

SCHMITZ WAITS TILL WEDNESDAY

Fairall Says Defendant Is Martyr, "Who for Five Years" Has Been Wronged

Graft Data Demanded by Judge Dunne Not Yet Available; Motions Submitted

Lack of a settlement of motions pending in Judge Dunne's department of the superior court for the dismissal of all graft indictments upon his calendar served as the basis for another postponement yesterday of the Schmitz bribery case on trial before Superior Judge Lawlor.

The relation of the actions in the two departments hinges upon the fact that Ruef, called as a witness in the Schmitz case, is defendant in nearly 50 cases pending in Judge Dunne's department, and has refused to testify in Lawlor's court until all indictments against him are dismissed.

A motion by District Attorney Fickert to submit the Schmitz case to the jury on the evidence so far presented, without waiting for Ruef's testimony, opened the proceedings before Judge Lawlor yesterday morning, but met with refusal. Judge Lawlor has determined to have one of the Schmitz bribery cases pressed to conclusion, in order that the court record may be cleared, and indicated yesterday that he will not consider any motion for submission or dismissal until every bit of available evidence has been adduced.

LAWLOR STATES ULTIMATUM

Following Fickert's motion for submission of the case, Attorney Charles H. Fairall, of counsel for Schmitz, presented a motion asking the court to direct the jury to bring in a verdict of not guilty. Judge Lawlor declared that if he should grant either of the motions at the present stage of the trial it would be with the intention of trying some other case. He made it plain that he will not consent to a dismissal until Ruef's testimony has been given, or until the district attorney makes the unqualified announcement that he has no further testimony to present. He asked both the district attorney and counsel for the defense to prepare themselves to address him on the question of whether the testimony already given by former Supervisor L. A. Schmitz is sufficient to connect the defendant with the charge made, or whether, in the face of this testimony, a direction to the jury to acquit the defendant would be warranted.

Fairall made an extended plea for the immediate dismissal of all the Schmitz cases, including the one on trial, and painted Schmitz as a martyr who for five years has been "outraged, vilified and abused by a hostile press and a thoughtless people."

FICKERT'S STATEMENT

In regard to the suggestion that all outstanding cases against Schmitz be dismissed, District Attorney Fickert said: "These indictments were returned five years ago and the defendant has never before been brought to trial on one of them. At the time this matter was taken up between my office and my predecessors, Mr. O'Garra told Mr. Berry of my staff that this case against Schmitz had never been tried because of its weakness. I always have been of the opinion, and am now, that if this defendant was guilty of anything it was of receiving a bribe, and not of giving a bribe. I don't think it is worth while to go to the expense of prosecuting this case or that it is fair to pass the buck to a jury. My idea was that it was your honor's object to bring out in one case all the testimony that exists so that the public might understand the reasons for a dismissal of the others, and in that view I concurred. I did intend at the conclusion of this case to ask for a dismissal of all these cases, and I do now make a motion to dismiss them and ask leave to file the transcripts of grand jury testimony upon which they are based."

JUDGE MORROW WILL ORGANIZE NEW COURT

Jurist Named to Establish U. S. Tribunal in Arizona

To Judge W. W. Morrow of the United States circuit court of appeals has fallen the honor of organizing the new United States district court in Arizona, which is admitted in order of organization on February 14. He will leave the city Thursday evening, accompanied by his secretary, and will be prepared to open the new court Monday morning at Phoenix.

JAPANESE ARE VICTIMS OF TWO ARMED BANDITS

Highwaymen Relieve Orientals of Watches and Money

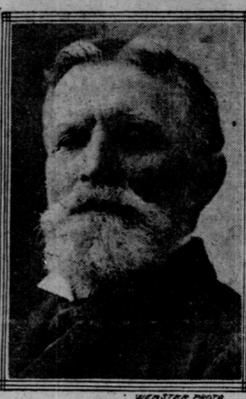
Two armed men held up J. Shenoda and M. Nagai, 1635 Gough street, early yesterday morning. They entered an entrance into a jewelry store on Octavia street and robbed the former of a watch and \$5, and took a watch and chain from Nagai.

IDENTITY OF VICTIM OF ASPHYXIATION MYSTERY

Mystery surrounds the identity of a man who, under the name of Otto Kramer, had lived in a lodging house at 1809 Post street for two weeks and who was found dead from asphyxiation at that address yesterday morning.

On the body were found papers and a membership card in the G. A. R. issued to J. W. Butcher of 3101 Pierce st. No one could be found at the Pierce street address yesterday and the police will investigate to determine whether the deceased was Kramer or Butcher.

FOUNDER OF OAKLAND HIGH SCHOOL IS DEAD



Joseph Burwell McChesney.

MISERY TOO GREAT; WOMAN WOULD DIE

Example Intended for Unfaithful Husbands Who Ignore Marriage Vows

After mailing a letter to the coroner stating that she intended to take her life and that she wished her death to be an example to unfaithful husbands, Mrs. Frank Snelder of 12 Dodge street attempted suicide yesterday afternoon by drinking lye. The warning epistle was received at the coroner's office yesterday morning. The unhappy woman attempted to kill herself shortly after noon.

Mrs. Snelder has been living for several weeks at the home of Mr. and Mrs. D. Z. Buck on Dodge street. According to Buck she has received mail under the name of Mrs. Belmont and Mrs. Snelder. Her husband is said to be living in Los Angeles.

Following is the letter received by the coroner from the woman: "When you receive this I shall have made away with myself and hope God will take me in. I have been a happy wife for a number of years until some woman came into my life, and I simply can't stand it any longer. I hope when this note is published, and please do so, it will be a lesson for women to leave married men alone and also to husbands who are in the habit of spending their salary and calling wives abusive names. May God have mercy on my soul."

"A HEARTBROKEN WIFE." Mrs. Buck stated that she came upon Mrs. Snelder when she was writing the letter Saturday night, but did not see its contents, as the frenzied woman snatched it away from her and promptly mailed it.

When taken to the Central Emergency hospital Mrs. Snelder refused to make any statement, but would not deny that she was the author of the abusive names. She is not serious, owing to the small amount of the drug taken.

A friend, who refused to give his name, said that he took a bottle of lye from Mrs. Snelder's room Saturday night, and at that time she threatened to kill herself.

UNCLE SAM WILL SELL 21,000 ACRES OF TIMBER

Tract in Shasta Forest Contains About 200,000,000 Board Feet

Bids for the sale of 21,000 acres of yellow pine timber in the Shasta national forest, most of the land being centered about the headwaters of Trinity river in Trinity county, are being advertised by the United States forest service. The tract is estimated to contain 200,000,000 board feet of timber.

FORMER CHIEF CLERK IN NAVAL OFFICE DIES

George W. Branch, for many years chief clerk in the local naval office, died at Oakesdale, Wash., Friday, according to advices received at the local custom house yesterday. He was appointed to the office in 1875, and resigned July 12, 1904, to enter the mercantile business in Washington.

AGED WOMAN, COOKING, BREATHE FATAL FUMES

Mrs. M. Robinson, an aged woman living at 1245 Gough street, died at the central emergency hospital at noon yesterday from the effects of illuminating gas poisoning. Mrs. Robinson was found unconscious in her apartment by neighbors Saturday afternoon. She was preparing dinner when overcome by the fumes.

SMUGGLER PLEADS GUILTY

Burt Petrol, the barber on the Shinyo Maru who was arrested recently while attempting to smuggle diamonds ashore, pleaded guilty in the United States district court yesterday and will be sentenced today.

Joseph B. McChesney In Public's Service Many Years

Joseph Burwell McChesney, founder and builder of the Oakland high school, died Sunday night at his home, 2201 California street. He was almost 80 years old at the time of his death. The last of his life was spent in the service of the government in the Chinese inspection bureau. He was hale and hearty until three weeks ago, when he was stricken with an illness that caused his death.

During a connection of 35 years with the Oakland schools, 32 of which he was principal of the high school, he worked hard to build up an institution which now remains a monument to his memory. He went to Oakland in 1866 and in 1869 had formed a high school of a single classroom. Year by year he built up the school which is known now as one of the best high schools in the country. In 1901, when he resigned as principal, he gave to the city more than 2,500 ambitious graduates, including Senator George Perkins, former Governor Pardee and many other men of prominence.

He was born in Schaghticoke, N. Y., October 12, 1832. He graduated from Union college, Schenectady, and came to California immediately. In 1858 he married Miss Sarah Jewett of Forbes town, Butte county. He sought at that time work as a civil engineer, but, fortunately for California educational circles, the state was overstocked with engineers and he entered the educational field. His first school was at Oroville in 1838.

In 1901 McChesney went to Mill Valley and later came to San Francisco to be identified with the immigration service. He was succeeded as principal of the Oakland high school by Dr. J. H. Pond.

Mrs. McChesney survives him, as do also his son, Dr. George Jewett McChesney of San Francisco, two daughters, Miss Alice McChesney of San Francisco and Miss Clara T. McChesney, a New York artist, and a brother, Albert B. McChesney of Syracuse, N. Y. Funeral services will be held this morning at Cypress Lawn, and will be private.

SKATING TOURNAMENT WILL OPEN TONIGHT

Winners Will Compete in Match for State Championship

The northern California two-step skating championship will be decided in the tournament which starts tonight at the Coliseum rink. More than 100 couples will compete in the preliminary tryouts tonight, Wednesday and Thursday evenings. The 10 best performers on these three nights will be selected for the cash prize hung up by the Coliseum management. An additional reward is promised the winners of the tournament for an all California match being planned for the near future.

By means of a similar elimination contest the best couple in Los Angeles and vicinity will be selected and they will compete with the winners of the local tournament. An effort will be made to get entries from the interior towns and cities so that the victors can claim the state championship.

DESERTER ACCUSED OF FRAUDULENT UNCLE SAM

P. P. Scheider Arraigned on Charge of Tricking U. S.

Philip P. Scheider, alias Paul P. Smith, who was apprehended by Deputy United States Marshal Elmo Warner in San Jose, was taken before United States Commissioner Francis Knull yesterday afternoon on a charge of having defrauded the government out of two days' board and railroad transportation from San Jose to San Francisco.

Scheider had served 18 months in the military prison on Alcatraz island for desertion from the army that he went to San Jose and registered in the army hotel. The investigation conducted by Lieutenant James Regan Jr. He was given board for two days and furnished transportation to San Francisco.

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OIL CO. ACCUSES RIVAL OF PLOT

Consolidated Charges Sesame With Conspiracy to Ruin Former Concern

Complainant Demands \$200,000 as Damages; Action Based on Previous Suit

Allegations of conspiracy to ruin and libel a competitor are contained in a suit filed yesterday in the superior court by the Consolidated Midway Oil company against the Sesame Oil company, in which the Consolidated demands \$200,000 damages from its rival, and bases its action upon a former suit of the Sesame for \$130,000 for alleged breach of contract.

Both concerns are active in the Kern county oil fields. The Sesame company had given two leases to the Consolidated, which the latter company alleged the Consolidated should improve the lands and export the mineral products under the terms of the agreement. Last July the Sesame filed a suit for damages, claiming that the contract had been broken, and demanding \$130,000.

The suit of the Consolidated is substantially a reply to the Sesame company's action. The Consolidated claims that its certificates of stock sold at reasonable prices and profit to the company on the California mining exchanges until the Sesame sued for damages.

It is recited that the Consolidated is an Arizona corporation and that Alfred Fuhrman, Carl W. Mueller and Owen Evans are in control of the Sesame and responsible for its actions. The Consolidated declares that the Sesame filed suit for the purpose of causing its shares of stock to be devalued.

Allegations are made that the Sesame is not honest in its transactions and that the Sesame brought suit with the purpose of ruining the Consolidated.

The Consolidated quotes the complaint filed against it by the Sesame, in which the latter company alleged that the violation of the two leases consisted in failure to develop the oil fields properly. The Sesame claimed that the Consolidated operated on the lands, not for oil, but merely for stock jobbing purposes.

It charged that the superintendent of the Consolidated at the wells would begin pumping oil when he heard a signal from the automobile driven by the Consolidated's officials, "bearing fresh loads of victims to view the 'big wells.'"

The Consolidated claims that these charges were inserted in the Sesame complaint as a result of conspiracy; that they were defamatory and libelous, and that great publicity was given the charges in oil journals and newspapers.

Attorney Franklin P. Bull appears as counsel for the Consolidated. In association with Los Angeles lawyers.

CAUSE SANS LEGAL LEGS; MORAL GROUNDS URGED

Guardian of Mother Seeks Compromise With Relatives

An action, brought admittedly without legal standing in the eyes of the court, yet urged on moral grounds, was presented yesterday by Mrs. F. Graham yesterday in a petition for Mrs. Elsie W. Douglas as guardian for her mother, Mary Elizabeth Swin, for permission to compromise with three other relatives in order to provide maintenance for the mother.

Mrs. Swin's husband, David K. Swin, deeded property in Solano county to his children, Norman D. Lowell and Madeline, prior to 1891, when the law requiring a wife to participate in property transfers went into effect. Mrs. Douglas, daughter by a later marriage, brought suit to have the deed set aside, although her attorney, George E. Keane, admitted that the deed was not in violation of the law as it existed at the time the transfer was made.

Upon showing by counsel for the other children, Judge Graham granted the petition and it was stipulated that Mrs. Swin should be allowed \$400 a year while she remains at the hospital and \$2,100 outright should she be restored to capacity.

ACCUSED KIDNAPER OF SON WRITES TO WIFE

Bruckman Believed on Way Here From Santa Cruz

Mrs. Robert C. Bruckman of Alameda, who has asked the police of the bay cities to aid in a search for her husband, who is accused of abducting her three-year-old son, was drugged, the local authorities that she had received a postal card from her husband from Santa Cruz Sunday, saying that he was in that city.

The police of Santa Cruz were notified of the contents of the postal and they wired back that Bruckman had left Santa Cruz and was on his way back to San Francisco.

Detectives have been detailed to watch for Bruckman if he arrives in this city.

"BLIND PIG" PROSECUTIONS

Herman A. Meisel, Union and Montgomery streets, and Joseph Orel, 2827 Van Brunt avenue, were found guilty yesterday by Police Judge Deary of conducting "blind pig" and fined \$100 each.

CASE OF 'INNOCENT' DIRECTORS ARGUED

Affairs of Defunct California Safe Deposit and Trust Co. Further Aired

Peyton and Bartlett Demurrer Resists Demands of Assignees of Depositors

Whether "innocent" directors of the defunct California Safe Deposit and Trust company, as distinguished from "guilty" directors, shall be made to bear the brunt of civil prosecutions for accountings that may be brought by depositors, or those to whom depositors have assigned their claims, was the principal question in an argument over the bank's affairs taken under advisement by Judge J. M. Seawell yesterday.

The specific action was a demurrer by Attorney J. A. Cooper, former appellate court justice, representing W. C. Peyton and Walter J. Bartlett, former directors of the bank, to a suit for accounting brought by the Depositors' association against the directors.

The demurrer was based on the ground that individual depositors who had no assigned claims could sue for an accounting and that, inversely, no assignee of a depositor had a right to demand satisfaction from the depositors. The demurrer also recited that only individual directors, proved responsible for the failure of the bank, could be sued and that the directors as a whole were not responsible for the looting actions of certain officials of the bank.

Contending against the argument were Attorneys Ralph C. Harrison, former justice of the supreme court, and Attorney Samuel Rosenheim for the Depositors' association. Judge Harrison argued that the assignment of a claim to the assignee of the depositor under the law and, therefore, that the Depositors' association or any other party that had brought claims from depositors had the right to demand satisfaction.

NO DISTINCTION, SAYS LAWYER. Harrison also argued that the acts of a board of directors when made official were those of individual directors, that they had all the same authority and the same powers, or should have had, and that no distinction could be drawn between the directors responsible for the looting of the California Safe Deposit and Trust company and those who were not aware of the true condition of affairs.

It was pointed out that action against the directors would narrow down to Peyton because of the absence from the morning and afternoon sessions of the directors in Europe, and Walter J. Bartlett, now in New York. Two of the directors have died and the only one who might be available for actionable suits, if the demurrer be overruled, is Peyton, head of the Peyton Chemical company.

Argument lasted throughout the morning and during part of the afternoon sessions of the court and was taken under advisement by Judge Seawell.

MCCORMICK'S SALARY TANGLE IS REVIEWED

Auditor Withholds O. K. Until Court Examines Facts

Upon a showing by Attorney Edward F. Moran for Auditor Thomas F. Boyle, Judge Frank J. Murasky yesterday set aside his judgment that the auditor should pay Secretary Joseph L. McCormick the balance of his salary as office deputy at \$250 monthly. The court set a rehearing of the case for next Monday to consider additional evidence obtained by Moran to show that McCormick was not secretary of the works board at \$150 monthly under an official resolution and therefore not entitled to hold the position of office deputy.

The tangle occurred when McCormick brought suit for a writ to compel Boyle to audit his salary as office deputy. Boyle refused, taking the ground that McCormick was secretary of the works board.

Attorney Stephen V. Costello for McCormick presented a petition setting forth that McCormick had been duly appointed. Murasky ruled that McCormick was not secretary within the meaning of the charter and ordered payment of the salary as office deputy.

Moran, reviewing the records, found a resolution of the works board, 1910, showing McCormick's appointment as secretary. On this showing Moran obtained a reopening of the case.

POLICE TO INVESTIGATE DEATH IN PATROL WAGON

An investigation into the death of Walter T. Murphy, 60 years old, who died in the patrol wagon on the way to the harbor hospital yesterday morning, will be made by the police, who fear that the aged man was drugged. Murphy, supposedly under the influence of liquor, was picked up at Third and Minna streets shortly after midnight by Policeman Jurgens.

When placed in a cell at the harbor station he failed to rally and died before he could be removed to the hospital.

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LIFE THREATENED BY WHITE SLAVERS

Dire Retaliation Conveyed in Letters to C. Herrington, Special U. S. Prosecutor

Threats are being made against the life of Clayton Herrington, special prosecutor for the United States government, because of his activity against the white slave traffic. Anonymous letters, conveying dire threats, have been mailed to Herrington in the last few weeks, threatening him with death in the event of his continuing his crusade against the white slave traffic. Each letter as it has been received by Herrington has been thrown into his waste basket, while he has only renewed his efforts to wipe out the human jacksals of civilization.

"Yes, I have received a number of anonymous letters," said Judge Herrington yesterday, when seen at his office in the custom house. "Threats are being made against my life by the unspeakable persons whom I am seeking out, but I have paid no particular attention to their letters. I am not to be daunted by any such cover threats, and shall continue to do what I can to wipe out this most undesirable class, that is enslaving thousands of girls yearly."

During his service in this city as special prosecutor for the government Herrington has been unusually active in prosecuting the members of violating the federal act against the white slave traffic. Not only has he sent many of the offenders to jail, but he has given over a large part of his time to lecturing with a view to arousing club members and the civic organizations to an appreciation of the dangers resulting from the operations of the white slave.

The anonymous letters and other threats that have been conveyed to him have tended to spur him on rather than deter him in his work.

The tub department of the Lurline Ocean Water Baths, Bush and Larkin streets, is the best in the world. Rooms are fitted with large porcelain tubs supplied with hot and cold salt (ocean) and fresh water; also showers of same.

FIREMAN'S WIDOW WINS \$50 PENSION

Judge Seawell Decides Mrs. Michael Dougherty Is Entitled to Relief

The successful suit yesterday of Mrs. Gabrielle Dougherty, widow of Michael Dougherty, a former fireman in the fire department, to obtain pension money from the fireman's pension fund which had been withheld since May 1, 1911, is expected to result in similar suits by three other widows of members of the department whose claims to money were denied by the McCarty fire commission at the time Mrs. Dougherty's pension was stopped.

Dougherty, as was shown by the testimony of his widow before Judge J. M. Seawell yesterday, collapsed from exhaustion after the fire of 1906. He had been with the department for many years and had been injured on duty eight times. He was granted a pension of \$50 a month from August 19, 1906, to the day of his death in December, 1908.

Mrs. Dougherty, June 15, 1909, filed a petition for a pension and July 2, 1909, the commissioners held that she was entitled to \$50 a month. Later the supreme court, in the case of a Mrs. Edwards, widow of a fireman, held that she was not entitled to relief because her husband died eight years after receiving his injuries. The board, therefore, after April, 1911, refused to pay Mrs. Dougherty a pension.

The widow's suit was for \$50 monthly since April of last year, with interest and costs. Judge Seawell held that the evidence showed that Dougherty's death was the result of injuries sustained on duty, although he died more than a year after they were received.

TABLES TURNED IN THIS CASE.—Police Judge Weller yesterday issued a bench warrant for the arrest of John Murphy, 2777 Post street. Murphy caused the arrest of Ernest Frisbie, a barber of 20 Third street, Saturday afternoon on a charge of grand larceny, alleging that while he was being shaved by the barber Frisbie stole \$27 from his pocket. After Frisbie had been arrested and released on bail, Murphy found the \$25 on the dresser in his room. Murphy alleged guilty in the United States district court yesterday morning, and Weller subsequently issued a bench warrant.

REPORT OF THE CONDITION OF The Anglo and London Paris National Bank OF SAN FRANCISCO AT THE CLOSE OF BUSINESS FEBRUARY 20, 1912

RESOURCES Loans and Discounts \$16,978,030.91 U. S. Bonds to Secure Circulation at Par 2,500,000.00 Other U. S. Bonds at Par 50,000.00 Other Bonds 2,646,727.72 Other Assets 330,190.14 Customers' Liability on Letters of Credit 1,398,661.91 Cash and Sight Exchange 13,842,229.15 \$37,745,839.83

LIABILITIES Capital Stock \$ 4,000,000.00 Surplus and Undivided Profits 1,651,593.83 Circulation 2,500,000.00 Letters of Credit, Domestic and Foreign 1,398,661.91 Deposits 28,195,584.09 \$37,745,839.83

OFFICERS HERBERT FLEISHACKER, President J. FRIEDLANDER, Vice President C. F. HUNT, Vice President R. ALTSCHUL, Cashier C. R. PARKER, Asst. Cashier H. CHOYNSKI, Asst. Cashier W. H. HIGGINS, Asst. Cashier G. R. BURDICK, Asst. Cashier A. L. LANGERMAN, Secretary

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