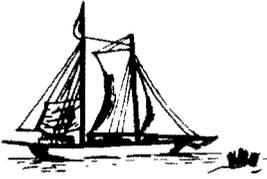


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MINUTE BOOK A - COURT OF SESSIONS (Civil) SAN JOAQUIN COUNTY - CALIFORNIA - 1850-52

Annotations by Robert Bonta

(Continued from the January-March 1982 Issue)



View of David S. Terry's Lone Star (flour) Mill on the south side of the Mokelumne River and the old iron truss bridge erected shortly after the turn of the century. The mill is the building with the smokestack seen in the center of the photo. The pioneer cemetery

lies under the cluster of oak trees on the knoll directly beyond the bridge. Today the modern Mackville Road bridge (dedicated in January, 1977) spans the Mokelumne at this site, about one mile north of Clements.

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

Although the regular U. S. census had been taken in California in 1850, the situation in the state was so unusual that the state legislature felt the need for a special state-wide census in 1852. In the first place, in parts of the state hardly any semblance of government existed until the latter part of 1850 (California did not enter the Union until September of that year and many counties were slow in organizing); secondly, the population at the time was so very mobile that reaching residents--and then counting them only once--was a formidable task; thirdly, hundreds of people were, literally speaking, entering the state every week, the years 1849 through 1852 being the peak years of this great world migration; to fourthly, a very high percentage of those arriving each day were foreign born and spoke little or no English. And without a new count government based upon proportional representation simply could not exist.

Nuttman's report to the state contained the following breakdown of the county's population:

Population total. 5,029	Indians (domesticated)	
Caucasians, total 4,569	total.	379
male. 3,582	male.	168
female. 987	female.	211
Foreigners, total. 949	Negroes, total.	81
male. 650	male.	60
female. 299	female.	21
	Citizens over 21.	2,451

378 It appearing to the Court from the petition of R. P. Ashe, Sheriff of the County, this day presented to the Court, that the funds appropriated towards the payment of his claims for jail expenses, and board of prisoners, to wit, the poll tax and license funds, have been insufficient to pay the said sums, and that he is still in possession of the sum of fourteen hundred and fifty-nine dollars and fifty-nine cents remaining unpaid;

It is therefore ordered that an additional allowance be made of thirty-five percent upon the said sum of \$1459.50 -- and the said allowance amounts to five hundred and ten dollars and eighty-two cents.

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

Special June Term 1852
 Be it remembered that heretofore to wit, on Tuesday the twenty-second day of June in the year of our Lord one thousand eight hundred and fifty-two, a

Special Term of the Court of Sessions of San Joaquin was held for the purpose of funding the debt of the County in accordance with an act entitled "an act to provide for funding the debt of San Joaquin County for the payment of the interest thereon and for gradual liquidation of the debt" approved April 20th 1852.

Present: Hon. W. A. Root, Judge
 J. K. Shafer Associate
 B. G. Weir Justices
 R. P. Ashe, Sheriff
 A. C. Bradford, Clerk

Court adjourned until tomorrow at ten o'clock A.M.

Court of Sessions Civil Matters
 Wednesday June 23d 1852

Court met pursuant to adjournment.
 Present: Hon. W. A. Root, Judge
 J. K. Shafer Associate
 Benj. C. Weir Justices
 R. P. Ashe, Sheriff
 A. C. Bradford, Clerk

379 It is ordered that Samuel H. Brooks, County Treasurer, be allowed the sum of thirty-one dollars for stationery and furniture for his office.

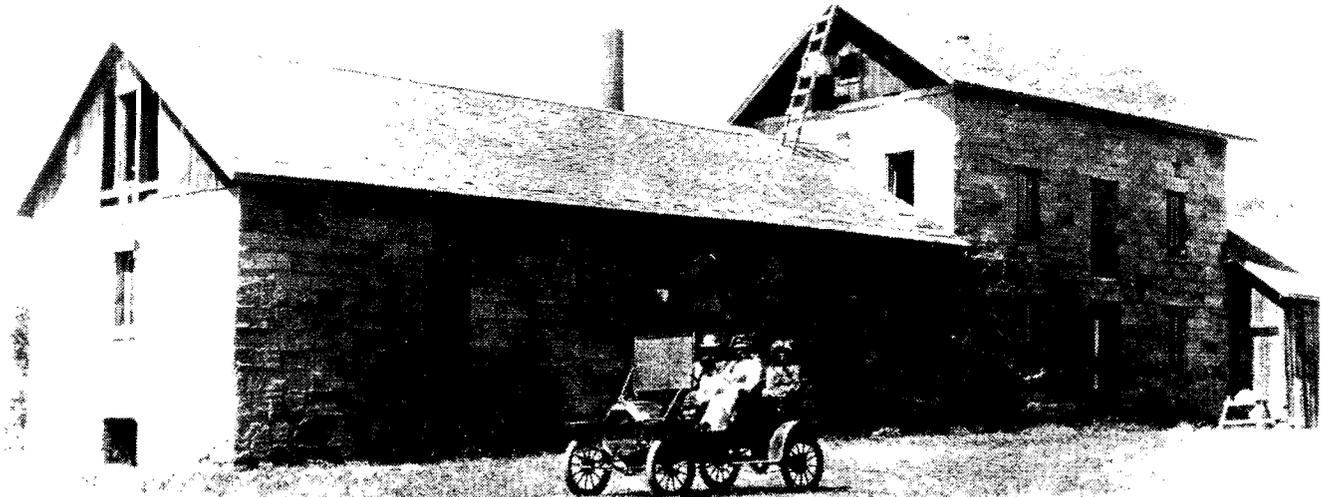
380 It is ordered that George Kerr, proprietor of the San Joaquin Republican, be allowed the sum of five hundred dollars for County printing.

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

George Kerr was the editor of the SAN JOAQUIN REPUBLICAN, an organ that espoused the cause of the Democratic Party of that day. The first newspaper published in the county was the STOCKTON TIMES: its first issue appeared on March 16, 1850. Kerr purchased the TIMES and its last issue was dated April 26, 1851, and on May 14 he issued his first copy of the REPUBLICAN. A rival newspaper, the STOCKTON JOURNAL, first published on June 22, 1850, and like the TIMES it took no stand on political issues--until 1852 when John Tabor became its owner and editor. It then became the organ of the local Whig Party, and from then on the two newspapers (JOURNAL and REPUBLICAN) were bitter rivals.

The running feud came to a climax with the murder of one of the owners of the SAN JOAQUIN REPUBLICAN, J. Mansfield, by John Tabor. Tabor was condemned to death but received a pardon from the governor at the

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Lone Star Mill, Clements. The stone structure was constructed in 1856 on the Terry and Hodge Ranch on the south side of the Mokelumne River a mile north of Clements. It was sold circa 1860 when Terry was

preparing to go to Texas to join the Confederate cause. The new owner, one S. L. Magee, operated it for twenty-five years and then abandoned it for lack of business.

Courtesy, San Joaquin County Historical Museum.

last minute. The reader may recall the attack on Tabor by District Attorney Gough in October of 1851. Kerr, a native of Pennsylvania, arrived in California in 1850 and was connected with the printing business until his death in Stockton in March of 1854--a death due, according to Tinkham, to excessive drinking. He had been elected State Printer, a position that was considered a political plum at that time, in 1852, and he held it until his premature death.

Special June Term 1852
 Wednesday June 23d 1852
 Court met pursuant to adjournment.
 Present: Hon. W. A. Root, Judge
 J. K. Shafer, Associate
 B. G. Weir, Justices
 A. C. Bradford, Clerk

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

Court of Sessions Civil Matters

Thursday June 24th 1852

Court met pursuant to adjournment.

Present; Hon. Wm. A. Root, Judge
 J. K. Shafer, Associate
 Benj. G. Weir, Justices
 R. P. Ashe, Sheriff
 A. C. Bradford, Clerk

381

It appearing to the Court that there is [an] error in the order made and entered on the 22d June instant at this term allowing R. P. Ashe, Sheriff of the County, the sum of five hundred and ten dollars and eighty-two cents as an additional allowance.

It is therefore ordered that the warrant issued by the Clerk to the Auditor numbered 378 be recalled and a warrant for the sum of \$462.52 be issued in its stead, the same being an allowance of thirty-five percent upon the sum of

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382 \$1321.50.
Be it remembered that on this, the 24th day of June, A.D. 1852, George Bucknell, late of England in Europe and at present of the County of San Joaquin and State of California, appeared in this Court, the same being a Court of record, having common-law Jurisdiction and a Clerk and Seal, and applied to the Court to be admitted to become a Citizen of the United States of America pursuant to the directions and requisitions of the Several Acts of Congress in relation thereto;

And the said George Bucknell having thereupon produced to the Court such evidence, and made such declaration and renunciation, and taken such oaths as are by the said Acts required; thereupon it is ordered by the Court that the said George Bucknell be admitted, and he is accordingly admitted by the Court to be a citizen of the United States of America.

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

This was the first and only entry in MINUTE BOOK A involving the granting of citizenship by the Court of Sessions sitting as a governing body.

Special Term

Thursday June 24th 1852
Court met pursuant to adjournment.

Present: Hon. W. A. Root, Judge
J. K. Shafer, Associate
B. G. Weir, Justices
A. C. Bradford, Clerk

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

Court of Sessions Civil Matters
Friday June 25th 1852

Court met pursuant to adjournment:
Present: Hon. Wm. A. Root, Judge

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

383 It is ordered that R. P. Ashe, Sheriff, be allowed the sum of one hundred and twenty dollars for attendance upon the Grand Jury, arrests and summoning witnesses.

It is further ordered that the claim for attendance upon courts be deferred

until the next term.

384 Upon reading the petition of Charles A. Ward, County Recorder, praying that he be allowed an additional room for his office,

It is ordered that the County Judge confer with John MacNish for the rent of the same for the purpose mentioned in the petition.

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

Special Term

Friday June 25th 1852
Court met pursuant to adjournment.

Present: Hon. W. A. Root, Judge
J. K. Shafer, Associate
B. G. Weir, Justices
A. C. Bradford, Clerk

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

Court of Session Civil Matters
Saturday June 26th 1852

Court met pursuant to adjournment.
Present: Hon. W. A. Root, Judge

J. K. Shafer
B. G. Weir
A. C. Bradford, Clerk

385 It is ordered that the *Stockton Journal* be allowed the sum of thirty-two dollars for County Printing.

It is ordered that this general term of Court be adjourned to Court in Course.

[Signed] Wm. A. Root, County Judge
J. K. Shafer, Asso. Justice

Special Term

Saturday June 26th 1852
Court met pursuant to adjournment.

Present: Hon. W. A. Root, Judge
J. K. Shafer, Associate
B. G. Weir, Justices
A. C. Bradford, Clerk

It is ordered that Court adjourn until Monday next.

Monday June 28th 1852

Court met pursuant to adjournment.
Present: Hon. W. A. Root, Judge

J. K. Shafer, Associates
B. G. Weir
A. C. Bradford, Clerk

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

Special Term

Tuesday June 29th 1852

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Court met pursuant to adjournment.
Present: Hon. W. A. Root, Judge
J. K. Shafer, Associate
A. C. Bradford, Clerk

It is ordered that Court adjourn until Saturday July third evening.

Saturday July 3d 1852
Court met pursuant to adjournment.
Present: Hon. W. A. Root, Judge
J. K. Shafer, Associate
A. C. Bradford, Clerk

It is ordered that Court adjourn until Tuesday, July Sixth instant, at ten o'clock.

Court [of] Sessions Special Term
Tuesday July 6th 1852
Court met pursuant to adjournment.
Present: Hon. W. A. Root, Judge
J. K. Shafer, Associate
A. C. Bradford, Clerk

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

Wednesday July 7th 1852
Court met pursuant to adjournment.
Present: Hon. W. A. Root, Judge
J. K. Shafer, Associate
A. C. Bradford, Clerk

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

Court of Sessions
Thursday July 8th 1852
The Clerk was in attendance pursuant to adjournment but neither the Judge [n]or Associate Justices being present, he adjourned the Court until tomorrow morning ten o'clock by this entry in the minutes.

A. C. Bradford, Clerk
Gilbert B. Claiborne,
Deputy [Clerk]

Friday July 9th 1852
Court met pursuant to adjournment.
Present: Hon. W. A. Root, Judge
J. K. Shafer, Associate
A. C. Bradford, Clerk

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

Court of Sessions Special Term
Saturday July 10th 1852

Court met pursuant to adjournment.
Present: Hon. W. A. Root, Judge
J. K. Shafer, Associate
A. C. Bradford, Clerk

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

Monday July 12th 1852
Court met pursuant to adjournment.
Present: Hon. W. A. Root, Judge
A. C. Bradford, Clerk
It is ordered that Court be adjourned until Thursday next at ten o'clock.

Court of Sessions Special Term
Thursday July 15th 1852
Court met pursuant to adjournment.
Present: Hon. W. A. Root, Judge
J. K. Shafer, Associate
A. C. Bradford, Clerk
It is ordered that Court be adjourned until tomorrow morning ten o'clock.

(To Be Continued in Next Issue)

 MISCELLANEOUS

**PROCLAMATION OF THE GOVERNOR,
JUNE 3, 1849**

Brevet Brigadier General Bennett Riley, the highest-ranking military officer in California in 1849 following the signing of the Treaty of Guadalupe-Hidalgo between the U.S. and Mexico also found himself the administrator of civil affairs in the new territory as per instructions from the U.S. Secretary of State. In June, 1849, he formulated and issued a lengthy and official proclamation, reviewing the state of affairs in California, the form and extent of government found in the territory upon the termination of hostilities, and a plan for the organization of a new civil government within the legal bounds of the U.S. Constitution. He called for the election of delegates to a state constitutional convention.

The first part of the PROCLAMATION, in which he describes his dual role as military commander and civil governor (and the difference between them) and the need to continue the existing form of government (left over from the days of Mexican control in

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TOP PHOTO, OPPOSITE PAGE: Typical stage used during the California Gold Rush period. This particular photograph was taken in Stockton, at the livery stable operated by Andrew Wolfe near the intersection of Market and California streets. The "springs" visible between the body frame and the undercarriage were made of leather.

BOTTOM PHOTO: Both of the wagons in this photograph were a common sight on the streets of early Stockton. The large, broad-wheeled Conestoga wagon on the left was used principally for the hauling of freight to the mines of the Mother Lode. The smaller wagon (on the right) was commonly called a "prairie schooner" and was the principal means of transportation employed by those using the overland trails to journey to California and other points "out West."

California) until such time as a new government was created, was covered in a previous issue of the HISTORIAN (Vol. XIV, No. 1, pp. 155-6).

We now continue his PROCLAMATION, verbatim, in which he summarizes the form of the existing shadowy government, and then goes on to lay down the specifics surrounding his call for the creation of ten districts for the purpose of electing delegates to a constitutional convention which was to meet in Monterey the following September (1849). (The last section of the PROCLAMATION, describing the boundaries of each of the ten districts, is omitted.) - Ed.

A brief summary of the organization of the present government may not be uninteresting. It consists 1st, of a Governor, appointed by the Supreme Government; in default of such appointment the office is temporarily vested in the commanding military officer of the Department. The powers and duties of the Governor are of a limited character, but fully defined and pointed out by the laws. 2d. A Secretary, whose duties and powers are also properly defined. 3d. A Territorial or Departmental Legislature, with limited powers to pass laws of a local character. 4th. A Superior Court (Tribunal Superior) of the Territory, consisting of four judges and a fiscal. 5th. A Prefect and sub-Prefects for each District, who are charged with the preservation of public order and the execution of the laws; their duties correspond in a great measure with those of District Marshals and Sheriffs. 6th. A Judge of First Instance for each District. This office is by custom not inconsistent with the laws, vested

in the 1st Alcalde of the District. 7th. Alcaldes who have concurrent jurisdiction among themselves in the same district, but are subordinate to the higher judicial tribunals. 8th. Local Justices of the Peace. 9th. Ayuntamientos of Town Councils. The powers and functions of all these officers are fully defined in the laws of this country, and are almost identical with those of the corresponding officers in the Atlantic and Western states.

In order to complete this organization with the least possible delay, the undersigned, in virtue of power in him vested, does hereby appoint the first of August next as the day for holding a special election for Delegates to a general Convention, and for filling the offices of Judges of the Superior Court, Prefects and sub-Prefects, and all vacancies in the office of 1st Alcalde (or Judge of First Instance), Alcaldes, Justices of the Peace, and Town Councils. The Judges of the Superior Court, and District Prefects are by law executive appointments, but being desirous that the wishes of the people be fully consulted, the Governor will appoint such persons as may receive the plurality of votes in their respective districts, providing that they are competent and eligible to the office. Each District will therefore elect a Prefect and two sub-Prefects, and fill the vacancies in the offices of 1st Alcalde (or Judge of First Instance) and of Alcaldes. One Judge of the Superior Court will be elected in the Districts of San Diego, Los Angeles, and Santa Barbara; one in the Districts of San Luis Obispo and Monterey; one in the Districts of San Jose and San Francisco; and one in the Districts of Sonoma, Sacramento and San Joaquin. The Salaries of the Judges of the Superior Court, the Prefects and Judges of First Instance, are regulated by the Governor, but cannot exceed, for the first, \$4,000 per annum, for the second, \$2,500, and for the third, \$1,500. These salaries will be paid out of the civil fund which has been formed from the proceeds of the customs, provided no instructions to the contrary are received from Washington. The law requires that the Judges of the Superior Court meet within three months after its organization, and form a tariff of fees for the different Territorial Courts and legal officers, including all alcaldes, Justices of the Peace, Sheriffs, Constables, etc.

All local Alcaldes, Justices of the Peace, and members of Town Councils elected at the special election, will continue in office till the 1st January, 1850, when their places will be

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supplied by the persons who may be elected at the regular annual election which takes place in November, at which time the election of members to the Territorial Assembly will also be held.

The general Convention for forming a State constitution or a plan for Territorial government, will consist of 37 delegates, who will meet in Monterey, on the first day of September next. These delegates will be chosen as follows:

The District of San Diego will elect two delegates, of Los Angeles four, of Santa Barbara two, of San Luis Obispo two, of Monterey five, of San Jose five, of San Francisco five, of Sonoma four, of Sacramento four, of San Joaquin four. Should any District think itself entitled to a greater number of Delegates than the above named, it may elect super-numeraries, who, on the organization of the convention, will be admitted or not at the pleasure of that body.

The places for holding the election will be as follows: San Diego, San Juan Capistrano, Los Angeles, San Fernando, San Buenaventura, Santa Barbara, Nepoma, San Luis Obispo, Monterey, San Juan Baptista, Santa Cruz, San Jose de Guadalupe, San Francisco, San Rafael, Bodega, Sonoma, Benicia; (the places for holding election in the Sacramento and San Joaquin Districts will be hereafter designated.) The local Alcaldes and members of the Ayuntamientos or Town Councils, will act as Judges and Inspectors of elections. In case there should be less than three such Judges

and Inspectors present at each of the places designated on the day of the election, the people will appoint some competent persons to fill the vacancies. The polls will be open from 10 o'clock A.M. to 4 P.M., or until sunset, if the Judges deem it necessary.

Every free male citizen of the United States and of Upper California, 21 years of age, and actually resident in the district where the vote is offered, will be entitled to the right of suffrage. All citizens of Lower California who have been forced to come to this territory on account of having rendered assistance to the American troops during the recent war with Mexico, should also be allowed to vote in the district where they actually reside.

Great care should be taken by the inspectors that votes are received only from bona fide citizens actually resident in the country. These Judges and Inspectors previous to entering upon the duties of their office, should take an oath faithfully and truly to perform these duties. The returns should state distinctly the number of votes received for each candidate, be signed by the Inspectors, sealed, and immediately transmitted to the Secretary of State for filing in his office.

[The last section deals with the delineation of the boundaries of the ten districts.]

Given at Monterey, California, this third day of June, A.D. 1849.

[Signed] B. Riley
Brevet Brig. Gen. U.S.A., and
Governor of California

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