

## Sutro's Family and His Contested Will

Adolph Sutro was born in Prussia in 1830, the son of Emmanuel and Rosa Sutro. His widowed mother brought her 11 children to New York in 1850. Sutro married Adelheid in 1856. They had six children -- Charles, Edgar, Clara, Emma, Rosa, and Katie.

Like many other wealthy men of the time, Sutro also had a mistress. Clara Kluge-Sutro claimed that she and Adolph were wed after Adelheid's death in 1893 and that her two children, Adolph Newton and Adolphine Charlotte, were Sutro's.

After her father's death in 1898, Dr. Emma Merrit tried to keep Sutro Heights open for public enjoyment. Sutro had drafted a trust that would put much of his estate into public ownership. But the trust and his will were contested by Kluge-Sutro and several of his children, and were ultimately judged to be invalid.

Sutro's extensive real estate holdings were auctioned off, and the proceeds divided between his children and second wife.

A *San Francisco Call* article discussing Sutro's will and estate, 29 October 1909.

### SUTRO HEIRS TO DIVIDE PIONEER'S GREAT ESTATE

Supreme Court Affirms Judgment Declaring Trust Clause Is Invalid

Twelve Hundred Acres of Land in This City to Be Distributed Among the Contestants

The supreme court yesterday made possible the distribution of 1,200 acres of land in this city involved in the Sutro will contest. The decree of the lower court was affirmed, thus establishing the contention of four of the heirs of the pioneer that the trust clause in the will was invalid.

It is estimated that the estate is worth \$6,000,000. The Cliff house ranch and a part of the San Miguel rancho, constituting about half of the estate, were proposed by the will to constitute a trust for charities, institutions of learning and science and for premiums for distinguished scholarships and scientific discovery and invention.

Charles S. Wheeler and Garret W. McEnerney successfully attacked the trust clause, and it is said they will profit to the extent of 15 per cent of the amount involved. With the value of the land involved in the trust fixed at \$3,000,000, the fees of the two attorneys would amount to \$450,000.

#### Trust Clause Invalid

Adolph Sutro died in this city August 8, 1898. His last will, dated May 22, 1882, left to his six children \$10,000 each, and the residue of the estate, after the 1,200 acres had been set aside for the trust. Because he proposed to establish a trust in perpetuity for purposes not entirely charitable, the clause was held to be invalid.

October 1, 1898, Clara A. Sutro, Edgar E. Sutro, Kate Nussman and Rose V. Morbio, children of the testator, brought an action against Emma L. Merritt and W. H. R. Adamson, as trustees under the will, and Emma L. Merritt, George W. Merritt, her husband, and Charles W. Sutro individually.

The complaint alleged that the plaintiffs were owners in fee of an undivided two-thirds interest in the real property in controversy. The prayer of the complaint was that the claim of the defendants and all questions as to the validity of any devise or trust under the will would be finally determined. The action was brought to trial before the will was admitted to probate.