

CHAPTER XXII

COURTS AND CRIMINALS

The pioneers for lack of some better system adopted the Mexican form of government and courts. In fact they could not do otherwise, as the state had not been admitted to the Union, and there were no American laws or courts in existence. The lowest form of court among the Mexicans was the Alcalde courts which corresponds to our justice-of-the-peace. Then came the higher courts which were known as the Court of the First Instance and Court of the Second Instance. In this county the only higher court was that of the First Instance. Let us notice how these courts operated, judging by a case on record. It was the case of the People versus Tracy. It appears that the district attorney had indicted Tracy for murder and was about to try him for the crime without any preliminary examination. His counsel, Samuel A. Booker, Wm. Lyons, Samuel Brooks and Charles M. Creanor, objected to such high handed proceedings. Paying no attention to their objection the district attorney went on with the trial. Then Tracy's lawyers again objected, stating first his case had not been presented to the grand jury, and second that the court "had no jurisdiction as it was not constituted under the constitution of the United States." The court sustained the objection. Then the sheriff impaneled a grand jury and Tracy was indicted for murder. He was again brought to trial, with more objections from his counsel. Finally his attorneys inquired "What law is in existence and should prevail in this case." After much argument the court decided that the Mexican laws were in force except such as were in conflict with the laws and constitution of the United States. It was a badly mixed case, a murder trial under two different systems of law, and after hearing the evidence the jury acquitted the defendant.

When the state was organized the legislature abolished the Mexican system of courts and established the system in use through the United States. The highest or district court included two or more counties, and the district court in this district included San Joaquin, Calaveras, Stanislaus, and Tuolumne counties. The first district judge was Charles M. Creanor, who was appointed by the Legislature. The district attorney was elected by the voters of each county. The first district attorney, as you remember, was Samuel A. Booker, who was elected in the first state election. The court below the district court was known as the Court of Sessions, one court in

each county. This court was composed of three judges, a presiding and two associate judges. Under the new constitution, adopted in 1879, all state offices were abolished, including the courts, and the legislature established one or more courts in each county, calling them Superior Courts. San Joaquin County then had but one Superior Court. It now has three courts, Judges John A. Plummer, George F. Buck and Daniel G. Young presiding. In these courts the tragic trials of the county have taken place; murder trials by the hundred, civil suits and probate cases by the thousand. They have been the scene of many thrilling incidents, the hope and despair of many a criminal. I have a list of over one hundred murders committed in this county during the first thirty years of its history and that is not half of the number. Those that I have are the murders of greatest interest because of some peculiar feature, cold-bloodedness of the act, or the murder of some prominent and leading citizen. There have been thousands of robberies committed on the highway of which you will find recorded a few.

The Hanging of "Mickey Lyons"

The execution of George Baker, or "Mickey Lyons," as he was commonly called, was the first legal execution in Stockton. Baker was a young man about twenty years of age and he was hung for the murder of another young man named Conyers. A short time before a boy of sixteen named Joe Moller had stabbed and killed another boy in cold blood, but he was acquitted. The story of Baker's fate is a sad one. He was a reckless, dissipated youth and associated with the lowest characters. Gambling and drinking were his main occupations, and on the day of the murder he had been playing poker and drinking freely in both the St. Charles Hotel and the Dickenson House. Leaving the latter place, he started for the Levee, and someone pushed him off the walk. He turned immediately, and drawing a knife, stabbed a person near him named Conyers. "Mickey" was arrested and taken to "the brig," a ship then anchored in the channel and used as a jail. Conyers died two days later, and Baker was held to answer for murder. When he was placed on trial, his lawyers, Terry & Perley, failed to sustain their client's plea of self-defense and youthful folly, and he was found guilty by the jury. Judge Ben. J. Williams sentenced Baker to be hung May 20, 1851. A gallows was erected on the block

where now stands the Center School building, and on the afternoon of the time set the young man, heavily ironed and sitting on his own coffin, accompanied by Rev. James A. Woods and guarded by Sheriff Ashe and Deputy Thomas Blount, was drawn to the scaffold on a two-wheeled dray. On arrival there was a large crowd of men and women, some 800 in number, made way for this awful scene, and at 3 o'clock Baker ascended the gallows steps. After the death warrant had been read, Baker, "in a clear, unbroken voice," made a confession. The minister then offered a prayer to the Supreme Being, entreating Him to "receive this unfortunate youth into his presence to abide forever." Baker then made a short speech thanking the officers for their kindness and his attorneys for their efforts in his behalf, adding, "For it is little else that they have received for all they have done for me." A few minutes later, the first of those terrible death scenes, of which nearly a dozen were to follow years later, was an event of the past.

Two years previous to this another cold blooded murder had been committed in the slaying of the famous gambler and desperado James Taylor. "He was," says Rev. James Woods, "but twenty-two years of age and the most ferocious desperado that ever scattered terror around his bloody path. He had in other parts of the state encountered in fierce fights other desperadoes and come off victor, but in meeting William Turner he met his fate." Taylor one night, while looking for a fight, entered a saloon on Center street near the well known "El Dorado," which was run by a beautiful little French girl. In fact all of the saloon women in those days were beautiful and fascinating, because they were imported at heavy expense because of their beauty, to deal out drinks, and play monte, faro, poker, and roulette, and attract the men. Well, Taylor wanted some fun, and drawing his pistol, with one sweep of his arm he swept all the beautiful cut glass tumblers and decanters from the bar to the floor, smashing the entire lot. Without offering to pay the damage, he then coolly walked out of the saloon. The following day the girl sent word to Taylor that she wanted him to pay for the glassware. Like many of her class, she had a lover, named William Turner, and Taylor meeting him one day said: "Bill, if you don't pay your girl for the smash-up, I will kill you." Taylor was known to be a man of his word, and Turner knew that either he or Taylor must die. So, watching his chance, one Sabbath morning, Turner saw Taylor having his boots blacked. Quietly creeping up behind Taylor, Turner shot him in the back twice, the second shot instantly killing him. Turner was arrested and tried for the murder, his counsel being Mr. Irving and that famous orator and pleader,

Edwin D. Baker, afterward killed in the famous charge at Ball's Bluff, while leading on the California regiment in the Civil War. The courtroom was crowded with anxious listeners and the proceedings were unusually interesting. Baker succeeded in causing a disagreement in the jury, and in the following term of the District Court Turner was again tried. Baker was not then in the case, and Turner was convicted of murder, which meant death. In that term of the court there were three men tried for murder—Turner, Barrillo and Reany—and April 28 Barillo and Turner were brought before Judge Charles Creanor and sentenced to be hanged. A faithful brother saved Turner's life. Circulating a petition that his doomed brother's sentence be commuted to imprisonment for life he succeeded in obtaining hundreds of signatures, and tender-hearted Governor John Bigler, "Honest John" he was called, granted the petition. Two years later Turner walked from San Quentin a free man, J. Neely Johnson having pardoned him.

Execution of a Mexican

Indelibly stamped upon the memory are many of the events of childhood, and never can I forget the time when I saw my first legal execution. The victim Jose Barrillo, was a Mexican about twenty-seven years of age and one of an organized band of horse-thieves and robbers. His crimes were many, but he finished his criminal career when in a fandango-house he shot and killed, without any provocation, a white gambler named Henry H. Janes. Immediately after the shooting the murderer fled, but he was speedily captured by the officers and placed in the lockup. He was quickly tried, convicted and sentenced to be hanged, for at that time a bitter hatred existed between the whites and all foreigners, especially the natives of Mexico. So intense was this hatred that only two months previous to the execution, two Mexican muleteers, lying asleep by the side of their pack mules on the banks of the Mormon slough, in the early dawn were brutally shot and killed by two white men passing by. The white brutes saw the Mexicans quietly lying asleep, and drawing their revolvers they "blazed away," and then ran off. No efforts were made to find these murderers. But Jose Barrillo's case was different. He, a Mexican, had killed a white man, and, regardless of the law or evidence, he must hang. The forms of law, however, were complied with. The record of the event says: "An immense crowd witnessed the sad spectacle and the assertion of the majesty of the law." On the day of the hanging, I was playing with companions on Main street near Colburn's barn, where the Gnekow block now is, when looking down the street, I saw a pro-

cession of about fifty horsemen approaching, chatting, laughing and smoking cigarettes. Each man was armed with a revolver and their little mustangs were prancing and champing on their bits, the foam from their mouths flecking their breasts. The horsemen surrounded a wagon drawn by two horses, and in the wagon the condemned man sat, handcuffed and fastened with a riata to his chair. By his side stood a good padre, reciting the prayers for the dying, at the same time holding before the criminal's gaze a small cross. On arrival at the gallows, which in this instance was a large oak tree then standing on the southeast corner of Main and Stanislaus or Grant street, the wagon was driven beneath an overhanging limb, and the rope, already dangling, was placed around the prisoner's neck. He was then loosened from the chair and the wagon was driven out from under him. The Mexican was strangled to death, and the body was left hanging until the coroner came and cut it down.

The Highwayman Tom Bell

Tom Bell's true name was Thomas Hodges, but he was always known as Tom Bell. Born in Tennessee, he graduated from college with high honors, then graduated from a medical college. In the Mexican war he enlisted in the regiment commanded by B. F. Cheatham—afterwards a Stockton merchant and a partner of General Ketchum—and as an officer won fame and glory. In 1849 Bell came to California, discovered a rich mine in Mariposa County, and "played high roller" until the mine gave out. He had been dissipating heavily during this period, and, being now without a dollar, he stole eleven mules from a Mexican camp nearby, drove them to Nevada and sold them at a high price. He found stealing was a much easier way of obtaining money, than by means of a pick and shovel, and, organizing a company of bandits, began a series of robberies and murders. The first victims of the bandits were Mexicans, but soon they extended their compliments to all whom they met. Bell, in his exploits imitating the English highwayman Dick Turpin, wrote letters to editors, defied the officers to arrest him, threatened to kill those who interfered with his plans and often whipped those travelers found without money. On one occasion Bell came across a traveler who refused to give up his coin and made a fight. The traveler was shot in the thigh and fell from his horse, bleeding profusely, an artery being cut. Bell dismounted, skillfully tied the artery, carried the man to the nearest house, dressed his wound and gave full directions as to its treatment. The patient recovered. In 1852 Bell was arrested in Sacramento for grand larceny. He gave his name as Thomas Hodges, was tried,

convicted and imprisoned on Angel Island, there being no state prison at that time. John C. Hayes, the famous Texan, was then the prison warden, and Bell, pretending that he was sick, was sent for treatment to the San Francisco Broadway jail. He escaped from that famous bastille and then, too late, the authorities learned that Tom Bell and Thomas Hodges were one and the same person.

In October 1856, Sheriff Hanson of Placer County learned that the Bell gang was in his vicinity, and with a party of armed men he started out to find them. The officers and criminals came together near a wayside saloon, and amid the crack of revolvers, Lewis Conway was killed, and a bandit named White captured. Bell and a pal called Texas escaped. To the officers White confessed his criminal record, and that his life might be spared, he promised to lead the officers to the rendezvous of the outlaws. Under the guidance of White a party of well-armed men a few days later started for the famous outlaw's retreat. White led them to a small shanty in the midst of a thick cluster of willows near Knights Ferry. The house was occupied by a woman, and she refused to give any information regarding Bell. The party, which was under the command of Judge George D. Belt, who was afterwards killed in this city by William Dennis, then rode down the banks of the Stanislaus River, and by accident, discovered the man for whom they were looking. When about a mile from the house one of the searching party named Price, while crossing the stream, noticed a man endeavoring to conceal himself in the thick willows. Price, thinking this a suspicious circumstance, gave the alarm and the party quickly surrounded the brush. Riding towards a common center they soon came upon Bell and a Spaniard, who were ordered to throw up their hands. Judge Belt, recognizing Bell, exclaimed, "I believe you are the man we have been looking for." "Very likely," replied Bell. The bandit's revolver and bowie knife were taken from him and he was tied upon a horse and taken to Firebaugh's Ferry, the party reaching that point about 11 o'clock a. m. Bell was then informed that at 4 o'clock he would be hung. The outlaw, then but twenty-eight years of age, asked permission to write a letter to his mother and to the woman in camp. The request was granted, and after finishing his letter he asked for liquor. He was given a bountiful supply and in a short time he became deliriously drunk. Talking freely he told of his many crimes and adventures. Near the ferry there grew an oak, and the only tree in that vicinity. It was, therefore, known as "the lone oak tree," and at the hour appointed, Bell was taken to that tree. After he fervently prayed for forgiveness a

rope was placed around his neck and a few minutes later he was dangling in mid air.

The Washington Garden Murder

Late in the evening of April 30, 1860, the citizens around town were asking each other, "Have you heard the news?" "No, what is it?" "Esses was shot a while ago by somebody, the police don't know who." Joseph Esses, a German by birth, came to Stockton in an early day with his family, and, purchasing a plot of ground on Market street just west of California, planted trees and grape vines, and started a pleasure resort which he named Washington Gardens.

In summer it was a delightful spot, a cool, quiet place, and hundreds visiting there would sit under the little bowers of vines, slowly sip their lager beer and pluck grapes from the thick, heavily laden branches. Esses had a rather quarrelsome, jealous disposition, and on the evening of the shooting he quarreled with a roomer named Henry Bolles, because Mrs. Esses gave Bolles a rose from the garden. During the fight Esses shot Henry through the arm. The wound was not serious, and Bolles, taking the pistol from the shooter, went down town to have his wound dressed by Dr. Taggart, and then went to Sheriff O'Neal's office to give him the pistol. This movement on the part of the injured man saved him from being arrested as the murderer of Esses, for while he was absent a lively skirmish took place at the house, with the result that Esses was dropped. Who fired the fatal shot? Mrs. Taylor, wife of William Taylor, who lived across the street; John Shea, a tall Irish horeshoer; V. M. Peyton, Charles Huffman and George Dahl each heard three shots. A near neighbor, a large man, in size and appearance like the late Judge Terry, said he heard only two shots. Peyton and Huffman were standing talking on the corner of Main and Sutter streets, and hearing the shots, they hurried to the spot and on the way saw a large man coming out of the gate. On arrival they saw Esses lying on his back near the porch with a five-barreled pistol lying near. According to the testimony of a near neighbor, Esses, after Bolles left the house, procured another pistol and began chasing his wife to kill her. She ran to the near neighbor, who was passing by, for protection. Then Esses shot at him and soon afterwards received the fatal wound. Peyton and Huffman assisted in carrying Esses into the house, and Peyton asked Esses who shot him. "Some large man in his shirt sleeves," said Esses. "I understand that Peachy knocked your arm up and isn't it possible that your own pistol shot you?" asked Peyton. "I'm not drunk or a fool," replied Esses. "Some man shot me who had no business here." Esses lingered for

eight days, shot through the lung, Doctor Ryer said. The jury summoned by Coroner Morris H. Bond rendered a then too-common verdict, "Shot by some person unknown to the jury." Esses, a member of San Joaquin Engine No. 3, and the Turnverein, was buried by them.

A Tragedy at Medina's

Four years later, a murder most foul kept busy the criminal officers of San Joaquin. This time the crime was committed near the foothills of the Sierras on the Mokelumne Hill road, some twenty miles from Stockton. At that point an Italian by the name of Frank Medina kept a little country grocery store, the trading place of the farmers of the surrounding country. Medina had been in business since 1861, and by thrift and steady habits had accumulated considerable amount of money. On the morning of December 10, 1869, a farmer driving to the store to purchase goods found the doors closed. This was strange, for Frank was always ready for customers. Pounding on the doors and receiving no answer, he began an investigation. Finally entering the place he found no one there, but the safe was open, the money was gone, and there was every appearance of a robbery having been committed. Help was then obtained and the ranchers began a search for the proprietor and his clerk. Finally in a deep gulch, some three-quarters of a mile from the store, their bodies were found, together with those of two Mexicans, and a negro called "Old Boss." They were all shot through the head, and the hands of each man was securely fastened behind him. It was a startling sight, and there was a cry for justice, but who were the murderers and how came the victims there? No one could tell, and not a clew was left except that the neighbors the previous evening had heard a noise in the store as of a drunken quarrel, and paid no further attention to the disturbance. General David F. Douglas, the old warhorse of San Joaquin took temporary charge of the store, and Coroner Bond held an inquest. No facts were brought out that would throw any light upon the murders, save that the previous day a party of Mexicans were seen riding along the road in the vicinity of the store. The demon of blood was then in his glory for seven men were murdered in San Joaquin County within two weeks. Some years after a Mexican named Padella was arrested as being one of the murderers. No evidence could be found to that effect, and he was tried for horse stealing, found guilty and sent to the penitentiary.

The Murder of a City Official

In the murder of Esses, Golding and Medina there were no court trials, for the finger of

justice could not point to a single person, but in the murder of J. P. D. Wilkins, then city collector and street superintendent, there was slight evidence obtained. A saloonkeeper, homeward bound near the midnight hour, March 26, 1873, near the corner of Hunter and Lindsay streets passed what he believed was an old drunk lying near the shade trees. He walked on, stopped, returned and, examining the man, found that it was J. P. D. Wilkins, badly wounded and unconscious. Assistance was obtained, and he was carried to his home, not far away. He was laid upon the bed and upon examination his head was found in a terrible condition, swelled and bruised from the effect of sandbag blows; one across the forehead, a second across the back of the neck, the blows being struck by a man skilled in the use of that cowardly weapon. Mr. Wilkins lingered for three days, unconscious except for two or three times, when his lips moved and he tried to talk but could not, for his vocal organs were paralyzed. Sunday, March 30, he was buried by the Odd Fellows, of which organization he had been a prominent member since 1852. The funeral was held from the Presbyterian church, Rev. F. B. Morse and C. V. Anthony taking part in the service. Who murdered this honored citizen, a man of notable purity of his life? Two men, Ira A. Hall and Bab Durkin, were arrested, being suspected although there was no direct evidence to connect them with the crime. It seems that on the evening of the murder Wilkins, who had been working quite late in his office on his way home entered the Independent saloon and took a glass of beer. In paying for the drink he took money from a bag of silver which he carried. There was a stranger in the saloon at that time, and he immediately went out on seeing Wilkins with the coin. His appearance had been noted, and he and his pal were arrested by Police Officer Jerome Myers. The two men were held in jail for nearly six weeks, the officers hoping that something would turn up to implicate them. The grand jury failed to indict them, and May 12 they were liberated, but were again arrested and taken to Sacramento for robbery.

Before this time the hand of suspicion began pointing to Mrs. Wilkins and a lodger in the house named Bennett. At this sensational point the narrative must go back to 1852. At that time Wilkins was keeping the Crescent City hotel, the property later owned by D. S. Rosenbaum. During the summer his wife died, and Wilkins, returning to the East supposedly a rich man—for all returning Californians were presumed by the Easterners to be wealthy—married his first wife's sister. She at that time was only sixteen years of age, while he was thirty-three. They came to Stockton, and having sold his interest in the

hotel, he began working for M. L. Bird, for he was by trade a harness maker. They lived a comfortable but not a happy life, for they had no pleasures in common. He cared nothing for society or amusements, and could not sing a note. She was fond of society and music. She had a sweet voice of fair range and power, and day after day the neighbors would hear her singing as she worked; the old songs, "My Pretty Jane," "Robin Adair," and "Coming Thro' the Rye." She was ever singing these love songs, but her favorite was "John Anderson, My Jo, John" for it was said she left a young lover in her Eastern home. Among those with whom she became acquainted, meeting him perhaps in the dry goods store of Stockwell and Underhill, was Henry B. Underhill, director and organist of the Presbyterian Church choir. He invited her to join the choir and she gladly accepted the invitation, and sang in that choir for ten years or more. Summer and winter she was faithful in her choir work, and to and from her home walked alone or accompanied by some of the church members. Mrs. Wilkins was at heart a good woman, but lively, full of fun and longing for congenial companionship. As the officers could find no trace of the murderers, early in June 1873 they arrested Mrs. Wilkins and Bennett, who had been her lodger. They were given a preliminary examination by justice A. G. Brown and held in jail to await their examination before the grand jury. That body indicted them for the murder of Wilkins, and Bennett was first placed on trial. The case was heard in Judge Booker's court and Bennett was defended by N. Greene Curtis, his brother-in-law, one of the best criminal lawyers in California. The principal witnesses were members of the family. Their evidence was conflicting and the jury failed either to convict or acquit. Then came a proceeding as mysterious as the murder, for Curtis asked for a change of venue to Sacramento county and Judge Booker granted the request. This was equivalent to an acquittal in Sacramento, and Bennett walked from the courtroom a free man. The charge against Mrs. Wilkins was dismissed.

The Swaney Poisoning Case

A murder somewhat similar to the Wilkins case was that of Swaney on trial for murder by poison of John Searles. In the fall of 1867 there lived in the mining camp of Mariposa a family by the name of Terry. There were several children, among them a daughter named Adelia. She was a very pretty girl and at the age of sixteen, encouraged by her parents, she married a wealthy mining man named John W. Searles, who was twenty-four years her senior. In the same town lived A. M. Swaney, who was at that time publisher of the Mari-

posa Gazette. He was married and had four children. Searles was frequently away from home on mining business, and, as the two families lived near each other, Swaney and Mrs. Searles became quite intimate. Immediately after Mrs. Swaney's death the sympathy of Mrs. Searles for Swaney's children was so deep that she frequently visited them at his home and remained many hours. Then the neighbors began to talk, and one moonlight night the couple were seen out walking. Swaney heard, or claimed that he heard, that Searles was going to kill him. One of the deputy sheriffs, A. W. Bancroft, was married to a Mexican woman, and to him Swaney told his troubles. Calling him aside one evening, where they couldn't be seen, Swaney asked: "Can't you get a Mexican to do the job? Searles is going to Buchanan Hollow soon with \$1000 in his pockets. The Mexican can rob Searles and I will give him \$200 and will give you some money." Bancroft could speak the Mexican language and was friendly with all the Mexican population, but he replied: "I don't know any Mexican that will do a job, but why don't you challenge him?"

A little later Swaney, who was affected with kidney trouble, as he afterwards claimed, began reading up on poisons, their action and effect. He was told that hydrocyanic acid was good for kidney complaints, and he made inquiry for the acid (prussic acid is usually called), but there was none in town. Then he sent an order to the well-known drug store of Williams & Moore, in Stockton, for a three ounce vial of hydrocyanic acid. Swaney in due time received the poison and on his way to his office he tried to pry off the cover. In so doing the box fell from his hands to the earth, breaking all to pieces. Swaney in his testimony before the coroner's jury testified that he gave the box a kick with his foot and passed on. In less than two days after Swaney received the poison Searles was taken violently sick and died within an hour.

Searles' sudden death and the familiarity of Swaney and Mrs. Searles caused considerable talk. Suspicions of poison now began to fly thick and fast, and ten days after the funeral the coroner had the body exhumed, the stomach taken out and placed in a glass jar, tightly sealed, for examination. The coroner then sent an order to San Francisco for the chemicals necessary to make a poison test. In the meantime the Sheriff and his deputies were busy and Sheriff Crippen sent Dorsey Ramsden, the sexton of the Odd Fellows cemetery, to search Swaney's house for vials of poison. The amateur detective was successful, for, after prying up the boards of the toilet, he found hidden beneath them a broken vial of prussic acid. Just previous to this time John Kessler, a shoemaker, while walking along the

street noticed a piece of paper lying upon the ground. Picking it up he found that it was a bill head of Odd Fellows hall, Stockton. Reading the contents, he found that it was Swaney's bill for prussic acid. The shoemaker took this important evidence to the coroner and he showed it to an attorney who said: "Let's go and see Swaney about this." Swaney admitted that it was his bill, and told them the story of his sickness and sending for the acid, and then letting the box fall. When the chemicals arrived Dr. Turner sent for Dr. Buford of Coulterville to come and assist him in testing the stomach of Searles to see if it contained poison. The doctor also called in two or more witnesses. They drank considerable whiskey during the test, and during the examination of Dr. Turner at Stockton Lawyer Dudley for the defense asked, "Did you and Bedford get drunk on the whiskey?" Three separate poison tests were made and the doctors declared that the presence of hydrocyanic acid was shown. After the tests were made Swaney and Mrs. Searles were arrested, indicted and tried for the murder of her husband. The jury disagreed and the defendant then claimed they could not get a fair and impartial trial in Mariposa, and the case was transferred to this county. The trial began May 6, 1868, before Judge Cavis of the District Court and continued sixteen days. Sixty witnesses were examined, among them Judge Alexander Deering of Mariposa county. The entire proceedings were published in the press, being stenographically reported by Attorney Elliott. The defense was represented by William L. Dudley, S. A. Booker and J. H. Budd of this city and Judge Jones of Mariposa. The prosecution was represented by District Attorney E. S. Pillisgury, D. W. Perley and J. Burkholder of Mariposa. After being out seventeen hours the jury failed to find a verdict as there was no evidence showing that either of the parties implicated had given Searles the poison. Later Swaney was acquitted and he then married Mrs. Searles.

Executed for Stealing Horses

There are many persons today who disapprove of legal executions even though the criminal committed a deliberate, unjustified murder. What would they say regarding a law that punished horse stealing by a death sentence. That was the law in 1852. The legislature repealed this severe law in 1853. Under this law two men were hung in Stockton, the only legal executions for horse stealing in the history of the state. You remember of reading in a former chapter of the lawless acts of a party of men under the leadership of Wm. Owens, the gambler. They took to the gallows a man named Wilson, whom they suspected of being a horse thief, and choked

him until he made a confession and led them to the camp of the thieves. Five men, James Wilson, Jasper Cochrane, Jerry Boland, James Neal and Frederick Salkman were arrested and taken to jail. They were all indicted for horse stealing and placed on trial. Boland and Cochrane were each sent to the penitentiary for seven years, but James Wilson, alias Mountain Jim, and Frederick Salkman, alias Dutch Fred, were awarded the death punishment by the jury. They paid the "penalty of their crime on Friday afternoon, November 28, amidst an immense concourse of people," said the Times, "amongst whom we were sorry to see a large number of women." It was about three o'clock when the two men were taken to the gallows, near the Methodist Church on Washington street, near Commerce. Salkman, jumping on the platform, remarked in a loud tone of voice, "I take my place to the right, as a soldier always should." Salkman, who was German born, came to this country in early life, and fought in the battles of Palo Alto, Santa Cruz, Cerro Gordo and Reseca de la Palma during the Mexican war. His demeanor was both bold and reckless throughout and he seemed to be utterly careless of his solemn end. He declared "he wanted to die like a man and not like an old woman." "Mountain Jim" or Wilson in a low tone of voice denied committing the crime for which he was being hung, "although he had committed many others." The two men were attended by the Rev. James Woods, and as the trap was about to be sprung Salkman exclaimed in a loud voice, "Here we go, gals." At three-thirty the signal was given and "the men were launched into eternity."

The Cold-Blooded Murderer Eleyea

The most atrocious murder ever committed in this city was that perpetrated on the evening of January 28, 1858, by Jacob Eleyea, the proprietor of a saloon and boarding and lodging house, a low wooden building on Hunter street near the Levee. Some time previous William McWade, an Irish miner living at Mariposa decided to visit the coast. Taking with him about two thousand dollars in gold nuggets, he went to San Francisco and Oakland, and then, with considerable money left, came to Stockton. He applied at Eleyea's for lodgings and was shown a room. He went down to the bar and took a drink and in paying for it drew forth a bag of gold. McWade soon retired and was not again seen alive. The next morning he was found in the water closet, hanging by the neck. Judging from all appearances, he had hanged himself, but upon examination no abrasions, discolorations or any evidences of strangulation were found on his neck. It appeared to be a case of murder,

but who was the guilty party? A red Mexican scarf told the tale, for the stranger was hanged with a scarf belonging to Eleyea. At once suspicion was aroused and he was arrested. He denied all knowledge of the murder, and declared that he had gone to bed at twelve o'clock and had slept soundly all night, had arisen at seven o'clock and had seen nothing of McWade until he saw him dead. Other witnesses, however, at the trial of the case, swore that they had seen Eleyea at two o'clock in the morning. Blood was found on the cot where McWade had slept, and it was also found in the passageway leading from the room to the closet. Over the murder the citizens were deeply aroused, for it was supposed that Jake knew considerable about several murders, and when his trial came on the courtroom was crowded. On that trial the jury disagreed, standing eleven for conviction and one for acquittal, the one man standing out because the evidence was all circumstantial.

The murderer was remanded to jail and in April, 1859, his second trial took place, Samuel A. Booker defending the accused. The prosecuting attorney, Judge Campbell, brought forward several witnesses who swore to hearing a noise and disturbance in the back yard of Eleyea's place place early in the morning, and the principal witness, a Turkish tailor who lived and worked next door, swore that in the early morning he heard stifled cries and groans. Soon after this he heard Eleyea's voice asking of his accomplices, "What shall we do with the body? It's too heavy to throw in the slough." Booker tried by every means in his power to have the Court exclude the Turk's evidence, and Judge Creanor being a man of Southern birth, Booker even went so far as to try to prejudice the Court's mind against the witness because of his dark skin. Said the attorney "This Turk, a native of Joppa, near Jerusalem, is darker than the average of Chinamen and darker than an Indian," and he requested the Court to appoint a committee of physicians to examine him and pronounce his color and race. Absurd as such a request would appear today, it was then neither absurd nor unlawful, for there was a law upon the statute books (repealed by the legislature in 1862) that no colored man could testify against a white man, referring to negroes. But Judge Creanor, true to his duty as a judge, refused to exclude the testimony of this most important witness. The trial occupied two days time and the case was given to the jury April 12, early in the evening. At that time they frequently held court sessions at night, so many were the murder cases. The jury was out all night and the following morning at ten o'clock they returned into the court with the following amusing verdict: "We the jury find the defendant guilty of murder in the first degree (a death penalty)

with a recommendation to the court for mercy.'

The Law's Delay

At the close of the week Eleyea was brought into court for sentence, and the Judge commanding the prisoner to stand up, asked him if he had any reason to give why sentence should not be pronounced. Then from the lips of this cold-blooded wretch came the most blasphemous words ever heard in court: "I would not tempt the spirit of my God, nor seek His displeasure, but this is true, so help me Lord in Heaven! Judge, I know no more of this murder than you do." It was an awful moment and not a man in that packed room believed a word Eleyea said. Then the judge, in a solemn but firm tone of voice pronounced the criminal's doom: "Upon Friday, the third day of June next, between the hours of ten o'clock and four in the afternoon, you will be hanged by the neck until you are dead." Not then did justice reach the scoundrel, for Booker, taking the case to the Supreme Court, succeeded in obtaining writ of supersedeas, giving a stay of judgment of six weeks, the writ being signed by Chief Justice David S. Terry. Regarding the outcome of this writ I know not, but Eleyea enjoyed a Christmas dinner, for, although he had been sentenced to be hanged, Governor John M. Downey, on December 23, granted the condemned man a respite until January 13, 1866. Booker, unceasingly laboring to save his client from the gallows, had circulated a petition, which a large number of citizens had signed, praying the governor to commute Eleyea's sentence to imprisonment for life. As the fatal day, the thirteenth drew near, Eleyea gave up all hope and the officials made ready for the execution, but Booker was not idle, and on the evening of the twelfth of January, the sheriff, by telegraph, received word from the Governor that another respite until March 9, would be sent on the morrow. Eleyea had been over two years in jail. Governor Downey refused any more respites and on March 9 justice was satisfied. On that morning as Sheriff O'Neal entered Jake's cell, he handed the sheriff the ends of several matches. Eleyea having been given the matches to light his pipe. Jake said he had saved the poisonous end to kill himself. But when the sheriff inquired, "Why didn't you eat them, Jake?" he replied "Having made my peace with God, I could not reconcile the act with my own conscience."

About four o'clock the criminal was taken from his cell to suffer for his crime, and standing upon the gallows, just before the black cap was drawn over his head, he made another speech. "The Turk," he declared, "has been the cause of all this trouble and expense to the state, and he has sworn my life away!—and my friends, I hope for you all when you come

to die that you may enjoy happiness and consolation in the Lord Jesus Christ, as I do today." After making this speech the cap was placed over his head, the trap was sprung and his neck was broken. In twenty minutes the physicians declared him dead. The body was then cut down, placed in a coffin and carried to the Methodist church, where the pastor preached a funeral discourse. Then Eleyea's San Francisco friends, who had been putting up the coin for his defense, had him buried in the city burial ground, just east of where the Southern Pacific depot now stands. From the time of his first sentence to death by Judge Creanor, Eleyea had been frequently visited by two pastors, the Rev. John B. Hill of the Methodist denomination and the Rev. Clark King, and he became very religious.

This brutal murder has always been something of a mystery, and today it is not known positively how McWade was murdered. From indications and appearances it is supposed that Eleyea, with two accomplices, strangled McWade in his bedroom with the scarf. Blood flowed from his mouth, and this was found on the cot and in the hall, where they dragged the insensible man to the closet. There he partly came to, hence the cries and groans heard by the Turk, and one witness swore that he heard the pleading cry, "My God, don't kill me." While Eleyea was lying in jail awaiting his sentence, there were confined with him fourteen persons arrested for horse-stealing, Greene C. Palmer, accused of murdering John Benson; William Crawford, charged with killing John B. Lewis; and William Crossen, accused of the murder of John V. Ford.

The Murder at the "Snug"

It seems that Crawford, who had been celebrating the Fourth of July, 1859, pretty freely, rode to a saloon on the Mokelumne River known as the "Snug" and there found four men playing cards. Crawford wanted to take a hand, but they refused to admit him, and this made him angry. Soon after the refusal a boy fired a firecracker, and Crawford, exclaiming, "If there is any shooting going on I will take a hand," drew his pistol and fired at the bar-keeper. The bullet went wild of its mark, and then Crawford turning round, fired at Lewis, one of the card players. The ball entered his breast and Lewis died in ten minutes. The murderer then, holding out his revolver, said: "Does anyone want to shoot me?" The attendants were paralyzed and Crawford mounted his horse and escaped in the night. Two days later he was caught near Chamberlain's Ferry on the San Joaquin River, and when arrested by Constable L. F. Neeley of Woodbridge and William Brown of Dry Creek, said he was shooting wild and accidentally hit Lewis. "I suppose I will be hung or shot,"

he said, adding, "anything rather than San Quentin." The body of Lewis was borne into town and a funeral discourse was preached by Rev. McDonald of the Episcopal Church. It was a singular coincident that, as the funeral procession was entering the town on the north, Crawford's capturers were coming from the south, bringing him bound in a wagon. Crawford lay in jail until October, at which time the Grand Jury met. They found an indictment against him for murder, and in December his trial took place. The defendant was represented by Oscar M. Brown, who two years later joined Conner's regiment as a lieutenant colonel, and Lewis Dent, a brother-in-law of U. S. Grant. The district attorney, Judge Jenkins, was assisted by S. A. Booker and John B. Hall and Colonel Huggins. It was a short trial, lasting one day, and the jury, retiring at nine o'clock in the evening, brought in its verdict of guilty of murder in the first degree. This meant death by hanging, as the jury then could not, as now, fix a sentence of life imprisonment for murder.

Crosson's Murder of Ford

On the previous day Crosson had received a similar sentence for the murder of John J. Ford on the San Joaquin River near Harbin's Ferry. On September 5, 1859, Crosson called to see Ford, and they had a fight over a debt for potatoes, Crosson having owed the debt about two years. Crosson got the worst of the difficulty, and declared: "I will get even with you." Ford replied: "I have two guns at the house, if you want to fight. Crosson declined to engage in a duel and went away. Soon afterward, meeting a friend, the latter exclaimed, "There is blood on your face." "Yes," replied Crosson, "I had a difficulty with Ford, and no man can live who has drawn blood on me." The following day Crosson filled up with liquor and while in a fighting mood he called on Ford, gun in hand, and shot him, killing him at the first fire. Crosson then fled, but he was captured the next day and placed in that little brick jail that has confined so many murderers. He also was tried in the December term of the District Court, making three murder trials and two convictions in three days. Crosson employed Booker to defend him, and the district attorney was assisted by Lewis Dent, who in fact conducted the case, for Jenkins' knowledge of law was limited. Dent, who the following day lost his case as the defender of a murderer, now won the case as the prosecutor, for the jury after being out less than two hours, brought in a verdict of guilty. To save Crosson's life Booker tried the same tactics as in the Eleyea case, and circulated a petition that Crosson be imprisoned for life. This called forth a protest from the local editor, who

asked: "What is the tendency of this faint-hearted leaning to the side of mercy?" Crawford and Crosson, three days after Christmas, 1859, were brought into court and by Judge Creanor sentenced to be hanged February 17, 1860.

From the time of their sentence until they passed hence, the two men were visited by Revs. Hill, King and McDonald. From early morn on that fatal day these ministers prayed with the doomed man. Near the hour of three the sheriff and his deputies entered the cell to prepare the men for the fatal drop. They were led into the jail yard, and the bright sun was slowly sinking in the west as the prisoners slowly but firmly ascended the gallows. About forty persons were present by invitation to watch the awful scene while every vantage point outside the jail was covered with people. Housetops, trees and she were black with morbid beings anxious to see two men pass into eternity. Even the passers upon the streets waited, for the terrible sight could be seen from the street.

At the schoolhouse on Center Street the boys in the grammar grade, under intense nervous strain, studied hard to get their lessons so that they might not be detained after three o'clock. Every boy that afternoon had his lesson, and when school closed with a whoop and a yell we ran all the way to the jail "to see the hanging." As we arrived we saw two men upon a gallows, their lips and faces bloodless, and ropes around their necks. The sheriff was then reading to them the death warrant and, after he had finished, Crawford, turning to his companion said, "Bill, how do you feel?" "I feel well; I am ready," Crosson replied. When the deputy tied Crosson's hands tightly behind him, he complained, and Crawford remarked, "It won't hurt you very long, Bill; you can stand it." "Oh, yes, that's all right," he answered. The men thanked the sheriff and the ministers for all favors and kindly acts, the black caps were drawn over their heads and the trap fell. Crosson struggled for twenty minutes. Crawford died almost instantly. When both were pronounced dead, the bodies were cut down, placed in coffins and taken to the Baptist Church. A large number gathered there, and Hill and King both preached funeral sermons, King declared that this was the second time that he had attended two murderers, both orphans, and he took for his text the sublime words of Christ, as He was nailed to the cross, "Father, forgive them; they know not what they do."

Black Bart

One of the most frequent criminal acts of that day was the holdup and robbery of the stage and passengers that traveled between Stockton and the mountain camps. One of

the most peculiar and gentlemanly highwaymen of the '70s was the man who signed himself Black Bart P-0-8. Late in the '70s a series of mysterious stage robberies took place, one man alone, his face concealed beneath a white or black mask, committing the robberies. The officers of the state were puzzled. They could find no clue, suspected no one, and they designated the lone highwayman by the name of "Black Bart," because he sometimes left notes behind signed Black Bart P-0-8 and occasionally some doggerel verse. In San Francisco there lived a single man known to his friends as Charles Bolton. He dressed in the fashion of the time, wore a diamond pin, a handsome gold watch and chain, and a large diamond ring. He seemed to be a gentleman of leisure and wealth, but occasionally he disappeared from sight for a few days. His friends presumed that he was looking after his mine, for his conversation led them to believe that he was a mining man.

One the morning of November 3, 1883, R. E. McConnell, then driver of the Sonora and Milton stage, was ascending the grade about three miles from Copperopolis, he was halted by a highwayman carrying a double-barreled shotgun, his face concealed by a flour sack with eyeholes cut out. McConnell was alone. His only passenger, a boy carrying a rifle to shoot deer, got on at the ferry and dismounted at the foot of the grade. As the road agent halted McConnell and stood in front of the leaders, he inquired: "Where is that boy that was on the stage with you?" From his high point of observation with strong field glasses, the highwayman had noted the passenger long before the stage's arrival at that point. The driver stated that the boy got off below. McConnell was then ordered to dismount, unhitch the team, and drive behind the stage. McConnell was a brave, fearless man but, being unarmed, he wisely obeyed. The highwayman climbed upon the stage and, smashing open the box with a sledge hammer, found a gold mine—over \$4,000 in amalgams, three ounces of gold dust, and \$550 in gold and silver coin. Gathering up the loot, with a cheerful, "good-bye," he was soon lost in the brush. A few minutes later the boy reached McConnell. Grabbing the rifle, the driver hastened after the highwayman. About a hundred yards distant he appeared in sight and McConnell fired. The robber hesitated a moment and again disappeared in the heavy underbrush, slightly wounded on the hand. Believing that he was closely pursued, by armed men, hastily left the spot, and in his flight, he lost his black Derby hat, dropped a handkerchief, laundry marked "F-0-7" and threw away a package of papers covered with blood.

McConnell, quickly harnessing his team, drove to Copperopolis and reported the robbery. Officers were soon upon the ground. They included Sheriff's McQuade of Tuolumne and Ben Thorne of Calaveras. At Black Bart's campfire the officers also found a pair of cuffs, nicely laundered, a field glass case, the flour bag bearing the advertisement of a grocery conducted by Mrs. Crawford of Angels. During the search for evidence Thorn surmised that the robbery was the work of Black Bart, and the neatly laundered cuffs led him to believe that the highwayman lived in San Francisco. A few days later the two officers, Thorn with the handkerchief and Thackery with the cuffs, were looking for the owner among the laundries. Thorn soon found a clue, a Chinaman recognizing the laundry mark as his. He said the owner lived at 27 Second Street. Morse then quickly learned the occupant's name, Charles Bolton. Morse finding a friend who knew Bolton, requested him to introduce Morse as a mining speculator. They easily found Bolton on Bush Street, and after the introduction and a few casual remarks, Morse under an assumed name said: "I wish you would go with me, Mr. Bolton, to Wells Fargo's express office to examine some gold specimens." He readily accompanied the officer and Morse, leading him into a back room, Bolton was there confronted by Hume, Thackery and Captain Stone of the San Francisco police. He was interviewed for three hours, but shrewdly he parried all incriminating answers. The following day he was taken to Stockton and lodged in jail. He was then taken to San Andreas, where he confessed the Copperopolis stage robbery, having learned from the officers that they had very strong evidence of his guilt. He also conducted the officers to where the treasure was hid in the hollow of a tree only three hundred yards from the holdup. He was sentenced by Judge Gottschalk to six years in the penitentiary, and after four years he was released. A few days later he disappeared, and from that day nothing has been seen or heard of the famous "Black Bart P-0-8." The officers traced to him twenty-three holdups, beginning in 1873, in which he never injured a person nor molested a passenger. McConnell was rewarded by Wells Fargo with a costly watch and chain. It was a hoodoo, for every highwayman on the road made him a target, saying, "I'm after that watch and chain." McConnell later became a shotgun messenger, and in a hot fight one day he was so badly wounded he was compelled to permanently retire.