

CHILEANS SEEKING CALIFORNIA GOLD (1849-1851)  
Newspaper Report — Riot and trial, San Francisco, July 1849

**Weekly Alta California, 2 August 1849.**

[Reported for the Alta California.]

The **Chilenos** and other Foreigners in the city of San Francisco attacked by an Armed Party of Americans—Great Excitement—Meeting of the Citizens —Formation of a citizen armed Police—Arrest of the Rioters—Their Trial and Sentence.

One of those whirlwinds of excitement which may now be said to have become periodical in San Francisco, was witnessed on Monday, July 16, 1849. Its immediate cause was an attack on the Sunday night preceding, by a large party of armed Americans, on several **Chilean** tents in different portions of the town. The tents were torn down and destroyed, their contents stolen or damaged, and their occupants knocked down, shot at, and otherwise maltreated. In two instances the shots took effect, wounding one young man severely in the left hand, and in the other endangering life by a bullet passing through the body in the lower part of the abdomen. Both these men were beaten also. The scene, as heard by those residing in the vicinity, is described as heart-rending. In every direction were heard the cries and shrieks of women and children, mingled with the oaths and demoniac laughter of reckless and impious men, whilst the report of fire-arms, and the sound of blows falling thick and fast upon the defenceless, gave to the act its finishing touch of cowardly outrage and attempted assassination.

Since the month of February last, an association or society of young men calling themselves "Hounds" has existed in this town. Until recently, it has not been known what were its objects, and as no outrages were committed by its members, beyond an occasional street fight or brawl, but little notice was taken of them. They were only known to most of our citizens, by displaying a want of sense, in parading the public streets in fantastic or ridiculous dresses, and by the commission of pranks of a character calculated to amuse the community at the expense of themselves. Recently, though, the association seems to have changed its tactics; for we have been frequently told of outrages committed by persons styling themselves "Hounds," on defenceless and ignorant foreigners, It appears they had established a sort of Head Quarters in a large tent, near the City Hotel, which they called "Tammany Hall," and from this they would sally out, and under some ridiculous plea, or threats of violence, extort money, goods and effects from different persons. These things continued, without making much excitement against them, until the murder of poor Beatty, who was shot while accidentally with them in one of their marauding excursions against the property of a foreigner. The "Hounds," indignant that a foreigner should dare to defend, by force of arms, his property and the honor of his household, assembled the day after the occurrence, and confiscated and sold to the highest bidder the tent and effects of this man, who had done no more than protect himself against their assault. After this occurrence, they seemed to gain strength, confidence and numbers, and having changed their name to "Regulators," they appeared

on Sunday afternoon, the 15th instant, in our public streets, with fife, drum and banner, setting at defiance every feeling of regard for the day, or the rights of a great portion of the community.

The events and conduct relative to foreigners, which has recently transpired in the mines, has, no doubt, tended to give assurance to these reckless men, and thus emboldened, they were led to commit the outrages of Sunday night.

That our readers may make their own decision on the case, we lay before them all the facts, premising that when the intelligence of the Sunday evening outrages became known on Monday morning, the town was a scene of the greatest excitement. The Alcalde issued a proclamation calling on all good citizens to repair to his office at 3 P. M. of that day; and at that hour the largest public meeting ever held in San Francisco convened. Here follow its proceedings and results.

San Francisco, July 16th, 1849.

Extraordinary excitement having prevailed during the morning among the good citizens of San Francisco generally, on account of an attack made on the tents of **Chileans** in this place, by a body styling themselves "Regulators" or "Hounds," who had been for some time past disturbing the peace of this place, by acts of violence on peaceable citizens—by robbery and murder—the people assembled on Portsmouth Square.

After some preliminary remarks made by Messrs. Brannan, Smith, Stevenson and others, the meeting was organized by the election of W. D. M. Howard, President; James Ward, W. H. Davis, Vice-Presidents ; Dr. Victor J. Fourgeaud, Secretary.

The chairman having called the meeting to order, Mr. S. Brannan addressed the people, exposing the acts of violence committed by the "Hounds," and calling for prompt action on the part of the people, or their lives and property would be in danger. Mr. Brannan moved that a subscription list be opened at the Parker House for the relief of the sufferers by the riots, assaults and robbery of last night — which was carried.

A suggestion was made to organize a body of men, to assist the constables in arresting the "Hounds."

A police body was formed, of which Mr. Spofford was appointed chief. In accepting the office, he made an energetic address, and concluded by saying—"when I forget my duty, may God forget me."

The citizens generally enrolled their names for police service, and the meeting adjourned. Victor J. Fourgeaud, Secretary. At 3 P. M., citizens to the number of 230 who had enrolled themselves, assembled around the flagstaff of Portsmouth Square. They were then formed into companies by Mr. Spofford, chief of police. Messrs. Stevenson, Wadleigh, Simmons, Smith, Turk, Gillespie, Hughes, Priest, Webb and Stevens, were appointed captains.

Extraordinary exertions were immediately made to secure the offenders, which were crowned with success, for by sundown seventeen men were arrested, examined and put on board the U.S. Ship Warren, there being no prison at this place. The leader of the gang, Roberts, was arrested on board the Schr. Mary, bound to Stockton, and another named Curley was arrested at the Mission.

Minutes of the Public Meeting of Citizens in Portsmouth Square, 16th July, 1849.

The meeting was called to order by Mr. W. K. Smith, and after a few remarks by that gentleman, he nominated Mr. Bezer Simmons as Chairman, who on taking the chair, stated to the citizens the object of the meeting, which was the appointment of two special Judges to be associated with the Alcalde in the trial of the rioters, also District Attorneys.

Whereupon, Mr. Merrill nominated Mr. Gwin, as one of the Judges, which was seconded by Mr. Brannan, and carried unanimously.

Mr. Gillespie nominated Mr. James C. Ward as Judge, which on being seconded by Dr. Fourceaud was carried unanimously. Mr. Ward respectfully declined to accept the responsible office, which the citizens would not listen to.

On motion of Mr. Gillespie, seconded by Mr. Howard— Mr. Hawes was appointed District Attorney.

On motion of Mr. F. Ward, seconded by Mr. Gillespie—Mr. Hall McAllister was appointed associate counsel with Mr. Hawes. After remarks from several citizens on the necessity of immediate and united action in bringing the rioters to justice, the meeting adjourned.

Bezer Simmons, Pres.

On Tuesday, July 17, a Grand Jury of twenty-four citizens met, and after hearing testimony, and deliberating thereon, returned into Court with a true bill against Samuel Roberts, and others, as follows;—

The undersigned, citizens of the District of San Francisco, California, do present the following Charge and Specifications against Samuel Roberts, Wm. Mickle, Phil. A. Higgins, Dav. Gale, Jas. H. Harrison. Augustus St. John, Lewis Burns, Geo. Batchelor, Peter Gardener, J. F. Barker, Thos. R. Orander, Geo. Chiids, Rob't Starkie, Jas. Robinson, John Kanaka, Alex. McGuire, Jas. Leatherby, John Curley, John Powers, John Styles.

#### CHARGE I. — CONSPIRACY.

Specification.—In this that the said Samuel Roberts, and the other persons above named, did conspire amongst themselves and with certain other evil disposed persons to the undersigned unknown, at or before the 15th day of July 1849, in the Town of San Francisco, California, to commit certain illegal acts to wit; to rob the peaceable inhabitants of this District of their property; to assault, beat, shoot at, and wound their

persons; to commit riot, rape and murder, and divers other crimes and outrages against the peace of the people of this territory.

#### CHARGE II.—RIOT.

Specification.—In this that the said Samuel Roberts, and the other persons above named, together with certain other evil disposed persons to the undersigned unknown, at the time and place aforesaid, did riotously assemble, armed with deadly weapons, with the intent to commit murder, robbery and other enormities, and did then and there demolish certain tents inhabited by one Domingo Alegria, and other persons, and did assault, shoot at, and wound with deadly weapons Rinaldo Alegria, Ignacio Alegria and other persons: and other wrongs riotously commit to the great disturbance and terror of the people of said town.

#### CHARGE III.—ROBBERY.

Specification.—In this that the said Samuel Roberts, and the other persons above named, together with certain other evil disposed persons to the undersigned unknown, at the time and place aforesaid, did put the following persons in bodily fear of death, or of violence, to wit:—Jose Espinoza, Basilio Lopez de Alegria, Jose Goicolea, Jose Igual, Juan Bautiste, Frederico Imana, Antonio Martinez, Pablo Urrutio, Gregorio Rival, Ruperto Sigurola, Jose Poeta, Jose San Vincente, Jose Blas Nenna, Luis Aberastam, Felipe Acuna, E. A. Arnair, Jose A. Brito, Basilia Lopez, Bernardo Paraga, Fadeo Espinoza, Bernardo Brite, Estanislau Bergara, Nicodemus Grouge, Ramon Cartanena, Tumana Numa, Domingo Carmone, Pedro Lewa, Juan de dios Lewa, Juan Plaza, Fran. Bera, Enrigue, Alcardo, Zenan Olivares, Juan Gonzares, Anacdite Lorianue, Manuel Abatos, Jos. Maria Valchez, Vincente Vilche, Miguel Montes, Baldoman Alcuna, and did thereby then and there violently and unlawfully take and carry away the following effects, the property of the said last mentioned persons, respectively, to wit: six thousand three hundred dollars or thereabouts in coin, and one thousand four hundred dollars or thereabouts in gold dust, together with fire-arms, jewellery, one pipe of wine, one pipe of rum, personal effects and wearing apparel to a large amount and of great value. [n.b.: Pipe = 126 gallon cask]

#### Charge IV —ASSAULT WITH INTENT TO KILL.

Specification.—In this that the said Samuel Roberts, and the other persons above named, together with certain other evil disposed persons to the undersigned unknown, at the time and place aforesaid, did wilfully and maliciously shoot and mortally wound Rinaldo Alegria and Ignacio Alegria, and other persons with intent to kill and murder them.

And the undersigned do further present the following charges and specifications against the above named Samuel Roberts.

#### Charge.—Assault with Intent to Kill.

Specification 1.—In this that the said Samuel Roberts, in the town of San Francisco, California, on or about the 15th day of July, 1849, did unlawfully and maliciously, and

with great violence assault, beat and severely wound with a heavy club or stick, one Leopold Blechschmidt, with the intent to kill and murder him.

Specification 2.—In this that the said Samuel Roberts at the time and place aforesaid, did unlawfully, wilfully and maliciously, repeatedly shoot at with a pistol, one Vincente del Campo, with the intent to kill and murder him.

W. D. M. Howard, Foreman; Frank Ward, Anest Priest, A. M. Van Nostrand, Wm. C. Parker, F. C. Gray, David Dring, Wm. H. Tillinghast, Robert Petch, Victor J. Fourgeaud, Talbot H. Gireen, Jas. Creighton, William L. Hobson, B. Cecil, C. V. Gillespie, R. M. Sherman, Samuel Brannan, A. T. Lawton, S. W. Haight, W. A. Buffum, N. K. Benton, Wm. Stout, Seth S. Lancom, Samuel Kyburz.

A true copy of the original on file in the Alcalde's office, San Francisco.

HENRY GILLINGHAM, Clerk.

On Wednesday the 18th inst., the court assembled in the Public Institute. On the bench, T. M. Leavenworth, Alcalde; Wm. M. Gwin, associate do.; James C. Ward, do. do.

Messrs. Francis J. Lippitt, Horace Hawes, Hall McAllister and Frank Turk, Esqs., appeared on the part of the People ; and Messrs. P. Barry and Myron Norton, Esqs., on the part of the Defence.

The People of San Francisco } Wednesday, vs. Samuel Roberts. } July 18, 1849.

It was understood that the counsel for the defence waived all exceptions to the form of the indictment. A jury was then empanelled of the following gentlemen: Thomas R Winston, J. R. Curtiss, J. V. Plume, A. De Witt, Clarence Livingston, Benj. Reynolds, Z. Cheney, John Sime, Wm. Hood. John W. Tompson, Francis Mellus, and Frederick Teschmacker.

The Court then adjourned to meet at 9 o'clock on Thursday morning.

Thursday, 9 o'clock, A. M.

Present — His honor T. M. Leavenworth,

" " Wm. M. Gwin,

" " J. C. Ward,

and the prosecuting attorneys, prisoner and his counsel.

In consequence of public duties requiring the immediate presence of the witness in another part of the country, the opening of the cause was deferred until his evidence could be taken.

Capt. Andrews, U.S.A., sworn.—On Sunday night last, about 12 or 1 o'clock, I was going down to the Bay. When in the Plaza I heard a fife and drum in the direction of the "Shades." I went over and found a crowd of between fifty and sixty men. I identified one man in the crowd. This man spoke to me. This man was not the prisoner. [Shall I tell what this man said to me—or am I only to say what I know relative to the prisoner at the bar?]

Counsel for Pros.—Yes, tell the whole.

Counsel for Def.—I object. I call on the court to instruct the witness that what other persons did and said are not relevant to this defendant, and cannot be given in evidence.

The Court, to witness.—Go on.

"—I asked him what they were going to do. He said they were the "San Francisco Regulators, and were going to whip and drive every damned **Chileno** out of the town." I asked for "Sam." He said "Sam was captain and he was a lieutenant—Sam's ahead"—they were in military array with a drum and fife playing. They went to a tent near Mr. Egleston's house and tore it down and robbed it. I saw one person break open a trunk. I walked round and looked at them whilst they were plundering and destroying the tent. I was anxious to find Sam [the prisoner] as I thought I could prevail on him to take the party away, having some slight acquaintance with him.

Cross-ex.—I am satisfied the prisoner was not there unless he was greatly disguised. I had confidence, though I only know him by sight, that I could prevail on him to take the party away. There were many sailors and strangers in the party, I thought. I saw the prisoner at the Parker House at about 8 o'clock that evening. The party which paraded the streets in the afternoon I knew many of, but I knew only one of this midnight party—they appeared to be all rowdies. I stood near two of them while they broke open a trunk—heard their conversation—but did not know them. I do not know whether the moon shone or not—I could not have told a person three yards off without knowing his voice or dress well. They had all sorts of dresses, but did not appear to be intentionally disguised.

The Opening Speech.

Francis J. Lippitt, Esq., then rose and said, substantially—

May it please the Court, and Gentlemen of the Jury—On Sunday last an armed party in military array, with fife and drum playing, and banners flying, marched to a remote part of this city, and committed divers grave assaults and outrages on the peaceable inhabitants thereof. They attacked, tore down and destroyed many tents, stole from them money, gold dust, jewellery, and other valuable effects. They struck and beat with clubs and stones, and otherwise maltreated their occupants; and they even discharged fire-arms amongst the flying and frightened crowd, recklessly wounding several persons and one of them so severely that he is not expected to recover.

This was not a riot, called into existence by some extraordinary excitement. Such scenes end with the causes that produced them. If this were a case of that kind, you would not look upon a scene like this. You would not see this room thronged with anxious spectators—you would not see citizens banding themselves together and calling for arms—you would not see night patrols—you would not see men giving up their business and industrial pursuits to come forward and see that the wheels of justice are not impeded.

The acts and outrages I allude to are the result of a conspiracy—a systematic attack upon the lives and the property of this community. It would be constructive treason under the common law, and punishable with death. We have called it simply conspiracy, to avoid technicalities. But we wish it understood that it is constructive treason.

Treason is the highest crime known to the law—higher than murder. It is not necessary to prove that an act has been committed which endangered life, to make out a case against the prisoner. If it can be proved that he have conspired and committed treason he is liable to the full penalty.

There are other charges—riot, assault with intent to kill, robbery. The important fact we expect to prove is conspiracy against the lives and property of this community. The others are simple overt acts, springing from and carrying out the great crime—conspiracy.

The charges have been framed to the best of the ability of the prosecution. Of course they do not present the whole of the outrages. The reason is, that there are men in this community—influential men—who lean to the side of the prisoners, and who throw obstacles in the way of justice.

There is a duty on the part of the prosecution that calls upon them not to oppress or wantonly injure the prisoner. They only wish that justice may be done—they have no cause to gain but the cause of justice. It is proper, however, that I should remark, that if an attempt be made to prove an alibi, and there is any witness present who intends to perjure himself, let him beware. I do not wish to make a threat, but I wish to assure such person, that he cannot escape the anger and punishment of God, if he do that of an outraged and excited community.

It is an important feature in English law that the jury should come from the vicinage of the accused. This is so, that they may be enabled to judge of the competency of the witnesses who may be produced. Look to it, then, gentlemen of the jury, and see who swear to this alibi—see if they are not in any manner implicated with the prisoner and his gang—and if you shall think from your knowledge of any witness that he is unworthy of belief you must reject his testimony.

Two of the members of this court have been appointed by the people in a public meeting. The object was that the community might share the great responsibility which would otherwise fall upon the alcalde; and I trust and believe that they will not be found recreant to their duty, but that they will carry out the wishes of the public and see justice done, and the integrity of this community vindicated.

Gentlemen of the jury, it is for you to decide upon the guilt or innocence of the accused. You are called upon patiently to listen to the evidence and the arguments of counsel, and calmly and dispassionately to weigh the same. It is not for you to fix the punishment, but the guilt. The law and the punishment belong to the court, and the guilt or innocence of the prisoner is the only matter you are to decide.

Thaddeus M. Leavenworth, sworn.—I am alcalde of this district—have been for ten months.

Ques. by Pros.—Do you know of the existence of a society called "Hounds?"—

Counsel for Def.—I object. I wish to know the object of the question.

Counsel for Pros.—To prove their existence.

By witness—By common fame. I have seen two or more persons together whom knew to be called "Hounds."

Ques. by Pros.—Do you, in your official capacity, know of any outrages committed by the "hounds."

Counsel for Def.—I object—it is irrelevant.

The Witness—I insist upon my right to tell my story in my own words!

Counsel for Pros.—I demand of the court that the witness shall answer my question.

[Here several gentlemen of the bar jumped to their feet, and some confusion occurred; the alcalde proceeding to tell his story "in his own words"—when the

Counsel for Pros.—" I call upon the court to commit the alcalde!"

The witness—" Sit down, sir, and preserve order, or I will instantly have you arrested!"

The Court—Of course, if the alcalde comes on to the stand as a witness, he must abide by the rules applicable to all witnesses, and cannot, for the time, be considered a part of "the Court;" but I would suggest to the counsel for the prosecution that it will probably be best to allow him to "tell his story in his own words."

Counsel for Def.—I wish my exception noted to the whole principle of this hearsay evidence.

Witness proceeded—There is nothing before me to that effect. Some individuals have said to me that they were "hounds"—perhaps in jest or earnest. I thought they stated the truth. I have heard of gross acts of injustice committed by the "hounds." I considered the citizens remiss in not reporting them to me for judicial action. Some person complained to me relative to a tent, but I do not know who complained. I think he was a "hound" and disapproved of the proceedings.

Counsel for Def.—I insist, if such latitude be allowed, that the evidence shall be stricken from the record, if not eventually brought home to the prisoner.

The Court so decided.

Witness proceeded—On the night in question [June 21] I heard a man had been shot. I went to see him. From him I learned nearly all I know. I have no personal knowledge of the matter. I went to the tent next morning; it was deserted; goods laying about; two persons were handling the goods; I did not know these men were hounds; I did not know of these goods being sold; I said I would send a cart for the goods, but they were taken away and sold before I did so.

Thomas Kittleman, sworn.—I know of several tents which were torn down. The one torn down near Tammany Hall, I saw. I sat in my door opposite nearly two hours. I saw the mob rolling off tierces of brandy. [n.b.: 42-gal casks] The prisoner was present several times; I did not see him touch anything; I saw Andrew who was Sheriff last winter, and John Curley there. One of the crowd got up and sold the liquor off at ten dollars a barrel. I went and saw the alcalde and asked him if people were to be robbed in this way in broad daylight. He said he knew all about it, and that they would be brought to account for it. I have seen prisoner going about as one of the "hounds," and always thought him and John Curley the principal ones. The two Lee's, brothers—shorty and the tall one—Twitcher, George Batchelder, John Powers, and William Mickle were all "hounds." I have heard that the association was organized on paper;—I do not know that they are. It was about three weeks ago that this property was carried off. I do not know who owned it. I have seen the "hounds" three times before. I saw the same party tear down a tent at the Point. I know it was the same party—they were calling out for the "hounds" as they went along. I did not see prisoner there. I have heard of the "hounds" since October or November last. I have known the prisoner since New Year's. I thought it was a political organization. Latterly I have thought it was an organization to rob **Chilenos** and commit other outrages.

Counsel for Def.—I think the constitution of the "Hounds" should be produced, so as not to hold innocent persons responsible for the acts of bad men who may have gained access to a good society.

The Court—[Producing a paper.]—The court have received this paper purporting to be the Constitution of the "Regulators." It is not signed, and has no appearance of an authentic document. Of course, it cannot be received as evidence.

Ques by Juror.—I have heard "hounds" say they intended to drive the **Chilenos** out of the country. I never heard prisoner say so. He may have been present at the time.

Cross-ex.—I do not know positively what were the objects of the association. I have heard the hounds complain of acts of violence committed by **Chilenos** and foreigners on American citizens and hounds. I have never known of any such aggressions by **Chilenos**. I was on the Point one day; Tall Lee told me that five or six **Chilenos** had attacked him and beaten him. They were tearing down the tent then.

Jules Rousson, (Frenchman) sworn.—I keep the U.S. Restaurant. On last Sunday a party of men entered with a drum and took away what they wanted without pay. The prisoner commanded the party who thus entered. About two months since same party came and supped and went away without paying for it. About a month since came again and eat, and gave an order on the alcalde who refused to pay. I do not remember that the prisoner was one of that party. I do not know that the alcalde employed these men, but the same men who whipped the man by order of the alcalde came and eat and gave the order. My door has been broken in twice, and when the panels fell in the party ran away. I know these men only as individuals —not as hounds. The first time they came there were eight or ten. I destroyed the order when the alcalde refused to pay it. I know the individual who gave the order, but not his name. It was not the prisoner,

Cross-ex.—On the Sunday before last the prisoner had supper and did not pay for it. I do not know who was with the prisoner— there were four. I have never been paid for it.

By a Juror.—The alcalde desired the man to return with the order, but I never sent it again.

The counsel for the prosecution here introduced a witness, and requested the court to assure him that he need be under no apprehension of personal danger. The court so said, and the witness having asserted that he had no fear, he was sworn as follows:

Domingo Cruz, (**Chileno**) sworn.—I have a tent on Clark's Point. On Sunday night last about half-past nine, about twenty persons arrived at my tent. There were then 20 **Chilenos** there. The twenty Americans presented pistols to the breasts of the twenty **Chilenos**. They asked for liquor. Three men went behind the counter and commenced breaking the bottles and drinking. I did not see the prisoner among them. I did not hear any one call out, "Sam." They went out, but soon returned in greater numbers with a fife and drum; I did not then see the prisoner. The prisoner might have been there and I no see him. After staying about half an hour, and breaking the bottles and drinking, they went to the tents of other **Chilenos**, which they destroyed, firing shots and making much noise. Captain "George" knocked a **Chileno** down with a broken sword at the door of my tent. They said they had an order from the alcalde to destroy all the tents of the **Chilenos**. Several of them loaded their pistols before they left my tent. The shots were fired shortly after. In a little time they commenced bringing goods to my tent, throwing them down at the door, and saying "these are mine." In the morning [Monday] a small man whom I saw the night before, came and carried away some things, and said he would send a cart for the others. I would know the man if I should see him again. I did not hear any name given to the party. I heard them call out often for captain "George." They came toward the plaza, and I saw them no more. They came to my tent once before; but they paid then. I did not see the prisoner at all during the evening. I was a friend of Captain George at Valparaiso; but I still felt a great deal of fear. I am not a friend of the prisoner, and did not exchange signs with him when I entered the court.

By a Juror.—Some of the party were disguised so that I could not know them.

Cross ex.—I have a partner who speaks English. He is now at the tent. I knew Capt. George; was one year on board a **Chilean** man of war with him some eight or nine years ago. I do not know how long George has been in this country. George was here when I arrived—some three months since. George is a white American; is a sailor; is a boatman in San Francisco. I brought a boat here; but have other men to care for it. One of the party said there were three hundred. There was about one hundred in my tent at one time. They were of all occupations — many of them sailors. Some of the first 20 were sailors. He was universally called Capt. George. The first 20 had no fife and drum, George was captain of both parties—so recognized by all. I did not see the persons outside the tent. I did not go out. The prisoner has been at my tent twice before that evening, and had refreshments, and paid for them. I think I would have seen prisoner had he been in the tent on that evening.

Dominco Alegria, (**Chileno**) sworn.—I was in my tent with an Englishman, when some persons arrived and commenced firing. My children were sleeping inside. The English man and myself were reclining. My sons names are Rinaldo and Iguacio Alegria. I heard one of the children cry out, "do not kill me, I am already wounded. " I escaped from the tent and ran down to the water.— Both young men were wounded, one in the body, and the other in the hand. The one shot in the body was also struck in the face and groin. At first I did not hear music, but when I returned I heard a fife and drum.— They destroyed the tent, and carried away all my property, including \$2,000 in coin, and considerable jewellery, valued at about \$1,500 more. I did not see the prisoner during the attack. I know only one of the party, who returned next day and took a handkerchief from one of my children. I believe that the man whom I knew in the party is an Englishman. I do not know his occupation. I cannot tell of what occupations the party were. I do not know of any Captain. I was frightened. I heard "kill the **Chilenos**" cried out. I recollect, but could not observe.

Pedro Martinez, (**Chileno**.) sworn.—I know that several persons were wounded. I saw the Captain fire three shots at a person on Sunday afternoon. I was at the distance of 20 or 30 yards and cannot speak positively, but think the prisoner is the man who fired the shots. The man was running. Both running when the shots were fired. The prisoner appears to be the man who fired the shots at the man who was running.

Cross examined.—This happened about 2 o'clock, P. M., on Sunday last. Prisoner attacked other men, struck several, saw the man in uniform knock one down, others who interfered were abused by his whole party. This occurred in the tents beyond Mr. Barrena's house, where there were some **Chilean** women. The man beaten was a German. I do not know whether the man shot at was an American or Mexican. I saw a pistol fired by no other person than the one in uniform, I did not see him in any tent. I have often seen him about there. I have heard that the prisoner keeps a mistress in one of the buildings in that vicinity. I know the house in which this woman lives. I have seen the man in uniform go into the house. I saw the German standing in the doorway of that house when the man in uniform arrived. I saw him strike the German who stood in the door. The German did not use arms, and I suppose the other man did not, as he immediately ran away. I do not know that the person fired at interfered at all. He moved away as soon as the first shot was fired.

[The court here took a recess of half an hour.]

Afternoon Session.

Considerable excitement was manifested at the opening of the court this afternoon, in consequence of the production of the wounded man as a witness. He was brought into court in a reclining position, attended by his mother and sister.

Rinaldo Alegria, (**Chileno**.) sworn.—It was about 8 o'clock when they entered the tent. My brother only was with me. My father was in the next tent. They commenced pulling down the tent. I ran out, was struck, caught and held by five or six, and shot by another, I and then [sic] escaped from them, and I another man got into a boat and went on board a ship for the night. I heard the drum and fife when I was on the beach. I was wounded in the groin. I think with the butt of a gun.

By the Court.—I was on board the vessel till the next day.

Ball produced and identified by a person who saw it extracted.

Cross ex.—He does not recognize the prisoner as having been one of the party who committed the assault. The light was put out, and he could not see.

Dr. S. R. Gerry, sworn.—I examined the wounded man who has just testified. In company with Mr. McAllister I went on board the **Chilean** ship Gen. Friere to examine him. I found the ball had entered the lower part of the left side of the abdomen, and passed out on the right side in the direction of the navel. The ball passed entirely through the body. A wound of this kind would prove mortal in ninety-nine cases out of a hundred. My impression was at first that the wound was mortal. Since then I think there is some hope. The event, however, is very uncertain. The patient is a little weaker than when I first saw him.

Cross ex.—There has been no great change since the day I first saw him. I do not think the bringing him here will seriously injure him.

Vicente del Campo, (Peruvian,) sworn— I was walking between five and six o'clock on Sunday evening with another gentleman. I heard a row in the National Coffee House. I saw a man in a military dress beating another man. I think it was the prisoner who was beating the man. They were trying to get into the house back of the Coffee House. At this time I was struck. I was very much frightened and ran away. I heard three shots fired, but I do not know who fired them. I believe it was the prisoner who struck me.

Cross ex.—When I first saw the man in uniform, he was talking to the German. I then stood and saw him beat him. After he had beaten the man he came towards the Plaza. The man in uniform came back in about ten minutes with other men. He was the only person I saw come down to the Plaza. I did not send word to him, "that if the damn'd son of a bitch would come back I would shoot him." I am a Peruvian. There were several other persons there. I knew but one of them.

By a Juror.—I only saw one man in uniform.

Cross ex.—I had no arms, and my acquaintance had none. I did not say to the man in uniform, "I would shoot his head off." I said nothing until I was struck, and I do not know what I said then. I was also struck opposite the Washington Market. I do not know who struck me. I do not know who shot. I heard three shots. This is one of the shot holes in my coat sleeve. It was between five and six, P. M. I did not hear prisoner called by name.

Santiago H. Vives, (Spaniard,) sworn.— After I had dinner on Sunday evening I went up street. When I got to the corner near Capt. Dring's, I saw four men standing near the house of the **Chilean** women. I asked a friend what it meant. He said there had been a row, and there was going to be another. I then saw ten or fifteen men come up from the St. Charles, the prisoner at the head with a speaking trumpet, and commence beating these men. The prisoner fired three times at one of the parties running away, with a revolver pistol. I found I was alone, and I went a little nearer and saw some of the party kicking one man in the face who was down. I saw prisoner strike Del Campo once or twice with the trumpet. Del Campo ran, the prisoner after him, and drew a pistol and fired three times. He was about the length of this room from him when he fired. I am sure it was prisoner, because he passed close by me when he came back. I have seen him before this. Del Campo had no arms that I know of. I saw no one but the crowd following the prisoner. They said nothing but ran fast, and commenced beating the men as soon as they readied the spot. Prisoner had on a uniform with gold stripes and shoulder straps.

Benjamin Hudson, sworn.—I am a clerk of V. Bennett, who keeps a Hotel. The prisoner, and about 20 others came to the house on Sunday last; prisoner called for Champagne, said he would have it or tear down the house. I told him that we had no Champagne. He then said give them what you have in the bar. I did so, some drank. It was not paid for or offered to be paid for. The prisoner did not drink. He spoke through a trumpet, and said what I have before related. I have heard of the "Hounds." Know some persons who are said to be connected with them. They had a drum when they entered the house. I know the man who beat the drum. Do not know his name. Never saw prisoner with the same crowd before.

William Martin, sworn.—On Sunday afternoon, between 2 and 3, I walked out of my tent in front of the house where the **Chilena** women reside, saw prisoner beating a man with a stick and dragging him, until he seemed to think he had beaten him enough. He then got on a horse with another man. He reached down and struck at the beaten man with a spur which he had in his hand. About an hour afterwards prisoner and a party came about in military array. They went into the Coffee House and appeared to be drinking, went away towards the Shades and then up the hill. About an hour afterwards while I was taking tea, I heard a noise, went out and saw prisoner beating a man. I went round to a little shanty where I had some thing. I was getting out of the way, and whilst there I saw the prisoner take deliberate aim at Del Campo, and fire at him at the distance of about 8 yards from him; at this moment a man came around behind me, ran against me, and swore. I attempted to stop him; I said I did not; his companions come up, and I was seized by the hair; my shanty was broken open; I got away and went into my tent, two followed me, begged my pardon, but said if I said anything about it they would break everything in my

tent. I only saw prisoner fire once. He was not in the party who attacked me. My eye was hurt at the time.

Manuel Alcayaja, sworn.—He was writing in his tent, about 20 yards from the corner of the Plaza. Hearing a noise in a wooden house about ten yards from his, went out and saw a man on the ground, and prisoner striking and kicking him. Does not know the beaten man. Prisoner retired, came back again and struck a second man who appeared to interfere. The first man struck was apparently insensible. Prisoner then got on a horse with another person, and struck at the beaten man with his spur. He heard the noise afterwards but did not go out. He knows neither man who was beaten. He thinks he might know the beaten man were he to see him again. This occurred at 10 or 11 A.M. It was before noon. There were only two of the attacking party.

Michael McNeil, sworn—On Sunday night last I saw some tents torn down. I have seen the prisoner at the bar several times. Did not see him that night. I did not see him that day. I did not see a party with a drum and fife in the day, but I saw them in the night. I was in a tent when they commenced tearing it down. I ran for my life. I saw the flash of powder. I heard two or three shots. I ran down to the beach. I did not recognize any person engaged in the attack. I went away as fast as possible for fear of being shot. I saw the same party breaking boats afterwards. I have a tent and blacksmith shop. I heard a party pass, and say they would let me alone because I was an Englishman. I have seen persons called Hounds. It was not light enough to distinguish persons when they attacked the tent. When I came out of the tent I did not wait to distinguish any body.

Leopold Bleckschmidt, (German,) sworn. I was beaten by the prisoner last Sunday afternoon. I was in a **Chilean** house sitting on the bed. A person came in and went out and presently the prisoner came in and beat me with a stick, dragged me out, and beat me until I was insensible. [The pillows, with large spots of blood on them were here produced.] I do not know whether the blood on them is my blood. I recognize the pillows as having been on the bed. It was about 3 or 4 P. M. when I was attacked.

Cross ex.—I do not live in the **Chilena** house. I was doing nothing. Went to see the women. They are not acquaintances of mine. A friend invited me to go with him there. I was talking with the girls. I was sitting on the bed talking with two other men in the house. Koch was the name of my friend. I live with Mr. Harms, formerly lived with Mr. Weller. I did not know that prisoner's mistress lived at this house.

Duncan McCallam, sworn.—I was sleeping in the tent with McNeil on Sunday night last. I saw nothing improper that night. I was aroused about 8 or 9 by a noise. I got up, and some one sung out, "whose tent is this ?" I said an English tent! They said, "all right," and I laid down again.

Basilio Alegria, (**Chilena**.) sworn.—I am the wife of Domingo Alegria, and am the mother of the two wounded men. I was not at home on Sunday night. When I returned next morning, I found the tent torn down.— Went to different tents to find my property. Saw one of the last night's party who took away from my daughter some handkerchiefs she had got together, but prevailed on him to give them back. I then went to Domingo

Cruz's tent. The front was fastened. I went in at the back and found articles belonging to me. I commenced taking them away. Several men exclaimed they were theirs. They let me have a few things. I did not see the prisoner with them at any time. I heard the drum and fife, and the shots. [A paper was here produced which witness testified to as a correct list of property stolen from her tent. The total amount was \$2,798 of which 2,000 was in coin.]

Ignacio Alegria, sworn.—I am a son of Domingo Alegria. I was wounded on Sunday night last in the hand. I was sleeping in the tent; tent was attacked; was in the act of passing out when I was shot in the hand; did not see who shot me. It was about 9 o'clock, P. M. I was shot after my brother; afterwards I heard the drum and fife. I was aware from my brother's cry that he was shot, but did not see him shot. I went out on the opposite side to the attack. There were several shots. The Alcalde visited the tent next morning.

Cross ex.—The attacking party were on the Point all night. They were not there in the morning. I ran over the hill and laid down under a tree until morning. Heard them shouting, drumming and firing all night. Did not sleep any. It was only a little before day that the noise ceased. Jose Espinoza, sworn.—About half past 8 on Sunday evening was in my tent, when a party commenced attacking the **Chileno** tents. I did not see the prisoner that day or night. I heard the fife and drum. They came and took a barrel of brandy and some bottled liquors. When my companion told them it was an American tent, they went away. They ate every thing in the tent. I knew some of them, and have since arrested two of them. I would know the two when I see them again. On Tuesday night one of the party came and threatened to burn my tent. I went to the Alcalde and complained. The Alcalde told me to take the man prisoner. I took two; waited for the guard half an hour, but they did not come. I then attempted to bring them down here. They attempted to get away and were struck. I left the prisoners here at 11 o'clock, P. M. I did go out of my tent on Sunday night. Did not see any stolen goods. One man offered to pay me half the amount lost if I would let him go.

Cross ex.—The party remained late until past midnight; saw none but those in my tent. Some were dressed as sailors.

Thomas Eldridge sworn.—The prisoner came to my place on Sunday and drank champagne. There was about twenty with him. The prisoner said he would pay me next day. He was in uniform. The party had musical instruments; were very noisy; made considerable noise; went to the National Coffee House; I did not see them afterward; it was about three P. M.

Cross ex.—When prisoner offered to pay on the morrow, I said it was all right. I was not frightened.

Arthur H. Brooke sworn.—I know the "Hounds;" the prisoner is one of them. I know him; I saw him with a band on Sunday last; I cannot swear to other parties; prisoner was leader, and had a uniform on; there were about thirty of them; I saw a row close to Barrena's house, but I was too far to see who was kicking the man. They came down behind the printing office, jumped over Barrena's fence into the yard. The prisoner broke

some plates near the kitchen with a trumpet. They were very noisy; some were drunk; they then came down street.

Pedro Danino, sworn. — I am the keeper of the National Coffee House. The prisoner was one of a party of twelve or fourteen, who came to my house on Sunday last. The prisoner was dressed in uniform; had a trumpet; they had four bottles of champagne, and went away without paying; broke some glasses; saw them pass same night about 10 o'clock, with a drum and fife ; did not see prisoner at that time; does not know that the party were armed ; supposes they were.

Cross ex. — One of the party promised to pay for the champagne, and I was satisfied.

By a Juror. — I was not afraid.

Robert S. Martin sworn.—I sold a drum and a speaking trumpet to two persons on Sunday last—John Curley and prisoner were the persons. There were three in the party; they promised to pay for the articles; they have not yet paid; I have not seen them to ask them for it; I have been in San FranCisCo about six weeks ; I never saw the party go about with the drum ; I know nothing of the "Regulators."

John Wilts sworn.—I know the prisoner; I saw him at the head of a band of men on Sunday last; I have heard of the "Hounds;" I know several of them ; I saw the party on Sunday, marching in different directions; I did not see Powers among them, nor John Curley; there were about 25 or 30; I do not know that all or part of that body are Hounds or Regulators; I do not recollect distinctly any man but prisoner; I saw prisoner have hold of a man fighting; he was beating a man I did not know; I heard a pistol shot, but did not see any one shoot ; this was about 5 P. M.; I know nothing of the society called "Hounds;" I have only heard of them lately.

Hall McAllister sworn.—I have seen the prisoner at various times; I saw a band on Sunday last, with a drum and fife, and prisoner at their head, go into the U.S. Restaurant; I went home; some time after heard a great noise; ran out; saw a man beating and kicking another; saw prisoner running after another man behind the St. Charles.

Felice Alvarez sworn.—I know the prisoner; he took ten ounces from me on the 4th July; I opened a box to get out a pair of shoes; I took out some money also; prisoner saw me and took it away from me. A man named George said, when prisoner came on shore he would pay me. This was on Tuesday last. George told me to go home and make myself easy about the money. I was then going to the alcalde's office; I live at the house where the man was beaten; I brought the money from **Chile**. After this, I sewed the remainder of my money in my bed, for fear prisoner would take it.

Cross ex.—The prisoner has lived with me since I have been in town—more than a month. Prisoner showed me the ten ounces every day. but would not let me have them. We lived on good terms until prisoner took my money. I told prisoner to go away after he took the money; but he said he would come, and break open the door if I did not let him in. I feared him, and admitted him; he has threatened to break in the door of both houses

which I have resided. It is said the prisoner belongs to the "Hounds." He never told me so. He only came to my house to sleep: he did not talk at all. I did not see prisoner on Saturday or Sunday nights last. He was at my house on Friday night and on Sunday afternoon.

An exception was here taken by the prisoner's counsel to the relevancy of the evidence, on the ground that it was not specifically charged in the indictment that the prisoner had committed robbery on this person. And the counsel moved that the evidence be stricken from the record.

The Court decided that though it was not specifically charged in the indictment, the evidence was proper and pertinent under the general charge of robbery.

The counsel for the defence excepted.

Cross-ex. resumed.—I am positive that it was the 4th of July the money was taken from me. Prisoner gave me my food—supported me. I asked him once why he did not come home; he replied he had been at the hotel. I was in the house when the German was there. When prisoner came the German was sitting on the bed; the other woman was not there; I was in the doorway; a mulatto came in and said I will go and tell Sam the German is here; Sam then came and beat the German; I did not hear the pistol fired. I ran away when the fight commenced; there was only one person in the room besides the German and myself.

Maria Alvarez sworn.—I know the prisoner: he was at my house on Sunday last, in uniform: I saw him beating the German ; I was not at home at the moment; I heard a noise, went out, and saw the prisoner beating the German with a piece of plank. The mulatto struck me. I do not know his name; he is a friend of prisoner's. The German was beaten till he was senseless.

Cross ex.—The prisoner told the mulatto not to strike me, and he stopped.

Direct.—The prisoner has not been at my house since.

Asa A. Dimmoch sworn.—I live at Saucelito; I met with an accident to my shoulder, and was obliged to remain in town last Sunday night; I was in a tent adjoining Domingo Alegria's. I heard the cries of the foreigners. Those in the tent said, "Let us go away." I said, "No, we will be in as great danger of being shot." There appeared to be two parties; one went over toward the new market. They came to Domingo Alegria's tent, when some one called out. "Here, Sam! Here Sam! Where are you?" two or three times. Some one replied, "Here I am." I heard a man ask, "Where in hell are the Hounds?" "Where is Sam?" "Here I am;" and then the work went on. The first party did not disturb the tent of Alegria. The party with the drum attacked that tent; they did not attack the tent I was in. I recollect the prisoner; I saw him at my tent. To the best of my knowledge and belief, he was the leader of the gang when the party went on.

Witness went on to state that he was insulted last winter by prisoner, and other "Hounds."

The defence objected.

The court allowed the witness to proceed. After the drum went away I saw a good many stand back; I don't know whether they belonged to the attacking party or not. One says, "O, by God, I've got the stocking!" Others said, "Well, you must divide" I went down and saw the party on the beach breaking the boats.

Cross ex.—I cannot tell the time; it was early in the evening; I should say it was about a quarter of an hour after the first party before the drum came. Prisoner appeared to come with the drum; some person replied to the second query, "Here I am." The prisoner came from Domingo's tent, and then went round on to the Point. There was quite a row there, and several shots fired, and then somebody said, "Fire away, you buggers! fire away!" The party were on the Point about half an hour. They came up from the beach to Domingo's tent, and destroyed a small tent near it. They came to my tent, and asked whose it was; were told it was an American tent. They asked for water. I then recognized the prisoner. There was a light near the door of the tent. I stood in the tent door. am positive I saw the prisoner. I cannot say how prisoner was dressed.

By a Juror. — Nearly all had sticks, or something in their hands. Prisoner stooped down and looked into the tent.

Cross-ex. — The party did not stop long before my tent. I should think there were fifty of them in all.

By a Juror. — Their object appeared to be to tear down all **Chileno** tents. I heard cries and blows. I do not know what was done; I think I saw them shove off two boats into the water.

By the Court. — They were dressed in various garbs.

Cross ex. — Some were sailors to appearance. I did not distinctly see the person who replied to the cry for " Sam. " It was after nine, I think, when the party left the Point. I heard nothing more of them that night, all was quiet.

Pedro Cueto sworn. — I know the prisoner; three or four men on or before the 4th of July, came to my shop, and threatened me with violence unless I paid them three or four hundred dollars. The prisoner was one of them. They came on the evening of the same day, and threatened to return with forty men if I did not comply with their request. The prisoner was not with them then. I called on Mi.r Pollard to translate. They threatened to come and sell my goods at auction. On the following Monday they came again. I called on the alcalde; the alcalde came, and the men went away. They pretended they came in the name of the alcalde. The prisoner was there on two occasions — the first I am certain ; I think the second. The prisoner did not appear to be the leader. The chief was dressed in a dark waistcoat, embroidered with gold. I went to the alcalde's office with my partner, and filed an affidavit.

Cross ex. — They presented a paper for commissions on a lot sold — the claim was not a just one — it was on this claim they made a demand for money.

Direct. — I never had any transactions with the man in whose name the claim was made.

By the Court. — The pretended owner of the claim was not present

Cross ex. — I know the person, but never had any business with him. They promised to bring the party, but he never came. I own real estate; never offered it for sale ; never negotiated with any person to sell it.

Wm. S. Clark sworn. — On Sunday evening, about 6 P. M., having seen a party of men with music, when I came up to my tea, at the Parker House, I made inquiry, and was told it was the "Hounds" on parade. After tea I went home, and went to bed at my usual hour: I was awoke by the sound of the same fife and drum. After satisfying myself that it was apparently the same, I arose, put on my pants, and looked out of the door. There were men ahead of the drum ; they stopped at a canvass house, in plain view of my door, about forty yards distant. They tarried a little while, and then went on over the brow of the hill. After this pistols were fired. I thought there was a row then, and again went to the door. While standing at the door, I heard a voice sing out, "Sam, where are you? where the hell are you, Sam?" I did not hear anything further wrong for twenty minutes. When they returned, some went into the canvass house, where the bar is. They went away slowly, passing within sixty feet of my house. There were some yet lingering at the door when the advance had passed thirty yards. Some one in the advance said, in a loud tone, twice, " Come on, boys." Some one near the door said, " Let's go; Sam's calling us." With that they left peaceably, and there was no more disturbance. I could not distinguish any person at the distance. The party appeared to be carrying things away.

Cross ex — It was not as late as twelve, M. The party was about the Point at least half an hour. I should think there were 20 in the party. They seemed to come in two detachments, 50 yards apart. I did not notice the dress of any of them; I could not recognize the men at the distance. I know the prisoner well. I never knew him to talk much. I would not be able to recognize his voice.

William Spofford sworn. I am chief of police. I went on board the Warren sloop of War, with prisoners, on Monday last. As we were returning, it was mentioned that the prisoner, the captain of the Hounds, was concealed on board the Mary Ann, bound for Stockton. I went alongside that vessel. When we came alongside I asked for the captain. I asked if he had any passengers. He said he had three. I told him we were in search of disturbers of the peace. He went below to send up his passengers. The prisoner came on deck, and we arrested him and took him on board the Warren.

Hall McAllister recalled — I was a standing in the door of the alcalde's office; a gentleman by the name of Smith had been speaking. Mr. King was then endeavoring to speak. The meeting objected. A man made his way through the crowd, when some one exclaimed, "There is one—a leader!" I did not see prisoner after. This was on Monday last.

Charles V. Gillespie sworn—On Sunday afternoon last, about four o'clock, a band of men, with prisoner at the head, passed into Washington Place. They went into a groggery there. In a few minutes they came out and went into a groggery in Dupont st. Shortly after I saw them go into the Shades. Some time after I heard a row down in the direction of the St Charles. The prisoner was at the head of the party, in uniform, with a speaking trumpet. There was also a drum and fife.

The evidence on the part of the prosecution here closed.

The defence asked that the Court adjourn till tomorrow morning.

The Court adjourned to Friday morning at nine o'clock.

## SECOND DAY.

The court room was filled at an early hour. A few minutes after 10 o'clock, jury being all present, court was opened. Present, judges Leavenworth, Gwin, and Ward.

Prosecution resumed. — Witness, Alfred Miller (German) called to the stand and sworn. Testifies:

Have seen prisoner; saw him on occasion of assault on Blacksmidt. Saw Blacksmidt lying on the ground, insensible, and prisoner near him with a horse. Saw the prisoner take a spur off his foot and strike Blacksmidt with it on his neck and face. He (Blacksmidt) was bleeding from wounds on temple. When Roberts struck him, some one cried out, "For shame! that is not manly." Heard Roberts say he would kill him if he caught him again with his woman. The same day I saw Roberts, dressed in lieutenant's uniform, come out of Tammany Hall.

The evidence on the part of the prosecution was here announced closed.

Myron Norton, Esq., opened the defence by adverting to the formidable array of testimony against which it was for himself and colleague to contend. The prisoner, for whom he appeared, had plead guilty to a part of the indictment, and it was not to shield him from deserved punishment that he had espoused his cause; but that, in his innocence of the many crimes he was charged with, he should not suffer for the acts of the guilty ; alluded to the prevailing great excitement in this place; that men had been arrested, and unjustly; men who were neither in town nor district on the day of outrage; that American citizens had turned out, " armed to the teeth," to arrest and confine, any and all, against whom there existed but the veriest shadow of suspicion. That they had associated with them foreigners—had armed vagrant **Chilenos** with loaded muskets to patrol the town, and to protect American citizens! He trembled for the peace of the town and of the territory at such exhibitions. Believed it excited the prejudices of the people. Alluded to the prohibition of foreign labor in the mines of the country by Gen. Smith—that this was the sentiment echoed by every American. He had said thus much to show the state of popular feeling in California. It is not to be wondered at, then, that collisions should, from time to time, arise between our countrymen and foreigners. Nor could it be denied

that foreigners had been guilty of lawless deeds in our midst. Was reminded of one or two instances having recently occurred. A sailor had been robbed and mortally wounded a few evenings since. Money had been extorted from strangers by **Chileno** boatmen and others. Mentioned the circumstance of death of a citizen some weeks ago, a companion of the men against whom there existed so much excitement, and who were so generally denounced. " And what is the feeling of these men? Would not revenge be sought by all Americans placed under similar circumstances?

It is now the object of this community to procure conviction, at all hazards, of those arrested. So excited is the public mind. Though he felt that the aiders and abettors of the late outrages deserved the severest punishment, he did not wish those not having participated therein to suffer.

The gentleman spoke of the undisguised perpetration of these acts. That the attack was made and resistance provoked, and thus the injuries of the wounded received. The court, he was pleased to say, was organized under "respectable circumstances;" though he warned the jury against the influence of the prevailing excitement. Spoke of the prejudices against the New-York regiment; to this was attributable much of the general feeling against the prisoners. (Here the gentleman scanned the charges and specifications.) It was evident from the nature of the charges, that conspiracy constituted the principal. This, he concluded, "had fallen to the ground." It has not been proved that a society, styled the Hounds, ever existed; nor did or does such a body exist. The reckless deportment of a few individuals had given rise to the appellation and belief. A society, known as the Regulators, had lived, and whose purposes were praiseworthy, he averred. (Produced the preamble, constitution, and by-laws of this association.) The Regulators were not to be charged, as a body, with crimes of individual members. "What was conspiracy?" Defined the meaning of constructive treason.

It had been intimated that an attempt to rescue the prisoners would be made. " 'Twas false!" The party of the prosecution had been set on, and the excitement kept up, for improper and unfair purposes. Charged the jury to look well to their own unbiased opinions. Narrated a circumstance of the preceding evening—that because of a silly suspicion an additional police of an hundred men had been mustered.

The last two charges were : Assault with intent to kill, and robbery. How far counsel for the defence could aid their client in this matter, he presumed not to say. To the first charge prisoner had plead guilty — had admitted to have beat the German whom he had found with his mistress. Reverting to the charge of riot: "There was but one man who testified to having seen Roberts on the night of the riot; and this man, though he swears positively to the face, as seen at the door of the tent, could not distinguish the dress of the prisoner, with the light shining full upon it!"

The charge of robbery, the gentleman said, would be found to exist but in the distorted fears of the witness, from whom the prisoner had received money, but faithfully guarded it, nor in any manner made use of a farthing. "It has been alleged that the prisoners were in the habit of frequenting houses of refreshment, and, after eating and drinking, walk away, leaving their bills unpaid. So far as this refers to the proceedings of Sunday last,

good reason may be assigned—the arrest of these men has prevented the adjustment of such matter." Of the charge of extortion, it could be proved that a lawful claim existed against the man Cueto. These charges, said the counsel, were not included in the indictment; and again, and to conclusion, he warned gentlemen of the jury to beware in the unnatural state of excitement during which these trials had been undertaken.

P. Barry, Esq., arose, and on part of defence stated, that fifteen or twenty witnesses, (whose names he held,) would be produced, but time he hoped would be granted, and not to detain the court, his honor the Alcalde would first appear.

T. M. Leavenworth, Alcalde—called and sworn, states: A sailor of ship Daniel Watson, was whipped by my order in the Plaza, about two weeks ago. Sentence of court was executed by a volunteer named Andrews, assisted by one Anderson. The constable was not in court when the sentence was given, which was whipping at the post, for drawing a knife on his captain, of affair of ship Roland. — My authority had been resisted. Andrews was one called to enforce my order. — It is probable the prisoner was also called. The papers of Regulator Society were handed me by C. R. V. Lee, who said he believed them to constitute a sufficient reason that his brother should be released. His brother had been arrested and confined with them on board sloop of war Warren. Cueto called upon me with a paper desiring to be sworn. Alleged attempt at an extortion, and stated circumstances. I replied by advising him to return, assuring him that I would have men ready to quell any disturbance. Thought seriously of the matter. Cueto called on me again, stated verbally his fears, and I repeated my assurance of protection. He called, or sent to me a third time, and I went with Sheriff to his Store. Sheriff remained a little distance outside. Two or three persons were with Cueto. He (C.) stated that persons had come to him, saying they were sent by Judge Norton. I asked of the men present what they wanted from Cueto; told them they should first come to me and get warrant if they held any just claim, and pursue a legal course. Could not now identify persons present upon that occasion. C. R. V. Lee, brought me papers of Regulator Society, the day after arrest of his brother ; do not remember whether young Lee was at the tent of Cueto or not. (Here other witnesses were called, and not being present, Alcalde Leavenworth requested further to state, that his reasons for not arresting said men were, because he did not wish to conflict with the authority of Judge Norton. Cueto came with a clear case of intended robbery. A Mr. Frank had called upon Cueto wishing to purchase ground for tent, &c. Did not see the color of right with the party holding the claim.)

Joseph Downey called and sworn—would state the origin of the papers of the Regulator Society. A number of young men were in Tammany Hall, who had belonged to the Society called "Hounds." There had been a physician's bill against one or two of the number, amounting to 150 or 200 dollars, and it was proposed, as they were unable to pay, that a society should be formed for mutual protection; that initiation fees should be required of all desirous of joining. The only paper ever signed, was a call for a meeting, and which was destroyed in Tammany Hall last Sunday night. I had made a copy from the original; and the only copy saved was the one handed in to this court; a meeting to adopt the constitution was held last Friday, J. C. Pulis presiding, and myself secretary. There were fifteen persons present. I have heard that an Association styled "Hounds" existed before I came to this place. The original draft of constitution and bye-laws of

Regulators Society, were read and adopted at a meeting on Friday evening. I had been ordered to make a fair copy to be presented at the next meeting for signatures of members. The one in the possession of the court is the only copy in existence, and was to have been presented at the meeting to have been held last evening. The call for this meeting was not published, for the first meeting there was a call published. I carried to the Printing-office, tickets of membership to be printed, together with other papers. I have not seen Roberts' woman but once.

Cross ex.—I am bar-keeper at Tammany Hall, found fragments of original call for meeting and Regulator papers on the floor on Monday morning. At the meeting held at the School House of the Regulator Society, there were present, Pulis, Anderson, Flock, Barker, Dr. Jones, Booth, Farley and myself. I do not recollect any others but Higgins and Batchelor. Roberts was not there. C. R. V. Lee, was President, W. Anderson, was Vice President, J. T. Downey, Secretary, J. A. Patterson, Treasurer, J. C. Pulis, Steward. Messrs. Lee and Patterson were not present.

Question by the Court.—Knows prisoner— do not recollect whether he was present or not at the meeting—believes he was no way connected with the association—no drum or fife was purchased by me — J. Curley was one of those denominated " Hounds" — young Lee and Lafort also—I took the papers of the Regulator Society to the Printing-office, and received the promise to print them.

H. Hawes, Esq. remarked, that the papers of Regulator Society were irrelevant to the case in hand, as the prisoner was not connected therewith.

Myron Norton, Esq. remarked, that these papers in evidence were offered as rebutting testimony, as it could be proved that this association was not got up for illegal purposes, and that no proof of an association called "Hounds," exists.

F. J. Lippitt Esq. remarked, that it does not follow because no evidence of the existence of the association has been elicited, that men may not club together for illegal purposes. Such would not publish to the world their intentions. It is proof sufficient that men have been seen banded together for the accomplishment of one unlawful object.

The Court decided that these papers have no connection with charges against prisoner. He is on trial for having committed riotous acts, not as a Regulator. — The charge of conspiracy connects him with another association.

F. J. Lippitt, Esq. remarked, that in one instance only had the name of Regulator appeared against him.

P. Barry, Esq. remarked that he had understood that wide latitude was to be given by the court.

The Court remarked that the case in hand had been purged by last witness from any association with the name of Regulators.

M. Norton, Esq. wished the defence noted as excepting to the decision of court.

Ex. resumed.—I saw Roberts' mistress on Wednesday last; she said she had given her money to Samuel.

(Here it was proposed by the defence to impeach the testimony of this woman to which at the instance of the prosecution the court objected. After the discussion of a point of law the court consented to the process of defence, though admitted the justice of views of the prosecution.

Ex. resumed.—The words of the woman to me, so far as I can recollect, were, "Samuel, yo no delnario para los diez onzas yo da el." I can understand the Spanish language; this was said to me at her house on Wednesday afternoon, where by request of Judge Norton I called; I have seen Roberts with a purse containing the ten ounces; have frequently kept it for him, as he told me he did not wish to carry it about him for fear he should lose it, and then "there would be a fight with the old woman."

George Frank called and sworn.—I am a merchant of this place; know Pedro Cueto; have had business transactions with him; was looking for a place to establish myself, and found a gentleman named Griffith, who owned a lot on Montgomery st. I asked of him if he would lease me the lot; I could have it by paying a year's rent, of \$720, in advance. I said I would give him an answer on Monday morning. On Sunday I was in Finley & Johnson's store, where I met Pedro Cueto. [I had been acquainted with him in **Chili**.] I told him I was looking out for a place to build. He said "If I can purchase that lot, you shall have one half the rate of one per cent, interest per month." I said, "If you do not do as you have said, you shall give me a large commission." He then said, we need no papers—they are unnecessary between gentlemen. On Tuesday I met Mr. Griffith. I told him I had found a purchaser for his lot, and shortly after introduced Mr. Cueto, who went with him to measure the property, and in one half hour the bargain was concluded. It was purchased for about \$10,000,—same evening I asked Mr. Cueto to allow me to put my tent up on a part of the lot. His answer was, "I have not the title—wait a little while." A few days after I was informed by Mr. Cueto that the lot was only large enough for himself. I said, then you shall pay me the commission, five per cent. A few days after a sheriff came to my tent, and requested me to go to Judge Norton's office, and pay the license. While there, I asked if I could not call up a person I held claim against. He said, in a few days I made out a bill against Pedro Cueto of \$500 commission, at five percent., presented it, and was told by him that he did not know me, and we had a few words. I asked Judge Norton again when I could take the person up, and he said in a few days. I put the bill in the hands of Pulis, Sheriff, for collection. A friend said to me, a few days after, what have you done? You have given that bill to the boys to collect. I said, I gave it to the sheriff—that it would all be arranged.

Cross ex.—Would rather have half the lot than commission. I have never received from Cueto a positive statement as to the payment of commission. He has never said, "I will pay;" but "it will be all right."

J. C. Pulis called and sworn.—Mr. Frank gave me a bill for collection, and offered me a commission of one half. (Here the bill was produced and read.) I presented the bill to Mr. Cueto, and he said, I don't owe Mr. Frank a cent, and I wont pay it. I stated this to Frank,

who said, "If you will get the boys to assist you, I'll pay you half of the commission." A few days after I saw Lafort, and told him of the circumstance.

Cross ex.—Was elected sheriff last May. I have heard it said frequently, there is no law here. Gave the bill to the boys at solicitation of Mr. Frank himself.

Court adjourned to three o'clock, p.m.

Court reopened at half-past three o'clock. H. Hawes suggested the discharge of Henry Lawrence, against whom but insufficient evidence had been produced. He thought that, in the present state of affairs, and subsidence of excitement, arrests should be made by regular process. This suggestion was concurred in by all members of the bar present, and received by the Court.

Col.. Stevenson called and sworn.— Knows prisoner at the bar. He is extremely illiterate—can neither read nor write. I have understood from public prints and members of congress, that United States Congress, at its last session, failed to establish a territorial government for California.

Ex. of Joseph T. Downey resumed.—I was in Tammany Hall from Saturday evening until Sunday morning. The prisoner was not at the outrage committed that evening. One of the party that came in after the affair on the Point was Higgins. Prisoner had told him he would go home, and did not accompany the party. A stranger took the drum on the evening of the row, and attempted the assembly beat. I thought he was rather awkward, but the attempt would "pass in that crowd." It was a man in a red shirt, who took the drum, and gave the long roll. The party drank all round, but did not pay for the liquor. This was about ten o'clock.

Q. Who composed the afternoon party ?

A. The boys calling themselves the "Hounds."

Cross ex—I did not recognize any of the evening party. I came to this place in the sloop of war Portsmouth. I was in the mines last winter. I gave stranger the drum in the evening; heard firing on the Point. It was not Bachelor who took the drum. I did not see him at all that evening. There might have been 100 persons in the room at the time. I was ordered to pitch the goods brought by this party out in the street; and did so. These goods were brought in the neighborhood of ten o'clock. The drum was taken shortly after. I saw prisoner early in the evening. He said his foot had been hurt—either shot or struck with a stone.

I said, don't go out with that crowd this evening. He said, I can't; if you'll give me a candle, I'll go home. I and the prisoner have been at variance. I heard it whispered that they were going to run the **Chilenos** out that night. A part of the afternoon crowd were with the evening party, and I had reason to believe the afternoon party a riotous one. The prisoner had no uniform on in the evening, though in the afternoon he wore military pants and a blue coat. He has no occupation. Bachelor is a teamster. I heard Higgins say he

received a wound in his face, perhaps by an ax, that evening. I am positive he was not in the evening party. I looked through the large crowd that evening in Tammany Hall, but did not see prisoner. This crowd came back between 11 and 12 o'clock. I looked particularly for prisoner, for I feared he would go, notwithstanding he had said no. Sanders and Higgins were the only ones I knew in the crowd. I feared a row on the Point.

George Rigeby called and sworn.—I am employed in the Parker House. Attended bar on Sunday evening last in the upper billiard room. Prisoner came in between nine and ten, and called for a lemonade; said he was tired, and was going to bed in Peter's room, (Peter is a watchman,) and would send down for lemonade, if dry, by Peter. I said I would send it to him. He left the room by the right hand side door, and turned to go toward the stairs. About three-quarters of an hour after he sent down for the lemonade by Peter, and I gave him a bottle. I did not see him again that night. Next morning, about breakfast time, he came through the bar. We kept open on Sunday night until two o'clock, and after shutting up, I went down stairs, and out on the piazza, near which a party of fellows were singing; They looked to me like sailors and beachcombers, and were all strangers to me. I walked around the crowd, which appeared to be composed of 25 or 30 persons, and not such men as the prisoner generally kept company with. The party went down toward the market in Kearney st. It came from Tammany Hall; had no drum; some were in disguise; faces blacked, packs on their backs and under their arms. Mr. J. H. Brown saw the crowd. I did not see a candle in the hand of the prisoner that evening. I have charge of the wine cellar.

Cross ex.—Have known prisoner ever since he left New York—was in the same regiment with me—I was ordered by my employer, Mr. Bowen, to attend bar on the evening of disturbance—Chas. Cook and Baxter, regular bar-keepers were both absent; the former sick, and R. Dutton, barkeeper below stairs, had gone to pass the evening at the house of an acquaintance— I have seen Feliz Alvarez—have seen her about her door since Sunday, and spoken with her since arrest of Roberts—she asked me "where Sam was," and I told her he was confined aboard ship: said she, he has ten ounces belonging to me, I answered, "I guess Sam will give them to you"—our meeting was accidental—I have seen prisoner with the money. The woman left me and went to the Alcalde after our interview—I know Sanders, did not see him in the crowd of Sunday night—Higgins came in the Parker House with a wound near one eye, and said he had been with the crowd, and was looking for the doctor—it was about 2 o'clock when this party came in front of the house— saw them bearing mock banners, &c.—don't call myself a "Hound."

Peter Earl called and sworn,—I am a watchman in the Parker House—have a room there, No. 30 over Billiard Saloon—I have known prisoner at the bar since 1846— came to me on the Sunday evening of disturbance, while I was in the lower Saloon of the Parker House, and asked for lodgings for the night—I said there is such a crowd out, I shall not go to bed this night, and you may lie down in my room—I then lighted him to the room and he went to bed—it was nearly nine o'clock, and I remained and talked with him, and advised him as there were a great many noisy men out, not to go down again—he said, "I wouldn't go down for a thousand dollars: and another thing, I am lame." About three quarters of an hour after, I went down and got a bottle of lemonade from the bar, and after drinking some with him and talking for a few moments, I blew out the light, and left the room—it was usual for me to visit the vacant rooms of the house during the night, and

mine in particular—my first visit to my own room this night was about one hour after I blew the light and left Roberts there—he was in bed asleep and snoring—I again went to the room shortly after the Billiard Saloon was closed, and found him still there—there are two beds in this room, and one is generally occupied by George Rigby—on this bed I found John Curley asleep—my third visit was between 3 and 4 o'clock, and both men were still asleep. I could ascertain this by the light from the window in the roof—shortly after I laid down on the bed with Roberts, and was awaked about breakfast time by his getting up—I think it is impossible for the prisoner to have gone out without my knowledge—the front door was closed a little before the Billiard Saloon was shut up, and at a very late hour, it cannot easily be opened—there is a high fence in the rear of the house, over which one must get to escape from the yard —this is not so easy—Messrs. Bowen, Parker, Brown and Rigby were out at the time the crowd were singing before the house— this crowd remained 15 or 20 minutes, and finally led off around the corner of Washington street—one of the songs I heard them sing was the Star Spangled Banner—these men were in my opinion of a different class than the associates of the prisoner.

Cross ex.—It was about quarter to nine o'clock when I put Roberts to bed; I do not know Sanders; saw Higgins, and heard him enquire for the Doctor before the mob came to the Parker House; the mob had no drum; I was out of town in the afternoon of the day of this occurrence; I believe the prisoner to be a wild and reckless man, but did not think he would join the crowd that evening; I do not know that a society existed called the "Hounds;" I have heard of such an association, and I have heard that Curley and Roberts were "Hounds," and I have also heard that "Hounds," were robbers and murderers.

(Here the defence interposed and desired the court to protect the witness against a frivolous examination.)

Cross ex. continued.—I found a fragment of a Friar's robe and gave it to a Spanish woman about three weeks ago; I have not seen it since, nor do I know anything relative thereto.

William Jackson called and sworn—I slept at the Parker House on Sunday night; my room adjoins Peter Earl's; I heard the prisoner with Earl passing through to his room along the corridor; I know the prisoner; heard Earl call out "Sam;" had been in bed about half an hour; I heard them in next room conversing.

Cross ex.—It was about 9 o'clock that I heard the conversation alluded to; after this hour I neither saw nor heard them.

J. H. Brown called and sworn.—I was called to see the crowd in front of the Hotel by George Rigby, but recognized no one among them; they had the appearance of Sailors, and made a great noise; I stood in the entrance of the hotel; heard no cheers.

(The defence wished to bring evidence to sustain the testimony of witness Rigby, whose credibility had been assailed by prosecution, it having been alleged that a discrepancy had occurred in the statement of the witness respecting the interview with Roberts' mistress. After a few remarks from defence, the examination of witnesses was resumed.)

Captain F. G. Lippitt called and sworn. I have no distinct recollection of events occurring on Sunday night, though previous to retiring I well remember having seen a body of men drawn up in a line before the Parker House, about fifty in number; I am not positive, but believe, that banners were borne by the men, who had fife and drum; they had officers too, who seemed to command; I observed one who appeared to act as Captain, and listened to his orders; they were given in a strange voice; sometime after they marched down Washington Street; a few hours elapsed and I was awakened by a noise of a mob in front of the Hotel; I saw banners, and heard them sing, "The Star Spangled Banner;" I heard also 3 cheers given for the Parker House; quite early in the evening I had heard the "assembly beat" played well on a drum, which seemed to be in or near Tammany Hall.

Cross ex.—I know of no excitement against foreigners prevailing in the mines, except by hearsay; I know Roberts and would have expected to have found him in a crowd of this description, dressed in Lieutenant's uniform.

(Here at the instance of defence, Judge Gwinn stated his impression to be that a great deal of opposition existed to foreign labor in the mines, the counsel for defence followed the statement by remarks.)

The evidence on the part of the Defence having here closed, the case was ably summed up on the part of the Prosecution by Hall McAllister, Esq.

He was followed by P. Barry and Myron Norton, Esqs., on the part of the Defence.

Horace Hawes, Esq. then closed the argument on the part of the Prosecution.

Whereupon, the Court delivered the following

CHARGE.

GENTLEMEN OF THE JURY:

You are called upon to be calm in the discharge of a duty, at once plain, and of the most serious character. Reference has been made by Counsel to past circumstances of the brief history of the American Territory. It is my duty, Gentlemen, to continue the example which becomes the only Chief Magistrate of this great metropolis of commerce, in the Territory. An example of entire disregard of all the causes of excitement in this community. Let us forget everything but the evidence in this case, and in the light of this sworn testimony, alone, view the prisoner at the bar, as either guilty or innocent of the crimes charged against him. It has been said by counsel, there is lack of knowledge of law in this community. Natural principles of equity oblige all men to inform themselves, and then obey the laws of the community in which they live, and it is the violation of these uniform principles of natural justice, which reside in every bosom, that first prepares the individual, and these bands of men, to disregard all the laws of civilization and defy their sanctions. The prisoner is charged with conspiracy generally, and also of beating, and shooting at one Vicente del Campo with intent to kill—to the beating he pleads guilty; and not guilty to all the other charges; the general charge of conspiracy

admits of a latitude of testimony, which the specific charges alone would have excluded. It is your province, therefore, to consider the whole of the testimony, and get from it whatever light you can, to show you the guilt or the innocence of the prisoner Samuel Roberts.

Wholesome law does not recognize the right of any man to be protected in the violation of the laws, which are essential to the social state. The jury will remember the possible prejudice of the witnesses from conscious injuries, and these have been mutually received. An American has been slain—another lies wounded—and two **Chilenians** are wounded, one perhaps, mortally; both classes of witnesses have their excited feelings. You have to give a verdict gentlemen in vindication of the welfare and safety of this community. The prisoner must not be made a victim to a sense of the wrongs done to individuals; but, gentlemen, if the evidence convicts him, he becomes the medium through which the law speaks in his punishment, a warning to future transgressors. In the certainty, not severity of punishment, society is purified of crime: the infliction of punishment certainly, therefore, on the guilty, and the guilty alone, becomes a solemn, however disagreeable duty.

Gentlemen, unhappily, we have not legislation in California, congenial with American feeling, or generally known to them: but abstract ideas of human crime, are among the intuitive perceptions of the moral nature of man—all men have these perceptions. Criminal statutes are only the record of an agreement of men in society to punish these crimes; for convenience in graduating the punishment, therefore only, crimes are classified by statute.

Gentlemen you have these perceptions, and may recommend the punishment for the crime of which the evidence may convict the prisoner, or you will acquit the prisoner if the evidence does not convict him. 1st. The jury will say in writing, signed by all, what crime or crimes the prisoner is guilty of. 2d. Recommend the punishment to be inflicted on the prisoner, if found guilty.

The Court adjourned to 10 a.m. tomorrow.

Saturday, July 21, 1849.

The Court met at ten a.m., pursuant to adjournment. Considerable interest was manifested to hear the decision of the jury, who returned into court with a sealed verdict, as follows:—

" We, the undersigned, jurors in the case pending, the case of the People vs Samuel Roberts, do hereby render the following verdict:—

"Guilty of conspiracy, riot, robbery, assault with intent to kill; shooting, with intent to kill; and that the jury unanimously and earnestly recommend that the prisoner be placed at once on a man of war now lying in the harbor of San Francisco, and there closely confined, in irons, and as soon as circumstances will allow to be returned to some port in the United States, never to return under penalty of death.

The jury were discharged, and the court then adjourned to meet again at 12 M.

#### AFTERNOON SESSION.

The court met at 12 M , and the second prisoner having been arraigned, a jury was empanelled, and the cause proceeded to trial.

The People vs. Theodore R. Saunders.

The cause was opened by Frank Turk, Esq.

As the indictment against the prisoner does not vary materially in form or allegation from the one we give above, we do not think it necessary to publish it.

The evidence in the case presented no new features, with the exception of that of Higgins, who voluntarily became state's evidence. That we subjoin, as follows :

Philip A. Higgins sworn.—Early Sunday evening I was at Tammany Hall; I left with three or four companions—John Farley, Edward and Philip; we left between eight and nine o'clock; proceeded as far as the Parker House, where J. Hathaway left us, and then to a house near the "Stranger's Retreat," before reaching which we were joined by a large party of sailors and boatmen. Prisoner was one of the party; they asked us to drink; a stranger gave me a stick or club; we all went, after drinking, to Domingo's tent; drank; went to the Point; commenced tearing down tents and destroying property; after which we returned to the "Retreat," and drank; then went to Tammany Hall, and drank. I then went to Dr. Ely's, to have my eye dressed, which was wounded by the back stroke of an axe: then saw a party of men with fife and drum going down Washington street; marched down to Montgomery street; went to the Point; tore down some tents, and shoved off some boats, and stove others to pieces; heard cries of a woman in a tent; went there and assured her there was no harm; left her and went to examine a bale of goods; found nothing of interest, and went to the "Retreat;" asked if the party was there; not seeing them, proceeded to where I heard a fife and drum, joined the party, and destroyed a tent; then went to Tammany Hall; it was closed; the party left, and myself and another remained; I lifted the door and went in; going behind the bar to get a light, woke the bar-keeper, David Gale; he struck a light; I threw behind the bar a coat, serape, sheets, &c., which I had picked up; left the drum; the others left, and I laid down on the floor. Hathaway left at the Parker House; don't remember seeing him again; last I saw of prisoners they were staving in the boats; did not see prisoner do anything; tore down six or nine tents; heard two shots fired from within a tent after it was surrounded; some of the band had bundles; some one said he had found a bag of gold dust; Farley asked if my eye was much hurt; was with the band Sunday afternoon; Roberts, at the head, William Anderson, James Hathaway, Edwards, the bone player; prisoner was not there to my knowledge.

The day of Beatty's funeral I asked Lee if I could join the society; I understood the society to be a party called the Regulators; its objects to assist each other in case of sickness or accident: Lee had no objection; initiation fee ten dollars; there was to be a

meeting to form the society; know of no society called the "Boys," or by any other name. If I was in trouble I should call upon Sam Roberts, John Curley, John and George Farley, Batchelder, Long and Shorty Lee, Peter Earl, Joseph Downey, James Hathaway, William Dougherty, Jimmy Twitcher, alias George LeFort, Frank Parker, A. St. John, as friends to assist me. Myself and associates have before Sunday night taken stolen property; we took property Sunday morning at day break: James Hathaway, John Farley, Alfred Flock, William Anderson, and a man named Frank were with me; we took preserves, boots and hats, and other articles; presences from Adams & Field's store; took them to T. Hall, and broke them open; one or more jars of preserves, and some other articles were carried to a tent near Farley's house; John Farley, William Anderson and Flock carried them up; Anderson, Flock and Frank occupied the tent; I showed David Gale where Ward & Smith's yard was that he could get a box of candles; dogs barked, and we thought they were watching goods on the beach, and did not attempt to get the candles. I was unwilling at first to go, because I did not want to become a robber; but afterwards went; can't say who the leader was; it was not prisoner; there were certain persons who frequented T. Hall, who were particular friends and associates; do not believe, from my knowledge, that there was any society of "Boys" before Beatty's funeral; Batchelder played the drum Sunday afternoon.

I have been in California three months; have been in the town and harbor all the time; have known these associates of mine since Beatty's death; it is about a month since Beatty was shot; was a clerk for Sherman & Rurkel up to July 3d; a day or two driving team; I first became acquainted with prisoner the day before Beatty's funeral; I have not been much in company with prisoner; have been much at Tammany Hall; as far as I can remember I have not seen prisoner at Tammany Hall since Beatty's funeral; do not remember seeing prisoner with us on any occasion where crime was committed except on Sunday night; prisoner has not been in the habit of associating with us; has not been with us at any time except on the occasion of Beatty's funeral and Sunday night. Prisoner is a boatman; did not see prisoner on Sunday; was not, to my knowledge, in the party with fife and drum on Sunday; I first saw him Sunday night in the party that met us and asked us to drink; as far as I can remember I did not see him have any arms or club that night. As far as I can remember I did not see prisoner engaged in any act, but was only a looker on; think I saw prisoner in Tammany Hall the first time we came up; should think there were over one hundred persons on the Point that night; there were as many lookers on as actors on the Point; have been before the Grand Jury to day and yesterday; have, until yesterday, been a prisoner on board the Warren; a committee of the Grand Jury visited me yesterday on board the Warren; they promised to set me free if I would tell all I knew about the Sunday night affair and others, and give the names of the guilty parties; I promised to do so; I was examined on oath to day before the Grand Jury.

At a late hour in the evening the jury returned into court with a verdict of Guilty of riot, robbery, and assault with intent to kill, and not guilty of conspiracy.

The court then adjourned to Monday morning at 9 o'clock, A. M.

Monday, July 23, 1849.

The court assembled at the hour fixed on adjournment. The following prisoners were then arraigned : William Mickle, David Gale, James H. Harrison, Augustus S. John, Gecorge Batchelder, J. F. Barker, George Childs, Robert Starkie, John Kanaka, James Leatherby, John Curley, John Powers, and Frederick Cole, and plead " Not guilty."

The jury was then empanelled, and the trial proceeded.

The evidence in these cases amounted to nothing more than a reiteration of that produced on the trial of Roberts.

It will be observed that the prisoners are mentioned in the indictment on which Roberts was tried, and they were arraigned on the same.

The jury in the above case rendered the following verdict : —

John Curley, guilty of conspiracy; also of riot and robbery in Sacramento-street; not guilty of the fourth charge of the indictment.

David Gale, guilty on the first charge; not guilty on the second, third, and fourth charge.

John F. Barker, guilty on the first charge; and guilty on the second; not guilty on the third and fourth.

William Mickle, guilty on the first charge; not guilty on the second, third, and fourth.

Augustus S. John, guilty an the first charge; not guilty on the second, third and fourth.

Jas. H. Harrison, guilty on the first charge, with recommendation to mercy; not guilty on the second, third, and fourth.

George Batchelder, guilty on the first charge, with recommendation to mercy; not guilty on the second, third, and fourth.

John Powers, not guilty on all the charges.

George Childs, not guilty on all the charges.

Cyrus Leatherby, not guilty on all the charges.

E. Laffan, Foreman.

Abstract of Record of Sentences. —

Samuel Roberts sentenced to ten years hard labor in the penitentiary where the Governor of the territory of California may direct.

Theodore R. Saunders sentenced to ten years hard labor in the penitentiary where the Governor of the territory of California may direct.

John Curley sentenced to pay a fine of \$1000 and to one year hard labor in the penitentiary where the Governor of the territory of California may direct, the time to be counted from the date of the payment of the fine.

David Gale sentenced to pay a fine of \$500 and six months in the penitentiary at hard labor where the Governor of the territory of California may direct, the time to be counted from the date of the payment of the fine.

Augustus S. John sentenced to pay a fine of \$500 and bond for \$5000 to keep the peace for twelve months.

John F. Barker sentenced to pay a fine of \$250, and bond of \$2500 to keep the peace for twelve months.

William Mickle sentenced to pay a fine of \$250, and bond of \$2500 to keep the peace for twelve months.

Prisoners remanded on board ship until the Governor can be heard from.

By order of

T. M. Leavenworth, Alcalde.

H. Gillingham, Clerk.

At the instance of the prosecuting attorney, a nol pros. was entered in the following cases; Frederick Cole, Robert Starkie, and James Robinson.