

## BEFORE AND AFTER THE CIVIL COURTS

--by H. C. Bailey, '52.

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California was admitted to the union as a state September 9, 1850. How long it took to organize and put the civil machinery of government in operation, few if any know. I know that it was five years before we had a justice court south of Calusa, in that county. If we consider the personnel of the first settlers, who were nearly all miners thickly settled in small camps with varying distances between camps, we need not be surprised that in a large measure every man became a law unto himself. Also every camp adopted a kind of unwritten code that was enforced very much after the manner of our civil courts of the present day.

The laws adopted by mining districts were made legal by the legislature and court decisions. A mining district was first advertised with certain boundaries, an election called, and if a majority voted yea, a committee was appointed to draft a set of by-laws, regulating the size of claims and what constituted a right to a claim, how long it might be vacated without forfeiture; also as to water rights--the most important factor at that time, as only surface mining was in operation. At the appointed time the electors met, adopted the by-laws, elected a recorder, decided the amount to be collected as a recording fee, and was ready thereafter for business. The recorder acted in a limited way as a justice of the peace. District laws differed in the size of claims and some other points, owing to local conditions and interests. Each district was in a measure a government to itself, and administered law from its own standpoint of right and wrong. All personal disputes were settled by the disputants, unless a gross injustice had been done a weaker by a stronger party. All mining and water right disputes were decided by a miners mass meeting, the majority rendering the verdict, unless the parties to the controversy choose to settle it by other means. Sometimes firearms were resorted to, though such an occurrence was rare.

In trials for stealing, and similar offenses, a regular jury was selected and counsel appointed for both sides. The vigilance committee of San Francisco of 1856 was patterned after <sup>the</sup> mining trials of '49 and the early 50's and was endorsed by 90 per cent of the population. The usual penalty for petty larceny was banishment from the district, and in



out the married men. Count the hats and you had it.

As a whole the early miners of California were in the strictest sense cosmopolitan. He neither had or expected to have a home or permanent stopping place till he returned from whence he came. He was a shifting, restless fellow, seldom satisfied with the returns of his claim, regardless of the yield. His knowledge of mining had all to be gained by experience and observation, and it was a little disquieting to work a claim for \$10 a day while others were taking out from five to ten times as much. A majority of the earliest miners made big strikes at some time and found it hard to be content with anything less than a bonanza. Many others wandered from camp to camp for years, barely making a living, and that largely by wages, while the ignus fatus of hope was ever dazzling before his eyes, luring him on from camp to camp, with never a thought of failure or abandoning the chase. None can ever know how many lives were sacrificed in this infatuating chase, while so much might have been accomplished had the same energy and perseverance been directed along different lines. It is a pathetic scene in one of life's greatest dramas. The congregating and intermingling of so many different elements and characters, while it evolved no new elements in the social relations of mankind, with a unanimity never before known, crystallized some of the noblest traits in our nature that has and always will redound to the honor and credit of all who participated. It was not the product of any particular class, country or people, but the whole civilized world contributed to the production of what I propose to tell as best I can in a future article.