SACRAMENTO DAILY RECORD-UNION.

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SACRAMENTO, WEDNESDAY MORNING, AUGUST 4, 1880.

DAILY RECORD-UNION SERIES, VOLUME 11—NUMBER 144.

THE DAILY RECORD-UNION.

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THE DAILY RECORD-UNION
Is published every day of the week, Sundays excepted.

For one year....$10 00
For six months.... 5 00
For three months.... 3 00
Ten copies one year, to one address.... 80 00

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Advertisements of Situations Wanted, Houses to Let, Society Meetings, etc., of FIVE LINES OR LESS, will be inserted in the DAILY RECORD-UNION as follows:

One time....25 cents
Three times....50 cents
One week....75 cents

Seven words to constitute a line.

THE WEEKLY UNION
[Published in semi-weekly parts],
Is issued on Wednesday and Saturday of each week, comprising Eight Pages in each issue, or Sixteen Pages each week, and is the cheapest and most desirable Home, News and Literary Journal published on the Pacific coast.

Terms, One Year....$2 00

Semi-Weekly Union Advertising Rates.

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Advertisements of five lines in this department are inserted for 25 cents for one time; three times for 50 cents or 75 cents per week.

Ticket No. 99, held by Mr. Robert A. Rose, won the fine Florence Sewing Machine given as a premium to the purchasers of Hammer's Cascara Sagrada Bitters during the month of July. au3-2t

WANTED—A NURSE GIRL.—APPLY NO. 714 Fifteenth street, between G and H. au3-3t

WANTED—BY AN AMERICAN WOMAN, A position as housekeeper, or to do general housework. Apply at I street, next door to the Water Works. jy31-6t*

WANTED—A MALE TEACHER, HOLDING a First Grade Certificate or a Life Diploma, with at least five years' experience. Apply to JAMES MOORE, Ophir, Placer county, Cal. jy29-2w*

STOLEN—SATURDAY NIGHT, FROM China Gardens, Thirty-first street, a BAY HORSE. A reward of $5 will be paid for his recovery. Apply to LONG SING, Butcher, I street. jy26-2w*

FURNITURE WANTED.—I WILL PAY ONE-third more for Household Furniture, Stoves, Carpets, etc., than any other cash buyer. S. POSKA, No. 717 J street, between Seventh and Eighth, Sacramento. jy10-1m

EMPLOYMENT OFFICE.

WANTED—ALL KINDS HELP, MALE AND Female. Particular attention paid to Furnishing Hotels, Private Families and Farmers with Help, Free of Charge to employers. HOUSTON & CO., one door south of Fourth and K streets, Sacramento city. jy13-1ptf

TO LET OR FOR SALE.

Advertisements of five lines in this department are inserted for 25 cents for one time; three times for 50 cents or 75 cents per week.

FOR RENT—THE LARGE AND COMmodious Five-story Brick Building, corner of Fourth and L streets. Having been raised 14 feet, painted and thoroughly renovated, is now offered for rent on very reasonable terms. Apply to E. P. FIGG, on the premises. jy29-2w

OMNIBUS.

FOR SALE—ONE MEDIUM-SIZE OMNIBUS, nearly new; has been run but three months. Will be sold for nearly one-half of original cost. Apply to or address, MARIN COUNTY JOURNAL, San Rafael, Cal. jy28-1m

FOR SALE

150 GRADED RAMS,—SPANISH MERINO—from original importation, at Rancho Del Paso (Norris Ranch) [au2-tf] JOHN MACKEY

MULES FOR SALE—EIGHT CHOICE Young MULES, well broken to lead and to work. Inquire of B. R. CROCKER, ESQ.; or, ADAMS, McNEILL & CO., Front and L streets, Sacramento. jy27-tf

FOR SALE—HORSE-POWER PUMP AND Tank, at a bargain, at Capital Iron Works, No. 904 K street. [jy22-tf] M. R. ROSE.

DRUG STORE FOR SALE.—THE BEST opening in the State, located in one of the Northern counties. Special inducements offered to a good Physician. Reason for selling, parties wish to go East. For further information, apply to DANIEL WOODS, Union Hotel, Sacramento. jy20-tf

FURNISHED ROOMS.—CLUNIE'S NEW BUILDing, northeast corner Eighth and K streets. Accommodations unsurpassed; high ceilings; good ventilation; new furniture and carpets—make the most desirable rooms in the city. Single or in suite, by the day, week or month. The house to be kept strictly first-class. Terms moderate. jy11-1ptf

YOLO BREWERY
FOR SALE OR RENT!

THE UNDERSIGNED DESIRES TO SELL OR rent to a responsible party her undivided one-half interest in the well-known and well established YOLO BREWERY, together

With Five Acres of Land, in Woodland.

☞ For particulars, apply to the undersigned, adjoining the premises. MRS. BRIDGET MILLER. Woodland, July 21, 1880. jy23-1m

FOR SALE.

TIN AND STOVE BUSINESS FOR SALE, in one of the principal towns of the State. A party who could add Hardware and Crockery to the business would do well. For particulars, inquire at HOLBROOK, MERRILL & STETSON'S, J street, between Second and Third, Sacramento. jy10-tf

LAND FOR SALE.

1,280 ACRES GOOD WHEAT LAND—Two Hundred and Fifty Acres will produce Corn, without irrigating; 30 Acres Alfalfa, three crops per year. Good water, healthy location on Thomes Creek, five miles from Railroad Station and Steamboat Landing. Can be divided into two farms—House and Barn each tract. Good School within two miles. Annual yield of grain, about 18,000 bushels. Sale compulsory—time limited to September. Refer to A. B. Aitkins & Co., Roseville; Charles Harvey, Hugh Mooney, Tehama. Apply to JOSEPH ELLIS, Tehama, Tehama county. jy10-1p1m*

DENTISTRY.

W. WOOD.

DENTIST—No. 817 J street, between Third and Fourth. Artificial Teeth inserted on all bases. Improved Liquid Nitrous Oxide Gas, for the Painless Extraction of Teeth. [jy24-tf]

DR. W. H. HARE.

DENTIST.—OFFICE, NO. 605 J STREET, between Sixth and Seventh, over Katzenstein & Bradley's Millinery Store. jy17-1ptf

DRS. BREWER & SOUTHWORTH,

DENTISTS, SOUTHWEST CORNER OF Seventh and J streets, in Bryte's new building, up stairs. Teeth extracted without pain by the use of Improved Liquid Nitrous Oxide Gas. [jy16-1p1m]

H. H. PIERSON.

DENTIST, 415 J STREET, BETWEEN Fourth and Fifth, Sacramento. Artificial Teeth inserted on Gold, Vulcanite and all bases. Nitrous Oxide or Laughing Gas administered for the painless extraction of Teeth. jy14-1m

W. O. THRAILKILL, D. D. S.

OFFICE AND DENTAL DEPOT: Masonic Temple, Sacramento, California. Editor and Publisher of the DENTAL JAIRUS, a Monthly Journal of Dental Science. jy12-1p1m

WATCHES, CLOCKS, JEWELRY

J. B. KLUNE.
(Late with Wachhorst, and successor to Floberg,)

WATCHMAKER AND JEWELER, No. 60 J street, between Second and Third. Dealer in Watches, Clocks, Silverware, Jewelry, etc. Repairing in all its branches a specialty, under MR. FLOBERG. [jy8-1p1m]

J. HYMAN, JR.,

WATCHMAKER AND JEWELER, NO. 136 J street, between Fifth and Sixth. Just received, a very fine lot of Watches and Jewelry, which will be sold at a very low price. Watches and Jewelry carefully repaired. [jy7-1p1m]

WILLIAM B. MILLER
(Late with Floberg).

NO. 190 J STREET, NEAR SEVENTH, Watchmaker and Jeweler. Importer and Dealer in Watches, Silverware, Jewelry, etc. Repairing a specialty, under Robert Marsh. All country orders promptly attended to. [jy29-1ptf]

HALE & CO., CRITERION STORE.

O. H. HALE & CO., SAN JOSE. — HALE & CO., STOCKTON.

WE ARE

Gathering Strength

DAY BY DAY!

HOW IS IT?

The Grand Old Principles of "One Price"

IS TELLING WITH WONDROUS EFFECT.

WHAT A CHANGE!

THIRTY-FIVE YEARS AGO, when our PARENT HOUSE instituted the "ONE PRICE" SYSTEM, the Retail Dry Goods Business was very defective in its workings, if not absolutely dishonest.

☞ IF A TRADESMAN ASKS $40 FOR AN ARTICLE AND CAN AFFORD TO TAKE $30, WE CONSIDER IT, IN FACT WE CANNOT LOOK UPON IT IN ANY OTHER LIGHT THAN, A DISHONEST ATTEMPT. TO SAY THE LEAST OF IT, IT IS AN EXTORTION, AND A ROTTEN WAY OF TRANSACTING BUSINESS—ENGENDERING SUSPICION, DISTRUST, WANT OF CONFIDENCE, AND A FEARFUL LOSS OF TIME.

OUR PARENT HOUSE LED THE FORLORN HOPE

ON THIS MASKED BATTERY OF DOUBLE DEALING, AND SO FAR AS OUR FIVE HOUSES ARE CONCERNED, WE HAVE ACHIEVED A PERFECT VICTORY. WE HAVE EFFECTED A RADICAL CHANGE, SIMPLIFIED BUSINESS, AND GIVEN CONFIDENCE TO THOSE WHO PURCHASE AT OUR HOUSES. WE CLAIM TO BE THE

VERITABLE PIONEERS
—OF THE—

One Price System.

OTHERS, SEEING THE VAST AND HEALTHY RESULTS ACCRUING THROUGH OUR SIMPLICITY OF BUSINE HAVE PRETENDED—OR TO BE MORE GENEROUS—THEY HAVE TRIED TO FOLLOW IN OUR FOOTSTEPS, BUT THEY HAVE NOT THE MORAL COURAGE TO CARRY IT OUT IN ITS ENTIRETY. THE FACT IS, THEY CANNOT REFUSE COIN; IT IS A MORAL INABILITY WITH THEM, AND THEY TAKE THE OFFERED BID, COMFORTING THEMSELVES WITH THE ASSURANCE THAT THEY WILL MAKE UP THE DIFFERENCE ON THE FIRST PURCHASER THEY CAN SUCCESSFULLY OPERATE ON. YET, WHILE THESE MEN ARE FIGHTING THE LIVELONG DAY, EACH AND ALL OF OUR FIVE ESTABLISHMENTS ARE TRANSACTING BUSINESS AS EASY, AS FAR AS PRICE IS CONCERNED, AS IF THE HEAD OF EACH PARTICULAR HOUSE WAS SITTING IN AN OLD ARM CHAIR. WE HAVE ESTABLISHED A CONFIDENCE ALSO IN THE CITY OF SACRAMENTO, AND THAT CONFIDENCE IS EXTENDING DAY BY DAY; AND, AS A NATURAL RESULT, OUR BUSINESS IS INCREASING IN PROPORTION. WE HAVE PROVED TO THE PUBLIC THAT WE BUY OUR GOODS CHEAP, BY THE FACT THAT WE CAN DISCOUNT ANY HOUSE IN THE CITY IN SELLING CHEAP. WE SAY THIS ADVISEDLY, FOR WE ARE FULLY PREPARED TO SUBSTANTIATE IT. WE ARE ALWAYS ON THE ALERT TO PICK UP GOODS, WHEN THEY CAN BE PURCHASED FOR LITTLE MONEY; WATCHING THE SAN FRANCISCO AND EASTERN MARKETS CLOSELY—WITH COIN IN HAND, WITH EXPERIENCED BUYERS ABROAD, A CREDIT UNLIMITED (IF NECESSARY)—WE CANNOT FAIL TO SUCCEED. THE PUBLIC WILL NOT FORGET THAT OUR PIONEER HOUSE ALONE BROKE DOWN THE HIGH PRICES OF GOODS, AND WE BELIEVE THAT THIS VERY DAY

HALE BROS.'

"Criterion House,"

IS THE ONLY DRY GOODS FIRM IN THIS CITY THAT CONDUCTS ITS BUSINESS ON THE GENUINE "ONE PRICE SYSTEM!"

TRY US AT

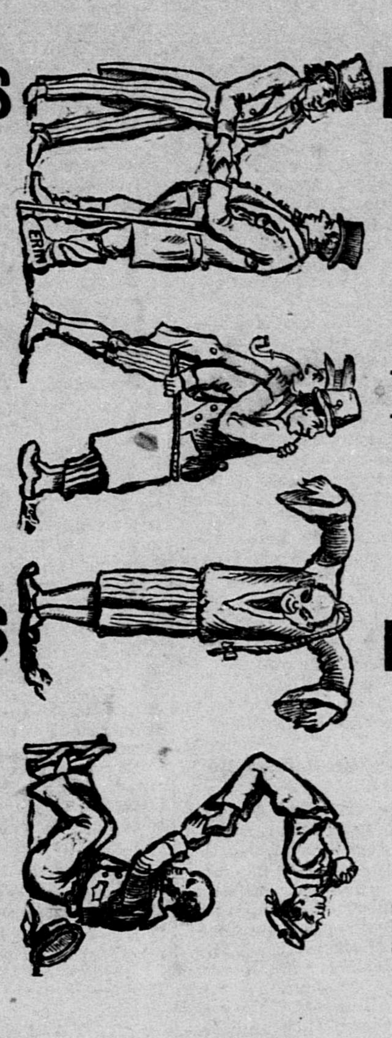
"THE CRITERION"

HALE BROS. & CO.,

NO. 812 K STREET, SACRAMENTO, CAL.

HALE BROS. & CO., PETALUMA. — HALE & CO., SALINAS.

MECHANICS' STORE.



BARGAINS —IN OUR— HAT Department.

BARGAINS —IN OUR— HAT Department.

BARGAINS —IN OUR— HAT Department.

BARGAINS —IN OUR— HAT Department.

Wednesday Morning

AUGUST 4th,

WE WILL PLACE ON THE COUNTERS IN OUR

HAT DEPARTMENT

—THE FOLLOWING LINES OF—

STRAW AND LINEN HATS,

TO CLOSE OUT OUR SEASON'S STOCK:

LOT 1—An Assortment of Men's Calico Caps, at 5c Each.

LOT 2—Men's, Boys' and Children's Straw Hats, Reduced to 5c Each.

LOT 3—Men's, Boys' and Children's Indian Panama and Fancy Straw Hats, Reduced to 10c Each.

LOT 4—Boys' Cloth Hats (Straw Lined), Reduced to 10c Each.

LOT 5—Men's Linen Hats, Reduced to 10c Each.

LOT 6—Men's, Boys' and Children's Fancy Straw Hats, Reduced to 15c Each.

LOT 7—Men's, Boys' and Children's Colored and White Canton Braid Straw Hats, Reduced to 25c Each.

LOT 8—Men's Brown Indian Panama Hats (Good Sensible Style), Reduced to 25c Each.

LOT 9—Men's High Crown, Brown Straw Ventilated Hats, Reduced to 50c Each.

LOT 10—Men's Brown Straw, Wide Cloth Band, Straight Brim Pelham Hats, Reduced to 50c Each.

LOT 11—Boys' and Children's Mixed Braids, "Magic" Hats, Reduced to 50c Each.

LOT 12—Children's White Straw "Clifford" Hats, with Tassel on Crown, Reduced to 50c Each.

☞ The quantity of each of the above lots is limited, and at the prices marked we expect them to disappear from our Counters at a lively rate. Hence, you who are desirous of sharing in these bargains, don't tarry, but come at once.

REMEMBER,

THESE GOODS WILL BE PLACED ON OUR "HAT COUNTERS," WEDNESDAY MORNING, AUGUST 4th. ☞ AN EXTRA FORCE OF SALESMEN WILL BE ON HAND TO SERVE CUSTOMERS PROMPTLY.

Until September 1st we shall close our Stores at 7 o'clock P. M., Saturday Nights and Pay-Days at the Railroad Shops excepted.

Send for Price List of CLOTHING, DRY GOODS, HATS, MILLINERY, BOOTS and SHOES.

MECHANICS' STORE,

Nos. 400, 402, 404, 406, 408 K street.

ADDRESS ALL LETTERS:

WEINSTOCK & LUBIN - - - SACRAMENTO, CAL.

THE OAKLAND TRAGEDY.

Schroder Held to Answer Without Bail.

JUDGE YULE'S DECISION.

Notice of Application to the Supreme Court for Habeas Corpus.

[SPECIAL TO THE RECORD-UNION.]

OAKLAND, August 3d.—This morning Judge Yule rendered his decision in the Police Court in the case of Edward F. Schroder, charged with the murder of Dr. Albert Lefevre, in which he held the prisoner to answer without bail. W. W. Foote, of counsel for Schroder, gave notice of an application to the Supreme Court for a writ of habeas corpus.

FULL TEXT OF THE DECISION.

The full text of the decision is as follows:

The defendant, Edward F. Schroder, is charged with the crime of murder. By the Penal Code of our State murder is defined to be the unlawful killing of a human being with malice aforethought. Anxious to protect every legal right of the defendant on one hand, and to enforce the law of the land on the other, I have listened with the closest attention to every word that has been offered in evidence in this case. Since the cause was submitted to me on Saturday night, I have again examined the entire case with that care and deliberation which its importance to society and the defendant demands. The conclusions reached are the results of my efforts to render impartial justice. The question of the guilt or innocence of the defendant, as presented to my mind, resolves itself into: First—Did the defendant fire the shot that killed Dr. Alfred Lefevre? Second—Was the killing of Dr. Lefevre done in self-defense? Third—Was the defendant in that sane condition of mind at the time the fatal shot was fired that the law will hold him responsible for his act?

NO DOUBT CONCERNING THE CAUSE OF LEFEVRE'S DEATH.

Upon the first two questions there can be no doubt the deceased (Lefevre) died from a wound caused by a pistol shot in the hands of defendant; the deceased was shot by the defendant while attempting to flee from the room where the defendant was standing. So that the only question which forces itself upon the mind of the Court is, Was the defendant in that sane condition of mind at the time the fatal shot was fired, that the law will hold him responsible for his acts?

THE PLEA OF INSANITY.

Insanity, the plea which the defense urged in this case, is a form of defense which has been so strained and abused that to my mind it should be received with great caution by Court and jur . The dividing line between sanity and insanity is so close in certain individuals, according as they are gauged by this or that rule of measurement, that we are often unable to tell where the one ends and the other begins. In Courts of justice, for the purpose of determining the mental condition of a defendant at the bar of justice, every habitual and established expression of condition becomes competent evidence, and serves to show a permanent line of conduct in the agent.

CONDITION OF THE DEFENDANT'S MIND.

With this in view testimony descriptive of the defendant's natural character, habits and disposition prior to the 12th day of June, and of defendant's conduct, his manner, his general deportment and words uttered by him expressive of his mental condition have been offered and received in evidence, from which alone I am compelled to deduce the fact whether or not defendant was in that condition of mind at the time the fatal shot was fired, that the law will not hold him responsible for his acts. If expert testimony on this subject had been introduced the Court would have found its responsibilities less, and its conclusions might have been different.

WHAT THE DEFENSE HOLD AND PLEAD.

The defense hold and plead that at the date of the commission of the alleged offense the defendant was *non compos mentis*. Being so circumstanced, he was before the law without mental, and therefore without legal capacity to intend or to execute a criminal offense, because being so circumscribed he is a person especially exempted from penal responsibility for any acts committed by him. The defense further hold that the burden of proof is in the State to establish the sanity of the accused whenever either its own testimony or that for the defense raises any doubts upon it, and cites some authorities of other States in support of the proposition. (Branford vs. State, 12 Georgia, 142; Hopps vs. People, 31 Illinois, 38). Such seems to be the doctrine laid down by the latest writers upon the subject.

WHAT THE EVIDENCE MUST ESTABLISH.

But however good the reasoning, however other Courts may hold, the contrary doctrine is held by the Supreme Court of our State. The latest case at hand is State vs. Redemeier, a new case decided in March last, wherein it is held that when insanity is raised as a defense, the fact of the existence of such insanity at the time of the commission of the offense charged must be established by evidence to the reasonable satisfaction of the jury, and the burden of showing this fact rests with the defendant, which doctrine was laid down in the case of People vs. Warren Meyers, 20 Cal., 518; People vs. Coffman, 24 Cal., 230; People vs. Francis, 38 Cal., 183; People vs. McDonald, 67 Cal., 134; People vs. Bell, 49 Cal., 485; which is and must be the law governing inferior tribunals in this State until changed by our Supreme Court.

WHERE THE BURDEN OF PROOF RESTS.

Wherefore upon these authorities the burden of proof rests with the defense. The testimony on the part of the defense introduced for the purpose of showing such disordered state of mind as shall render the defendant irresponsible for the crime committed is quite voluminous, and extends over a period of time from the 11th day of June to the 26th day of July.

SCHRODER'S MENTAL CONDITION—REVIEW OF THE TESTIMONY.

In consideration of the subject of responsibilities of the defendant for the crime committed, it makes no difference whether the wife of the defendant had had carnal intercourse with Lefevre or not. The defendant evidently believed she had, and prior to the time the defendant entertained such belief, testimony is introduced to show that he became and was a changed man. Many of his associates testify that he has been moody, unsociable, indifferent to business, and that at times he has given expression to intense sorrow, where in former times, prior to the 12th day of June, he was a social, pleasant and genial companion, and often sought the companionship of others. Since that day he has become morose, indifferent to former companionship, and that his duties in the bank have been performed in a mechanical sort of way. An indifference to the companionship of others, a loss of animal spirits, a loss of interest in business, while they may indicate a disordered mentality, yet a person in such condition of mind is not necessarily insane.

THE SAME EFFECTS PRODUCED BY VARIOUS CAUSES.

The same effects we have often seen manifested in persons, produced by different causes. Losses in stocks and disappointment in love, death of a loving and loved friend, will oftentimes produce the same effects and the same symptoms. A loss of animal spirits and indifference to the companionship of others, and a loss of interest in business, with expressions at times of the most intense sorrow, are evident, yet I am forced to believe that all these symptoms may and do often exist and manifest themselves in a person when there is not the least degree of insanity existing.

DOCTRINE OF INSANITY.

The doctrine has been held, and I think is supported by many eminent jurists, that "the law is that whether the insanity be general or partial the degree must have been so great as to have taken from him the freedom of mental action." So that in determining the responsibility of the defendant, it is necessary to determine, first, whether the defendant at the time he fired the fatal shot had mental capacity sufficient to know the nature and consequence of the act he was committing; second, whether, if he did so know, he had a felonious intent in committing this act; third, whether knowing the nature and consequence of the act, he had the power to choose between doing it and not doing it. To determine these questions I will revert to

THE TESTIMONY OF THE DEFENDANT.

He says in one place, "I never carried a pistol in my life till a week ago." In another place he says in speaking of the purchasing of the first pistol: "I bought it to kill that man who had wronged me." And he again says: "After I returned from the trip with my father, I remember walking down Broadway with Dr. Stebbins one day, and when we got to Eighth street I looked down and thought I saw the man who had wronged me. I left and walked down rapidly. I found it was not the man and I came back. I had a pistol on me that I bought at Plate's, in San Francisco. I told the Doctor that I was armed. He told me I was not doing as I had promised—to keep the matter to ourselves. I promised to go straight home, and I went. I did not keep that pistol. I went home, and I supposed that my wife saw that I was agitated. I went to the front parlor and put the pistol in the drawer. When I returned to the sitting-room my wife asked me if I had a pistol. I said "Yes." She began to cry, and said, "Don't expose me and the children, and the family." I promised I would do nothing rash; that I would keep what I knew to myself. I took the pistol with me the next morning and went to the bank. I knew I could not carry a pistol and refrain from using it. I took it back and said: 'I bought this pistol yesterday intending to give it to a friend, but I find he has got one. Do you object to take it back?'"

DELIBERATE INTENT TO KILL LEFEVRE.

Here is manifested a deliberate attempt to take the life of Lefevre at the time of buying the first pistol, and power of determining between right and wrong, with mental power sufficient to control his acts, in that he returned the pistol, because, he says, "I knew I could not carry a pistol and refrain from using it, and therefore I returned it." Up to this time, then, I will conclude the defendant was sane and responsible for his acts. From this time up to the day of the shooting his general demeanor seems to have been about the same as it was between the 12th day of June and the time when he first purchased the pistol he subsequently returned. On the day of the shooting he performed his accustomed duties in the bank without attracting the special attention of his companions and associate clerks, excepting that after returning from the purchase of a pistol, Knight testifies: "I noticed he was very nervous; his hand trembled when he stood at his desk with his head reclining thereon."

Again he says in one place: "I had determined that he or I must leave. I knew no reason why I should go. My object in going to Lefevre's office was to tell that man that he must leave this country, and to make him apologize to the woman he had wronged."

And in answer to a question by counsel as to why he had purchased the pistol the second time, he says: "I armed myself because I knew that he might offer me violence, and I wanted to protect myself." Here the defendant seems to have been capable of reasoning and all his acts seem to show more the intention of one who after mature deliberation had determined to take the life of his victim. Or, as defendant affirms, he went to compel the man he believed has wronged him to ask the pardon of the woman he wronged and leave the country. If that be the line of reason, and I will accept it as such, I am forced to the conclusion that the defendant was in such condition of mind that the law will hold him responsible for his acts. For he says: "I did not intend to shoot him when I went there." He evidently had considered the result of such an act and the disgrace it would entail upon his family.

SCHRODER'S MANNER AND ACTS NOT IRRATIONAL.

His manner in the room of Lefevre—all his acts are not irrational or incompatible with sanity. He did not do as most men would. But can the manner of the man be held to be only that of an insane man? If the man had had no wrong, real or imaginary, to avenge, the plea of insanity might be successfully urged. But the defendant was laboring under the believe that he had been most cruelly wronged, and hence a motive—revenge, it would seem—prompted the act. For he says, "In a moment of just indignation and rage I drew my pistol and shot him again until I saw him fall. In a moment I was myself again." It seemed to my mind impossible that unsettled reason can so suddenly, simply by the discharge of a pistol, be again restored and the patient be himself again. I am compelled to hold the defendant committed the crime in a sane condition, and is responsible for his acts.

EXCUSABLE OR JUSTIFIABLE HOMICIDE.

This defense is sought to be based upon the further ground of excusable homicide or justifiable homicide. The killing being admitted, it is claimed there was such a provocation offered and such a wrong suffered by the defendant as to warrant the defendant in taking human life to avenge the wrong. This argument was urged with so much force by counsel that I am compelled to notice it. The only evidence before me tending to show that the deceased had wronged the defendant is that given by the defendant. The defendant says the deceased admitted that he seduced defendant's wife. Upon this evidence I am asked to discharge the defendant upon the ground that the wrong suffered justifies the crime and upon the further ground that a jury trial will not convict. What a trial jury will or will not do it is not my province to divine.

THE COURT'S DUTY.

It is my duty to enforce the law as I find it. Sympathy for the dead and sentiment for the living must both be repressed. The law must be executed, and impartial justice administered. If deceased had criminally known defendant's wife, would that justify the taking of his life? The question is determined by our Code. Penal Code, Section 195, reads as follows:

"Section 195. Homicide is excusable in the following cases:

"1. When committed by accident and misfortune in lawfully correcting a child or servant, or in doing any other lawful act by lawful means with usual and ordinary caution, and without any unlawful intent.

"2. When committed by accident and misfortune in the heat of passion upon any sudden and sufficient provocation, or upon a sudden combat, when no undue advantage is taken nor any dangerous weapon is used, and when the killing is not done in a cruel, unusual manner."

And Section 197 is as follows:

"Section 197. Homicide is also justifiable when committed by any person in either of the following cases:

"1. When resisting any attempt to murder any person or to commit a felony, or to do some great bodily injury upon any person.

"2. When committed in defense of habitation, property or person against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors in a violent, riotous or tumultuous manner, to enter the habitation of another for the purpose of offering violence to any person therein; or

"3. When committed in the lawful defense of such person, or of a wife, husband, parent, child, master, mistress or servant of such person, when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he was the assailant or engaged in mortal combat, must really and in good faith have endeavored to decline any further struggle before the homicide was committed; or when necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace."

THESE ARE THE ENUMERATED INSTANCES

Where one may kill another and be justified in doing so. The question is, can any case stand on the same footing of reason and justice as these enumerated cases do, unless defense of some sort—the prevention of some impending and pressing wrong—enters as an element therein? By reference to the sections of the Penal Code given it will be seen that each of them contemplated defense against immediate and pressing danger. It is defense of self; it is defense of habitation, property or person; it is defense against one who manifestly intends or endeavors by violence or surprise to commit a felony or either; it is defense against a mob violently and riotously intending and endeavoring to enter one's house to assault or wrong some person therein; it is a defense against real, imminent, impending danger; it is a defense when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury upon a wife, a husband, a parent, child, master, mistress or servant of such person, when there is imminent danger of such design being accomplished. A mere fear of any offense to prevent which the killing was done shall not justify it. The circumstances must be such as to excite reasonable fears in a rational mind, and the person killing must act under the influence of such fears and

NOT IN THE SPIRIT OF REVENGE.

Not only must it be in defense, but it must be absolutely necessary to prevent this attack or invasion; and even in self-defense (the strongest of all defense) the danger must be so urgent and pressing at the time of the killing, that, in order to save one's own life, the killing was absolutely necessary. So that our law broadly separates the act of deliberately seeking another and slaying him for past wrongs, however heinous they may be, from the act of slaying another to prevent his doing a present wrong immediately impending. Whatever is done to revenge the past, is not justifiable. When done under pressing necessity to defend life or limb, or wife or child, or habitation or property against felonious attack or either, it is justifiable. The same doctrine is laid down in Wheaton's Criminal Law, section 459, and Bishop's Criminal Law, volume 2, sections 708, 711, 713.

THE DEFENDANT NOT ADMISSIBLE TO BAIL.

The only remaining question for me to consider is, Is the offense one of that character which is placed in the discretion of the Court to admit the defendant to bail?

Judge Yule quoted the Penal Code on the question, and saying that the proof of the guilt of the defendant was evident, and therefore he has no power to admit the defendant to bail.

The defendant is held to appear before the Superior Court of Alameda without bail.

SCHRODER TAKEN TO JAIL.

Schroder was taken in charge by the Sheriff and removed to the County Jail.

THE COURTS.

SUPERIOR COURT.

CLARK, Judge.

TUESDAY, August 3, 1880.

Mary A. O'Neil vs. C. P. O'Neill—Case dismissed for want of prosecution.

John M. Holtz vs. His Creditors—Decree of insolvency.

Estate of Mary Burns et al., minors—Petition of C. P. Bartholomew for letters of administration filed. Hearing set for August 9th.

Estate of E. W. Frazier, deceased—Hearing of petition for probate of will set for September 6th.

The People vs. John J. Meighan et al.—Answer of defendant Meighan stricken out. Judgment against Meighan as prayed for and costs. Stay of execution twenty days. Case as against Sullivan dismissed.

Polly Campbell vs. Jared Campbell—Decree of divorce in favor of plaintiff on the ground of willful desertion.

Naturalization papers were granted to persons upon petition and hearing as follows: Hermann Gerhardt, a native of Germany, upon testimony of A. Heilbron and Henry Hansche. Gustavus Luxenius, a native of Prussia, upon testimony of John Weisheimer and B. Steinaur. Martin Boyle, a native of England, upon testimony of Frank Avery and H. A. Burnett. John Bolier, a native of Switzerland, upon testimony of Henry C. Johnson and Edward Roeder. Jeremiah Gagan, a native of Ireland, upon testimony of P. Kelly and Thomas O'Connell. Joseph Davey, a native of England, upon testimony of A. A. Vanvorhies and Richard Irving.

The regular venire for sixty trial jurors was issued, returnable Tuesday, September 7th, at 10 o'clock A. M.

DENSON, Judge.

Naturalization papers were issued upon petition and hearing in Judge Denson's Court as follows: August Rodegeradts, a native of Germany, upon testimony of R. Dierson and F. Beiweiner. Daniel Reardon, a native of England, upon testimony of G. M. Mott and deposition. James Smith, a native of Ireland, upon testimony of M. Cronin and M. Leddy.

TO-DAY'S CALENDAR.

Burns vs. Burbank.
Griffith vs. Odd Fellows' Bank.
Cantwell vs. Swift.

SAN FRANCISCO MONEY MARKET.—Money is very plentiful at all the banks. Statistics show that there was $2,600,000 in idle money at the city savings banks on the 1st of July. The amount is probably nearly as large now, though in the meantime over $1,200,000 has been paid out or credited on account of semiannual dividends. The other banks are carrying several millions in coin. There is some inquiry for account of farmers at 7@10 per cent., according to place of storage. Stock dealers are requiring but very little money, owing to the unsatisfactory condition of the mines and the market. The regular rate of discount for first-class commercial paper is 9 per cent. There is more or less business at 8@10 per cent. The savings banks are loaning on city property at 8@9 per cent. and paying the mortgage tax. This is equivalent to 6@7 per cent. Drafts on New York are drawn at 20c for mail and 25c premium per $100 for telegraphic. Exchange on London is 49½d for bankers' bills, and 49⅞@50d for commercial bills. Refined silver is 10¼@11 per cent. discount. Mexican dollars are nominal at 91@91½c.—[San Francisco Bulletin, Aug. 3d.

COAST DISPATCHES.

SPECIAL TO THE RECORD-UNION

CALIFORNIA.

Meeting Called—Secretary Thompson to Speak.

SAN FRANCISCO, August 3d.—A meeting has been called for to-morrow evening of those interested in the business and industrial affairs of the city and State, with a view of devising ways and means for encouraging local manufacturing enterprises.

Secretary Thompson will address a meeting to-morrow evening at the Grand Opera House.

Secretary Appointed.

SAN FRANCISCO, August 3d.—John S. Gray has been appointed Secretary of the Harbor Commissioners, vice A. J. McClelland, removed.

Reported Rich Strike at Bodie.

BODIE, August 3d.—A very rich strike was made to-day in the 600-foot level of the Jupiter mine. It has been known for several weeks that a rich development had been made on the 500-foot level, and it has been anticipated that it would be intercepted by work in a corresponding direction on the 600-foot level. A number of mining men, including Joseph Wasson, of the *Free Press*, and several Superintendents, were admitted to-day. The ledge where cut is, so far as entered, remarkably rich in both silver and gold, and will run into the thousands per ton. Considerable excitement has been created by the strike. The 600-foot level of the Jupiter is the lowest point in the district at which ore has been struck.

The Murder Trial at San Jose.

SAN JOSE, August 3d.—The trial of George W. Carlton, for the killing of S. H. Brummett, of Hollister, was resumed to-day in the Superior Court before Judge Belden. There was a large attendance of spectators, who watched the proceedings with the keenest interest. Nothing new was elicited, and the Court adjourned until to-morrow at 10 A. M.

Fresno Democrats—Boy Killed.

FRESNO, August 3d.—The Democratic County Convention convened in Fresno Saturday, and the following ticket was nominated: Assemblyman, E. J. Griffith; Sheriff, E. Hall; County Clerk, A. M. Clark; Recorder, C. L. Wainwright; Auditor, W. J. Hutchinson; Tax Collector, T. E. Bacon; District Attorney, W. D. Grady; Treasurer, A. J. Thorn—also district and township officers. The Convention was harmonious.

Last Tuesday the twelve-year-old son of E. M. Russell, who lives near Kingsburg, was killed by being thrown from a horse.

Twenty-five Years in the State Prison.

YREKA, August 3d.—C. Van Dorsen, convicted of murder in the second degree for killing Sylvester, was to-day sentenced to 25 years in the State Prison.

A Victim of Heart Disease.

CALISTOGA, August 3d.—A. Funcke, of the firm of Funcke & Co., tanners, doing business on Sansome street, San Francisco, died of heart disease yesterday at Harbin Springs.

NEVADA.

Suicide of a Chinaman.

VIRGINIA, August 3d.—This afternoon Ah Soon, a Chinaman, by two strokes of a big knife, severed his wind-pipe and made a large gash in his neck. He was taken to the China dead-house and the Coroner notified, who found him still alive. Medical aid was summoned, his throat fixed up, and he was doing well, when in a fit of frenzy he tore the wound open again and died.

Passengers Passing Carlin.

CARLIN, August 3d.—The following passengers passed Carlin to-day, to arrive in Sacramento to-morrow: Miss Herthasemler, San Francisco; Miss E. Tott, Memphis, Tenn.; Miss M. J. McCloskey, Philadelphia; Mrs. Carter, C. S. Carter, Illinois; Captain J. T. Fowler and wife, F. T. Fowler, Oakland; W. G. Nevin, Philadelphia; Mrs. J. J. Miller, New Almaden; J. B. Branch, Providence; D. T. Sharshaw and wife, Tucson, Arizona; W. D. Brittain and wife, Philadelphia; C. A. Irvine, wife and child, Ukiah; W. A. Scrivener, G. Lerdner, T. Scully, San Francisco; B. G. Debois, Oakland; J. C. Preston, Los Angeles; O. E. Hill, Ogden; G. E. Wilcox and wife, Oregon; J. Morris, Massachusetts; W. H. H. Puckley, Aurora, Nev.; Mrs. S. H. Bashor, Ashlin, O.; Miss Harnett, Portland, Or.; E. B. Eddy, U. S. A.; R. N. McLaren, St. Paul, Minn.; and 52 emigrants, including 33 males, to arrive in Sacramento August 5th.

OREGON.

Railroad Work—Arrested for Libel.

PORTLAND, August 3d.—The work of grading the line of the I. R. & N. Company's road from Celilo to Wallula is nearly completed. In a few days the entire force will be moved to the north side of Snake river, beginning at Texas ferry and grading for 33 miles to Union Flat, in Whitman county. This road will run northerly from Snake river, and will soon be extended to Colfax and other points in the Palouse country. After thirty-three miles are graded from Snake river to Seaton Flat the force will be moved to the south side of the river, and the line will be graded from Grange City, at the mouth of the Tucannon to Walla Walla, it will be connected by ferry across Snake river with the line to Union Flat. It is the expectation to have three stations completed during the coming fall, making a continuous line from The Dalles. It is also the intention to begin the rock work and tunnels on the line between Portland and The Dalles as soon as the other work is out of the way. This work will be prosecuted steadily during the winter. The railway materials brought out by the steamship Columbia are nearly all discharged, and are being sent forward as rapidly as possible to The Dalles.

Messrs. Pattinger and Barkes, editors and proprietors of the Albany *Herald*, have been arrested by J. H. Lunn, of Seio, Linn county, charged with libel. Defendants published an account in the paper, accusing Lunn of having assaulted in a dastardly manner a Mrs. J. J. Brown. The whole account is declared to be a falsification.

Collector Appointed—Charged with Murder.

PORTLAND, August 3d.—Ferdinand N. Shurtleff has been appointed Collector of Customs for the port of Portland, vice John Kelly, and will resume charge of the office about the 15th of August. Shurtleff has been employed in the office of the Customhouse as deputy for the past ten years. He possesses a thorough knowledge of the duties of the office, and will doubtless make a very efficient officer. The appointment gives entire satisfaction to the merchants of the city.

The real name of the man who stabbed "Kelly the Vag" and killed him at the Diana saloon last night is James Rollins. He was discharged from the man-of-war Jamestown at Sitka last June. Since then Rollins has been about the city. The Coroner's jury returned a verdict that Kelly came to his death from a wound inflicted by Rollins, and charges the latter with the crime of murder. Rollins was brought before the Police Judge this afternoon, and waiving examination was committed to jail. In an interview this afternoon, Rollins stated that he has no recollection of the deed whatever. It is possible that he drank drugged liquor, which set him crazy.

UTAH.

Election Results—Bullion Receipts.

SALT LAKE, August 3d.—The Liberal (or anti-Mormon) ticket was elected in Summit county yesterday by a handsome majority. This is the county in which the Ontario mine is located. In Beaver county the Liberals elected Colonel Stokes Sheriff. He is the man who captured John D. Lee, and is very popular. The Mormons carried the remainder of the county ticket by a small majority.

The bullion receipts at Salt Lake for July were $698,277.

An Unusual Record.

The life of Mr. H. H. Warner, of Rochester, N. Y., was saved by the Safe Kidney and Liver cure, which now bears his name. What this wonderful remedy did for him it has done for thousands, and, we believe, will continue to do for those afflicted with kidney, liver or urinary troubles of any kind. If any reader has any organic trouble, this remedy will prove "a friend in need." H. C. Kirk & Co., agents, Sacramento.

I CHEERFULLY RECOMMEND Hammer's Cascara Sagrada Bitters for dyspepsia, habitual constipation and liver complaint. They have made me a well man. R. DAVIS, 411 K street, Sacramento.