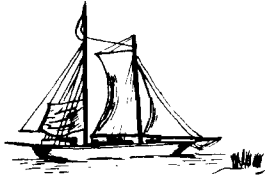
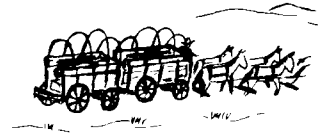


# SAN JOAQUIN HISTORIAN



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## MINUTE BOOK A - COURT OF SESSIONS (Civil) SAN JOAQUIN COUNTY - CALIFORNIA - 1850-52

Annotations by Robert Bonta

### EDITOR'S NOTE:

We now begin our sixteenth year of publication of the SAN JOAQUIN HISTORIAN with a special project which we hope our readers will find not only interesting but also of lasting value, especially those among you who have occasion, from time to time, to use public documents in your search for historical or genealogical information. With this issue we commence publication of the unabridged contents of MINUTE BOOK A, the first of two volumes which record the civil business of San Joaquin County's original governing body, the COURT OF SESSIONS. Created for San Joaquin County by an act of the California Legislature and signed into law by Governor Peter H. Burnett on April 11, 1850, the Court of Sessions was empowered to carry out both legislative and judicial functions within the county until its legislative powers were assumed by a separately-elected Board of Supervisors in May of 1855.

MINUTE BOOK A, a hand-written, bound volume of 260 pages, records the business activities of the Court of Sessions from its first meeting on June 3, 1850, through December 6, 1952, and is the oldest county document in the archives of the Board of Supervisors. The remainder of the civil records of the Court of Sessions are recorded in MINUTE BOOK B, also to be found in the Supervisors' archives, comprising approximately 470 manuscript pages.

While most of the entries are very routine in nature, there are many which shed significant light on the organization of the county during those first turbulent "gold-rush" years in California's fascinating history. Annotations intended to clarify passages or to enlarge upon them have been interspersed among the entries. For the sake of clarity all MINUTE BOOK entries are in regular type

while the Editor's annotations are in italic type. We hope that all of you - general readers as well as researchers - will read the annotations in conjunction with the dated and numbered entries themselves. Publication of these early minutes (BOOK A) will run consecutively in the HISTORIAN until the entire volume has been presented, and the annual index will appear as usual in the October-December issues.

All entries have been copied verbatim, except that errors in spelling have generally been corrected, and obvious omissions of punctuation marks have been inserted. Great care has been taken in the transcription and publication of the entire volume, however, to insure that the meaning or intent of such entries has not been lost or altered in the process. Numbers placed along the left-hand edge of the entries are identical with those used by the recording clerk in the original manuscript volume for numerical identification of entries. Due to the inevitable differences in the handwriting styles encountered in the manuscript - obviously the work of some half-dozen different hands - there are a number of entries which have not been deciphered with certainty. Particularly difficult to read in some cases are the names of people. Wherever this situation is encountered - actually in less than a dozen cases - the reader is made aware of it by the insertion of a question mark or comment within brackets FOLLOWING the word(s) in question. The editor assumes all responsibility for the accuracy of both the MINUTES and the annotations.

The Society wishes to express its thanks to the Board of Supervisors for making the volume available to us to work from, and to its present vice-chairman, Mr. George Barber, for his particular interest in the project. We also wish to acknowledge the invaluable assistance given to us by Mrs. Marilyn Kurle, Deputy Clerk in the office of

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the Clerk of the Board. Without her interest, cooperation, and assistance the task would have been much more difficult.

Robert Bonta, editor

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INTRODUCTION

On June 3, 1849, the highest-ranking military officer in California, General Bennett Riley, acting as the civil governor,<sup>1</sup> issued a proclamation calling for the election throughout California of delegates to attend a constitutional convention to be held in Monterey in the ensuing fall. His action was in response to a growing demand on the part of the Americans in California for the establishment of civil government patterned after that which was found in the eastern states. Since August of 1846 "Alta California" had been operating basically under Mexican law and the Mexican political system (under the general supervision of a military civilian governor) for lack of direction from the United States Congress even though it had been, since that time, under the control of the U.S. military forces. The Treaty of Guadalupe-Hidalgo (which officially ended the Mexican-American War and by which California was formally ceded to the United States) had been signed in February, 1848, but even following that Congress had failed to legislate territorial government for the area.

A new constitution was duly written by the convention delegates, and in a special state-wide election held on November 13, 1849, the document was accepted and members of a two-house legislature were elected along with a governor and a

lieutenant governor. The Senators and Assemblymen were sworn into office on December 17th, and three days later Governor Peter Burnett and Lieutenant Governor John McDougall also took their oaths.<sup>2</sup>

The new California Legislature immediately set about the urgent business of organizing itself and of creating the legislation necessary for the organization of state, county, and local governments in conformity with the provisions of the state constitution. Counties were created on February 18, 1850, San Joaquin County being included among these original twenty-seven.<sup>3</sup> On March 2 Governor Burnett signed a bill into law calling for county elections to be held throughout the state on April 1 for the purpose of electing county officials. The following notice of election appeared in the **Stockton Times** on March 23, 1850:

NOTICE. In conformity with sections 1 and 3 of an act of the legislature of the State of California, entitled "An Act to provide for holding the first county election, notice is hereby given, that on the first Monday of April, A.D. 1850, an election will be held in and for the county of San Joaquin for the following officers, to wit: One clerk of the Supreme Court. One District Attorney for the District of San Joaquin. One County Judge for the County of San Joaquin. One County Clerk. One County Attorney. One County Surveyor. One Sheriff. One Treasurer.<sup>4</sup> And the following places are designated as precincts for holding said elections: -- Stockton, French Camp, Bonsall [Bonsell] and Doak's Ferry, St. Louis City [this was supposed to read "San Joaquin City"], Heath and Emory's Ferry [just east of the site of Oakdale, since 1860 a part of Stanislaus County], Wheeler's Ferry, Knight's Ferry [at site of present community of Knight's Ferry, also a part of Stanislaus County since 1860], Red's Tent, Rowe's Ranch, Atherton and Davis' Ranch, Isabel's Ranch, Laird's Ranch and Hick's Ranch.<sup>5</sup>

[Signed] G.D. Dickenson<sup>6</sup>  
Prefect of San Joaquin

The following were duly elected and on April 3, 1850, sworn into office as our first county officials: Benjamin Williams, County Judge; Samuel A. Booker, District Attorney [Fifth Judicial District officer];<sup>7</sup> Dr. Richard Porter Ashe, Sheriff [also served the Judicial District]; Abraham C. Bradford, County Clerk [also served the Judicial District]; Alfred A. Mix, County Recorder [and ex-officio auditor]; B.F. Whittier, County Assessor; Henry W. Alden, County Treasurer; Walter Herron, County Surveyor; Edwin L.B. Brooks, County Attorney; Dr. Joseph B. Clements, County Coroner.<sup>8</sup>

Shortly after the election of county officials the Legislature passed two more basic acts dealing with local government and the transfer of both judicial and legislative powers from the alcaldes and prefects operating under the American military

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*California*

Title page of **Book A**, San Joaquin County Court of Sessions.

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forces to the new civil officials.<sup>9</sup> One required the newly-elected county judges to divide their counties into townships in preparation for the election of justices of the peace and constables, and the other created a judicial body in each county to be called the COURT OF SESSIONS. In San Joaquin County this body was also to serve as the governing body for the county and was to be composed of the County Judge (Benjamin Williams) and two of the newly-elected justices of the peace.<sup>10</sup> In May, 1855, the latter (civil) function was transferred to the newly-authorized San Joaquin County Board of Supervisors. The Court of Sessions continued to serve as a county-wide judiciary, however, until January of 1880 when that function was assumed by the newly-created San Joaquin County Superior Court by an act of the Legislature. The Court of Sessions was then automatically dissolved.

In conformance with the former act, on April 13 (1850) Judge Williams divided the county into four townships and designated the polling places for the election of the justices of the peace and constables as follows:

Township No. 1: Comprehending the territory known as Weber's Grant; poll to be opened at the Central Exchange, Stockton.<sup>11</sup> Township No. 2: Comprehending the portion of the county west of the San Joaquin River, and Bonsall [sic] and Doak's Ferry on the east; election at San Joaquin City.

Township No. 3: Comprehending that portion of the county lying upon the Stanislaus, and to the north of said river, embracing the settlement on the road leading from Stockton to Knight's Crossing [Ferry], not included in Township No. 1; election at Emory's Ferry.

Township No. 4: Comprehending that portion of the county not included in the foregoing; election at O'Neal's Rancho [sic].

The election was held on May 13, 1850, each township electing two justices of the peace and one constable.<sup>12</sup> Gallant Dickenson, serving as Prefect of the San Joaquin District under the authority of General Riley since August of 1849, had been relieved of his duties in San Joaquin County on April 3 (1850) upon the assumption of office by County Judge Benjamin Williams.<sup>13</sup> And in turn Williams, who had been serving as the Alcalde of the town of Stockton, was relieved of his duties (and the office of Alcalde abolished) upon the election of Hairston Amyx and J.E. McLellan as the justices of the peace in the Stockton township (No. 1).<sup>14</sup>

The newly-elected justices from throughout the county met shortly after their election, received their certificates of election from Judge Williams, and then proceeded to select two from among themselves to serve on the first Court of Sessions, all of this in conformity with the act of the Legislature which had called for the creation of a Court of Sessions in each county. Elected were

Hairston Amyx and Oliver Cromwell Emory.

On June 3, 1850, these two men, with Judge Williams, opened the first term of the San Joaquin County Court of Sessions, civil division, at the county seat, Stockton. The minutes that follow are the official record of the business transacted by this body in its function as the governing body of San Joaquin County.

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 EDITOR'S NOTES:

1.

General Riley was careful to distinguish between his military role as the highest-ranking officer in California after the treaty of peace between the U.S. and Mexico had been signed and his civil role as governor of the area. Lacking direction from either the Congress (which failed to legislate a procedure for establishing government in California) or the War Department, Riley simply determined that his only reasonable alternative would be to uphold and strengthen the existing form of civil government (the Mexican system in force when the American military forces arrived in Alta California) while at the same time calling for a "state" constitutional convention -- the first step in the establishment of American civil government and ultimate admission to the U.S. as a state. In his proclamation of June 3 (1849) he not only explains succinctly his peculiar dual role, but he also goes on to justify his decision to call a convention:

Congress having failed at its recent session to provide a new government for this country to replace that which existed on the annexation of California to the United States, the undersigned would call attention to the means which he deems best calculated to avoid the embarrassments of our present position.

The undersigned, in accordance with instructions from the Secretary of War, has assumed the administration of civil affairs in California, not as a **military** Governor, but as the executive of the existing civil government. In the absence of a properly appointed civil Governor [General Riley repeated this fact, underscoring his authority to act as the civil governor in the absence of an official one, by noting that the Mexican system included at the top of the chain of authority "a Governor, appointed by the Supreme Government (central government in Mexico City); in default of such appointment the office is temporarily vested in the commanding military officer of the Department.'], the commanding officer of the Department is, by the laws of California, **ex officio** civil Governor of the country, and the instructions from Washington were based on the provisions of these laws. This subject has been misrepresented or at least misconceived, and currency given to the impression that the government of the country is still **military**. Such is not the fact. The military government ended with the war, and what remains is the **civil** government recognized in the existing laws of California. Although the command of the troops in this Department and the administration of civil affairs in California, are, by the existing laws of the country and the instructions of the President of the United States, temporarily lodged in the hands of the same individual, they are separate and distinct. No military officer other than the commanding General of the Department, exercises any civil authority by virtue of his military commission, and the powers of the commanding General as **ex officio** Governor are only such as are defined and recognized in the existing laws. The instructions of the

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Secretary of War make it the duty of all military officers to recognise the existing civil government, and to aid its officers with the military force under their control. Beyond this, any interference is not only uncalled for but strictly forbidden.

The laws of California, not inconsistent with the laws, Constitution and treaties of the United States, are still in force, and must continue in force till changed by competent authority. Whatever may be thought of the right of the people to temporarily replace the officers of the existing government by others appointed by a provisional Territorial Legislature, there can be no question that the existing laws of the country must continue in force till replaced by others made and enacted by competent power. That power, by the treaty of peace, as well as from the nature of the case, is vested in Congress. The situation of California in this respect is very different from that of Oregon. The latter was without laws, while the former has a system of laws, which, though somewhat defective, and requiring many changes and amendments, must continue in force till repealed by competent legislative power. The situation of California is almost identical with that of Louisiana, and the decisions of the Supreme Court in recognizing the validity of the laws which existed in that country previous to its annexation to the United States, were not inconsistent with the Constitution and laws of the United States, or repealed by legitimate legislative enactments, furnish us a clear and safe guide in our present situation. It is important that citizens should understand this fact, so as not to endanger their property and involve themselves in useless and expensive litigation, by giving countenance to persons claiming authority which is not given them by law, and by putting faith in laws which can never be recognized by legitimate courts.

As Congress has failed to organize a new Territorial Government, it becomes our imperative duty to take some active measures to provide for the existing wants of the country. This, it is thought, may be best accomplished by putting in full vigor the administration of the laws as they now exist, and completing the organization of the civil government by the election and appointment of all officers recognized by law. While at the same time a convention, in which all parts of the Territory are represented, shall meet and frame a State constitution or a Territorial organization, to be submitted to the people for their ratification, and then proposed to Congress for its approval. Considerable time will necessarily elapse before any new government can be legitimately organized and put in operation; in the interim, the existing government, if its organization be completed, will be found sufficient for all our temporary wants.

Riley signed the document "Brevet Brig. Gen. U.S.A. and Governor of California."

2. For a more detailed account of government in this area during the Mexican period, and the subsequent transition to county government under the California Constitution, see "Early San Joaquin Government," by Robert Bonta in the **San Joaquin Historian**, Vol. X, No. 4 (October -- December, 1974), beginning on p. 54.

3. See map of the original twenty-seven counties in the **San Joaquin Historian** Vol. X, No. 4 (October - December, 1974), p. 58.

4. Because counties had not yet been created this election

was handled by the prefects of the ten districts previously organized for the purpose of voting on the proposed constitution and for the selection of state senators and assemblymen. Section I of Article VI of the new constitution provided for a state supreme court, district courts, county courts, and justices of the peace. Section 5 stated that the first legislature was to divide the state into "a convenient number of districts . . . for each of which a district judge shall be appointed by the joint vote of the Legislature . . ." Section 7 provided for the election, in each county, of a clerk of the supreme court (one for the whole state), a county clerk, a district attorney, a sheriff, a coroner, "and other necessary officers . . ." Section 8 mandated the election of a "county judge" in each county in addition to the officers specified in Section 7.

The Sheriff, the District Attorney, and the County Clerk were to serve both the county and the judicial district, while the "County Attorney" was strictly a county officer in charge of prosecuting all cases coming before the County Court and the Court of Sessions.

On March 18, 1850, the governor signed into law an act creating nine judicial districts in California. The Fifth Judicial District, comprising the counties of San Joaquin, Calaveras, Tuolumne, and the huge Mariposa County which extended from the approximate Stanislaus-Merced counties' boundary southward to the Tehachapi Mountains and eastward to the present Nevada border, was opened on May 13, 1850, at Stockton. Charles M. Creaner served as its first judge, and Samuel A. Booker as its first District Attorney.

5.

All of that portion of Stanislaus County now lying north of the Stanislaus River was at that time (1850) a part of San Joaquin County. In 1854 Stanislaus was formed out of the original Tuolumne County, and in 1860 all of the San Joaquin area north of the river and east of the line separating ranges nine and ten, east, was given to Stanislaus County. For details of this area shift see Owen C. Coy's **California County Boundaries**, pages 228, 230-232, and 268-271. "Wheeler's Ferry" would appear to be Keeler's Ferry, located on the Stanislaus between Oakdale and Knight's Ferry and nearer the latter settlement. There is no record of a "Wheeler's Ferry" in 1850.

Carlo M. DeFerrari, in his annotated **Annals of Tuolumne County** by Thomas Stoddart (1963), notes that "Keeler's Ferry was located near Highway 120, east of Lover's Leap, at the point now known as Wildcat Canyon" (p. 155). Bonsell and Doak's Ferry was near the site of the present "Mossdale Y" Highway 50 -- Interstate 5 crossing of the San Joaquin River. Red's Tent was a way-station located approximately a mile south of the present town of Linden; the Atherton and Davis' Ranch was along the Calaveras River, near today's Bellota settlement; Isbel's was near the present highway 88 crossing over the Calaveras River; Laird's Ranch included the site of Staples' Ferry, located about one and a half miles west of Lockeford. Isbel is variously spelled Isbell and Isabel. The Isbel ranch took its name from its original owner, Dr. J. C. Isbel, a pioneer of 1846. The Rowe and Hick ranches remain unidentified.

6.

Gallant Duncan Dickenson had been elected Prefect of the San Joaquin District in August, 1849, and continued in that position until automatically relieved of his duties with the opening of the Fifth Judicial District Court on May 13, 1850. Dickenson had had an interesting life before his election as prefect. Born into a wealthy planter family in Virginia in 1806, he had lived in both Tennessee and Missouri before arriving in California with his wife and six children in November of 1846. From Sutter's Fort he went to

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Santa Clara, participated in the Mexican-American War as a member of Aram's garrison, and then in June of the following year the family moved south to Monterey. While there he had the first brick home ever constructed in California built for his family, at 351 Decatur Street.

In June of 1848 Dickenson went to Tuolumne County to try his luck in mining (Dickenson's Gulch is a reminder of his efforts), and by April of the following year he had become a resident of Stockton.

He was supposedly chosen a delegate to the state constitutional convention the same year (1849) but none of the standard source materials on that convention list him. After his arrival in Stockton Dickenson opened a small hotel, described by V. Covert Martin (in his **Stockton Album Through the Years**) as being a simple wooden structure with "bunks and cots" on either side of a narrow hall. It burned down in May, 1851.

Not long after the fire he and the family moved on once more, this time down to the fast-developing Tuolumne River where he purchased what was then known as the Horr Ranch and Horr's Ferry. The ferry was on the route of the old Fort Miller Road some eight miles east of the modern town of Waterford in Stanislaus County (then a part of the original Tuolumne County) and just down-stream from what was later "Roberts' Bridge" on the river. A long-simmering feud over conflicting claims to this property led to a lengthy court battle which ended with a court settlement on March 26, 1856. The trial had been held at La Grange, then the seat of government for the county, and that evening, as the trial participants left the courtroom, a scuffle broke out between the Dickenson boys and their supporters and the sons and supporters of the other party. When the participants were finally separated the score was two dead and one other seriously wounded.

In 1862 John W. Roberts bought Dickenson's Ferry and related buildings, giving his name to the site. In the meantime, while operating the ferry the Dickensons (including a brother of the subject of this sketch) continued to enlarge their holdings and by the time of Gallant Dickenson's death in 1870 they had become involved in extensive farming and sheep-raising ventures. A son, W. L. Dickenson, took charge of the operations following his father's death.

George Tinkham, the early Stockton historian, described the pioneer Dickenson as having been a "faithful and trustworthy" public servant while serving as the District Prefect in California's transition government.

7.

The following lengthy account of the life, accomplishments, and death of Judge Samuel A. Booker appeared in the **Stockton Daily Independent** following his death on December 15, 1891. Annotations added for the purpose of clarification are in brackets.

Death came to the relief of Judge Samuel A. Booker just as the sun went down last evening [He suffered from cancer of the face the last two years of his life, becoming a recluse in the home on American Street near Fremont Street which he shared with his unmarried sister. He had no family of his own.] and the life history of a brilliant but unfortunate man was closed. From the earliest days of the settlement of Stockton down to a few years ago, when Judge Booker became too ill to appear on the streets, he was one of the best known residents of the city, and during a judicial career of ten years, when he was Judge of the Fifth Judicial District of this state, embracing the counties of San Joaquin, Stanislaus, and Tuolumne [the original District included Calaveras and Mariposa counties, but readjustments of the boundary were made several times as new districts were created due to population growth and the creation of new counties

in the San Joaquin Valley], he was well known throughout the section covered by his district. He was a talented and honorable lawyer, an honest and courageous Judge and always square in his dealings with men.

Judge Booker was a prominent figure in the early history of Stockton, and until he was called to the bench he was famous as a practitioner. He arrived in Stockton from his native state, Virginia, in 1849, and lived here continuously up to the time of his death. He was elected District Attorney for the Fifth Judicial District in 1850, and was the first District Attorney for San Joaquin County when he was 26 [28?] years of age. He held no other official position until 1870, when he succeeded Joseph M. Cavis as Judge of the Fifth Judicial District. Terms of court [sessions] were then held at Stockton, Sonora and Knight's Ferry, which was the county seat of Stanislaus County until Modesto was built up. The new Judge soon became popular and at the end of his first term of six years no Republican nomination was made against him. His term of office was shortened by the adoption of the new Constitution in 1879 [which abolished the District Court system in California in favor of the individual superior court in each county]. He was afterwards elected District Attorney of this county [to prosecute cases brought to the superior court] for one term of two years, which ended his public life.

Sam Booker, as the young lawyer was best known in [the] early days, was a brilliant man among the bright attorneys of the time. He was a famous criminal lawyer and was successful in a number of celebrated cases in which he was associated with Colonel E. D. Baker, the noted orator of early days, who was killed during the civil war at the battle of Ball's Bluffs. It has been said of Sam Booker that in the defense of men on trial for their lives he often brought jurymen to his side of the case by his eloquent pleas and at times he could move men to an exhibition of sympathy by his earnest style of address.

Sam Booker and Colonel Baker were first brought together in the prosecution of Bill Turner for the killing of Jim Taylor, a Texan, in 1852. [See Tinkham's **History of Stockton**, p. 276, for his account of the shooting and subsequent trial. Colonel Baker was a local attorney at that time.] Taylor was a desperate man, and in a night's revelry, when he found amusement with a companion in shooting at camphene lamps [camphene was a colorless, crystalline compound -- C<sub>10</sub>H<sub>16</sub> -- found in turpentine and other substances extracted from pines] about town, he took occasion to threaten the life of Turner. The latter found an opportunity to shoot Taylor the next day while the Texan was seated in a bootblack's chair on the Levee near Center Street. Taylor's friends employed Colonel Baker to assist Booker, and the shooter was sent to the penitentiary for life, but finally secured a pardon. The next case in which the two famous criminal lawyers were associated was more to their liking, for they were employed for the defense. Bill Rainey, a fandango man, killed a wagon-maker called "Sandy" in a dance house at the corner of Main and Commerce streets, shooting him in the back because a few hours before "Sandy" had slapped the face of Rainey's Mexican woman for an insult. Booker and Baker made a jury believe it was a justifiable killing, and won a great reputation on the verdict. Rainey was afterwards shot and killed at Columbia, the avenger firing at him through a window of his fandango house.

In 1854 Colonel Baker prosecuted John Tabor for killing Mansfield, the father of the notorious Josie Mansfield, who was the cause of the death of Jim Fisk, the New York millionaire. Booker and David S. Terry defended Tabor. The trial was one of the sensational criminal events of the time, as both men were popular and had staunch friends to take sides in the case. After a trial lasting several

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days Tabor was found guilty but was recommended to the mercy of the Court. He was sentenced to be hanged but the Governor yielded to appeals and granted him a pardon. [For Tinkham's account of the murder of John Mansfield, see his **San Joaquin County History**, pp. 198-9.] Gilbert B. Claiborne, president of the San Joaquin Valley Bank, was then County Clerk and clerk of the District Court. [See entry under date of December 4, 1851, for more information on Claiborne.] Booker was in all the important trials of the early history of the county and made money fast, but spent it as freely.

In those days Dave [David S.] Terry, Sam Booker, John McMullin and Wash Trahern [see **San Joaquin Historian** articles on San Joaquin City by Earle E. Williams, Volume IX, Number 4 and Vol. X, No. 1 for an account of the part they played in the development of the San Joaquin City area in the south part of the county] were close friends, but the lawyers broke their friendly relations in later years when Booker became Judge. Judge Terry never questioned the uprightness of Judge Booker, but he found fault with the needless delays of the Court and boldly expressed his views. The old friends drifted apart, and when Judge Terry became a member of the Constitutional Convention [of 1879] which legislated Booker out of office [through the abolishment of the state's district court system] the latter became bitter in his hatred of Terry and for years they did not speak.

Judge Booker has never been well since he left the bench ten years ago, but he kept up courage until a few years ago. He had remained at home for about two years, and many of his old friends had lost track of him. The lawyers remembered him kindly and some of them made his last days as comfortable as possible. He was a native of Virginia, unmarried, and was aged 69 years. He leaves an aged sister, a resident of this city.

Booker had been a member of the **Stockton Blues** militia from the time of its formation in December of 1856, serving as its elected captain until it was disbanded on the eve of the outbreak of the Civil War. He was buried in Rural Cemetery.

8.

The careful reader will note the discrepancy between the offices listed in the **Stockton Times** election notice and those actually filled. This was undoubtedly simply an omission on the part of the newspaper. Election results from each of the precincts given in the **Times** on April 6 (1850) include all of the offices.

9.

Alcaldes for the towns, and prefects for the ten districts created by General Bennett Riley on June 3, 1849, had been elected to office by the voters at the same time that they had voted for delegates to attend the constitutional convention. Under Mexican rule the alcaldes and prefects combined legislative and judicial functions to a great extent, and the American military occupation force continued the practice in the interim period between the end of Mexican jurisdiction and the establishment of county and city governments throughout California.

10.

Authority for the legislative establishment of a three-man judicial/governing body in each of the counties is found in Article VI, Section 8, of the original constitution (California now operates under a second constitution, written in 1879 to replace the 1849 document):

There shall be elected in each of the organized counties of this state, one County Judge, who shall hold his office for four years. He shall hold the County Court, and perform

the duties of Surrogate, or Probate, Judge. The County Judge, with two Justices of the Peace, to be designated according to law, shall hold Courts of Sessions with such criminal jurisdiction as the legislature shall prescribe, and he shall perform such other duties as shall be required by law.

The dual role (legislative and judicial functions) entrusted to the county court of sessions was spelled out, along with the necessary procedural instructions, by the first legislature. Chapter 86, entitled "An act to organize the Court of Sessions," passed April 11, 1850, is quoted in full:

The People of the State of California, represented in Senate and Assembly, do enact as follows:

1. There shall be in each County in this State, a Court of Record, to be styled the "Court of Sessions of \_\_\_\_\_ County," according to the name of the County in which it is held, to be composed of the County Judge, who shall be the presiding Judge thereof, and two Justices of the Peace, of the County, as Associate Justices.

2. The Associate Justices of the Court of Sessions shall be chosen by the Justices of the Peace of each County. So soon as Justices of the Peace are chosen at any election, and qualified, the County Judge shall convene them at the County seat, at some day to be fixed by him, at which time and place they shall attend, and elect two of their number as Associate Justices of the Court of Sessions for their County. A majority of the Justices of the Peace of the County shall form a quorum for the purpose of this election, and a majority of those present shall have power to elect. They shall deliver to the persons chosen, a certificate of election, and such persons shall hold office until their successors in the office of Justice of the Peace are chosen and qualified.

3. Whenever any vacancy shall occur in the office of Associate Justice of the Court of Sessions, it shall be the duty of the County Judge to convene the Justices of the Peace of the County, and an election shall be held by them to fill such vacancy, in like manner as is provided in the second section of this Act.

4. The County Judge, or the two Associate Justices, shall form a quorum of said Court for the transaction of business.

5. The Court of Sessions shall have jurisdiction throughout the County over all cases of assault, assault and battery, breach of the peace, riot, affray, and petit larceny, and over all misdemeanors punishable by fine not exceeding five hundred dollars, or imprisonment not exceeding three months, or both such fine and imprisonment.

6. The Courts of Sessions shall also have power and jurisdiction in their respective Counties: -- 1st. To make such orders respecting the property of the County as they may deem expedient, in conformity with any law of this State, and to take care of, and preserve such property. 2d. To examine, settle, and allow all accounts chargeable against such County, and to direct the raising of such sums, by taxation on property, real and personal, in such County, not to exceed, however, the one half of the tax levied by the State on such property, as may be necessary to defray all expenses and charges against such County. 3d. To examine and audit the accounts of all officers having the care, management, collection, and disbursement of any money belonging to the County, or appropriated by law, or otherwise, for its use and benefit. 4th. To have the control and management of public roads, turnpikes, ferries, canals, roads, and bridges, within the County, where the law does not prohibit such jurisdiction; and to make such orders as may be necessary and

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requisite to carry such control and management into effect. 5th. To divide the County into townships, and to create new townships, and change the divisions of the same, as the convenience of the County may require. 6th. To establish and change election precincts. 7th. To control and manage the property, real and personal, belonging to the County, and to purchase and receive by donation, any property, real and personal, for the use and benefit of the County: **Provided**, however, that the Court of Sessions shall not have power to purchase any real or personal property, except such as may be absolutely necessary for the use of the County. 8th. To sell, and cause to be conveyed, any real estate, goods, or chattels belonging to their County, appropriating the proceeds of such sale to the use of the same. 9th. To cause to be erected and furnished, a Court House, Jail, and such other public buildings as may be necessary, and the same to be kept in repair. 10th. To do and perform all such other acts and things as may be requisite and necessary to the full discharge of the powers and jurisdiction conferred on such Court, and which may be enjoined on it by law.

7. The Court of Sessions shall have power to issue all writs and processes known to the law, and necessary in the exercise of the jurisdiction conferred upon it, and the like power to punish contempts and disobedience of its orders or processes, as is conferred upon the County Court.

8. Such court for the transaction of county business, shall cause to be recorded in a book to be kept for that purpose, 1st. A minute of all proceedings touching such matters as may come before it. 2d. Regular entries of all their resolutions, orders, decisions, judgments, and decrees, touching any business properly cognisable before such court.

9. All accounts, vouchers, papers, petitions, and documents of whatsoever nature, touching the business or property of the County, and all records of such court, sitting for the transaction of county business, shall be appropriately arranged under their several heads, and preserved by the County Clerk, and filed in his office, separate and apart from the records, papers, and proceedings of such court as a court of criminal jurisdiction.

10. There shall be a term of the Court of Sessions held at the county seat of each county, commencing on the second Monday of the months of February, April, June, August, October, and December of each year, except the counties of San Francisco and Sacramento, in which a term of said court shall be held, commencing on the second Monday of each month of the year, for the trial of all causes cognisable before it of a criminal nature; and quarterly terms of said court shall be held at the county seat of each county, on the third Monday of the months of February, May, August, and November of each year, for the determination of all matters connected with county business.

11. If at any regular term of said Court a quorum shall not be present, then any Judge who may be present, may adjourn the Court from day to day five days; and at the expiration of said time, may adjourn the same until the next regular term of said court; and should not any Judge be present, it shall be the duty of the Sheriff to adjourn said court from day to day for five days; and if at that time a quorum of said court shall not attend, then to adjourn the same until the next regular term of said court.

12. Should it be necessary to hold a special term of the Court of Sessions for the transaction of county business, such term may be held at any time upon ten days' previous notice given by the County Judge: said notice to be posted upon the door of the Clerk's office of said

Court; and when a newspaper is printed in any county then the said notice shall be published therein.

13. The County Clerk shall be Clerk of the Court of Sessions, and the Sheriff shall, either in person or by deputy, attend upon each term of the court, and execute all writs and processes issued from said court.

14. Said court shall procure a seal for the authentication of all writs, certificates, and processes, (subpoenas excepted) issued from said court; but until such seal can be obtained the clerk of said court may use his private seal.

The annual salary for the County Judge in San Joaquin was set by the Legislature at \$3,000, with payments to be made on a quarterly basis. The associate justices were to receive \$6.00 per day compensation for each day in actual attendance at the sessions of the Court.

11.

While the name "Central Exchange" may sound to the casual reader like a banking or commercial title to one of Stockton's early and respected business firms, be advised that it was nothing more than a saloon. Its full name was "Central Exchange Saloon," but one must admit that it was, in April, 1850, both an "early" and a "respected" firm in Stockton. The 30' by 60' wooden building had been constructed the previous year, on the southeast corner of Main and Center streets, at a cost of \$14,000 and boasted having the first piano in the new city. It was a large and highly successful enterprise, a mecca for the professional gamblers and the unsophisticated miners from the Mother Lode who were generally fleeced there. Lacking public buildings at this time, it was not unusual (nor illegal) for saloons or other semi-public establishments to be designated as polling places. Furthermore, it was "business as usual" during polling hours.

12.

In his proclamation calling for the election of delegates to a California constitutional convention, General Riley outlined very briefly the organizational pattern of the existing Mexican "shadow" government under which the territory of Alta California was still being governed for lack of any action on the part of the Congress (or the military), and among the officers listed was that of "Justice of the Peace." This peculiar legal entity was maintained by the General in the interim period, and the convention incorporated the office into the new California legal system. Article VI, Section 14, of the 1849 Constitution empowered the Legislature to set up the system for the election of justices of the peace throughout the state: "The legislature shall determine the number of Justices of the Peace to be elected in each county, city, town, and incorporated village of the state, and fix by law their powers, duties, and responsibilities . . ."

On April 10, 1850, the new Legislature at its first session spelled out very carefully, in 99 sections (Chapter 73), the responsibilities of, and the procedures to be used by, the Justices of the Peace in each county.

13.

Dickenson's San Joaquin District, as previously noted, included Tuolumne, Calaveras, and Mariposa counties in addition to San Joaquin County. Like the latter county, each one elected its own County Judge who then assumed the duties formerly entrusted to the District-wide Prefect.

14.

Elimination, or termination, of the office of alcalde throughout the communities of California following the

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election and swearing-in of the Justices of the Peace was in conformance with Chapter 23, Section 36, passed by the Legislature on February 28, 1850:

Whenever a Justice of the Peace shall have entered upon the discharge of the duties of his office in any county, the office of Alcalde within such county shall thenceforth be superceded, and all laws conferring jurisdiction upon Alcaldes or relating to their powers and proceedings, or to the powers and duties of their clerks or other officers, shall, as to such county, be abolished . . .

Stockton, like Sacramento, took on the physical appearance of a real "town" only after California had been ceded to the U.S. (February, 1848), so its history before the establishment of American civil government in the state is brief. Sometime in the following year the governor of the territory (General Riley) evidently appointed a Mr. Townsend as the alcalde of Weber's settlement. By June (1849) he had been replaced by George Gordon Belt, his appointment then being confirmed by election on August 1. In December he was in turn succeeded by James R. Reynolds. At the time of Benjamin Williams' election as County Judge (April 1, 1850) he (Williams) was serving as Reynolds' successor. Of the latter three Stockton historian George Tinkham was critical; Belt "unworthily occupied" the position, he wrote, and the two succeeding alcaldes were described as being "corrupt and dishonest."

Belt had come to Stockton in 1849, opening a general merchandise tent-store at a spot which later became the intersection of Weber and Center streets. He had come to California with Stevenson's First Regiment of New York Volunteers in March, 1847, serving as a quartermaster sergeant. Upon discharge at Los Angeles on July 1, 1848, Belt had gone to the mines with supplies to sell prior to settling in Stockton. His wife was a native of Chile. After leaving Stockton in 1850 he opened a supply store, known as Belt's Tent, at Merced Falls (above Snelling) to trade with the Indians under a federal government contract. He and his brother-in-law, a certain William Dennis, engaged in cattle and sheep raising at Merced Falls. In January, 1869, as a result of a long-standing financial disagreement between them, Dennis shot and killed Belt on a Stockton street. He is buried in Rural Cemetery.

James R. Reynolds left Stockton several years after his term in office, became involved in a filibustering scheme in Mexico, and was rewarded for it by being shot and killed by the Mexicans. For an interesting episode that occurred in Stockton during Reynolds' tenure as alcalde, see Tinkham's *History of San Joaquin County*, p. 109.

(To Be Continued in Next Issue)

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