

ROAD-AGENT ROCK

A favorite haunt of the robbers

THE STORY OF MONTANA

BY

C. P. CONNOLLY

ILLUSTRATED WITH PHOTOGRAPHS FROM THE COLLECTION OF THE
MONTANA HISTORICAL SOCIETY

THIS is the first of a series of articles which will tell fully and accurately the story of the personal and political feuds, the legal and business wars which have kept the State of Montana in turmoil from the beginning of the rivalry between Marcus Daly and William A. Clark, in the early '90's, up to the compromise of the legal and commercial differences between the Amalgamated Copper Company and F. A. Heinze, in the early part of the present year. Of the motives and interests which lay behind this long fight, of the powerful and picturesque personalities who have led it, of the intrigue and plot which were always beneath the surface; the public has never had any knowledge — the only information has been fragmentary accounts of the more sensational incidents.

C. P. Connolly, the author of these articles, is an attorney, and has been a resident of Montana for over twenty years. He is an important figure in the public life of the State, and saw from behind the scenes the making of the history that he tells. For one term he was prosecuting attorney of Silver Bow County, in which the city of Butte is located. His narrative has been written without bias, with impartiality and fairness as the first consideration and with rigid adherence to documentary records.

The present chapter deals with the beginnings of the State — history so recent that all of it is within the memory of men still living. It tells the story of the first clash between lawlessness and the forces of order.

The second chapter will deal with the arrival in Montana of Marcus Daly and William A. Clark, and the beginnings of the personal, commercial, and political rivalry which convulsed

the State until the day of Daly's death. This chapter will also cover the famous Montana capital fight and Clark's early attempts to reach the United States Senate.

The next chapters will tell in detail the story of the purchase of the Montana legislature of 1899 with sums that aggregated over a million dollars.

Succeeding instalments will narrate the attempt to bribe the Montana Supreme Court with an amount "to reach a half a million if necessary," in order to prevent the disbarment of Clark's chief counsel, John B. Wellcome, on charges of bribing members of the previous legislature :— and will relate how Judge Hunt, former Governor of Porto Rico and classmate of Secretary Taft, was approached with a bribe of \$100,000. The rejection of Clark by the Senate investigating committee at Washington ; the cross-examination of witnesses by Chairman William E. Chandler, and the consternation and horror of Senator Hoar at the corruption unearthed before that body, are described in detail. The ruse by which the Governor of Montana was lured beyond the borders of the State in order to let the Lieutenant-Governor appoint Clark United States Senator, and thus outwit the Senate, is told in full.

The final chapters deal with the entry of F. Augustus Heinze into Montana politics and mining, and the long struggle between him and the Amalgamated Copper Company to control corruptly the Courts of the State — EDITOR.

I

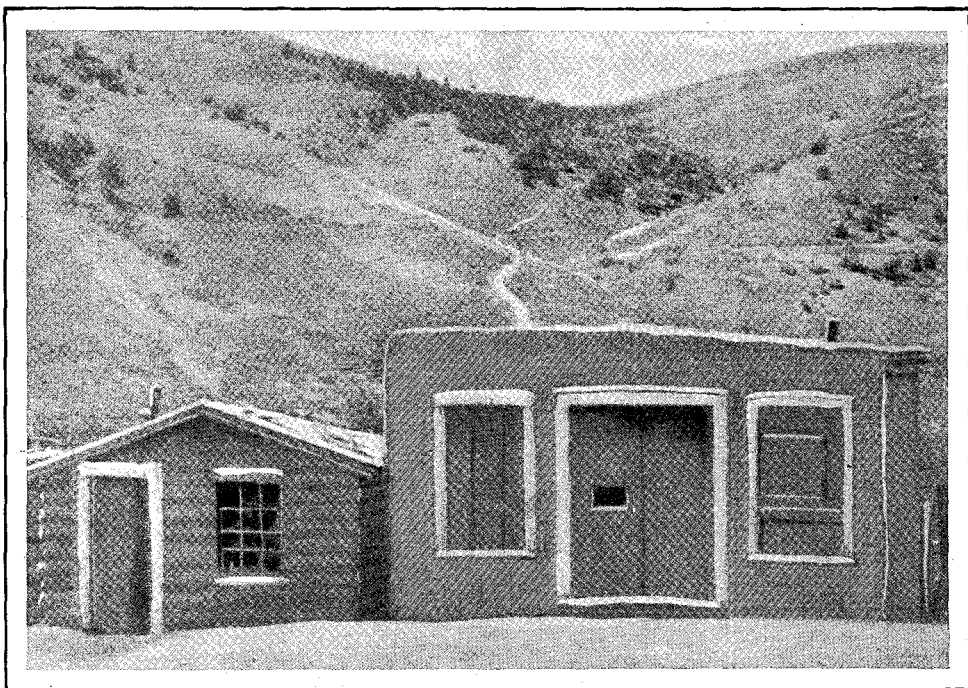
THE REIGN OF LAWLESSNESS AND ITS OVERTHROW BY
THE VIGILANTES—THE BEGINNINGS OF LAW
AND ORDER IN MONTANA



MONTANA is a State that stretches across plain and mountain for eight hundred miles east and west, nearly as great a distance as that between New York and Chicago. It is about four hundred miles in width. There is more than one county in the State out of which an area as large as the New England states might be carved and still leave room for a space larger than Manhattan Island. The eastern half is level and is devoted to ranching, cattle-raising, and sheep-raising. The western half is mountainous, thick with timber and studded with picturesque lakes and occasional glaciers. The climate, especially in the western half, is tempered by what the early Indians called the "Chinook" wind, which rises from the Japan current or Pacific Gulf Stream, and thaws ice and snow in a few short hours. In the winter of 1886-1887 the writer saw two feet of snow dissolved into running water in the streets of Helena by one of these winds in less than two hours, not a flake of snow remaining. In summer one is compelled to sleep under blankets indoors at night. In eastern Montana, near the Dakota line, and in the north, adjoining the Canadian line, the winters

are often long and chill, but are redeemed by the rays of a never-lapsing sun. In southwestern Montana the farmer plows in February. The summer evenings are long and incomparably entrancing—the twilight often lasting in the mountains till near ten o'clock—and in the late sunsets there is a suggestion of distant climes. This broad expanse of fruitful plain and mountain prodigal with treasure, to-day the home of a prosperous and populous commonwealth, was, up to 1860, utterly uninhabited save by savage Indians and an occasional solitary white trapper or missionary.

Out of the southwestern part of what is now Montana there came one day in the early '60's the wild rumor of gold—of all rumors the one which flies the fastest and fastens itself most grippingly upon the yearnings and imagination of men. It soon reached Denver and flew furiously on to the eastward. Responding to this rumor, there flowed back upon that wide, crude highway which linked the border settlements of the Middle West with the golden sands of California, an untamable flood, the human outflow of the newly-settled states which had drawn their population from every disaffected corner of the globe. Men kissed their wives and



EXECUTIVE OFFICE AND LEGISLATIVE HALL AT BANNACK IN THE '60'S

children good-by and struck the trail for gold.

They followed the wide wagon-ways of the Mormons of '46 and the Californians of '49. it was a motley throng that toiled, with their prairie-schooners, over that wide expanse of prairie between St. Joe and St. Louis on the east and the Rocky Mountains on the west — a section of country which Webster, in the Senate, had declared was an arid region, unfitted for human habitation and frigid with the blight of perennial winter. They herded together in the early stages of the overland journey, but later struggled desperately for place in the fierce, primeval race for nature's loot. There were those in that throng who had drunk the cup of prosperity and the dregs of adversity. There were doctors of divinity, doctors of medicine, lawyers, gamblers, speculators — and here and there some noble, self-sacrificing woman and her children. Buoyed up by the hope of quickly-acquired wealth — that chimerical dream which has lured and duped the world in all ages — they pursued the treacherous journey across a plain that seemed boundless. Picket-men were chosen for constant guard against the attacks of Indians, and shallow graves were dug along the way for those who succumbed to

disease or were slain by savages. The throng, made up of the best and worst of human elements, was united against every common enemy.

The destination of this exodus was Alder Gulch, "Bill" Fairweather's discovery, in the southwestern part of Montana. Ten thousand people rushed into that gulch within ninety days after the discovery of the gold-beds. Out of Alder Gulch was taken, in pans, gold aggregating one hundred millions of dollars. It yielded a greater amount of gold, perhaps, than any other one field on our continent. A city was founded and called Virginia City.*

The population of Alder Gulch soon became a law unto itself. The millions that were taken out of the placer-beds and hidden in cabins and out-of-the-way corners until the owners seized the first favorable opportunity to depart for the States, aroused the cupidity of the criminal element. Half the people of Alder Gulch were working day and night to gather the gold that would take them back to the affluent enjoyment of the fruits of hardship and hazard; the other half gambled, and whiled away the time in

* It must not be confounded with Virginia City, Nevada, the home of the great Comstock silver lode which made millionaires of Mackay, Flood, Fair, and O'Brien.

idleness until the harvest of toil was gathered ; and then swept down, vulture-like, upon the treasure.

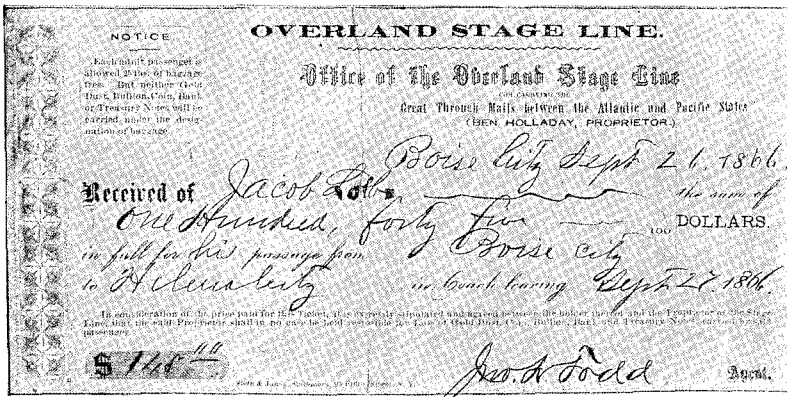
Out of these conditions came the imperative call for some kind of provisional government. In all this heterogeneous collection of fortune-seekers, no man was certain of the good faith of his neighbor. They had come from all parts of the earth and had here looked into the faces of each other for the first time.

The Rise of the Road-Agents

Each day brought forth some new and astounding revelation of the strength of the road-agents, who were masquerading in every walk of this rude, unfashioned life, prating loudly of their desire for order, and lamenting the violence which they themselves produced.

Between the towns in the Gulch — Nevada City, Virginia City, and the other settlements—and Bannack, 80 miles away, a

shots who maintained their skill by daily practice in actual conflicts. So common were these clashes that once, when two desperadoes had come together in a combination barber shop and saloon and had literally shot each other to pieces, the barber continued his operations on the face of his customer during the whistle and whang of the bullets without so much as a change of countenance. Henry Plummer, the sheriff, entrusted with the protection of the community, became the secret leader of these predatory bands of road-agents. He was a man of education and influence—a New Englander. As sheriff, he was likely to know when each man who had made his "stake" proposed to depart with his treasure, and by what route he intended to leave. Through him this information was promptly disseminated among the outlaws. The sheriff, piloting the unsuspecting victims, with their treasure, through dangerous mountain passes, gave the signal



Ticket showing clause exempting stage line from liability for loss of gold-dust and money

constant correspondence was kept up by the road-agents. They had their captains, lieutenants, secretaries, and mail-carriers. The roads, everywhere, were under the constant surveillance of the freebooters. Horses, men, and coaches were marked by some secret sign, and troopers posted with speed at all hours of the day and night to convey intelligence of the contemplated operations of the gang. The usual arms carried by the road-agents were a brace of revolvers, a large-bore, double-barreled shot-gun, cut short in the barrel, and a bowie-knife. They were all well-mounted on fleet, well-trained horses, lifted from the settlements, in their forays. The members of the league were capital

which brought about the little party a troop of highwaymen who, after securing the gold-dust, often resorted to massacre to conceal evidence or prevent possible betrayal.

The Supremacy of the Lawless

The organization of the lawless antedated by many months the organization of law. For law was a thing without substance, among these people. The trained lawyer practises his profession through its forms and technicalities, and these the free, untrammelled, irresponsible spirit of this crude community would not tolerate. Gold was, for each, the all-alluring dream. It lay beneath their feet in exhaustless store, and

they thought of nothing but possessing it. Far off to the southwest, in California, the first faint light of a permanent civilization had begun to glow, but no refraction of its ray reached this band of daring adventurers, who had broken all ties and thrown themselves into these twilighted hills, two thousand miles from the regions of men, where no law had been known save the tribal customs of wild Indians. To the far eastward, beyond the gateway of that broad, lonely, savage-haunted, seemingly endless highway over which they had come, the country was writhing in the throes of war. This derelict community, marooned among these distant hills, forgotten by a nation tense with the strain of civil conflict, was face to face with the primal problems of government.

The first case ever tried in Montana was a mining suit. Both parties to the suit claimed a certain piece of mining ground. The community had elected a president, Dr. William L. Steele, afterwards Mayor of Helena, and now a resident of that city. The regularly-elected judge of the community was a witness in the case and, according to the unwritten law, the case had to be tried before the president. It was winter time, but the case was tried in the open air on the foot-slopes of the mountains. The occasional balmy winters of that portion of Montana were a revelation to the gold-seekers then, as they are to the visitor to-day. During the trial, the plaintiff moved among the jury and the spectators with a box of cheap cigars, treating the crowd, while the defendant, not to be outdone in hospitality, went around with a bottle of what was known as "Valley Tan" whisky, a product of the Mormon settlements to the south, in the region of Salt Lake.

Dr. Steele had appointed Charlie Forbes clerk of the court. While the case was going on, two men — Hayes Lyons and "Buck" Stinson — stepped up and whispered something to Forbes. Forbes replied in an audible tone, "We'll kill him." He rose, and the three walked out to the edge of the crowd. They called to a man named Dillingham to step out from among the spectators. Dillingham stepped out to where Forbes and his companions stood, and was instantly shot dead. Forbes had fired the shot. Dr. Steele immediately ordered the arrest of the three men. Jack Gallagher, a deputy sheriff, who afterwards

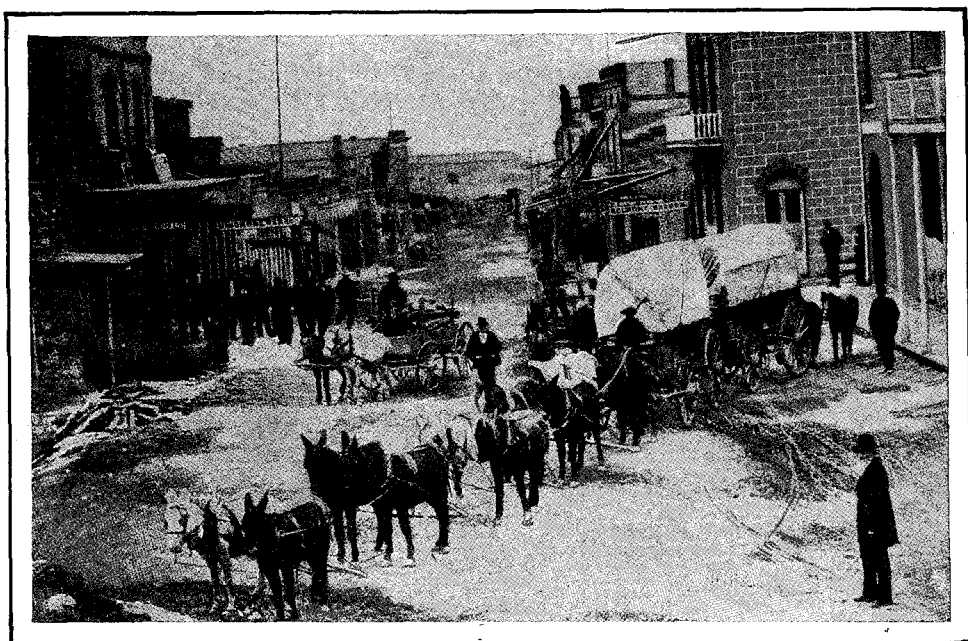
proved to be one of the oath-bound gang of road-agents, was waiting on the court in his official capacity. He passed out from the crowd and placed the three men under arrest, taking their pistols from them. Dexterously exchanging his own pistol for that of Forbes, he held up the three weapons, which were found to be fully loaded. The court stood adjourned, and the civil suit was afterwards compromised.

The explanation of this tragic by-play to the first rude lawsuit in the camp was this:

A man named Dodge had accumulated considerable wealth in the placer diggings, and was about to return to the States. Plummer, the sheriff and the chief of the road-agents, had issued orders to Dillingham, Forbes, Lyons, and Stinson to ascertain the hour of his departure, to follow, and overtake, and rob him — instructions which meant the murder of Dodge. Dillingham, who said he had joined the gang for the purpose of informing on them later, disclosed the plot to Dodge. As time passed on, and Dodge failed to leave, Hayes Lyons met him one day and casually remarked: "I thought you were going to the States." "So I was," said the artless Dodge, "but I was told that you and Charlie Forbes and Buck Stinson were going to rob me." "Who told you that?" inquired Lyons. "Dillingham told me," was the response. This was the information that Lyons and Stinson had whispered to Forbes at the trial, and in the presence of the assembled general court, the clerk of the court shot Dillingham dead.

The First Rude Courts of the Frontier

They tried Forbes, Stinson, and Lyons by the only possible method — a miners' meeting. Some were in favor of a trial by twelve men, but others opposed this, knowing that the jury would be drawn by the road-agent sheriff — for there were those who knew that Plummer was the leader of the road-agents, though they dared not voice this conviction either in secret or in public. A *viva voce* vote was taken, but this proving indecisive, two wagons were drawn up, with a space between, and those in favor of a jury of twelve passed through and were counted, while those in favor of a jury of the entire populace followed, and were counted in turn. The vote in favor of the popular jury prevailed. Three judges were appointed, of whom Dr. Steele, the president of the community, was chief. E. R. Cutler, a blacksmith, was appointed



MAIN STREET, HELENA, IN THE EARLY '70'S

public prosecutor, the accused selecting their own counsel. The judge's bench was a wagon. Forbes, the actual guilty one, was acquitted, the other two were convicted. Forbes was saved because of his good looks and education, and by the deputy sheriff's subterfuge in producing the fully-loaded pistol which was sworn to be the pistol Forbes had at the time of the shooting. His trial came last, and many of the miners, weary of the long delays, had departed when the final question of Forbes's guilt or innocence was put. His masterly forensic appeal in his own behalf, still a tradition in the mountains, was no small element in his acquittal. Forbes laughed jovially, afterwards, at the gullibility of the men who acquitted him.

A committee was appointed to dig the graves of Stinson and Lyons. The deputy sheriff took the prisoners in a wagon to the place of execution. Most of the crowd remained where they were, but the friends of the doomed men followed the officers and culprits. When the party arrived at the gallows, it was decided to submit again to the crowd — now composed of the friends of the condemned — the question of hanging or not hanging. Before this motion was put, another motion was made, that Stinson and Lyons be given a horse and banished.

This was carried in a loud affirmative, by the friends of the men, and before any one could protest, the two rejoicing bandits were lifted upon the horse and told to fly.

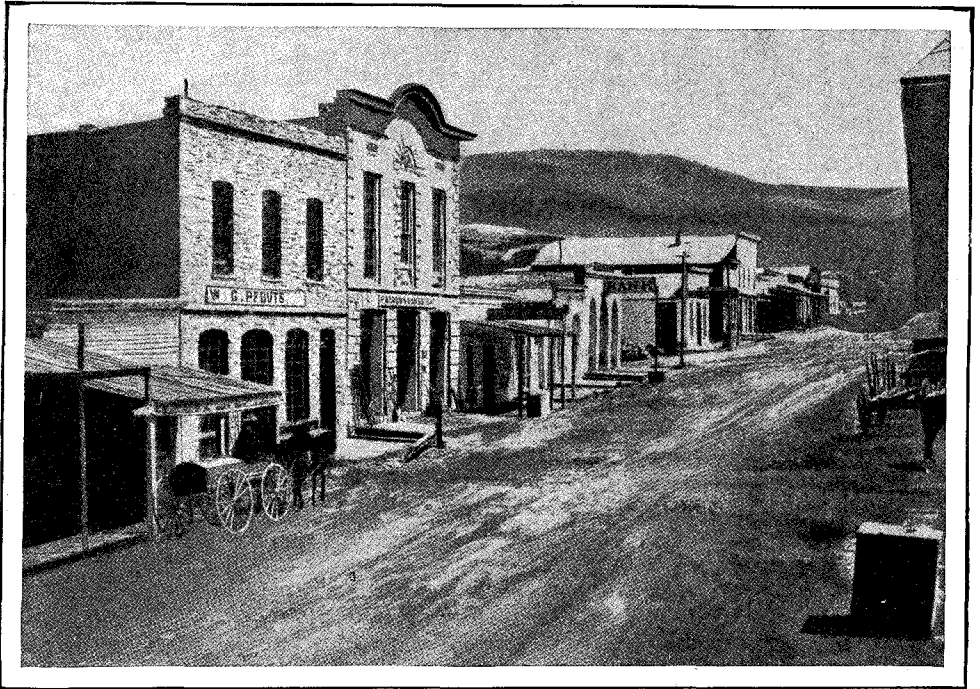
Dr. Steele had left the open-air meeting over which he had presided and was on his way to his cabin, some distance down the road, when he heard behind him the clatter of hoofs. Looking up, he encountered the radiant faces of Stinson and Lyons, whose bodies he supposed were at that moment swinging from the limb of a pine. As they flew past him, they shouted a good-natured but defiant good-by.

John X. Biedler was digging away at their graves for two hours after the men left. When he found that Stinson and Lyons had got away, he put up a sign on the graves; "These graves to let; apply to X. Biedler." This bit of jocularly afterwards nearly cost Biedler his life. Sometime after the organization of the Vigilantes, Biedler stopped over night at a roadhouse on his way to Alder Gulch. He had hardly taken up his quarters when five road-agents, among them Stinson and Lyons, appeared at the house, having followed him with the intention of killing him. Their purpose was to kill every man who had had anything to do with the trial. One of these men said to Biedler: "You are the man who helped dig my grave."

"Yes," said Biedler, "and, by the way, you have never paid me for that yet." This was such an apt reply that the outlaws laughed, and one of them proposed to treat. An insult was offered in order to provoke a reply from Biedler, but it was parried in such a humorous way, that drinks were again proposed. The object of the road-agents was to provoke Biedler if possible and then kill him, but whether provoked or not, to kill him anyway. Biedler parried every thrust. In the nick of time, a committee of twelve Vigilantes walked in and called

agile in his movements. His manners were those of a gentleman, and he was intelligent, and even brilliant in conversation.

A man named Cleveland aspired to leadership of the road-agents. He got into a quarrel with Plummer one day in a saloon, while some of the members of the band were discussing affairs of business. Plummer suddenly sprang to his feet, exclaiming as he did so, "I am tired of this," and fired at Cleveland and struck him. Cleveland fell on his knees. He pleaded with Plummer not to shoot while he was down. "No,"



MAIN STREET, VIRGINIA CITY, AFTER ALDER GULCH HAD BEEN "PANNED"

"Hands up." The locks of twelve shot-guns clicked, and the outlaws threw up their hands.

Henry Plummer, the ruling spirit among the road-agents, was probably the most skilful marksman of his time in the western country. He always pretended to give his adversary the advantage in drawing a weapon, knowing that his superior dexterity in the use of his Derringer would more than counterbalance any advantage his opponent might have. He was about five feet ten inches in height, and a very handsome man. When not in liquor, he was quiet and modest in demeanor, and was always dignified but

said Plummer. "Get up." Cleveland rose, only to receive another shot just below the eye, and fell dead to the floor.

Dr. Glick, brother of a later governor of Kansas, was surgeon for the road-agents. He was probably the best surgeon in the mountains. The road-agents would blind-fold Glick and take him to the particular rendezvous where the injured member of the band happened to be. After the first of these visits, Plummer and Glick started on the return to town. While crossing a plateau, Plummer suddenly turned and thrust his revolver in Glick's face. "Now you know," he said, "that these are my

men. I am their chief. If you ever breathe a word of what you have seen, I'll murder you." And Plummer meant it.

Glick lived with the feeling that the gaping barrels of a hundred rifles were always leveled at his breast. He knew that disclosures by any confederate of the gang might at any time involve him in the general suspicion. He wanted to leave the country. He gave out to the road-agents that he wished to take a course of lectures in the East. "Stay right where you are. We have use for you here," was the comforting response.

On one occasion when Dr. Glick was performing a very delicate operation on Plummer, Bill Hunter, another of the outlaws, entered the room. "If Plummer dies from this operation," said Hunter, "I'll shoot the top of your head off." Glick performed the operation without the tremor of a muscle, though he did not expect it to be successful, and lay in hiding all one night with a horse ready saddled, awaiting word of the turn in Plummer's condition.

Former Governor Samuel T. Hauser, of Montana, now a resident of Helena, was one of the early pioneers who suspected Plummer's real character. Contemplating a trip from Bannack to Salt Lake with a large amount of treasure, he entered the stage-coach at Virginia City and immediately recognized Plummer among the passengers. Hauser took this to mean that Plummer had become aware of his intended trip, and had planned with the members of his band the robbery of the coach. His suspicions were strengthened by the fact that at Bannack Plummer had presented him with a woolen scarf, telling him he would find it useful on the cold nights during the trip. Hauser concluded that this was the badge by which the robbers would be able to pick him out from the other passengers. During the afternoon of the day of Hauser's departure it had been reported in Bannack that some new mining discoveries had been made at a point down the road, and Plummer, who affected some knowledge of mining matters, had been requested to go out and examine the discoveries. It was an excuse for his passage on the stage-coach and was a ruse that had been resorted to before.

In the presence of the other passengers Hauser made the remark to Plummer that he had a large amount of treasure which

he was desirous of safely delivering at Salt Lake, and he desired Plummer, as sheriff of the community, to take charge of his treasure and guard it during the journey past the dangerous places on the road. As he spoke he passed the treasure over to Plummer. Plummer guessed Hauser's suspicions. The stage was not molested, the robbers failing to get their usual signal, and Hauser arrived at Salt Lake in due time with his treasure.

The principal amusements of the rougher element of the population were the stag-dances, a rough kind of dance in which only the men indulged, though in the more populous settlements gaily attired females were to be found, the belles of these boisterous carousals. Good women there were none, or so few that the sudden appearance of a good woman anywhere in the settlements produced visible signs of instant and profound respect. The miners would doff their hats and manifest their joy by rounds of huzzahs, making room for her as though the touch of their rough attire might soil her garments.

The discovery up to the fall of 1863 of no less than 110 bodies of victims of the road-agents had finally aroused the feelings of the law-abiding citizens to a pitch of frenzy. They felt that the mysterious disappearance of many other men whom they had known, was to be traced to the bandits. Scores of miners who had set out with large sums of money for various places had never been heard of and had never reached their destination. Murders occurred daily, almost hourly. Had there been the most perfect system of legal procedure, time would not have permitted of the orderly trials of offenders, so frequent were the crimes. Alder Gulch continued to disgorge its treasure in a steady stream, and the very excess of its bounty excited the most selfish passions of men. The heart of a man possessed with the thirst for gold is like the country where gold is produced — it is wild and barren, and the flowers wither.

It must not be supposed that during these long months of sickening dread and doubt attempts had not been made to organize justice. Rude courts were established and the guilt or innocence of offenders submitted to regularly chosen juries, but the swaggering outlaws would boldly force their way through the lines of spectators and into the presence of the qualified twelve men, announcing

their determination to avenge upon every one connected with the case, any verdict other than acquittal. Witnesses and jurors, under these circumstances, were afraid for their lives, and justice had miscarried until the outlaws, seeing the blanch of fear everywhere, were supreme. In the early stages of this reign of terror some of the road-agents had been tried, found guilty, and condemned to death by unanimous vote, but as in the case of the murderers of Dillingham, between conviction and punishment motions to reconsider had intervened, and the vacillating mob, through fear or relenting doubt, had revoked the action of the previous hour.

The trial of two worthies known as Moore and Reeves will serve as a pertinent illustration. They had been guilty of the most atrocious and cold-blooded murders, the crime for which they were tried being particularly revolting and wanton. During the course of the trial, shots were fired and knives drawn, and the court was turned into a scene of wild disorder and indiscriminate violence. They were tried by a jury of twelve, and while the witnesses were giving their evidence the road-agents paraded in front of the jury-box, swearing vengeance upon every man who voted for a verdict of guilty. Some of these jurors had families in the States, and felt that to return a verdict of guilty would be signing their own death warrants. The verdict was acquittal, but that did not save them. Within six months, more than half of the men who participated in the trial of these desperadoes, whether as witnesses, jurors, judge, or officers, were assassinated by the road-agents. Under such circumstances, it was impossible to get men to act, individually or collectively, in any movement looking to the overthrow of the road-agents' power.

Another case ended more amusingly. A rough named Burch was on trial for his life. His counsel, foreseeing an adverse verdict, moved that Burch's life be spared on condition that he leave the diggings in fifteen minutes. The motion was carried. Some one gave Burch a mule. Thinking the crowd might reconsider, Burch vaulted onto the mule and looking quizzically at his jurors, exclaimed: "Fifteen minutes! Gentlemen, if this mule don't buck, five will do."—and disappeared down the road, amid the laughter of the crowd.

One day in November of 1863, into Nevada City, two miles below Virginia City, came a wagon containing the body of a murdered miner. It had been found in the bushes near Wisconsin Creek, several miles distant, and had been badly mutilated by birds and beasts. The body was recognized as that of Nicholas Tbalt, who had gone down to Wisconsin Creek after some mules. It bore the marks of a rope around the throat. The body had evidently been dragged to the place of concealment while the victim was still alive. The hands grasped fragments of sod and sage-brush. There was a bullet wound in the head.

The exhibition of this mangled corpse through the main streets of Nevada City and Virginia City aroused the populace to unusual frenzy. The time had come when the miners, callous to bloodshed, stood dumb with rage and impotence. They felt that they had remained too long indifferent to the roaming spirit of assassination which shot men down for luck or sport. A dozen men started out to find the murderer, or murderers, and returned at dusk to Nevada City with three men under arrest. One of the three had confessed, and there was ample corroborative proof against the others. One of these prisoners was George Ives, a leader among the freebooters. He was about twenty-seven years of age, tall, lithe, and handsome. He had bright eyes, an intelligent face, and like many of the leaders of the road-agents—he was next to Plummer in command—had apparently been a man of refinement. He had all the elements of leadership.

Ives had a habit, when he needed money, of riding his horse into a store or saloon, throwing his purse upon the bar or counter, and telling the proprietor to fill it with gold-dust. He would frequently amuse himself by breaking the lamps or the mirrors with a ball from his pistol, while waiting for his purse to be filled. He once learned that some member of Plummer's band had threatened to divulge some of its secrets. Ives met this man the next day on the public road, and shot him dead as he sat on his horse.

Ives and his companions, after their arrest for the murder of Nicholas Tbalt, laughed and joked coarsely over the prospect of an early acquittal. In settling upon the mode of trial, the miners finally determined that the men should be tried in the presence

of the entire body of citizens, which reserved to itself the ultimate decision. A jury of twenty-four men was appointed to listen closely to the evidence, and to select for final appeal to the crowd, such questions as could not be unanimously agreed upon by the twenty-four during the course of the trials. Delays would thus be avoided.

"Long John," one of the accomplices, turned State's evidence. He swore that when Ives told Tbolt he was going to kill him, the young German asked for time to pray. Ives told him to kneel down, and then shot him through the head just as he had begun his prayer. In addition to the evidence, there was a general suspicion against Ives. It was believed that, next to Plummer, he was the most dangerous marauder on the road; yet men were by no means sure that he would be convicted and punished. Ives was prepossessing in appearance; he had friends in that crowd whose courage was instant and unflinching; he was brave himself beyond any man's questioning; he was rich with the booty of the road and the wealth of murdered miners; his manners were affable and free — and such men have friends even beneath the church spires of civilization.

A wagon was drawn up and backed against a log cabin that faced the street. The crowd gathered around the out-of-door fires that tempered the atmosphere of the late December day. As usual, the Judge and attorneys of this primitive court occupied the wagon-box. The prisoners were seated in front of this rude temple of justice, and as the night drew on, the guards, flanked and surrounded by the impassive crowd, could be recognized by the flicker of the blazing fires. Beyond was the wavering line of desperadoes and their sympathizers.

The Coming of a Leader for the Law-Abiding

Upon that scene, in those wild hills, far removed from the arm of the law as we know it, there arose the figure of one of the intrepid heroes of that time. Col. Wilbur F. Sanders, since known as the "Vigilante" United States Senator from Montana, for whom one of Montana's counties has been named, was a lawyer and a new-comer, a comparative stranger to every one. But he was more than a mere lawyer. He was a man with the courage of a lion. Of Lincolnian height and features, he made a

conspicuous figure in any gathering. Subsequent events always found him — often single-handed — championing the right against the lawlessness of Montana's wealth and power. Colonel Sanders had been approached to defend Ives and his companions, but this retainer he refused. Then he was asked to prosecute the men, and he consented.

In former public tribunals, judges, jurors, witnesses and mob alike had been overawed by threats of assassination. It was the firm belief of the miners that any one active in securing the conviction of Ives and his companions would be marked for death. All that the road-agents sought was to get the responsibility for the conviction of one of their number narrowed down from the crowd at large to any five or ten men, and then dispose of them separately.

But the courageous bearing of this new-comer dispelled the fears of judges, jurors and witnesses. He had the learning of the schools — and that alone commanded respect in that mixed assembly — and the eloquence that afterwards served well in defending the state against a more insidious form of lawlessness. He looked witnesses in the face with unflinching courage. After the evidence for and against Ives was in, he stood in the open air, towering above the surrounding multitude, looking into the ugly bores of robber guns leveled from the outer fringe of the crowd, and moved for the conviction of the idolized leader of the road-agents. The courage of this man carried the day, the spell of the road-agents was broken, and the mob voted "guilty." No greater combination of physical and moral courage was ever witnessed on the frontier. But it did not end there. Many supposed that the proceedings, according to precedent, had come to a conclusion, and that the court would adjourn until the next day, it being already dark. Sanders again mounted the wagon, and, calming the tumult, stated that Ives had been declared a murderer and robber by the people there assembled and moved "That George Ives be *forthwith* hanged by the neck until he is dead." Again the mob, awed by the eloquence, the heroism and the sternness of this new-comer, voted in the affirmative — and before the crowd had time to recover, before the friends of Ives could rally their wavering forces, Ives had paid the penalty of his flagrant crimes.

To a place not more than ten yards from where he sat during the trial, Ives was led to execution. He had repeatedly declared he would never die in his boots, and he asked one of the guards for a pair of moccasins, which were given him, but he got chilled, and requested that his boots might be put on again, and he died in them. He was led to the scaffold fifty-eight minutes from the time his doom was fixed. Every excuse for delay had been resorted to by his friends, in the hope of rescue at the hands of Plummer and his men from Bannack and Virginia City. The surrounding roofs of the rough mountain homes were covered with spectators. Revolvers could be seen flashing in the moonlight, but the guards stood firm, prepared to beat back the friends of the road-agents. When all was ready, the word was given, and the large dry-goods box on which Ives stood was shattered from under him. The road-agents stampeded from the scene in wild affright. Some claimed that Plummer was present, but that, overawed by the determination of the mob, he kept in the background. Others denied that he was there. The trial and punishment of Ives's companions followed in quick succession. An hour or two after the exciting scenes attending the execution of Ives, Colonel Sanders sat quietly reading in the store of John A. Creighton, now a wealthy citizen of Omaha, and the endower of Creighton College at that place. Guards had been offered to protect Sanders's person, but he had refused to accept their services. Harvey Meade, with revolver cocked, walked up to Sanders and began abusing him in road-agent vernacular. Sanders dropped his hand into his coat pocket, in which lay a Derringer, and quietly observed: "Harvey, I should feel hurt if some men said this, but from such a dog as you, it is not worth noticing." Meade walked off. He said afterwards he had intended to kill Sanders, but that there was something about the man's manner that cooled his ardor.

For over forty years Wilbur F. Sanders remained a commanding figure in the history of Montana. In later years, when men were still shot down in the public streets, Sanders was engaged as counsel in the trial of a case in Deer Lodge. After one of those philippics for which he was noted, directed against one of the witnesses for the opposing side, Sanders was informed as he left the court room that the target of his vituperative

eloquence was waiting for him. "Did he say he would shoot?" asked Colonel Sanders of his informant, Andy O'Connell. "Not only said so," was the reply, "but he *will* shoot as sure as your name is Sanders." "Oh, no," said Sanders; "the man that says he will shoot, never shoots"—and Sanders walked out in front of the court straight up to the waiting "terror," who slunk away before the glance of his fearless eye.

Sanders was a man of wit as well as courage. Some years before his death, which took place in July, 1905, he was present at a Populist Convention in Helena, and being called on by the chairman, in a moment of weakness, for a speech, Sanders, who was a Republican, launched into a political argument against the heresies of Populism. Instantly there was a wild uproar in the hall, supplemented by cries of "Put him out." One speaker rose and interrupting Sanders said that the Populists had hired the hall and the lights and should be protected from insult. "I know," said Sanders, "but I am furnishing the heat."

The Organization of the Vigilantes

Two or three nights after the execution of Ives, it was decided to form a Vigilance Committee. The way had been paved by the courage of Sanders and by the fear which clutched at the hearts of the road-agents. Public sentiment had changed from terror to unfaltering decision—the wind had veered. Several resolute men, including Colonel Sanders, met in the back room of a store owned by John Kinna and J. A. Nye on Jackson Street, opposite the aristocratic saloon and gambling place known in those days as "No. 10," and then and there organized a Committee of Vigilance. Mr. Paris S. Pfouts was elected president, Colonel Sanders official prosecutor, and Captain James Williams executive officer. The candles were then extinguished, and standing about the room in a circle, with hands uplifted, the assembled company took this oath:

"We, the undersigned, uniting ourselves together for the laudable purpose of arresting thieves and murderers and recovering stolen property, do pledge ourselves on our sacred honor, each to all other and solemnly swear that we will reveal no secrets, violate no laws of right, and never desert each other or our standard of justice, so help us God."

Bannock City, Feb 12th 67
J. M. Thompson to E. D. French
Making Coffin and
Burying the late H. Plummer.
\$42.50

Bill for coffin and interment of the Road-Agent Chief

Among the by-laws adopted by the Vigilantes was this Draconian provision :

"The only punishment that shall be inflicted by this committee is death."

While the Vigilantes were perfecting their plans, renewed impetus was given to the movement by one of the most atrocious crimes ever perpetrated in the history of the road-agents. This was the murder and robbery of Lloyd Magruder and his companions. Magruder was one of the most popular men in the settlements. He had been a merchant at Lewiston, Idaho, and the Independent Democratic candidate for Congress. He combined in his character so many good and noble traits that he was generally esteemed and admired.

In the summer of 1863 Magruder arrived in Virginia City with a large pack-train laden with merchandise. He opened a store and disposed of his goods, realizing some \$30,000. He was about to return to Lewiston, accompanied by Charles Allen, Horace and Robert Chalmers, two young brothers, and a man named Phillips. These men likewise had treasure, and united for safety. James Romaine, "Doc" Howard, William Page and "Chris" Lowry were employed by them as helpers and stock tenders. Whispers that Magruder and his party would be murdered reached the ears of more than one citizen, but terror sealed their lips.

The party traveled without accident to a camp near the Bitter Root range, the present dividing line between Montana and Idaho. This was the spot selected by the helpers and stock-tenders for the treacherous murder. At an afternoon consultation, they fixed upon the hour of ten that night for concerted attack on the party. A guard was stationed that evening, Magruder and Lowry being on watch. Promptly at ten, while Magruder was leaning over, lighting his

pipe from the flame of the guard-fire and while all the other victims of the plot were asleep, Lowry crushed Magruder's skull with an ax. Howard and Romaine murdered the two Chalmers boys and Allen and Phillips while they slept. The work was so well done that only Phillips cried out, and a second blow silenced him.

The bodies were wrapped in a tent-cloth and rolled over a mountain precipice, where the winter's snow was expected to hide all evidence of the crime. All the horses except eight were taken into a cañon off the trail and shot. The camp equipment was burned. The murderers wore moccasins, so that if an early discovery should be made, the crime might be imputed to Indians.

After the capture of the murderers, Page, who had taken no active part in the crime, turned State's evidence, and the others were executed in Idaho after trial and conviction in regularly established courts.

This crime excited intense indignation, and whatever opposition there had been among the miners to the organization of the Vigilantes gave way before the necessity for self-preservation.

The Vigilance Committee set to work in orderly and determined fashion. The first men hanged were "Red" Yager and a companion named Brown. Their place of execution was the Stinkingwater Valley. Yager confessed and put the committee in possession of the names of the prominent leaders among the road-agents. He told them that Plummer was the chief of the band. The password of the confederates was "Innocent." Each wore a necktie tied in a sailor's knot for the better identification of one another. Death was the penalty for all traitors, and for any outsider who came into possession of, and revealed, the secrets of the band.

A lantern and some stools were brought from a house near the spot where Yager and Brown were captured, and the party, crossing a creek behind Loraine's ranch, made for some neighboring trees which loomed in outline through the night shadows. On the road to the gallows Yager was cool and collected. Brown sobbed and cried for mercy. The stools, one placed upon the other, flew from under Brown first. Yager, without a sign of trepidation, saw his companion drop. He asked to shake hands with his executioners, and begged that they would follow the road-agents until they were completely exterminated. "You are on a good undertaking," said he. "No country was ever cursed with a more bloodthirsty or desperate pack of villains than this, and I know them all." His voice was as calm and steady as though he were conversing with old friends.

The road-agents were hanged in pairs, or in large numbers, as they were apprehended.

Henry Plummer was undressing at his house when he was taken. He was seized the moment his door was opened in answer to a knock. His favorite pistol lay near by, but it was secured by one of the committee before Plummer could reach for it.

On the road to the gallows Plummer heard the voice and recognized the person of the leader of the Vigilantes. He had been the companion and close friend of every man among his captors. He went to the leader and begged for his life.

"It is useless for you to plead for your life," said the leader. "That affair is settled and cannot be altered. You are to be hanged. You cannot feel harder about it than I do, but I could not help it if I would."

"Don't say that," pleaded Plummer. "Cut out my tongue and strip me naked this freezing night, and let me go. Spare my life. I cannot go blood-stained," he sobbed, "into the presence of the Eternal." He exhausted every argument and plea, but the Vigilantes were inexorable. Death was their only punishment. They were pledged to it. Finally, with tears and sobs, Plummer confessed his numerous crimes. He was frantic at the prospect of death. Witnessing the death-throes of so many of his victims had not hardened him to meet his own fate bravely.

"Buck" Stinson and "Ned" Ray, who were captured at the same time with Plummer, were sent to death first. The order

"Bring up Plummer" was then given and repeated, but no one stirred. Sympathy for this heartless outlaw was working in the breasts of his executioners. Plummer himself was trying to gain a few moments respite by saying some rusty prayers which stuck pitifully in his throat, but he finally rose as stoically as he could to the fate before him. Standing under the gallows, Plummer slipped off his necktie and tossed it over his shoulder to a young friend who had thrown himself weeping on the ground, saying: "Here is something to remember me by." He died without a struggle.

The work of implacable justice continued. Ives, Yager, Brown, Plummer, Stinson, Ray and others were dead; but Boone Helm, Jack Gallagher, Frank Parrish, Hayes Lyons and "Club-foot" George Lane, together with scores of other leaders, were at large. Every man who had taken part in the pursuit of the road-agents thus far was marked for death. No security was possible until the last of the outlaws was placed beyond the power of ever again giving the command "Hands up."

The executive committee on January 13, 1864, determined on hanging six of the ring-leaders without delay. One of the doomed men — Bill Hunter — suspecting the purpose of the committee, or being secretly warned by some friend, managed to crawl along a drain ditch through the line of pickets that surrounded the town, and make his escape. In his flight he suffered greatly from exposure to the cold, and he was afterwards captured and executed in the Gallatin Valley. It is said that after the drop fell, his arms being free, he unconsciously went through the motion of reaching for his pistol, cocking and discharging it six different times.

While the executive committee were deliberating on these sentences, some of the men whose death-warrants were being signed were playing faro in a room two doors away. Express messengers were sent to warn the Vigilantes of the neighboring towns in the Gulch. They flew up and down the Gulch with the fateful message that night.

The following morning, the first gleams of light showed the pickets of the Vigilantes stationed on every eminence and point of vantage about Virginia City. The news flew like wild-fire. Hearts quaked and lips turned pale. Detachments of Vigilantes, stern, erect, determined-looking, marched from Nevada City, Junction, Summit, Pine

Grove, Highland, Fairweather. As soon as all was in readiness, the search for the road-agents began.

Frank Parrish was the first marauder captured by the Vigilantes. He was apprehended in one of the town stores and took the officer aside and asked why he was arrested. "For being accessory to the murders and the robberies of the road," was the brief rejoinder. He pleaded innocence at first, but at last admitted his guilt. He gave some hasty directions about articles of clothing belonging to him and the settlement of some debts.

"Club-foot" George Lane was supposed to be a respectable shoemaker whose kit occupied a corner in Dane & Stuart's combination store and express office in Virginia City, but his occupation was a blind. His business as the spy of the road-agents was to overhear conversations which might give information of intended shipments of gold. Lane was arrested at a gambling-house. He was perfectly cool when he was taken. He was told that his sentence was immediate death and he sat for some time, his face covered with his hands. He then asked for a minister, and one was found who consoled him on the march to the gallows.

Next came Boone Helm, the most hardened of the gang. They tell, in the mountains, this story of Boone Helm. Back at his home in Missouri a neighbor named Littelbury Shoot had promised to accompany Helm to Texas. At the last moment Shoot decided not to go. Helm called at his house one night after Shoot had retired. He roused him up.

"I hear you've backed down on the Texas question," said Helm as Shoot opened the door.

"Well,"—said Shoot, starting to explain.

"Yes or no," said Helm. "Are you going?"

"No."

And Helm, with his left hand on Shoot's right shoulder, buried his bowie-knife hilt-deep in the heart of his friend.

Helm's arrest by the Vigilantes took place in front of the Virginia Hotel. When made acquainted with his doom, he sat down for a moment on a bench. He declared his innocence and fought desperately for delay, but finally said: "I have dared death in every form, and am not afraid to die." He called for whisky and was boisterously irreverent and profane to the last.

Jack Gallagher was found in a gambling-room, rolled up in bedding, shot-gun and revolver beside him. He had determined

to kill his captors, but his heart failed him at the last. He knew that the reign of the road-agents was over. He was sent forward.



THE MINER'S DREAM.

The frontispiece of Mark Twain's "Roughing It," gives a contemporary idea of the gold-seeker's confident expectations

Hayes Lyons was at breakfast in his cabin. "Throw up your hands" was the command that greeted him as the Vigilantes opened the door. He was told to step out. He came out in his shirt-sleeves and when his coat was handed to him he was so agitated that he could hardly get into it.

The prisoners were ordered to stand in row, facing the guards, and were informed that they were about to proceed to execution. They were marched in the center of a hollow square, flanked by four lines of Vigilantes, armed with shot-guns and rifles. Pistol-men were dispersed throughout the crowd.

The line moved forward. Eight thousand people lined the streets and gazed from roofs and open windows. As the procession advanced slowly up the street, Gallagher alternately cursing and crying, called to an acquaintance on one of the roofs:

"Say, old fellow, I'm going to Heaven. I'll be there in time to open the gate for you."

"Hello, Bill," said Boone Helm to another in the crowd. "They've got me this time, and no mistake."

The last halt was made, and five boxes were placed under a beam in an unfinished, open building. They were the drops. "Club-foot" George Lane asked leave to pray and knelt down. Jack Gallagher knelt with him, but called for whisky a moment later, and cursed the guard for not slacking the rope enough to let him drink. "I hope God Almighty will curse every one of you, and that I'll meet you all in the lowest pit of Hell," he shouted. Hayes Lyons was penitent and talked of his mother to those around him. Boone Helm cracked ribald jokes. "Kick away, old fellow," he said, as the oscillating figure of Gallagher cleaved the air. "I'll be in Hell with you in a minute"—and then shouting "Every man for his principles. Hurrah for Jeff Davis. Let her rip"—was swung into eternity. Frank Parrish stood silent and pensive. He dropped his black necktie over his face before his name was called.

The work of the Vigilantes was drawing to a close. Other executions followed. Between thirty and forty desperate men were hanged.

Under the gibbet Bob Zachary had prayed that "God would forgive the Vigilantes for what they were doing, as it was the only way to clear the country of road-agents."

"Johnny" Cooper was drawn to the scaffold in a sleigh, his wounded leg forbidding him to walk. "I want," he said, "a good smoke before I die. I always enjoyed a smoke." A heaping pipe was given him.

"Alex" Carter and Cyrus Skinner were executed at midnight by torchlight at the place where the thriving city of Missoula now stands, and within a few miles of where Daniel E. Bandmann, the old-time tragedian, now lives on his ranch.

George Shears said to those who captured him in the Bitter Root valley:

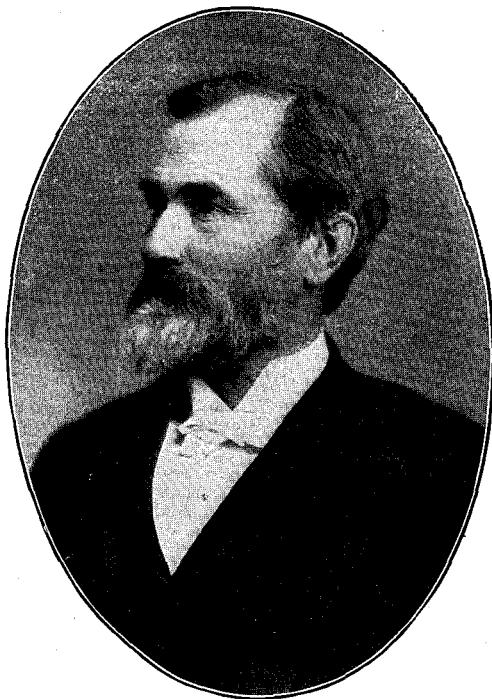
"I knew I would have to come to this, but I thought I might run another season."

To save the trouble of procuring a drop, he was asked to ascend a ladder, and politely complied.

"I am not used to this business, gentlemen," he said, when he had mounted the ladder. "Am I to jump off or slide off?"

One of the last official acts of the Vigilantes was the hanging February 10, 1864, of Capt. J. A. Slade, of whom it was said that "West of Fort Kearney he was feared a great deal more than the Almighty."

He had not been one of the road-agents; on the contrary, he was a member of the Vigilantes; but in his revels he was a menace to society in Alder Gulch. He was warm-hearted toward a friend, but a perfect demon to those who had incurred his displeasure. His favorite pastime when intoxicated was, like Ives's, to ride his horse into saloons and other public places, buying wine for himself and horse, and demolishing everything in sight. He would go into a saloon where perhaps fifty men were playing cards, and insist that they should all stop and drink with him at the same moment. He would raise his glass with the rest of them, but, instead of drinking, would wait until the others had finished, when he would bring his glass on a level with his eyes, and stare at it with intentness for a minute. Then suddenly he would raise the glass, dash it from him with terrific force at the mirror, the floor or the barkeeper, then draw his revolver and begin shooting indiscriminately. Slade was the leader of the only lawless element that remained in Virginia City after the extermination of the road-agents. A favorite diversion of this crowd of toughs was to dash down the mountain side from their cabin homes, "load up" at the first convenient saloon, and proceed to the town stews. In the morning when the peaceful citizens got up, they would see a pile of logs and a group of shivering, crying women. One morning, after the Vigilante court had organized, news came that Slade and some of his friends had spent the night at one of these houses and in the morning had destroyed it as usual. The marshal was ordered to arrest Slade. He was brought before the court, tried and found guilty. Having been guilty of the same offense frequently before, he was now fined \$400. He did not have the money with him, but promised to bring it the next time he was in town. He was again arrested for the same offense and brought into court. As the marshal started to read the warrant, Slade sprang at him and tore it from his hands, at the same time leveling a revolver at the heart of the Judge. "Now," said he, "I am about tired of this business, and



WILBUR F. SANDERS

Late United States Senator from Montana. In the early days he was the head of the Vigilante organization which hung between forty and fifty of the road-agents

I am not going to recognize your authority, or pay that \$400. I shall hold you personally responsible for my safety, and if any of your committee attempts to touch me, I'll blow your heart out."

Within a half hour the house to which Slade had gone was surrounded by armed men. The next minute they were in the room. One of them said, "We want you, Mr. Slade." Slade turned pale, but gave himself up. In order to preserve the forms of the crude law of the time, he was sentenced to death for high treason, for exciting others to rebellion, and for seeking to overthrow the Vigilante form of government.

Slade's execution has been criticized, and no doubt with reason; but one must assuredly conclude that while Slade may not have deserved death, the demands of the hour called imperiously for stern measures.

Slade's execution was rendered the more dramatic by his wife's heroic ride in an endeavor to save him. She arrived only in time to see his body cut down.*

With the death of Slade, the reign of law began. A peace that had been unknown since the coming of the first gold-seekers settled over the communities of Alder Gulch. Justice had at last asserted itself, and the rewards of the miner were his own. The curtain had fallen on the first act of the making of a commonwealth.

*Mark Twain tells in "Roughing It" another anecdote illustrating the heroism of Slade's wife. The incident occurred perhaps ten years before his execution.

Slade was captured, once, by a party of men who intended to lynch him. They disarmed him, and shut him up in a strong log-house, and placed a guard over him. He prevailed on his captors to send for his wife, so that he might have a last interview with her. She was a brave, loving, spirited woman. She jumped on a horse and rode for life and death. When she arrived they let her in without searching her, and before the door could be closed she whipped out a couple of revolvers, and she and her lord marched forth defying the party. And then, under a brisk fire, they mounted double and galloped away unharmed!

The next instalment of the "Story of Montana" will take up the development of the mining industry, and the enormous fortunes and picturesque conditions which resulted; the personal, business, and political rivalry of Marcus Daly and William A. Clark and the feud which convulsed the State until Daly's death. It will also cover the famous Montana capital fight and Clark's early attempts to reach the United States Senate.



RACHEL ON HER DEATH-BED

From the drawing by Fr. O'Connell in the possession of Mme. Sarah Bernhardt

IMPRESSIONS OF RACHEL

BY

CARL SCHURZ

ILLUSTRATED WITH PORTRAITS

After the collapse of the German Uprising of 1848, Carl Schurz, exiled revolutionist, determined to go back into the Fatherland under an assumed name for the purpose of trying to get his old friend and fellow-patriot, Gottfried Kinkel, out of prison. In the fall of 1850 he was in Berlin, planning cautiously the rescue of Kinkel from the penitentiary at Spandau (See McClure's Magazine for April, 1906). During this period he risked going to the theater to see the celebrated French actress, Rachel, who was then playing in Berlin. His impressions of Rachel, here recorded, are, Mr. Schurz says, "among the most overpowering of his life." Rachel made a tour in the United States in 1855. She died in 1858—EDITOR.

IT was at that period customary in Berlin, and perhaps it is now, that the tenants of apartment houses were not furnished with latch-keys for the street doors, but that such keys were entrusted to the night-watchman patrolling the street, and that a tenant wishing to enter his house during the night had to apply to the watchman to open the door for him. Having been seen by our

watchman once or twice coming home with my friends, I was regarded by him as legitimately belonging to the regular inhabitants of the street; and it happened several times that, returning late in the night alone from my expeditions to Spandau, where I was preparing for the deliverance of a man sentenced to imprisonment for life, I called upon the night watchman to open