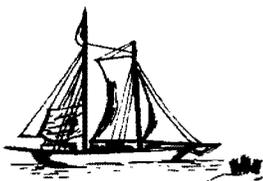


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MINUTE BOOK A - COURT OF SESSIONS (Civil) SAN JOAQUIN COUNTY - CALIFORNIA - 1850-52

Annotations by Robert Bonta

(Continued from the July-September 1978 Issue)

WESTON AND STAPLES' FERRY was located on the Mokelumne River directly south of the present-day intersection of Woodbridge and Tretheway roads, in section 35 (T.4N., R.7E.) approximately one and one-half miles west of Lockeford. It too (like Bonsell and Doak's Ferry in the southwest part of the county) had an interesting history. Beginning with his first trip through the San Joaquin County area in the fall of 1841, Weber established this fording point which later was incorporated into the Sutter's Fort-San Jose Pueblo Trail. Following the establishment of Weber's settlement (Stockton) and the creation of public roads by the San Joaquin County Court of Sessions, this segment of the trail became known as the Upper Sacramento Road. John C. Fremont and his party reputedly crossed at this point on March 25, 1844, in his famous trek through this part of the state, and two years later the land was taken up by a certain Thomas Pyle. In the same year (1844) the Murphy-Townsend-Stevens Party (Murphy later became Weber's father-in-law) inaugurated wagon travel on the developing route, they too crossing at the established point. Pyle and his family remained on the land only a year, and when they moved out a man by the name of Smith moved onto the claim. In turn his claim was transferred to a certain McKinstry (probably George McKinstry who had come to California in 1847 and served a short time as sheriff of the Sutter's Fort settlement under the Mexican regime) who in 1848 sold to John F. Pyle and John W. Laird. The property became known as "Laird's Ranch," but seven months later they in turn transferred title to Staples, Weston, and Company. A major improvement made by Laird (Pyle remained even less time than his partner, having moved to Kern County) was the establishment of a ferry at the crossing sometime in 1849. By the time the Court of Sessions imposed its first ferry assessments in June, 1850, the crossing was commonly referred to as "Weston and Staples'

Ferry." The same year David Staples and his partners (including his brother J. F.) opened a hotel on the south side of the crossing and a small settlement developed along the bank of the river. Two years later (1852) a post office was actually opened at the site. The ferry was still operating under the name of "Miller's Ferry" as late as 1880 - even though a toll bridge had been opened just west of it back in the fall of 1850.

BENEDICT'S FERRY was located approximately five or six miles downstream from Staple's Ferry. Owner of the enterprise, opened in early 1850, was a twenty-eight-year-old native of Ohio, C. L. Benedict. He established himself on the north side of the Mokelumne, where he also carried on farming activities. Site of this early ferry has not been pinpointed, but must have been somewhere in the vicinity of the present-day crossing of the Central California Traction Company (railroad) line over the Mokelumne east of Highway 99. Benedict remained at the ferry a number of years before taking up residence in Central America. He died there in 1871.

"LOWER BAR FERRY" is not identified anywhere in the Court of Sessions records, and no mention of it has been found in the literature of early San Joaquin County. But judging from the position of the entry (following two located on the Mokelumne River), and its June, 1850, entry date, it seems most likely that it would have been what was generally known as "Benson's Ferry." This early and important crossing, connecting Stockton and Sacramento, had been established sometime the previous year (1849) by partners Edwin Stokes and

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A. M. Woods (not to be confused with Jeremiah H. Woods, who, with his partner Alexander McQueen, had established Wood's Ferry at the site of present-day Woodbridge in 1852). Benson's Ferry was located just barely to the east of the new Interstate-5 crossing over the Mokelumne, and only a quarter or half mile west of Mokelumne City. Today both sites are on Barber family property along the south side of the river.

- 26 The account of Doak and Hall was this day presented to the Court for allowance, the amount being three hundred dollars against the county of San Joaquin for names furnished the District Court at the May term, 1850.

Whereupon it is ordered that one hundred and fifty dollars be allowed to Doak & Hall on said account, and that a warrant issue therefore in their favor.

Ordered that Court be adjourned.

Benj. Williams
County Judge

Be it remembered that heretofore to wit, on Tuesday the 9th day of July, it being the second Tuesday of said month, the year A.D. 1850, a special term of the Court of Sessions of San Joaquin County was held pursuant to law and notice legally given.

Present: Hon. Benj. Williams, Judge
O.C. Emory, Associate Justice
A.C. Bradford, Clerk

The expression "... a special term of the Court of Sessions of San Joaquin County was held pursuant to law and notice legally given" refers to section 12 of the act under which the Court had been organized (see footnote 10) which required that the judge post a notice of the opening of each term upon the door of the County Clerk's office, as well as publishing the information in a local newspaper. Typical of the published notices is the following STOCKTON TIMES advertisement:

Notice - By order of the County Judge of San Joaquin County, a special term of the Court of Sessions of said county, will be held at Stockton, on the 9th day of July [1850], for the transaction of county business.

A. C. Bradford, County Clerk.

(Of interest to our readers, perhaps, is the following notice which appeared in the same issue:

Notice is hereby given, that an application will be made to the Court of the County of San Joaquin, at its first session [sitting as a judicial body], to be held in the town of Stockton, commencing on the third Monday in July, for an order of incorporation for the town of Stockton in conformity with the ACT passed by the Legislature, requiring that twenty days' notice should be given, prior to handing in the petition.)

- 27 It was ordered that the sum of five hundred dollars be appropriated for the purchase of the Brig for the use of the county belonging to Dr. J. B. Clements and lying in the Mormon Slough.

This was one of three brigs that had been moved from anchorage on the south side of Stockton Channel, at Center Street, to a point on Mormon Channel below the town back in March of 1850. The other two, while not identified, were most likely the SUSANNA belonging to Emil Junge and the PERSEVERANCE belongong to Remi and Boye, a partnership. They probably were no longer seaworthy, and along with many other ships-mostly abandoned-created a nuisance lying along the busy waterfront. (See entry 41 for further information on this vessel.)

- 28 The account of Messrs. Adee and Woods was this day presented to the Court for allowance, whereupon it was ordered that \$18, the amount of their bill, be allowed.

Use of the Court of Sessions minute books by researchers can be frustrating in that so many of these entries are too brief to be of much value today; seldom did the County Clerk bother to note the type of services rendered or the kinds of material purchased when recording the payment of bills submitted. Related documents (vouchers, accounts, petitions, etc.) were filed separately in the County Clerk's office but have since been destroyed.

- 29 The Petition of Jacob Bonsell [also spelled Bonsall in subsequent entries], John Doak and Hiram D. Scott was this day presented to the Court for a ferry license, and it was ordered that a license be granted the petitioners for the ferry known as "Doak & Bonsell's" on the San Joaquin River, for one year.

- 30 The account of Emil Junge as keeper of the county prisoners was this day presented to the court for allowance: whereupon it was ordered that there be allowed upon said account the sum of \$1968.00.

This is an interesting entry. Standard local histories indicate that Junge had rented his brig to the town for use as a floating jail as early as July, 1849. Furthermore, Tinkham (in his 1923 HISTORY OF SAN JOAQUIN COUNTY) quotes a pioneer Stocktonian, one Louis Basilio, as having stated that in 1849 one of his jobs as a blacksmith was to rivet shackles on the legs of prisoners kept on the lower floor of a brig. While we have been unable to pinpoint the date of Junge's arrival in Stockton, other considerations lead to the conclusion that both accounts are in error as far as the date is concerned.

To begin with, there was no semblance of any kind of civic organization in the community prior to June of 1849 when George Belt assumed the office of local alcalde. And the first criminal case to come before

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him, according to existing records, was recorded only in the following October. The existence of jail facilities was most unlikely even then as punishments were meted out immediately and in different forms-including lashings, fines, and immediate banishment. There was simply no real organized government to raise revenue with which to support a jail.

It was not until November that Belt and other Americans in the community formed a town council but then it only lasted three months as they discovered, much to their chagrin, that they had no legal authority to form a government or contract debts on behalf of the town. Worse than that, they were advised that they could personally be held responsible for all debts incurred as members of the "town council."

In August, at the time the voters chose their delegates to attend the constitutional convention, they also voted into office judges of a state-wide "superior" court, a prefect for each of General Riley's ten districts, and town alcaldes.

In November the voters went to the polls once more, this time to vote on the proposed constitution and to elect members of the two-house state legislature (the assumption being that the constitution would be approved). At the same time they again voted on their choices for judges, prefects, and alcaldes.

Election of county officials came only on the following April 1st (1850). It was during this interim period from August to April that the self-appointed governor (General Riley) filled additional offices by appointment. One of these was the office of sheriff for each prefect. The second sheriff of the San Joaquin Prefect, S. C. Bunker, was evidently appointed in November, and he in turn was replaced by E. B. Batemen who relinquished his position only upon the assumption of office by County Sheriff Ashe in April, 1850.

There is some indication that both Bunker and Bateman may have incarcerated a number of law-breakers in some kind of a jail during the period from November, 1849, through the end of the following March. We do know that Bunker later (November, 1850) submitted a bill for duties performed in the area of law enforcement - a bill for \$3,241. Judge Williams, in defense of his record as county judge, alluded to this bill in an open letter sent to the SAN JOAQUIN REPUBLICAN (newspaper) in July of 1851, noting that when he (Williams) had arrived in Stockton he had found Bunker serving as "Constable." Until relieved of his duties by Ashe (actually a slip in memory here as to title and length of his tenure as sheriff, apparently) he had boarded and kept prisoners, Williams noted.

Presuming the judge to be correct in his statement that Bunker had kept prisoners, and presuming that this service was rendered from the time he first took office in November or December, 1849, the next question is, Where were they kept? The earliest actual reference to a jail facility is found in a STOCKTON TIMES article dated March 1, 1850:

On Monday night last, about 10 o'clock, while the Sheriff and Gaoler [jailer] were sitting below the rooms where the prisoners are confined - in a wooden building on the peninsula - they were alarmed by the noise of chains outside the building [The escapees] forced the bars from the window . . . walked along the veranda outside to Mr. Knight's store, where they jumped to the ground

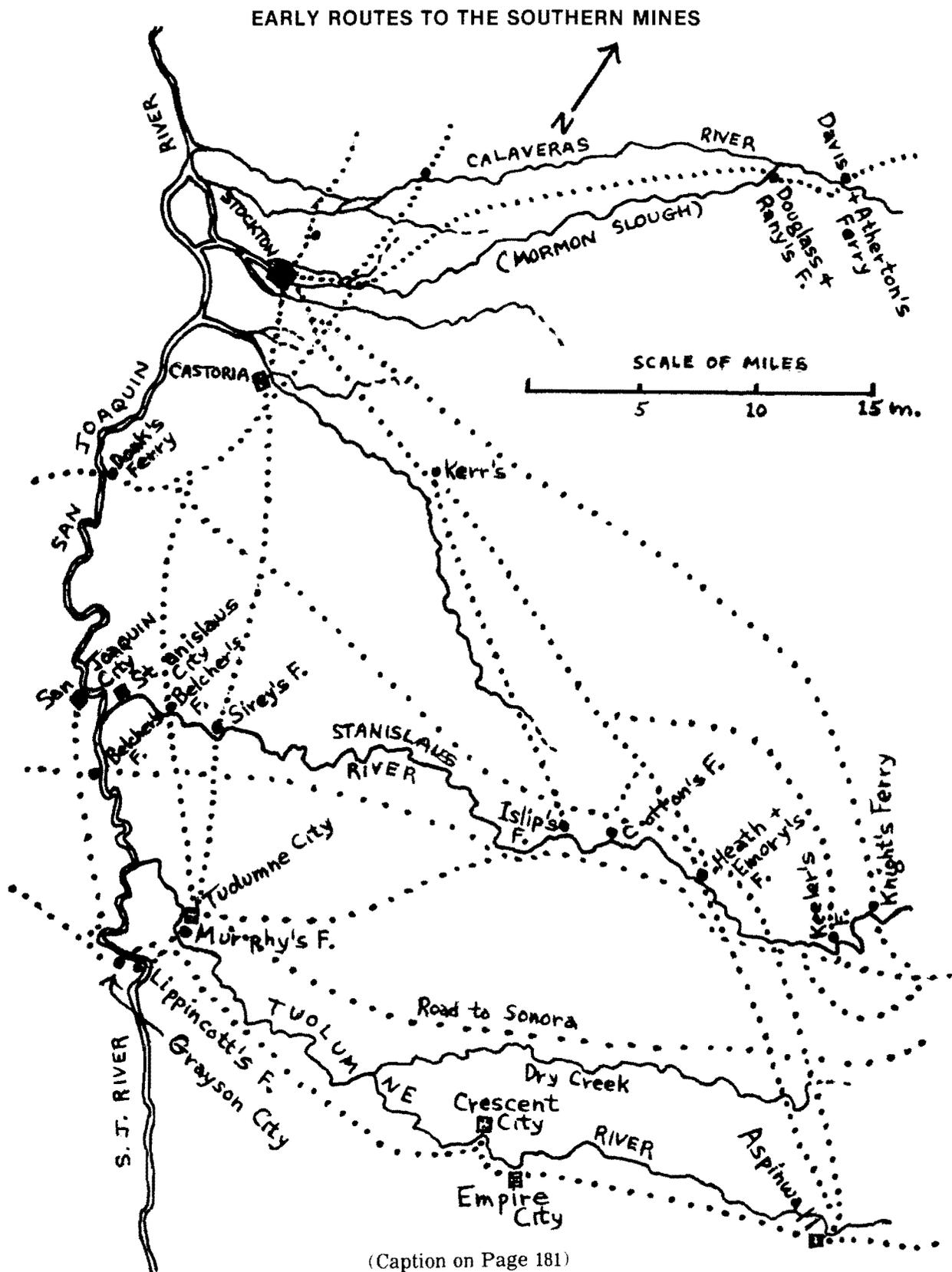
This would seem to refute the claim that Junge's brig was being used as a jail as early as July, 1849. In fact, on March 30 (1850) Junge offered to donate his brig to the public for use as a courthouse even though, a newspaper of the day noted, he had been offered \$6,500 for it from a private party. In addition, we need only to refer once more to Judge Williams' accounting of his stewardship of the County Court to further clarify the situation and pinpoint the actual date when his ship was pressed into service as a floating jail. While it is unfortunate that the Court of Sessions entry above does not specify the dates of service for which he was being reimbursed in the amount of \$1,968, Williams noted that the beginning date of Junge's service was May 7, 1850. This would appear to be the date, then, when his ship had been pressed into service and that he had been hired as the jailer by Sheriff Ashe (this early date - May 7 - coincides with the fact that he was not hired by the Court of Sessions as it did not begin to function until the following month).

In summary, then, all available evidence (granted some of it is only circumstantial) at this time indicates strongly that an unidentified "wooden building on the peninsula" served as the first jail facility, beginning possibly as early as November, 1849, and that in May, 1850, the prisoners were transferred to the brig belonging to Emil Junge. The earliest PROOF of the use of the vessel as a prison is found in a STOCKTON TIMES newspaper article under the date of June 29, 1850, in which the arrival and incarceration of two Indians in "our prison brig on Mormon Channel" is noted. They had been arrested in Jackson Creek (in Amador County today) for the murder of a storekeeper and had been brought to Stockton for safekeeping by the sheriff of Calaveras County.

The prisoners on board Junge's brig, the SUSANNA, were kept below deck, and occupied only a part of the vessel, the remaining area being used as before for the storage and sale of merchandise. At night the men were secured by the use of leg shackles which were chained to eye bolts held down by the floor planks. Another common practice in those days was for the Sheriff to receive a set amount of money per day per prisoner for food, and then he furnished the food as he saw fit. Needless to say, there was little relationship between the actual cost of the food consumed and the amount appropriated for that purpose by the Court of Sessions - a vicious practice which continued in many of the counties of California and elsewhere for many years. Medical attention was available - such as it was - provided by several different Stockton doctors who then billed the county. Sheriff Ashe and

(Continued on Page 181)

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(Caption on Page 181)

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1849 map of the San Joaquin-Stanislaus areas showing the major routes in use by those traveling to the Southern Mines. Doak and Bonsell's (Mosssdale Y), San Joaquin City, Belcher's on the San Joaquin, and the two ferries at Grayson handled the overland traffic originating in the San Jose area and the coastal settlements below San Francisco Bay. Argonauts arriving in San Francisco by water generally made their way to Stockton, and from there

fanned out overland for the last leg of their journey to the gold fields. These cross-country trails were very fluid before the establishment of county government in 1850 and depended largely upon the weather (only sandy-soil routes could be utilized in wet weather) and the location of ferry facilities. Location of these routes and ferries are only approximate.

Taken from an inset map accompanying Richard P. Hammond's June 1849 survey map of Stockton.

his deputy, Thomas Blount, were both physicians and often apparently took care of the medical problems themselves. Indigent persons could also receive treatment on board the SUSANNA, with the county picking up the "tab."

Emil Junge, later referred to as "Captain" Junge, had been born in Prussia, and in the 1850 census was listed as thirty years of age and a seaman by occupation. There is no indication of whether he arrived with his brig or whether he acquired it after his arrival in Stockton, but in any case he was in possession of it by the spring of 1850. It was generally referred to as a FRENCH brig and this perhaps accounts for the variations on the spelling of its name (SUSANNA) in contemporary newspapers. It was in Stockton at least as early as October, 1849, as Captain Weber referred to it by name in an advertisement at that time. It was originally anchored in the Stockton Channel and was towed into Mormon Channel in March, 1850, with two other brigs (see annotation following entry 27) - where it remained while serving as a prison ship. It is interesting to note that at that time (1850) vessels drawing ten feet of water could go up Mormon Slough from the Stockton Channel at least as far as Center Street.

- 31 It is ordered that the county Treasurer, with the consent of the County Judge, be and is hereby authorized in his discretion to remit such portion of the tax upon Licenses as to him shall be made to appear onerous and oppressive upon the party applying for such License.
- 32 Upon the account this day presented to the court for allowance by the County Recorder, it was ordered that the amount be allowed; to wit, the sum of \$891.25.
- 33 It was ordered that the accounts this day presented to the Court for allowance by Messrs. Hugg & Shannon be allowed, to wit, the sum of \$96.00.
- 34 It is ordered that a warrant issue in favor of Montague Endicott [also spelled Endecott in subsequent entries], a Justice of the Peace for this county, for \$40, as fees due him by law in state cases.

Montague Endicott was a twenty-nine year-old Kentuckian and attorney-at-law. The name was sometimes spelled with an "e" in place of the "i."

He did not serve long as a justice of the peace, resigning October 1 (see entry 71). Six days later (October 7, 1850) he was elected city recorder in Stockton. He did not remain long in this position either, being elected city attorney on October 15, 1851. A month later Mr. Endicott resigned (November 21), probably moving from Stockton as there appears to be no other reference to him in the local histories and newspapers. Typical of so many of the early leaders of Stockton and San Joaquin County, he probably moved on to "greener pastures" or back to the state of his birth.

- 35 It is ordered that a warrant issue in favor of H. T. Booraem for the sum of two hundred dollars, on account, for compensation as deputy assessor of this county.

H. Toler Booraem, a lawyer by profession, had been appointed deputy assessor soon after the organization of the county had taken place, and remained in that position until August 26 (1850) when he was appointed by the Court of Sessions to serve out the unexpired term of county treasurer Henry W. Alden (see entries 65 and 66). He served as treasurer less than a year and a half, being replaced by Samuel H. Brooks before the end of the year (1851). With the resignation of County Judge O. C. Emory in February of the following year, Booraem was appointed by the governor to fill the vacancy but he refused to accept the appointment. He then turned his full attention to the practice of law, evidently maintaining offices in both San Francisco and Stockton.

- 36 Upon the petition of Messrs. Sirey & Clark praying for a reduction of the tax upon their ferry, it is ordered that said tax be reduced fifty dollars, fixing the amount of this license at \$150.
- 37 The account of Andre Papon being this day presented to the court for allowance, for work done for the county, it is ordered that a warrant issue in his favor for \$161, the amount of his bill.

Andre Papon, a 33-year-old native of Pennsylvania, was a local blacksmith and was engaged by the Court of Sessions on several occasions in 1850 to make chains and handcuffs for use on the county's prisoners.

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38 It is ordered that a warrant issue in favor of Benjamin Williams for \$750, the amount of his quarterly salary as County Judge of San Joaquin County.

39 It is ordered that there be allowed the sum of three hundred and forty-seven dollars to E. B. Bateman for fees in criminal cases in the court of First Instance.

The "Court of First Instance" refers to Alcalde George Belt's "court" (and his successors Reynolds and Williams) in Stockton before the new county government got under way. Bateman served the Court of First Instance as sheriff under the authority of Governor (General) Riley until Sheriff Ashe was sworn into office on April 3 (1850). (See footnote 14 and the annotations following the opening entry dated June 27, 1850.)

Dr. E. B. Bateman arrived in California on June 27, 1849, overland by way of Mexico from his native New Jersey. While practicing as a physician in his own "private hospital" on Weber Avenue, he was also actively engaged in local politics. In March of 1850 he lost in an election to seat two replacement assemblymen in the new California Legislature, but in a second special election two weeks later he won election to a third vacated seat. He was sworn into office at San Jose on March 29, replacing Assemblyman J. F. Stephens.

He also took an active part in the movement to incorporate the town of Stockton, and during 1850-51 served on the governing board of the Stockton Seminary, a private school operated by the local Methodist Church congregation. When the public school system was created by the city council in the fall of 1852, some two dozen prominent men of the community signed a letter which appeared in a local newspaper in support of his candidacy for the post of school superintendent. He served a two-year term and was very highly respected by the community.

Bateman was active in the Morning Star Lodge No. 68 (Masons) and had been instrumental in its organization in December, 1854. He was a charter member of the lodge, and served as an officer as well.

Probably due to the fact that the doctor was operating his own hospital facility the Board of Supervisors contracted with him to take care of the county's indigent sick and persons with communicable diseases - in other words, to operate a "pest house" as those institutions were so crudely labeled then - for which he received \$3400 in 1857. This, in a sense, was the beginning of organized medical care which later developed into San Joaquin County's excellent County Hospital program.

During the Civil War years Dr. Bateman served as the elected second lieutenant of the Stockton Light Artillery, a volunteer company formed by what Tinkham described as "the solid men of this city." After the unit was mustered out on June 16, 1868, we find no more references to him, and in a roster of county voters in Thompson and West's 1879 HISTORY OF SAN JOAQUIN COUNTY he is

marked as residing out-of-county as of publication date.

40 It is ordered that the County Attorney be and he is hereby instructed to commence no actions against any females who are now vending or shall hereafter vend, without license, goods, wares, or merchandise, or who shall exercise any useful trade or business within the limits of the County of San Joaquin.

41 Ordered that the County Judge be and is hereby authorized to contract with some suitable person, to put in repair, suitable for the safekeeping of prisoners, the Brig ordered to be purchased for the use of the county and to remove the same to some convenient point near the town.

The vessel referred to in the entry was the one belonging to Dr. J. B. Clements, the county coroner, whose purchase for \$500 had been authorized at the same July 9 (1850) meeting of the Court of Sessions (see entry 27). Dr. Clement's brig (**The Random House Dictionary of the English Language** describes a brig as a "two-masted vessel square-rigged on both masts." It is also interesting to note that the word BRIG in the U. S. Navy refers to the quarters in which prisoners on board a naval vessel are kept confined) was lying alongside Junge's brig, the SUSANNA, on Mormon Channel at a point near where Hunter Street crosses the slough today. At that time these brigs were actually some distance from the edge of the young city - hence the desire to have it removed "to some convenient point near the town." Both ships were being used for storage, but since May (1850) the SUSANNA had also been housing county prisoners. It seems likely, from the available evidence, that Captain Junge was not particularly happy with the financial arrangements he had with the county and his immediate superior, Sheriff Ashe, and the decision of the Court of Sessions to purchase Clements' brig, move it, and renovate it for the keeping of prisoners would reflect that fact. It was a matter of either paying more to Junge or locating new quarters. Rental of the brig's lower deck area for use as a jail cost the city \$150 per month, so purchase of Clements' brig for \$500 certainly made sense economically.

Almost at the very same time (on July 9) that the Court of Sessions was appropriating the \$500 for its purchase, the brig sank to the bottom of the slough! The Court then refused to approve issuance of a warrant to Clements, charging that the merchandise bargained for was no longer in a usable condition. Clements refused to take no for an answer, and in the course of the impasse the brig remained resting on the bottom of the channel, with Judge Williams refusing to approve the expenditure and Dr. Clements threatening to sue the county and the Court of Sessions. In the meantime Captain Junge was forced to continue housing the prisoners.

(To Be Continued in Next Issue)

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