

WILL BE TRIED AGAIN.

Street Superintendent Ashworth Acquitted Yesterday.

A STARTLING NEW ISSUE.

Where Can Responsibility for Millions of Dollars of Work Be Placed?

JUDGE MURPHY ON THE LAW.

The Grand Jury Investigates the Court Procedure—New Charges to Be Preferred.

Superintendent Ashworth was yesterday acquitted of the charge of malfeasance in office, founded on six counts presented in the indictment by the Grand Jury charging him with willfully and knowingly accepting in behalf of the City six pieces of street work imperfectly and fraudulently done.

The jury was out thirteen minutes, which was a long time, considering the collapse of the case for the prosecution under the construction of the tangled mess of law bearing on street matters, which Judge Murphy presented to the jury.

Under the law as expounded by the court the jury could do nothing but acquit, because it was established that no official responsibility attaches to the Superintendent of Streets in his supervision and control of street work done by private contractors.

The prosecution, conducted by Assistant District Attorney Black, and ably seconded by Experts George W. Elder and George T. Gaden, piled up the evidence, made a case perfect enough so far as the character of the work went, but the allegations of the indictment, charging corruption, were not supported and were withdrawn.

The case has a far greater interest and importance than its relation to Mr. Ashworth personally, for it reveals to the public for the first time the fact that the bulk of the street improvements made every year in San Francisco are made by scheming contractors, under a wholly irresponsible supervision, and that property-owners who pay for street work by private contract have no guarantee of getting what they pay for but their own vigilance, and no recourse if the contractor gets his money before frauds are discovered.

Each year between \$1,500,000 and \$2,000,000 worth of street improvements are made by private contract, and this amount does not figure at all in the big budget of the Street Department, which provides for little more than repairs. The newly paved streets and the newly constructed sewers as they are turned over to the City by the contractors are formally accepted and thereafter cared for by the City.

If a rascally contractor does a piece of work that will soon have to be done over again the City is the loser. If the street is accepted before the fraud is found out, the immense cost of repairs made by the City yearly is largely due to the bad character of the work that has been accepted in the past. If an expert inspector or somebody else discovers a fraud, such as a sewer running up hill or built of cement barrels, before the contractor gets his money and before the street is accepted, the contractor will have to do the work over again. If he has got his money and then the Board of Supervisors refuse to accept the work the property-owners have to dig down in their pockets and get the work made right. If they get the bad work off their hands and into the City's they are yet saddled with a sewer that floods their cellars, or a street that becomes early on a slough, while the City spends taxes on a block that should have lasted without repairs for years.

Now all this is supposed, in theory, to be guarded against by the constant inspection and supervision of the work by the Street Superintendent through deputies he appoints, through specifications he prepares and through the necessity of his acceptance and approval of the work. The character of this inspection and supervision is pretty well known, and has been periodically illustrated when attention has been directed to the services of some small politician-inspector, and it was illustrated in this case when the inspection of the Broderick-street sewer, which was recently a Tivoli chorus singer, couldn't tell on the witness-stand whether the "Y" in the Broderick-street sewer were fifty or twenty-five feet apart or whether there were any "Y's" at all, but still it has always been supposed that this negligence was merely a usual feature of public business and that the Street Department had official responsibility in such matters to which it might be held to account.

Now, in trying to hold Mr. Ashworth to account for accepting a lot of fraudulent work, perhaps negligently and carelessly, rather than corruptly, it transpires that all this inspection and supervision is a mere courtesy and an official doing to which no responsibility attaches. Judge Murphy says that the Superintendent of Streets is responsible only in regard to public work, and that in accepting street work he is merely a sort of arbitrator between the City and the property-owner.

That is the important feature of the Ashworth case and it leaves the annual expenditure of \$1,500,000 or more of money for street work to the voluntary vigilance of property-owners, political inspectors, Supervisors and others with no official responsibility anywhere and nobody who can be called to account for fraudulent work.

JUDGE MURPHY OPINIONS.

He Tells of the Special Verdict and the Law at Issue.

When asked why a special jury had been drawn in the case Judge Murphy said last night: "I am glad of an opportunity of setting people right on that question for once. Mine is a court of equity and not a criminal court. Whenever a criminal case is tried in this court it is because it has been transferred thereto. Now, that being the case, I have no standing venue from which to draw a jury and must get my jurors from a special venire. That is to say, I send the sheriff out to get the jury. The only criminal cases are departments 6, 11 and 12—Judges Wallace, Belcher and Bahr. I think it must be clear now to those who can reason why I had to have a special venire for my jury in the Ashworth case."

TRIED TO PASS CONFEDERATE BILLS.

A man giving the name of William Harris tendered a \$6 Confederate bill to the clerk of the Mocha restaurant last night in payment of a 10-cent debt. The clerk, who was but a boy, was about to give him the change when the fellow asked him to take a \$10 bill and give him the change. The boy became suspicious, and, examining the bill, he found it worthless. He called Officer Knight, who put the man under arrest.

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A NEW SOCIAL ORDER.

Local Socialists Do Not Dwell Together in Peace and Unity.

MORRISON SWIFT GODFATHER.

The New Society to Be Distinctively American in All Its Characteristics.

Socialists, like other portions of the human family, have not learned to get together in peace and unity according to the biblical injunction.

The San Francisco section, itself an offshoot of the parent Socialist Labor party, has lopped off another branch which is to be known as the American Socialist Society.

The San Francisco branch accuses the parent tree, which since the separation has come to be known as the German section, of continental practices in regard to Sabbath desecration by means of beer-drinking and dancing on the seventh day, and the latest organization brings the charge against the San Francisco section that it is European rather than American in its methods.

Morrison Swift of Boston is the godfather of the newly christened socialist child, whose ambition it is to be distinctively American in all its characteristics.

The movement for the organization of a new society freed from all anarchistic taint, which it alleges the others possess, has been in contemplation for some time. Mr. Swift is a visitor to the city, hastened to the city, and the recent action of the San Francisco section in repudiating the Socialist, the Coming Nation and the Altruist for what it considers too conservative utterances did not retard it.

The People, a radical organ of socialism, has been endorsed, and the other exponents of what the