

NOT AN INDIAN.

Francisco Ward Escapes the Gallows Closely.

Judge Ross Decides That He is Not an Indian.

He Cannot be Tried in the Federal Courts.

This Gets His Head Out of the Noose, Even Should He be Proved Guilty of Rape.

Francisco Ward was indicted by the United States Grand Jury on a charge of rape, alleged to have been committed on a crippled Indian woman. The Grand Jury believed him to be an Indian, and indicted him as one. The penalty for the crime is death. Under the United States statutes, as the HERALD explained yesterday, Judge Ross read from the bench his decision. The jury, in obedience to his instructions, returned a verdict of not guilty, and the prisoner was discharged.

The opinion is as follows: If the defendant is, as is alleged in the indictment and as is claimed by the District Attorney, an Indian, it is clear that he is not embraced by section 5345 of the Revised Statutes, for that section is one of the general laws of the United States in relation to crimes committed in places within their exclusive jurisdiction, from which, by virtue of sections 2145 and 2146 of the Revised Statutes, crimes committed in the Indian country by one Indian against the person or property of another Indian were excluded.

The first statute of the United States making Indians triable and punishable by the United States Courts was the act of March 3, 1885, which reads as follows: "That immediately upon and after the date of the passage of this act all Indians committing against the person or property of another Indian or other person any of the following crimes, namely, murder, manslaughter, rape, assault with intent to kill, arson, burglary and larceny, within any Territory of the United States, and either within or without an Indian reservation, shall be subject therefor to the laws of such Territory relating to said crimes, and shall be tried therefor in the same courts and in the same manner, and shall be subject to the same penalties as are all other persons charged with the commission of said crimes, respectively; and the courts are hereby given jurisdiction in all such cases; and all such Indians committing any of the above crimes against the person or property of any other Indian or person within the boundaries of any State of the United States, and within the limits of any Indian reservation, shall be subject to the same laws, tried in the same courts, and in the same manner, and subject to the same penalties as are all other persons committing any of the above crimes within the exclusive jurisdiction of the United States."

Prior to this act it had been the policy of the Government to permit the In-

dians preserving their tribal relations to regulate and govern their own internal and social concerns. But by this act Congress made a radical change in the pre-existing policy, and thereby subjected the offences therein defined to the jurisdiction of the United States tribunals. It is under and by virtue of that act that the indictment in the present case was found, and by which it must be governed. Manifestly, to bring a defendant within the provisions of the act he must be an Indian, and it was therefore necessary that the indictment should allege the defendant to be an Indian. Such allegation being necessary, it is, of course, essential that the proof should correspond; for it is a cardinal rule in criminal procedure that every material averment of the indictment must be established by proof to justify a conviction. In the present case, it is a fact conceded by the respective counsel that the defendant's father was a full-blooded negro and his mother a full-blooded Indian; that he was taken by his father, when very young, from the reservation, where he was born, to reside with the father in Los Angeles city, and he did so reside for a number of years, but has since returned and lived on the reservation, where the offense in question is alleged to have been committed; and the question now raised is, whether the defendant is an Indian within the meaning of the act of March 3, 1885. If his parentage was a matter about which there was conflicting evidence, or if the fact in relation to it was not conceded, it would have to be passed upon by the jury along with all the other facts of the case; but, being conceded, it is useless to go into the circumstances of the alleged offense; if it be true, as contended by counsel for defendant, that he is not an Indian within the meaning of the statute upon which the indictment is founded. The statutes of the United States nowhere define an Indian. As a matter of fact, the defendant is no more an Indian than he is a negro, and no more a negro than he is an Indian. In the case of the United States vs. Sanders, Hempst, 486, the court held that the quantum of Indian blood in the veins did not determine the condition of the offspring of a union between a white person and an Indian; but further held that the condition of the mother did determine the question. And the court referred to the common law as authority for the position that the condition of the mother fixed the status of the offspring. In the subsequent case of Ex parte Reynolds, 5 Dillon, 403, the court said that the first point decided in the Sanders case was sustained by the common law, as also the last point if applied to the offspring of a connection between a free man and a slave. But in Ex parte Reynolds the court pointed out that "by the common law this rule is reversed with regard to the offspring of free persons. Their offspring follows the condition of father, and the rule partus sequitur patrem prevails in determining their status. This is the universal maxim of the common law with regard to freemen—as old as the common law, or even as the Roman civil law, and as well settled as the rule partus sequitur ventrem—the one being a rule fixing the status of freemen, the other being a rule defining the ownership of property—the one applicable to the different political communities or states, whose citizens are in the enjoyment of the civil rights possessed by people in a state of freedom; the other defining the condition of the offspring which had been tainted by the bondage of the mother.

No other rules than the ones above enumerated ever did prevail in this or any other civilized country. In the case of Ludlam vs. Ludlam, the court says: "The universal maxim of the common law being partus sequitur patrem, it is sufficient for the application of this doctrine that the father should be a subject lawfully, and without breach of his allegiance beyond sea, no matter what may be the condition of the mother." The law of nations, which becomes, when applicable to an existing condition of affairs in a country, a part of the common law of that country, declares the same rule. Vattel, in his Law of Nations, says: "As the society cannot exist and perpetuate itself otherwise than by the children of its citizens, these children naturally follow the condition of their fathers and succeed to their rights. * * * The country of the father is, therefore, that of the children, and these become true citizens merely by their tacit consent." Again, Vattel says: "By the law of nature alone, children follow the condition of their fathers and enter into all the rights." This law of nature, as far as it has become a part of the common law, in the absence of any positive enactment on the subject, must be the rule in this case. It results from these views that the defendant is not an Indian within the meaning of the statute upon which the indictment is based, and that being so, the jury must be directed to return a verdict of not guilty upon the conceded fact in regard to the parentage of defendant, without going into the circumstances of the alleged offense.

THE NADEAU HOTEL.

Under a New Management by Experienced Men.

Major W. H. Bonsall and Mr. Joseph Schreiber, Jr., have leased the Nadeau hotel for a term. The house needs no extended notice to put it before the traveling public. For the last seven or eight years it has been the most popular house in Los Angeles. The building is well constructed, and furnished with all the appurtenances of a first-class hotel. The dining-room has always been conducted in a very thorough and satisfactory manner. The sleeping apartments are large, well furnished, light and airy. The new lessees of the house are thoroughly well qualified to direct its affairs in a most satisfactory manner. Mr. Schreiber has been connected with the house for some time past, and Major Bonsall brings to the business a ripe experience in many ways. Both are most affable and considerate gentlemen, whose sole object will be to popularize their house with the public. Full of energy and possessed of manners the most polished and courteous they cannot fail in what they undertake.

The hotel is near the business center of the city, with the banks, public offices and principal business houses and theaters near by. All the street-car lines pass the door, or, at most, within a block of the door of the Nadeau, and in all ways it is the most convenient house to stop at in the city. Under its new management the hotel will, for a certainty, grow in popularity and attract to it a large percentage of the best business that comes to Los Angeles. It is in all respects a first-class house, conducted on such principles as make it a delightful home for all classes that travel this way. A prompt and efficient service is secured to guests from the moment they enter the house until they leave.

CATARH cured, health and sweet breath secured, by Shilo's Catarrh remedy. Price 50 cents. Nasal Injector free. For sale by C. F. Heinemann, 122 North Main street.

CHAMBER OF COMMERCE.

REGULAR MEETING OF THE BOARD OF DIRECTORS YESTERDAY.

Railway Matters Discussed—The Printing of the Pamphlet—Additions to the Permanent Display.

The Board of Directors of the Chamber of Commerce met yesterday afternoon. Dr. Widney presided, and Directors Jones, Breed, Wells, Book, Eaton and Patton were present.

A communication was received from the ladies of the Flower Festival, offering one of the fountains used at the pavilion last week for the purchase of the chamber. No action was taken. It was announced that President Huntington, of the Southern Pacific, would visit this city early in May. Mr. Wells moved, and it was carried, that the matter of his reception be left to the committee on commerce and President Jones. The necessity for the improvement of San Pedro harbor will be specially urged upon Mr. Huntington.

James J. Evans, who claims to represent a Salt Lake syndicate that is planning to build a railroad in this direction, put in an appearance and asked that some action be taken which he could report on his return to Salt Lake. The appointment of a committee to confer with Mr. Evans was left with Dr. Widney, Major Jones and Mr. Wells. The proofs of work done on the pamphlet were shown. The cuts failed to show up satisfactorily and it was decided not to have the job accepted until it had been passed upon by the Board of Directors.

The permanent exhibit had its customary number of visitors. The Los Angeles Glass Company put in a sample of painted glass. F. O. Cass donated cherries and plums. The handsome exhibit of stuffed birds and curios of C. E. Smith has been set up in one of the rooms over the office. It makes a very attractive display, occupying nearly the entire wall space of the room.

Flowers yesterday were contributed by Mrs. C. J. Stewart, Mrs. E. Hurlbut, Mrs. Vedd, Mrs. Alice C. McComas, Mrs. T. E. Kimble, Mrs. R. C. Carlton, Mrs. Niles Pease, Mrs. John Bryson, Sr., Mrs. Wm. Bryson, Mrs. Albert Hechman, Mrs. Quackenbush, Mrs. John Horner, Mrs. Cornell, Miss Gertie Williamson, Mrs. J. A. Anderson, Mrs. Scriber, Mrs. E. Cyrenius, Mrs. Greenleaf, Mrs. Mitchell, Major Nolton.

GEORGE W. COOKE & CO.

A Firm Which Does a Large Amount of Business.

George W. Cook & Co., of 209 North Los Angeles street, the leading paper house in the city, report a steadily increasing trade. This firm carries the most complete stock of all kinds of printer's material, outside of San Francisco, in the State. It also makes a specialty of orange wrappers, manillas, bags and twine. In addition to its paper business the firm has the largest book-binding establishment in Southern California, and its work will compare favorably with that of many of its more pretentious competitors in the East. It has lately introduced, among other improvements, a wooden-covered blank book, which will undoubtedly take the place of the old style binding, when its superiority has been proven, as it must be, by use.

A Plea for a Truer Womanhood.

"For woman is not undeveloped man." In this advanced age, when art and science are making such rapid strides, and man is making every effort to emancipate himself from the darkness of ignorance—to bask in the sunlight of knowledge and power—and how best to use the great gifts which God has given him for the benefit of his race. What is woman doing for the advancement of her sex? She, who, in the Creator's plan, was to influence the destinies of nations, and be the helpmate of man in redeeming the world from the darkness of Erebos. Too often, instead of being "a perfect woman, nobly planned," she illustrates a thing light as air, or that caricature of her sex, the masculine woman, encroaching on man's rights with the cranky idea of reforming the world, pushing herself forward in political meetings, woman's rights questions and other movements more calculated to wrong than uplift. Be womanly, make all your ways "ways of pleasantness, all your paths peace."

Woman, first at our Saviour's feet, setting the example of tenderness and love, you should ever remember that modesty and dignity should crown your womanhood, and win all beholders, that when you are most womanly, you are performing your work best, man looking on as venerator not as scorner, "dipt in angel instinct, breathing paradise, interpreter between the Gods and men." None but the veriest churl would withhold his homage from such a true and perfect womanhood. Young girls just blossoming into beautiful women, instruct yourselves in all fair and gracious household ways; cultivate all the finer sympathies, the heart as well as the brain; be no light butterflies of fashion, but elegant, graceful, high-souled women, fitted for any position you may be called to fill; uphold each other, and do not so often, sorely wound by petty spites and unworthy jealousies. Help, by your sympathy and tenderness, your sister on her way to a higher culture and greater possibilities. The woman's cause belongs to all chivalric, noble men. They will not refuse you any claim belonging to your womanhood. All men admire a womanly man, as much as women respect a manly man. Reverencing each other, but distinct in your individualities, conquer your faults and make of yourselves what God intended you should be—"To give birth to the mercy of heaven descending on earth;" "to soothe and to solace;" "to help and to heal the sick world that leans on her."

Woman in history and story occupies a place all her own; the great ones of all ages brought their tributes and laid them at the feet of a fair and gracious womanhood. The noble Roman matron, the fair Cornelia, lovely as maiden, perfect as wife and mother, whose hero sons were taught at their mother's knees those great moral qualities that made them rulers among men, so that it was a question whether education had not done more than nature for "the great Gracchi." In our own country—America—Mary, the mother of Washington, great mother of a great son, excelled in all the virtues that made the truest and most perfect womanhood. "She looked well to the ways of her household," she scorned not the humbler domestic virtues. Although so queenly a woman that she could preside with elegance and high-bred grace in any circle, she preferred her own home and fireside; there she set up her lares and penates. Oh woman, come into your kingdom; claim your birthright. Be women of

head, heart and hand. Help men by your influence to greater moral heights, and thus complete their intellectual greatness; that they may wrestle with and settle the great questions which now agitate and vex the world. Bring back the days of simplicity, of courtesy, of high-bred hospitality—the days when the most attractive attributes, the loftiest virtues of woman, were the qualities that adorned her sex; her modesty, her dignity, her purity;—like the breath of a violet; instead of this vulgar ostentation, this coarse, shallow assumption, this lowliness, this frstness, this lowering of the standard of what should be a lovely womanhood. Give us a purer home-life, simpler pleasures, less vulgar freedom, and gentler women. Let there be more earnestness of purpose, loftier ideas, higher standards of excellence, larger culture, more heart and kindness. Then will woman fulfill her destiny, and bring a "staterien Eden back to man." Work with heart and brain, with purity of purpose, and your life will accomplish its aim.

"The mission of woman: permitted to bridle, the heat of the serpent, and sweetly infused, through the sorrow and sin of earth's registered curse, The blessing which mitigates all."

Our Home Brew.

Philadelphia Lager, fresh from the brewery, on draught in all the principal saloons, delivered promptly in bottles or kegs. Office and Brewery, 238 Aliso street. Telephone 91.

Use "German Family" soap.

SUMMONS.

IN THE SUPERIOR COURT OF THE COUNTY OF LOS ANGELES, State of California. N. M. Wilson and John S. Haigler, partners, under the firm name of N. M. Wilson & Co., plaintiffs, vs. John A. Parker, defendant. Action brought in the Superior Court of the county of Los Angeles, State of California, and the complaint filed in said county of Los Angeles, in the office of the clerk of said Superior Court.

The people of the State of California send greeting to John A. Parker, defendant. You are hereby required to appear in an action brought against you by the above named plaintiff in the Superior Court of the county of Los Angeles, State of California, and to answer the complaint filed therein, within ten days (exclusive of the day of service) after the service on you of this summons—if served within this county; or, if served elsewhere, within thirty days, or judgment by default will be taken against you according to the prayer of said complaint.

The said action is brought to foreclose the lien against lot 5, block C, Morris Vineyard tract, in the City of Los Angeles, County and State of California, for grading Pine street, in front thereof, the amount claimed being \$66.66, with interest at the rate of 10 per cent. from the 23d day of August, 1888, and \$15 attorney's fees, and for costs of suit. Return is had to complain for particulars.

And you are hereby notified that if you fail to appear and answer the said complaint, as above required, the said plaintiff will cause your default to be entered and apply to the Court for the relief demanded in the complaint. Given under my hand and the seal of the Superior Court of the County of Los Angeles, State of California, this 11th day of April, in the year of our Lord one thousand eight hundred and ninety.

(SEAL) CHAS. H. DUNSMOOR, Clerk. By F. B. FAXINGO, Deputy Clerk. Jones & Carlton, Attorneys for Plaintiffs. ma2-tri-10t

NOTICE TO CONTRACTORS.

UP TO NOON ON THE 16TH DAY OF May, 1890, sealed proposals will be received by the Clerk of the Board of Trustees of the City of San Bernardino, California, for excavating and constructing a 1,000,000-gallon reservoir of concrete, according to plans and specifications adopted by the board. Specifications can be had on application to E. C. Finkle, Engineer of Water Works, room 16, city hall, and plans can be seen at his office. Each bid must be accompanied by a certified check on some responsible bank, of at least 10 per cent. of the amount of said bid, payable to O. Newburg, president of the board. Bids will be received either separately or jointly for the excavating and concrete work. By order of the board, B. B. HARRIS, Clerk of the Board. April 29, 1890. ma2-td

SWORN STATEMENT

OF THE CONDITION OF THE

Farmers and Merchants Bank OF LOS ANGELES,

AT THE CLOSE OF BUSINESS DECEMBER 31, 1889.

ASSETS.

Table with 2 columns: Asset description and amount. Includes Cash on Hand (\$531,708.56), Cash on Call with Banks and Bankers (1,378,121.49), Total Available Cash (\$1,909,830.05), United States 4 Per Cent. and other Government Bonds (64,292.78), Stocks and Warrants (41,599.32), Loans and Discounts (1,901,627.71), Real Estate, Vaults, Safes and Office Furniture (11,790.45), Total (\$3,929,140.31).

LIABILITIES.

Table with 2 columns: Liability description and amount. Includes Capital [paid up] (\$500,000.00), Surplus (500,000.00), Undivided Profits (332,182.10), Due Depositors (2,595,958.21), Dividends [declared and uncalled for] (1,000.00), Total (\$3,929,140.31).

OFFICERS:

ISAIAS W. HELLMAN, President; L. C. GOODWIN, Vice-President; H. W. HELLMAN, Second Vice-President; JOHN MILNER, Cashier; H. J. FLEISHMAN, Assistant Cashier.

DIRECTORS:

O. W. Childs, C. E. Thom, Jose Mascarel, J. B. Lankershim, C. Ducommun, Philippe Garnier, L. C. Goodwin, L. L. Bradbury, Isaias W. Hellman, H. W. Hellman.

STOCKHOLDERS:

O. W. Childs, L. L. Bradbury, Philippe Garnier, James B. Lankershim, T. L. Duque, Jose Mascarel, Charles Ducommun, Andrew Glassell, Sarah J. Loop, Cameron E. Thom, Domingo Amestoy, Louis Polaski, L. C. Goodwin, Prestley C. Baker, Frank Lecouvreur, Oliver H. Bliss, Sarah J. Lee, Estate D. Solomon, Chris. Henne, Jacob Kuhrt, Isaias W. Hellman, H. W. Hellman.

STATE OF CALIFORNIA, } ss. County of Los Angeles, }

John Milner, Cashier, and H. J. Fleishman, Assistant Cashier, of the Farmers and Merchants Bank of Los Angeles, being severally duly sworn, each for himself, says the foregoing statement is true to the best of his knowledge and belief.

JOHN MILNER, Cashier. H. J. FLEISHMAN, Assistant Cashier.

Subscribed and sworn to before me this 16th day of January, A. D. 1890.

CONRAD JACOBY, Notary Public.