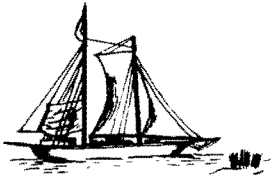


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NUMBER 4

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

Annotations by Robert Bonta

(Continued from the July-September 1980 Issue)

EDITOR'S NOTE:

With this issue we resume the verbatim publication of the hand-written entries found in MINUTE BOOK A, San Joaquin County Court of Sessions, beginning with the year 1852. These are the records of the legislative functions of the predecessor to our present governing body, the San Joaquin County Board of Supervisors. Readers may wish to refresh their memories concerning the origin and functions of the Court of Sessions by re-reading the general introduction to this series of quarterlies found in volume XIV, number 1 (January-March, 1978).

Following the format established at the beginning of this series, the MINUTE BOOK entries are in regular type while the accompanying annotations are in *italic type*.

MINUTE BOOK "A"

Court of Sessions San Joaquin Co.
Civil Matters
February Term A. D. 1852

Be it remembered that heretofore, to wit, on Monday the second day of February (it being the first Monday of said month) in the year of our Lord one thousand eight hundred and fifty-two a regular term of the Court of Sessions in and for the County of San Joaquin was held pursuant to law for the transaction of Civil business.

Present: Hon. O. C. Emory, Judge
A. C. Bradford, Clerk

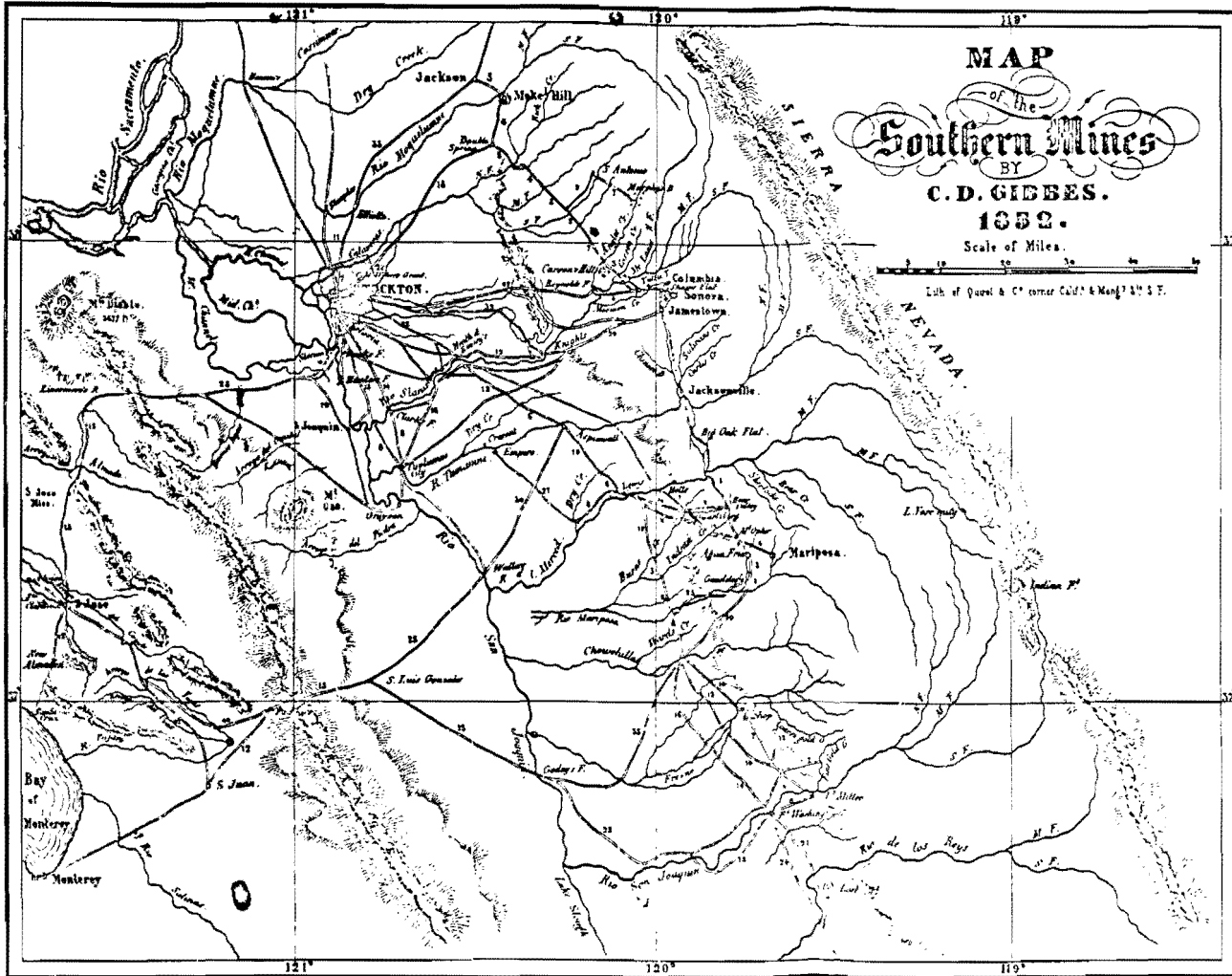
It is ordered that Court be adjourned until Wednesday next at ten o'clock A.M.

The Court had ended its 1851 term just two days after Christmas (see Vol. XVI, No. 2, p. 231), Judge Emory presiding. Emory's associate judges were Benjamin Weir and Jacob K. Shafer, both having been elected to their positions the previous October by a vote of their fellow county justices of the peace (see Vol. XV, No. 4, p. 211 and Vol. XVI, No. 1, p. 218). Emory had been selected as an associate judge under Judge Benjamin Williams at the time of the formation of county government in June, 1850. His term ended in summer, 1851, but upon Williams' resignation in October, the Governor had appointed Emory to fill the vacancy as presiding judge of the Court.

329-2 Court of Sessions
San Joaquin County
Civil Matters
Wednesday 4th February A.D. 1852
Court met pursuant to adjournment.
Present: Hon. Wm. A. Root, Judge
J. K. Shafer Asso. Jus.
R. P. Ashe, Sheriff
A. C. Bradford, Clerk
It is ordered that Court be adjourned until seven o'clock P.M. of this day.

Note that only two days after the beginning of the new (1852) term Judge Emory was replaced by William A. Root. The appointment was made by Governor Bigler in Sacramento, and evidently met with general approval

MINUTE BOOK A - COURT OF SESSIONS (Civil) (con't)



1852 map of the southern portion of the fabulously-rich "Mother Lode" gold region of Central California's Sierra Nevada Mountains. Shown are the major streams, roadways, settlements, and ferries. C. D. Gibbes, a pioneer Stockton surveyor, had preceded

locally. According to Tinkham Emory resigned in order to devote full time to his farming operations, and this seems plausible as he did have extensive land holdings in the county and was often absent from the Court. He later came back to the Court, however.

Attorney William A. Root was a California pioneer, having come to the state in the middle of 1850, and immediately became actively involved in local politics. Upon assuming the judgeship one of his first duties, in response to new legislation passed in the state senate and assembly, was to work with his associates in the selection of members of the county's first grand jury. (The verbatim report of this body, made public just a week after its organization, was the subject of the last HISTORIAN, Vol.

this area map with the publication in 1850 of a detailed map of the San Joaquin River from "New York of the Pacific" (site of the city of Pittsburg today) south as far as the point of junction of the Merced River with the San Joaquin.

XVI, No. 3.) As soon as the members' names were made public the STOCKTON JOURNAL objected to the method of selection employed by the Court. The editor of the rival SAN JOAQUIN REPUBLICAN immediately lashed out at the JOURNAL, defending the three-member Court, describing them as "able and professional" persons.

Wednesday 4th February 1852

Seven o'clock P.M.

Court met pursuant to adjournment.

Present: Hon. Wm. A. Root, Judge
Benj. G. Weir, Associate
R. P. Ashe, Sheriff
A. C. Bradford, Clerk

It is ordered that Court be adjourned

MINUTE BOOK A - COURT OF SESSIONS (Civil) (con't)

until Thursday morning nine o'clock.

Court of Sessions
Civil Matters
Thursday 5th February A.D. 1852
Court met pursuant to adjournment.
Present: Hon. Wm. A. Root, Judge
J. K. Shafer, Asso. Jus.
R. P. Ashe, Sheriff
A. C. Bradford, Clerk
It is ordered that Court be adjourned
until Monday morning next at ten o'clock.

Court of Sessions
Civil Matters
Monday February 9th A.D. 1852
Court met pursuant to adjournment.
Present: Hon. Wm. A. Root, Judge
J. K. Shafer, Asso.
Benj. G. Weir, Jus.
R. P. Ashe, Sheriff
A. C. Bradford, Clerk
It is ordered that Court be adjourned
until Tuesday morning ten o'clock.

Court of Sessions Civil Matters
Tuesday February 10th A.D. 1852
Court met pursuant to adjournment.
Present: Hon. Wm. A. Root, Judge
J. K. Shafer, Associate
R. P. Ashe, Sheriff
A. C. Bradford, Clerk

329½ It is ordered that O. C. Emory, late
County Judge, be allowed the sum of
nine hundred and sixteen dollars for
services as Judge, payable out of the
general revenue for the present year not
otherwise appropriated.

330 It is ordered that R. P. Ashe, Sheriff
of the County, be allowed the sum of
four hundred and seventy-four dollars
for boarding prisoners and jailor's fees,
payable out of the license fund.

331 It is ordered that the County Auditor
be instructed to receive and cancel
County warrant No. 484 drawn in favor
of R. P. Ashe for the sum of six thousand
six hundred and twenty-five dollars
(\$6625.) dated April 1st 1851--and that he
issue therefore to the said R. P. Ashe,
bearing the same date, six other war-
rants of the sum of one thousand dollars
each and one for the sum of six hundred
and twenty-five dollars.

It is ordered that Court be adjourned
until tomorrow morning eleven o'clock.

Court of Sessions Civil Matters
Wednesday February 11th A.D. 1852
Court met pursuant to adjournment.
Present: Hon. Wm. A. Root, Judge
J. K. Shafer
Benj. G. Weir Associates
R. P. Ashe, Sheriff
A. C. Bradford, Clerk

332 It appearing to the Court that C. C.
Gough, late District Attorney for this
County, has ceased to be a resident of
the County of San Joaquin in which the
duties of his office are to be exercised,
it is considered that the said office of
District Attorney be declared vacant;
and it is ordered that James Anderson
be, and he is hereby appointed District
Attorney in and for the County of San
Joaquin instead of the said C. C. Gough,
for the time prescribed by law.

The county's first district attorney, who served as San Joaquin County's prosecutor in criminal cases brought before the area's Fifth Judicial District Court, was Samuel A. Booker. He apparently resigned that position sometime before the end of 1850, being replaced by Jacob Shafer, another pioneer local lawyer, who in turn resigned in July of the following year in order to become an associate justice of the Court of Sessions. Although there is no mention of the change in the MINUTES of this Court, a local newspaper noted that Shafer had been succeeded in the district attorney's office by a twenty-four-year-old Maine native, C. C. Gough, on July 16, 1851. Mr. Gough was destined not to serve very long, either--partially a victim of circumstances, and apparently partially a victim of his own lack of stability and character. His problems began when, as District Attorney, he was called upon to prosecute his friend, Judge Benjamin Williams, on charges of bribery, corruption, and altering official records. In order not to be impeached, Williams resigned his position when the charges against him were filed by the local law firm of Terry and Perley in October of 1851 (see Vol. XVI, No. 1, p. 222-3), but he was found not guilty in a subsequent jury trial. The general feeling in the community was that the fault lay with the inability or unwillingness of the District Attorney to prosecute the case properly and with vigor.

At this time the STOCKTON JOURNAL editor, John Tabor, wrote a scathing report of Williams' alleged practices as county judge

MINUTE BOOK A - COURT OF SESSIONS (Civil) (con't)

and gave a running account of his arrest, trial, and acquittal. Gough also received his share of attention from the outspoken newspaperman, being made the subject of biting comments critical of the manner in which he had handled the case.

The morning after the article appeared Gough walked into the JOURNAL office and meeting Tabor, calmly asked the latter, "Who is the author of that article in the STOCKTON JOURNAL reflecting on the District Attorney?" "I am," responded Tabor. "Then sir, I hold you personally responsible," Gough replied. The newspaperman, never one to back off from what he wrote, and afraid of no one, answered "That suits me fine." Gough turned and walked out without further comment. Tabor gave the encounter no further thought--until Gough walked back into the newspaper office about 4:00 o'clock that same afternoon. According to Tabor's testimony given later, the District Attorney walked up to him, drew a revolver and a whip and said, "I intend to inflict personal chastisement, and your only recourse is to stand and take it." Hearing the comment from an adjoining room, Byran Gallup, the paper's compositor, stepped out into the office and placed two single-shot pistols within Tabor's reach. As he reached for them Gough raised the arm with the revolver toward Tabor. Tabor grabbed his arm, deflecting a single shot fired by Gough. Then Tabor fired a round at the District Attorney, striking him in the left breast--where a heavy pocketbook absorbed the bullet's force, saving the latter from injury or death. Gough fired a second time, but by this time both Gallup and Tabor were on their way out the front door and to safety. The next day Gough was arrested and he posted bail in the amount of \$1,000. Nothing came of the incident, however, and it is assumed that Gough disappeared soon after--perhaps back to his native Maine. Based upon the Court entry above, it would appear that he left quietly and without leaving a forwarding address. This was perhaps the wisest decision he had ever made while a resident of Stockton.

Gough's successor, James Anderson, served only through the remainder of Gough's term, relinquishing the post later in the same year to W. W. Porter, who defeated Anderson in the election of November, 1852. Nothing is known of this man, who is not even included in the 1852 STOCKTON DIRECTORY AND EMIGRANT'S GUIDE although listed as the incumbent District Attorney. The DIRECTORY, published by the SAN JOAQUIN

REPUBLICAN newspaper, did not go on sale until late 1852 so he was evidently already gone from the city by the time the census listing was prepared. The state's 1852 census, however, does list him: Lawyer, twenty-nine years of age, born in Pennsylvania but came to California by way of Texas.

333 In the Matter of the petition of J. A. Benson and G. W. Wood and others this day presented to the Court praying that a county road be laid out in this county, from Stockton to Benson's Ferry on the River Mokelumne, it is ordered that Thomas Baker and Geo. W. Wood, together with the County Surveyor be, and they are hereby appointed to view out the road prayed for, and report thereon to this Court.

John A. Benson purchased the existing "Lower Bar Ferry" in 1850 at a point now immediately east of the Interstate 5 crossing over the Mokelumne River (see Vol. XIV, No. 4, p. 177-8). The object of seeking formal establishment of a road from Stockton to this site was to connect with an existing trail that led to Sacramento. By it Benson hoped to divert a portion of the Stockton-Sacramento traffic that patronized Staples' Ferry near Lockeford. The first roads declared to be public routes were laid out by the Court of Sessions in December of 1850 (see Vol. XV, No. 3, p. 202-3), and included among them was the San Joaquin County portion of the old San Jose-Sacramento trail through Stockton and Staples' Ferry. In October of 1851 a new, shorter route to Sacramento was laid out, crossing the Mokelumne River at Benedict's Ferry (on Lodi's eastern edge)--the "Upper Sacramento Road"--which had the advantage of traversing higher, and in winter drier, ground than Benson's Ferry route to the west.

334 It is ordered that C. F. Whale be allowed the sum of two hundred dollars for carpenter's work as per bill filed, payable out of the fund accruing from ten-pin-alley and billiard licenses.

It is ordered that Court be adjourned until Thursday morning ten o'clock.

Court of Sessions
Civil Matters

Thursday February 12 A.D. 1852
Court met pursuant to adjournment
Present: Hon. W. A. Root, Judge

MINUTE BOOK A - COURT OF SESSIONS (Civil) (con't)

J. K. Shafer, Associate
R. P. Ashe, Sheriff
A. C. Bradford, Clerk

R. P. Ashe, Sheriff
A. C. Bradford, Clerk

335 Upon the application of Joel E. Woodward this day presented to the Court praying that he be appointed an auctioneer for the County for the sale of Stock waggons [sic] etc., at a point in the City of Stockton known as the "Grove House,"

It is ordered that the petition be granted, and that a license issue according to the statute in such cases, for the term of six months.

It is ordered that Court be adjourned until Friday morning ten o'clock.

The "Grove House" was located at the corner of Market and Sutter streets, then on the eastern edge of the young city.

Court of Sessions Civil Matters
Friday February 13th 1852
Court met pursuant to adjournment.
Present: Hon. Wm. A Root, Judge
J. K. Shafer, Associates
Benj. G. Weir

336 It is ordered that the Sheriff of the County be allowed the sum of ten dollars for the purchase of wood for the Court Room, payable out of the fund accruing from Probate fees.

It is ordered that Court be adjourned until tomorrow morning ten o'clock.

Court of Sessions
Civil Matters
Saturday February 14th A.D. 1852
Present: Hon. Wm. A. Root, Judge
J. K. Shafer, Associate
R. P. Ashe, Sheriff
A. C. Bradford, Clerk

337 Upon the Petition of Jacob Bonsell } This day presented to the Court praying that the license taxed on his ferry known as Bonsell's Ferry in this County be reduced, and the facts set forth in the petition being sustained by affidavit,

It is ordered by the Court that the license taxed upon said Ferry be reduced



Typical pioneer ferry boat. Photo taken from glass plate in the San Joaquin County Historical Museum

collection. A horse and buggy are barely discernible on the back end of the ferry.

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to seventy-five dollars for the present fiscal year.

338

It is ordered that John MacNish be allowed the sum of five hundred dollars for two months' rent of County offices and Court room as per bill filed, payable out of license fund.

It is ordered that Court be adjourned until Monday morning next at ten o'clock.

Court of Sessions

Civil Matters

Monday February 16th A.D. 1852

Court met pursuant to adjournment.

Present: Hon. W. A. Root, Judge

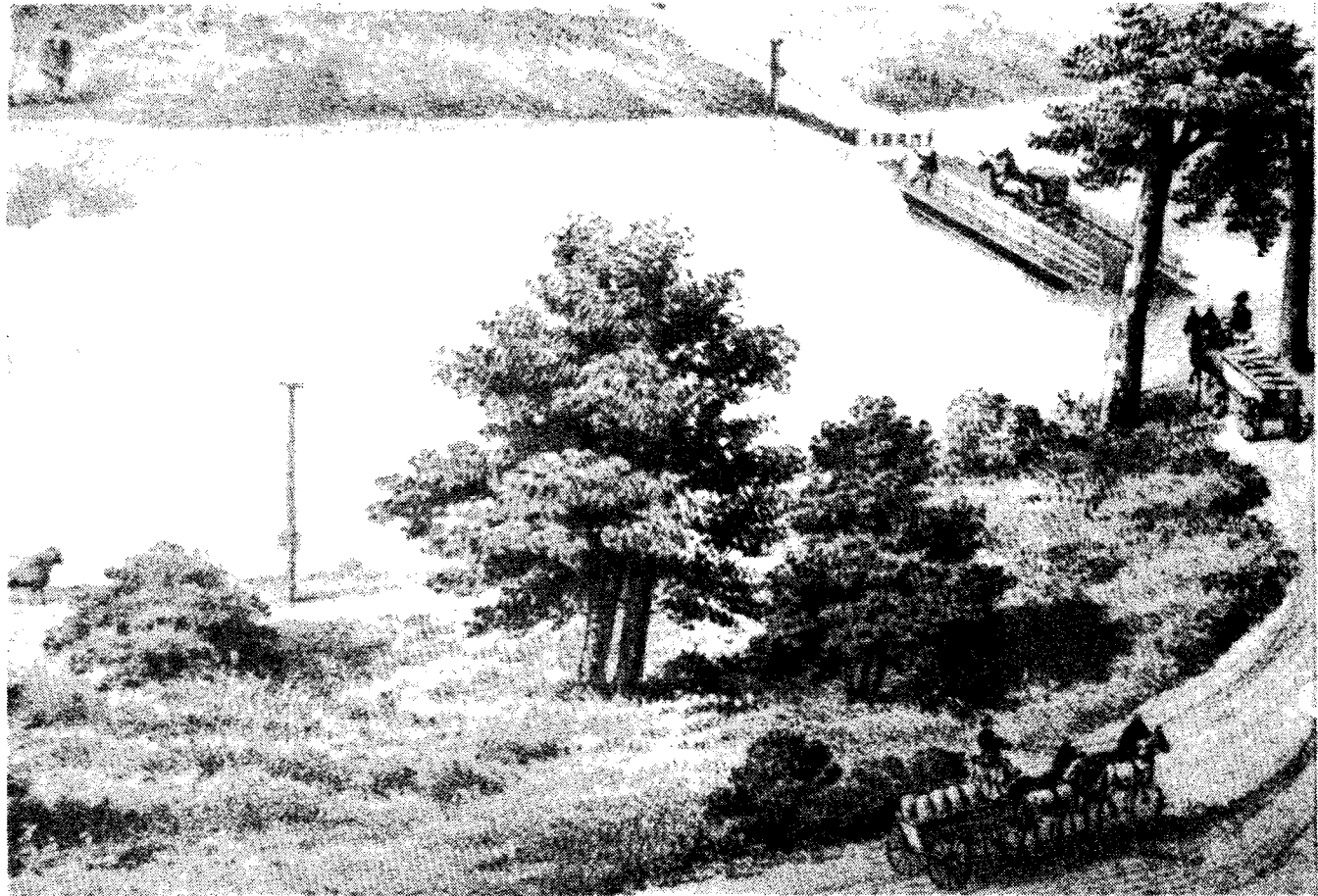
J. K. Shafer Associates

B. G. Weir

R. P. Ashe, Shff [sic]

A. C. Bradford, Clerk

(To Be Continued in Next Issue)



Benson's Ferry on the Mokelumne River, founded in 1849 by Edwin Stokes and A. M. Woods and purchased by John A. Benson the following year. The site of the ferry is now a part of the Barber Ranch north of Thornton and immediately east of the Interstate 5 crossing over the Mokelumne. Benson's

son-in-law, E. P. Gazetty, operated the ferry for many years following Benson's murder in 1859. In 1852 a road was laid out from Stockton to Sacramento by way of this ferry and competed with the Upper and Lower Sacramento roads for stage and wagon traffic between the two cities.

From Thompson and West's 1879 History of San Joaquin County.

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