IN THE SHADE OF THE GALLOWS.

Charles Freeman Must Hang for the Death of Mark Feeny.

But the Supreme Court Casts a Grave Doubt on the Testimony That Convicted Him.

The opinion of the Supreme Court in the case of Charles Freeman, the slayer of Mark Feeny, came to hand yesterday and was filed in this city by Deputy Clerk Govan.

The defendant was tried and convicted in Judge Van Fleet's court, in this city, of murder in the first degree, and sentenced to death. He appealed from the judgment and from the court's order denying him a new trial.

Freeman, Mark Feeny and two other men, Terrill and Wilkes, were employed on the ranch of one De Kay near Antelope, in this county. The four men occupied a small house on a ranch four miles from the home of their employer. A day or two prior to March 6, 1890, Terrill went to De Kay's home, leaving only Freeman and Wilkes at the other place. The weather was too rainy to admit of plowing, and having no work to do on the afternoon of March 6th, Freeman and Wilkes took their shotguns and went hunting, leaving Feeny alone on the ranch.

Feeny was a small man and physically weak, and there had been complaint on the part of the hands as to his inefficiency as a cook.

Freeman and Wilkes returned at 10 o'clock at night, after having had several drinks at a wayside inn. Both were sober enough, however, to remember all the details of what ensued. Two stories were told—one by Freeman and one by Wilkes.

WILKES' RECITAL OF THE CRIME.

Wilkes testified that when they got home Feeny called out that the supper was on the table, and shortly afterward Freeman came in and said he was going to kill Feeny. He insisted that Wilkes help him, and when the latter refused he knocked him down with his gun and bit through one of his ears. Wilkes finally had to submit, and he consented to help kill Feeny. Freeman, with his gun in one hand, went to the cook's bed, and picking the sickly Feeny up under one arm, carried him out to a barrel of water, Wilkes in the meantime standing by, too terrified to interfere. Freeman threw Feeny

HEAD FIRST INTO THE BARREL

Of water and held him there about four minutes, until he was quite dead. He then ordered Wilkes to get upon a horse and go to De Kay's and inform him that they (Freeman and Wilkes) had found the cook drowned in a barrel of water. Wilkes went and told De Kay the truth of the matter.

FREEMAN'S STATEMENT.

Freeman told an entirely different story. He said he and Wilkes quarreled while returning home, and he knocked Wilkes down with his gun. They then went to the house and Wilkes, on going outside, made the discovery of Feeny hanging in the water barrel, his feet touching the ground. When Wilkes went off to notify the De Kays, Freeman went over to a neighbor's and told his story. He also said he was nervous, and he asked for a drink of whisky.

Both of these conflicting stories were, to some extent, corroborated and contradicted by circumstances.

WHAT THE COURT SAYS.

The Supreme Court reviews the testimony of each thoroughly and points out details in each which make doubts arise. It was claimed as a corroboration of Wilkes' story that fresh blood was found in the bedroom where the fight occurred, but the Supreme Court says that "on the other hand it seems to be claimed that the blood is accounted for by the supposition that Wilkes, though wounded at the bridge, might have continued to bleed after his arrival at home."

"Freeman's story," says the opinion, "is opposed to the fact testified to by several witnesses, that the bridge upon which he says he knocked Wilkes down was covered with mud, and that no mud was observed on Wilkes' clothes when he arrived at the home ranch. As against the conclusiveness of this circumstance there was some testimony that the bridge was not ordinarily very muddy except near the ends, and that there had been heavy rains by which it was washed comparatively clean.

"In corroboration of Freeman's story, and of the theory of the defense (that Feeny had fallen in a fit while going for a bucket of water, and drowned in the barrel), it was proven that a short time before he went to De Kay's ranch, and while working at another place, he had fallen in a fit and remained unconscious for several minutes; and it was proven that when his body was lifted from the barrel the water-bucket was found under him in the water. There was, of course, a great deal of testimony as to minor details, and collateral circumstances, but the foregoing statement exhibits the salient features of the case for the prosecution and defense, and is sufficient to illustrate the points to be decided."

WILKES' STORY DOUBTED.

"First—As to the contention that the verdict is not supported by the evidence, we can only say that, while the case, as presented upon the record before us, leaves room for grave doubts as to the truth of the story told by Wilkes, it cannot be held, as a matter of law, that the jury, who not only heard all the minute details of the evidence, but had the great advantage of observing the demeanor of the witnesses on the stand, was not warranted in concluding that the guilt of the defendant was established beyond a reasonable doubt.

"If Wilkes told the truth, there can be no question that a cruel and deliberate murder was committed, and it was for the jury, in view of all the evidence in the case, to decide the question of his credibility. With their conclusion on this point, we cannot interfere.

THE COURT DID NOT ERR.

"Second—It is contended that the Superior Court erred in admitting, by way of rebuttal of Freeman's testiomony, evidence of the mud on the bridge and of the absence of mud from Wilkes' clothes when he arrived at the home ranch. * * * We think this was clearly proper evidence in rebuttal, and we do not think that the general question asked Wilkes, on his direct examination, precluded the proof of any specific fact inconsistent with the defendant's testimony as afterward given. * * *

"Third—It is contended that the Superior Court erred in sustaining the objection of the District Attorney to a question asked of a talesman named Barker, during his examination on *voire dire*, touching his qualifications to act as a juror. It is unnecessary, however, to decide this question, because Barker was challenged peremptorily by the defendant, and did not sit on the jury, and the peremptory challenge so used was not lost, because the court subsequently allowed him, upon the suggestion of the District Attorney, to make another peremptory challenge in addition to the number allowed by law. * * * * *

"Fourth—One of the grounds of defendant's motion for a new trial was newly-discovered evidence. The motion upon this ground was supported by a number of affidavits by himself, his mother, his sister, and others, tending to show that his grandfather and other members of his family had been affected with insanity, and that he himself, since the age of 19 years, had been subject to fits, rush of blood to the head, severe pains in the head; that when so troubled he becomes unable to control his actions, or to remember anything he does; that when under the influence of liquor he becomes a dangerous man, crazy and irresponsible, etc.

"The learned Judge of the Superior Court in denying the motion for a new trial delivered an opinion, from which we extract the following statement of his reasons for disallowing the claim based upon newly discovered evidence. [Here the Supreme Court quotes four typewritten pages of Judge Van Fleet's decision in denying the motion for a new trial, and say that Judge Van Fleet's reasoning is conclusive against the defendant.]

"These reasons, we think, are conclusive against the contention of appellant.

"The record discloses no error, and the judgment and order are therefore affirmed."

Chief Justice Beatty wrote the opinion, and it is concurred in by all the other Justices.

In view of the court's criticism of the testimony of Wilkes, it is not unlikely that the Executive will be asked to commute the prisoner's sentence.

TAXES NO OBJECT.

There Will Be Less Than $1,000 Delinquent in This County.

Deputy Tax Collector Shephard states that there will not be $1,000 delinquent on the tax-roll, and many taxpayers, including the banks, have paid not only their first but their second installments. Never before have the people come up so cheerfully and paid their taxes as they have this year.

Referring to the dissatisfaction that Tax Collectors in a few places have expressed with the new law, Mr. Shephard says that if the present year had not been a prosperous one, and money had been tight, they would have had a different story to tell. The law was framed with the object of making the payment of taxes easy upon the people, but this being an unusually prosperous year they are not in a condition to fully appreciate its benefits.

Again, it is believed that the additional cost entailed by semi-annual collections will be more than met by the saving in publishing and collecting delinquent taxes.

PALE-FACED BRAVES.

Chiefs, Sagamores and Ordinary "Injuns" Preparing to Celebrate.

On the coming anniversary of Washington's birthday the members of the several tribes of Improved Red Men in this city will celebrate that event jointly with the 400th anniversary of the discovery of America by that bold mariner, Christopher Columbus.

The following committees have been appointed from the various tribes and degrees of Pocahontas to arrange for the event: Cosumnes, No. 14, E. B. Wilson, Geo. Boyne, Chas. F. Leighton; Red Jacket, No. 28, E. F. Russell, —Horn, J. Shoemaker; Owosso, No. 39, L. G. Nixon, J. Hantzman, B. F. Howard; Red Cloud, No. 41, G. W. Whittock, B. F. Johnson, J. Labardie; Wenonah Council, No. 2, Mrs. Cropper, Mrs. Gill, Mrs. Klenk.

The committee organized on Sunday by electing J. Hantzman, President; Mrs. Klenk, Vice-President; E. B. Wilson, Secretary; E. F. Russell, Treasurer.

MUNICIPAL MATTERS.

Some People Want Alley Sewers and Some Do Not.

Contract Let to Grade a Portion of S Street—Gasoline Dealers Disobeying the Law.

The reading of a remonstrance against the construction of a sewer in the alley between O and P, Seventh and Eighth streets, was the first matter taken up at the meeting of the Board of City Trustees yesterday. It was signed by property owners representing a frontage of 400 feet, and the document was referred to the Street Commissioner.

A petition for a sewer in the alley between Q and R, Third and Fourth streets, was received, and immediately afterward a remonstrance was read.

Trustee McLaughlin said he was tired of having this sewer matter pop up at every meeting of the board. "I've reported once against the construction of the sewer," said the Street Commissioner, "because a majority of the property-owners did not want it."

On motion of Trustee Conklin, the report of Mr. McLaughlin was adopted.

A petition from property-owners, asking that they be granted the privilege of doing the work of grading and graveling Seventh street, from the alley between D and E to the corner of E street, was referred to the Street Commissioner.

A remonstrance was received against the grading of the alley in the block bounded by O and P, Twelfth and Thirteenth streets.

Trustee McLaughlin said it was altogether too late to entertain any such thing. Bids had been called for, and the city now had the matter in its hands. The bids were opened and that of John Hughes was found to be the lowest.

Bids for the grading of S street, from Eighth to Eleventh, were opened, and Antone King was found to have submitted the lowest one, and at the afternoon session he was awarded the contract.

A bill of $3 75 for publishing the ordinance in regard to the burning of leaves, rubbish, etc., was objected to by the Mayor because Dr. Nichols had ordered it published without calling on members of the board to find out if it was all right.

Trustee McLaughlin said the bill was a small one and beside he thought the ordinance should have been published as it was, because it ought to have a wide circulation that the people might have no excuse for violating it through ignorance.

Trustee Conklin thought the bill was not worth haggling over.

The roll was called and the bill was allowed; the Mayor voted no.

In regard to the matter of advertising for bids for doing the city printing, the Auditor suggested that the schedule adopted last year be retained, and it was so ordered.

An advertisement calling for bids for supplies for the City Prison, and also for doing the city advertising for the next year, was ordered published five times.

Chief Engineer Guthrie of the Fire Department made a verbal report concerning the present condition of gasoline and coal oil storage. He stated that, by paying an additional license of $1 a month, certain firms within the prescribed limit are carrying extra quantities of oil.

Trustee McLaughlin said the ordinance was not being carried out, as houses storing these oils had not posted the signs required by the ordinance. Further, he was opposed to granting privileges to firms between I and L streets that were not enjoyed outside these limits.

Chief Guthrie was instructed to make further inquiry into the matter and ascertain to what extent, if any, the ordinance is being evaded.

After canvassing the result of the school election the board adjourned until this evening.

The Doctor Has Arrived in Sacramento.

The principal and chief surgeon of the European staff of German and English physicians, 110 O'Farrell street, San Francisco, will give free consultations at the Golden Eagle Hotel for ten days only. All who call on the doctor before December 20th will receive three months' services free of charge. All diseases and deformities treated, but in no instance will an incurable case be taken for treatment. If your case is incurable we will frankly tell you so. Also, caution against spending more money for useless treatment. *

Berlin Cough Cure.

For coughs and colds and all lung and throat affections this article has superior merit. It is perfectly harmless, gives immediate relief, and cures the worst cases in from two to three days. Indorsed by our best physicians. Try a bottle and you will always keep it. Price, 50 cents a bottle. The W. H. Bone Company, San Francisco, sole proprietors. Kirk, Geary & Co., sole agents. Try C. C. Liniment for aches and pains. *

ALL in want of anything in music remember Cooper has the largest stock and sells the cheapest. Mathushek Pianos, the best, are indestructible. Cooper's, Seventh and J. *

STILL HANGING FIRE.

Third and P Street Electric Franchise Not Yet Granted.

But It May Be This Evening—The Mayor and Trustee Conklin Want a Little More Time.

At yesterday's session of the City Trustees the Mayor took up the proposed Electric Railway Company's franchise and said he presumed everyone was familiar with its provisions. He had taken the pains to find out just what the people wanted and he believed more property owners wanted the road on O street than on P. The O-street people were unanimous in favor of giving up their street for the road, while there were many on P street who did not want the track on their street.

"I think," continued the Mayor, "that we ought not to take action on this franchise to-day. We ought to learn just what the people want, and I will vote to lay it over for another week."

"I'm not ready either to vote on this matter," said Trustee Conklin, "and I will state why I'm not. In the first place have not learned yet which street the people want and we ought to find out definitely before we vote. Then again I don't believe it is right to take a road away from people, when they have paid money to have it built near their property. If people pay money to have a road put in, and that road afterward abandoned, their money ought to be refunded. I would like to know also what Mr. Henry proposes to do, before I vote to give him this franchise. I want to know what roads he is going to build and what ones he will abandon."

Mr. Henry, of the Electric Company, then addressed the board. He said that Mr. Conklin was right in his views. It was not the proper thing for a company to accept a bonus and then abandon their road, without returning the money they received to those who subscribed. His company would not do such a thing.

In regard to his company's plans, Mr. Henry said that he proposed to accommodate as many people as he could, and he did not want the franchise on P street if he could not have it pretty soon. The time was becoming short, and he hoped the board would either give him the franchise to-day or refuse it. If it was granted him, he knew what his plans were, and he would commence work immediately. If the franchise was refused, then he would have to change his plans and run his road by some other route, where he could make the most money. "At all events," said Mr. Henry, "I won't put the road on O street. I can assure this board that I have decided this question."

Elijah Comstock addressed the board in opposition to the Third and P street franchise. He argued that the road would not accommodate anybody excepting those who wanted to be landed somewhere near the depot. The ladies who lived in the southeastern portion of the city would have to walk half a dozen blocks before they could reach the places where they wished to do their shopping. Then, again, people who had lived for years on O street and built fine residences there, just because the road was there, did not want it taken away.

He concluded by presenting a petition from property-owners on O street, asking the board not to allow the road to be torn up.

Supervisor Bates was present and made a short address. He lived on O street and he built there because there was a street railway there. He also contributed $1,200 toward building that road, and naturally wanted it kept there. He did not care whether or not there was a road on P street, but he did not want to have O street torn up again.

T. C. May, Mr. Ellis, Thomas Hague, G. J. Cross and other residents on P street and south of there spoke in favor of the franchise.

Mr. Conklin said the city had to be protected. There ought to be some other provisions or restrictions in the franchise.

Mr. McLaughlin wanted to know what was the matter with the franchise.

Mr. Henry said it was almost an exact copy of the J-street franchise, and there was no objection to that.

Mr. Conklin insisted that a clause should be inserted making it compulsory upon the company to return any bonus it might receive, in case they abandoned a road after having run it for a time.

Mayor Comstock wanted to know something of Mr. Henry's plans before he voted on the franchise.

Mr. Henry said he would equip electrically the H, K and Tenth-street roads.

William Coyne spoke in favor of the franchise asked by Mr. Henry and showed the board a petition signed by a great many people in the southwestern portion of the city.

Mr. Henry said he desired to tell the people why he abandoned the upper K-street and Highland Park roads. The Highland Park car, he said, was taking in on an average of $1 75 per day, and it took $2 50 a day to run it. Then the four K-street cars took in but $9 25 per day altogether, and it cost over twice that sum to run them. In short, the company would be taking in about $11 a day and paying out $25. This was the reason why he discontinued the service.

Trustee McLaughlin was ready to vote, but he gave way to the Mayor and Third Trustee, and this evening at 7:30 o'clock was set as the time when final action will be taken.

DIED.

GROGAN—In this city, December 12th, Luke Grogan, a native of Ireland, aged 46 years, 4 months and 27 days.

☞Friends and acquaintances are respectfully invited to attend the funeral, this afternoon, at 2 o'clock, from his late residence, M street, between Eighteenth and Nineteenth, thence to the Cathedral, where funeral services will be held. *

WILLIAMS—In this city, December 13th, Christie O., oldest son of Mr. and Mrs. Richard Williams, a native of California, aged 16 years and 15 days.

☞Friends and acquaintances are respectfully invited to attend the funeral, to-day, at 10:30 o'clock A. M., from the residence of his parents, F street, between Eighteenth and Nineteenth.

PETERSON—In this city, December 14th, Lydia Peterson, a native of Sweden, aged 26 years and 2 months.

☞Funeral notice hereafter.

Not Responsible.

As regards food adulteration, the grocer is in no wise responsible for the acts of the manufacturer. If people want goods at cheap figures they must expect quality to correspond. Dr. Price's Delicious Flavoring Extracts, Vanilla, Lemon, etc., come a few cents higher than other extracts in the market, but they contain no poisonous or hurtful matter as an adulterant; their quality is the highest, their flavor the finest and their perfect purity established.

BELL CONSERVATORY COMPANY, florists. You can always find us at telephone No. 155. Finest work; lowest prices.

Changed Daily for Weinstock, Lubin & Co.

Open every night until 9 o'clock.

Toys in the basement.

Santa Claus appears in the window daily at 11 A. M. and at 3 and 7:30 P. M.

Those who have Christmas and New Year's Gifts to purchase will find the extent, variety and beauty of our Holiday Stock of positive advantage in buying, especially on account of the low prices.

Every preparation has been made to serve the great trade of the remaining days before Christmas with speed and due attention to the smallest want of the smallest customer.

WEINSTOCK, LUBIN & CO.,

400 to 412 K Street, Sacramento.

Useful Gifts for Everybody.

FOR GRANDMA OR GRANDPA. A pair of Footwarmers. They are so warm and comfortable that they will be appreciated by anybody that is troubled with cold and tender feet. Price, $1 50.

FOR FATHER, SON OR BROTHER. A pair of Velvet, Plush, Imitation Alligator, Goat, Russian Calf Slippers, or a pair of Patent Leather or Kid Dancing Pumps. Prices range as follows: Velvet, 75c and $1 a pair. Plush, $1 50, $2, $2 50 and $3 a pair. Imitation Alligator, $1 and $1 50 a pair. Goat, $1 50, $2, $2 50 and $4 a pair. Russian Calf, $2 50. Dancing Pumps, Patent Leather, $2 50 and $4. Dancing Pumps, French Kid, $2 50 and $5.

FOR MOTHER, SISTER OR DAUGHTER. A pair of fine Oxfords, with patent leather tip or plain toe in the very latest styles. Prices range from $1 25 to $7 a pair. Or a pair of fine Dress Shoes in French Dongola or French Kid, in patent leather tip or plain, in the new square or opera toe, with cloth or kid tops. Prices from $1 50 to $9 a pair.

LAST BUT NOT LEAST, FOR THE RULER OF THE HOUSEHOLD, THE BABY. A pair of Patent Leather Shoes in the fancy vesting tops; or the same as above in French kid and patent leather tip; or French kid with gray cloth or tan ooze top; or all black with patent leather tip. In fact, we carry them in so many styles and combinations that it would take a whole column to describe them all. Prices, infants' sizes, 1 to 5, 75c, $1, $1 25, $1 50 and $1 75 a pair. Children, spring heel; sizes 3 to 8, $1 25, $1 50, $1 75, $2 and $2 25 a pair.

☞Please bear in mind that we carry without exception the largest and best selected stock in Sacramento, and only two houses on the Pacific Coast carry larger stocks than we do.

LAVENSON'S FAMILY SHOE STORE,

FIFTH AND J STREETS.

PUT THEM ON YOUR LIST

Bibles, Prayer Books, Hymnals, Albums, Autographs, Ink Stands, Calendars, Booklets, Purses, Games, Blocks, Books, Cards.

W. F. PURNELL,

609 J Street.

XMAS PRESENTS.

THE FINEST ASSORTMENT OF

TOQUES AND HATS

For Xmas presents are now on sale and will be sold for the next two weeks. Call and select one for your wife, mother or girl. It will make her happy for Xmas.

Also, the finest line of RIBBONS now in stock and will be sold cheap, ALL-SILK RIBBONS. Call and see them at

MRS. M. A. PEALER'S,

619 to 623 J Street, Sacramento, Cal.

JUST RECEIVED An elegant new line of REED and RATTAN ROCKERS at greatly reduced prices.

Also, job lot CHILDREN'S BEAUTIFUL TOY CHAIRS and ROCKERS, hard wood, at 50 cents.

CHAS. M. CAMPBELL, 409 K ST.,

CARPETS AND FURNITURE.

EVER INDUSTRIOUS

In some good work, the Sacramento

DAILY EVENING NEWS

Is proving itself to be a blessing to the community. It is now receiving contributions to a fund to fill the Christmas stockings of the little ones at the Protestant Orphan Asylum. Any gift will be acceptable.

HOLIDAY NOVELTIES. Variety of Inkstands, Penracks, Files, Letter Weights and all Stationers' Supplies. GRIFFIN, 603 K ST.

HARRY W. RIVETT, Pioneer Steam Carpet Cleaning Works,

S. W. Cor. Twelfth and O Sts. Telephone 292.

THE LACE HOUSE,

TO-MORROW

We will sell until they are all sold out,

Odd lot of Ladies' Corsets, 25c.

Ladies' Fast Black Hose, 15c.

Children's Wool Undershirts, 24c.

YOU WANT TO SEE THESE GOODS TO APPRECIATE THEM.

THE LACE HOUSE,

615 J Street,

GUS ELKUS.....Proprietor.

Formerly Houghton's Book Store.

CAPITAL PHARMACY,

S. W. Corner Seventh and K Sts.,

J. S. O'CALLAGHAN, Proprietor,

Druggist and Apothecary

ICE CREAM SODA, WITH ALL KINDS OF fruit flavors. Also, all kinds of Mineral Waters. jy17-6m3p

CARPETS,

Furniture,

HEATING STOVES.

New and Second-Hand Furniture.

CALL AND INSPECT OUR GOODS AND PRICES.

WE ARE THE LEADERS.

L. A. JACOX & CO.

920 and 922 K Street. n18-tf3p

HONEY, one-pound frames, - - 10 Cents

RAISINS, loose, - - 5 Cents per pound

PRUNES, - - 4 pounds for 25 Cents

DRIED FIGS, - - - 5 Cents per pound

TEAS AND COFFEES A SPECIALTY.

PLAZA CASH GROCERY,

Corner Tenth and J Streets,

CHAS. HOECKEL.....Proprietor

C. SCHNERR & CO.

(Successors to Postel & Schnerr),

Nos. 111 and 113 Front Street, Sacramento, Cal.

PROPRIETORS CAPITAL SODA WORKS and General Agents Fredericksburg Brewing Company, dealers in Wines, Imported Mineral Waters, Carbonated Drinks, Flasks, etc.

Our Sarsaparilla, Iron and Vichy Water and California Orange Cider still lead on this coast on account of their healthfulness, purity, delicate flavor and keeping qualities.

☞Beware of irresponsible parties, who, under all sorts of misrepresentation, offer for sale similar but vastly inferior goods made in outside towns.

J. McMORRY,

DEALER IN GROCERIES, PROVISIONS, Wines, Liquors and Cigars. Sole Agent for Schmidt & Co.'s Sarsaparilla and Iron, Stockton, Cal. Northwest corner Fourth and M streets, Sacramento. Telephone, 276. d9-tf

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MENLO PARK, SAN MATEO COUNTY, CAL.

Carnations, Roses, Chrysanthemums and Cut Flowers.

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