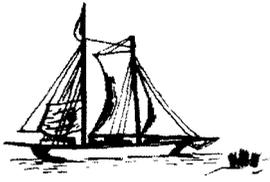


# SAN JOAQUIN HISTORIAN



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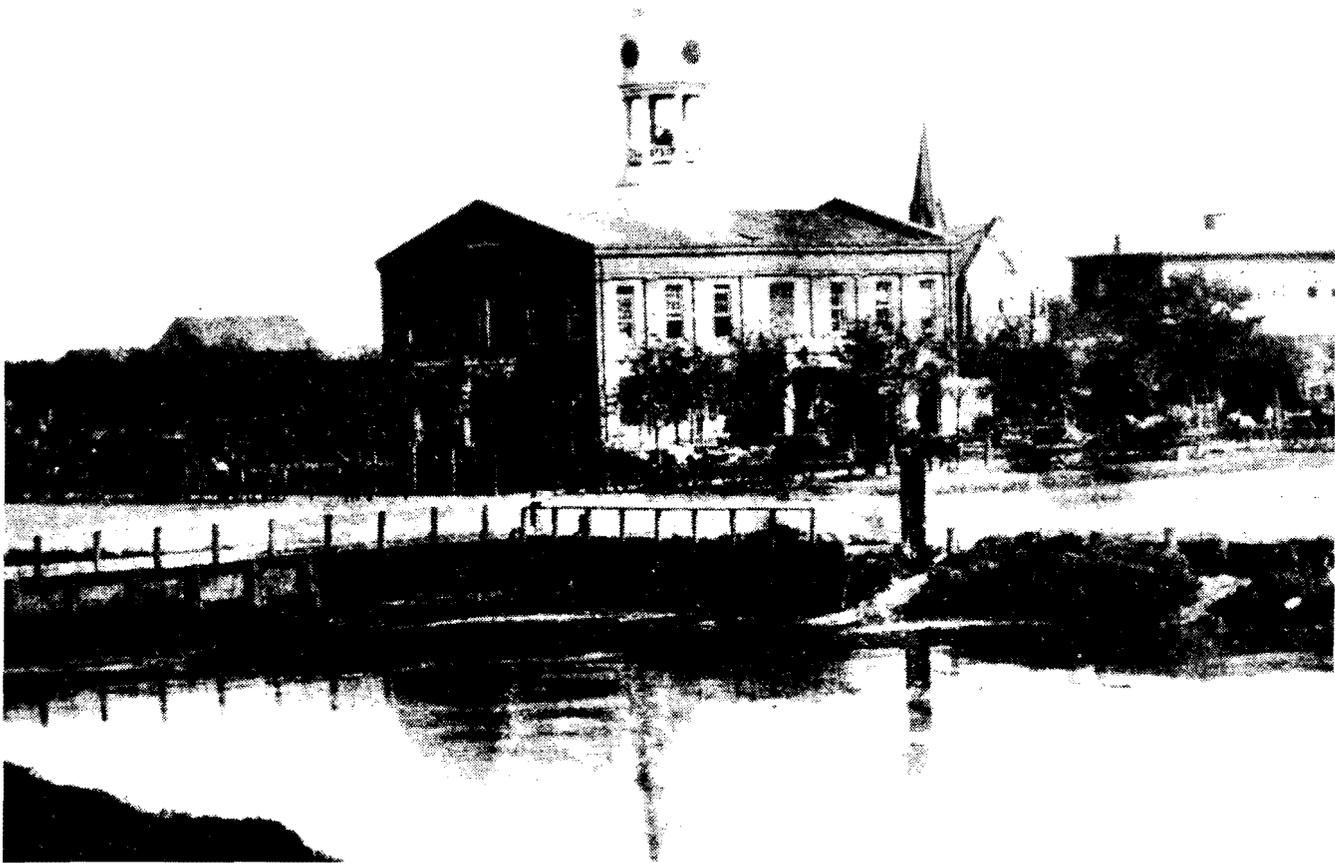
APRIL-JUNE 1981

NUMBER 2

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

Annotations by Robert Bonta

(Continued from the January-March 1981 Issue)



San Joaquin County's first courthouse, on "courthouse square" in downtown Stockton. This structure was constructed jointly by the city of Stockton and the county at a cost of approximately

\$80,000. It was dedicated and opened in April, 1854, and demolished in 1887 to make way for a new larger building.

Courtesy, Stockton Chamber of Commerce.

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

Township Number Three shall be the third road district of the County and  
[L. R.] Chalmers      O. C. Emory

The three road supervisors in district three were also well-known county pioneers. While not literally the first settler in the area southeast of Stockton now known as Colledgeville (a certain John Kehoe gets credit for that), Dr. L. R. Chalmers is credited with being the driving force behind the effective settlement of it.

An 1862 map of the county shows the Chalmers property of approximately a half section lying east of the Jack Tone Road and north of its intersection with the present Mariposa Road. At that time the latter was known as the Lone Tree Road as it passed by the Lone Tree settlement (north of Escalon) on its way from south Stockton to Heath and Emory's Ferry on the Stanislaus. When Dr. Chalmers purchased this property the route was already halfway established as something of a roadway to the southern mines in and around the Sonora and Mariposa areas. Also, at about this time (1850), gold was discovered in the Sierra Nevada foothills east of present-day Madera. Because the Indians in that area were continually harassing the miners, the federal government established an outpost (at first named Camp Barbour and later, in 1852, changed to Fort Miller) at a site now inundated by the waters of Millerton Lake which was created by the construction of Friant Dam on the San Joaquin River in the 1940's. Supplies for the detachment of troops came through Stockton on their way south-eastward (by way of Heath and Emory's Ferry on the Stanislaus) to the high ground along the eastern edge of the valley and thence down into Mariposa County to Fort Miller on the San Joaquin River.

Dr. Chalmers was able to persuade the government to use the Lone Tree route across San Joaquin County from Stockton to Heath and Emory's Ferry, and his little settlement became a stopping point on the road. Because the army chose this route it became known as the Mariposa Road (or the Mariposa Military Road), a name which still marks the county road which runs from Stockton to its intersection with the Escalon-Bellota Road three miles north of Escalon.

The principal stopping places which developed along this pioneer roadway were George Kerr's place, the Chalmers Ranch (also called the Eight Mile House), the Fifteen

Mile House, the Lone Tree House, and finally, on the Stanislaus, Heath and Emory's Ferry (since 1860 a part of Stanislaus County). In 1866 the Cumberland Presbyterian Church constructed a "college" (equivalent to today's high school years) at the Chalmer Ranch stop, and down to the present time the settlement still bears the name Colledgeville. The school was a large three-story wood-frame structure, built at a cost of \$8,000, and accommodating both day and boarding students. The school was destroyed by fire in 1874 and never rebuilt. Today a cemetery on the southeast corner of Jack Tone and Mariposa roads is all that is left of the pioneer landmarks of the community begun by Dr. Chalmers.

James Vantine was a partner in the firm of Dent, Vantine and Company which purchased the Knight's Ferry property on the Stanislaus River in 1850 (this is the site of present-day Knight's Ferry in Stanislaus County; until 1860 this area north of the river was a part of San Joaquin County). At the time a thriving river crossing (second only to the Doak and Bonsell's Ferry on the San Joaquin) connecting Stockton with the southern mines, Knight's Ferry had been founded just months earlier by an Indiana native and California immigrant of 1841, William Knight. It was advertised in the STOCKTON DIRECTORY AND IMMIGRANT'S GUIDE of 1852 as being thirty-five miles from Stockton and twenty-eight miles from Sonora and "the best and most frequented ferry on the Stanislaus."

O. C. Emory, the third supervisor, with a partner by the name of Charles McIntire, had purchased the ferry at the site of present-day Oakdale from Nelson Taylor and James Sirey in November of 1849. Soon after the two men were joined by a third partner, Richard Heath, and the business was thereafter known simply as Heath and Emory's. (For further information on Emory, the reader may refer to Vol. XIV, No. 2, p. 162 and Vol. XIV, No. 3, p. 173-4.)

and James Vantine its supervisors.  
Township Number four shall be the fourth road district of the County and  
J. Gard                      E. Masterson  
& E. D. Walker              its supervisors.

J. Gard was probably Jeremiah Gard, early county settler whose home was on the Mokelumne Hill Road (Linden Road/Highway 26) at least as early as 1850. He is remembered particularly for having been a

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

pioneer grain grower, having planted an experimental field of twelve acres on Calaveras River bottomland in 1850. There appears to be some confusion between this man and another pioneer, a certain Joseph Guard. An October 8, 1850 entry in the *MINUTE BOOK* (Vol. XV, No. 2, p. 194) is probably correct under the latter name, but an August 24, 1851 entry (Vol. XVI, No. 1, p. 218) spelled Guard should probably be Gard. Jeremiah Gard lived in township four and was definitely a rancher. Although an Ohio native, he came to California from Missouri. The 1852 census listed his age as forty-eight--relatively old among his contemporaries. No information has been found concerning Joseph Guard.

According to Thompson and West Edward Masterson had taken land in the vicinity of present-day Linden, along the Mokelumne Hill Road, in 1849. In the fall of 1854 a two-story brick building constructed by Masterson and a partner, Edwin Cogswell, was opened as the San Joaquin Female Seminary and it attracted female students from a wide area of the state. The building no longer exists, but the site (between Linden and Bellota) was marked in 1940 by an historical marker erected by the Stockton Parlor, Native Daughters of the Golden West.

A search for information concerning E. D. Walker proved fruitless. He too was probably a land owner along the Mokelumne Hill Road.

Township Number five shall be the fifth road district of the County and  
Thomas Baker          C. L. Benedict  
and C. W. Bradford its supervisors.

Baker, Benedict, and Bradford were all farmers living in the central part of the county and north of the Calaveras River. The 1850 census noted that C. W. Bradford was thirty-two years of age and a native of Delaware. He evidently served as a deputy sheriff under Ashe for a brief time in the spring of 1851. He re-entered the political arena in May, 1855, with his election to the new three-man county Board of Supervisors, successor to the Court of Sessions, but resigned the following October.

Charles L. Benedict, whose ranch was on the north bank of the Mokelumne River east of present-day Lodi, was a native of Ohio and in his late twenties when he arrived in California. His ranch home served as an election precinct site a number of times in 1851 and '52, and he

was a member of the county's first Grand Jury. He moved to Central America, where he died in 1871 (see Vol. XIV, No. 4, p. 177). Like the other two, little is known about Thomas Baker other than that he had been born in Ohio but came to California by way of Iowa. His name appeared as a co-sponsor of a petition presented to the Court of Sessions by Charles Weber in June of 1851 seeking adoption of a new shorter road from Stockton to Sacramento.

Township Number Six shall be the sixth road district of the County and  
T. S. Manly [sic] & R. M. Harmer  
its supervisors.

At this time both Manly and Harmer were probably living in or near San Joaquin City, this being the only semblance of a community in the whole southwest portion of the county that comprised the sixth road district. T. S. Manly was a partner in the operation of the Titus and Manly Ferry on the San Joaquin River on the north edge of San Joaquin City. It was established in the fall of 1849 and was later sold to a person by the name of Durham. For years the Durham Ferry Road south of Stockton (now Airport Way) was a reminder of the days before bridges spanned the numerous waterways of San Joaquin County. Manly served as an "inspector of elections" several times during the county's formative years and served as the County Administrator in 1851-2 as well. Despite the same surname, no relationship with William L. Manly of Death Valley fame has been established.

Richard M. Harmer served as the postmaster of San Joaquin City from July 28, 1851, until its close on January 21, 1852. Sometime between this date and early 1854 he apparently moved to the area immediately south of San Joaquin County, then a part of Tuolumne County. When the state legislature created Stanislaus County on April 1, 1854, Harmer was named to a temporary commission created by the state to organize the new government.

It is further ordered that a tax of three days' labor in each year be assessed on all able-bodied men in the County between the ages of eighteen and fifty years for road purposes in their respective districts.

Requiring all "able-bodies men" to serve on the public roadways in lieu of a tax levy was

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



Another view of the original San Joaquin County courthouse, from either Weber Avenue or Main Street circa 1858.

not an uncommon practice at that time. By the Road Act passed by the state legislature in April, 1850, the responsibility for all public roadways was given to the various counties and they were instructed by the same act to divide themselves into road districts and to name road supervisors to be responsible for the upkeep of all roadways declared public by the counties. It is interesting to note that the act also provided for the levying of fines upon all persons refusing to serve as supervisors. Those refusing to answer their summons to perform road labor were to be assessed an amount equal to the cost of a replacement although substitutes were accepted.

It is ordered that the County prisoners be removed from the building in which

they are at present confined, to the building fronting on Hunter Street North of Channel Street and known as MacNish's building.

Perhaps as early as November, 1849--before the inception of either county or city government--an unidentified "wooden building on the peninsula" may have been used as a jail of sorts according to an early newspaper account. Beginning in May of the following year prisoners were kept on a brig lying in the Mormon Channel, but only a few months later--on October 9, 1850 to be exact--the Court of Sessions ordered all prisoners transferred to the home occupied by the county jailer. Then in April of 1851 they were moved again--this

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



West side of the county's second courthouse structure. The Hunter Square Plaza is in the immediate foreground, with its landmark water fountain. The artesian well which supplied the fountain was drilled circa 1858. The courthouse,

constructed of brick with granite block facing, was completed in 1890. This view dates from about the turn of the century.

Courtesy, San Joaquin County Historical Museum.

time the county rented the Dickenson Building and transferred all of its offices--including the jail--into the one building.

In his instructions to the county Grand Jury on February 11, 1852, County Judge William Root recommended that that body urge removal of the jail from the Dickenson Building to the MacNish Building (all of the county offices except the Sheriff's Office had already made the move in the previous November). Not only was the jail overcrowded and in poor condition generally, but transfer of the inmates to the MacNish Building would realize a net savings of approximately \$1,200 a year in rental fees alone. On the twenty-first

the Grand Jury report was made public and included in it was a recommendation to make the change; on the twenty-sixth the change was ordered (the entry above) and once again all county functions had been brought together under one roof.

When the second Grand Jury made its report in June, 1852, it noted that its members had visited the jail in the MacNish Building, "and they express themselves satisfied with its management both as to cleanliness and the consequent health and comfort of the prisoners, and also with its present condition as to strength and security." Time proved

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

them wrong, however, and within six months of the issuance of this report the question of the proper confinement and care of the county prisoners became a topic of serious discussion once more. This time the city joined with the county in seeking a solution through the construction of a joint jail facility on Market Street, between Hunter and San Joaquin streets, in 1853. This was a direct result of a new county grand jury report which condemned the MacNish Building basement because of overcrowding, lack of sanitary facilities, and perpetual cold and dampness in all but the hot summer months. The new brick building contained two floors with seventeen individual cells as well as the usual complimentary facilities such as kitchen and office space as well as living quarters for the jailer. For the first several years (before the opening of the state prison at San Quentin) the county accepted outside prisoners, particularly those from the Mother Lode counties, and eight legal executions were held in its adjoining courtyard.

In 1869 the county Board of Supervisors condemned the building as inadequate, unsafe, and overcrowded. But it was not until 1893 that the "new" county jail was opened on the northeast corner of San Joaquin and Channel streets at a cost of \$90,000. It was constructed to house up to seventy-five inmates and was used until the opening of the present facility in April of 1959 near French Camp.

It is ordered that the sum of twenty-five dollars be appropriated, payable out of the Probate fund for repairing locks and removing the County prisoners, the same to be expended under the direction of the Sheriff.

345 It is ordered that R. P. Ashe, Sheriff of the County, be allowed the sum of five hundred and seventy-eight dollars and sixty cents for attendance upon the Courts and Grand Jury of the County as per bill filed, payable out of the general fund for the present fiscal year not otherwise appropriated.

It is ordered that Court be adjourned until the next regular term.

Wm. A. Root, Co. Judge  
J. K. Shafer, Associate  
Justice

Court of Sessions San Joaquin Co.  
Civil Matters  
April Term 1852

Be it remembered that heretofore, to wit, on Monday the fifth day of April in the year of our Lord one thousand eight hundred and fifty-two (it being the first Monday of said month) 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. W. A. Root, Judge  
J. K. Shafer, Associate  
R. P. Ashe, Sheriff  
A. C. Bradford, Clerk

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

Court of Sessions  
Civil Matters

Tuesday April 6th 1852

Court met pursuant to adjournment.

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

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

Wednesday 7th April 1852

Court met Pursuant to adjournment.

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

It is ordered that Court be adjourned until tomorrow (morning) [sic] three o'clock P.M.

Court of Sessions  
Civil Matters

Thursday April 8th 1852

Court met pursuant to adjournment.

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

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

Friday April 9th 1852

Court met pursuant to adjournment.

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

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

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

345-1 Court of Sessions  
Saturday April 10th 1852 Civil Matters  
Court met pursuant to adjournment.  
Present: Hon. W. A. Root, Judge

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

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

Monday April 12th 1852  
Court met pursuant to adjournment.  
Present: Hon. W. A. Root, Judge

B. G. Weir, Associate  
R. P. Ashe, Sheriff  
A. C. Bradford, Clerk

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

Court of Sessions  
Civil Matters

Tuesday April 13th 1852  
Court met pursuant to adjournment.  
Present: Hon. W. A. Root, Judge

J. K. Shafer, Associates  
B. G. Weir  
R. P. Ashe, Sheriff  
A. C. Bradford, Clerk

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

Thursday April 15th 1852  
Court met pursuant to adjournment.  
Present: Hon. W. A. Root, Judge

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

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

345-2 Court of Sessions Civil Matters  
Friday April 16th 1852  
Court met pursuant to adjournment.  
Present: Hon. W. A. Root, Judge

J. K. Shafer, Associates  
B. G. Weir  
R. P. Ashe, Sheriff  
Gilbert B. Claiborne,  
Deputy Clerk

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

Saturday April 17th 1852  
Court met pursuant to adjournment.  
Present: Hon. W. A. Root, Judge  
R. P. Ash, Sheriff  
A. C. Bradford, Clerk

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

Court of Sessions Civil Matters  
Monday April 19th 1852  
Court met pursuant to adjournment.  
Present: Hon. W. A. Root, Judge  
J. K. Shafer, Associates  
B. G. Weir  
R. P. Ashe, Sheriff  
A. C. Bradford, Clerk

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

Tuesday April 20th 1852  
Court met pursuant to adjournment.  
Present: Hon. W. A. Root, Judge  
S. Dean, Associate  
R. P. Ashe, Sheriff  
Gilbert B. Claiborne,  
Depy. Clerk

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

*Apparently Seneca Dean sat in for Justice Weir. Once before--in December, 1851--Dean had been appointed to the Court in Weir's absence (entry No. 310¼). As a justice of the peace Dean was qualified, and in fact lost his bid to gain a seat on the Court to Weir the previous October (see Vol. XVI, No. 2, p. 226 and Vol. XVI, No. 1, p. 218).*

345-3 Court of Sessions  
Civil Matters  
Wednesday April 21st 1852  
Court met pursuant to adjournment.  
Present: Hon. W. A. Root, Judge  
J. K. Shafer, Associate  
R. P. Ashe, Sheriff  
A. C. Bradford, Clerk

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

Thursday April 22d 1852  
Court met pursuant to adjournment.  
Present: Hon. W. A. Root, Judge  
J. K. Shafer, Associate  
R. P. Ashe, Sheriff  
A. C. Bradford, Clerk

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

Court of Sessions  
Civil Matters  
Friday April 23d 1852  
Court met pursuant to adjournment.  
Present: Hon. W. A. Root, Judge  
J. K. Shafer, Associate

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

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

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

Court of Sessions  
 Civil Matters  
 Saturday April 24th 1852

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

346 It is ordered that B. N. Reed, Deputy Sheriff of the County of Santa Barbara, be allowed the sum of one hundred and ninety dollars for fees and mileage in arresting one Nicholas A. Den under a warrant issued from this County, the same to be payable out of the revenue of the present fiscal year not otherwise appropriated.

*This has proven to be an interesting but very elusive entry--given the character and prominence of this man. That Den would be arrested and brought to Stockton under guard seems entirely out of character for this California pioneer whose life history appears above reproach. Neither the County Clerk's office in San Joaquin County nor the files of the Santa Barbara Historical Society shed any light on the mystery. Likewise the several Den biographies extant make no mention of legal problems in Stockton at anytime during his long and interesting career in his adopted state.*

Nicholas Augustus Den was born in 1812 in County Kilkenny, Ireland, and studied medicine as a youth at Trinity College in Dublin. Due to financial difficulties at home he was forced to quit school in his last term, and he then made his way (1834) to Newfoundland, hoping to start life anew. Two years later he arrived in Monterey. He became a Mexican citizen, married, and raised a family of eleven children. In 1842 he received a Santa Barbara-area land grant of 15,000 acres known as **Los Dos Pueblos**. The following year his brother, Dr. Richard Somerset Den (with whom Nicholas was sometimes confused as he, too, was referred to as "Dr. Den" although technically not one) came to California, and was a prominent property holder here in Stockton in its early years. With his brother Nicholas tried his luck mining in the Mother

Lode, but after a very short stay returned to Santa Barbara to tend to his land holdings. In 1849 he organized the first cattle drive to Stockton--822 head destined for the hungry miners of the Mother Lode. This brought him \$41,000--an enormous sum in those days--and he followed this with a second drive, this one to San Jose, involving almost 2,000 head of his cattle. He passed away at his ranch in 1862, one of the wealthiest and most respected men in California.

(To Be Continued in Next Issue)

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