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"When San Jose Was Young" No. 1—The Great Adventure

This series was published beginning on September 19, 1916 in the local San Jose newspaper and is attributed to Cora Older as the author. The articles were described as, "A series of interesting articles of an historical nature prepared especially for *The News* by a well-known author and journalist." The California Pioneers of Santa Clara County will reprint, in chronological order, this fascinating history series for our present members. For the story of Cora Older, see page 6.

"On the sixth of January, 1777, a brown-robed Franciscan priest Father de la Peña, and a blue-coated Spanish army officer, Lieutenant Moraga, set out from the Mission Dolores, San Francisco, on a journey for Charles III, king of Spain. They were about to found a mission in the great San Bernardino valley about 20 leagues southward. It was to be called the Mission of St.

Clare of Thamien. The priest and the officer decided to place it under some lovely laurel trees on the bank of the Guadalupe river where they had camped on their way from Monterey.



Father Tomás de la Peña



Lt. Jose Joaquin Moraga. This painting hangs in San Jose's Martin Luther King, Jr. Library.

were prancing, they had plenty of food. Their guides were keen. They rode eagerly from the Mission Dolores toward Monterey.

At this season of the year the streams were swollen, the low ground in the valley was soggy and impassable, and so, the party took the long high trail by way of what is now known as Los Gatos. They followed the footsteps of bears, but no matter. It was the morning of the year in California and they trod on blue lupin and "cups of gold."

After 12 hours of fording streams and beating their way (Continued pg. 2)

Great Adventure (Continued)

through poison oak, rosy-wild currant, scarlet toyon, chimisol and underbrush, wet and weary, they gratefully sat down to the supper cooked by them on their campfire. Coarse bread and smoky meat seemed fit for a cardinal. They tied their horses with ropes, and then wrapping themselves in their blankets, with saddles for pillows, they slept so soundly that they did not hear the bands of coyotes wail through the foothills. In the morning the men again followed the tracks of bear, they caught sight of fleeing antelope, and the deer were so gentle that they approached like friends. The Indian never taught fear to the deer.

On the 12th of January, after a six days' journey, Father Peña and Lieutenant Moraga arrived at the place already chosen by them as a site for the next Franciscan mission. It was on the western tributary of the Guadalupe river, a spot called by the Indians "Sokoistica." However, Marcello, the last of his tribe, who until the latter part of the last century was often seen about Santa Clara, called the place Tshatcapshi, meaning "Place of the



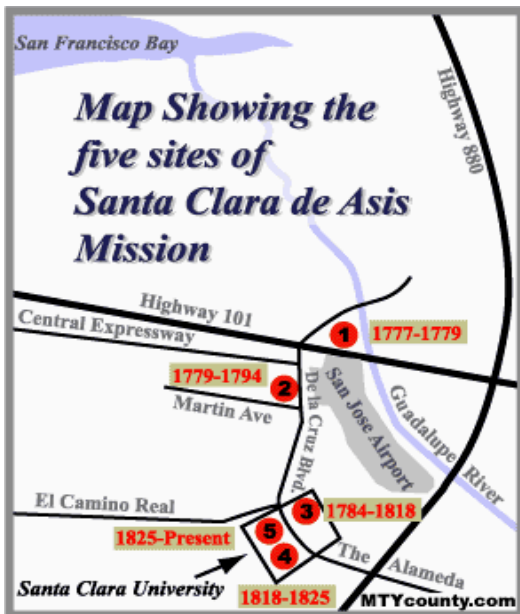
Georg von Langsdorff, an early visitor to California, sketched a group of Costeño (coastal Indian) dancers at Mission San José in 1806.

Laurels." The spot is now unmarked, but it is on the Laurel Wood ranch near Santa Clara, owned by the heirs of the late Peter Donahue.

All that day the priest, the officer and the soldiers worked reverently. They hewed wood from the trees for the cross before which thousands were to kneel to receive the blessing of the fathers. Toward evening they blessed and raised the cross. Under its arms they erected a crude little altar. In clear, melodious, reverent voice, deeply moved by the solemnity of the event, Father de la Peña said the first mass ever celebrated on "La Lianura de los Robles," or "Plain of the Oaks," as the Santa Clara valley was then called by the Spaniards.

The Ohlone Indians, tall, well formed, bearded, their hair mantling their shoulders to the waist, came to gaze at these strangers,

chanting strange words. The Indians did not realize that soon they, the deer, the bear, the antelope and all the wild creatures would vanish. A new civilization had been established on the "Plain of the Oaks." ❖



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Paul Bernal Receives DAR Medal

On November 2, 2015, the National Society Daughters of the American Revolution (NSDAR) in Washington D.C. awarded Paul Bernal the National Historic Preservation Medal in "Recognition of Outstanding Achievement in Historic Preservation."

Pictured right is Sue Fitzpatrick, 1st Vice Regent of the Los Gatos Chapter of the NSDAR, with Bernal and the certificate. Bernal is wearing the medal.

In addition, to the NSDAR award, Bernal also received a City of San Jose Commendation, signed by Mayor Licardo and all the Councilmembers. The plaque "commends Judge Paul Bernal for his outstanding leadership, commitment and exceptional service to preserve the history and heritage of the City of San Jose and of Santa Clara County." The Pioneers congratulates Paul Bernal on these honors. ❖

Photo: Tim Paddy



Pioneers Quarterly Luncheon

Saturday, Mar. 5th, 2016

11:00 AM to 2:30 PM

THREE FLAMES RESTAURANT

Banquet Room—1547 Meridian Ave. in San Jose

Luncheon Presentation

**"Mary Bennett: the Amazon
of Santa Clara"**

presented by

Paul Bernal

Make Reservations by Wednesday, Mar. 2nd

Email to sccpioneers@aol.com

or call 408-554-7587 with your menu selection

**If, after reserving, you cannot attend the Luncheon
PLEASE call or e-mail to cancel your reservations.**

We have to pay for no-shows !

Luncheon cost is now \$30

**Please make checks payable in advance to
California Pioneers and bring to Luncheon.**

Menu Selections

Three Flames Special Steak
tri-tip steak topped with sautéed mushrooms

Chicken Parmesan
Above served w/Anna Potatoes & Fresh Vegetables

Pasta Rose
Penne Pasta in creamy Tomato-Alfredo Sauce with
green onions, mushrooms, basil

**All of the above served with Salad, Coffee and Dessert
No Host Bar for soft drinks, beer and wine**

***Parking is limited in front of the restaurant; however,
ample parking is available in the rear and close
to a separate banquet room entrance.***

Pioneers December Presentation a Hit



Joyce and Arnold (Del) Del Carlo at the Pioneers December luncheon.

The California Pioneers of Santa Clara County were thrilled to present the Sourisseau Academy's film premier about Arnold Del Carlo and his photography career, that documented local orchards, urban landscapes and unique architecture, along with the people who lived here.

For the Pioneers members, the beautiful photographs, taken by Del Carlo, brought back memories of early Santa Clara Valley spanning the years from the late 1940s through the early 1970s.

The audience included the stars of the movie, Del (Arnold) and Joyce Del Carlo who spoke before the showing about their interesting life and careers.

More photos on page 5.



Tom Layton from Sourisseau Academy hands the microphone to Joyce Del Carlo after Del Del Carlo spoke. Layton spoke about the making of the Del Carlo film.

December Presentation (Continued)



Above and below: Pioneers members and guests enjoy the Del Carlo presentation at our December luncheon at the Three Flames restaurant.
(Photos: Tim Peddy)



Who Was the Author of “When San Jose Was Young”

Cora Miranda Baggerly Older, the author of the “When San Jose Was Young” series of articles published in 1916, was born in New York in 1875. While attending Syracuse University she and her friends visited California. There, in Sacramento, she met Fremont Older ((1856-1935), a correspondent for a San Francisco newspaper, and soon they were married in 1893.

A few years later, Fremont Older was offered the job as editor for the historic *San Francisco Bulletin*. With Cora’s help, his innovations and creative changes influenced newspapers throughout the nation. The *Bulletin* became the most widely read of the six San Francisco newspapers within ten years. Fremont trained and inspired his loyal reporters resulting in an outstanding staff of writers.

After numerous battles with political reforms, corruption exposures and prison improvements, Fremont left the *Bulletin* but was hired immediately by William Randolph Hearst as editor of the *San Francisco Call*.

During the early 20th century turmoil, Cora was busy writing novels such as *The Socialist and the Prince* (1903), *The Giants* (1904), and *Esther Damon* (1911), in addition to many articles for the *Bulletin* and other journals.

After living in San Francisco hotels, by 1913, the Olders made their home, designed by Frank Delos Wolfe, in the Cupertino hills and called it Woodhills. The couple was known for entertaining prominent writers, artists, lawyers and politicians as well as their neighbors, acquaintances and even ex-convicts



**Cora Baggerly Older, author of
“When San Jose Was Young”**

that Fremont Older had worked to release. The guest book, signed by all visitors to the Older residence, is kept in the living room of the house to this day.

Once the Olders established their home in Santa Clara County, Cora became fascinated with local history and realized that many old-timers were still alive. After interviewing many of these people, she proceeded to write articles about the past, often sympathetic to the plight of the native Americans. Consequently, she wrote the series of articles called “When San Jose Was Young” for the *San Jose News*, first published in September, 1916. Cora’s brother, Hiland Baggerly, who was managing editor of the *News*, edited her articles.

Cora may have chosen anonymity for her daily articles either because of her brother’s connection to *The News* or because her name was associated with the rival newspaper, *The Bulletin*. Later, Cora revisited these local stories and published the popular *California Misadventures and Their Romances* (1938) and *Love Stories of Old California* (1940).

In addition to being a notable author, Cora Older was an enthusiastic supporter of roses, convincing the San Jose City Council in 1927 that a municipal rose garden was needed in San Jose. She tirelessly worked as a strong supporter for years.

Cora was also a pivotal force in developing the famous 1926 Fiesta de las Rosas, contributing the Shakespeare Garden. For the 1930 fiesta, her original play, *The Madonna of Monterey*, was produced. Cora also served as President of the Santa Clara County Rose Society in 1929. Pink roses were her favorite and she was often referred to as “the Pink Lady.”

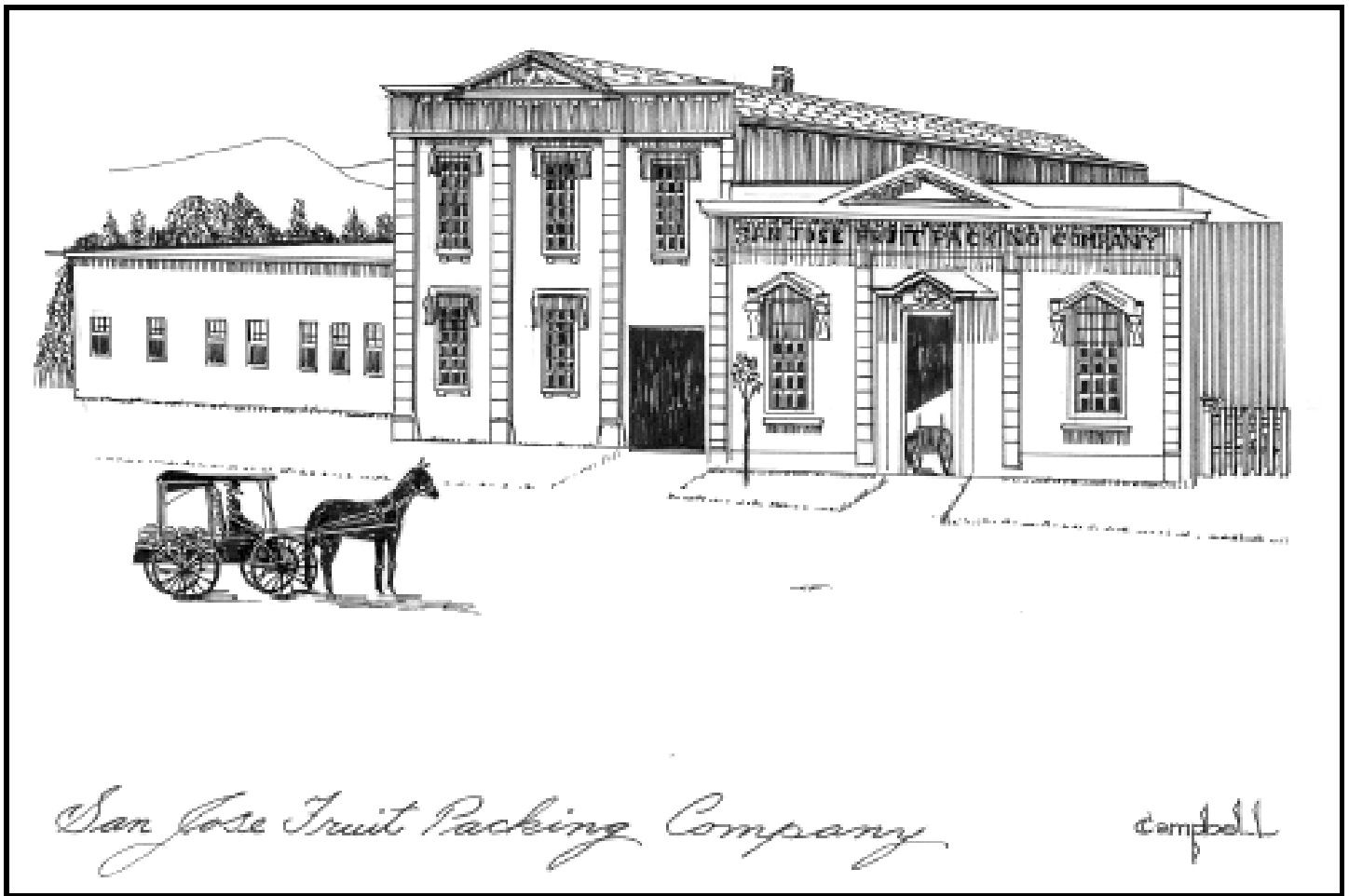
Cora Older was an early historic preservationist, since she saved an original San Jose adobe, moving it to Woodhills to be reassembled for a study, surrounded by roses.

After Hearst hired Fremont Older as editor for the *San Francisco Call*, Cora co-authored with her husband the biography of Hearst’s father, Senator George Hearst. Later Cora penned a biography of William Randolph Hearst. Her last published book, written in her ‘80s, was *San Francisco: A Magic City*. At age 93 she passed away on September 26, 1968.

By 1979 the Older house was badly neglected and threatened with demolition. Fortunately, newspaper publisher Mort Levine and his wife Elaine leased the house from Midpeninsula Regional Open Space District with the agreement to restore it, which cost them \$350,000 and 12 years of hard labor. The gardens have also been beautifully restored. ❖

Main Source: Historical Highlights of Santa Clara Valley, Jack Douglas, 2005.

San Jose Fruit Packing Company—A Sketch By Jim Campbell



This drawing shows the San Jose Fruit Packing Company as it looked in 1876 at Main Street (now North 5th Street) and Julian Street in San Jose.

Santa Clara Valley was known for its orchard production and canning, and much of the fruit was shipped east by the new transcontinental railroad, or shipped by sea.

Apricot and prune orchards thrived in Santa Clara County for decades. At one time, two thirds of the world's output in prunes came from this community. The fruit-packing industry provided work for thousands of people. In the post-World War I era, there were more than 200 such plants in the fertile Santa Clara Valley. By 1940, fruit production began to decline.

The origins of the San Jose Fruit Packing Company began in 1871 when Dr. James Madison Dawson (1809-1885), the Father of Fruit Canning, and his wife Eloise first packed apricots, peaches, pears and plums from their backyard on The Alameda. By 1872 the company was officially named JM Dawson & Co. Dr. Dawson used his medical knowledge to ensure safe cooking and preserving methods for his canned food. The Dawson's son, Tom, used his skills as a tinsmith to develop containers.

From their basement and woodshed kitchen, they moved to 16th (now 21st) Street and Julian in 1872. A year later they moved to 5th and Julian Streets in the newly erected building, as seen in the sketch, and incorp-

orated the business as the San Jose Fruit Packing Company. Dr. Dawson retired in 1878 but resumed a small operation back at the rear of his house on The Alameda. He died in 1885.

After continual growth, a move to Auzerais and mergers, the San Jose Fruit Packing Company became California Packing Corporation (CalPak) in 1916 and was renamed Del Monte Plant #3 in 1967. The Del Monte operation in San Jose was shut down at the end of 1999.

A plaque laid in 1958 at the corner of Taylor and The Alameda commemorates the Dawsons' contribution to the Santa Clara Valley canneries industry. *(Continued pg. 8)*

Meet One of Our Docents

Sylvia Hew became a docent at the Paulson House over one year ago after she was introduced to the California Pioneers of Santa Clara County by Paul Bernal. She met Bernal while attending a class he taught at Santa Clara University. He noticed that she is very much a people person and suggested she would be a successful docent. He was right. Sylvia has enjoyed her docent time at the Paulson House at History San Jose.

Recently Sylvia has agreed to accept the docent coordinator position for the

Roberto Adobe & Suñol House on Lincoln Avenue in Willow Glen. If you are interested in serving as a docent at the Roberto Adobe & Suñol House, please contact Sylvia at hewmum@gmail.com. Docent tours will begin there later in 2016.

Sylvia and her husband, Peter, live on Lincoln Avenue in the Willow Glen area after moving here in 1979 from London. They have two daughters and a grandson who is now two years old. ❖



Sylvia Hew
Paulson House Docent

-Jonna Baker

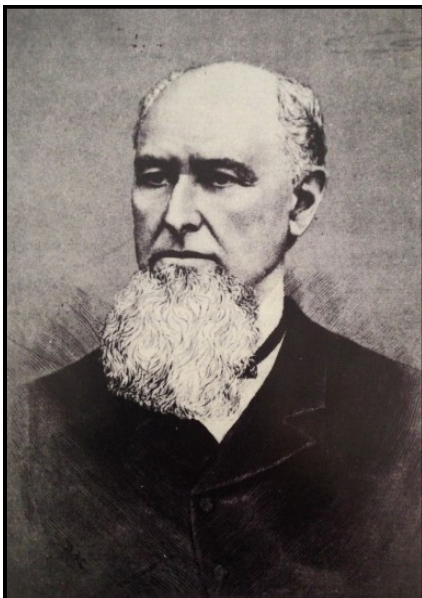
Docent Opportunity for Paulson House at History San Jose

For more information or to volunteer, contact Jonna Baker at (408) 533-3256 or J234belle@yahoo.com

Fruit Packing Company (Continued)

The plaque reads: "Here in 1871, Dr. & Mrs. J. M. Dawson founded the first cannery in this area. Thereby helping Santa Clara to become the foremost U.S. Fruit Canning County and a major factor in

present rank as America's leading food canning state. Marker installed May 20, 1958 by the Cannery League of California and the American Can Company." ❖



Dr. James M. Dawson



An early label from the San Jose Fruit Packing Company.

The 1948 Robbery of the Pacific Telephone and Telegraph Co.

Safe Burglars Strike in San Jose, Part 2

By Kathryn Collins Philp

Rendition and Extradition

Emery Lee Downs was being held at the Duval County Jail in Florida on the Federal charge of fleeing the State of California to avoid prosecution for burglary and robbery. The processes of rendition and extradition required paperwork, a \$5 extradition fee exchanged by the State of California, and signatures from both Florida Governor Fuller Warren and California Governor Earl Warren before the San Jose Police Department could take over the case.

On April 11, 1950, Captain of Detectives Bart Collins announced that he and Detective George Cannell would be traveling to Florida to extradite Downs. (10) Commercial airlines refused to transport officers when accompanied by dangerous criminals or suspects; thus, Collins and Cannell traveled to Florida by car arriving at Daytona Beach around April 19. The local FBI agent at Daytona Beach had arranged for them to stay at the Sheraton Hotel, and although the two men were delighted with the choice, they had to wait several more days for the necessary paperwork to be completed. In a letter home to his wife and daughters, Collins wrote: "Time is surely dragging here. The town is about closed up. The winter season is over and not much to do." On April 24, 1950, Collins and Cannell finally met the man with whom they would share lengthy conversations—and a long ride back to San Jose—over the next week. Downs' large cache of firearms and his burglary tools were stored in the trunk to be used as evidence in the forthcoming trial. In a form of passive resistance, Emery Lee Downs decided to forego bathing for the duration, and it became a real issue. Each night, the officers would drop him off at the local jail before they checked into an "auto court," and each night, they elicited a promise from him that he would bathe and shave. Yet each morning they found him in the same condition.

During the long days on the road, Downs shared his life story beginning with his first stay in the Idaho State Penitentiary at the age of 14, his dislike for police officers and district attorneys and how they would not let him make an 'honest living.' He spoke of the many jails and prisons he had been in, which ones he liked best (and vice versa), where the best fishing was, and more. Collins was reputed to be a master at interrogation, and although Downs quickly overcame any reluctance to talk, he was skilled in evasion. Subsequently, each time a question came up about the San Jose robbery, he would fall into silence.

On April 30, 1950, the San Jose Mercury News ran a large photo of Downs on the front page announcing his return to San Jose. The preliminary hearing took place two weeks later, and a two-week continuance was granted while he decided on a plea. Initially he was moved back and forth between the San Jose City and County Jails, but concern grew that other members of his gang might try to deliver him from the Santa Clara County Jail. (Quite possibly, memories of the kidnapping of Brooke Hart in 1933 and the subsequent storming of the jail by vigilantes who hanged the two responsible criminals across the street in St. James Park were still fresh in the minds of local law enforcement authorities). Therefore, after the initial proceedings, Downs was transferred to San Quentin "for safe-keeping" where Warden Clinton Duffy greeted him at the gate with the words, "Welcome Home." Downs was housed on Death Row, prison officials explained, "because occupants of that section have such privileges as movies, card games, radio -- and good food." (11)

The First Trial and the "Surprise Alibi"

On April 3, 1951, Superior Court Judge William F. James impaneled a jury of seven women and five men to try Emery Lee Downs for the robbery of the

Pacific Telephone and Telegraph Company. As was custom, names and addresses of the jurors were listed in the newspaper. Charles H. Bauer was selected to be the Foreman. Two veteran legal minds were pitted against each other in this trial. District Attorney Napoleon J. Menard was described by a contemporary as "one of the most combative lawyers ever to star in a San Jose courtroom...and the epitome of the prosecutor -- sardonic, truculent, tenacious." (12) He was to be assisted in the trial by Deputy District Attorney Fred Reinheimer. Acting as Downs' defense lawyer was Nathan Coombs Coughlan, a self-educated man who "exhibited a natural flair for a courtroom oratory distinguished for emotional power, imaginative (sic) and theatrical techniques, and spiced by classical allusions." He was further described as "perhaps the last of the old school of eloquent, florid-phrased barristers." (13)

Menard had termed Downs "the double-dyed rascal" as his normally brown hair was dyed platinum at the time of his arrest. After his arrest, however, Downs had shaved his head and grown a beard in an attempt to hinder identification by the two janitors. The trial was well attended by officers from several jurisdictions for what many considered to be one of the most important trials held in San Jose in recent years. The Troop Gang had operated throughout Idaho, Washington, Oregon, Utah, and California, and Downs was a familiar figure to them all. Several members of the Troop Gang as well as a Santa Rosa police officer had been killed in shoot-outs, and the concern was shared that Downs would follow the same path if he were not incarcerated for life. On the first day of the trial, Menard revealed that the janitor Ira Miller, one of the State's two important witnesses able to identify Downs, had died in an automobile

(Continued pg. 10)

Safe Burglars (Continued)

accident along with his wife and infant son the previous July. Miller had identified Downs through a photograph back in 1948. Menard believed, however, that he could overcome this complication by offering into evidence the testimony that Miller had given at Downs' preliminary examination nearly one year prior. (14) Miller had testified that "To my best knowledge the defendant (Downs) is the man who was kneeling at the safe ...when I walked into the room." However, Ira Rogers, Miller's companion that night, testified that he could not positively identify Downs. Both men (Miller by the transcript) described how they entered the cashier's office at 11:45 p.m. to sweep up and surprised the two men breaking into the safe. (15)

Menard also entered into the record certified copies of Downs' past prison records showing his four terms served for second-degree burglary and pointing out that Downs had served 20 of the last 29 years in prison. Additionally, he introduced 160 separate articles found in Downs' possession when he was arrested. The items were neatly arranged on three plywood boards, each five feet long and four feet tall. Coughlan, on the other hand, made a "desperate attempt" to keep the collection out of evidence. (16)

In the following days, other witnesses took the stand to testify for the prosecution including Captain Collins, Detective Cannell, and FBI agent Jerome Daunt who was one of the two men involved in the shootout with Fred Lennon while he was searching for Downs. A locksmith demonstrated that tools found among Downs' possessions were of the kind used by locksmiths to pick locks, as Downs might have done to enter the building. The operator of the Cottage Court Motel on Bayshore Highway testified that a man answering Downs' description was registered under the name of C. E. Gardner at her motel on the day of June 3, 1948. (17) The loquacious Downs took the stand in his own defense and told the jury

how he always made better than \$100 a week in prison by gambling, booking horse races, and at his trade of silver-smith. At Walla Walla alone, he had earned \$38,000 through his endeavors, and at the Utah State Prison he netted \$17,000; thus, he claimed, he didn't need to work regularly when he was outside of prison. He complained that when he tried to do honest work, officers always hounded him out of town. Downs' sister, Mrs. Beatrice Rule of Oakland, testified that he was hounded out of town by Oakland police in 1946 when he was trying to "go straight" after his release from the Utah State Prison. (18) He stated that he had been in a lot of jails, "but I never saw anything to beat it here." (19)

On Thursday, April 12, 1951, Downs surprised the courtroom with a last minute alibi. Although he had denied all along that he was responsible for the San Jose job, and with over a year since his arrest, he suddenly proclaimed that on the night of June 3, 1948, he had registered under the name of Charles Murphy at the Senator Hotel in Portland, Oregon. (20)

At this late date in the trial, the District Attorney could not refute Downs' claim without direct evidence.

On April 19, 1951, Judge James discharged the jury after it failed to agree on a verdict following seven hours of deliberation and half a dozen ballots. Jurors cited [1] the failure of the prosecution to produce evidence to refute Downs' alibi about the hotel registration and [2] uncertainty in the minds of some that Downs had been positively identified as one of the robbers. (21) The crafty Downs had scored on Round One.

With a second trial scheduled for June 19, 1951, the goal of the District Attorney turned to finding evidence to refute Downs' alibi.

On May 1, 1951, Captain of Detectives Bart Collins and Chief Investigator George Pyne of the District Attorney's office left on a tour of the Pacific Northwest in order to retrace the footsteps of Emery Lee Downs. Their first destination was Portland, Oregon, to find evidence verifying that Emery Lee Downs had registered at the Senator Hotel on the night of the robbery. Following that, they planned to visit pris-

ons where Downs had spent many years including those in Butte, Montana, and Walla Walla, Washington. It was at the latter that Downs claimed to have made \$38,000 as a bookmaker during his prison stay. (22)



Photo of Court Bailiff Frank Saraniti displaying burglary tools on one of three plywood boards presented by the District Attorney as evidence in the trials of Downs.

(Continued pg. 11)

Safe Burglars (Continued)

The Second Trial and the "All-Woman Jury"

Historically, there was considerable skepticism about the role of women as jurors. Subsequently, the evolution of women in that role was a slow process throughout the United States. In 1870, it was necessary to draft women to serve on juries in the outlaw settlements of the Wyoming territory as they were deemed to be "reliable citizens." By 1927, however, women were serving on juries in only 19 states. Concerns that women with small children needed their attention at home and that women might subordinate their reason to emotion were commonplace. Yet, a number of judges across the country increasingly noted that women serving on their juries were courageous, fair, quite capable, and willing to serve. (23)

Early in July 1951, Bailiff Frank Saraniti issued 75 summonses in preparation for Downs' second trial. Fewer than 50 people responded. Prominent among them was Alex Hart Jr., president of Hart's Department Store. Prior to examination in the jury box, Hart obtained a court excuse due to a business commitment in San Francisco. Several other prospective jurors obtained court excuses when they said they would not convict on purely circumstantial evidence. In addition, two women were excused after they said they were subject to "unpredictable and painful headaches, and that sudden attacks would make them unfit for jury duty." (24)

For the first time in many years, "a jury strictly on the feminine side, was selected to try a criminal case in Superior Court," and on July 10, 1951, Judge William F. James impaneled them to try Downs for a second time. With one exception, the jurors, listed by name and address in the local newspaper were all described as either "housewife" or "homemaker." The exception, Mrs. Margaret Hoolsema, was listed as a "gift dealer" and was later selected to become the Foreman. (25)

The second trial convened on July 12, 1951, and this time District Attorney Menard, who was being assisted by Chief Trial Deputy Louis Bergna, said that his office would bring evidence to "crack" Downs' last-minute alibi offered during the first trial that he was registering in a hotel in Portland, Oregon, on the night of the robbery.

In his opening statements, once again Defense Attorney Coghlan described Downs as being harassed by police since the age of 14 and driven out of Oakland, Reno, and Logan, Utah. He refuted prosecution statements that Downs was a 'big time' operator in crime. Coghlan claimed that Downs used fictitious names to avoid police harassment and eventually started traveling around the country in a trailer in order to do so. Menard, on the other hand, offered two witnesses who took the stand and placed Downs as being in the San Jose area at the time of the burglary. As in the first trial, he also presented the large collection of firearms and burglar tools that had been seized from the Downs car and trailer upon his arrest in Florida. Although the defense again objected, the collection was allowed as evidence. (26)

As the trial progressed, the District Attorney began to "methodically tear down" the alibi that Downs had presented. First, he placed Mrs. Grace Murray, a "blue-eyed honey blond," of Portland, Oregon, on the witness stand. Mrs. Murray and her husband had purchased the Senator Hotel in September 1950. She testified that on March 26, 1951, Roy Harris, a private detective from San Francisco had paid her a visit to determine if hotel records for June 3, 1948, showed that a Charles Murphy had registered there that night. (Downs claimed that he had registered there under the name of Charles Murphy). Harris was seeking to borrow the card to have it photostated. Mrs. Murray testified that she found a registration card for said Murphy but noticed that

it looked different from the other cards used by the hotel in 1948. Upon close examination, she decided it was "a phoney" and locked it up. She also observed that the handwriting on the card resembled that of Patrick Murphy, a night clerk at the hotel. With her suspicions aroused over the authenticity of the card, she refused to allow Harris to take it from the hotel without the authority of the Portland police. (27) Santa Clara County Criminalist Lowell Bradford later testified that the type of card Downs claimed to have signed in the hotel that night had not been manufactured in 1948. (28) Downs' alibi finally collapsed "like a deflated balloon" when Patrick Murphy confessed his role in the duplicity. (29)

As Menard continued to attack the "surprise" alibi, Downs continued to adhere to it and during cross-examination said that he was "mystified" by the prosecution testimony of the "phony" registration card "because I did register at the hotel that night and was there several days." (30) When queried as to why he hadn't told the officers who returned him from Florida about the Portland hotel during their lengthy conversations, Downs insisted he couldn't remember where he'd been two years before. Menard asked if it was because Downs had not "fixed" his alibi at that time, and Downs indignantly replied, "I never fixed anything or had anybody fix anything for me." (31)

Once again, the trial was well attended by law enforcement officers from several western states. Three law enforcement officers from Utah took the stand to deny Downs' story of police persecution. Downs had claimed he was "run out" of Logan by police after his release from Utah State Prison in 1946.

Although there had been a safe burglary in Logan at that time, the officers testified that Downs had never been accused of it and that he had not been run out of the area. (32)

(Continued pg. 12)

Safe Burglars (Continued)

The second trial neared its close on Thursday, July 26, 1951. As reported in the *San Jose Evening News*, "Since Judge James is loathe to give a jury instructions and send it to deliberate late in the afternoon, it was probable the jury would not receive the Downs case for decision until tomorrow morning." (33)

On the morning of July 27, 1951, Judge James gave his instructions to the jury: "I might here properly caution you against adopting a hypercritical attitude in analyzing the facts of this case. You're not expected to act as lawyers. The theory of the law by which a case is tried before a jury is that 12 responsible citizens, who have a stake in their community and have a general understanding of the affairs of life, and a sense of practical values, should sit upon the facts of the case and decide them, using therefore under the Court's guidance in the matters of law, the common sense and sound judgment which they would use in deciding important matters arising in their own affairs." (34)

The jury deliberated for four and one-half hours prior to convicting Downs of burglary and robbery. As reported by Mrs. Hoolsema, the Foreman, only one written ballot was taken but that two showing of hands were called for during deliberations. As a result of the jury's verdict, which also found that Downs was armed at the time of the burglary and had served four previous prison terms for burglaries, District Attorney Menard stated that Downs faced a possible life term in Folsom Prison as an habitual criminal. At the same time, Defense Attorney Coghlan announced that he would ask for a new trial when Downs appeared before Judge James on August 3 for sentencing.

The District Attorney had also arrived at another conclusion: ...the verdict convinced him an all-woman jury is just as capable as a male one to evaluate complicated circumstances as appeared in the Downs evidence and reach a proper

conclusion, and that it dispelled certain doubts the women would agree. "Certain well-meaning persons who have forgotten more feminine psychology than I ever knew told me 12 women would never agree on anything. If that theory is in the textbooks, the textbooks will have to be rewritten now." (35)

On Saturday morning, July 28, 1951, the front page of the *San Jose Mercury* carried an article titled, "Downs Is Guilty, Jury Finds: Four-Time Loser Faces Life Term For Safecracking." Two pictures accompanying the article showed the all-woman jurors filing down the stairs of the courthouse and the "public enemy" being escorted to the County Jail. The District Attorney had prevailed during Round Two. Downs returned to Judge James's courtroom for one last time on August 3, 1951, for the sentencing on the two charges of burglary and robbery. The judge ordered the two five-year to life terms to be served consecutively and added that the prison Adult Authority would decide whether Downs, as an habitual criminal, should be confined for the remainder of his life without the benefit of parole. Downs was transported back to San Quentin and later transferred to Folsom State Prison to serve out his term. (36)

After numerous appeals, Emery Downs was paroled in 1968. Not long after, he was arrested for attempting to burglarize the Colombian consulate in San Francisco and was returned to prison for a violation of parole. Downs died in Emeryville, California, on April 14, 1980.

Conclusion

Although San Jose was still a relatively small town in 1948, the robbery led to outsize publicity. Moreover, it played a role in leading to the creation of the FBI's "Ten Most Wanted" List when the agency first became involved in the search for Downs after the federal warrant for his arrest was issued in August 1948. The painstaking, nationwide search that followed lasted for two

years. It was a crime solved—not so much by technical science—but by experience, tiring legwork, and persistent checking of sources and "leads." Experienced detectives initially and quickly focused on Downs after the robbery due to their recognition of his *modus operandi* and the match of his handwriting on the registration card at the Cottage Court Motel.

The story of the Pacific Telephone and Telegraph robbery illustrates some of the many challenges facing law enforcement at the mid-20th Century. The events herein unfolded prior to the advent of the Jet Age and the building of the Interstate Highway System. By example, the long drive involved in transporting Downs back to California took place on a maze of local, county and state roads, and the many FBI agents involved in following the leads on his trail did so by the same methods. Communications were slow as demonstrated in the process of waiting for extradition papers to be exchanged between the offices of the California and Florida governors. Messages were often sent by teletype and contacts made by phone.

In the end, it was the documents found in Chief Collins's garage that made it possible for this writer—nearly 70 years later—to bring the story to light. ❖

Kathryn Collins Philp is a member of the California Pioneers of Santa Clara County and currently lives in Woodbridge, Connecticut. She wrote this essay for the Pioneers. Part 1 appeared in the Dec. 2015 issue of the Trailblazer. The entire essay with photos and bibliography will be available soon on our website.

Footnotes on page 13.

CCHS 2016 Spring Symposium

The Conference of California Historical Societies (CCHS) is headed to the beautiful City of San Juan Capistrano for the 2016 Spring Symposium on February 25-27. From its historic Mission and Los Rios Street to its vibrant trails, train depot and quaint downtown, the City of San Juan Capistrano offers a bevy of historic, entertaining and distinctive locales for tourists.

CCHS tours will include the Huell Howser Archives/Library exhibits at Chapman University on Friday, Feb. 26 and later, a dinner with the local Living History Group.

Saturday, Feb. 26, will include a tour of the Los Rios Historic District, the oldest neighborhood in California. Some of the forty homes still present date back to the late 1700s and early 1800s. Later that day, Mission San Juan



Mission San Juan Capistrano

(Photo: Courtesy of Mission San Juan Capistrano)

Capistrano, known as the “Jewel of the Missions,” will be explored. That evening’s dinner will feature Richard Duree who will talk about Tiburcio Vasquez, a famed California bandito during the latter half of the 1800s. Mr.

Duree, dressed as Vasquez would have been, will bring life to his misdeeds and travels.

For more information visit the CCHS website at www.CaliforniaHistorian.com. ❖

The Wireless Age: Electronics Entrepreneurs Before Silicon Valley.

History Park, Pacific Hotel, Arbuckle Gallery

Tues – Sun; 11:00am – 4:30pm; Exhibit through July, 2016

Footnotes: Safe Burglary

- (10) "San Jose Officers Await Downs Return Papers," San Jose Mercury Herald, 11 April 1950, p. 7.
- (11) "Death Row Cell Dazes Downs," San Jose Mercury, 16 April 1951, p. 1.
- (12) Harry Farrell, San Jose -- and other famous places, (San Jose, California, The San Jose Historical Museum Association, 1983), p. 55.
- (13) "Nate Coghlan, S. F. Lawyer, Dies at 79," San Francisco Chronicle, 2 December 1954, p. 23.
- (14) "Emery Downs Jury Ready; Testimony Begins Today," San Jose Mercury, 4 April 1951, p. 1.
- (15) "Downs Put at Crime Scene By Dead Man's Testimony," San Jose Mercury, 5 April 1951, p. 12.
- (16) "Downs' Super Tool Kit (160 Items) in Evidence," San Jose Mercury, 6 April 1951, p. 17.
- (17) "Downs Put at Crime Scene By Dead Man's Testimony," San Jose Mercury, 5 April 1951, p. 12.
- (18) "Downs' Sister Testifies Oakland 'Hounded' Him," San Jose Mercury, 12 April 1951, p. 25.
- (19) "Death Row Cell Dazes Downs."
- (20) "Downs Claims Portland Alibi, Tells of Money-Making Prison Enterprizes (sic)," San Jose Mercury, 13 April 1951.
- (21) "Downs Jury Discharged; New Trial Due 'Most Wanted Man'," San Jose Mercury, 20 April 1951, p. 17.

- (22) "Downs' Alibi Being Checked," San Jose Evening News, 1 May 1951. (microfiche).
- (23) Bumita Shelton Matthews, "The Woman Juror," Women Lawyers' Journal (January 1927).
- (24) "All-Woman Jury Impaneled In Emery Lee Downs Trial," San Jose Evening News, 11 July 1951. (microfiche).
- (25) Ibid. (26) "Attorney Pictures Downs As Harassed By Police," San Jose Evening News, 12 July 1951, p. 6.
- (27) "Downs' Alibi Attacked By Menard," San Jose Evening News, 17 July 1951, p. 5.
- (28) "Downs Opens Defense By Taking Stand," San Jose Mercury, 20 July 1951, p. 17.
- (29) "Downs' Hotel Card Alibi Goes Pffitttl," San Jose Mercury, 19 July 1951, p. 19.
- (30) "It's Mystifying, Says Downs; He Sticks to Hotel Alibi," San Jose Mercury, 25 July 1951, p. 5.
- (31) "Ibid. (32) "Once Again, Downs Trial Near Jury," San Jose Mercury, 26 July 1951, p. 17.
- (33) Ibid. (34) "The People, Respondent v. Emery Lee Downs," Appellant. California Court of Appeals. First District. Division Two. December 16, 1952. (Justia US Law).
- (35) "Downs Is Guilty, Jury Finds," San Jose Mercury, 28 July 1951, p. 1. (36) "End of Line For Downs, Plea Denied," San Jose Mercury, 4 August, 1951, p. 1.

**Pioneers
Dues
for 2016
were
owed on
January 1st,
2016!**

CA Pioneers of SCC New Member - Welcome!

Jeffrey Leonard lives in San Jose, is a native of Oakland, California and is an educator. His ancestors include Mervy Morgan Leonard who came to California in 1885. One of his wife's ancestors, Blanche Nadeau came to San Jose in 1890. Jeffrey is interested in poetry and history and how they might interconnect. His membership was proposed by Tom Layton and William Gil. He has joined at the Loomis Level. ❖

Newest Exhibit Piece for Roberto Adobe



Paul Bernal, John Grafton and Greg Smestad created an authentic bed for the Pioneers' Roberto Adobe. On the right, John Grafton tests the comfort of the early style bed, made with timber and rawhide. ❖



John Grafton and Greg Smestad

Photos: Paul Bernal

“Hard-Won Cowboy Wisdom”

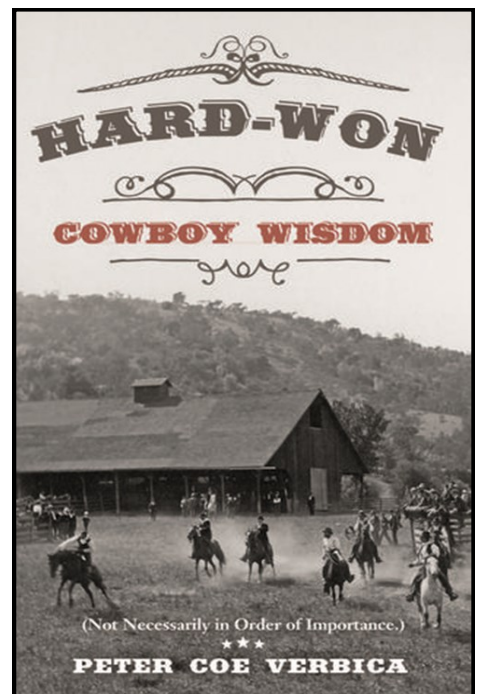
**A recent book release
authored by
Peter Coe Verbica**

Hard-Won Cowboy Wisdom (Not Necessarily in Order of Importance) has been a kick-in-the-pants project according to the author. Growing up on a commercial cattle ranch offers a great opportunity to learn many of life's lessons.

Peter Coe Verbica, a member of the California Pioneers of Santa Clara County, shares the wisdom gleaned from five generations of ranching tradition and reaches out to other ranchers, hunters, farmers, horse trainers, ropers and fishermen to share their insights as well. With over 400 life's lessons, this book makes a great gift

for those interested in reminiscing, passing down a legacy of knowledge and learning more about cowboy culture. For more information or to order a copy, go to www.hardwoncowboywisdom.com or www.createpace.com/5775455. The book was released December 12, 2015.

The author, Peter Coe Verbica, grew up on *Rancho San Felipe*, a commercial cattle ranch in Northern California. He earned his BA in English from Santa Clara University, a JD from Santa Clara University School of Law and an MS from the Massachusetts Institute of Technology. ❖



Time Travel *(Past News from San Jose Newspaper Archives)*

San Jose, Oct. 21, 1870: "Among the many unusual items deposited in the corner stone of the new Normal School were: samples of silk cocoons and threads; a copy of the foundations of the first public school in San Jose, dated Oct. 26, 1811, written in Spanish; not to be overlooked was a numbered ticket to the Grand Industrial Fair at Nevada City. The proceeds, had the ticket won a prize, was to be donated to the Normal School."

San Jose, April 1, 1870: "The city was out of debt and had been since 1865. There was \$42,913 in the city treasury, one half of which belonged to the school fund."

Palo Alto, 1901: "The San Francisco Auto Club was asking Stanford University to remove its restrictions prohibiting automobiles from utilizing the roads about the campus."

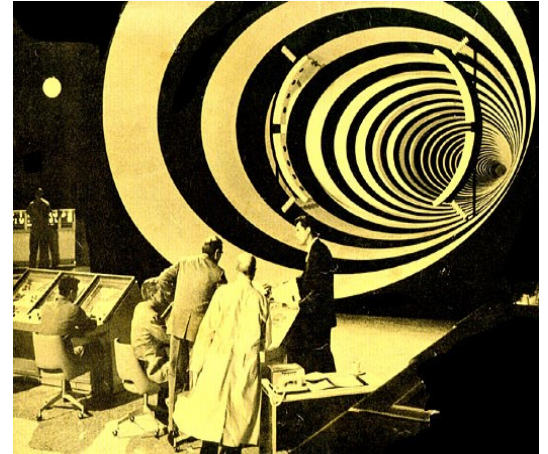
San Jose, May 1901: "Carpenters, painters and decorators were transforming

ten rooms in the Hotel Vendome into a palatial suite for the stay of President and Mrs. McKinley and their party during their visit on May 13-15, 1901."

San Jose, June, 1901: "Until further notice round-trip rates from Santa Clara to Alum Rock will be 30 cents. Tickets available at Oberdeener's Drug Store, Santa Clara and Riles Drug Store in San Jose. Children 20 cents."

San Jose, July, 1912: "The Chamber of Commerce at 40 No. First St. announced that two large containers of Alum Rock mineral water had been placed in the office. Joseph T. Brooks, secretary, said a free drink would be offered to all who dropped by. A fresh supply was programed daily."

Saratoga, 1913: "A petition was filed in Superior Court by the Trustees of



the Maderonia Cemetery Association, a corporation, for permission to change its name to Madronia Cemetery Association. It had been discovered that in 1863 when the association was formed someone misspelled the principal word in the name. Even in selecting the new name or correcting its spelling, the trustees had disappointedly Anglicized it out of the pure Spanish beauty of Madrona." ❖

Membership Report

The membership dues for the California Pioneers of Santa Clara County are **due on January 1st every year.**

You can pay your annual dues for 2016 by mailing them to CA Pioneers, Membership Chair, P.O. Box 8208, San Jose, CA, 95155, or bring a check to our March luncheon. Basic dues are still only \$25.

Check your mailing label on the Trailblazer and it will indicate when your dues have expired. For example, if after your name it says, Dec-16, that means your Pioneers membership is up-to-date until the end of 2016.

Additional donations or higher membership levels are always appreciated.

Visit www.CaliforniaPioneers.com for more details. And please don't forget the Pioneers in your estate planning.

If you have questions, please contact April Halberstadt at 408-293-2860 or email her at aprilhalb@gmail.com. ❖

Pioneers Gone to the Golden Hills



Donna Miguelgorry



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Our Mission is to promote, preserve, and celebrate
the history of Santa Clara County and the heritage
of its past generations. We collect, archive, educate
and encourage research and scholarship.