

A BONE OF CONVENTION REMOVED.

Trustees Rescind the Resolution Regarding Appointments.

Corporation Counsel and City Attorney Give Their Opinions Concerning the Mayor's Powers.

The City Board of Trustees held their weekly meeting last night, Trustees Lawton, Wachosor, Kent, Davis, Bragg, Devine, Leonard, Tozer and Pennish being present.

After the usual preliminaries the following communications from the Mayor were read:

MRS. HOLMES' CLAIM. To the Board of Trustees: Referring to the claim of Mrs. E. K. Holmes against the city for writing an article on the hop industry in The Traveler, which claim has been twice referred to me by your board, I will state that I am not the author or examining body of this article, and, therefore, I am unable to advise you whether the claim is a just one or not.

Mrs. Holmes has been to my office several times in reference to the matter, but I do not understand that I have any power to act in the matter as it now stands.

If your board desires that I have full power to act in the matter, I will look into it and make a report to you. I say, however, that if the members of your board feel that the claim is a just one, I will be satisfied with your action.

B. U. STEINMAN, Mayor.

CITY COLLECTOR'S ASSISTANTS. To the Board of Trustees: I am informed that your board has authorized the City Collector to employ two assistants, or clerks, for one month, at a salary of \$75 each.

Section 17 of the charter provides that the City Collector shall be allowed one deputy and one or more clerks, not to exceed three in number, as the Board of Trustees may determine, except as hereinafter otherwise provided.

"If at any time, by reason of the growth of the city and a large increase of population, the duties of the City Collector's office become too arduous to be performed in a thorough manner with the maximum force herein provided for, then the Board of Trustees may allow one or more additional clerks, as in the judgment of said board the increased duties of the Collector's office demand."

It will be observed that the above section provides that the maximum force of clerks shall be three, except when by reason of the growth of the city and a large increase of population, the duties of the office become too arduous to be performed in a thorough manner with the maximum force of three clerks, then your board has authority to allow one or more clerks, as may be proper.

I think it will not be claimed that the extra clerks were allowed on account of the growth of the city and the increase of the population.

When a person is elected to an office he is presumed to know what duties he will be called upon to perform, and he must perform them with the force allowed by law. In case he is not able to perform his duties with the force allowed, then he must pay for the force out of his salary. When you allow extra clerks you virtually increase the salary of the principal, which is entirely unlawful.

I therefore claim that the action of your board in allowing these extra clerks is unlawful, and that you pay them out of the city funds would be illegal, unless, as above stated, the employment of these clerks was authorized on account of the growth of the city and a large increase of the population.

For the purpose of obtaining the law upon the question, I referred the matter to Corporation Counsel, Robert T. Devlin, and I herewith transmit to you a copy of his opinion rendered to me upon the subject.

Before closing this communication, I desire to recommend that your board take the proper steps to have the City Collector's clerks go out and collect the water rates and licenses due the city. I think by the adoption of such a plan more money will be collected, and no new assistants will be required. Respectfully submitted, B. U. STEINMAN, Mayor.

STRAIGHTENED OUT AT LAST. To the Board of Trustees: I herewith transmit to your honorable body, with my approval endorsed thereon, Ordinance No. 11, entitled "An ordinance to amend Section 13 of Ordinance No. 17 of the city of Sacramento, entitled 'An ordinance consolidating, revising and codifying the ordinances of Sacramento,' passed June 27, 1872, relating to license for livery or sale stable. Respectfully submitted, B. U. STEINMAN, Mayor.

THE P-STREET PLAZA. To the Board of Trustees: In reference to the public park or plaza at Fifteenth and P streets, I respectfully suggest to your board that the proper time for the laying of the water pipes and the placing of the fountain in the center.

The city owns the fountain, which is on the old exposition grounds near the depot, and which is intended for this plaza. The pipes should be laid at the same time the fountain is put in, and all this work should be completed before the ground is fertilized, which, in order to get the best results, should be done soon.

I therefore advise that your board take the necessary steps so as to cause this work to be done. Respectfully submitted, B. U. STEINMAN, Mayor.

WATER BILLS. James Riley appeared in behalf of Mrs. Bersey, to seek amendment of her water rates. The matter was referred to the Mayor with a request that he investigate and report to the board.

M. C. Hilden addressed the board, stating that four years ago he leased a house under a written contract that the lessee would pay the water rate. He had not done so and was unable to do so, and a team and is anxious to work out his water bill by working for the city with his team. He is in debt and would be glad to get work. The water has been shut off.

The matter was referred to the Mayor.

COUNSEL'S OPINION. R. T. Devlin, Corporation Counsel, gave his opinion that the culverts over the Y-street canal can be legally paid for out of the levee fund, as they are clearly within the limits that the fund is created for.

He also quoted from the charter to show that the Mayor had the right to appoint the special officers for the State Fair without the consent of the Trustees. Says Mr. Devlin in concluding this opinion:

"In my judgment the appointment of the special police officers during fair time is provided for by Section 124 of the charter, and my opinion is that the Mayor has the power to employ such policemen without consulting your board. This is a power conferred upon him to be used quickly and according to his best judgment. If you were to require to confirm these policemen you could not act within less than five days after the nominations were made, and, if confirmation were necessary it might be that before you could act the danger calling for their appointment might have past.

"It seems to me that the charter expressly excepts the special policemen from confirmation, and does it designedly, because these special policemen are appointed for a period not exceeding two weeks, and only when there is a large congregation of people in the city."

Leonard asked if an officer can serve the city without taking an oath of office, and Mr. Devlin answered that he had not examined the charter on the subject, but thought that unless it were provided for by law it would not violate his appointment.

THE ALTER SUIT. He also presented an opinion to the effect that unless fraudulently obtained, it would be very difficult to set aside the confession of judgment by the Mayor in the case of Alter vs. the city, as he had assigned his right as a judicial officer to act as he thought best

to save the city costs. He also gave his opinion that the quit-claim deed given by B. Lats and wife for a portion of his lot at Twelfth and A streets was a sufficient title to the land for the city.

In concluding his opinion in the Alter matter, Mr. Devlin says:

"A party suing the city serves the papers upon the Mayor, and by doing so gives the court jurisdiction over the city. The Mayor has power to make a defense in judgment, and if he sees proper not to turn the papers over to the city's legal representative, and to make no defense, the court has no alternative in that case but to render judgment and such judgment would be valid until set aside. If, however, the Mayor should corruptly take this course, or consent to judgment against the city, and make such a judgment, the Board of Trustees, in my opinion, would have power to make a motion to have the judgment set aside, but in doing so they would have to show that they had a good defense to the action.

"If he allows a case to go by default because he thinks there is no defense, that is his judgment as an official, and I think would bind the city unless a very strong showing could be made that he acted fraudulently. Whether suit shall be instituted or not must depend upon some body's judgment—either upon the Mayor's judgment or that of your body—and it seems to me that while the Mayor has no absolute power to bind the city, yet, if he sees fit to do so, it will take a very strong showing to set it aside, and it would be necessary to show that he acted corruptly, or at least improperly, for the purpose of giving some individual an unjust advantage over the city. If this could not be shown, I do not think the court would set aside a judgment where the Mayor had admitted the allegations of the complaint and said that the city had no defense.

"My view may be made plainer by taking the case of a corporation. If a person should sue a bank and serve the papers upon the Cashier, and he should suffer default, the plaintiff would be entitled to judgment. If the Cashier acted fraudulently or improperly, the Board of Directors might move to set the judgment so obtained aside. But the bank would, on such motion, have to make an affidavit of merits and show some cause why the judgment should be opened. So the Mayor is the agent of the city of Sacramento, and his admission binds the city. A judgment obtained by his default or by his admission binds the city until set aside. It can be set aside only by a motion showing that the action was improper."

He then read the answer to the complaint in the suit of B. U. Steinman, Mayor, vs. J. J. Young, Auditor, in which the Mayor has enjoined the Auditor from paying the claim of James Finney for work done on the levee. He said that he occupied a peculiar position in the matter, it being a case between two city officials and involving the powers of the Board of Trustees, and he suggested that it might be well for the board to employ counsel to assist him.

Devine said he had full confidence in Mr. Young, and that it was no use to put the city to extra expense.

M'KENNA'S LICENSE. Mr. Devlin rendered an opinion on the subject of James McKenna's application for a license to keep a saloon at Fourth and Q streets, saying that it was the question of fact for the board to determine, as to whether he had abandoned his business, and the fact that his stock of liquors had remained would go to show that he had not.

The committee to whom the matter was referred reported that McKenna, the agent of God, God forgives through the priest, Christ, speaking to the Apostles, said to them: "Whose sins you forgive, they are forgiven."

Christ, he said, was speaking to men, he said, "Whose sins you forgive." These words cannot be changed—they must have a real and true import.

The speaker also explained at length the advantages of confession. It makes us know our sins, and gives us sorrow. Confession induces us to question what is right and what is wrong.

Again, confession prevents sin. It cannot but make us better. "Our mothers," he said, "know I will stay long as their boys and girls go to confession, so long they are good and pure."

"That a person who goes regularly to confession continues in sin, is a truism among Catholics," said the reverend speaker.

Continued Cases. Yesterday was a day of continuances in the Police Court.

The two cases against L. C. Chandler of maintaining low lots and violating the sidewalk ordinance were continued one week.

The charge against Bridget Trainor of violating the cesspool ordinance was also continued one week.

The charges against Ellen Bowden and J. Hyman of violating the sidewalk ordinance were continued, the first till October 4th and the latter for one week.

That of Mr. Rhoads for violating the sidewalk ordinance was continued for two weeks to allow him to put down the walk.

That of J. H. Horton was continued for the same time.

The charge of petit larceny against R. D. Sherwin was continued till the 20th inst.

The charge against J. H. Groth of violating the awning ordinance was continued till to-day.

The charge of assault to murder against J. Petrait was continued till the 12th inst.

The cases of Leo Foley and Arthur Brown of violating the sidewalk ordinance were continued till the 8th inst.

New-Made Americans. Superior Judge Johnson yesterday admitted the following persons to citizenship: Fred Ludford, a native of England, on the testimony of John Riley and Richard Reed; Gustave Siebert, a native of Germany, on the testimony of G. Faig and J. H. Daver; Alfred Puchel, a native of Germany, on the testimony of G. Faig and C. Schner; Jack Mado, a native of Austria, on the testimony of M. Rose and John Attoovich; John Mevis, a native of Germany, on the testimony of C. L. Bump and W. A. Kinkaid.

Cases Dismissed. The cases of Siller Bros., charged with violating the cesspool ordinance; Daniel Mason, charged with the same offense, were dismissed in the Police Court yesterday, they having complied with the law.

That of J. H. Glide, for violating the awning ordinance, was also dismissed for the same reason.

Two Convictions. Ah Jim, who discharged a pistol in the Capitol Park, was convicted of carrying concealed weapons, and fined \$25.

Jas. Murphy was convicted of vagrancy, and sent to jail for twenty days, and Wm. Ryan, charged with the same offense, was allowed to leave the city.

Up to His Neck. C. E. Grunsky, the well-known civil engineer, formerly of this city, has at last fallen into the political pool. He was yesterday nominated by the San Francisco Non-Partisans for Superintendent of Streets.

Millions for Defense. Against the inroads of that subtle, lurking foe to human health, malaria, had been expended uselessly when Hostetter's Stomach Bitters appeared upon the scene and demonstrated its power as a preventive and curative of the dreaded scourge. When the "gold fever" raged in 1849 in California, malaria was contagious and fatal disease, and the "diggers," and wrought dreadful havoc among the miners. Then and subsequently on the Isthmus of Panama, and wherever in the tropics malarial diseases prevailed, the Bitters became the recognized safeguard.

For the effects of exposure and fatigue, miasma-poisoned air and water, and sickness and all ailments of the stomach, liver and bowels, the Bitters afford prompt relief. Invalids of all sorts will find it fully adequate to their needs.

THE YOLO COUNTY TRAIN WRECK.

A Youth Who Claims to Have Witnessed the Crime.

Words and the Others Arraigned in Court—The Former's Trial Set for the 17th.

In reference to the report published here last evening—to the effect that a young man had been found who claims to know just who it was that wrecked the train on July 11th, in Yolo, by which Engineer Clark and four soldiers were killed, and that the guilty person is now employed in the railroad shops—the railroad officers say the story is absurd.

Detective Stillwell, who has been constantly at work on the case from the first, claims to have obtained new evidence corroborating that given at the examination in Woodland some weeks ago. The San Francisco Call of yesterday says on this point:

A BOY WITNESS. "The wrecking of the train near Sacramento during the late strike, whereby Engineer Clark lost his life, has never ceased to be a matter of investigation by the detectives. At the time of the outrage a rumor was current that a boy had been seen in the neighborhood about the time of the dicing of the train.

Yesterday this rumor was strengthened by the fact that a young man named Alfred Weston, who claims to have been an eye-witness of the whole affair, and to have positively identified S. D. Worden, one of the men tried for the crime in Woodland, as being among the crowd. He says that he escaped their notice and observed them as far as the fatal bridge where the train was dicing.

"According to the story of this new witness he was on his way to Davisville, having tramped from Sacramento, and had proceeded as far as the fatal bridge where the train was dicing.

"Just as he was entering upon the bridge to cross over he says he was stopped by a group of men, one whom he positively identifies as Alfred Weston. They ordered him, he says, to go back.

"Then he goes on to tell how he suspected that the man was not Alfred Weston, but a young man who had been in the crowd, and who he witnessed the proceedings of the band of men, including Clark, and the local papers spoke of them in the most flattering terms. One says:

"The audience passed a delightful evening and the evening of the Pacific" is presented by the city of the traveler, the delight of the artist, and the pleasure of the audience.

Mr. Rice has recently returned from the wonderful land of the Pacific. He went there with the idea of gathering material for these lectures, and comes back to give a truthful and graphic account of what he has seen and heard. The lectures were given in Santa Cruz, and the local papers spoke of them in the most flattering terms. One says:

"The audience passed a delightful evening and the evening of the Pacific" is presented by the city of the traveler, the delight of the artist, and the pleasure of the audience.

These views were given to the people of the city, and were well received. The lecture was given at the Sixteenth-street M. E. Church, in the direction of the Junior Christian Endeavor Society of the Westminster Presbyterian Church, and the proceeds of the lecture were given to the same society.

"Picturesque Hawaii and the Kilauea Volcano," and on Friday "Honolulu, the Beautiful, and the Hawaiian Islands." Music and a solo will be given each evening.

THE CONFESSORIAL. Last Evening's Discourse by Father Moeller at the Cathedral.

Nearly every available seat in the large auditorium of the Cathedral was occupied last evening during the lecture of Rev. H. Moeller on "The Confessorial." The discourse lasted an hour and a half, but interest was sustained till the end.

The speaker explained at length in what sense Catholics hold the testimony of the agent of God. God forgives through the priest, Christ, speaking to the Apostles, said to them: "Whose sins you forgive, they are forgiven."

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People's Party Meeting. On Thursday evening, the 4th, Louis Luckel, the People's party candidate for Attorney-General, and other candidates, will speak at Turner Hall, commencing at 8 o'clock.

On Saturday evening the local candidates will address the people at Oak Park.

Wealth for George Killingworth Butler. Charles N. Purvis of 540 Packer street, Williamsport, Pa., writes to Mayor Steinman to inquire if George Killingworth Butler of London, Eng., is known here. A large sum of money awaits the latter gentleman in London.

Two Divorce Cases. Mary E. Willis has brought suit for divorce against John S. Willis.

Calvin E. Swain was yesterday granted a divorce from Annie E. Swain on the ground of habitual intemperance.

Auction To-Day. Bell & Co. will hold their regular auction sale at 10 A. M. to-day at 323 J street, when will be sold a fine collection of household furniture and many other useful articles.

A House Robbed. Mrs. G. F. Rollins, who resides at 1228 Second street, reports to the police that her house was entered by someone yesterday and a gold watch stolen.

An Insolvent Debtor. Superior Judge Catlin has declared James B. Whelan an insolvent debtor. His liabilities are \$27,250, and his assets, \$54.

GONORADO WATER, McMorris sole agent, Groceries and provisions, 531 M street.

MARRIED ladies try Seguro. Take no substitute. See general notice column.

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CHANGED DAILY FOR WEINSTOCK, LUBIN & CO.

TO-MORROW

AT 9:30 A. M. SPECIAL SALE

Lace Curtains, Table Covers, Fur Rugs, COUCH \* COVERS.

ITEM 1—TABLE COVERS—Small lot of Figured Chenille Table Covers, 88c each. Extra Large Tapestry Covers, fringed all round, in rich, deep-toned colors, \$3 98 each. Also a few 8-4 Tapestry Covers at \$2 88 each.

ITEM 2—Derby Satin Stand Covers in a good assortment of colors, such as red, blue, olive and gold, fringed all round, 59c each.

ITEM 3—Bagdad Curtains and Lounge Covers in Oriental figures and colors, at \$2 25 and \$2 88 each.

ITEM 4—Fur Rugs, about two yards long, in dark browns and black; a good, serviceable floor rug, \$2 90 each.

ITEM 5—Handsome Lace Curtains, Brussels effects, fine quality, 3 1/2 yards by 55 inches, in one of the latest designs, \$2 70 per pair.

ITEM 6—Heavy, Durable Nottingham Lace Curtains, large size, 4 yards by 52 inches; excellent wearing qualities, \$3 98 per pair.

ITEM 7—A few choice designs in Fine Irish Point Curtains, all of which have been reduced in price for this sale.

UPHOLSTERY DEPARTMENT.

At Woodland yesterday the men held for the railroad strike were arraigned in the Superior Court. All entered pleas of not guilty and demanded separate trials. Worden's trial was set for the 17th of this month, but the others will be set on Monday next.

Sudden Death Last Night. About 11 o'clock last night, Edward Dooley, the well-known plasterer, while talking with a member of his family, at his residence, 182 Q street, suddenly fell to the floor and expired in a few moments.

Heart disease is supposed to have been the cause of his sudden taking off.

On King Chue Goes Free. The case of On King Chue, charged with assault with a deadly weapon on another Chinaman, was dismissed in the Department One of the Superior Court yesterday, the prosecuting witness failing to appear to testify against the defendant.

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MISCELLANEOUS

DON'T SCOLD THE BOY!

He is a good, lively, all-round boy, and you wouldn't change him if you could. Kicks out lots of Shoes, of course. The only thing to do is to get shoes that are hard to kick out. Our

\$1 15 Shoes for sizes 11 to 2, or our Big Boys'

\$1 25 Shoes sizes 3 to 5, for instance; of course, those for \$1 50 and \$2 are much better, in fact, can't be beat for the price.

LAVENSON'S,

FIFTH AND J. We close at 6 o'clock, Saturday at 10 o'clock.

SCHOOL OPENING.

The City Schools open for the Fall term next week. We have made special efforts to have our stock of Blank Books, Pencils, Tablets and General Supplies complete in every