JUDGE MORROW SCORES THE COMMISSIONERS

They Obliged the State to Put Up Costs in the Grain Rate Case.

He Says They Advanced a Contradictory and Inconsistent Opinion and They Must Abide by the Consequences—The Costs Will Be Heavy.

IN the United States Circuit Court yesterday morning Judge Morrow, in an oral opinion, decided the motion of the Railroad Commissioners to be allowed their costs in the grain rate case and denied their application to be reimbursed their expenses, and stated the reasons therefor.

The court referred to the action of the Board of Railroad Commissioners in passing a resolution last April deprecating the litigation and reciting that it was advisable to remove the cause thereof by repealing the original resolutions for reducing rates, against the enforcement of which an injunction had been issued, and directing their counsel to obtain a dismissal of the case without costs to either party; that soon after the passage of this resolution the Attorney General and special counsel for the board had appeared in court and moved for a dismissal of the case without costs to either party, at the same time presenting to the court a copy of the resolution of the board authorizing such action; that the court had denied this motion upon the ground that the Commissioners, as defendants in the suit, had no right to move for its dismissal, but stated at the time of so deciding that the complainant had the right if it saw fit to exercise it; that thereafter the complainant, following the lines indicated by the court, had filed a dismissal of the case and procured a final decree of dismissal without asking for its costs; that after this action was taken the Board of Railroad Commissioners had come in and made a motion to have the decree amended so as to allow them their costs.

This the court designated as "rather a remarkable proceeding" in view of the fact that the Commissioners had initiated the dismissal of the action and had voluntarily moved for the same, waiving any claim to costs. The court held that by so doing they were estopped from now complaining because a decree of dismissal had been entered without allowing costs to either party; that it was the duty of the court, sitting as a chancellor, to regard the whole proceedings and ascertain the real intention of the parties, and from all that had taken place the court must conclude that the Railroad Commissioners had regarded the resolutions against which the injunction ran as the real cause of the litigation and were seeking to remove that cause by repealing them, and that they aimed to do away with the grounds of action on behalf of the railroad company by rescinding the resolutions complained of; that the complainant, the railroad company, had the right to regard their action as taken in good faith and to act upon it.

The court intimated that it was rather a contradictory position for counsel of the Railroad Commissioners to come into court first and ask for a dismissal of the case without costs and then after their request had been acceded to by the other side to change their tactics and make a subsequent application for costs upon an entirely different theory from that upon which they had first proceeded; that such inconsistency would not be regarded with favor in a court of equity and the Commissioners would be obliged to abide by the consequences following their first position, the result being that their motion must be denied and they should recover no costs in the action.

It follows from this decision that the Commissioners not only failed to get any previous costs incurred in the suit but they will be also obliged to pay the costs of their motion, including reporter's fees and the like, which will be an additional tax upon the State treasury.

The following is the full text of Judge Morrow's decision:

On the 8th day of May, 1889, the Attorney General of the State and special counsel for the respondent, the Board of Railroad Commissioners of this State, made a motion for the dismissal of this case upon each party to the action paying its own costs incurred in the case. The motion was based upon certain resolutions adopted by the respondent board on the 24th day of April, 1899, whereby certain previous resolutions adopted by the board on the 12th and 13th days of September, 1895, relating to freight and grain rates on complainant's system of railroads in California, were rescinded, annulled, vacated, set aside and repealed.

It was recited in the resolutions of April 24, 1899, that the respondent board deemed it expedient and for the best interests of the people of the State that said litigation be not further maintained or carried on, but that the same be discontinued; and, the board being advised and of the opinion that the best and only method of stopping said litigation was by removing the cause of it, it was therefore resolved that the resolutions of September 12 and 13, 1895, should be repealed.

In other words, the respondent, the Board of Railroad Commissioners, came into this court and asked for a dismissal of this case upon the recital that they had repealed the resolutions relating to freight charges which had led to the institution of the suit. The court denied the motion as then made, because there were certain recitals contained in those resolutions which it appeared were not in conformity with the record in the case. It was also suggested by the court at that time that this motion, as the case then stood, should properly come from the complainant in the action.

Upon this suggestion of the court, complainant's counsel made a motion for the dismissal of the cause on the 19th day of May, 1899. This motion was accompanied by a copy of the proceedings of the respondent board as set forth in the motion made theretofore by the respondent as to the repeal of the resolutions adopted by it in September, 1895. Upon that motion of complainant, a decree was entered by the court that the cause be dismissed. The decree was silent as to costs. The complainant did not ask for such a decree, presumably for the reason that the motion was made on the proceedings had by the respondent board and upon the previous motion made by the Attorney General specifically providing that each party should pay its own costs incurred.

Thereafter, on the 24th day of May, 1899, the Attorney General of the State and the special counsel representing the respondent board filed a motion to so amend the decree as to award to the respondent board as against the complainant all the costs by it incurred in the action. On the same day the complainant filed a similar motion.

The question before the court now is as to whether the decree so made by the court should be amended so as to provide for the payment of costs, and if so, which party should be required to pay these costs.

The respondent board in this case supports its motion for an amendment of the decree providing for the allowance of costs to it upon the ground that it has been successful in this suit. This claim is based upon the contention that the resolutions adopted by the respondent board on September 12 and 13, 1895, were merely preliminary to a reduction of freight charges upon the lines of the Southern Pacific Railroad, and that effective action of the board was not taken until September 17, 1895, when a schedule of rates was adopted by the board, and that what the board did on the 24th day of April, 1899, was to repeal these preliminary resolutions adopted by the Railroad Commission on September 12 and 13, 1895, while the schedule of rates adopted on September 17, 1895, was not disturbed; that the real action of the Board of Railroad Commissioners was contained in the resolution of September 17, 1895, relating to the schedule of rates, and that the preliminary resolutions of the 12th and 13th of September, 1895, were in effect harmless.

This proposition is remarkable, in view of the record I find in this case. The controversy in this court appears to have covered this whole question as to the scope of the original resolutions and their relation to the schedule of rates. The relation of these resolutions of September 12th and 13th to the schedule of rates adopted on September 17 appears to have been fully considered by the court, and upon the decision of the motion for injunction Judge McKenna pointed out, if not by express language by implication, that it was the province of the court to arrest the uplifted arm before the blow should be struck.

This was the theory of the interposition of the court with respect to the 8 per centum resolution relating to grain rates, after the threatened action of the respondent board, when it adopted its resolution on the 12th and 13th of September, 1895, and before the schedule of rates had been put in operation. Judge McKenna indicated in his opinion that the time for the court to act in such a matter was after the threat and before the blow fell; that if the complainant had waited until after the schedule of rates had been put in operation, then some other action would have been necessary.

With respect to the 25 per centum resolution, it appeared that the complainant had been premature in its application for an injunction, because the Railroad Commissioners had not yet reached the point of action where the court could properly arrest the proceedings of the board.

Referring to this resolution, Judge McKenna quoted from the argument of Judge Hayne as follows: "They say (the commission) that they do not consider it binding, and are not going to do anything without further consideration, which, of course, may lead to very different results. The service, if it is to be made, has to be made by their order, by their authority; and they have not yet even made up the schedule which is to be served. They come here, high officers of State, and swear they are not going to take the action without a further, full, free, and fair investigation."

Judge McKenna then said: "I am disposed to accept this as true and sincere. Indeed, I do not know how not to do so, regarding them, as they must be regarded, as truthful; nor do I care to risk the slightest embarrassment to them as officers in any proper investigation of the complainant, or any of its constituent roads, the results of which cannot be put into force, even if it was desirable to, except in a direct and open way, and the detriment of which, if any, can be arrested before it fall."

The respondents' contention that there was no effective action in the resolutions of September 12 and 13 is clearly contrary to what the court determined, as well as contrary to the argument of counsel. The whole case, from the beginning to the end, outlines a procedure in a court of equity on the part of the complainant to arrest the action of the respondents before their action should be beyond the reach of the court. But if it be said that these preliminary resolutions were ineffective and harmless and that the real assault was in this resolution of September 17, 1895, which latter resolution has not been disturbed by the board, then, in my judgment, upon that theory of the proceedings the respondent board is estopped to make any such claim; they will not be permitted, after all this controversy, to say that the real conflict and the real action of the board were involved in this resolution of September 17, 1895, and that this resolution still remains as evidence that the respondents have been successful in this suit.

It is not for this court, upon a motion of this character, to determine who has been successful in a suit. The decree or judgment speaks for itself upon such a question, but when a court is called upon to modify a degree it will not be misled by the mere form of the proceedings which have brought the case to a conclusion. A court of equity is never to be deceived by mere form, nor will it allow parties to come into court one day contending for supposed rights upon one theory and the next day shift their position and say there is no controversy upon that proposition at all, but it is somewhere else and with respect to questions not before considered.

In my opinion, therefore, the respondent board is estopped to say now that that there was nothing in the preliminary resolutions and that they were passed for no purpose or by inadvertence. The Attorney General suggested, by way of illustration, that the preliminary resolutions, in their relation to the resolution of September 17, were of the same character as where a Legislature composed of two houses passes a bill in each house and both bills become laws by the action of the houses at different dates, the two bills being identical, and afterward, upon examination, the two laws are found upon the statute book and to be identical, and the Legislature then repeals one of them as useless and as a mere incumbrance on the books.

The court cannot look at these resolutions in that light. I do not say what the court might have determined with respect to these resolutions when the cause was still in controversy and under consideration. But now that it is over, and the respondents have by solemn resolution declared that their purpose on April 24 of this year was to remove the cause of complaint, they cannot now claim that there was no cause of complaint, or if there was that they did not intend to remove it.

They cannot in one breath say that, being advised and of the opinion that the best and only method of stopping the litigation was to remove the cause thereof, and to that end they will repeal certain resolutions, and in another say that they did not remove anything by the latter resolution, or that there was nothing in fact to remove.

In any event respondents cannot recover costs upon any such theory of the proceedings of the Board of Railroad Commissioners.

The complainant, in making its motion to dismiss, made the resolutions of the respondent board of April 24, 1899, a part of the proceedings. In effect it said: "The Board of Railroad Commissioners has asked to have this case dismissed because the resolutions of September 12 and 13, 1895—the cause of the litigation—have been repealed. The court has said that this motion ought to come from the complainant. We accept the suggestion and we make the motion; we propose to dismiss this suit. In the resolution it was said that each party should pay its costs. We have accepted that suggestion and we propose to dismiss it and say nothing about the costs." Thereupon the cause was dismissed.

Under these circumstances the court is unable to find anything in this record to justify a modification of the decree, and an award of costs to the respondents. The motion of the respondent board will, therefore, be denied.

The complainant has also made a motion to have costs awarded to it. That motion was noticed after the respondents had given notice of their motion. The complainant appears to have acted upon the theory that if the case was to be reopened and the matter of costs considered, it was as much entitled to costs as the respondents. That is the probable motive that was behind this motion on the part of complainant. The complainant has, however, urged it on the ground that it appears from the record to be entitled to costs, and has cited a great many authorities which would seem to justify the claim. But the court is not in a position to follow the rules as declared in the cases cited. The decree was entered without costs upon the motion of complainant. There is nothing to show that there was any mistake or inadvertence or oversight on the part of the complainant in making this motion. As I have already indicated, the complainant knew what it was doing when it dismissed the case. It did so upon the faith of respondents' action that each party was to pay its own costs. I shall, therefore, be compelled, under these circumstances, to deny the complainant's motion for costs.

The decree will stand as it is, without modification, and the motions will be denied.

Mr. Sturtevant—I ask that an exception be allowed the respondents to that part of your Honor's decision denying the respondents' motion to have their costs taxed against the complainant.

Mr. Pillsbury—That being the case, we reserve an exception to your Honor's order denying our motion.

The total taxable costs will fall a little below $10,000. To these costs must be added counsel fees, which will roll the sum the State will be required to pay up to a large figure.

MINNIE ADAMS' DEFENSE.

It Was Taken Up Yesterday Before Judge Lawlor.

The prosecution in the case of Mrs. Minnie Adams, charged with the murder of her illegitimate son, John Richard Gray, was closed yesterday morning. Mrs. Kenny, who gave Mrs. Adams' daughter the cape about which considerable has been said during the trial, was cross-examined, after which the prosecution rested.

The defense then called Harrison Tyrrell, a boy of 10 years, to testify as to the bottle from which the dead baby drank the poison. He said that he was playing "brewery wagon" with his brother, Edward A. Tyrrell, and they were using all the bottles they could find for the purpose. They found a bottle in the sand similar to the one from which the baby drank the poison, and the witness believed that such was the bottle. He did not see any liquid in it, however, and the stopper was loose, and if not held on would fall from its position. The bottle introduced in evidence as the one from which the baby drank the poison has a tight-fitting stopper, so there is a misjoiner somewhere. The other brother testified to similar facts, after which the case went over till Monday morning.

Town Talk.

It is rarely that a weekly paper contains such a budget of bright, exclusive stories as are contained in this week's "Town Talk"—a mock wedding that may have been in earnest, the romance of a society belle, how a queen of the tenderloin forsook her aged adorer and married a New Yorker, why Athearn Folger made his lately announced choice of a bride, Leigh Irvine's latest, San Diego, Bakersfield and Russian River gossip are among the topics treated. Louis Robertson has a powerful full-page poem and Alice Ziska contributes a translation of a charming French story. William Taafe's name is signed to a bright bit of dialogue, "The Proposal." The world of letters, law, music and drama are full of interesting matter and the editorials are brief but brilliant.

ESTATE GETS THE BALANCE.

Result of a Compromise Effected by the Sutro Railroad Company.

An order was made yesterday by Judge Troutt allowing a compromise of the various claims presented by the Sutro Railroad Company against the Sutro estate and those of the estate presented against the railroad company. By the terms of the contract the railroad agrees to pay the estate $3,861 35 in settlement of the accounts between them.

In his life Adolph Sutro had various dealings with the railroad end of his estate, the rails of the road being laid over a large portion of his estate, and in addition the company furnished his baths with steam power and in consequence many complicated business transactions resulted. A short time ago the railroad put in its claim against the estate and a counter claim was filed by the estate. After the various claims had been looked over by those managing the railroad and the estate it was decided that the former owed the latter the sum named. Hence the order to compromise without the formality of a judgment.

Sunday Picnics

Are only enjoyable when the location is desirable, the surroundings pleasant and the means of getting there adequate.

El Campo, the delightful picnic resort established by the California Northwestern Railway Company, has all these essentials to a Sunday outing. The big steamer Ukiah plies between the city and the pleasure grounds four times each Sunday. It's so big that overcrowding is an unheard of condition.

Then the grounds are free from winds, dust and fog, and besides, when you go you are certain of meeting a host of friends.

There are lots of picnic places, but only one El Campo.

Another School Suit.

Frank Mordecai filed suit yesterday against Auditor Wells, Treasurer Truman and the Board of Education to compel the auditing and payment of a demand for $182 50, said to be due for materials furnished the School Department. The fund for the erection of the Mission High School is the object of the new phase in the School Department litigation. The plaintiff asks that the Auditor, Treasurer and the board be restrained from allowing any claims against the Mission High School fund or the school fund of the city and county or for the allowance of any claims except the payment of teachers' and janitors' salaries for the month of June, 1899, until his claim is paid.

Freight transferred at low rates. Signal Transfer Co., 530 Jones; tel. Sutter 441.

Battered a Boy.

Jacob Label, a cigar dealer of 119 O'Farrell street, was convicted by Judge Conlan yesterday on the charge of battery upon A. Peterson, a boy living at 1426 Market street. The boy was selling firecrackers on the Fourth and asked Label to buy some. Label took a package and fired some off and then refused to pay for them. When the boy insisted on payment Label struck him on the nose and it bled so profusely that he had to be taken to the Receiving Hospital. Label will appear for sentence this morning.

CLOSING SESSION OF THE AGRICULTURISTS

Important Resolutions Are Adopted and Officers Chosen.

Will Make a General Inspection of Agricultural Conditions Throughout the State—Thanks to Mayor and Citizens.

The Association of Agricultural Colleges and Experiment Stations concluded its labors here yesterday and adjourned last night after accomplishing much important business. Beginning with to-day the delegates of the association will in their official capacity begin their inspection of the State of California. That this means much to the State is shown by the fact that the delegates are to be taken all over the State without any expense to themselves. This morning the association will inspect the park and in the afternoon will visit Berkeley. Monday morning they leave for Ukiah, Tuesday they will go to Fresno, Wednesday to Oroville, Thursday they visit the Sacramento Valley and River, while Friday and Saturday they will spend in the Santa Clara Valley. Many points of interest will be inspected and the State Board of Trade hopes for gratifying results as a result of these excursions.

The third day of the convention was called to order yesterday morning in the Academy of Sciences Hall shortly before 10 o'clock by President Armsby. The first business was the confirmation of the election of the officers of the different sections which were made by the sections on Thursday. The convention confirmed unanimously all of the officers chosen.

E. H. Jenkins of Connecticut invited the association to hold its next annual convention at New Haven. Dr. A. C. True of Washington, D. C., also spoke in favor of New Haven. H. E. Stockbridge of Florida invited the convention to meet in Jacksonville. This is a slight departure from a recognized custom of the association, which has been to hold every other convention in Washington, D. C. The matter was referred to the executive committee.

Henry H. Goodell, chairman of the executive committee, moved that a committee be appointed to pass upon the papers of the various sections for the purpose of deciding which are suitable for publication in the annual report of the association. This motion grew out of the discussion of Thursday night. William N. Liggett of Minnesota, read a paper on "Agricultural Education, Practical and Scientific," in which he dwelt upon the far-reaching influences of the Morrill and Hatch act in securing appropriation of funds from the national resources to aid rural industries. He said that ten years ago the question of "How are we to educate our farmers?" could not be answered, but that only recently had the problem begun to be solved. Agricultural science was divided into two classes, he said. The first was to teach the young men how to be better farmers, the second was the educating of agricultural scientists, and the latter he declared was necessary in order to obtain success in the first. He strongly advocated the dissemination by all available means of agricultural science, so that farmers who can't attend agricultural colleges may be educated.

Dr. True made a report upon graduate study at Washington, and this provoked a long and general discussion upon the co-operation of the Department of Agriculture with the experiment stations.

The committee on nominations brought in the names of the officers as selected for the ensuing year. They were all unanimously elected and are as follows:

President, Joseph E. Stubbs, president of the University of Nevada.

First vice president, Professor E. W. Hilgard of the University of California.

Second vice president, Professor J. M. Stone of Mississippi.

Third vice president, Professor Elmer E. Smiley of the University of Wyoming.

Fourth vice president, Professor M. H. Buckham of the University of Vermont.

Fifth vice president, Professor M. A. Scovell, director of the Kentucky Experiment Station.

Executive committee, H. H. Goodell, president of Massachusetts Agricultural College, chairman; William M. Liggett, dean of the Minnesota Agricultural College; J. H. Washburn of Rhode Island and Alexis Cope of Ohio.

Secretary and treasurer, Professor E. B. Voorhees, director of the New Jersey Experiment Station.

Bibliographer, Professor A. C. True, director of Office Experiment Stations, Department of Agriculture.

The section work of the association was concluded during the afternoon. The delegates were the guests of the California State Floral Society at a reception held from 3 to 6 o'clock in the southern dining-room of the Occidental Hotel, which had for the occasion been transformed into a fairyland of rare and beautiful flowers. Professor Wickson of the University of California is the president of this society, and Professor Emory Smith of Stanford University the vice president. The arrangement of the reception was under the immediate charge of the following committee: Mrs. L. O. Hodgkins, Mrs. Austin Sperry, Mrs. Helen Cross, John Hinkle and John Henderson. A number of the members of the society assisted the committee in the arrangement of the floral display and the reception of the guests. The members of the association marvelled at what was shown them in the floral line. They were lavish in their praise of the beautiful flowers, expressing great curiosity and pleasure at the many specimens that they had never before seen. They were all interested in examining the plants and asking questions, and the afternoon was most enjoyably spent. The floral society placed a beautiful and extensive exhibition before their guests, and the latter were profuse in expressing their appreciation of the courtesy shown them and the pleasure and benefit that they had derived from it.

At the night session the association adopted a motion petitioning Congress that such measures be taken as shall secure the delivery of the public documents to the depository libraries at the earliest moment. A motion was also adopted instructing the executive committee to secure a place upon the programme of the National Educational Association of 1900 for the presentation of the scope and mission of the land grant colleges in our American system of education.

A paper on "Seed Testing in Its Relation to the Farm Garden," by A. J. Peters, was read by S. B. Green of Minnesota. H. H. Goodell of Massachusetts read a paper on "Principles Underlying the Formation of an Agricultural Course in the South," written by Dr. C. E. Coates of Louisiana.

A set of resolutions was offered by S. M. Emory of Montana thanking the Mayor, citizens and press of San Francisco, and in fact every one who had extended courtesies to them. The convention then adjourned sin die.

Some of the Distinguished Savants Who Will Now Inspect the Agricultural Resources of California.

CHEMISTS ADJOURN.

They Discuss Pure Food Standards and Elect Officers.

The sixteenth annual convention of the Association of Official Agricultural Chemists met for their last day's session in the Mills building at 10 o'clock yesterday morning. The major portion of the session was devoted to the discussion of food standards. This is about the only business of national importance that the chemists have considered. The report of the committee appointed in 1897 to examine into the feasibility of fixing a set of pure food standards was received and discussed. The committee reported that it had received many reports from the sub-committees appointed by it to make analyses, but that the time had been so short that it had been unable to formulate the ideas.

There are now bills pending in Congress which have for their object the correction of the misbranding and adulteration of foods and drugs, both of which bills are indorsed by the National Pure Food and Drug Congress, and the committee reported that eminent lawyers in Congress advised that the association hurry up its set of standards, so that Congress might be the better able to pass some kind of interstate commerce law such as is needed. The committee hopes to have its work prepared in the near future.

L. P. Voorhees of New Jersey and J. B. Weems of Iowa read papers on "Insecticides" and "Dairy Reports." The former paper discussed the adulteration of some of the preparations now in use.

The following officers were elected for the ensuing year: President, B. W. Kilgore of North Carolina; vice president, L. L. Van Slyke of New York, and secretary, H. W. Wiley of Washington, D. C. The convention then adjourned sine die.

Welcome to Woodland.

WOODLAND, July 7.—The delegates to the Association of American Agricultural Colleges have accepted the invitation of citizens of Yolo County to include Woodland in their itinerary when they start by special train to make a tour of the State. The train will arrive in Woodland about 5 o'clock Wednesday afternoon, July 12. The delegates will be met at the depot by a delegation of citizens and a sufficient number of conveyances to accommodate 150 visitors. A drive will be made to the Yolo orchard, two or three of the best alfalfa meadows and a few of the best grainfields. The visitors will be afforded an opportunity to witness the operation of one of the largest combined harvesters in the country. Upon the return of the party to Woodland dinner will be served, after which the excursionists will continue their journey southward.

In the Divorce Court.

Decrees of divorce were granted yesterday in the Superior Court to Arthur E. Tilden from Electy Tilden on the ground of desertion and Susan B. Kemp from Charles L. Kemp on the ground of desertion. Suits for divorce have been filed by Emma L. Hughes against William P. Hughes on the ground of desertion and Marie W. Jacobsen against Halvor J. T. Jacobsen on the ground of cruelty.

WELL-KNOWN EDUCATOR SUDDENLY PASSES AWAY

HEART DISEASE CLAIMS MME. BERTHA ZISKA.

For Thirty-Five Years She Conducted an Institution of Learning for Young Ladies in This City.

Mme. Bertha Marie Louise Ziska, the well-known educator, died suddenly at 11 o'clock on Thursday night at her home, 1718 Sacramento street. Her death was the result of heart failure superinduced by rheumatism, from which she had suffered for years.

Mme. Ziska was found dead by her daughter, Mrs. Alice Jennings, who returned home after witnessing the performance at the Orpheum. Her mother's body was still warm, and Drs. Rivas and Anthony were summoned, but they immediately announced that Mme. Ziska was beyond medical aid.

Upon investigation Coroner Hill found that the rheumatism to which she had been subject had developed into heart trouble, and at the request of Mrs. Jennings an inquest in the case was waived. Mme. Ziska had visited Carlsbad and other health resorts for relief, but without success.

Mme. Ziska was widely known in educational and society circles and her great experience in America and Europe made her particularly adapted to the training of young girls. Her methods, thorough and progressive as they were, always obtained the best results. Deceased was born in Paris in 1843 and was educated in Berlin. She successfully passed the teachers' examination in the Berlin Gymnasium before she was 15 years of age, and the fact that the test for proficiency was very severe serves to show her special talents. She was married in New York to Mr. Ziska, who died some years ago, and she came to San Francisco at the age of 18.

After a residence of several months she started a school for young girls. At that time South Park was the fashionable residence quarter of the city, and it was there that she established the Ziska Institute, and under her able leadership many of society's fairest daughters have received their education. Later she removed to Van Ness avenue and then to Sacramento street, where the institute has been located for the past three years. She was an accomplished linguist, speaking German, French, Spanish and English fluently.

The funeral services, which will be conducted by Rev. Dr. Foute, will take place at the residence this afternoon at 2 o'clock. The remains will be cremated at the Odd Fellows' Cemetery.

AN OBNOXIOUS ORDINANCE.

Merchants' Association Goes to the Aid of the Teamsters.

Several times recently the police have arrested teamsters for violating a city ordinance which forbids driving along bituminized streets, other than Market, with the wheels of the vehicle on one side running in the car tracks and the wheels on the other side running on the bitumen. A year ago the directors of the Merchants' Association made an investigation of the effect of this law and arrived at the conclusion that it worked an unnecessary hardship upon the teamsters, in fact, that it could not be complied with. As soon as the merchants found the condition in which the drivers were placed they sent to the Street Committee of the Supervisors a communication requesting that the ordinance be amended. The obnoxious feature of the law was set forth in that communication as follows:

We were informed by the draymen that while they favored the intent of the ordinance and would gladly co-operate in any movement which would preserve the streets, yet they informed us that it would be impossible for them to obey it completely except on Market street, for the reason that on account of the width of the trucks it is impossible to drive trucks on any street except Market outside of the outer rail without striking vehicles which might temporarily be standing along the side of the street near the curb, and that they could not drive trucks with one wheel between the two rails, as that would compel one of the horses to walk on the rail, upon which it could not secure a foothold.

It was supposed by the directors of the association that a just amendment had been made, but the recent arrests and an inquiry into the matter shows that the objectionable law is still in force. At the meeting of the directors of the body yesterday the secretary was directed to call the attention of the Supervisors to the letter of last year and ask that the ordinance be so amended that it can be complied with.

A FOOL'S JOKE.

Mrs. Pragley Loses Her Reason Through Fright at a Firecracker.

Mrs. Mary Pragley, a young woman residing at 723 Post street, was adjudged insane yesterday and committed to the asylum at Agnews. Mrs. Pragley has been acting strangely since the Fourth. On that day some irresponsible idiot threw a giant firecracker at her feet and the shock and fright following its explosion, it is said, unhinged her mind.

Immediately after the "joke" had been played upon the unfortunate woman she was removed to her home, but as she failed to recover her reason she was committed to the asylum.

Single Tax Society.

At its last regular meeting the Single Tax Society elected the following officers for the ensuing term: President, Stephen Potter; vice president, H. F. Dessau; financial secretary, Miss Maude E. Dhale; corresponding secretary, C. K. Stern; recording secretary, George S. Conroy; assistant corresponding secretary, Miss E. E. Diggs; treasurer, A. Melcher. The society unanimously indorsed Ralph Hoyt as manager of the Single Tax Newspaper Bureau, which he has been conducting for more than two years. A special committee was appointed to arrange for a public meeting in the near future.

Peace in the Philippines.

Peace in the Philippines is bound to prove profitable to all concerned. Warring conditions, whether they be in the Philippines or in the human stomach, are equally disastrous. If your stomach has rebelled, there is one authority that will quickly subdue it. It is Hostetter's Stomach Bitters, and it cures constipation, indigestion, biliousness, nervousness and dyspepsia. See that a private Revenue Stamp covers the neck of the bottle.

VISIT DR. JORDAN'S GREAT MUSEUM OF ANATOMY
1051 MARKET ST. bet. 6th & 7th, S.F. Cal.
The Largest Anatomical Museum in the World. Weaknesses or any contracted disease positively cured by the oldest Specialist on the Coast. Est. 36 years.
DR. JORDAN—PRIVATE DISEASES
Consultation free and strictly private. Treatment personally or by letter. A Positive Cure in every case undertaken.
Write for Book, PHILOSOPHY of MARRIAGE, MAILED FREE. (A valuable book for men)
DR. JORDAN & CO., 1051 Market St., S. F.

CAFE ROYAL Corner Fourth and Market, S. F. Try our Special Brew Steam and Lager, 5c. Overcoats and Valises checked free.

CONCERTS AND RESORTS.

Battle of Manila Bay! Those who were there say the Panorama is a correct representation. Lectures by Prof W. G. ROLLINS afternoons and evenings. Market st., nr. Eighth. Admission, 50c. Children, 25c.

SUTRO BATHS.
OPEN NIGHTS.
OPEN DAILY FROM 7 A. M. to 11 P. M.
BATHING FROM 7 A. M. to 10:30 P. M.
ADMISSION 10c; CHILDREN 5c.
Bathing, including admission, 25c; Children, 20c.

AMUSEMENTS.

GRAND OPERA HOUSE
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6th Week of LEWIS MORRISON.
SPECIAL DOUBLE BILL.
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Only the Master Shall Blame.
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The Talented Comedians, in the Roaring Farce, "A WISE GUY."
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THE FOUR O'LEARYS, WILLIAM CRESSY AND BLANCHE DAYNE, MALVILLE AND STETSON, THE FARRELLS, THE PASQUALIS, assisted by SIG. ABRAMOFF.

TIVOLI OPERA-HOUSE.
Mrs. Ernestine Kreling, Prop. and Manager.
MATINEE TO-DAY AT 2.
THIS EVENING AT 8.
DENIS O'SULLIVAN
In the Romantic Opera,
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