

KERR'S DEFALCATION

Trial of the Suit to Recover the Shortage.

Testimony Given on the Matter in Which the Cash Disappeared From The Call's Business Office.

The trial of the suit brought by Ernest C. Stock against James P. Kerr was commenced yesterday before Judge Hunt and a jury. The morning session and a part of the afternoon was taken up in examining the following jury:

John T. Huber, G. A. Amery, M. Grimm, Samuel Slater, G. M. Leavitt, H. W. Leonard, James Higgins, Charles B. Johnson, Joseph Barnett, George Rosenberg, N. T. Smith and L. Van Lan.

The complaint sets forth that on July 1, 1882, George K. Fitch, Locking Pickering and James W. Simonetta were partners under the firm name of the San Francisco Call Company. On November 2, 1882, James W. Simonetta died. The business has since been continued under the same firm name by George K. Fitch and Locking Pickering.

On June 8, 1889, James P. Kerr, cashier for said firm, was justly indebted to the surviving partners in the sum of \$25,000 upon an account for accounts rendered to and received by him. For value received the claim against Kerr has been assigned by the surviving partners to Ernest C. Stock. As part of the claim has been paid to Mr. Stock by the partners against Kerr for \$25,000 and interest thereon from June 8, 1889, and costs of suit.

In his answer Kerr denies that there is any money due from him to said firm, and avers that prior to June 1, 1889, John White was business agent of the Call Company; that the principal cause of the shortage in complaint alleged consists wholly of shortage in the accounts of said firm, some of which arose out of conversions by said White, to his own use, of moneys of said firm.

A large book was produced by Mr. Pickering, who stated that it contained the names of all the subscribers to the Call, and that a jury should not pass upon the merits of the case until a reference had been taken to the book. He said that the bill of particulars contained some 15,000 to 20,000 names, and it would be almost impossible for a jury to examine them. He moved that the examination of the account be referred to a referee.

Mr. Belcher said if it was found necessary to go to a referee the jury should be discharged. The defendant had an expert accountant going over the books and there is no necessity for a reference now. Judge Hunt thought it better that a jury should pass upon special issues, and then, if found necessary, an accounting could be taken by a referee. The motion to refer was denied.

In his opening statement to the jury, Mr. Crothers said that Kerr was accountant, treasurer and cashier of the San Francisco Call Company. George K. Fitch and Locking Pickering were the surviving partners of said firm. The other partner, James W. Simonetta, died on November 2, 1882. The defendant, James P. Kerr, who went into the Call Company as a clerk and was appointed cashier on June 1, 1889, a position he held until June 8, 1889.

A FATAL FALL.

Victim of a Fatal Fall Found Dying in a Park.

His Life Was Passing Away Under a Royal Palm, and a Crime Was Suspected. What the Autopsy Showed.

Detective James H. Hutton was found yesterday morning at 7 o'clock in Jefferson Park, on Turk street, near the foot of the stairs leading from the park through the building to the Receiving Hospital, where at 8:30 o'clock he died, a minute or two after being laid on the operating table.

The news of Hutton's mysterious death, which was then believed to have been a murder, spread rapidly around the old City Hall, while his body was still warm. His fellow-detectives were scouring the city for clues and evidence in connection with the sad affair. Only a wound of the scalp gave to Hutton's death a suspicious aspect. It was a mere abrasion, but even that made many believe that he had been the victim of a foul crime.

THE FIRST TO SEE HIM. The first man to find Hutton in the park was John Glanz, an employe of the Street Department. Glanz was going to his work at 7 o'clock, or shortly thereafter, when he noticed Hutton reclining against a palm tree near the foot of the steps leading from the park to the Receiving Hospital. Hutton was breathing heavily, his head was on the ground, and his hands were clasped under his chin. He was dressed in a suit and a hat, and appeared to be in the prime of life.

Police Surgeon Williams made an autopsy on the remains and submitted the following report: "The body of James H. Hutton, aged 36 years, died of a fatal injury to the head, caused by a fall from a height of about 20 feet. The injury was a fracture of the skull, with extensive laceration of the brain tissue. There was also a fracture of the spine, and a laceration of the lungs. The cause of the fall was not ascertained, but it is believed that Hutton was intoxicated at the time of the accident."

James Fletcher, who lives at 5 Fourth street, met the deceased at 1:30 o'clock on the previous morning and drank with him at a friend in a Kearny-street saloon, and also at a resort on Stockton street, and another place. Fletcher testified that he saw Hutton with Hutton until daylight, when he went to the Receiving Hospital. Hutton was lying on a stretcher, and appeared to be in a state of unconsciousness. Fletcher stated that he had seen Hutton at the Receiving Hospital, and that he had seen him in a state of unconsciousness.

ALEXANDER POLICK, a teamster, last night furnished the police authorities with a statement which conclusively proves that Hutton's death was accidental. Polick states that he was driving a team of horses on Filmore street, and was passing the corner of Filmore and Turk streets at 7:30 o'clock yesterday morning. At that time he observed a man standing on the sidewalk near the corner of Filmore and Turk streets. The man was dressed in a suit and a hat, and appeared to be in a state of unconsciousness. Polick stated that he had seen Hutton at the Receiving Hospital, and that he had seen him in a state of unconsciousness.

THE BOARD OF THE White Labor League, in order to encourage its members to attend the meetings, has inaugurated a billiard tournament with handsome prizes. The tournament will be held at the billiard room of the Call Building, and will be open to all members of the league. The prizes are as follows: A gold watch, a silver watch, a silver case, and a silver set of tools. The tournament will be held every week, and will continue until the end of the year.

THE GRANITE CUTTERS' Union, in order to give its members a chance to show their skill, has organized a granite cutting contest. The contest will be held at the granite works of the Granite Cutters' Union, and will be open to all members of the union. The prizes are as follows: A gold watch, a silver watch, a silver case, and a silver set of tools. The contest will be held every week, and will continue until the end of the year.

MISCELLANEOUS.

CHRISTMAS SLIPPERS.

None Genuine without our HORSHOE TRADE MARK.

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