Xmas Silk Sale Now Going On.

In the hight of the season it seldom happens that we care to make a greater showing of fine waist silks than can be seen on our counters now. Every conceivable style and color. After seeing these silks yesterday at 87c yard many ladies concluded that 4-yard lengths would fill their wants for Xmas gifts. All styles are the same price, 87c yard, or

Fur Rugs and Mats for Holiday Gifts.

We would call attention to our large assortment of fur mats and rugs for holiday gifts. They give a cosy, attractive finish to the home and are very serviceable. Here are a few prices:

Gray goatskin rugs, 1x2 yards, $1.75 and $2.

White unlined goatskin rugs, $2.25.

Angora skins, with long silk hair, $2.50.

Black or seal brown goatskin rugs, unlined, 1x2 yards, $2.75.

Six sizes in fancy colored angora sheepskin rugs; all the newest shades and long, silky hair, $2.50 to $10. Suitable for parlors, etc.

Fancy figured goatskin rugs, lined. Size, 30x60 inches. $5.

Large, black bear rug, mounted and with stuffed head. $15.

Gathered at Random in Our Art and Embroidery Department.

Basket pin cushions with little plush mound for sticking pins and bordered with colored daisies. These are much admired; entirely new and 25c each.

Elaborately trimmed boudoir pin cushions in circular or oblong shapes. $1, $1.25, $1.50, up to $2.50. Some hand painted with satin top and bottom, 25c.

Handkerchief boxes are found here in great numbers; all bear evidence of hand work; that's why they will be the more appreciated. The 25-cent ones have transluscent celluloid tops and are much prettier than you would dare to expect for the price. The dollar grade rests on gilt metal feet and are lined with glossy silk, most expressive in delicate colorings. These will not only be appreciated for their usefulness, but as ornaments for a ladies' dresser.

Faultless Underwear.

What a friendly act it would be to give some one not enjoying the best of health a few suits of the celebrated Dr. Jaeger underwear. That make is the standard of goodness the world over. We are the exclusive agents for Sacramento and have Jaeger underwear for either men or women.

Store Open Evenings Until 9 o'clock.

"VIVE" CAMERAS 1/2 PRICES TO-NIGHT

SALE AT 7 P. M.

Vive cameras are great favorites with all amateur photographers and we deem ourselves exceedingly fortunate in being able to offer to you Wednesday evening a good assortment of these cameras at less than half the regular 1899 prices. If you are not familiar with photography yourself, just cut this out and refer to anyone who is, and they will tell you about the good work that "Vives" do and their great popularity.

Lot 1. $7.50 Vive Cameras, $3.70.

No. 2 Vive cameras, 1899 model, and regular price $7.50, reduced for Wednesday night's sale to $3.70.

TO-NIGHT'S PRICE, **$3.70**

Lot 2. $10 Cameras for $4.45.

Nos. 3 and 4 Vive cameras, 1899 styles, fully guaranteed, and sold regularly at $9 and $10, reduced to $4.45.

At the above prices these cameras should sell at once. They are fresh, perfect goods, and highly suitable for holiday gifts.

TO-NIGHT'S PRICE, **$4.45**

Fine Furs Reduced for Xmas Gifts.

We have eight very fine neck scarfs in stock now which we want to sell this week. In making holiday presents most people like to give the best, if prices are not prohibitory. Here is an opportunity to do so.

Two $15 Japanese fox neck scarfs, reduced to $11.95.

One $35 real mink neck scarf (horse shoe shape), reduced to $25.

One $22.50 real mink scarf, reduced to $18.50.

One $37.50 genuine beaver yoke collarette, at $25.

Two $20 genuine stone marten scarfs at $15.

One $16.50 stone marten neck scarf, reduced to $12.50

Also Two Very Fine Fur Shoulder Capes.

Our $50 mink shoulder cape, beautifully marked select skin, reduced to $37.50.

That handsome $45 real beaver cape, deep storm collar and marten tails. A beauty. Reduced to $37.50.

Sale To-night AT 7 O'CLOCK FOR MEN

Handkerchiefs, Neckwear, Hosiery, Suspenders, Etc.

Men's Japonet handkerchiefs, slightly stained by water. These handkerchiefs are of fine cotton, made to look like silk. Initials in corner.

SALE PRICE, **5c**

Eight dozen men's suspenders, slightly damaged. Reduced from 20c to

SALE PRICE, **5c**

About 200 pairs men's brown cotton socks.

SALE PRICE, **5c**

Wide silk Windsor ties for men, women and boys. 5c.

Boys' fleece-lined gray undershirts. Sizes for 5 to 14 years.

SALE PRICE, **19c**

Men's shield and band bow ties of fancy silks.

SALE PRICE, **5c**

Men's all-wool bicycle hose, plain, also figured. Former prices, $1.50 and $1.75 pair. Reduced to 50c.

Embroidered Suspenders, 25c.

We wish to call attention to our fancy embroidered suspenders for holiday gifts at the very low price of 25c. Other styles at 50c and 75c, up to $2.50.

Men's Blue Jersey Overshirts, 50c.

We have received another case of those heavy blue Jersey knit overshirts for men at 50c. They are telling value and great favorites with workingmen.

We Offer To-day:

Special Glove and Handkerchief Boxes at 18c

These boxes are enameled or glace paper, with the title of each box written in gold scroll letters. They are of regulation size; come in pink or light blue. Would be most appropriate to inclose a gift of handkerchiefs or gloves. Special price, 18c. Art Embroidery Department.

Leather Photograph Frames.

Made of suede finished leather with burnt in floral designs. They are in leaf and other irregular forms and quite artistic. Prices, 75c and $1. Ask for them at the embroidery counters.

Women's Fancy Garters.

Many pleasing designs in garters for holiday gifts. Garters with heavy frilled edge and puffed center elastic, with gold of silver buckles, are here at 85c. Similar grade with less expensive mountings cost 50c.

Satin belt hose supporters with Lindsay patent fastenings. 50c, $1 pair.

Plain side garters with satin face frilled elastic, 19c pair.

Jackets for Holiday Attire.

Most people deem it a pleasure to have the opportunity of selecting a jacket from such a collection as we carry this season, and in this connection we can say you cannot find a single jacket in our stock carried over from any previous season. Very few houses are in this condition. Hence you safely make your selection knowing that you get quality and up-to-date styles in our Cloak Department at reasonable prices. $5.75, $7.50, $10 to $35.

Salt and Pepper Sets, 15c.

Individual sets in white or green glass. Consist of small tray, upon which rests a vinegar jug, pepper and salt shakers, the latter with metal tip. Price, 15c set.

American Cut Glass Just Received.

About 65 new pieces of rich American cut glass just received. Popular styles and at popular prices.

Cut glass salad bowls, $4.25 to $9.

Nappies, good size, $2.25.

Sugar and creamers, new design, $6 pair.

Vases, violet bowls, celery trays, bon bons and many other useful pieces.

Women's Hair Combs.

Side combs with brilliant stone settings, 50c, 75c, $1.25 pair. Without stone setting, 10c, 12½c, 25c, 30c, 50c pair. Back combs with bright stone settings, 60c, $1, $1.50 each. Plain ones, 25c, 35c, 50c. Fancy hair pins with two prongs, extra heavy, with stones, $1. Plain finished ones, 25c. Smaller in sizes, 20c to 50c dozen.

Lasting Perfumes.

If you would give perfumes that will stir up pleasant thoughts long after Christmas is passed, then select for your gifts such perfumes as No. 4,711, Rhine Violets or Carnation Pinks. Of course goodness depends on the maker. Ferd Mulhens, Cologne Germany on the first, and Ed. Pinaud's on the latter, will guarantee to you the best. They are here at 90c and $1.50 bottle. Of course there are dozens of fancy boxes with one and two bottles which are nice. Some at 50c, 75c, $1.

Sale of Grebe. Millinery Department.

Wednesday and Thursday we shall place on sale a limited quantity of gray, and white grebe feather breasts. We shall sell the $1.50, $1.75 and $2 qualities in pairs for 98c. At the present time this is the most fashionable hat trimming in use. This is a special lot of 18 pairs, hence we are able to make this price. Grebe breasts are white, with edges tipped with gray. Some of this lot are 4 inches wide. One price on the lot, namely

A splendid item for giving tone and newness to your winter hat.

Weinstock, Lubin & Co.

THAT OVERHEAD WAGON-WAY

COUNTY CANNOT RECOVER THE MONEY PAID.

The Supreme Court Declares the Railroad Company Acted in Good Faith.

The Supreme Court yesterday handed down a decision reversing the judgment given in favor of Sacramento County in its suit to recover from the Southern Pacific and California Pacific Railroad Companies the $15,000 paid toward the contract price of the overhead wagon-way above the railroad bridge across the river between this city and Washington, Yolo County. The suit was begun by the District Attorney at the instance of the Grand Jury in 1897. Following is the decision in full:

County of Sacramento (Plaintiff and Respondent), vs. Southern Pacific Company, a corporation, and California Pacific Railroad Company, a corporation (Defendants and Appellants).

This is an action to recover $15,000 and 20 per cent. in addition thereto as damages from the aforesaid defendants. Judgment was rendered for the amount claimed and an appeal is now taken from that judgment and from the order denying the motion for a new trial.

The facts in substance are these: The California Pacific Railroad Company contemplated building a railroad bridge across the Sacramento River at Sacramento City, connecting the counties of Sacramento and Yolo. The construction of this bridge would result in the demolition of the old railroad bridge between the two counties, which also was used by the public for travel in vehicles, on foot, etc., and would thereby necessarily prevent travel from one county to the other. The Board of Supervisors of Sacramento County, hearing of the contemplated improvement, entered into negotiations with the California Pacific Railroad Company whereby it was agreed that the board should pay to it $15,000 upon December —, 1893, and $15,000 upon the completion of the structure.

In consideration of the aforesaid agreement on the part of the county, said railroad company promised "to construct and maintain in connection with said new railroad bridge an overhead or separate roadway to be maintained by the California Pacific Railroad Company for free public highway purposes, and to be independent of either tracks or trains." The company further agreed, in consideration of the aid extended in the form of this $30,000, to prosecute the work with diligence and finish the construction before December 31, 1895. It was also stipulated that if the work was not completed by the aforesaid time the company was to receive nothing from Sacramento County, and also refund the payment already made.

At this stage of the proceedings the District Attorney of plaintiff advised the Board of Supervisors that it had the power to enter into such a contract with defendants, and further advised the board that the respective actions taken at that time by the county and the railroad company, in the form of written offers by the company and resolutions passed by the board, amounted in law to a legal, valid contract between the parties. Thereafter the first payment of $15,000 was made to the company, and the work of construction began.

In October, 1895, the county of Sacramento, upon the claim that it had never entered into a valid, binding contract with defendants to pay the aforesaid $30,000, brought this action to recover the sum of $15,000 already paid, with 20 per cent. additional as damages in the form of a penalty, the basis of this claim being that the money was paid without authority of law and could be recovered back at the suit of the District Attorney of the county. The contract is claimed to be void by reason of the fact that it was entered into contrary to the statutes, which call for plans and specifications, notices, bidding, etc., as conditions precedent to the building of a bridge by the county. The bridge was completed in December, 1895.

Among other defenses relied upon, an estoppel is set out, and upon this question of estoppel the court made the following finding of fact: "It is true that said overhead roadway upon said new bridge was fully constructed and opened to the public on the 16th day of December, 1895; and that ever since that time the same has been used by the inhabitants of Sacramento and Yolo Counties for travel to and fro between said counties, with immunity from contact with their trains or tracks; and that said public has had the exclusive use of said overhead roadway without toll or charge; and that no railroad track has been laid thereon. And that said overhead roadway has been constructed and maintained in a good and substantial manner."

This is, in substance, an action to recover money had and received, and this character of action is based upon the principle that one party has money which in equity and good conscience belongs to another.

In the face of the finding of fact quoted we are at a loss to see how this money in equity and good conscience belongs to Sacramento County. If the plaintiff had lived up to its contract to the letter, and paid the entire sum of $30,000 to defendants, and if at some future time defendants had closed this overhead roadway, we can readily imagine that the county of Sacramento would have at once asked and obtained relief from the courts, any question of ultra vires contract, or defective contract, to the contrary. Certainly the county would be entitled to relief, for defendants would not be in a position to raise any question as to the invalidity of the contract under which the money was paid to it. With the money jingling in their pockets they would be absolutely estopped, upon every principle of common justice, from casting a single speck upon the binding force of the contract which had been entered into with the county, and upon which it had received the money. The rule works equally the other way, and we are satisfied that this plaintiff is estopped from securing a return of the money. There is no claim that the county was defrauded. There is no claim that the benefits accruing to the county were not equal to the expenditure made. In this transaction the county was the agent of the public, and by the transaction the public have secured an exclusive right of way over the bridge of defendant as long as that bridge shall remain. It may be said that the easement of right of way over the bridge, with the annexed covenant to keep in repair, is far more valuable than a perfect title to the bridge itself, for the public have all the benefits of the bridge without any of the burdens accompanying its ownership.

Many legal complications arise in the building of a bridge across a stream forming the boundary line between two counties. Neither county is able to deal with the question alone. It appears that the consent of both is required. It is extremely doubtful if the statutes bearing upon the course to be followed by Boards of Supervisors in building bridges within the county are applicable to the building of bridges over streams dividing two counties. Legislation upon the question is lacking, and what little there is is most indefinite.

Possibly in this case the law was not carried out. Possibly the defendants, aside from any question of estoppel or ratification, could not have recovered either installment of the $30,000 to be paid. But still the all-important fact remains that these parties entered into the contract in the utmost good faith. The advice of the law officer of the county was taken, and he advised that the contract was a lawful one and was sufficiently evidenced; the work contracted for was done; the money was paid for the work; the party paying the money received full value for it, and still enjoys the benefits received from the contract. Under such circumstances a plain example of estoppel is before us, and by reason of that estoppel the plaintiff is forever barred from recovering back the money involved in this litigation.

If a party contract to erect a bridge, or a poorhouse, or a courthouse for a county at a reasonable price, and the structure is erected, the contract price paid, and possession of the structure taken, we believe in an action by the county for the return of the money, based upon the invalidity of the contract, no court would be found to declare that in equity and good conscience the money should be returned. And this, too, notwithstanding the widest departure from the statute may have been practiced in the making of the contract. The case at bar in principle differs but little from the illustration given.

There is nothing so sacred about a municipality that an estoppel may not be raised against it by its acts. In equity and good conscience, like individuals, it is equally bound to treat its neighbors fairly and justly. In City of Los Angeles vs. Cohen (101 Cal., 373) this court, in order to do justice, held that the acts of the city were such as to estop the "public" from questioning the title of the defendants in that action to a strip of land claimed by the city to be a portion of a public street. The question of estoppel between a county and an individual involves no such grave difficulties. The doctrine of estoppel against municipalities is universally applied.

In the early case of Argenti vs. City of San Francisco (16 Cal., 266), this court said: "The doctrine of ratification and estoppel is as applicable to corporations as to individuals, and the former are bound by the acts of their agents in the same manner and to the same extent as the latter. There is no difference in this respect between public and private corporations; for in matters of contract a public corporation is regarded merely as a legal individual and treated in all respects as a private person."

It thus appears that there is no substantial difference in the application of the doctrine as between private and public corporations. Indeed, the whole history of estoppel, as involved in this case, is strongly and convincingly stated in Brown vs. City of Atchison (39 Kan., 33), in the following language: "Where a contract is entered into in good faith between a corporation, public or private, and an individual person, and the contract is void in whole or in part because of want of power on the party of the corporation to make it, or enter into it in the manner in which the corporation enters into it, but the contract is not immoral, inequitable or unjust, and the contract is performed in whole or in part by and on the part of one of the parties, and the other party receives benefits by reason of such performance over and above any equivalent rendered in return, and these benefits are such as one party may lawfully render and the other party lawfully receive, the party receiving such benefits will be required to do equity toward the other party, by either rescinding the contract and placing the other party in statu quo, or by accounting to the other party for all of the benefits received for which no equivalent has been rendered in return; and all this should be done as nearly in accordance with the terms of the contract as the law and equity will permit."

In the case of the Commissioners of Knox County vs. Aspinwall (21 How., U. S. 544), it is said: "Citation of authorities to this point is unnecessary, as the whole subject has been recently examined by this court, and the rule clearly laid down that a corporation, quite as much as an individual, is held to a careful adherence to truth in their dealings with other parties, and cannot, by their representations or silence, involve others in onerous engagements, and then defeat the calculations and claims their own conduct has superinduced."

From these authorities, and many others, which can be cited, it is apparent that public corporations, like individuals, are bound to act in good faith and deal justly; that they cannot be allowed to enter into contracts involving others in expensive engagements, silently permit these contracts to be executed, and then repudiate them because the statutory steps have not been pursued in the letting of the contracts.

This action is largely based upon authority claimed to be found in section 8, of the County Government Act, wherein it is provided: "Hereafter, whenever any Board of Supervisors shall, 'without authority of law,' order any money paid as a salary, fees, or for other purpose, and such money shall have been actually paid * * * the District Attorney of such county is hereby empowered, and it is hereby made his duty, to institute suit in the name of the county against such person or persons to recover the money so paid, and 20 per cent. damages for the use thereof."

This statute was never intended to have the effect, and cannot now be construed as having the effect, of nullifying the principle of law we have been considering, known as an equitable estoppel. Money paid "without authority of law" means money paid out by the Board of Supervisors upon claims based upon a subject matter not within the scope of the powers of the board. In other words, it is the application of the moneys of the county to a purpose not within the general powers of the board. But the power of a Board of Supervisors to construct brides, to build and lay out roads, to secure easements in the form of rights of way for public travel, are matters within the jurisdiction of the Board of Supervisors. Again, in subdivision 8 of section 25 of the County Government Act the board has the power to purchase or lease real or personal property necessary for the use of the county. The county could buy a bridge or lease a bridge. As already suggested, in substance this transaction was a purchase of this overhead roadway. The county is the owner of everything pertaining to the bridge that is valuable, with the single exception of the old lumber and iron, when decay overtakes it. If a county may buy a bridge, or rent a bridge, it may purchase the exclusive right of way over a bridge. We need not split hairs in giving a technical name to the interest which the county has in the bridge, but it is apparent to everyone that it has a substantial interest therein, and in the absence of some claim or showing to the contrary we may assume that such interest is full value for the money expended.

We are not now passing on the validity of the contract entered into between the parties to this litigation. It is not material here. We are not intimating but that at the instance of a taxpayer in the early history of these negotiations the entire transaction may not have been judicially killed. All that we have said bears upon the single question of estoppel, and is said in view of the conclusion arrived at by the court that an equitable estoppel against plaintiff should be held in this case.

For the foregoing reasons the judgment and order are reversed, and the cause remanded. GAROUTTE, J.

We concur: Van Dyke, J.; Harrison, J.

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Among the new things we have for the holiday trade are a lot of jeweled rings and a line of lorgnette chains.

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Many children can't stand cold weather. The sharp winds pierce them, and the keen air hurts them. They have cold after cold, lose flesh, and spring-time finds them thin and delicate. Scott's Emulsion will make such boys and girls hearty and strong. The body is better nourished, and they are better protected. The blood becomes richer, and that makes them warmer.

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