THE MONTANA POST.

A Newspaper, Devoted to the Mineral, Agricultural and Commercial Interests of Montana Territory.

D. W. TILTON & CO., Publishers and Proprietors.

"MY COUNTRY, MAY SHE ALWAYS BE RIGHT; BUT, MY COUNTRY, RIGHT OR WRONG."

TERMS: $8 a year, in advance.

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THE MONTANA POST.

D. W. TILTON & CO.,

D. W. TILTON, BEN R. DITTES,

PUBLISHERS & PROPRIETORS.

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WE HAVE CONSTANTLY ON HAND A LARGE supply of

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A FIRST-CLASS TABLE

will be maintained, regardless of expense, and will be furnished with the choicest viands the market affords. The comfort and convenience of boarders and visitors will be carefully attended to. Careful and trustworthy waiters in constant attendance on the guests. 110†

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Lager Beer, of Superior Quality,

Delivered to all parts of the Territory.

Connected with my Brewery I have a DISTILLERY for the manufacture of

Malt Whiskey.

I solicit the patronage of the public for a home manufactured article. 91†

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Staple and Fancy Groceries,

DRY GOODS,
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BOOTS AND SHOES,
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LUMBER YARD,

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WE have constantly on hand a good assortment of

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Also shingles and lath.

☞ All orders filled at short notice.
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ALSO, A FINE SELECTION

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Suitable for Holiday presents.

☞ Toilette articles of the best French Manufacture. 99*

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BEEF, MUTTON, VEAL,
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No meat of inferior quality sold in this establishment. Orderey prompt! and carefully filled. 107*

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TAKES pleasure to announce to the public that he keeps the best stocked Meat Market in Nevada City, where there will always be found the best cuts of

FRESH PORK, BEEF,
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Sausage Meat and Sausages of all Kinds.

☞ He also receives constantly Game, Fish and Fowl of the season. Try him. 84*

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WHOLESALE AND RETAIL

Grocers, Storage and Commission Merchants,

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We have a large and commodious

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Wallace Street, Virginia City, Opposite the U. S. P. O.

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WE HAVE ACCOMMODATIONS

FOR 150 BOARDERS.

And our table is always supplied with the

Best the Market and Season Affords.

Our house is also provided with

NICE CLEAN BEDS.

Board per Week, ...$16 00.

102* W. H. JOHNSON.

CHIEF-JUSTICE H. L. HOSMER'S CHARGE TO THE GRAND JURY.

HON. H. L. HOSMER, JUDGE, ETC.—*Dear Sir:* We, your friends of the Bar, who heard your excellent charge this morning to the Grand Jury of Madison county, take pleasure, and really feel it a duty to the community in which we live, to respectfully ask you to furnish a copy of the same for publication, believing that all such productions must have a healthy influence in any society.

Very respectfully,

T. Thoroughman,	James G. Spratt,
Alex. Davis,	W. M. Stafford,
T. R. Edwards,	Thos. V. Rupell,
J. L. McCullough,	Wm. Y. Lovell,
Wm. A. Chiles,	W. F. Sanders,
Sam. Word,	J. D. Ritchie.

Virginia City, August 7th, 1866.

Gentlemen: In compliance with your request that I should furnish a copy of my charge, delivered to the Grand Jury this morning, for publication, I have the honor, herewith, to place the same at your disposal. Very respectfully,

HEZ. L. HOSMER.

Messrs. T. Thoroughman, Alex. Davis, Spratt, Stafford, etc.

Gentlemen of the Grand Jury:

The long interval that has elapsed since the last session of Court in this District, affords occasion for a retrospective glance at the condition of judicial affairs, which it may not be unprofitable, at this time, to improve. Little more than one year and a half ago, the first Court in this Territory was organized in this city. Previous to that event, the observance of order had been enforced by the efforts of a voluntary association, which originated in necessity, and which had for its object the protection and defense of the people of the Territory against the designs of an organized band of marauders who acknowledged no law, and deemed no crime too great which could accomplish their purposes of robbery and excess. It is no small compliment to the energy and principle of those who formed this association, that they carried their object into effect. The inhabitants of Montana owe much to their fidelity, fortitude and promptness—for, while some of the Territories organized anterior to ours are suffering from all the evils of murder, robbery and frequent affrays, ours is as nearly exempted therefrom as any society similarly exposed could expect to be. This is attributable to instrumentalities which, in older communities, it would not become a court of justice, publicly, to approve; but which, here, in the early history of the Territory, effected more than, under similar circumstances, could have been effected by the conjoint labor of all the courts in the land. A momentary contrast between the condition of our society and that of Idaho, sufficiently demonstrates the efficacy of early association in new and unorganized communities, for the suppression of crime. Idaho, now the prey of robbers and murderers, would to-day have been as free from their ravages as Montana, had her first settlers been as determined as ours to punish crime and preserve law. Instead of being crowded, as she is, with the very worst society of the Pacific slope, and in fact affording shelter and protection, to the fugitives from justice, from neighboring States and Territories, she would be like those States and Territories, the abode of a law abiding people.

There is something in the materials of which the early societies of all new, rapidly settling countries are compounded, that the law fails to reach. Composed, as these societies are, of people hailing from a great number of nationalities, and from all parts of our own widely extended country, who bring with them the peculiarities, habits and customs in which they have been reared, they are necessarily, by the mere attrition of mind, kept in a state of continual excitement. It is not strange that this should be so. The wonder is, that results are not more disastrous than we usually find them. Nothing less than a fear that is personal to every vicious member of such a society, can restrain its constant tendencies to crime. This operates, as the omnipresent spirit of the law operates in older, more settled communities. When, therefore we condescend to reason upon the comparative efficiency of the law, as it is expounded by Courts, and the law as executed by determined, resolute, peace-loving people, in an unorganized condition of society, there is everything to approve in the course that has been pursued by the inhabitants of Montana—and as much to condemn in the tardiness and moral obliquity of those Territories which have adopted a more lenient course.

Justice demands that I should accord to the Vigilantes of Montana, a thorough devotion to principle in all their operations They have not taken life wantonly, or for the mere purpose of killing. Their desire has been—still is—for a condition of society exempt from crime. They have fully considered their exposed situation—and made proper allowance for the various influences and extremes of human passion; but they have sought, as is evident from their acts, to establish honesty among men and preserve human life. The scaffold was erected to preserve blessings, which, in the early history of the Territory, the law was too tardy and accompanied by too many contingencies, to preserve. The confidence of the people in Courts has been impaired by the success of ingenious counsel, the corruption of individual jurors; and, perhaps, in my own case, I might confess, by the leniency of the Bench toward those accused of crime. As a consequence, the community has regarded with favor the speedier remedies of the Vigilantes, and these have been applied with an effect which admitted of few discriminations favorable to the violators of law. Crime has been—doubtless, still is—prevented by this course; and the Territory has been measurably abandoned by that class of the community who have no other means, but through the medium of crime, of obtaining a livelihood.

While thus acknowledging our obligations to this association, it will not, I trust, be deemed improper for me to notice some of the evils which may flow from its continued organization. It is necessarily, an unfortunate condition of society, which obliges men to take the law into their own hands. It is an implied admission, that the oldest institution of human contrivance, founded upon the wisdom of accumulated ages is insufficient to accomplish the objects of its creation. It is an impeachment of the grandest fabric of human wisdom ever erected—that of the law, of which it has been no less truly than eloquently said, that its origin was "in the bosom of God, and its voice was the harmony of the world." There is something terrible in the idea, that the good order and safety of our society depends upon the promptness with which men kill, those of our fellow men who violate its obligations. It is horrible to reflect, that the criminal, however, steeped in iniquity, must be executed as soon as captured, without the observances which the law has provided for his trial; that his doom must be pronounced, and his fate sealed under cover of the night, and that the sentiment must be inculcated, that this is all right and that no one must enquire further concerning it. Such an institution should have no other support in this enlightened age, than that of imperative necessity. It should yield to the nobler and purer officers of the law, the very moment that the law becomes effective, or the society where it exists, must ultimately, become itself corrupted. Men cannot maintain their purity and obey the behests of such an instrumentality, for any long period of time. It is impossible that they should be always right—equally impossible is it, that being taught to acknowledge and prefer the offices of such an organization to that of the law, they should escape the pernicious influences it is calculated to exercise over their own minds. They will grow indifferent to the value of human life, and regard extreme and barbarous punishment, as the only penalty suited for criminals, whether murderers, robbers or thieves. The conscience will cease to be addressed or educated, and the principle of fear, that principle which sustains despotism, instead of the virtue needful to support liberty, will be the only quality of mind that will restrain men from the commission of crime. All discrimination as to the real guilt of offenders will ultimately be broken, and the death penalty alone will form the only remedy. Let me enquire, are we prepared for such a condition of society? Have we brought with us to these mountains the elements of refined and civilized life, surrounded ourselves with the arts and sciences in their perfection, planted here, institutions of learning and religion, fashioned laws after those which we have left, to see them all gradually undermined by an instrumentality, which though well enough as a desperate alternative, is ruinous and retrogressive in all its elements as a settled institution. It cannot, it must not be.

I am satisfied gentlemen, that no such consequences have ever presented themselves to the minds of the Vigilantes, as even possible, in this Territory, but let us see whether there has not, already been a fearful stride made in that direction. For what was this organization originally formed? The Territory was overrun by robbers and murderers who threatened to assume control of all its affairs. There was no legal tribunal here. The Vigilantes preserved order, and punished crime, but it was crime of the deepest dye. How is it now? Do they confine their operations to criminals of this character? Recall the occurrences of the past six months and reflect, if they have not exercised their power in several instances, where the cases, with equal safety to society, might have been left to the operation of the law? Have they not thus transcended the original designs of the institution, and arrogated powers which are only safe, when interpreted by the rules authorizing their existence? Men learn, under the teachings of such an institution, to reason, that because by killing a man, he is put beyond the power of repetition of crime, killing is or ought to be the only penaly, and the law, in its most severe form, is inadequate to meet the requirements of society. Such convictions impart a harshness to the judgment, and a coarseness to the nature of man, which is as fatal to the refinements of life, as it is deleterious to the growth of civilized and religious institutions.

Gentlemen of the Jury, I well remember that in the first charge I had the honor to deliver to the first Grand Jury ever assembled in this Territory, I found occasion to speak of the services of the Vigilantes, and to suggest some reasons for their disbandment. An influential member of this bar, who had also been a most valuable member of the Vigilantes, in the dark days of the Territory, said to me, "this society will now co-operate with this Court and aid the Grand Juries in the discharge of their duties, and sustain the Court in all its efforts to bring offenders to justice. I have often asked myself the question, when hearing of some new execution since, can it be that the fault is mine, that this victim was not accorded a trial in this Court? Why have the people preferred this mode of dealing, to that afforded by the laws of their own adoption? Would not the same zeal, which has brought summary punishment upon this individual, if exercised to present his case before the Grand Jury and the Courts, have accomplished a similar result, without bringing with it a violation of the laws of the land? Can it be possible, gentlemen, that the frequent, surreptitious execution of men, begets a charm in the minds of the executioners, which makes them reluctant to abandon this institution. I cannot believe it, and yet there is something in the operations of this society, that seems inexplicable on any other principles.

I am aware that while these remarks feebly illustrate some of the benefits and some of the evils of the Vigilantes, they will not, of themselves, abate their operations. Their society is too extensive, has been too long in existence, and they have too much confidence in its usefulness, and too little faith in the sufficiency of the law. Gentlemen, it is for us, for you and I, to convince them of their error—you, by your diligence, perseverance and promptness in searching out and presenting all offenders, and this Court, by affording them the means of early trial. There is not a society on the Continent, where the earnest and honest efforts of Jurors and Courts to pursue and punish crime, are more needed than in this Territory—not merely for the purpose of punishing offenders, but for the more exalted, more important purpose of re-establishing in the minds of the whole people confidence and respect for the laws provided by our Government for their protection. If this cannot be effected, and that right speedily, our society will soon abandon all other thoughts of redress for offences, than such as is afforded by the Vigilantes.

From frequent conversations with influential members of the Vigilantes, who understand the unfavorable tendencies of their society, I learn that as soon as they can feel assured that Courts and Juries will meet the demands of society, they will freely disband. Let us then begin the reform together, with a determination to convince our fellow-citizens that the laws of the land are and shall be sufficient to effect the purgation of the Territory from crime. Let us so surround and envelope all the criminal elements of our society with the spirit of the law, that there can be no sanctuary found for them in the Territory. Let us search the haunts where crime loves to entrench itself, and drag from their vicious purlieus every offender, from the highest to the lowest, until we have performed a thorough lustration, and there is nothing criminal left to complain of.

In this connection, it may not be improper for me to suggest that the Vigilantes themselves, can afford both Jury and Court essential service. Let them co-operate in the adoption of means to detect offenders, and report their success to you; or when a Grand Jury is not in session, to some magistrate competent to inquire into offences and recognize their authors. By the adoption of these means, Courts can soon be rendered sufficiently efficacious, and the evils which now threaten us, be entirely overcome.

Gentlemen, the oath you have just taken requires that "you shall diligently inquire, and true presentment make of all public offences against the people of the United States in the Territory of Montana, committed or triable within the jurisdiction of this Court, of which you shall have or can obtain legal evidence. You shall present no person, through malice, hatred or ill will, nor leave any unpresented through fear, favor or affection, or for any reward, or the promise or hope thereof, but in all your presentments you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding."

Your duties are clearly set forth in the laws of the Territory. You are to enquire into offences against the laws in this county, which may by any means come legally to your knowledge. In the discharge of your duties, you are an independent body, may appoint your times of meeting, and adjourn when all the business before you is finished. Your findings may be in the form of presentment or indictment.

A presentment is an informal statement in writing, representing to the Court, that a public offence has been committed which is triable within the County, and that there is reasonable ground for believing that a particular individual named or described has committed it. You may draw your own presentment, as no particular form is prescribed for them in the law. It will be proper for you to do so in all cases brought before you, when you are not fully convinced of the guilt of the person charged with the crime, and yet, deem the charge of sufficient importance to be more thoroughly investigated.

An indictment is defined to be "an accusation in writing presented by the Grand Jury to a competent Court, charging a person with a public offence." A person indicted by you will be brought before this Court for trial. You are warranted in indicting any person against whom, there is such evidence of crime as will in your judgment, if unexplained, warrant a conviction by a trial jury. You will be assisted in your deliberations by the District Attorney, who will instruct you as to the character of the evidence, admissible before you, and prepare for you indictments to meet the cases which you wish to present. All hearsay and secondary evidence you will reject, and though not required to hear the testimony in behalf of the Defendant, still it will not be improper for you to listen to any evidence that may come to your knowledge, touching the charges against him.

If any member of the Grand Jury knows of the commission of any crime in this county, it is his duty to call to it, the attention, and invite the investigation of his fellow jurors. You are also to inquire into the case of every person imprisoned in jail on a criminal charge; of every person under recognizance to appear at this Court to answer for crime, and also into the willful and corrupt misconduct in office, of any public officers in this jurisdiction. You are to examine the condition of the public prisons in the County, to which you will, at all times have free access, and in your report thereon, to make such suggestions for their improvement as you may deem necessary, and to present the officers in charge thereof for any infraction of the duties required of them by law. The public records are also open to your inspection, for all the purposes of criminal investigation or official neglect by those with whom they are entrusted.

No other person beside the District Attorney and the witnesses under examination, are to be admitted to your room while you are engaged in your investigations, and they are to be excluded "during the expression of your opinions," or while "giving your voices" upon any matter before you. You are each to preserve inviolate your own counsel and that of your fellow jurors, unless called upon in a Court of Justice to make disclosures, and not to reveal to any person, while you are in session, any of the results of your deliberations. If less than nine of your number fail to concur, in any criminal investigation, it will be your duty to indorse upon the accusation "not a true bill," which must be signed by your foreman, who will return it to Court; but if nine or more agree, you then indorse the indictment "a true bill," which is also signed by your foreman, and it is returned to the Court for its further action. On all true bills you will endorse the names of the witness, upon whose testimony they were found. You will promptly report to the Court any and all improper advances that may be made to you, in any manner, by persons curious to obtain a knowledge of your proceedings, or any contumacy on the part of witnesses sent before you to testify.

It is made my duty by the criminal law of the Territory, to apprise you that you may be required by any Court to testify, whether the testimony of a witness examined befre you is consistent with or different from the evidence given by such witness before such Court; and you may also be required to disclose the testimony given before you by any person upon a complaint against such person for perjury, or upon his trial for such offence.

You cannot be compelled or allowed to testify or to declare in what manner any of your number voted on any question before you, or what opinions were expressed by any of your number, in relation to any such question.

No one of your number shall disclose any evidence given before you, nor the name of any witness who appeared before you, except when lawfully required to testify as a witness in relation thereto; nor shall you disclose the fact of any indictment having been found against any person for a felony, not in actual confinement, until the defendant shall have been arrested thereon. A violation of either of these provisions, by you, is declared by law to be a misdemeanor, upon conviction of which you may be fined in any sum not exceeding five hundred dollars, to which may be added six months' imprisonment.

You will perceive, gentlemen, that in the performance of your duties, the door of investigation is opened widely. The restraints imposed only limit you as to the manner in which your labors shall be performed, not as to their extent. You are to-day the legal conservators of the peace, safety and public morality of the County of Madison. No light responsibility rests upon you, if you consider how much there is by way of reform to be effected in this Territory, through the medium of juries and courts. Let me entreat you to enter upon your duties, with a firm and steadfast resolution to perform them. Reflect upon the great benefits you may confer upon this people, by the evils you may subdue, by the crimes you may expose, and by the spirit and energy you may infuse into the criminal laws of the Territory, now so deeply contemned on the one hand, and so foully outraged on the other. Penetrate with your investigations, the haunts of vice, immorality and crime, wherever you may find them, whether flaunting boldly on our streets at mid-day, or plying their unhallowed vocations in the silent and secret watches of the night. Keep the elements of crime subdued, by filling them with fear of your disclosures. Awe them into submission to the law, by elevating the law to the position of power and trust it is entitled to occupy. Let drunkenness, licentiousness, gambling, prize fighting, Sabbath breaking, meet the awards of violated law. Spare not the smaller crimes, because larger ones abound; nor regard as trivial any duty which the law has given you to perform. You shall thus confer untold blessings upon this society, and bear with you, from your deliberations, the envied name of "Good and faithful servants."

OUR VILLAGE.—Our sprightly friend of the *Tri-Weekly Republican* amuses himself and his friends at Last Chance gulch, with occasional hints of our desperate condition at the metropolis. Our complaint suits us to a nicety; if we are dying, we don't feel it; and, in fact, some of our daily paroxysms of vitality have quite an inspiriting effect. Our *village* is rapidly filling up, and even expanding; empty houses are getting to be very scarce, and new ones too common for notice. Our streets are full, and our Helenaite friends have come over in shoals, lately, not only to witness our destruction, but, from a fellow-feeling and sympathy, exemplified by investments in real estate and heavy leasehold ventures, we conclude that they have determined to share our fate. We hear that the coaches occasionally pay *from* Helena as well as *to* it. We have been surprised, as well as delighted, to witness the great prosperity of our neighbors of the Prickly Pear, and should be sorry to hear of a more than average development of the thorns incident to such a locality. We wish their substantial stone buildings and narrow, though crowded, streets, all the business they are built for, and for ourselves will be content with the prosperity that every day grows more assured, and which points with unwavering distinctness to a growing and solid advancement, heralding a brilliant future.

With our hydraulic claims numerous and very rich; our bed-rock flume now only a question of time and not of means or of fact; quartz of the richest kind all around us; mills and capital arriving, on the road and preparing for transmission; eight or ten rich districts immediately around us, of which this *village* is the base of supply; Summit, the gold centre of Montana, at our door, and seamed with auriferous crevices—we do not despair of being overshadowed, even by Helena. We have each our sphere. Up to this date, Helena has had the big share of the population, and we of Virginia had a similar upper hold on the money—so say traders and the theatrical profession. Let there be no strife among us, for we are brethren; and let us, for the future, concentrate our energies, with a view to the prosperity of the Territory, whose wealth has furnished these two marvels of mining cities, and whether a man hail from Cactusville, or the "City of Rocks" let it be our common pride to acknowledge that we are alike citizens of Golden Montana, the Ophir of the West.

MURDER AT DIAMOND CITY.—In the case of the homicide at Diamond City in which Mallory was killed by Foster, on the 3d inst., we are pleased to record the energetic promptitude of the civil authorities. On the receipt of the prisoner at Helena jail, on Friday, (the next day), Judge Munson at once issued a venire summoning the Grand Jury, returnable at 2 P. M. on Saturday. X. Beidler, the legal Genius of the Lamp in the Territory got into the saddle, and brought in his witnesses ready for their appearance before the Grand Jury then and there. The court of preliminary investigation, summonned by Marshal G. M. Pinney, returned a true Bill in the afternoon, and the trial will take place next Monday. This is as it should be, swift footed justice is the hope of the Territory, and when rigid impartiality presides over a quick coming enquiry into the charges of guilt, and the sentence or acquittal is prompt and irreversible, then civil law will reign supreme in the land, challenging the sympathy, support and obedience of every good man in Montana.