

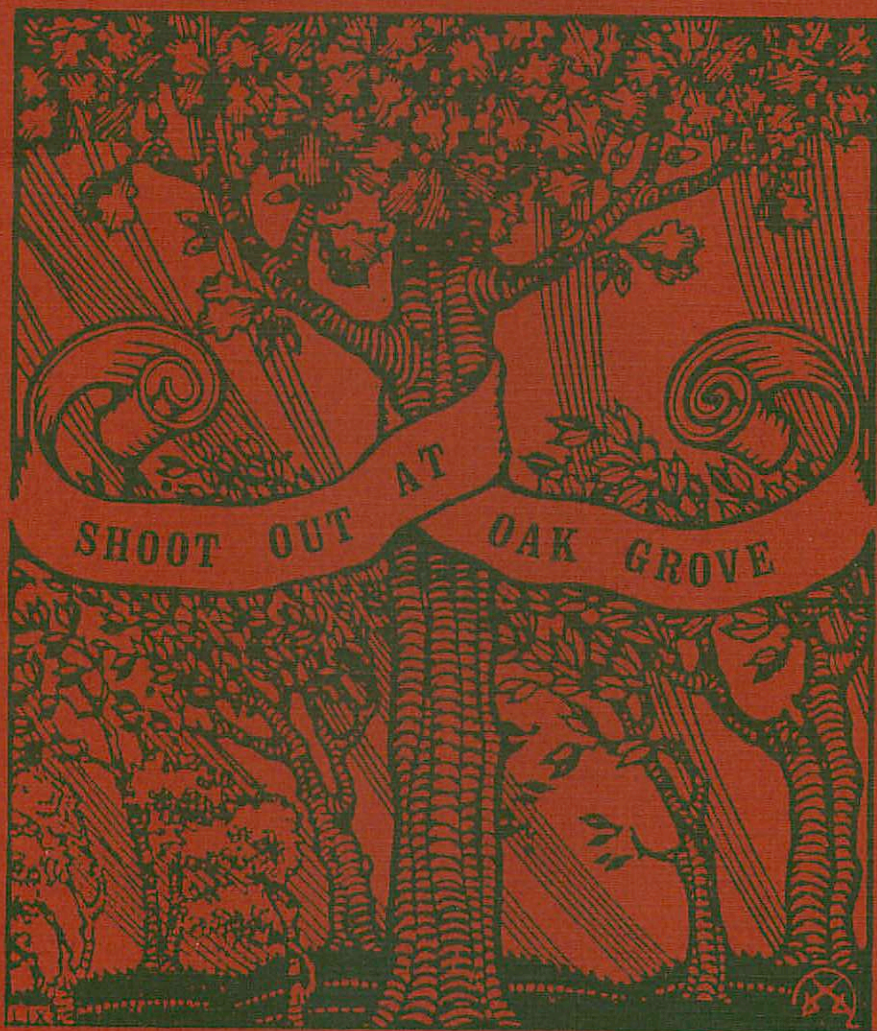
SACRAMENTO COUNTY HISTORICAL SOCIETY

GOLDEN NOTES

VOL. 29

FALL, 1983

NO. 3



BY JOHN F. WILHELM

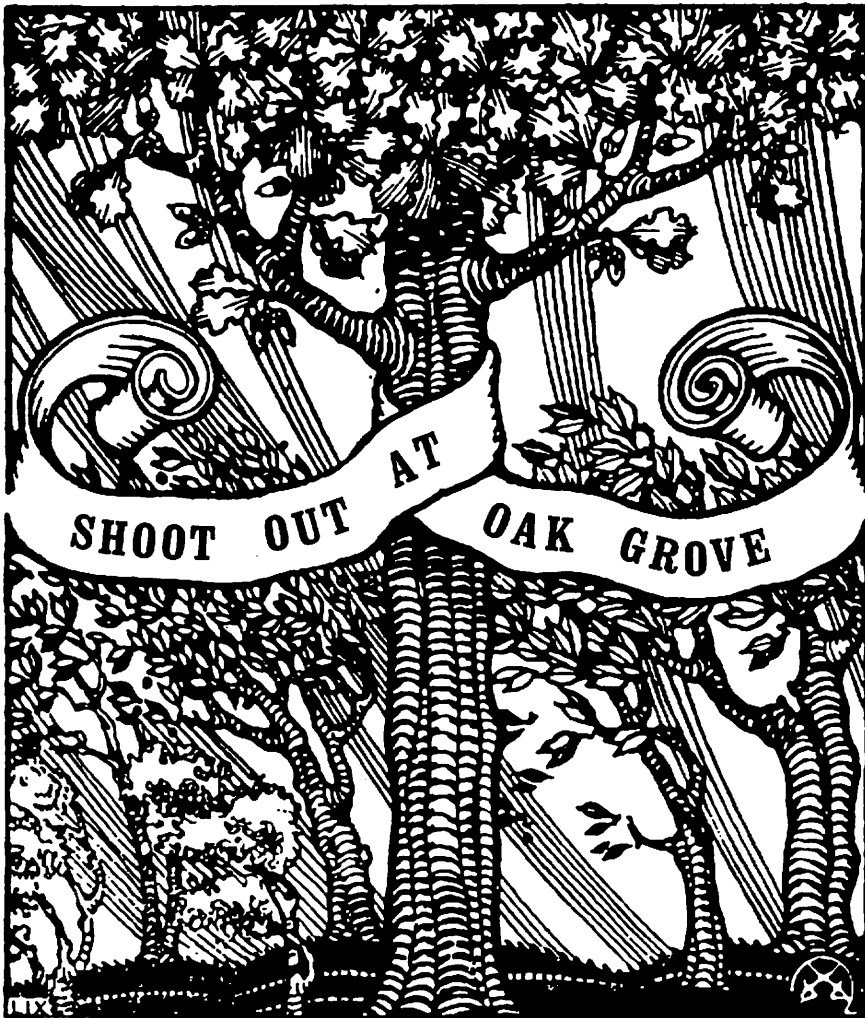
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SHOOT OUT AT OAK GROVE

by
John F. Wilhelm

The city of Denver, Colorado would not have been so named if the bullet fired by Edward Gilbert at sunrise on August 2, 1852 had hit its mark.

Although duelling was illegal in California, having been prohibited in the State Constitution and by statute in 1850, the custom continued. A duel was fought between a judge and a newspaper editor near Yuba City in 1853; another between the District Attorney of Placer County and a physician in Sacramento County in 1854. A State Senator from Yuba County and an attorney dueled near Downieville in 1855, and in 1859 a United States Senator was fatally wounded in a duel with a Chief Justice of the California State Supreme court (who resigned before the duel) near Lake Merced.

Courts rarely interfered with the practice of duelling so long as the prescribed etiquette, a derivation from the European code duello, was observed by the parties involved. This procedure usually consisted of an extended correspondence between the challenger and the challenged, meetings between seconds to agree on the type of weapons and the place and time of the meeting.

The outcome of the duel between James W. Denver, a State Senator from the Trinity-Klamath District and Edward Gilbert, aroused controversy

for a generation and probably cost Denver the Democratic Nomination for the presidency. Had the outcome been different, the city of Denver might well have a different name.

James W. Denver, a native of Winchester, Virginia, a graduate of the Cincinnati Law School, owner and editor of a democratic newspaper in Xenia, Ohio, where he practiced law, moved to Platte City, Missouri in 1842 to continue his law practice. When the Mexican War broke out, he raised a company of troupes and was commissioned a captain in the 12th United States volunteer Infantry. He saw much action and participated in the battles of Molinos del Rey and Chapultepec. After the war, he returned to Platte City to law and newspaper work. Like so many young men seeking political distinction in a new state in a stage of developing political organization, he joined the massive migration to California after the discovery of gold. In September, 1850, Denver arrived in California at the age of thirty-three, after leading a party of thirty-four people overland from Missouri.

In 1851, Denver was elected a State Senator. During the first year of his term, the California Legislature passed a bill requiring the Governor, John Bigler, to send relief and supplies to emigrants stranded in the mountains. Governor Bigler personally led the departing supply train through Sacramento.

On June 26, 1852, the day after the train left Sacramento, an editorial appeared in the San Francisco Alta California, a newspaper representing an opposing political party whose



James W. Denver
(courtesy of the California State Library)

senior editor was Edward Gilbert, asserting that Governor Bigler was making political capital out of the bill. Gilbert allowed that the object of the relief expedition was "noble and praiseworthy", but he added that the governor made himself look silly and ridiculous by parading at the head of the eight large supply wagons through the principal streets of Sacramento with a large placard on each wagon proclaiming the departure of "The California Relief Train". Gilbert went on to compare the departure of the supply train with the "arrival of lofty tumblers or a caravan of wild animals."

Gilbert, a native of Otsego County, New York had come to California in 1847 at the age of twenty-eight with a volunteer regiment led by Colonel Jonathan D. Stevens. When the regiment was demobilized, Gilbert, with previous experience as a printer, composer and associate editor of the Albany Argus, resumed newspaper work and in 1849 combined the California Star and the Californian into the Alta California. He was an elected delegate to the Convention to form a Constitution for the State of California and the first person elected to Congress from the Pacific Coast.

Denver, appointed by Bigler to lead the relief party, left Sacramento and did not reply to Gilbert's comments until July 24, in a statement signed by himself and ten other members of the relief team which called Gilbert a personal enemy of the "smallest possible calibre (sic) who could descend so low as to pervert facts and attempt to turn a worthy and commendable act to the prejudice of the Governor...an attack that emanated only from an envious and malicious heart."

Two days later, Gilbert replied in the Alta denying any intention of perverting facts in order to injure Governor Bigler or being a personal enemy of his, and in fact having no personal acquaintance with him. He ended his editorial with the statement: "...if any of the gentlemen attached to the train, or any other friend of the Governor, desire to make any issue upon the matter, they know where to find us." This language, in the context of the time, could mean but one thing: an appeal to the code duello. Though this was obviously aimed at Denver, one wonders if Gilbert realized that he was inviting a duel with eleven people.

On July 29, Denver replied in the Democratic State Journal that he would be engaged in leading the relief train for the remainder of the summer and that on the first Monday in January he would be at Vallejo. Denver's response was perhaps a subtle suggestion that the "matter" could be resolved without resort to arms. But Gilbert responded immediately on July 30 in a letter to Denver admitting the authorship of the editorials in the Alta and demanded the "withdrawal of the offensive and unjust charges and accusations which you have made," with the postscript, "This will be handed to you by my friend H. F. Teschemaker, Esq."

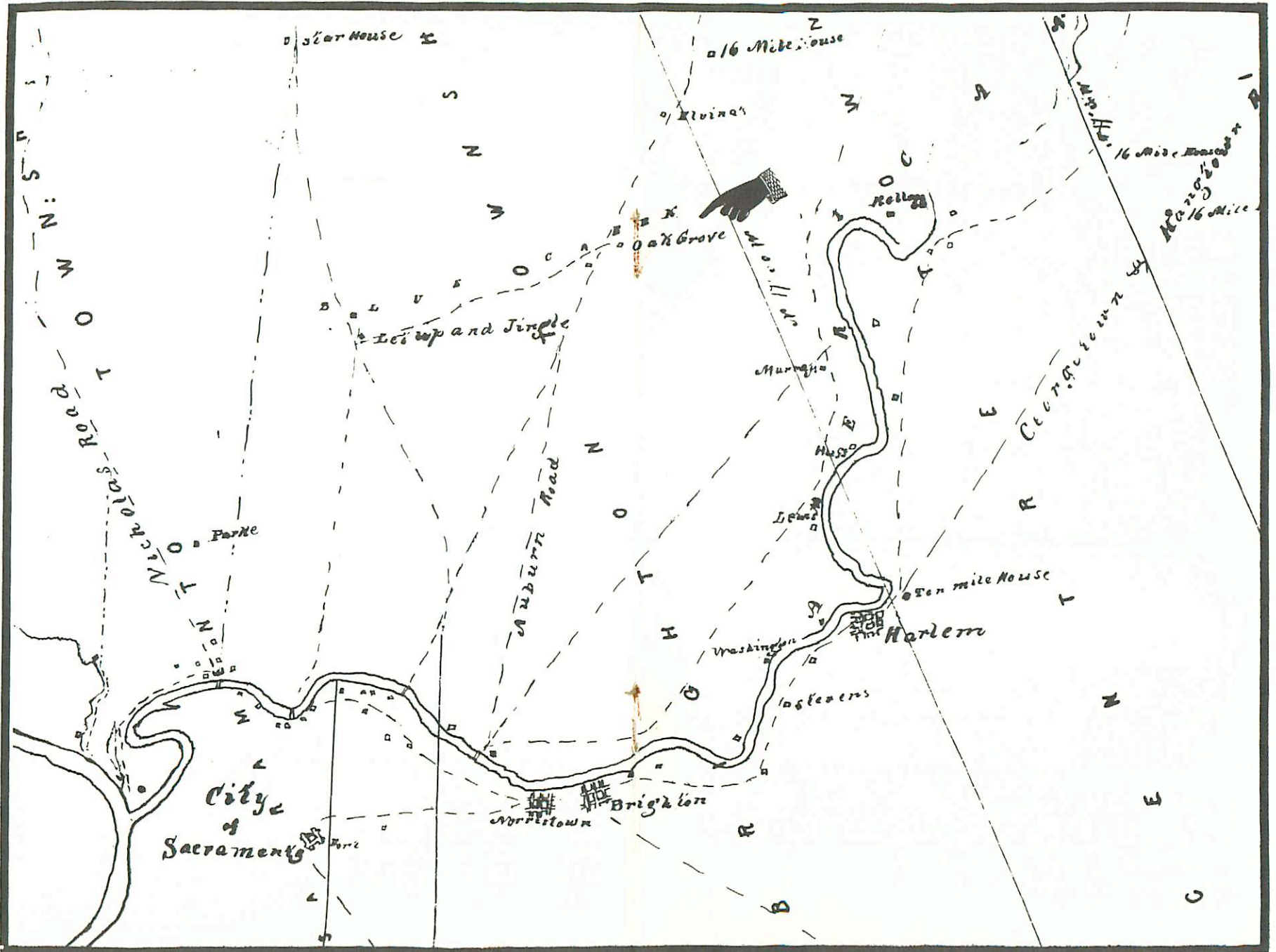
Denver replied from Sacramento on August 1 that "not one word...you allude to can be withdrawn by me until the articles calling them forth are withdrawn by you." On the same day Gilbert replied "...it only remains for me to demand the satisfaction known to the code of honor." Gilbert's challenge was accepted.

At sunrise on Monday, August 2, 1852, James W. Denver and Edward Gilbert exchanged shots from Wesson rifles at a distance of forty paces. The duel took place in Sacramento County, a short distance from the Oak Grove House, thirteen miles from the center of Sacramento on the Auburn Road. Henry F. Teschemaker, later mayor of San Francisco, was the second for Gilbert and Vincent E. Geiger acted for Denver. Dr. Wake Briarly was surgeon for both combatants.

Edgar Culver, owner and proprietor of the Oak Grove House and a witness to the duel, recalled in 1859 that early in August, 1852, two carriages arrived at the Oak Grove House between 12 and 1 o'clock in the morning. The occupants of the carriages requested rooms and asked to be called a half-hour before sunrise. Carriages and vehicles of all descriptions kept arriving and by four o'clock at least sixty persons had assembled. At sunrise the principals proceeded about an eighth of a mile from the Oak Grove House and took positions forty paces from each other. Gilbert wore a green surtout so as to be less distinguishable against the green foliage. Denver wore a large cloak which he threw off before taking his position. The choice of positions was decided by a toss of a coin in Denver's favor who then placed himself with his back to the rising sun. The first exchange of shots had no effect, and Denver walked off towards his carriage. It seemed to Culver that Denver "threw away" his first shot. After about fifteen minutes, Dr. Briarly walked over to Denver and the two spoke briefly and Denver resumed his former position. "The repeated conversations between the seconds of each, impressed me with the idea that Mr. Gilbert would



Edward Gilbert
(courtesy of the California State Library)



March 20, 1852 map prepared by A. W. Thompson, Deputy County Surveyor and Engineer of Sacramento County.

(courtesy of the California State Library)

not hear to a compromise, or was not satisfied...as far as I could judge, or see, by the actions of Denver...he was willing to accept any honorable proposition for a settlement of the difficulty...I felt exceedingly vexed to think that another fire should be demanded under the circumstances."

The weapons were reloaded and the word given. Gilbert fell instantly. Denver's shot pierced Gilbert's left side just above the hip bone and proceeded through the abdomen coming out on the right side almost directly opposite the point where it entered. Gilbert survived for four or five minutes and "without a word or scarcely a groan his spirit passed from the earth."

Gilbert's body was taken to the Oak Grove House where Denver and friends of both parties had breakfast, and then all left immediately for Sacramento. Later that day, the body was escorted to the residence of Alderman J. H. Nevett in Sacramento where the Reverend Osgood C. Wheeler addressed the company present and concluded with a most eloquent and appropriate prayer.

On Wednesday, August 4, Gilbert's body was accompanied by the Governor's Guards and the Sutter Light Infantry in full uniform, personal friends of the deceased, the Mayor and other city officials. Among the pall bearers was the prominent banker Darius Ogden Mills. Services were held by the Reverend Wheeler at the Baptist Church from whence the body was taken to San Francisco on board the steamer Antelope accompanied by Gilbert's close friends, Judge Joseph L. Winans and Henry B. Livingstone. After final ceremonies at the

Reverend T. Dwight Hunt's church, Gilbert was buried in the Old Yerba Buena Cemetery where the City Hall now stands. The members of the San Francisco press corps met in a body and resolved to "wear the appropriate badge of mourning for thirty days in honor of our brother."

Why did Gilbert insist on a second shot? Probably because he had often ridiculed "bloodless duels" and a few months previous to his duel with Denver, had had a difficulty with John Nugent, the editor of the San Francisco Herald. A hostile meeting was arranged:

. . . but on the field, before the parties were placed, Mr. Gilbert offered to retract, and to publish an apology in his own paper. It was accordingly published in the Alta. Gilbert, who had previously ridiculed bloodless duels, became from that day a changed man. He seemed to feel that he had placed himself in a false position--that he had unnecessarily provoked a challenge, and then at the last moment receded from his own position. He even changed the manner of his dress, withdrew from society, took a noted terrier dog 'Tips' for his only street companion and in that strange way maintained himself until he got into the difficulty that ended his life.

The consequent humiliation and bitterness probably drove Gilbert to insist on a second shot in the duel with Denver, which brought death to himself and a haunting shadow over the career of the man who threw away his first shot, and did everything possible to avert the terrible end, the result of Gilbert's insistence.

Denver continued to pursue a political career. He was Secretary of State for California from 1853 to 1854, and served in Congress from 1855 to 1857. President Buchanan appointed him Commissioner for Indian Affairs and later Governor of Kansas Territory. The city of Denver was named in his honor, since he was Governor of Kansas Territory when the city was the county seat of Arapahoe County, at that time a part of the Territory of Kansas. He served as a Brigadier General in the Union Army during the Civil War. He twice ran unsuccessfully for Congress from Ohio. In 1876 and 1884 he was considered as a presidential nominee, but the Democratic National Committee, influenced by distorted versions of the duel with Gilbert in the Eastern press, worked to his disadvantage and his name was withdrawn. He continued to practice law in Washington, D.C. until his death on August 9, 1892.

NOTES

1. There were other duels too numerous to mention here. See Oscar T. Shuck, History of the Bench and Bar of California (Los Angeles, The Commercial Printing House, 1901), pp. 227-264.

2. An excellent biography of Denver is George C. Barns, Denver the Man: The Life, Letters and Public Papers of the Lawyer, Soldier and Statesman (Wilmington, Ohio, 1949).

3. Alta California, June 26, 1852, Vol. III, No. 177.

4. See Zoeth Skinner Eldredge, History of California (New York, The Century History Co., 1915), Vol. III, pp. 287, 308, 311, 367, 369. See also The Grizzly Bear, July, 1907, Vol. I, No. 3, p. 40.

5. From the Democratic State Journal, July 24, 1852. Cited in Barns, p. 41.

6. Alta, July 26, 1852, Vol. IV, No. 31.

7. From the Democratic State Journal, July 29, 1852.

8. The communications between Gilbert and Denver between July 30 and August 1, 1852 are in the possession of George C. Barns. See Barns, p. 42.

9. George F. Wright, ed, Thomas H. Thompson and Albert A. West, History of Sacramento County (1880). a reproduction. (Berkeley, Nowell-North, 1960), pp. 213-214. See also

Barns, p.55. Thirteen miles from the center of Sacramento--a somewhat vague point. The likelihood is that the duel took place in the vicinity of the present day Twelve Mile House on Auburn Road.

10. Edgar Culver in a letter (October 12, 1859) to Frank Denver, a brother of James W. Denver. Cited in Barns, pp. 52-55. That Denver "threw away" his first shot is corroborated by other witnesses. See e.g., the statement of Mr. W. A. Cornwall: "...Denver reserved his fire, and purposely threw away his own." Shuck, p. 228. See also Denver's letter to James O'Meara, August 2, 1877, the 25th anniversary of the Duel in which he admits having wasted his first shot. Barns, pp. 57-59.

11. Sacramento Daily Union, August, 1852.

12. Union, August 5, 1852 and Barns, p. 44.

13. Union, August 6, 1952.

14. Gilbert often ridiculed "bloodless duels." see Frank Soule, et al., The Annals of San Francisco (New York, D. Appleton & Co., 1854), p. 398.

15. James O'Meara in the San Francisco Daily Examiner, July 17, 1877. Vol XXV, No. 13. O'Meara sent a copy to Denver on the same day.

16. Barns, p. 51.

17. See e.g. an article entitled "Reminiscences of Pioneer Journalism in

California," by Samuel C. Upham in the Advertiser's Guide, a Philadelphia publication, on December 6, 1876 and which appeared in the Daily Examiner on July 17, 1877, Vol. XXV, No. 13. Upham's article asserts that, "Some twenty years ago Mr. Gilbert was murdered (sic) in a duel in San Francisco." (sic). See also the testimony of Henry B. Livingstone, a friend of Gilbert's who accompanied his body to San Francisco and in whose arms Gilbert died.

To General Denver: Learning that you have been attacked about the Gilbert duel, I desire to say that I was a friend of Gilbert, saw the duel fought, and in justice to you I declare that your conduct in that trying emergency was perfectly fair and honorable; if you desire particulars, telegraph immediately.

San Francisco, California

October 22, 1886

Henry B. Livingstone

Barns, p. 59.

ABOUT THE AUTHOR

John F. Wilhelm is a semi-retired professor at California State University, Sacramento. After serving in the United States Navy during World War II (he was at Pearl Harbor on December 7, 1941) he returned to college. He was awarded a Master of Arts Degree from Northwestern University and a Doctor of Philosophy Degree from the University of Minnesota. He came to Sacramento in 1953. His field of special interest is Western American Literature. An active member of the Lewis and Clark Society, he has followed the trail of that illustrious expedition. His account of Sacramento's most famous duel, which is the subject of this issue, is the most authentic and best documented account of that confrontation.

ACKNOWLEDGEMENTS

Publications Committee

**Dr. Joseph A. McGowan
Mary A. Helmich
Shirley Carter
Rosalie Prosser
Norma Ricketts
Willard Thompson
Norman L. Wilson
Lucinda Woodward**

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