of Marin county was the result of a foul conspiracy, which had its birth and was nursed in this city. How these conspirators could find their way into the grand jury room of Marin county, and with the perjured testimony of this dishonest rogue, Abbott, bring in this indictment against me, surpasses my understanding. I do not intend to have my name associated with the name of a man who had been true, what a fool I was in not taking him out on bail and let him leave the country, which his wife suggested and desired done as he did, when I drove him out of my house.

"If I had been guilty of this charge, my conduct was that of a fool rather than a man of reasonable intelligence. A telegram is shown, written in my handwriting and signed by my own signature, and intelligent men are asked to believe that, when sent that telegram, I was fulfilling an agreement with a vicious scoundrel to loot the people of my own city.

"I am absolutely innocent of this charge. I have as much contempt and hatred for Abbott's class of people as has any man in San Francisco. No man will go farther than I have gone to enforce the law against them.

"The charges of this indictment will be met promptly and fully and the falsity of the evidence upon which this indictment is based will be fully shown. I shall demand the fullest investigation and a trial at the earliest possible moment.

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FLANNERY'S EXPLANATION REFUTED BY PERCY TREAT

Police Commissioner Flannery's only attempted explanation concerning the meaning of his telegram to Joseph Abbott in Seattle November 3 of last year, in which the phrase, "Joe, my promise is right," occurred, has been directly contradicted by a statement made yesterday by Secretary Percy Treat of the New California Jockey Club.

Following the exposures made last Wednesday by Abbott before the Marin county grand jury, at which time the copy of the telegram sent by Flannery to Abbott on the day after election last fall was put in evidence, Flannery at first stated that he did not have any distinct recollection of the telegram or what was meant by its wording.

However, when pressed more particularly for an interpretation of the meaning of the words, "Joe, my promise is right," Flannery explained that the reference was to a promise he had made Abbott to assist him in being reinstated at the Emeryville track, from which he had been debarred.

Abbott's own explanation of these words in the telegram, as given in his confession before the Marin county grand jury, was that they referred to the promise which he said Flannery had made him to the effect that if Mayor McCarthy was elected and Flannery became president of the police commission he would turn the town over to Abbott and his "pals" and give them protection in any kind of gambling or swindling games they might wish to introduce.

Treat's statement yesterday was a pointed contradiction of Flannery's explanation, as Treat declared that

Abbott and Hazel, who had once been barred from the track, had been reinstated long before November of last year and that during the whole of the racing season of 1908-1909 there was nothing that would have prevented them from visiting the Emeryville track if they had desired to do so.

Treat said that Hazel and "Kid" Abbott, as Joseph Abbott was popularly known to the racing fraternity, had taken a victim in tow at the Los Angeles track two years ago, during the racing season of 1907-1908. They introduced this victim to U. Z. de Armand, a horseman, who later got into serious trouble and was barred. The man lost his money, supposedly through a deal put up by Abbott and Hazel, and the Pinkerton detectives barred both the latter from the southern track.

At the opening of the 1908-1909 season at Emeryville Abbott and Captain Forsee of the Pinkerton forces asked Secretary Treat if they should be barred on account of the Los Angeles incident.

Treat instructed Forsee to bar them, but later influence was brought to bear and the jockey club officials were asked to allow the men on the Emeryville track if they would purchase tickets.

This permission was granted, but Abbott and Hazel made little use of it. They were only at the track a few times during the latter part of 1908 and the early part of 1909. The permission, however, was never withdrawn and the two men were always at liberty to visit the track from a time many months prior to November 3, 1909, when the Flannery telegram was written.

"HAVE NO ORDERS FROM FLANNERY," SAYS MARTIN

When Chief of Police Martin was asked yesterday regarding the statement of Harry P. Flannery in the interview published in The Call to the effect that people connected with the police department were circulating scandalous stories about him (Flannery), he said:

"If President Flannery meant that for me I can truthfully say that I have never said anything in criticism of him in connection with this case or any other case, and I have never given any assistance to any one in connection with this case, but, on the other hand, I have said that owing to the relative positions of Flannery and myself it would be extremely inadvisable for me to say anything. I have absolutely refused to make any statements that could be warped into criticism of the president of the commission."

Regarding Flannery's statement that an order was on file at the central station by his instructions to run Abbott, Hazel, McSherry and others out of the city, the chief said: "The best of my knowledge no such order is on file at the central station or anywhere else. If any such order had been issued it would have been signed by me, but no such order was ever signed by me. I never had any orders to my recollection from President Flannery about ordering these men out of the city or on any other police business."

Captain Anderson, former head of the detective bureau, was asked if he remembered any such order, and he replied in the negative.

Captain Wall, his successor, could not remember any such order being issued, remarking that if issued it would have come through the chief.

LOS ANGELES, April 29.—Mrs. Nellie K. Smith was awarded a \$15,000 judgment against the Pacific electric company today by a jury in the superior court for injuries suffered in a collision of two suburban cars. She asked for \$50,000. The company admitted negligence, but fought the claim as being excessive. It was alleged by the plaintiff that she would be a cripple for life.

BURLINGAME, April 29.—With the filing of election contests against Eric Lange and Albert A. Meyer, two of the new town trustees, in Redwood City this morning the signal for a long drawn out legal battle between the Burlingame property owners' association and the good government league was sounded.

August Berg and J. P. Cleece, candidates on the property owners' ticket, and Lange and Meyer of the good government league were chosen for town trustees by majority vote at the election of April 11. For the fifth position on the board C. G. McGregor, a good government man, and Edward I. Sheehan, a property owner, tied with 45 votes each.

McGregor, through his attorney, J. F. Partridge, filed a contest against Sheehan at the meeting of the town board April 18.

Sheehan filed a contest the following day in the superior court at Redwood City, which comes up for hearing tomorrow at 10 o'clock.

As a result of the contest it became necessary to name a fifth person to act on the board until such time as the tie could be decided upon. The former board of trustees appointed Edward F. Treadwell, the recent chairman, who is a good government man, to fill the vacancy. This put three good government men on the board to the property owners' two.

By a skillful legal move, Edward Stack, a property owner, filed a contest against Eric Lange in Redwood City this morning. R. L. Stone did the same against Albert A. Meyer. As a result of the contests Edward F. Treadwell, J. P. Cleece and August Berg remain eligible to act on the board, which gives the property owners the governing hand until the contests are decided.

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DISEASE DID NOT END SWOPE'S LIFE

Pathologist Who Performed Autopsy So Testified in the Trial of Dr. Hyde

KANSAS CITY, April 29.—With the calling of Dr. Frank L. Hall, a pathologist, to the witness stand today the Hyde murder trial entered the complicated realm of expert testimony.

Dr. Hall assisted Dr. Ludwig Hekten of Chicago to make the autopsy on Colonel Thomas H. Swope's body January 11, and later conducted an investigation to determine, if possible, the source of the typhoid epidemic in the Swope residence. Practically all the examination of the pathologist dealt with the condition of Colonel Swope's vital organs at the time of the postmortem.

On redirect examination Doctor Hall said he believed there was nothing about the organs to indicate a death from natural causes.

"DOUBT'S NATURAL DEATH "Do you think Colonel Swope died of apoplexy?" asked Attorney Atwood for the state.

"I do not," replied the pathologist. "Prompted by Doctor Hyde and bringing into use scores of medical terms, Attorney Frank P. Walsh cross examined the witness. He developed the fact that neither of Colonel Swope's kidneys was normal. One had tumor two inches in length upon it. Both were congested, atrophied and granular.

If Colonel Swope had died from uremic poisoning there would have been a normal kidney. It would have been impossible to have located the poison. The symptoms of uremic poisoning closely resemble those of cyanide poisoning.

"There was a tumorous growth in the interior of Colonel Swope.

Colonel Swope's aorta was hardened from the arch to below the diaphragm. In closing the cross examination Walsh asked Doctor Hall if he had been called upon to give a death certificate in Colonel Swope's case he would have ascribed the cause to senile debility.

"I did," answered the witness. "BelIEVES PATIENT POISONED After presenting a long hypothetical question in which the symptoms of Colonel Swope were fully described, Mr. Atwood asked: "Now, in such a case, what would you say?"

"I would say that the patient had been poisoned," replied Doctor Hall. Walsh then asked a hypothetical question emphasizing the old age and weakness of Colonel Swope and asked if he believed the patient had been poisoned.

"No, I should not say it in that case," replied Doctor Hall. The witness said he was unable to locate the source of the typhoid epidemic in the Swope residence. It seemed to him, he testified, the germs had been introduced by a mass by some one bent upon scientific experiment. This suggestion, made to Mrs. Swope, shocked her, said the pathologist.

Mrs. William Beebe, wife of one of the jurymen, is in a critical condition at a local hospital. It is feared the trial may be postponed on account of her illness or death at any time.

INCREASE ASSESSMENT TO MORE THAN \$3,000,000 Western Union Will Have Large Bill in Kansas

ST. LOUIS, April 29.—The United States circuit court of appeals in a decision handed down here today decided that the Western Union telegraph company will have to pay taxes on \$3,152,322 in Kansas instead of on \$858,100.30. The company made a sworn statement that the value of its property was still in an advance of the standard, but \$585,100.30, but the state commissioner increased it to more than \$3,000,000.

FREIGHT RATES TO BE GIVEN A BOOST

Western Roads File Their Schedules With the Interstate Commerce Commission

WASHINGTON, April 29.—Freight tariffs showing considerable increase over the present rates from western territory to the Atlantic seaboard will be filed with the interstate commerce commission to become effective June 1.

This is the first step taken by the railroads indicating a purpose generally to raise freight rates throughout the country to meet increased operating expenses.

Already tariff sheets have been filed for western roads increasing the rate for the transportation of wool from Minneapolis and St. Paul to New York and other Atlantic seaboard points. The present rate on wool from Minneapolis to New York is 53 cents per 100 pounds. Under the provisions of the tariff the rate will be 64 cents a hundred pounds, an increase of nearly 20 per cent.

An increase also has been made in the freight rate on live hogs between the Twin Cities and Chicago of 2 1/2 cents a hundred pounds. This is an increase of about 12 per cent over the present rate.

While no tariff has been filed with the commission increasing the rate on wheat products from Chicago to eastern territory, it seems likely the rate on hog products from Chicago to eastern points will be increased.

The tariffs already filed with the commission are for all the roads in Western freight association territory and the increase will become effective simultaneously on all of them.

SUES DOCTOR FOR \$75 FOR ABSENT TREATMENT Physician Denies Employing "Wireless" Faith Healer

SEATTLE, April 29.—Stella Ross Cameron, a faith healer, sued Dr. A. K. Loder, a regular physician, in a justice court today for \$75 for absent treatment which she has given to cure the doctor of rheumatism.

Doctor Loder protested that his rheumatism had increased in severity; that he had never seen Miss Cameron until today and that he had not ordered the absent treatment, though some of his friends may have done so.

The court did not rule on the efficacy of absent treatment, but consulted the healer because she was not licensed to practice medicine.

KILLS SON AND HIMSELF—Chicago, April 29.—Harry Dahl, a carpenter, despondent because ill health, killed himself and his two young sons here today by turning on the gas.

LEGAL BATTLE ON FOR CITY OFFICE

Filing of Election Contests in Redwood City Marks Opening of Hard Fight

[Special Dispatch to The Call]

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PIANOLA CONCERT

In Kohler & Chase Hall

Every Saturday Afternoon at 3 o'clock

The public is cordially invited

No cards of admission required

PROGRAM FOR THIS AFTERNOON

MRS. CECIL MARK, Soprano

MR. G. M. MARKS, at the Weber Grand Piano

La Lettre de Manon.....Gillet

Valse Caprice, op. 7.....Newland

MR. MARKS

An Irish Folk Song.....Forsyth

To Spring.....Gounod

MRS. MARK

Accompanied with the Pianola

Liebestraum.....Liszt

Melodie in F.....Rubinstein

MR. MARKS

At the Weber Grand Piano

The Spring Has Come.....

Maude Valerie White

Were My Song With Wings Provided.....Hahn

MRS. MARK

Accompanied with the Pianola

KOHLER & CHASE

26 O'Farrell St.

NEAR MARKET STREET

AWARDED \$15,000 AS RESULT OF ACCIDENT

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