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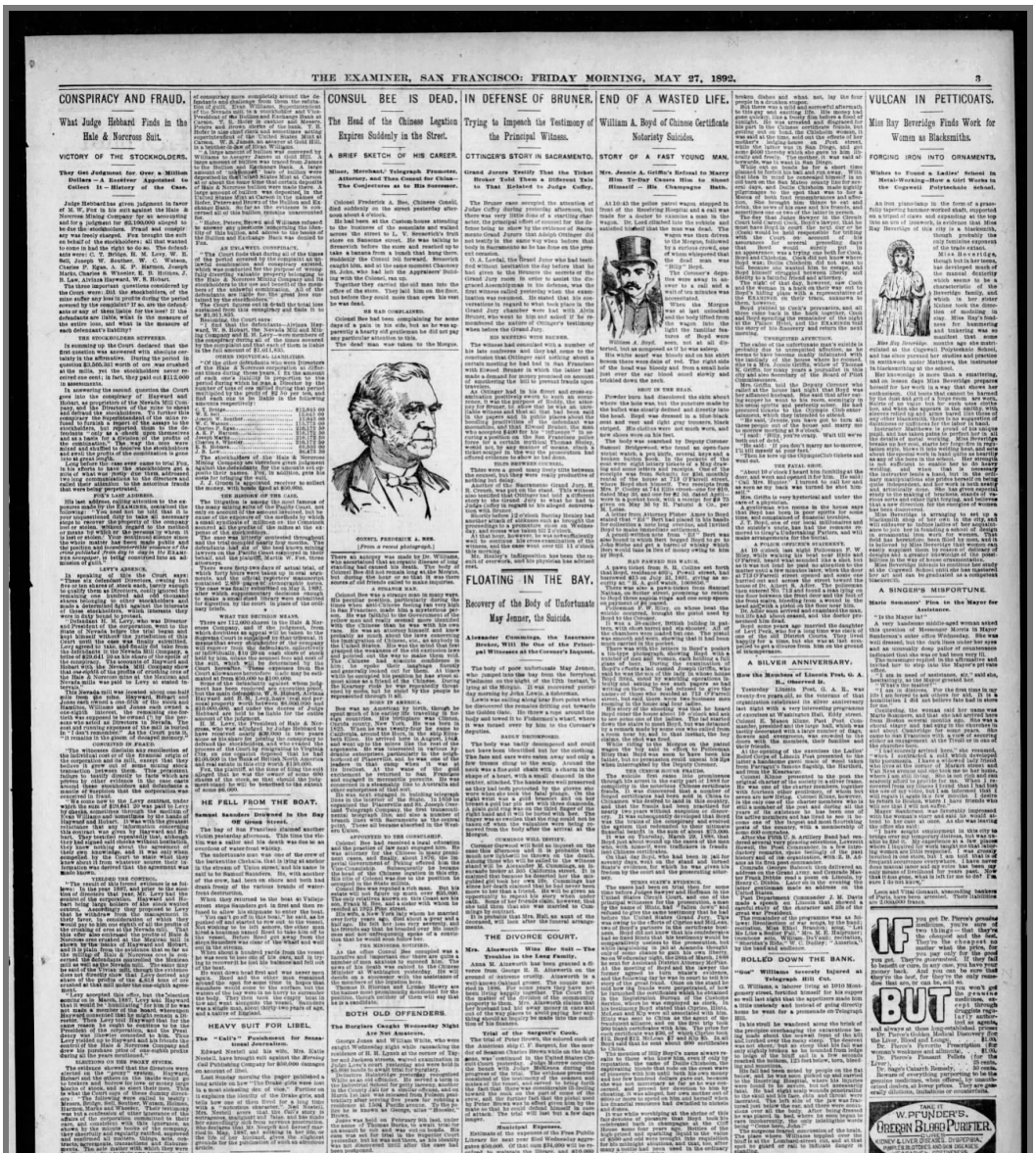

THE EXAMINER, SAN FRANCISCO: FRIDAY MORNING, MAY 27, 1892. 3

CONSPIRACY AND FRAUD.

What Judge Hebbard Finds in the Hale & Norcross Suit.

VICTORY OF THE STOCKHOLDERS.

They Get Judgment for Over a Million Dollars — A Receiver Appointed to Collect It — History of the Case.

Judge Hebbard has given judgment in favor of M. W. Fox in his suit against the Hale & Norcross Mining Company for an accounting and for a judgment for $1,000,000 alleged to be due the stockholders. Fraud and conspiracy was freely charged. Fox brought the suit on behalf of the stockholders; all that wanted to come in had the right to do so. Among those who went in were W. Sharon, M. Levy, W. H. Lent, George Hearst, Mrs. Phoebe A. Hearst, W. C. Watson, Charles P. Ogden, A. P. P. Hartson, Joseph Marks, Charles S. Wheeler, R. B. Hobart, J. B. Law, Alvinza Hayward, W. S. Hobart.

The three important questions considered by the Court were: Did the stockholders of the mine suffer any loss in profits during the period covered by the complaint? If so, are the defendants or any of them liable for the loss? If the defendants are liable, what is the measure of the entire loss, and what is the measure of each defendant's liability?

THE STOCKHOLDERS SUFFERED.

In summing up the Court declared that the first question was answered with absolute certainty in the affirmative. During the period in question $5,500,362 worth of ore was crushed at the mills, and the net profits should have been seven per cent; in fact, they paid out $111,000 in assessments.

In answering the second question the Court goes into the conspiracy of Hayward and Hobart, as proprietors of the Nevada Mill Company, and the Directors of the mine to starve the mine and enrich the mill. The charge is comprised in the hypothesis of the mine refused to furnish a report of the assays to the stockholders, but reported them to the defendants — only a fraction upon themselves and their friends. The Court says: "Such is the conclusion." The way the ores were mixed and shuffled to deceive the stockholders is fully described, and the conclusion is given in great length.

Long before the case went came to trial Fox, on behalf of the Hale & Norcross Company, and not on his own behalf, sent letters, addressed to the two communications to the directors and called their attention to the assertion frauds that were being perpetrated.

FOX'S LAST ADDRESS.

His last address called attention to the exhibit of the Hale & Norcross, contained the following: "You need not be told that it is your unquestioned duty to take all necessary steps to protect the interests of the stockholders of mine, which appear to be neglected or passed by within or the persons in whom it has been reposed. I have been informed and believe that certain parties have made profits and the position and responsibility of the directors of the mine prejudged from day to day in the Examiner newspaper, is being committed into an admission of guilt."

LEVY'S ANSWER.

In speaking of this the Court says: "These are defendant Directors, owning but five or ten shares of stock each, barely enough to qualify them as directors, and receiving a remaining one hundred and odd thousand shares belonging to other stockholders and which are entrusted to them for the benefit of all. Under such circumstances, which interests they were in duty bound to protect.

"Defendant M. M. Levy, who was Director and President of the corporation, went to the Court and asked that the cause be taken out of his hands without the jurisdiction of this Court until the case was finally submitted. He was then the owner of 1,000 shares and was the individual in the Nevada Mill Company to the tune of $120,041. He has shares of the spoils of the conspiracy. The secretary of Hayward and Hobart with the Nevada Mill Company show that Levy received $100,000 in cash and one of the Hale & Norcross mine at the Meadow and Nevada mills was paid to Levy as stated in the answer.

"The Nevada mill was located about one-half mile from the mine. Hayward, Hobart and Jones each owned one of the mines and a controlling interest in the Nevada Mill Company. The remaining stockholder was supposed to be owned 1% by the person who acted as Director in Nevada. The Court says: 'Levy's answer is that he acted in it 'I don't remember.' As the Court puts it, 'it remains in the gloom of decayed memory.'

CONCEITED IN FRAUD.

"The witnesses disclaim any recollection of the matter, and there is no evidence that any of the corporation and its said, except that they believed that the corporation was conducted honestly.

"We come now to the Levy contract, under which the sum of $100,041 20 was paid to Levy by the Nevada Mill Company. It was signed by all the Williams and subscribed by the hands of Hayward and Hobart. It was with the greatest reluctance that any testimony concerning this contract was given by Hayward and Hobart. Hobart says he knows nothing about it. Hayward said substantially without knowledge, they know nothing about the agreement of Levy's contract. Hayward, Hobart and Jones engaged to the Court to state what they knew about it from whatever source they obtained it. Imputation was thereby that agreement was made known.

UNFOLDING THE CONTROL.

"The result of this forced evidence is as follows: In the year 1887, and prior to the execution of the contract, that the Nevada Mill Company was owned by Hayward and Hobart, who held the majority holders of the stock voted contrary. Accordingly they proposed to Levy that he withdraw from the management. It was then that Levy said to Hobart: 'I think I would pay to him one-eighth of the profits of the crushing of ores at the Nevada mill. That Levy was to withdraw from the Nevada Mill Company and organize the Nevada Mill Company shown by the books of Hayward and Hobart, and it is plain from the evidence that so far as the milling of Hale & Norcross ores is concerned, Levy was to have the Nevada mill as well as the Nevada mill. The same may be said of the Virginia mill, though the evidence is not so clear. Levy was to have one-eighth share of the profits of 4,000 tons of ore crushed at that mill under the one-eighth agreement.

Levy accepted this offer, but the transaction came on in March, 1887. Levy was Hayward that it would be humiliating for him if he was not made a member of the board, whereupon Hayward and Hobart agreed to withdraw. Therefore Levy told Hayward that for the same reason he ought to continue to be the Director in Nevada, and that he was willing that Levy should continue to be. Then Levy visited up to Hayward and his friends the control of the Hale & Norcross Company and drew his purchase price of one-eighth profits on the Nevada mill contract.

SECRETIVE ON SECRET STOCKS.

The evidence showed that the directors were elected on the proxy system. Hayward, Hobart and the others on the inside would go to the stockholders and get proxies for the shares of stock, and so elect their men. This is what the Court says of these dummy directors: "Jones, Bell, Bowers, Wilson, Holmes, Mason, Bragg, Bell, Bowers, Wilson, Holmes, Harmon, Marks and Wheeler. Their testimony was told contradictory and unsatisfactory. The affairs of the corporation were conducted in such a manner as to conceal from the ignorance, as shown by the minute books of the company, their cheerfully and regularly ratified, supposed corporate action, which was in fact the action of Hayward, Hobart, Jones, Levy and Sharon.

The stockholders of the Hale & Norcross Mining Company are therefore given judgment against the defendants for the sum of $1,000,000, payable to date hereof. Fox is entitled, also, to costs for bringing the suit.

J. J. Crockett is appointed receiver to collect the money, with bonds fixed at $50,000.

THE MERITS OF THE CASE.

The litigation is among the most famous of the kind ever known in this State. It was not only on account of the amounts involved, but because of the exposure of the methods by which the mines were robbed by the very men who were trusted by the stockholders. The debate at the expense of the stockholders.

The case was hotly contested throughout by the defendants, and the counsel for the individual defendants had day of the best known mining lawyers in San Francisco. Fox, in addition, gives his costs for bringing the suit.

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THE STOCKHOLDERS OF THE HALE & NORCROSS MINING COMPANY.

The following are the stockholders of the Hale & Norcross Mining Company, with the number of shares of stock held by each, as appears from their books. Fox, in addition, gives his costs for bringing the suit.

THE AMOUNT OF THE JUDGMENT.

The amount of the judgment, receiver to collect the money, with bonds fixed at $50,000.

THE OTHER INDIVIDUAL DEFENDANTS.

Of the other defendants were Directors of the Hale & Norcross corporation as officers and trustees during the years. In the account rendered by the defendants for the period during which he was a Director by the number of tons of ore milled during that period multiplied by the profit of $2 to per ton, and the amount of $1,000 made in the Hale & Norcross corporation.

C. T. Crocker	$12,041 00
Wm. H. Crocker	12,041 00
W. C. Watson	12,041 00
Charles Lane	12,041 00
A. P. Hartson	12,041 00
Joseph Marks	12,041 00
Charles S. Wheeler	12,041 00
R. B. Hobart	12,041 00
Total	$96,328 00

CONSUL BEE IS DEAD.

The Head of the Chinese Legation Expires Suddenly in the Street.

A BRIEF SKETCH OF HIS CAREER.

Minor, Merchant, Telegraph Promoter, Attorney, and Then Consul for China — The Conjectures as to His Successor.

Colonel Frederick A. Bee, Chinese Consul, died suddenly on the street yesterday afternoon about 4 o'clock.

He had been on the Custom-house attending to the business of the consulate and walked down to the corner of Sansome and Sacramento streets. He was talking to Brunswick before the store and reached up to take a banana from a bunch that hung there. Suddenly the Consul laid forward, Brunswick caught him, and at the same moment Chauncey St. John, who had left the Appraisers' Building with the Consul, ran up.

Together they carried the old man into the office of the store. They had him on the floor, but before they could more than open his vest he was dead.

HE HAD COMPLAINED.

Colonel Bee had been complaining for some days of a pain in his side, but as he was apparently a hearty old gentleman he did not pay any particular attention to this.

The dead man was taken to the Morgue.

COLONEL FREDERICK A. BEE.
[From a recent photograph.]

There an autopsy was made by Dr. Williams, and the physician found that death was caused by a rupture of the diaphragm. The body of Colonel Bee did not remain long at the Morgue, for Mrs. Bee, who is in the East, was the only source of his friends called to make inquiries.

A STRANGE MAN.

Colonel Bee was a strange man in many ways. His peculiar position, particularly during the Chinese troubles, made him the target for the shafts of the Pacific Coast anti-Chinese element. He was faithful to the Government of the Celestial Empire, and was constantly engaged with the Chinese that he was with the consulate. He was a man of wealth, and was generally accredited with having conveyed to the Imperial Government of China, etc., an anybody in the United States. He was a man of wealth and polished and the way to make them well.

Colonel Bee was born in Virginia in 1838, but still, which fell for the cause of the Southern Court boundaries. These exposures from the Chinese Consul, and he was the last man to be suspected from $50,000 to $100,000.

None of the belligerents against whom policy was directed ever made any charges against him the public defendants. Mr. Blackwell, Mr. Jones and Mr. Bee, Mr. Levy, Mr. Sharon, and Mr. Hobart, were all in the Consul's office. Mr. Bee was a man of wealth, and was generally accredited with having conveyed to the Imperial Government of China, etc., an anybody in the United States. He was a man of wealth and polished and the way to make them well.

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H. M. Levy, the President of Hale & Norcross, was also a director in the Nevada Mill Company, and received $20,000 in two years from the mine as his share for pulling the company to the Nevada mill, which was created the process of the Court by designating to Virginia City. The Court says: "Levy