

Outlaws 34

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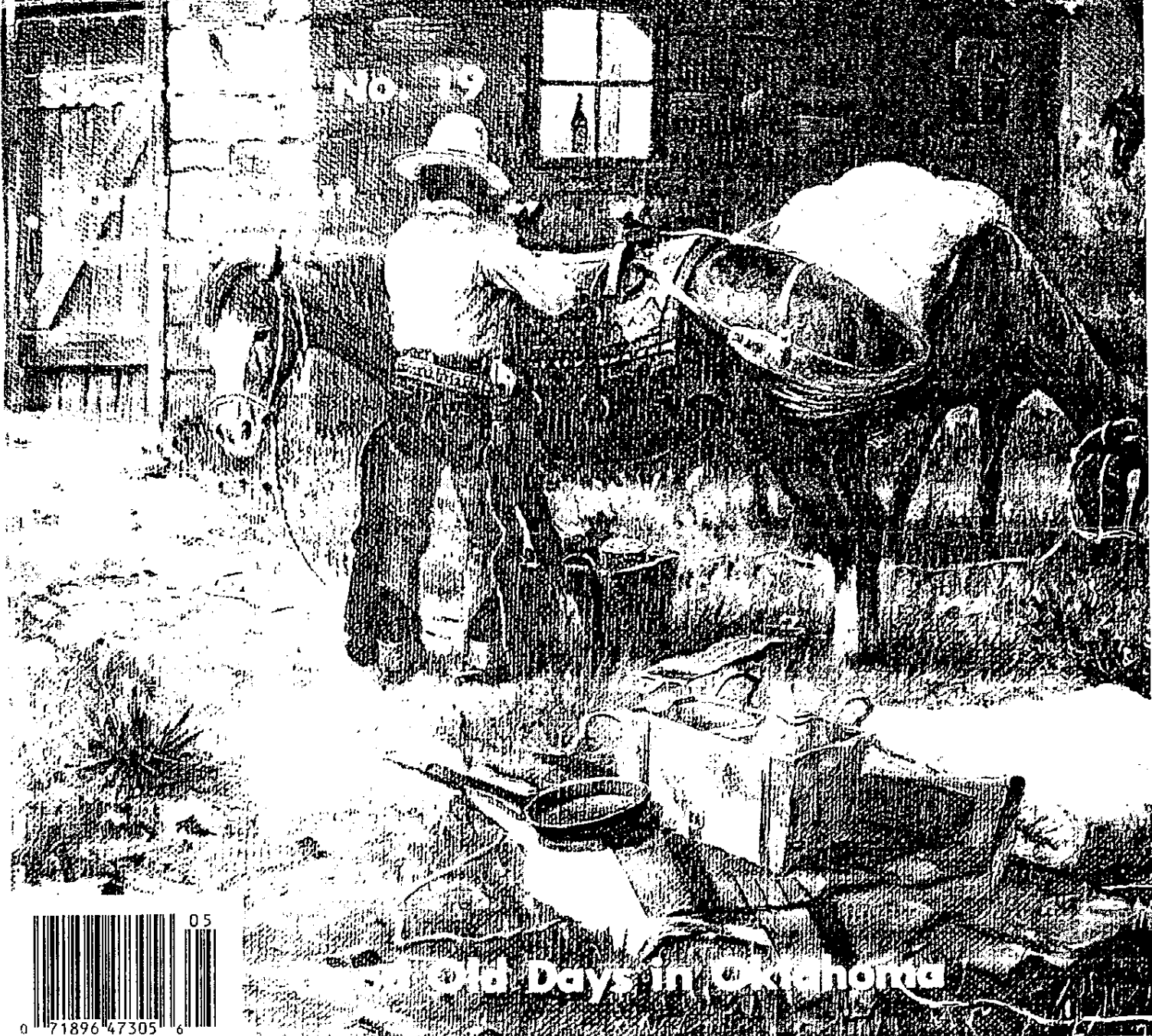
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EVERETT BANNER AND THE OKLAHOMA VIGILANTES

No. 39



Old Days in Oklahoma



Shootout On N

By HAROLD L. EDWARDS
Photos Courtesy of California State Archives
Except Where Noted

On a January day in 1896, a California woodcutter named Dan McCall turned to his co-worker, Obe Britt, and asked, "Do you have the blood to make money without working for it?" Britt asked McCall how it could be done. The answer was simple: rob a train.

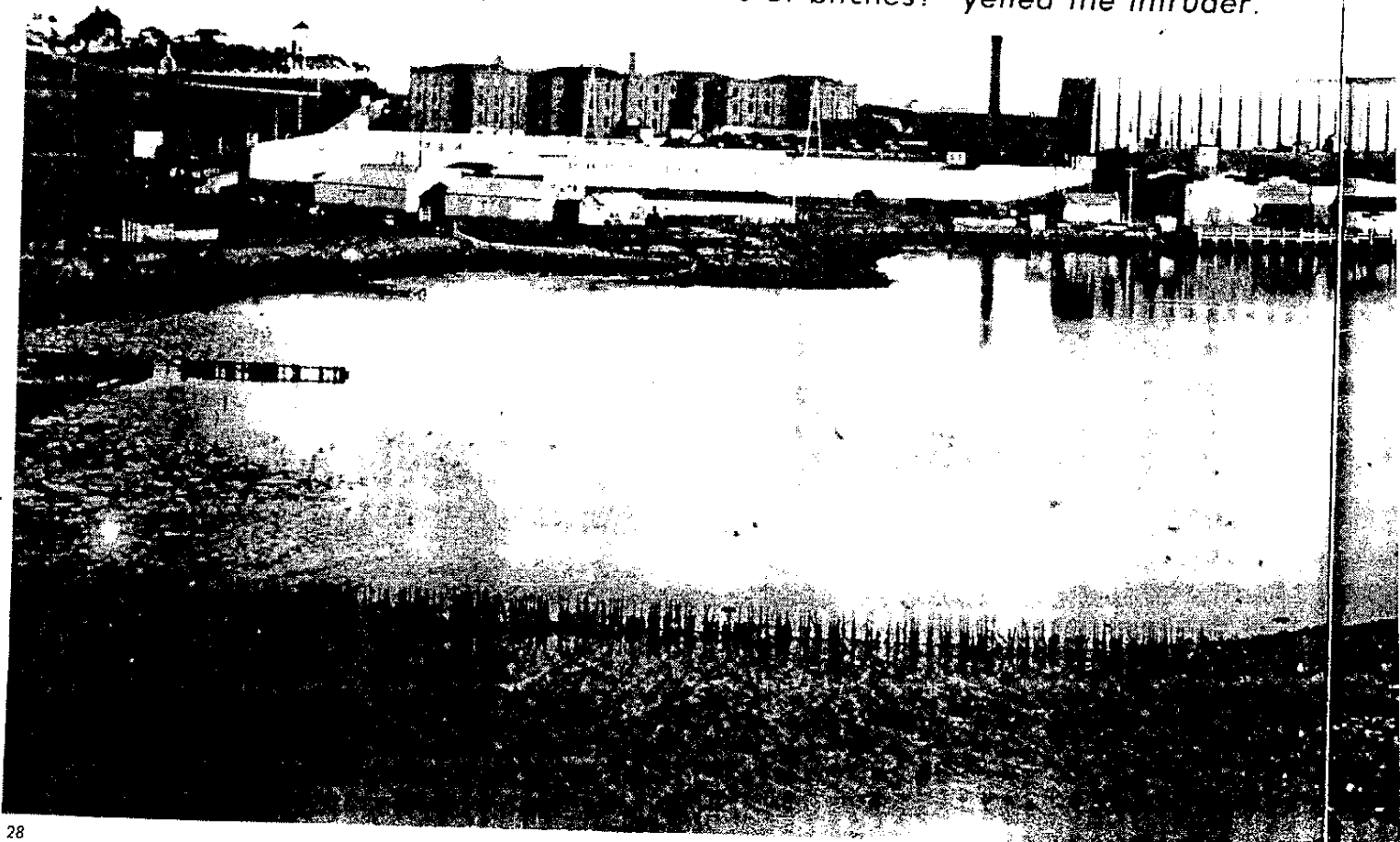
Dan McCall was from Santa Cruz. The native Californian was known as an

honest, hardworking man who caused no trouble. Later, however, Joe Arana, who grew up with McCall, claimed McCall once killed a rancher in Santa Cruz County during a dispute. He was found not guilty by a jury that felt the killing was in self-defense. In 1892, McCall and his wife separated.

Leaving their twenty-one-year-old son to reside with his mother in Santa Cruz.

McCall drifted southward into Tulare County, where he secured employment with a prominent and prosperous farmer named Ben Hicks. The virgin land around Visalia was covered by a forest of valley oak trees. The land needed to be cleared for farming, and wood was the major source for fuel, so McCall had steady work as a woodcutter. He quickly established himself as a good

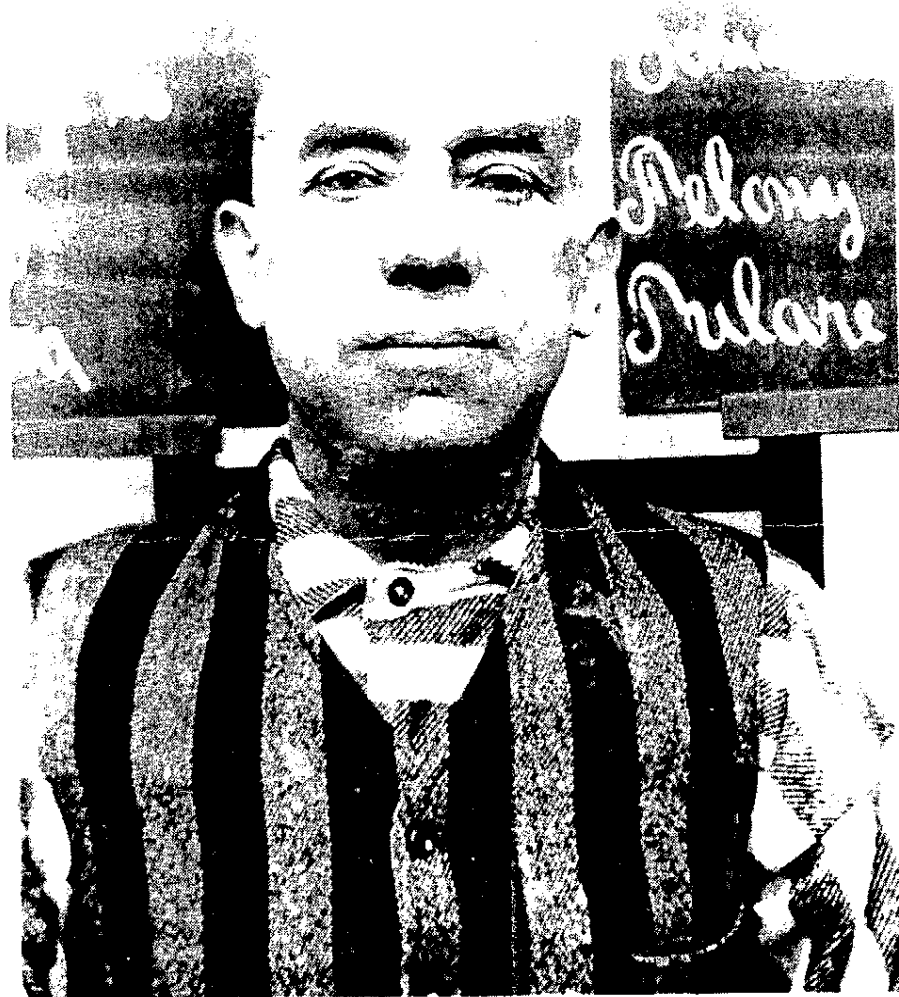
Suddenly, a masked man climbed over the tender to a point above the locomotive cab. Neither the trainmen who were intent on looking up the railroad tracks nor the officers sitting on the coal pile noticed him. "Throw up your hands you damned sons of bitches!" yelled the intruder.



No. 19

worker and an honorable man.

During October of 1895, Obie Britt, an eighteen-year-old from Ferris, Texas, migrated to Visalia and also secured work as a woodcutter for Hicks. Young John Haynes from Missouri also worked part-time on the Hicks property in the same capacity. Clearing lands was hard work and McCall was interested in getting money an easier way.



Left: San Quentin Prison during the 1890s. Above: Josiah Lovern.



When McCall had initially suggested they could rob a train for their stake, Britt didn't take McCall seriously. He was unaware that McCall had already tried to make money the easy way. In late 1895, McCall's employer, Ben Hicks, had to make a trip to Fresno. McCall secreted himself along the route to the station in the dark. When Hicks and a companion drove by in a buggy, McCall would have stepped forth and robbed Hicks; however, when Hicks started to stop in response to the call, his companion urged him on, saying that if they stopped they would miss their train. Hicks drove on and McCall didn't make his "stake."

McCall was persuasive, and in a short time Britt was attracted to the idea of robbing a train. Assistance was needed and McCall approached Josiah Lovern. Lovern was a well-known Visalia saloonman who had an unsavory reputation. His place was known as a dive. In 1892,

he was suspected by Southern Pacific Railroad Company Special Officer Will Smith of passing 1,000 stolen fifty-cent coins through his saloon as change. The coins were part of the loot from the Colis train robbery in Fresno County earlier that year. His suspicions never could be proved, and Lovern was never arrested.

In January of 1896 Lovern's business license renewal application was rejected. He went to Kern County and worked for a time as a bartender in Bakersfield. In the meantime, Lovern's saloon partner, Charles Ardell, applied for the license and it was granted. Lovern returned to Visalia and resumed running his dive. Lovern was attracted to McCall's scheme and, in fact, may have originated the idea. Ardell was brought on board and Haynes also was asked to help. At first Haynes was hesitant but soon agreed to assist.

A plan was developed. Lovern would



Jeff Edwards

Earl Daggell (left) and Victor Reed (right) shot it out with Dan McCall on train Number 19.

furnish the weapons, which he kept in a rack in his saloon. He would also get red cloth to cover a lantern which would be used to flag down the train. He may have agreed also to use his horses and buggy as transportation to and from the robbery scene. Lovern showed McCall a Parker shotgun, a Ballard rifle, and a Marlin rifle, which McCall accepted for the job. The rifles needed repairs, so Lovern had cohort Billy Ross take them to a local gunsmith. Lovern sent his violin player, J.L. Pattee, to Wood's Store to get some red cloth. Pattee didn't know what kind of cloth Lovern wanted, and he returned empty-handed. Lovern then went to the Sol Sweet store and purchased a yard and a half of red cheesecloth from clerk Len Goldstein. He made a point of telling Goldstein that he needed the cloth to decorate his saloon.

The plan called for McCall, Britt, Lovern, Ardell, and Haynes to position themselves near the tracks at Goshen. Lovern

lantern to stop the train. McCall and Britt would board the locomotive and cover the engineer and fireman with their weapons. Haynes and the other two men would intimidate the passengers and prevent interference by shooting at random. McCall and Britt would escort the trainmen to the express car, where the messenger would be overpowered and the safe blown.

The culprits would vanish into the night, returning to their own homes and occupations. At a later date they would divide the proceeds according to prearranged terms. However, as the plan was further discussed McCall and Lovern began talking about killing the train crew: Britt had second thoughts about his involvement. He kept his views to himself and quietly passed word of the plan and its participants to Tulare County Sheriff A.P. Merritt. Merritt notified the railroad company and officers in the adjacent areas of the plan, and all of them settled to await further word from Britt.

The perpetrator finally agreed to

hold up train Number 20, northbound out of Tulare about 2:00 a.m. on March 19, 1896. The place would be Tagus switch. Britt informed Sheriff Merritt, who advised him to go along with the bandits. On the morning of the eighteenth, Eugene Requard, a Lovern dive hanger-on known as "Frenchy," reclaimed the repaired rifles, and McCall and Lovern inspected them in Lovern's saloon. They were in good condition and, with most of the red cheesecloth, they were taken to the McCall cabin on the Hicks ranch. Britt supplied the lantern which he purchased at the Sweet store, and Haynes provided some blasting powder to open the safe.

In the meantime, Sheriff Merritt organized a reception for the bandits when they stopped the train. On the evening of the eighteenth, the officers left their homes singly and met at a farm on the southern outskirts of Visalia. A horse-drawn conveyance transported them to Tulare, where they waited to board train Number 20. Two deputies, Victor Reed and Earl Daggell, rode a train from Visalia six miles west to Goshen and in secret waited at the depot to board southbound train Number 19 to ride down to Tulare, where they would meet the posse. Friends of the outlaws observed some of the officers' actions and passed the word to Lovern and McCall that the officers were acting suspiciously. Lovern and Ardell decided not to go.

ON THE eighteenth, Haynes heard McCall say that "third parties were always dangerous" and that he always viewed them with a degree of distrust. Haynes saw himself as "the third party" and became uneasy about his own safety. That evening, instead of showing at McCall's cabin, he accompanied his wife to a Salvation Army meeting in Tulare. Only Britt and McCall were present. McCall was aware of the officer's activity but decided to move forward on the robbery anyway. He changed the plan and instead of robbing northbound Number 20, he and Britt would rob southbound Number 19 out of Goshen. Since it was an earlier train, the robbery could be accomplished and the bandits gone before the officers in Tulare knew what happened.

About 8:00 p.m., McCall and Britt left the McCall cabin and walked to Goshen. They took only their weapons as they intended to board the train at the depot rather than stopping it enroute. They also planned to walk from the scene of the crime. As they walked along the road near Goshen, a horse drawn vehi-

cle approached them. McCall and Britt hid behind the railroad embankment that ran parallel to the road. McCall drew a bead on the buggy with his rifle. It seemed obvious that McCall was going to shoot. Britt fired his shotgun at McCall's head, but the shot missed. The buggy drove on, and McCall upbraided Britt for being careless with his weapon. Apparently McCall thought officers were in the vehicle and they were coming to arrest him. The bandits walked on the short distance to the Goshen depot and hid to wait for the train.

The southbound train was on time. While it was at the depot deputies Reed and Daggett slipped onto the tender. They sat on the coal, near enough to the locomotive cab to absorb some of the heat from the firebox. Just after midnight the train left the station. As it passed the coal bunkers McCall stepped aboard the ladder on the baggage car. Britt remained on the ground, and after the train left he went to the station agent and informed him of the new developments. The agent wired, "SHERIFF MERRITT: TULARE; I AM INFORMED BY OBIE BRITT THAT MCCALL IS ON #19. LOOK OUT FOR HIM. MCCALL SUSPOSED MR. BRITT WOULD ASSIST HIM IN HOLDUP: AGENT." Sheriff Merritt, knowing deputies Reed and Daggett were on Number 19 and did not suspect anything amiss, was alarmed. He could do nothing but wait. The sheriff and his posse spent "anxious moments, indeed."

As the train moved along, Deputies Reed and Daggett hunched down into their coats to protect themselves from the cold March wind. Although both men were excellent and competent officers, neither of them were alert. Suddenly, a masked man climbed over the tender to a point above the locomotive cab. Neither the trainmen who were intent on looking up the railroad tracks nor the officers sitting on the coal pile noticed him. "Throw up your hands you damned sons of bitches!" yelled McCall. The trainmen turned and in the vague light from the firebox saw the bandit standing on the tender with his rifle and revolver pointed at them. The gunman, however, hadn't seen the officers, and at his command they also turned toward him.

Both McCall and the officers were surprised. McCall snapped a shot at the lawmen with his rifle and hit Reed in the shoulder. While falling over from the impact of the shot, Reed fired at McCall with his shotgun. He missed. McCall yelled, "Why don't you shoot? Why

don't you shoot?" He must have assumed that Britt was just mentioning Daggett directly confronted McCall, who fired his revolver. The bullet struck the officer in the chest. Daggett, though badly wounded, fired his shotgun at McCall, striking him in the lower abdomen and groin. McCall leaped into the air, tumbled to the side of the tender and rolled over the side.

While the shooting was going on, the trainmen climbed out on the front catwalks along the boiler. The train careened down the tracks unattended at forty miles per hour. After the shooting stopped, the engineer and fireman returned to their posts and resumed control of the train. Engineer Wright asked Reed if he should stop the train and return back up tracks to get the bandit's body. Realizing that Daggett was badly wounded, Reed replied, "The body can wait—go on to Tulare." Daggett was placed in a reclining position on the fireman's bench near the firebox and made as comfortable as possible over the remaining miles into Tulare.

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At Tulare, Daggett was rushed to a local hotel room and two local physicians were called to treat his wound. Reed was also given medical attention while he made his report to Sheriff Merritt. Merritt wired his officers in Visalia to arrest Lovern and Ardell immediately.

In the meantime, Britt surrendered to Goshen Constable John Nutter, who confiscated the Parker shotgun and two revolvers from him. Britt told Nutter about the whole affair, including his shot at McCall earlier. Nutter recalled hearing the shot but thought little of it as shots at night around Goshen were common. Britt was held for Sheriff Merritt.

The posse rode train Number 20 to the robbery scene and found McCall's body lying on the west side of the tracks north of Tagus switch. The dead bandit still had his red bandana tied over the lower part of his face. The body was transported to the Locey, Duncan and Co. undertakers in Visalia. Locey wired

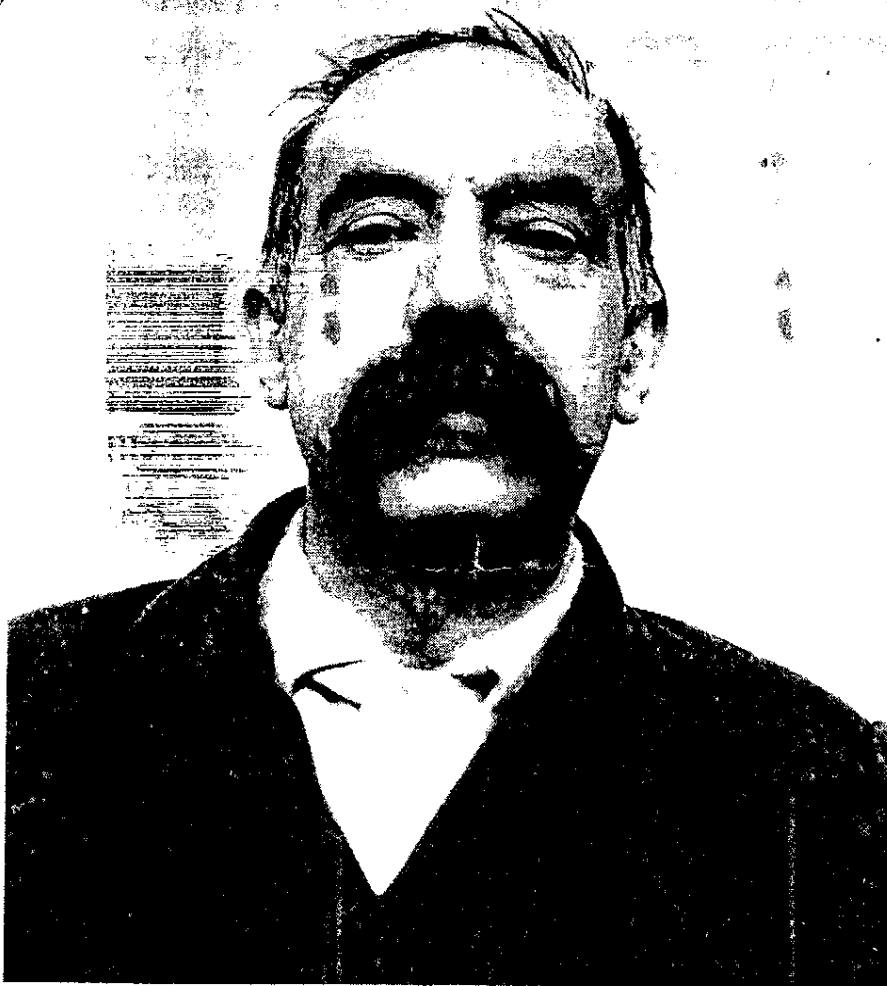
McCall's relatives in Santa Cruz about the death.

Officers Russell and Burnstein, with railroad detective Meade, went to McCall's cabin and found a box-lined hole in the ground that would have hidden the robbery loot. The lantern with the red cheesecloth around it also was found in the house. At 4:00 a.m. Lovern and Ardell were found sleeping in different houses in Visalia's tenderloin district. They were taken to jail, and a short time later their private quarters were searched. Nothing of interest was found in Ardell's abode. Pieces of red cheesecloth that matched the cuts on the material found in McCall's cabin were taken as evidence from Lovern's room.

Billy Ross and "Frenchy" were arrested as accomplices to the crime. Britt gave Sheriff Merritt a full statement which implicated Lovern and Ardell. Thereafter Britt resided at the Tulare County jail under the protection of the sheriff. He was not a charged prisoner but a vital witness. Frank and James

McCall, brothers of the deceased bandit arrived in Visalia to find the facts about the death of their brother. They couldn't believe at first that McCall was dead and they insisted that there had been a mistake. The McCall family in Santa Cruz couldn't believe that Dan would even commit a crime. In the end they authorized McCall's interment in the Visalia cemetery and returned home. Ben Hicks was also astonished at the circumstances of McCall's death, as he had a high opinion of his employee.

Deputy Reed rested at home while his shoulder wound healed. After the initial examination and treatment of Daggett's wound his doctors announced that the wound was serious but not necessarily fatal. The patient would reach a crisis within seventy-two hours. If he survived past that time he had a good chance of recovery. The lung penetration was serious, but if Daggett survived ten days he would likely be out of danger. At the moment, he was too ill to move and remained in his Tulare



Josiah Lovern on his entry into San Quentin Prison.

hotel room. A coroner's jury found that McCall died from a gunshot wound at the hands of Deputy Sheriff Daggett, who was acting in the capacity of an officer and to protect his own life.

Charges were not filed against Ross and "Frenchy," and they were soon released from jail. Haynes was not arrested. Felony charges of train robbery were filed against Lovern and Ardell. On March 24, with a straight razor allowed him for shaving, Lovern slit his throat. He missed the jugular vein but opened his "windpipe." The first the other prisoners knew of Lovern's suicide attempt was when he gasped, "I'm done for," and slumped to the floor in a pool of his own blood. Jailers were called and Lovern was rescued. Two physicians closed the wound, and while Lovern's condition was described as weak and dangerous, he survived and stood trial.

Lovern and Ardell were tried in Visalia during May. Patee, Reed, "Frenchy," Wood, Goldstein, Nutt

the gunsmith and various officers testified. Of course, Britt and Haynes were the key witnesses. The case was drawn tight against Lovern and he was convicted. Ardell was exonerated. At the time of sentencing the court asked Lovern which prison he preferred. Lovern replied that "it made no difference," and the judge ordered him to life imprisonment at San Quentin. Lovern was transported to the Hanford jail in adjacent Kings County while his attorney made the usual motions and appeals. The court had deemed the Tulare County jail as "unsafe and unfit" to detain him. The order was probably resulted from Lovern's near successful suicide attempt in the Tulare County jail earlier. All the legal moves failed, and Lovern was delivered to San Quentin Prison.

Deputies Reed and Daggett continued to improve rapidly and soon returned to duty. The case was tried and answered.

sary of the "Tagus Holdup," Deputy Daggett noticed that there had been no further attempts to hold up trains in Tulare County. He commented to Deputy Reed, "It looks like the train robbing season is closed." Reed replied, "Wait a few days." Reed's response was prophetic, for on March 28, 1898, north-bound Southern Pacific train Number 18 was stopped and robbed a few miles north of Goshen on the trestles of Cross Creek.

The Cross Creek robbery was conducted in a smooth and efficient manner with a clean getaway. Officers felt the job was done by experienced professionals; however, over the years legend has developed that the holdup was done by some local lads who lived to enjoy their ill-gotten gains which amounted to \$80,000.

The frontier era passed, and deputy sheriffs Daggett and Reed left law enforcement. Daggett went on to medical college and practiced medicine in Alameda County. Reed eventually became president of the bank in Lindsay and died in Tulare County on October 25, 1923.

Josiah Lovern was released from prison in 1912 and resided with a nephew and his family in the Three Rivers area east of Visalia. In his advanced age, he lived in the Visalia old folks home, where he died on September 6, 1937, at eighty-four years of age. The *Visalia Times Delta* reported his passing on its front page: "COLORFUL EARLY DAY RESIDENT OF VISALIA IS DEAD." The ensuing obituary mentioned his involvement in the Tagus robbery attempt.

From 1889 through 1898 Tulare County suffered five train robberies or attempted robberies. Fatalities resulted in four of them. McCall's death was the only one in which the outlaw was killed. That alone would have made the Tagus robbery unique; however, in all respects the Tagus robbery was the most bizarre. It had elements of stupidity, treachery, bumbling, courage, and drama. The death on Number 19 was one of the most unusual in California's railroad history.

SOURCES

In addition to court and prison records, contemporary accounts from the *Visalia Daily Delta*, the *Visalia Delta Times*, and the *Bakersfield Daily Californian* were used in the preparation of this article.

