

...of murder preferred M. Carpenter is still being before Justice Pierce, and of spirit the court cried out in an inquiry as to how a witness the prosecution examine. The courtroom ed just at that moment and came in the muffled sound rulers out in the corridor, a drives of them, all pressed and waiting to know could be examined and dis-

...y Maj. Donnell of the Disney's office is prosecuting the case against Carpenter, but actually H. H. Appel, who, with ex-... is special counsel, is doing examination. So far the district Attorney has taken no proceedings.

...water mark of interest... interest waned, the exuberance increased and that led sharp encounters; but the for of the privileged few in room was fully restored.

...Franklin produced the... by Carpenter when he fired... killed Frey at the main, and Chief of Police... afterward identified the wea... one that the defendant ar... to him at the police station... Five chambers were... and the sixth chamber con... empty shell upon which the... as telling.

...stated said that Carpenter told... he had done the shooting and whom he would give his pi... was warned that anything he... would be used against him, otherwise the defendant re... that he had told the deceased... and when he kept on that he

...Zimmer, superintendent of the... for the Prevention of Cruelty... said, told of going to the H... about 1:15 p.m. on Sunday... W. Line. The first man be... was Frey, and the latter... what he was doing but... said that had been down... hunting. Frey said that he... not a carrier of dogs, but... were seen anything of the kind... indicating the cockfighting.

...Zimmer then asked him not... anything about his being pre... whi... Frey said: "All right, here and here." Then Zim... and watched the birds. He... and after the second ad... been put off their tails... being killed, and preparations... made for the next encounter... driver drove up and the two... were fired. The witness... on the crowd broke and ran in... sections. At that time, in ad... Carpenter and Greenpool, there... the ground Frank Lineberry... W. Hall, who were acting as... under Zimmer.

...the crowd began to disperse... said that he called out to them... back, and some few did return... were only a few. He didn't... thing in connection with the... of Frey, though he said the... a two whole fired, and thought... one of the guards had fired in... to prevent the stampede. First exchange of pleasantries... counsel took place while Zim... upon the witness stand, Earl... laughed at same bit of twi... stled and Mr. Appel took un... H. Greenpool and appealed on the... interrupted Judge said that... will be willing to apologize... not but not to the counsel... and you'll apologize to me... day," angrily retorted Appel... then Zimmer also not to his feet

...cational facilities at his command. Herman went with his father and Charley York, the bartender in their saloon, to the cockpit bright and early. They unchained the horse from the buggy and prepared to make a day of it. Then the two warmly sloping out, and every man was at once on the move. Herman said that saw Frey jump into his buggy and drive off, passing Carpenter at a distance of about twenty feet. Carpenter called out: "Hallo! you are under arrest," but Frey kept along, and when about fifty feet away from Carpenter the latter pulled his pistol and fired. Then Frey kept on driving, dodging his head to avoid the overhanging willows. Then the willows became so thick that Herman said he couldn't see any more.

This young witness had seen quite enough up to that point, but he went on to say that the defendant turned from where he had been firing at the retreating figure of Frey and came to where his father was seated in his buggy sitting lunchbox. His father was one of the few who didn't run. Carpenter, according to Herman, told Mr. Clarke to get out of the buggy, but Clarke refused to do so. Then the defendant snatched the lunchbox from where it was being devoured in the buggy and threw it on the ground, and shoved his revolver in the elder Clarke's face.

On cross-examination young Clarke was asked by Earl Rogers particularly regarding the shooting episode, and the boy answered straight enough. He knew what he was talking about, but didn't know the physical conformation of the ground where the shooting occurred forced one of two conclusions, either that Carpenter had shot into the air to scare Frey into submission, and the bullet was deflected by striking a twig and then carried death to Frey, or else, well, Herman didn't know just quite as much as he thought he did about the shooting.

The witness said that Carpenter pointed his pistol straight, or, indeed, a little below the shoulder. Frey was driving away from him up grade and was fifty feet distant. For Carpenter to have held the pistol as stated and have shot Frey would have been a physical impossibility—save, indeed in the way indicated. That is a question of mathematics, however, and may come later.

Another supposedly strong witness for the prosecution was W. J. Hicks, Mr. Hicks is a paraplegic horse dealer, and was enjoying a little relaxation at the cockpit when he was disturbed by the arrival of the officers and had to make a run for it. He said that he ran as far as the bluff and then walked back. He didn't say just why after reaching the bluff he returned, at considerable waste of precious energy. But anyway, Hicks was lucky he didn't get broken, he was enabled to see Frey shot and thereby he became eligible as a witness.

Hicks had left his wagon off at another direction, but he wasn't bothering about it just then. He saw Carpenter fire as had previously been described several times, and then went on to say that he with three or four men went to the man's grandfather road. While there a buggy, the same as the one occupied by Frey, passed, and in it was seated a man with his face all bloody. At once Hicks and his party began speculating how the man had been injured. The figure was the same as Frey's the buggy was in his appearance the same as Frey's, but Hicks said that he never mentioned to his companions the having seen Carpenter doing the shooting. He said it never occurred to him.

These latter facts were brought out on cross-examination and finally Mr.

...ner to charge a prior conviction against a defendant, and that such action was in contemplation of the rights assured the defendant under the state constitution as well as the Constitution of the United States.

Judge Smith took the matter under consideration and in an opinion handed down holds that there is nothing in the objection raised regarding the increase of penalty with each succeeding offense. The court points out that the statute absolutely provides for increased punishment for defendants who have suffered a prior conviction, and provided the former conviction is charged in the information, and the Penal Code directs what the verdict shall be in such case.

CATTLE DIED OFF. TROUBLE OVER A PARTNERSHIP.

A little while ago a boy tried to... Los Angeles Times... 5-11-1904... note by George Matteson, as witness of one L. H. White.

Torrey was engaged in dairying at Long Beach and White had agreed to go into partnership with him, and pay him for a half interest in the business. White had come from Arizona and had thirty-seven head of cattle which he was going to put into the business. Torrey to credit him up \$1000 for his half, and the remaining \$1000, due on the partnership account White secured to his partner by a mortgage on his dairy interest. That was the scheme if it had only gone through, but it didn't. When the partnership plan was called off Torrey gave him \$100 for his half, and claiming the balance on the understanding that if the cattle proved sound he would pay up when the note matured. But he refused to pay ultimately on the ground that the cattle were infected, and that of the thirty-seven head all have died save three.

The plaintiff denies any such understanding, and refused to enter into the merits of the stock bandied over. Those are the lines upon which the suit is being fought.

COURTHOUSE NOTES.

BREVITIES MISCELLANEOUS.
LIQUOR ORDINANCE. Jean Clavier was convicted in the Recorder's court at Pomona of violating the liquor ordinance, and he appeared his case on the ground, principally, that the ordinance was unconstitutional. Judge Smith has held that there is no merit in the contentions raised, and the judgment of the lower court is affirmed.

CHAINED BY OFFICERS. Herbert A. Chaloner, an old soldier, wanted to know from Judge Whitely yesterday what he was brought into court for. He talked all right until he was asked if detective were after him, and then he told a lurid account of how he had suffered from the espionage of secret-service men. He said government emissaries were on his track at San Jose to take his pension away from him on the ground that he was deaf; when, as a matter fact, he is deaf in one ear. Then he came in Southern California, at the Rogers Hotel, the detectives bothered him night and day, and they are little better at the County Hospital. Chaloner was committed to Highland.

NOT NOTIFIED. E. Master III was to have surrendered himself in court yesterday to answer the charge of grand larceny, but he failed to appear and Judge Smith ordered his bail forfeited and a bench warrant issued for his arrest. In all probability, however, the defendant will show up today, for it was understood that when he was wanted he should be notified by

UPPER L. COURSE OF THE TUCSON

TUCSON (ARIZ.) May 6.—Assistant Superintendent George Wilder, injured in the attempted jail break at the Territorial penitentiary at Yuma a week ago, has resumed his duties, showing slight effects from the beating received at the hands of the convicts. Convict Burk, who so bravely came to the rescue of Wilder and Superintendent Griffith, is in the hospital, but will be out in about a week. Several of the convicts are still in the hospital, suffering from wounds inflicted by Burk. The other would-be escapees are shackled down in the "snake den." One of them is Lausmann, the leader of the rioters at Morenci last June, at the time of the great miners' strike. Lausmann is a Bohemian, an anarchist of the worst type, and a man of considerable ability, as shown by the disposition he made at Morenci of his 1000 followers. It was a fact that will bring him a considerable addition to his term of imprisonment. The affair was planned upon the break at Yolsom prison last summer. Undoubtedly those making the attempt were coached by a convict named McNeil who was at Yolsom at the time of the outbreak there, and who was later returned to Yuma to serve out an unexpired term, from which he had escaped several years ago. McNeil was not a participant in the Yuma break, as he has only a few months to serve.

WHY HE BOUGHT FREEDOM.

An interesting feature of the affair was in connection with one of its participants, a Mexican named Corona, sent from Graham county under a court sentence for murder in the second degree. His wife followed him to Yuma, where she supported herself by laundry work. A few months ago a friend of the couple, named Grocco, was released from the penitentiary. Later, Corona, in prison, heard a story concerning his friend and his wife that maddened him and impelled him to join in the break, though therefore he had been known as a model prisoner. It is believed that the only use he would have made of his liberty, however, would have been to have killed Grocco.

The whole affair has served to further emphasize the slight value of the Arizona penitentiary as a prison. It is really a stockade, where the only security lies in the vigilance of the guards that pace the broad adobe walls, armed with repeating rifles. The convicts are practically idle, save for the work contrived by the superintendent in the betterment of the buildings and the cutting of wood, and the filling of the bottomless grass farm, where the farm is not submerged by the waters of the Colorado River. Three-fourths of the prisoners are Mexicans or of Mexican ancestry, though their race forms only about one-fifth of the population of the Territory. Many are professional criminals, who have been run out of Mexico. Imprisonment at Yuma forms the slightest of punishment to such a class, providing merely idleness and ample food. The problem of employment has not been solved at the Yuma prison.

OUTBREAK OF STUDENTS.

A number of students at the Territorial University at Tucson undertook the control of the institution a few days ago. Trouble began over the dismissal of an instructor, R. F. Stacey, relieved from duty for recent satisfac-

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