ALL OVER A MUD HORSE

He Defeated the Red-Hot Favorite, Miss Maxim, Very Handily.

TWO FAVORITES COME FIRST.

Lost Girl Took a Race in Game Fashion—Jack Richelieu Ran a Decidedly Improved Race.

The track was again just to the liking of the web-footed horses yesterday, and overlooked ones upset calculations in several instances. The threatening aspect of the weather kept the attendance down, and the bookmakers did a light business.

Favorites were successful on but two occasions. The California stable's Realization was the longest-priced outsider to win, capturing the opening event at odds of 15 to 1.

Of the many hard jolts the talent received during the day, Miss Maxim's defeat by All Over was the most expensive. The mare composed one of a trio that started in the fourth race on the card, over a mile, and with but eighty-nine pounds in the saddle, opened in the betting at 1 to 2. Notwithstanding the fact that it was all that All Over could do to beat that ordinary performer Doubtful on Wednesday, he was very heavily backed to beat the filly, his odds gradually being rubbed from 2½ to 1 to 8 to 5.

The daughter of Maxim receded in the betting to 7 to 10. Thornhill was lightly played at lengthy odds. The favorite, who was cut off at the start, took the lead around the first turn and set a very merry pace to the stretch. Here she began tiring, and on the journey to the wire was easily beaten out by All Over in the fast time of 1:42¾.

Realization, although a notorious mudlark, has performed with such indifferent success the past winter that neither the stable nor the public took much stock in him, and he went to the post at odds of 15 to 1 for the opening six-furlong dash. He led throughout, and won easily, with Candor, a 5 to 1 choice, finishing in the place. Mainstay, the even money choice, was interfered with soon after the start, and ran unplaced.

The Burns & Waterhouse Sir Modred colt Adam Andrew was a 2 to 5 chance for the half mile scramble, but in a driving finish through the stretch with Lost Girl and Lena, had to be content with third place. Lost Girl, at 6 to 1 in the ring, got the decision by a nose.

Another favorite was bowled over in a seven-furlong run, decided over the inside course. Decision went to the post a 11 to 5 choice, but chased out in the lead with Sea Spray and the chances of both were ruined. Jack Richelieu, backed from 8 to 4, took the command in the stretch, and, ridden out, beat Monita a length. Sea Spray lasted long enough to get the show.

A first choice finally gained brackets in the fifth race, a cheap five and a half furlong selling spin. Backed down to a 13 to 5 favorite, Red Bird managed to shake Myron off and beat him out a length at the wire. Cardwell was a poor third, with the others straggling in.

Midlo, the Burns & Waterhouse entry, was dropped into a soft spot in the last race at the same distance as the race preceding, and, after getting away none too well, threaded his way through the bunch and won by half a length from Jim Bozeman. The winner was heavily played at odds of 13 to 10.

"THE CALL" RACING CHART.

California Jockey Club's Spring Meeting. Eighth day, Friday, April 24, 1896. Weather fine. Track sloppy.

1072. FIRST RACE—Six furlongs; selling; four-year-olds and up; penalties; purse $300.

Index.	Horse, age, weight.	St.	¼	½	¾	Str.	Fin.	Jockeys.	Betting. Op.	Betting. Cl.
990	Realization, 5....114	2	.....	1 h	1 ½	1 5	1 2	Bozeman.....	10	12
1031	Candor, 4.....106	7	.....	7 ½	9 4	7	2 1	Piggott.....	3	5
1065	Wawona, 5.....111	8	.....	5 ½	6 ½	5	3 h	L. Johnson.....	10	12
1071	Oregon Eclipse, a.111	1	.....	4 h	2 1	2 ½	4 3	Hennessy.....	9-2	6
(1031)	Banjo, 5.....111	5	.....	8 ½	7 ½	9	5 ½	Martin.....	8	9
(788)	Mainstay, 4.....111	6	.....	6 ½	4 1	3 2	6 4	Shields.....	1	4-5
1052	Linville, a.....111	3	.....	3 ½	5 h	8	7 3	Fitzgerald.....	30	60
(783)	University, 4.....108	4	.....	2 h	3 ½	4	8 2	McClain.....	12	20
1053	Hy Dy, 3.....111	9	.....	9 6	8 3	6	9 10	C. Sloan.....	15	30
1037	Repeater, 4.....111	10	.....	10	10	10	10	Sweigel.....	60	150

Starting-gate used. Won easily. Winner, California stable's b. h., by Regent-Sadie. Time, 1:17.

1073. SECOND RACE—Four furlongs; selling; two-year-olds; allowances; purse $350.

Index.	Horse, weight.	St.	¼	½	¾	Str.	Fin.	Jockeys.	Betting. Op.	Betting. Cl.
(1051)	Lost Girl.....105	3	.....	.....	3 6	3 10	1 h	Martin.....	5	6
1060	Lena.....105	2	.....	.....	1 1	1 1	2 1	Bozeman.....	6	13-2
(1060)	Adam Andrew...110	4	.....	.....	2 h	2 ½	3 15	C. Slaughter....	2-5	2-5
1034	Inflammator.....103	1	.....	.....	4 1	4 2	4 4	W. Flynn.....	20	30
962	Valdos.....103	5	.....	.....	5	5	5	Piggott.....	50	75

Starting-gate used. Won driving. Winner, Martin & McConnell's ch. f., by Sobrante-Nellie K. Time, :50½.

1074. THIRD RACE—Seven furlongs; inside course; selling; three-year-olds and up; penalties; purse $350.

Index.	Horse, age, weight.	St.	¼	½	¾	Str.	Fin.	Jockeys.	Betting. Op.	Betting. Cl.
1058	Jack Richelieu,a.122	1	3 4	3 4	2 ½	2 3	1 1½	Shields.....	6	9-2
1053	Monita, 5.....119	6	6 2	6 1	4 1	3 3	2 2	McClain.....	5	6
1057	Sea Spray, 4.....116	4	2 ½	2 4	1 3	1 2	3 8	W. Flynn.....	2	4
(1064)	Hanford, 4.....116	3	4 ½	4 ½	5 4	6 4	4 ½	Bozeman.....	6	10
1055	My Sweetheart,4.114	7	8	7 1	7	7 1	5 2	Russell.....	12	60
1065	Arno, 4.....116	2	5 2	5 3	6 3	8	6 4	Hennessy.....	10	12
(1055)	Comrade, 6.....119	8	7 ½	8	8	5 ½	7	Martin.....	8	12
1052	Decision, 3.....103	5	1 3	1 ½	3 3	4 ½	8	Piggott.....	2	5-2

Starting-gate used. Won handily. Winner, S. C. Hildreth's b. h., by imp. Great Tom-Envemon. Time, 1:35¼.

1075. FOURTH RACE—One mile; three-year-olds and upward; conditions; allowances; purse $400.

Index.	Horse, age, weight.	St.	¼	½	¾	Str.	Fin.	Jockeys.	Betting. Op.	Betting. Cl.
(1063)	All Over, 4.....114	1	2 4	2 6	2 15	2 20	1 2½	Shields.....	2	9-5
1043	Miss Maxim, 3... 89	2	1 6	1 5	1 5	1 5	2 20	C. Slaughter....	1-2	3-5
1027	Thornhill, 5.....118	3	3	3	3	3	3	W. Flynn.....	10	6

Starting-gate used. Won easily. Winner, S. C. Hildreth's b. h., by Hanover-Deceit. Time, 1:42¾.

1076. FIFTH RACE—Five and a half furlongs; selling; three-year-olds and up; allowances; purse $300.

Index.	Horse, age, weight.	St.	¼	½	¾	Str.	Fin.	Jockey.	Betting. Op.	Betting. Cl.
1058	Red Bird, 5.....116	6	.....	1 2	1 1	1 1	1 1½	Shields.....	3	5-2
1064	Myron, 4.....113	7	.....	3 ½	2 5	2 3	2 3	L Johnson.....	3	6
1056	Cardwell, 3.....104	5	.....	2 h	3 3	3 6	3 2½	W. Flynn.....	8	7
1020	Capt. Spencer, 6..116	8	.....	9	7 ½	5 1	4 h	Sweigel.....	40	100
1003	Zoolein, a.....119	3	.....	5 3	4 ½	4 2	5 15	Hennessy.....	5-2	7-2
1038	San Marcus, 3....101	9	.....	7 6	9	9	6 ½	Rowan.....	30	12
783	Sallie Calvert, 4..111	1	.....	4 ½	5 4	6 3	7 ½	Russell.....	25	40
192	Navy Blue, 4.....113	4	.....	8 ½	8 ½	7 2	8 ½	Martin.....	5	6
918	Jo, a.....116	2	.....	6 ½	6 1	8 ½	9	Peoples.....	60	300

Starting-gate used. Won handily. Winner, E. T. Sachs' ch. g., by Red Iron-Fannie Johnson. Time, 1:11¾.

1077. SIXTH RACE—Five and a half furlongs; selling; three-year-olds and upward; allowances; purse $300.

Index.	Horse, age, weight.	St.	¼	½	¾	Str.	Fin.	Jockeys.	Betting. Op.	Betting. Cl.
1049	Midlo, 3.....106	4	.....	6 3	4 ½	3 3	1 ½	C. Slaughter....	1	6-5
1039	Jim Bozeman, 3..105	1	.....	1 1	1 2	1 3	2 h	Bozeman.....	8	20
863	New Moon, 3..... 99	2	.....	3 1½	3 ½	2 h	3 5	McClain.....	5	7
925	Three Forks, 5....118	7	.....	7	7	5 1	4 2	Peters.....	10	30
998	Clara Wilson, 3...105	5	.....	4 ½	6 2	7	5 2	Piggott.....	10	3
1069	Tomino, 3.....101	6	.....	5 ½	5 2	4 ½	6 1	W. Flynn.....	3	7-2
1050	Irma, 4.....111	3	.....	2 1	2 ½	6	7	C. Sloan.....	15	40

Starting-gate used. Won driving. Winner, Burns & Waterhouse's b. g., by imp. Midlothian-Electric Light. Time, 1:10¾.

"THE CALL" RACING GUIDE.

To-day's Entries at Bay District Track.

In races where the horses have no record at the distance to be run the records at the next nearest distance are given.

Abbreviations—F., fast; Fa., fair; H., heavy; m., mile; f., furlong; *, about.

FIRST RACE—Five and a half furlongs; selling.

Index.	Name.	Lbs	Best record.	Dist.	Lbs	Tk.	Owner.	Pedigree.
1050	Encino.....	98	1:11	5½ f	106	H..	Encino stable.....	Imp. Brutus-May D
947	Seraphin.....	105	1:21	6½ f	89	F..	J. Conway.....	Emperor Norfolk-St Cecilia
1057	Nic Nac.....	93	1:07	5½ f	89	F..	Burns&Waterhouse	Take Notice-Picnic
868	Isabelle.....	99	:55¼	4½ f	105	F..	S. J. Dodd.....	Cyclone-Sallie Brown
1063	Catch Em.....	110	1:04½	5 f	107	H..	Mokelumne stk fm	Imp. Midlothian-Lil Flush
(1066)	Edgemount.....	101	1:17	6 f	115	H..	Lone stable.....	Three Cheers-Etta W
772	Marigold colt....	98	no rec.	.....	..	..	R. Stipe.....	Imp. Midlothian-Marigold
1071	Ricardo.....	110	1:16¼	6 f	105	H..	O. F. Capps.....	Wildidle-Blue Bonnet
1045	Lily R.....	93	no rec.	.....	..	..	A. Ross.....	Prince Norfolk-Katie A
1059	Clara Johnson..	99	1:07¼	5 f	99	H..	M. Johnson.....	El Rio Rey-Valerie
987	Sylvia.....	93	.....	.....	..	..	F. Brown.....	Imp. Wagner-Fabecia
1038	Red Wing.....	108	no rec.	.....	..	..	William Lomax....	Red Iron-Minnie C
1059	Sy ngall.....	107	1:14½	*6 f	107	F..	Elkton stable.....	Verano-Experiment
1066	Yucatan II.....	93	no rec.	.....	..	..	J. F. Grady.....	Imp. Inverness Yolande
944	Addie Chipman	108	.....	.....	..	..	William Dixon.....	Joe Hooker-Trifle
1064	Rapido.....	107	no rec.	.....	..	..	E. Kaufman.....	Cyclone-Nyanza
1044	Princess Rose II	93	:56¼	4½ f	107	F..	C. E. Murray.....	Kinpur-Wild Rose
1076	Zoolein.....	113	1:17¼	6 f	122	H..	T. D. Warwick.....	Zorilla-Fraulein

SECOND RACE—Seven furlongs; selling.

Index.	Name.	Lbs	Best record.	Dist.	Lbs	Tk.	Owner.	Pedigree.
861	Sleeping Child..	113	1:41¼	1 m	102	F..	W. D. Randall.....	Ip.ChildMist-Erin-go-Bragh
(1070)	Walter J.....	113	1:30¼	7 f	110	H..	F. McDermott.....	Imp. True Briton-Lillie S
1041	Service.....	116	1:43¾	1 m	110	Fa.	S. C. Hildreth	Ip. Woodlands-Lady's Maid
1045	Normandie.....	109	1:16	6 f	109	F..	Ramsdell & Carland	Imp. Kyrie Daly-Extract
1050	Elmer F.....	113	1:15¼	6 f	104	F..	Floodmore stable..	Portland-Fantasia
1059	Ip.FullertnLass	109	1:18¼	6 f	101	H..	Shabona stable.....	Fullerton-Castaway
(1036)	Joe Terry.....	105	1:29¼	7 f	98	Fa.	Burns&Waterhouse	Flambeau-imp. Teardrop

THIRD RACE—One and an eighth miles; purse.

Index.	Name.	Lbs	Best record.	Dist.	Lbs	Tk.	Owner.	Pedigree.
1065	Trix.....	100	1:55	1⅛ m	105	F..	F. Frown.....	Freeman-Annie L
1048	Ip.MissBrummi	89	1:47¼	1 1-16 m	88	F..	W.O'B. Macdnough	Beau Brummel-imp. Mirage
1058	Verdette.....	99	no rec.	.....	..	..	Vici stable.....	Vici-Lucy Long
(1053)	Tar and Tartan	105	1:49¾	1 1-16 m	104	Fa.	A. G. Morris.....	Hindoo-Brambaletta
(984)	Crescendo.....	111	1:41¾	1 m	113	Fa.	Pueblo stable.....	Flambeau-imp. Janet N
1061	Logan.....	112	1:57	1⅛ m	110	H..	Alex Shields.....	Voltigeur-Pert
(793)	Little Cripple...	105	1:55½	1⅛ m	108	F..	J. Weber.....	Ip.PrtePenzance-Ldy Stanhp
1041	Articus.....	108	1:56	1⅛ m	99	Fa.	W. C. Vivell.....	Argyle-Greenloch
1072	Wawona.....	100	1:54½	1⅛ m	97	F..	Mokelumne stkfrm	Imp. Sir Modred-Typhoon

FOURTH RACE—Five furlongs; Bitter Root handicap; two-year-olds; value $1200.

Index.	Name.	Lbs	Best Record	Dist.	Lbs	Tk.	Owner.	Pedigree.
1028	King Street.....	110	:51¾	½ m	111	H..	Burns&Waterhouse	King Thomas-Deception
1028	Rowena B	112	:57½	4½ f	95	H..	Burns&Waterhouse	Imp. Maxim-Lulu
1028	Dunboy.....	100	no rec.	.....	..	..	Lone stable	Imp. Loyalist-Spray
969	Hohenzollern...	90	no rec.	.....	..	..	Elmwood stock frm	Imp. Brutus-Brown Maria
1060	Dolce	105	no rec.	.....	..	..	Pueblo stable.....	Flambeau-imp. Janet N
1047	Dolores.....	105	:50	½ m	97	F..	Pueblo stable.....	Wildidle-Rosette
1028	Fleur de Lis....	115	:49½	½ m	105	F..	El Primero stable..	Imp. Maxim-Fleurette

FIFTH RACE—Short course; steeplechase; handicap.

Index.	Name.	Lbs	Best record.	Dist.	Lbs	Tk.	Owner.	Pedigree.
1062	Tom Clarke.....	127	3:25½	*1½ m	134	F..	F. Farrar	Julien-Hazel Kirke
(1023)	Silverado.....	135	2:15¼	1 3-16 m	134	Fa.	E. Corrigan.....	Rutherford-Josie C
(1062)	Hello.....	132	3:27½	*1½ m	135	Fa.	O. F. Johnson.....	Sid, by Reveille
1055	Ravine.....	120	no rec	.....	..	..	B. Levy.....	Reveille-Niena
1055	W. L. Munson..	120	.....	.....	..	..	J. S. Oppenheimer..	Springbok-Astoria
1042	Col. Weightman	132	3:35½	*1¼ m	127	H..	A. G. Blakely	Warfellow-Lessie P
1055	Arundel.....	125	no rec	.....	..	..	Floodmore stable ..	Duke Norfolk-Elaine

SIXTH RACE—Seven furlongs; handicap.

Index.	Name.	Lbs	Best record.	Dist.	Lbs	Tk.	Owner.	Pedigree.
(1075)	All Over.....	100	1:30¾	7 f	111	H..	S. C. Hildreth.....	Hanover-Deceit
1011	Service.....	110	1:43¾	1 m	110	Fa.	S. C. Hildreth.....	Imp. Woodlands-Lady's Md
(1061)	Ferrier.....	117	1:31½	7 f	165	Fa.	Del Monte stable...	Falsetto-imp. Cinderella
1029	Sweet Favordale	90	.....	.....	..	..	Burns&Waterhouse	ImpFavordale-Sweet Home
(1021)	Cabrillo.....	105	1:48½	1 1-16 m	96	F..	R. Van Brunt.....	St.Savior-imp.LizzieHmptn
1061	Logan.....	110	1:40½	1 m	119	F..	Alex Shields.....	Voltigeur-Pert

SEVENTH RACE—Five and a half furlongs; selling.

Index.	Name.	Lbs	Best record.	Dist.	Lbs	Tk.	Owners.	Pedigree.
1072	Mainstay.....	113	1:13¼	6 f	112	F..	S. C. Hildreth.....	Imp. Mariner-QueenEmma
(1065)	Charles A.....	110	1:45¾	1 m	103	H..	F. Archibald.....	John A-Early Rose
1063	Doubtful.....	95	1:15¾	6 f	97	Fa.	L. Ezell.....	Doubt-Natchitoches
(1057)	Summertime....	102	1:09	5½ f	95	Fa.	El Primero stable..	Fitzjames-Springlike
1050	Marble Rock....	110	1:15¾	6 f	104	F..	Hennepin stable...	Imp. Eric-Rocket
1049	Roadwarmer....	95	1:01½	5 f	108	F..	B. Edsall.....	Frank Rhoades-Belle
1046	Robin Hood I...	113	1:11¼	5½ f	99	H..	A. G. Morris.....	Forester-Maratana
840	Affiatus.....	93	1:16½	*6 f	102	F..	W. D. Randall.....	Imp. Inverness-Affinity
(1046)	Mt. Roy.....	110	1:01½	5 f	106	F..	Krause & Co.....	Fanotus-Mt. City Belle
1046	Lasel.....	93	:50	½ m	108	F..	Woodlawn stable...	Ben Ali-Ezza
1053	Hermanita.....	105	1:16	6 f	109	F..	J. G. Follansbee ...	Fresno-Sister Jim Douglass
(1072)	Realization.....	113	1:07¾	5½ f	107	F..	California stable....	Regent-Sadie

JUST A LITTLE FENCING.

The Lawyers in the Fair Will Case Assemble and Disperse.

The Demurrer to Paterson's Opposition Only Partially Argued and No Conclusions Reached.

The army of lawyers in the Fair will case marched into court yesterday, and then marched out again—all except Delmas & Shortridge. They were conspicuous by their absence.

The business was the argument upon the demurrer of the daughters of Fair to the opposition of Paterson on behalf of the minors, and with regard to this particular matter Delmas & Shortridge disclaim any interest. To be sure Lansing Mizner was there to note the proceedings in the interest of Dr. Levingston, but the demurrer is looked upon by the doctor and his counsel as a side issue.

Ex-Judge Paterson was a little tardy and the last to arrive, and when he came he stated to the court that he had, but the day before, been served with the demurrer to the amended opposition, and that he desired at least a week to look over it.

Mr. Wheeler said there were few new points in the answer that would require study. He said that he himself was ready to proceed.

The court called attention to the absence of Delmas & Shortridge, but Mr. Wheeler said they were not interested in the business in hand.

Wheeler then went on to run over the points of the demurrer, and laid special stress upon the incapacity of Paterson to oppose the probate of the will of the 24th, for the reason that his clients have no interest in his so doing.

Even if the one will give to his clients $5000 and another will give them $10,000, said Wheeler by way of illustration, it did not follow that he had a right to contest the validity of the will that gave them the lesser amount. It was for the court to say which was the real will on the facts presented in the ex-parte presentation of them. But in this case, he said, the clients of Paterson were best served in the later will—the will of the 24th gave them more than did the will of the 21st. "I take it, therefore, that the court will not allow this contest to proceed simply because the minors see fit of themselves to contest."

Then he proceeded to his strongest point—that the children of Andrew and William Fair, for whom Judge Paterson appeared, have no interest, because the interest of their parents intervenes. The will provides that a certain portion of the estate shall go to the brothers of James G. Fair, and after that to their children. There was no allegation that William or Andrew is dead, and consequently, he held, their children had no interest.

The other objections were technical; that the allegation as to the republication of the will of the 21st was not supported by facts or allegations of facts, etc.

It was evident that Garret McEnerney took a seat beside Judge Paterson and consulted and advised with him during the entire proceedings. Mr. McEnerney represents W. S. Goodfellow and the trust will.

Mr. Paterson said he did not wish to go into a full answer to Mr. Wheeler at this time, but he thought the latter's points were not well taken. He contended that he (Paterson or his clients) opposed the will of the 24th because he believed it was not only not the last will of James G. Fair, but was no will; that the will of the 21st was the last will, "and that we take under it," as Mr. McEnerney suggested sotto voce.

"When all the parties get their interest, if they ever shall," said Judge Paterson, "in the judgment roll that is made up on this document, the will of the 24th will be found first disposed of, and it is our place to put ourselves right upon it; that is why we present our opposition."

Mr. Paterson asked that further consideration of the matter go over for one week.

The court asked for more light on the proposition as to the interest of the children of Andrew and William Fair as Mr. Wheeler had presented it. The court said he did not see much in the other points.

Judge Paterson said that if the will of the 24th was to be considered at all, there was no question as to their interest. He would be able to enlighten the court if a little time were given. The court then held the matter over for another week.

GHIRARDELLI FREE.

The Prosecution Had No Evidence to Connect Him With the Varni Murder.

OAKLAND, Cal., April 24.—Michael Ghirardelli, who was charged with the murder of Felice Varni in the foothills back of Elmhurst, on December 1, 1895, was acquitted by a jury to-day without their leaving their seats. The case has been on trial a week, but the District Attorney produced no more evidence than was had before the Coroner's jury, which refused to charge any one with the crime. When he rested to-day the defense requested Judge Greene to instruct the jury to acquit, which he did.

After the Coroner's inquest Detective H. V. Herbert swore to a complaint charging Ghirardelli with the crime. At the preliminary examination one witness testified to seeing the body at 9:30 on the day it was found by a Deputy Sheriff, while another swore he had seen Varni alive at 11:30 the same day. The gun expert also testified that the shells found on the ground near Varni could have been fired only from Devencenzi's gun.

Justice Clift held him for trial, however, but when the same testimony was presented in the Superior Court the District Attorney said he was surprised and would have to agree to an acquittal. Judge Greene told the jury it was optional with them to disregard his suggestions or not. He, however, desired to suggest to them that they return a verdict of not guilty, which he would have suggested had not the District Attorney consented. They returned such a verdict and the defendant was set free.

The case of Devencenzi and Lazaretto, who are also held on the same charge, is set for next Tuesday, and it is very probable that it will not be pressed.

Fair and Fruitful

As the West is, it is often malarious. But it is pleasant to know that a competent safeguard in the shape of Hostetter's Stomach Bitters exists, which absolutely nullifies the poison of miasma. Westernbound emigrants should bear this in mind. Nor should it be forgotten the Bitters is a sterling remedy for dyspepsia, biliousness, constipation, kidney and nervous complaints and rheumatism

IS THE FINAL ARBITER.

Judge Sanderson's Opinion of a Judge's Position in a Case.

SHOULD SET VERDICTS ASIDE.

Some Interesting Comments on the Court as the Thirteenth Juror in a Trial.

Judge Sanderson has added something to the comments which appeared in The Call some weeks ago on the rights of a Judge to interfere in the verdict of a jury.

Judge Sanderson's comments are embodied in an opinion scaling down a verdict rendered in a suit against the Examiner for libel. E. J. Mize was put out of Judge Conlan's Police Court two years ago, and the Examiner printed an article in which he was described as a crank and evidently insane. He sued for libel, and the jury gave him a verdict of $1500. This Judge Sanderson believes excessive, and he has ordered a new trial unless the plaintiff will remit $1350 of the amount.

In rendering his opinion Judge Sanderson gives his view of the position of the Judge and his power over a verdict. He says:

A verdict which plainly appears to have been rendered under the influence of passion or prejudice, or which is clearly unreasonable, ought not to be permitted to stand.

When a trial Judge entertains these views of the verdict of a jury it is his plain duty to grant a new trial, or modify or reduce the verdict to a certain sum, in order that the parties may settle same, if they, mutually, elect so to do, in accordance with the terms fixed by the trial Judge, and thereby end further litigation.

This supervisory right of the trial Judge over the verdict of a jury is based upon sound reason and upon a rule of law universal, so far as I am advised, in the several States of our Union. It is a rule which has been repeatedly declared by our Supreme Court, its first clearest expression being found in the civil case of Dickey vs. Davis, 39 Cal. 565, and its latest expression, probably, in the criminal case of People vs. Knutte, tried by Judge Bahrs, in another department of the Superior Court of this City and County (vol. II, page 711, Cal. Decisions Supreme Court).

I would not take either the time or the trouble to discuss this matter here, were it not for the fact that the rulings of both the trial and the Supreme Court, in this case of People vs. Knutte just cited, have been the subject of much recent adverse criticism in the public prints of our State, under the impression, probably, that this was a novel and dangerous doctrine, and in which some members of the bar participated. No person, though, be he lawyer, layman or newspaper man, who will take the trouble to investigate this subject, will find this rule either modern or vicious, and no right-thinking person will, in my judgment, ever wish to see the rule abrogated which confers and imposes upon the trial Judge the right of the duty of interposing and exercising his power as a Judge whenever the life, liberty or property of a citizen is menaced, impaired or invaded by the erroneous or unjust verdict of a jury.

The court critics denounce this as new law and dangerous doctrine. It is neither. It is as old as the history of jury trials in this republic, and consistent with reason and simple justice. Certainly no trial Judge in a criminal case would allow a person whom he thought innocent, or who was convicted on insufficient testimony, or on testimony he believed to be perjured, to be punished by the erroneous or unjust verdict of a jury. The same is equally true of verdicts in civil cases. No trial Judge would or should permit a person to be despoiled of property, when he believed a jury had based their verdict on false or insufficient testimony. Subject, of course, to have his judgment set aside, on appeal, if it be shown that he has abused his discretion—which is rarely done. The trial Judge is the final arbiter in jury cases as well as those tried without a jury. As shown above, this should be done, in common justice to all litigants, otherwise, improper and unjust verdicts would oppress the losing party and there would be no relief therefrom.

Unquestionably the province of the jury is to find the facts in dispute. They are likewise to pass upon the value and effect of evidence. Their judgment, though, is not arbitrary and conclusive. They are to exercise sound and reasonable discretion. If their verdicts rest upon such reason and discretion, then a trial Judge rarely, if ever, disturbs their verdicts, and under such circumstances he certainly should never do so.

It is said that if the Judge have the power to set aside or modify verdicts at his pleasure, then the people might as well dispense with the expense and inconvenience of jury trials. This sounds plausible, particularly in this day and age, when Judges are elected, as with us, by the people, instead of being appointed by the crown, as in times past. But trial by jury is of great antiquity, and an important part of the machinery of our judicial system, which our people, it is highly probable, will never be willing to part with, since it guarantees a decision as to the facts in dispute, both in civil and criminal cases, by neighbors of the parties in interest.

Theory is one thing, but practice often demolishes its application. Though the rule in this State be as elsewhere, that the trial Judge must in the end decide whether the verdict of the jury shall stand or be set aside, yet it is only in rare cases, and those of the plainest, where the jury has given an erroneous or unjust verdict, that the trial Judge interferes. This department of this court may be aptly cited in corroboration of this statement. For the past five years and upward this department has almost exclusively engaged in the trial of jury cases and mostly for damages, and during that time hundreds of cases, I may say, have been tried by juries, and yet only in one case have I granted a new trial, and in only four or five cases, and this among them, have I modified their verdicts. The jurymen accepted to try these cases have been men of integrity and good sense, and their verdicts mainly based upon logical deductions that might with reason have been drawn from all the evidence submitted to them.

Doubtless if these cases had been tried by the court, without a jury, the damages given in some of them—perhaps in many of them—might have been for other and different amounts, either greater or less, than those given by the jury in these same cases, as the weight, value and effect of the evidence given might have impressed or persuaded the court differently than it did the jury; but that would be no good cause to disturb the verdict of the jury, when there was any reasonable view of the evidence on which to support the verdict. Most of the verdicts rendered by juries for damages are the result of a compromise of diverse though honest views entertained by the individual twelve jurors. Jurymen, as well as judges, differ and doubt, but their verdicts and decisions are in the main founded on some reason, more or less cogent and convincing, and as correct as can reasonably be expected from finite beings who must hear conflicting evidence, deduce conclusions and render conscientious decisions therefrom.

THE VALLEY ROAD.

Agent Young Tells New Things About It and the Public School Superintendency.

C. S. Young, of the real estate firm of Young & Lang, is now in charge of right-of-way matters of the San Francisco and San Joaquin Valley Railroad Company. Yesterday he left for Fresno to enter upon his duties—securing the right of way between Fresno and Bakersfield. With three or four exceptions, where condemnation suits are necessary, the right of way has been secured as far as Fresno.

A Call reporter saw Mr. Young before he started south.

Mr. Young said: "The company will have a new policy beyond Fresno. Up to the present time the people have known just where the company would build the road; hereafter and south of Fresno the disposition of the people shown in the subsidies offered and the rights of way given will have much to do in shaping the policy of the company relative to the line to be accepted.

"Notwithstanding the great popularity of President Spreckels and his associates among the people of San Joaquin Valley the 'stand and deliver' methods and 'cinch' game on the part of many of the land-owners have given the company a great deal of trouble and caused serious delays. Beyond Fresno it will be required that to secure the line the right of way must be given free of charge, and other special inducements offered on the part of the people."

It is expected that the railroad will be completed to Fresno, a distance of 125 miles, by the middle of August, and meanwhile Mr. Young will have plenty of time to ascertain the sentiments of the people along the line between Fresno and Bakersfield and report to the company what line should be adopted.

When asked whether or not he had, as had been reported, given up his fight for School Superintendent of San Francisco, he replied, "Why, of course not."

"With due deference to Judge Troutt and his judicial opinion, I have the same high regard for the opinion of my attorneys, Messrs. Estee, Cross and Watt, that I had before the decision was rendered from the bench. It is a question of constitutional and statutory law and not one of fact sifted out of conflicting testimony of witnesses; hence the Judge on the bench has no advantage in the way of information over any other lawyer. Our brief was filed in the Supreme Court long ago, but as yet Babcock's attorneys have not answered, and it is evident that their policy is one of long delay."

"Is it true, as reported by an evening paper, that you are to come before the people again this election for this position?"

"One fight at a time is quite enough. As I have already intimated, I expect that the decision of the Supreme Court will be that I am now the legally appointed Superintendent of Schools. At present I am not in politics, but am attending strictly to business and the best interests of the Valley road."

FOLDED THE GERMAN FLAG

The San Francisco Schuetzen Verein Will Carry It No More.

At Its May Festival the Verein Will First Appear With the Californian Emblem.

The San Francisco Schuetzen Verein has determined to fold up its time-honored German banner and to keep it as a memory. And henceforth the bear flag of California will be carried instead of the emblem of the fatherland beside the stars and stripes.

For thirty-six years the San Francisco Schuetzen Verein has held a May festival and always with good success. With every recurring May fete of the verein the beautiful red, white and black silk flag floated above the marching sharpshooters and was planted over the scene of their festivities, always sharing the honors with the United States emblem. This coming May festival of the shooting verein will be marked by an innovation in flags, for the banner of California will take the place of the German one.

The San Francisco Schuetzen Verein is the only independent military company in California that did State service. When Lincoln was assassinated it acted as a guard at Montgomery and California streets, at the old Alta office. Its duty was to preserve peace and to protect property, which it performed faithfully. Until the Franco-Prussian war the company was satisfied with the American flag, but then it first carried the German emblem. Nor was this banner ever relinquished till the recent law regarding independent military companies went into effect.

This law provided that independent companies could not turn out with arms without having first received permission from the Governor of the State.

The Schuetzen Verein received permission from Governor James H. Budd to parade under arms on condition that it would not do so with the German flag. The alternative was gladly accepted, and the old flag has been hung up in the armory at California Hall as a memento of days gone by.

"To show our feeling in the matter," said a member of the company yesterday, "we have got a fine flag of the State with its bear and emblems of the California republic. It is our intention to turn out as Americans with Old Glory and the California bear flag hereafter. Our first outing with the new flag will be on the occasion of our thirty-seventh May festival at Shell Mound Park next month. We are unanimous on this—that we are all Americans and proud to carry these banners."

HOTEL ARRIVALS.

PALACE HOTEL.

F P Roe & wf, Greenboro
R A Trimble, N Y
L A Wakefield, Mo
D D Marks, N Y
N Kohn