



The Border Vidette

Winter 2022 Volume 2, Number 2



Ink Slinger (editor)

Doug Hocking

doug@doughocking.com or inkslinger@cochisecountycorral.org

Printer's Devil

Jonathon Donahue

jon404@outlook.com

COCHISE COUNTY CORRAL

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Deputy Sheriff	-	Dennis "Nevada" Smith
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The *Border Vidette* is published quarterly by the Cochise County Corral of the Westerners. The Corral meets at 7 p.m. the first Thursday of each month at Schieffelin Hall, Tombstone. Schieffelin Hall was built in 1881 as a theater and lodge of the Freemasons. King Solomon Lodge Number 5 still meets upstairs. The Corral is dedicated to preserving Western Frontier History and Legend and to having a good time while doing so. Membership in the Corral is \$20 and entitles the Ranch Hand to attend talks on the Old West, join us on Trail Rides (by automobile) to sites of historic interest, and to our publications: *The Fremont Street Mail*, a monthly newsletter, and the *Border Vidette*, our journal. More information about the Corral can be found at www.CochiseCountyCorral.org and about Westerners International at <http://www.westerners-international.org/>

The *Border Vidette* accepts **interesting** articles about Western Frontier History no matter how short. Articles should be sourced and accompanied by endnotes. An unlimited number of photos (JPG preferred) may accompany the article. If the author has the rights to the article, the *Border Vidette* is willing to republish it. The journal is only published on-line and may be distributed as a PDF via email. Please contact us if you think you have something interesting to share. Contact us at InkSlinger@CochiseCountyCorral.org

A vidette is the term used in the 19th century for a mounted (cavalry) lookout.

Cover: Wyatt Earp stands across the street looking toward the scene of the Gunfight on Fremont Street Near the OK Corral. Photo by Doug Hocking

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The end of the Last War Chief of the Nednhi Chiricahuas

By Bernd Brand



This painting by Mrs. Mary P. G. Devereux, dated 1881, at the San Carlos Reservation in Arizona, is the only known picture of Juh. So far no photos have been discovered.

The Nednhi Band of the Chiricahuas occupied their home territory in northwest Chihuahua and in northeast Sonora, both States of Mexico. Mostly raiding and warfare brought them also to the USA, namely New Mexico and Arizona. The last reported war chief was Tan-bin-bil-no-jui,

known to the Mexican as Ju (ventino) and to the Americans as Juh. The meaning of his name is still uncertain.

Juh is described in general terms as one of the greatest of Apache war leaders. He exhibited supreme qualities of command and an understanding of strategy. He participated in and guided many battles, predominantly very successful ones for his warriors. Among others was the trap he laid for Lt. Howard Bass Cushing in the Mustang mountains where the Lieutenant was killed. His ambush expertise also led to the death of Juan Mata Ortiz at Cerrito Mata Ortiz in Chihuahua. He was reported as notably cruel not only by Mexicans and Anglos but also by some of his own people.

What brought Juh's reputation down among his own people was a Mexican ambush on his camp on January 24, 1883, at Satachi Falls some miles west of Guaynopa.



Canyon de Guaynopa – Chihuahua
Example of Sierra Madre wilderness area – Apache camp sites

As a result of this initially unprotected and deadly assault the groups under Juh split up and followed Geronimo and Chihuahua. Only immediate family groups stayed with him.

During the second half of September 1883 Juh and his people stayed in Viejo Casas Grandes trading for supplies.



Ancient Trading Post
in Viejo Casas Grandes (photo by Bernd Brand)

Some of his members were having alcohol. But on this occasion not Juh, according to his youngest son Daklugie who was with the group.

On suspicions of treachery by the Mexicans the party left southbound for the mountains. Following the Rio Casas Grandes and then turning southeast on the Rio Palanganas, they climbed up a rocky hill. There is a location known by the local people as “**Salto de Juh.**” It is here where Juh fell with his horse down into the river, some 28 feet below. His 12- year-old son Daklugie reported that the horse stumbled to the side and fell with Juh off the cliff. Other Apaches from his group reported that Juh was drunk and fell with his horse down into the river. Yet other reports state that Juh raced his horse up the steep and rocky hill and fell into the river. One report indicates that Juh died of a heart attack and stumbled into the river. Additional reports all contradict themselves – so whom to believe?

At any rate Juh’s three sons, Daklegon, Delzhinne and Daklugie, were with their father down by the river. Delzhinne was holding his head above the water when he passed on. They buried him on the westside on the sandy beach of the river, known to locals today as “**Charco de Juh**”.

Friday, September 21, 1883

"Salto de Juh"
"Charco de Juh"
Sierra Madre, Chihuahua, Mexico

Aerial Picture taken by
Tom Bethard
Feb. 20, 2018

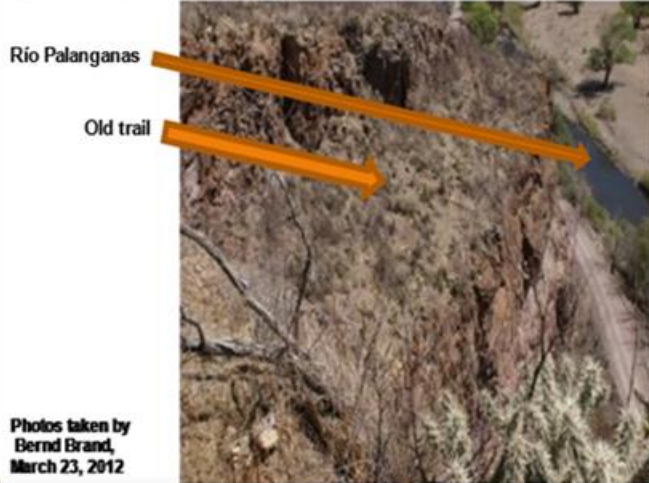


Old trail

Rio Palanganas

Rio Palanganas bend at bottom of "Salto de Juh"
Possible burial site along a 300 to 450 yards stretch

Ledge below the trail from which horse and rider
fell or jumped into the Rio Palanganas below



Photos taken by
Bernd Brand,
March 23, 2012



Area of Juh's death south of Viejo Casas Grandes / El Rucio and Mata Ortiz, Chihuahua, Mexico

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JUH, THE APACHE, DEAD.

He is Killed By Falling from His Horse Into the Casa Grande.

Charlie McComas in the Custody of His Widow in the Mountains.

Promise of the Captive's Release on the Payment of a Ransom.

Benjamin Butler Clogs the Wheels of Justice By Neglect of Duty.

Chief Juh's Death Confirmed. KANSAS CITY, October 3.—A Times Deming special says D. H. Leroy and George Wilson, who left here September 19 for the purpose of rescuing Charlie McComas from the Apaches, returned to-day. On arriving at Casa Granda they found that Chief Juh had been killed,

the Rev. G. A place. Upon sepulture, ho the remains disturbed wi Mayor and c tion. The M the matter is City Council condemning: peare's grave

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PARIS, Oct clares that if dent of the to keep his Palace Elps see Henri Chamber of of France.

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found that Chief Juh had been killed, on the 21st ultimo, by falling from his horse, while drunk, into the Casa Granda river. Geronamio succeeds him as Chief. Leroy and Wilson had much trouble in gaining an interview, owing to the unsettled condition of affairs in the ignoring of Juh's sons in the succession, and in the fact that Mexican soldiers were trying to get the Indians drunk, presumably with a view to massacring them. The ambassadors finally secured an interview and offered Geronamio one hundred bolts of calico and two hundred cartridges for the boy.

The Chief said the boy was with Juh's widow in the mountains, and she would not want to give him up, but he (Geronamio) would compel her to release the child upon the payment of a the ransom.

At this juncture the Mexican soldiers appeared, and the Chief broke off the interview. Leroy and Wilson were unable to see him again, and returned unsuccessful.

Further steps, however, will be promptly taken for the rescue of the child.

Geronamio claims to have 150 warriors, and there are about 600 Mexican troops in the vicinity.

Leroy and Wilson are well known citizens of Deming, and their statements are reliable.

A Reflection on Ben Butler.

WASHINGTON, October 3.—There still is much doubt whether the legal tender

sembly of the Church of the U ternoon in the city. After prel to the election of States Senator l ing the nomina didate for this or any other ti ballot was th Beardsley. S elected. The til to-morrow.

Another I EL PASO, T pedition sent c Comas fifteen has not been fears are enter is feared they Mexican sold them a valu chandise. Sic Wright leave from San Jo news of the particulars,fr

Railr CINCINNATI meeting o t short lines w the Grand E morning th report of h terday was adopted. E stored at n General Fr Chicago on Passenger place in Sa

Newspaper Article dated October 03, 1883, reporting Juh's death on September 21, 1883

Bernd Brand is a member of the Cochise County Corral of the Westerners residing in Tucson where he is also a member of the Tucson Corral and of the Order of the Indian Wars. Bernd who is familiar with a number of regional dialects of Spanish has been for many years researching a book on Juh. Let's encourage him to complete the project.

Apache, 1916 – Whistle Stop

By Doug Hocking

I have to thank Chuck Smith of Safford for this one. Every search had missed it. No one else was aware of it. Cochise County historians denied it had happened.

Apache, Arizona, was a whistle stop on the tracks of the El Paso and Southwestern Railroad. There was a water tank, a corral, a general store and a school may have already been operating. The school, still there, is one of four remaining one-room schools in the state. It provides K-8 education to the children of ranchers, farmers, and others.¹

The El Paso and Southwestern Railroad started its corporate life as a project of the Copper Queen Mine and Phelps Dodge Corporation as the El Paso and Southeastern Railroad on May 24, 1888. The people of Tombstone had high hopes that the train would run through their fair city but these were dashed and the 36-mile run, completed in January of 1889, went from Bisbee along the foot of the Mule Mountains to the San Pedro River and on to Fairbank where it met the Santa Fe. It was built to haul copper ore to the smelters. On September 26, 1894, an additional 19 miles of track linked the EP&SE to Benson. On October 19, 1900, through a complicated series of short-line construction projects and subsequent sales and purchases, the EP&SE became the El Paso and Southwestern, EP&SW, still apparently owned and operated by Phelps Dodge through one or another of its subsidiaries. In 1902, the tracks ran 155 miles east to Douglas and then northeast to Deming, New Mexico, where it met the Santa Fe and the Southern Pacific Railroad.² It was not yet connected to El Paso, but one day would be, making it possible, on March 9, 1916, for Pancho Villa to cross the tracks, not to mention the border, and kill 19 Americans at Columbus, NM. During the summer of 1917, the International Workers of the World, imported strikers, folks who weren't on the mines' payrolls, to Bisbee demanding worker ownership of the mines and an end to the Great War. On July 12, 1917, Sheriff Harry Wheeler deported 1300 of them to Columbus, in cattle cars on the EP&SW, but they never got there. Columbus expressed its adamant desire not to entertain these unwanted guests and the train was stopped eight miles west of town.

The tracks linked the mines to Douglas, where there were two smelters, one operated by Phelps Dodge. Douglas may be said to have begun its corporate life in 1902. It soon became the commercial hub of southeast Arizona with influence extending across the Peloncillo Mountains into New Mexico's Animas Valley. Douglas was conceived as one of the earliest projects of urban engineering with a fancy hotel, the Gadsden, a wide commercial street, a fancy train station, parks surrounded by up-scale homes with the homes of lesser folk a bit further out. It is a crossing point on the border with Mexico.

Apache, although tiny, is at the center of a great deal of history. It is named in honor of Geronimo's 1886 surrender to General Miles which took place four miles to the east in Skeleton Canyon. This canyon links the San Simon Valley, home to the outlaw Cow Boy Gang of Curly Bill Brocius, Johnny Ringo, and Ike Clanton, and to Black Jack Christian's High Five Gang, to the Animas Valley of New Mexico. This is the route of smugglers and rustlers between Arizona-New Mexico and Chihuahua and Sonora. Legend has it that in 1879, the Clanton Gang – the Clanton's were not

the leaders; they were more like cattle launderers working much as money launderers work – the Clanton Gang (really Curly Bill’s Cow Boy Gang) ambushed a Mexican gang led by Jose Estrada. The Mexicans had sacked several banks and cathedrals in Monterrey and were bringing gold, silver bullion and diamonds north. The Cow Boys killed them all leaving the bones of the Mexicans, their horses, and mules to bleach in the Arizona sun, hence the name Skeleton Canyon.³ They then buried the treasure somewhere in the canyon. This is one of the reasons that strangers are no longer allowed in the canyon. Not because there is treasure, but rather because folks looking for it keep digging holes.



Geronimo Surrender Monument at Apache. Photo Doug Hocking

It is certain that both Apaches and rustlers used the canyon as a conduit. In July 1881, the above mentioned Cow Boys, ambushed a party of Mexicans. The Cow Boys were either leading a stolen herd north after attacking a rancho and killing the inhabitants and were pursued by Rurales or they ambushed a party of Mexican smugglers and got off with \$4,000 in bullion and livestock. This may explain why one of the McLaury brothers had a large amount of cash on him when the Earps and Doc Holliday shot him on October 26, 1881, on Fremont Street, near the OK Corral. Mexican bones were left to bleach.⁴

On September 8, 1916, the *Bisbee Daily Review* expressed astonishment that a horse-mounted posse led by Sheriff Harry Wheeler was on the trail of “the seven men who held up the Golden State Limited Wednesday night [September 6, 1916], west of Apache. Cochise county opened its eyes to the fact that the old Arizona has not entirely passed to the limbo.”⁵

It’s unclear why eyes would ever have been shut. Folks in Cochise County still aren’t sure the Wild West is over and certainly wouldn’t have in 1916. After all, in March 1901, the Arizona Rangers had been founded to combat lawlessness.⁶ Most of the ranger force was assigned to Cochise County. On October 22, 1904, Sergeant Harry Wheeler, future sheriff, was a Ranger when he shot it out with two outlaws at the Palace Saloon on Congress Street in Tucson. On February 28, 1908, a love triangle erupted in Benson between the Virginia Hotel and the train depot. J.A. Tracy had been dumped by “Mrs.” D.W. Silverton in favor of Mr. Silverton. Tracy figured to slay them both, but lieutenant Wheeler intervened. Allowing Tracy the first shot, which pierced the Ranger’s thigh, Wheeler commenced to put four .45 caliber holes in Tracy who continued firing wildly. Claiming to be done in and out of ammunition, Tracy lay in the street as the Ranger lieutenant approached, waiting his moment to fire a round into Wheeler’s foot. The Ranger responded by throwing rocks and then kicking the pistol out of the hand of the dying lover, apparently employing the foot that was not as yet wounded. Soon after, Wheeler was promoted to captain, the top slot in the Rangers.⁷ On February 15, 1909, the Arizona Legislature abruptly disbanded the highly effective Arizona Rangers. This was not because lawlessness had ceased; the legislature, after all, was still in session.

In addition, according to the *Tombstone Weekly Epitaph*, there were still Apaches on the prowl in 1916:

“A detachment of cavalry went through Tombstone today mounting at daylight, bound for the Dragoons. They were from Huachuca and had been ordered to intercept the Apaches supposed to be on the way from San Carlos to the Sierra Madres in Sonora.”⁸

The fellow who led the raid on the train at Apache Siding might have surprised them. Joe Davis, alias Joe L. May or Mayes, although young was a part-Cherokee, Oklahoma, career criminal. According to the *Bisbee Daily Review*:

“Davis first broke into prominence several years ago when a posse of thirty-two men, headed by a sheriff, stopped at the Davis ranch to investigate. No warrant was held for Davis or any of his family and when the posse attempted to search, was held off. Davis’ wife was commanded to halt in the yard when the posse rode up. She fled into the house, however, and a member of the sheriff’s force opened fire. In the fight that followed a

number were killed on the attacking side. Davis was exonerated from all blame in this matter as it was proved that he did not fire the first shot. It is said that the man is wanted in four different states on charges varying from train robbery to murder.”⁹

He got away with the shooting of a deputy but was wanted in four states with charges ranging from train robbery to murder. He was mistaken for a cowhand and might have classified as a “saddle tramp,” although he never seems to have stayed anywhere long enough to earn a paycheck. He had plenty of money and bought a car in Douglas. He used a number of aliases and seems to have had some interesting friends. One of these was rodeo champion, C.W. “Doc” Pardee of Prescott, a bronco rider, movie actor, rodeo announcer and breeder of thoroughbred horses. Pardee was inducted into the Arizona Horseman’s Hall of Fame in 1965.¹⁰ In February 1917, he was indicted for attempting to assist Joe Davis in breaking out of the Prescott jail. He was acquitted although there was a plot involving acid, hack saws, and complicit jail trustees.¹¹



The Golden State Limited, note the baggage and express cars. Photo Wikipedia.

Joe Davis met W.T. “Buck” Bertholf in Arizona during February 1916 and the plotting for a railroad heist seems to have begun at that time. Buck had been in Arizona for some time and had known Davis since childhood in Oklahoma. In March, while the boys were on the prowl between Prescott, Cochise County, and Deming, New Mexico, Pancho Villa raided Columbus on the

EP&SW line. In April and May Buck and Joe met at Seligman, Prescott, and at the Boquillas Land and Cattle Company south of Benson. Jess Spurlock and Johnny Carroll joined the pair at a July meeting. On August 1, they settled in at the ranch of Clay McGonigle where they stayed for three weeks before moving to the Henderson Ranch in New Mexico's Animas Valley across the Peloncillo Mountains from Apache, Arizona. They stayed there for ten days until September 5, 1916.

This raises questions about whether or not they stayed anywhere long enough to earn a paycheck. And it leads to questions about whether McGonigle or Henderson and their ranch hands were complicit in coming events. Henderson would die in December after being injured in a car crash in September. Questions directed at his widow suggest that law enforcement officers thought he might be involved.

During late August and early September, the boys kept busy. Joe Davis found time to send a telegram from Deming to Lulu Davis at Claude, Texas telling her to wait for word before starting out and that he would send her money but couldn't just now because "Little Pants" [Carroll] had forged a check on him for \$700.¹² On August 15, Davis bought a car at Overland Auto in Douglas from D.B. Hutchins using the name Joe L. Mayes presenting a \$1,000 check. Meanwhile, Bertholf was busy at the hardware store buying 10 foot of fuse and blasting caps under the name of Bill Smith.¹³ They used the car to scout locations along the EP&SW.

During this happy summer season, Joe found time to write to his Lulu, although he may have been puzzled as to whether she was Lulu Davis, Cobb, or Mayes or even if she was actually his wife. Bertholf seemed to think so, but no one could find proof. Nonetheless, he wrote to her and the letters were later found by the law in a trunk the pair left behind at the Henderson ranch in Animas Valley. At trial, Davis' lawyer, Judge W.L. Barnum, in a carnival atmosphere of numerous objections claimed that reading these "private" letters in court was a violation of the defendant's 4th and 5th Amendment rights. Davis wrote:

“(Written from Douglas to Lulu Davis at Claude, Texas.)

“My Dear One,

I have bought a car and will leave for you about the 3rd of Sept., if I am alive and get by with the deal. I feel pretty good. I will leave a letter at the place where I start from. If I am killed it will be mailed to you. If I am not, it will not be mailed. This letter will tell you where my stuff is. Don't let anyone know when I am coming back. I have been in Old Mexico. Buck is backing up on everything and had to get another man. When I get through here, we will be together and stay that way. Be a good girl . . . Be good, darling, and have a good time for us both. Joe.’

“(Second Letter - A registered letter mailed from Deming by Joe Davis to Lulu Davis at Claude, Texas.)

“My Dear Lulu,

The range is pretty bad and there is much mud. Come to Douglas and stay at the Gadsden. Get there by Sept. 9. Go by the name of Mayes at Douglas. Things may be pretty hot by

the 6th or 7th. If I cannot come for you myself, I will send someone. I will be an old man, about 50 years, and getting gray. We spent four hours in a mudhole today. Maybe we will take a trip in the car. Will send you some money as a woman sometimes goes broke. I heard 'money' over the phone and so send you some in case you need it. Don't let any of your people know where you are going. Joe.”¹⁴

“Come to Douglas and stay at the Gadsden.” In 1916, the Gadsden Hotel with its marble pillars and grand staircase and stained-glass windows and skylights was arguably the finest accommodation in Arizona. These outlaws knew how-to live-in style.



The Gadsden Hotel Lobby. Photo Doug Hocking

At the Henderson ranch, Carroll displayed the quart container of nitroglycerine he'd brought from Oklahoma. After securing a pint to take with them, the four outlaws buried the remainder and on September 5, took off on horseback for Rodeo, New Mexico. Mrs. Morgan, a rancher's wife recalled Bertholf and Carroll stopping at her ranch near Rodeo to wash their feet.¹⁵

In accordance with the letter's instructions, Joe Davis' moll boarded the Fort Worth and Denver railway in Claude switching later to the Santa Fe and finally at Deming to the EP&SW for the ride to Apache. As the train passed through Hachita, seeing "Steamboat" and other hobos riding the

blind baggage, Private William Hynes of Troop K, Fourth Cavalry, was suddenly taken with an overwhelming romantic desire to take “French leave,” and join the hobos.

At Rodeo, on September 6, Bertholf and Carroll stayed in town waiting for the EP&SW train that carried Hynes, “Steamboat,” and Mrs. Lulu Davis. On board, Conductor George Davy punched Lulu’s ticket, as he later recalled in court.¹⁶ Meanwhile, Joe Davis and Jess Spurlock continued their ride going south another 15 miles to Apache and then proceed a mile further where they tied up their stock and lighted signal fires.

When the train arrived in Rodeo, it was already a dark evening. Bertholf and Carroll joined several hoboes and Private Hynes in the blind baggage. It must have been crowded and this may explain why later on Hynes couldn’t identify either of them. As they boarded, they may have already been wearing masks. Given the cloud of hot soot and cinders that would have hovered them in the blind baggage right behind the tender and locomotive, this wouldn’t have struck anyone as strange. Cow hands wore neckerchiefs over their faces as proof against dust. Shortly after leaving the station, the two outlaws began the climb over the tender toward the cab. The hobos and the soldier would have reacted in one of two ways. Either they’d have thought it was none of their business and they didn’t want to be involved, or they’d have thought the newcomers were just seeking a more comfortable spot.

The outlaws surprised Engineer Allen Lovett and Fireman W.E. Jones, ordering them to stop the train at Apache. There the criminal duo ordered the passenger cars disconnected leaving only the mail and express cars to continue the journey. Davis and Spurlock boarded the train while it was stopped at Apache. Brakeman John Graham, eating his dinner in the dining car of the fancy Golden State Limited, was surprised by the unscheduled stop and hurried outside to see what was wrong. A man with a gun ordered him to give the order to start the train. There was some confusion as the train departed which may have included a shot fired over Jones’ shoulder. One of the outlaws told a train crewman that he better get on and then running to catch the train himself called out, “Too late. You’ve missed it.”

The passenger cars and passengers were left behind unmolested. Nonetheless, there was panic. The Bisbee Daily Review reported:

“One woman, it is said, hid a diamond ring so well that she was nearly an hour finding it after the scare was over and the train on its way to Douglas.”¹⁷

The dining car conductor hid all the money he’d taken in from passengers paying for dinner. And then, thinking that the outlaws might think it strange that he had no money on him, dug out \$15. This he said he intended on handing to the robbers willingly to show “that there was much sympathy between members of the profession.” (This seems to be a reference to solidarity between members of the proletariat, union men and outlaws. He said it, not this author who merely quotes him, and would never suggest that the unions are run by crooks and socialists.) While some passengers were on the verge of hysteria, others sat on the observation platform sipping lemonade. Half a mile down the track toward Douglas and Bisbee, the outlaws were about to provide a show.¹⁸

Outlaws, soldier, hoboes, and some of the train crew rode crowded into the blind baggage and the locomotive's cab. Joe Davis stood beside Private Hynes and, although the bandit was masked, Hynes was later able to identify the man who stood beside him for the court although he was unable to pick out any of the others. At the signal fires, the outlaws had the train stop and everyone was escorted to the middle express car. Davis ordered the brakeman to open it. It was locked from the inside, and he could not. A pick was soon found, and Hynes and the tramps put to work cracking the door.

Realizing that the express agent or mail clerk might be waiting within with a loaded weapon prepared to go postal, the bandits selected a hobo to enter and ensure that the car was safe for them. R. M. Collier of the Post Office waited within. According to Steamboat, the man selected for this task, he cried out pleading: "I'm only a poor hobo, if you kill me, you will kill a good man."¹⁹

Assured that the car was safe, two outlaws entered. Confronting Collier, they told him that they would now proceed to the mail car to get the registered mail. Collier replied:

"'Partner, you have selected the wrong day.' He explained how the mail was 'Sunday out of New York and Labor Day out of Chicago.' He said that the man said they would look anyhow, that when they got down he saw the man making an effort to shove the two registered pieces of mail either into his pocket or inside his shirt."²⁰

Taking the registered mail was a mistake. They had now committed a federal crime and what's more the records kept allowed the officers of the court to identify the mail wrappers later, tying the men conclusively to the crime.

The bandits now commenced the comedic grand finale as they attempted to blow the express safe. Those with seats, and lemonade, on the observation platform looked on as the badmen made six attempts to blow the express safe. They only managed to get the top door open and found nothing of use within. Frustrated, they collected their horses and rode away into the night.

Pursuit followed swiftly as Sheriff Harry Wheeler of Cochise County went after them assisted by Constable Sam Hayhurst of Douglas. Sam was running against Harry for sheriff, and both had to make trips to town to vote. Tension in the posse must have rivaled an episode of *Longmire*. Like Longmire, Harry Wheeler prevailed. Within a few days, the sheriff succeeded in in arresting Flin "Rusty" Tulk who at a hearing on September 20th was held over on \$25,000 bond on a charge of robbing the United States mails.²¹

By September 27, "Rusty" Felk had a Bisbee defense team who may have gotten the bond reduced to \$10,000. There are several possibilities here. There may have been two Cochise County cowhands named "Rusty" in 1916 who were both arrested for robbing the mail, Rusty may have changed his name from Tulk to Felk, or the *Epitaph* may have reported the name and bail incorrectly. This latter is most likely as John Clum was no longer the editor. This is where Rusty Felk fades from the story. He may have been a cowhand at one of the ranches the bandits frequented who ratted out his buddies in exchange for his release. He may have been innocent. He isn't mentioned in court during the trial of Spurlock and Davis.²²

The four outlaws and Mrs. Davis drove away their new car first stopping briefly at the Henderson ranch in the Animas Valley, where Mr. and “Mrs.” Davis left behind a trunk containing the incriminating letters quoted above. Two days after the robbery, Mr. Henderson went to Douglas where A.T. Prather cashed a check for him. The check was signed by Joe Davis. The outlaws drove on to Oklahoma where they split up. The nitroglycerine was still buried at the Henderson ranch in the Animas Valley.²³

At this point, Sheriff Wheeler drops from the picture and pursuit is handed off to Marshal Joe Dillon and Post Office Inspector Thomas Butler. Butler testified that he had been present at both arrests of Jess Spurlock, one at Sioux City, Iowa, and the other at Purcell, Oklahoma where Spurlock was using the name Tom Miles. Butler was assisted by Sheriff Dillon during one of the arrests. At court, on cross-examination, Butler mentioned a Deputy Sheriff Dillon. Assistant U.S. Attorney Flynn asked, “It wasn’t our Dillon (meaning Joe)?” To this Butler replied, “No.” Undoubtedly this gave rise to years of debate about whether Dillon’s name was Joe or Matt and whether he was a U.S. or Dodge City Marshal or possibly a county sheriff.²⁴ By December 12, 1916, most of the gang was in custody of the United States district court. Johnny Carroll drops precipitously from the story. Perhaps he got clean away and went straight the rest of his life under an assumed name, or perhaps, like so many of his kind, he was shot soon after in an aborted hold up. The *Arizona Daily Star* wrote:

“Joe Davis, Alias Joe L. May, accused of being the ring leader in the hold-up of the west-bound Golden State Limited on the night of September 6, at a point near Apache, Arizona, was brought to Phoenix Sunday night from Purcell, Oklahoma. Davis was indicted by the federal grand jury in Tucson for the crime. He will be tried at Tucson later in the session.”²⁵

It was at about this time that convicted felon Buck Bertholf decided that he was in real trouble as a repeat offender and went state’s evidence against Joe Davis and Jess Spurlock. Judge W. L. Barnum, attorney for Jess Spurlock, objected strenuously to his testimony.

“W.T. Bertholf was then called as the prosecution’s first witness. Before he began his testimony, Judge W.L. Barnum, counsel for Jeff Spurlock, objected to the witness on the ground that he was a co-defendant. The objection was over-ruled.”²⁶

Subsequently, Barnum would object to Bertholf’s testimony on the grounds that Buck was a convicted felon whose civil rights had not been restored. Counsels for the defense also asked for a severance of the cases of Joe and Jess.

“In asking for a severance for Davis, his counsel stated that his client is without funds to secure witnesses from Oklahoma, who, the attorney said, would be necessary for the defense in case Davis were tried jointly with Spurlock. The motion in behalf of Spurlock was made on similar grounds. The court, in denying these motions, announced that if it were shown certain witnesses were necessary to the defense, they would be subpoenaed at the government’s expense.”²⁷

The trial went forward. Ultimately, the defense offered no witnesses relying on an appeal to the jury that Bertholf's testimony must be corroborated by other evidence and had not been. They also prepared several appeals on grounds that the "private letters" should not have been admitted, that Bertholf's testimony should not have been allowed. The jury's verdict was "guilty on all counts."²⁸ Joe Davis and Spurlock were sentenced to twenty-five years each in the Federal penitentiary and were shipped off to McNeill's Island in custody of Marshal Dillon.²⁹



Most of you know Doug Hocking as the Sheriff & Inkslinger of Cochise County Corral. He serves on the board of the Cochise County Historical Society, of Westerners International, and of the Southern Trails Chapter of the Oregon-California Trails Association. He is also a member of the Wild West History Association and the Santa Fe Trail Association connections he uses to find folks to submit articles. His histories of the southwest have won seven national and international awards including the Will Rogers Medallion, the Co-Founders Award, the New Mexico-Arizona Book Awards and Spur Finalist. The piece included here is a chapter in his upcoming book, *Workin' on the Railroad: Train Robberies on the Southern Corridor*.

¹ "Apache Elementary School," <http://www.apacheelementary.org/>.

² Myrick, David F. *Railroads of Arizona, Vol. 1: The Southern Roads*. Berkeley: Howell-North Books, 1975, pp 179-180, 183-4, 192, 196, 199.

³ "Skeleton Canyon treasure." Wikipedia, https://en.wikipedia.org/wiki/Skeleton_Canyon_treasure

⁴ "Skeleton Canyon massacres." Wikipedia, https://en.wikipedia.org/wiki/Skeleton_Canyon_massacres

⁵ "That Train Robbery, All For An Empty Safe Which They Couldn't Open. Many Bisbeeites Have Thrills." *Bisbee Daily Review*, 8 September 1916.

⁶ O'Neal, Bill. *Captain Harry Wheeler: Arizona Lawman*. Austin: Eakin Press, 2003, p 26.

⁷ O'Neal, Bill. *Captain Harry Wheeler: Arizona Lawman*. Austin: Eakin Press, 2003, pp 25-44.

⁸ "A Detachment of Cavalry." *Tombstone Weekly Epitaph*, 5 November 1916.

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- ⁹ “Bandit Charged With Holding Up Train At Apache Now In State.” *Bisbee Daily Review*, 12 December 1916.
- ¹⁰ “Doc Pardee.” *New York Times*, 21 July 1975.
- ¹¹ “Doc’ Pardee is Indicted for Aiding Davis.” *Tombstone Weekly Epitaph*, 25 February 1917, 25 March 1917.
“Lulu Cobb is Freed: Bond is Not Required.” *Arizona Daily Star*, 1 & 13 March 1917. “Pardee is Facing Conspiracy Charge.” *Weekly Journal-Miner*, 21 March 1917.
- ¹² “Davis’ Private Letters Will Not Be Returned, Court Rules.” *Arizona Daily Star* 23 February 1917.
- ¹³ “Soldier Identifies Davis as Man Who Held Up Train.” *Arizona Daily Star*, 22 February 1917.
- ¹⁴ “Davis’ Private Letters Will Not Be Returned, Court Rules.” *Arizona Daily Star*, 23 February 1917.
- ¹⁵ “Davis-Spurlock Case Closes Suddenly When Defense Fails to Offer Evidence.” *Arizona Daily Star*, 24 February, 1917.
- ¹⁶ “Davis’ Private Letters Will Not Be Returned, Court Rules.” *Arizona Daily Star*, 23 February 1917.
- ¹⁷ “That Train Robbery, All For An Empty Safe Which They Couldn’t Open. May Bisbeeites Have Thrills.” *Bisbee Daily Review*, 8 September 1916.
- ¹⁸ “That Train Robbery, All For An Empty Safe Which They Couldn’t Open. May Bisbeeites Have Thrills.” *Bisbee Daily Review*, 8 September 1916.
- ¹⁹ “Soldier Identifies Davis as Man Who Held Up Train.” *Arizona Daily Star*, 22 February 1917.
- ²⁰ “Soldier Identifies Davis as Man Who Held Up Train.” *Arizona Daily Star*, 22 February 1917.
- ²¹ “Sheriff Wheeler Returns.” *Tombstone Weekly Epitaph*, 24 September 1916.
- ²² “Will Defend Felk.” *Bisbee Daily Review*, 27 September 1916.
- ²³ “Soldier Identifies Davis as Man Who Held Up Train.” *Arizona Daily Star*, 22 February 1917.
- ²⁴ “Davis’ Private Letters Will Not Be Returned, Court Rules.” *Arizona Daily Star*, 23 February 1917.
- ²⁵ “Bandit Charged With Holding Up Train At Apache Now In State.” *Bisbee Daily Review*, 12 December 1916.
- ²⁶ “Jury Chose to Try Alleged Train Robbers.” *Arizona Daily Star*, 20 February 1917.
- ²⁷ “Jury Chose to Try Alleged Train Robbers.” *Arizona Daily Star*, 20 February 1917.
- ²⁸ “Davis and Spurlock Guilty On All Five Counts, Verdict of Jury in Robbery Case.” *Arizona Daily Star*, 25 February 1917.
- ²⁹ “Golden State Robbers Get Sentences in Federal Pen.” *Tombstone Weekly Epitaph*, 4 March 1917.

The following article has been compiled from the following sources: Records on file at Fort Chadbourne, Texas, Department of the Interior, Bureau of Pensions; National Archives, *San Antonio Express-News*; Raymond L. Collins; John M. Carroll; John Gilpin, Steve Jorgenson, James W. Kenney, and others. Jim Kenney is a Cochise County Corral Ranch Hand.

Simon Suhler/Charles Gardner Medal of Honor Recipient, Indian Wars

**By
Jim Kenney**

Simon Suhler was born in 1844 in Hardastaff, Marktstef, Bavaria. His father's first name is unknown, but his mother was Hannah Newstattel Suhler. He had two brothers: Aron and Faust and a sister, Pauline. The family was poor. The children were orphaned in 1858. At age 16 Suhler immigrated to the United States in 1860 arriving in New York City on the ship Zurich.

He enlisted in Company G, 32nd Indiana Volunteer Infantry on August 24, 1861, under his true name. He was wounded slightly on April 6, 1862, at the Battle of Shiloh, Tennessee, and the following day he was severely wounded by a rifle ball, which passed through his left leg below the knee during the fighting at Pittsburgh Landing, Tennessee.



Grand Army of the Republic, Civil War Service

Following his release from the hospital, he was returned to duty. On August 22, 1862, he was captured by Confederate forces near Jasper, Tennessee during the Battle of Chickamauga. He was paroled to Union forces on September 1, 1862, at Vicksburg, Mississippi. He was sent to a Union Parole Camp at Chase, Ohio, on January 31, 1863. From there he went to another Union Parole Camp located at Covington, Indiana. He deserted from that location on March 17, 1863. The desertion charge was later expunged by the War Department on January 25, 1890, and Suhler was given an honorable discharge to date from March 17, 1863.

On June 9, 1863, while in deserter status, he enlisted as **Simon Newstattel**, his mother's maiden name, in Company A, 11th New York Heavy Artillery at Buffalo, New York. This unit was transferred to the 4th New York Heavy Artillery, and he was assigned to Company I. He was honorably discharged on September 25, 1865, at Washington, District of Columbia. He may have used an alias because he had been granted a parole by the Confederacy, which entailed an oath not to again fight against the Confederacy. Simon Suhler never again fought the Confederacy; but Simon Newstattel did!

Following the Civil War Suhler went west. On October 15, 1866, he enlisted again, this time in San Francisco, California, using the name **Charles Gardner**, and was assigned to Company B, 8th United States Cavalry. The reason for enlisting as Charles Gardner is unknown. Perhaps it was because he was a deserter from his first enlistment. Interestingly, there was someone in his last unit named Charles Gardner.

On October 31, 1868, his commanding officer reflected Gardner was engaged in field operations from August 13, 1868, to October 31, 1868. Gardner was singled out for fighting after receiving an almost fatal wound fighting Indians at Rio Verde, Arizona, when an arrow passed through the left side of his chest and underarm and he also received a serious head injury. He was recommended by the commanding general of the Department of the Pacific for the Medal of Honor and for examination and promotion to second lieutenant. The promotion to lieutenant never happened. He was awarded the Medal of Honor although there is no record, he ever physically received the Medal of Honor.

His citation for the Medal of Honor reads, "Bravery in scouts and actions against Indians." It was a deadly time in Arizona. The Apache's kept all of Arizona in a state of terror. During these three-months the Apache's killed men, women, and children mercilessly, and stole livestock and other property. Two companies of the 8th U.S. Cavalry, consisting of not more than fifty or sixty men, kept Arizona open for settlers and miners. These troopers were in the saddle the greater portion of every twenty-four hours and were continuously exposed to enemy attack.



Medal of Honor, Army version 1862-95

On September 12, 1877, he received his final discharge at the Camp on Rio Grande, Texas, as a sergeant.

He eventually relocated to San Antonio, Texas, where he was a tailor, produce dealer, sewing machine agent, Deputy Bexar County (San Antonio) Tax Assessor, bookkeeper, and lightning rod salesman. He was a member of the Grand Army of the Republic, August Belknap Post, in San Antonio. He died on May 15, 1895, at age 51 and was buried in Section I, Grave 1610, in the San Antonio National Cemetery, under his true name, Simon Suhler. The *San Antonio Express* ran a brief funeral notice on May 16, 1898.

Because of the three names he used it was a challenge to prove Suhler was Gardner. John Gilpin of the San Antonio Genealogical and Historical Society, John M. Carroll frontier historian, Raymond L. Collins, Department of Veteran's Affairs, Steve Jorgenson, Director of the National Cemeteries in San Antonio, and others assisted in unraveling the mystery of the Newstattel/Gardner/Suhler story.

The idea of a special headstone for all recipients of the Medal of Honor was the idea of Raymond L. Collins. It was approved by Congress for the bicentennial of the United States, and the Special headstones are provided by the Department of Veteran's Affairs.

On November 11, 1987, a ceremony was held at the San Antonio National Cemetery attended by relatives from all over the world, including three survivors from the Nazi Holocaust in France. At the time his new Medal of Honor headstone was placed. However, it was a fraud in that it

represented the three personae of the man. The name on the stone was Simon Suhler, Medal of Honor was engraved as was the name of the unit he served in as Newstattel. The reverse of the stone has a Star of David as Suhler was the only Jewish recipient of the Medal of Honor during the Indian Wars, 1865-1891. At the time it was unknown that Suhler was the recipient of the Medal of Honor, as the honor was recorded as belonging to Charles Gardner.

In a letter dated February 24, 1993, the Chief of the Military Awards Branch, U.S. Total Army Personnel Command, Alexandria, Virginia, advised,

“This is to notify you of a change to the Medal of Honor Roll, as it pertains to the award to Charles Gardner in 1869. The Army Board for Corrections of Military Records recently determined that wherever the name Charles Gardner is now shown as the recipient of the Medal of Honor, it will be changed to show Simon Suhler as the recipient. Simon Suhler fought in the Indian Wars under the alias of Charles Gardner. He was awarded the Medal of Honor while a member of the 8th U.S. Cavalry serving in Arizona. Request you update any records, rolls, or other correspondence you may have which now bears the name of Charles Gardner as a recipient to the MOH. We have updated the official Army Medal of Honor Roll and the name plate at the Hall of Honor, in the Pentagon building, has been changed to reflect Simon Suhler (served as Charles Gardner). Further request you notify any subordinate offices which may maintain the above-mentioned information. Credit for the proper identification of Suhler must go to Ray Collins and Jim Kenney for their hard work in this area”.

Suhler’s final address in San Antonio was a boarding house located at the base of what is now the Tower of the Americas, which was built in San Antonio for the 1968 World’s Fair, which was known in Texas as HemisFair ’68.

Suhler had grey eyes, brown hair, a dark complexion, stood five feet seven and a half inches tall, and was left-handed. He never married. He obviously was a true warrior. There are no known photographs of Suhler.

His brother, Aron, immigrated to the United States in 1871 and became the first reformed Rabbi in the State of Texas. Aron subsequently vouched for Simon when he applied for a pension as being **Suhler/Newstattel/Gardner**. Unfortunately, his pension was never approved.

For 92-years Simon Suhler and his bravery were unknown. Because of the dedication of many, his 19th Century deed of valor, long lost in a sea of aliases, was finally recognized as being that of a Jewish immigrant from Bavaria named Simon Suhler. Not one relative, prior to the marking of his grave, knew he existed, or that he was a Medal of Honor recipient.

Suhler is joined at the San Antonio National Cemetery by a fellow trooper who received the Medal of Honor at the same time as Suhler, Sergeant Henry Falcott.

The Medal of Honor signifies something noble, something worth honoring. It is bestowed for personal valor; it symbolizes the gratitude America feels when that Recipient finds it within themselves to perform with extraordinary courage. The representative nature of the award

attributes gallantry to others whose names are not found in books, but who also put their lives on the line for their country.

Editor's Note: Anytime we publish anything about Tombstone 1881-82, we know beyond a certainty that someone will object . . . loudly. As you read, ask yourself: 1) Is he justifying what he says from primary source material? 2) Is his logic sound? 3) Has he tripped over any anachronisms? Nothing else really matters. We welcome soundly argued positions.

The Gunfight at the O. K. Corral. What if H. F. Sills was a False Witness?

By Stephen Fawcett

INTRODUCTION

1 SCENE SETTING

2 SILLS' TESTIMONY DISPUTED

3 WHAT MIGHT HAVE HAPPENED, THE FIRST SHOT

4 WHY DID IT HAPPEN?

5 WHAT MIGHT HAVE HAPPENED NEXT

6 AFTER THE GUNFIGHT

INTRODUCTION

At the hearing after the gunfight, held to determine if there were grounds to proceed to a trial for murder, H. F. Sills gave testimony that corroborated the version of events provided by the Earps. That is that Billy Clanton and Frank McLaury drew their pistols when called upon to raise their hands and submit to disarmament. He was the only non-participant witness to do this. This version of events is so improbable that it should cast suspicion on the truthfulness of Sill's testimony. This makes for a potentially valuable undertaking to analyze what might have happened to start the gunfight if the testimony of the other non-participants was relied upon instead. This evidence strongly indicates that Holliday started the gunfight by shooting the unarmed Tom McLaury with a shotgun.

SCENE SETTING

The opposing parties at the gunfight were a police posse assembled by Chief of Police Virgil Earp comprising Virgil, his brother Morgan a deputy policeman plus his brother Wyatt with Doc Holliday. They were opposed by local ranchers Ike and Billy Clanton and Tom and Frank McLaury, accompanied by Billy Claiborne. The survivors provided contradictory explanations for how the gunfight started and historians have looked to the evidence of other witnesses to find the truth. That is the witnesses to the start of shooting such as H. F. Sills, County Sheriff Johnny Behan, C. H. 'Ham' Light, R. J. Coleman, Billy Allen, Addie Bourland and P. H. Fellehy. After the gunfight there was a Coroner's Inquest which did not result in a prosecution of the police by the local authorities. Ike Clanton filed murder charges against the posse members and obtained a court hearing to determine if there was enough evidence to go to trial. At the hearing he claimed his party raised their arms as instructed but were fired upon nonetheless by both Holliday and Morgan Earp at the same time. The other survivor from his party, Billy Claiborne, said the same and he also had support from witness Wes Fuller. Judge Spicer was not convinced enough to grant progress to a trial. The County Grand Jury later upheld the hearing outcome.

At the hearing only posse members Wyatt and Virgil Earp testified. According to the edited transcript available today, they alleged that Billy Clanton and Frank McLaury both started to draw their pistols when called upon to raise their hands. Wyatt claimed he fired in self-defense with both himself and Billy Clanton firing at the same moment. Virgil also said that Billy Clanton fired one of the first two shots. They subsequently held to this version of events.

The day before the gunfight Ike Clanton and Tom McLaury had come to the new mining boomtown of Tombstone, Arizona Territory. They both attended an all-night poker game along with Chief of Police Virgil Earp and County Sheriff Johnny Behan. Before this there had been a late-night verbal confrontation in a saloon between Ike Clanton and Doc Holliday. On the morning of the gunfight, 26 October 1881, Ike Clanton, probably inebriated, brooding about the confrontation the night before, was wandering around Tombstone with his guns looking to fight Holliday and the Earps. He was beaten, disarmed, arrested and taken to court by Virgil Earp and his deputy Morgan Earp for illegally carrying guns in the city and was fined and released. Shortly afterwards Wyatt Earp roughed up Tom McLaury in the street. Around midday, Frank McLaury and Billy Clanton came into Tombstone. They were told about the incidents with Ike and Tom and joined up with them. They went to a shop to obtain ammunition where Wyatt Earp confronted Frank about his horse being on the sidewalk. Later, the Clantons and McLaurys with Billy Claiborne entered the main entrance of the O. K. Corral on Allen Street, using the corral as a thoroughfare to Fremont Street. Frank and Billy had their horses with them, and they were seemingly on their way to the West End Corral (on the corner of Fremont and Second street where Ike and Tom had their horses) and out of Tombstone. Frank stopped at a butcher's shop on Fremont Street to talk to the owner, one of his clients, and also met and talked with his lawyer there. The rest of his party moved on down Fremont a short distance and stopped at a vacant lot next to Fly's lodging house. Many Tombstone residents had become concerned about the presence of this group, some of them armed. They were seen by some as potential troublemakers and Virgil Earp was pressed to take action.

County Sheriff Johnny Behan volunteered to check out the Clanton party. He found Frank McLaury at the butcher's shop and went down with him to the rest of his party at the vacant lot. He asked Frank and Billy who had pistols in sight on their persons to deposit their guns at his office. Billy Clanton said he was leaving Tombstone, but Frank argued about this request. Meanwhile, Virgil Earp had formed a posse to confront the Clanton party. Behan tried to prevent the confrontation as the posse approached but Virgil came up to the Clanton party nonetheless and called on them to raise their hands and submit to disarmament. The shooting started seconds after this. Frank and Tom McLaury and Billy Clanton were killed. Virgil and Morgan Earp were wounded.

SILLS' TESTIMONY DISPUTED

It seems highly improbable that Billy Clanton and Frank McLaury would draw their pistols in response to the chief of police's command to raise their hands for many reasons. Only these two of their party of five had personal weapons (there were rifles on the two horses). If their party was looking to have a gunfight with the Earps they would surely wait until all were armed. Similarly, if they thought that an opportunistic chance for a gunfight had suddenly presented itself, knowing that the Earps were just down the street from them, then they would surely distribute the two rifles among their party and go to it from the cover of the vacant lot. They did not do this. Also, why

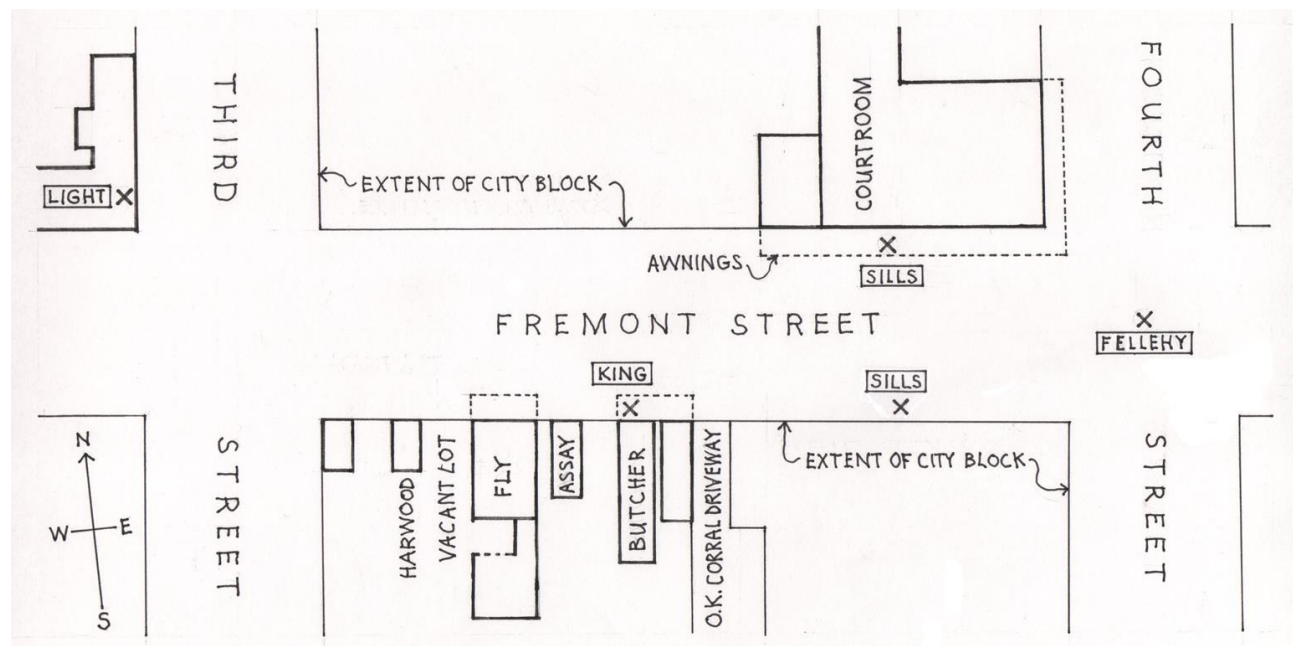
would both men draw their guns at the same time as was claimed? What could possibly have been so threatening or so enraging about the command to raise their arms that it would act as a trigger for both men to go for their guns? A sudden unexpected appearance of the posse at the vacant lot might be expected to alarm them and possibly cause such a response, but the guns were not drawn at this instant. It is also hard to believe that the two were acting on some pre-arranged signal to go for their guns at the same time. This would hardly be the moment to do this. Most improbable of all is that the two men would draw their guns when they were faced with four armed men. The posse might not all have had their guns in hand, but it would be expected they would all have personal guns and Holliday had an anti-personnel coach shotgun levelled at the group. Both Billy and Frank were sober. They had apparently refused to drink on arrival in Tombstone when they heard of the trouble with Ike and Tom. Drawing their guns on the police posse looks like momentary madness, like suicide by cop to use the modern parlance. It is hard to believe that this is what happened.

Unfortunately, the original transcripts from the hearing have been lost. Only an edited version is available,¹ This places doubt over the completeness and accuracy. The evidence used in this analysis is primarily that of the Coroner's Inquest records and contemporary newspaper reports. The Coroner's Inquest should provide the most reliable evidence because it was only 3 days after the shootings when the witnesses' memories must have been at their freshest and the original transcriptions (that appear to be verbatim) have been preserved in this instance.²

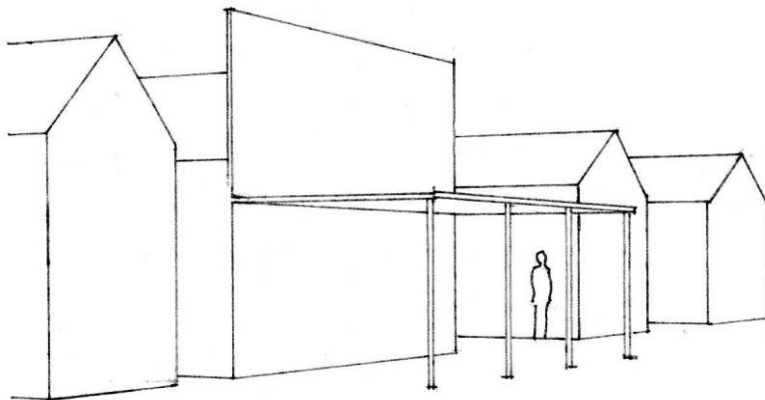
H. F. Sills only testified at the hearing, but this was reported in the Daily Epitaph newspaper.³ He was the only onlooking witness who testified that the shooting started with Wyatt Earp and Billy Clanton firing at the same time, thus supporting the Earp version of events. His testimony carried great weight with the judge because he was a recent visitor, with apparently no connection to any of the participants. He seemed to be an independent witness who saw crucial events. There are many questionable aspects to his testimony.

Sills testified that he saw the Clanton party at the main entrance to the O.K. Corral on Allen Street and heard threats to kill the Earps. He informed Virgil Earp of this then subsequently followed Virgil's posse down Fourth Street to Fremont Street. He claimed that he saw the Clanton party from the Post Office. The Post Office was on the southern side of Fremont opposite the Courtroom. This is 60 yards away from the vacant lot next to Fly's lodging house (the location of the gunfight). This is a suspicious claim. It would have been impossible unless some of the Clanton party were in the roadway or on the sidewalk area at that time (being a vacant lot there is unlikely to have been a boarded sidewalk). This seems unlikely because at this time the posse would have been moving down Fremont and Sheriff Behan would have been with the Clanton party. Witnesses Behan, Coleman, and Cuddy all stated that the Clanton party were in the vacant lot when Behan was with them. Also, Virgil Earp, from what has come down from the hearing testimony, said he could only see 'half a horse' as he approached. Also, from a slightly better angle, P. H. Fellehy does not report seeing any of the Clanton party from what it would have been just a short time after Sill's claimed sighting. From Sill's claimed vantage point at the post office, it was impossible to see any of the vacant lot itself and with the police posse and probably other people on the sidewalk, it would also have been extremely difficult to identify any of the Clanton party if they were on the sidewalk. It was very fortunate for the Earps that he was apparently able to catch a

glimpse of the Clanton party sufficient to identify them to prompt him to cross the road from where he would make his crucial observations. Under cross examination when asked when he next saw the Clanton party (after speaking with Virgil Earp) he says he saw them on Fremont standing in a vacant lot. From his claimed initial vantage point at the post office this is an impossibility, but he was obviously referencing his subsequent vantage point because he had said that, after being at the post office, he then crossed over to the north side of Fremont to the Courtroom. Sills seems to have quickly forgotten his original statement that he saw the Clanton party from the post office. His vantage point at the Courtroom was 60 yards away from the vacant lot. From this new position he claims to have seen Virgil speak to the Clanton party, saw the Clanton party draw their guns immediately and saw Wyatt Earp and Billy Clanton both shoot. He saw Virgil throw up his arms and speak. He described him having a cane in his right hand. He saw Virgil switch hands with his cane, draw his gun and fall, then get up and start shooting. He says the shooting then became general. Sills said he then retreated into the hallway (of the Courtroom, we assume). These are also suspect claims. The author has made a measured perspective drawing of the view from the sidewalk in front of the courthouse. This is to show how little of the vacant lot can be seen from this vantage point. To see what Sills claimed to see, Virgil Earp, would have had to have been on the sidewalk. To agree with Fellehy, both Virgil and Wyatt Earp would have had to have been on the sidewalk at the corner of the vacant lot. It is a commonly held view that Virgil Earp was on the left of the posse inside the vacant lot but there is no strong evidence for this so this cannot be used as definite proof that Sills was lying. However, even if Virgil Earp was on the sidewalk. Sills' testimony is suspect because it is hard to believe someone could make out all of this detail, at such a distance, in such a crowded scene.



Plan of Fremont Street showing positions of witnesses to the gunfight using the Tombstone Sanborn Fire Insurance Map of 1886 as a reference.⁴ Only the mentioned buildings are shown. Illustration by Stephen Fawcett.



Measured perspective view of Fly's and the vacant lot from the sidewalk in front of the Courtroom using the Sanborn map of 1886 and a contemporary photo (pre-May 1882)⁵ showing the roofline as a reference. The figure included for scale is shown against the wall of the Harwood house three feet inside the lot.

The contemporary photo does not show enough to confirm the existence of the awning at the time of the gunfight, but it is highly likely that there was one.

The two buildings at the right have been drawn higher than they actually were for the sake of clarity. In this part of Fremont Street at the time there were probably no boarded sidewalks (there were none in 1912 when Fly's burned down) and the sidewalk would likely be a raised earth walkway if even that. Illustration by Stephen Fawcett.

The only independent information on the dispositions of the Clanton party at the moment the shooting started comes from Addie Bourland in the testimony that has come down from the hearing. She was at her house across the road from the vacant lot. She said she saw five men leaning against the side of the Harwood house and one man with a horse standing a little out from the house. She said they came out to meet the posse before the shooting started. This would find them stepping towards and onto the sidewalk. Going by this it must be allowed that it was theoretically possible for Sills to see Wyatt and Virgil Earp and Frank McLaury and Billy Clanton from his claimed viewpoint. From Sills' viewpoint the sidewalk, 9 feet of the Harwood house side wall would have been visible. However, packed into a small space on and near to the sidewalk in front of the vacant lot were Tom and Frank McLaury both holding horses, Billy Clanton and possibly Billy Claiborne. Then between these men and Sills, also on the sidewalk, were Wyatt Earp and Virgil Earp. Going by what followed Ike Clanton was probably somewhere between his party and Wyatt Earp. Sheriff Behan had followed them down to the lot and he would also be there close behind the Earps. Holliday and Morgan Earp were in the roadway next to the sidewalk when the shooting started. Also, there would likely also be spectators to the confrontation obscuring the view from Sills' claimed vantage point. In the area in front of Fly's as the shooting started were Coleman, Billy Allen, Bob Hatch and Billy Soule. There could well have been others. Unless these observers were all tight against the front wall of Fly's or the adjoining building, then some would likely be in the line of sight to the participants as the shooting started. Sill's claim to see both Billy Clanton and Frank McLaury drawing their pistols and Billy and Wyatt Earp starting the shooting looks like it would have had to be a miracle of positioning and appears just too convenient for it to be credible. He conveniently claims to see just enough to confirm the Earp version of events.

Sills might or might not have been an eyewitness to the events taking place, but whichever it was it does look like his testimony was coached to agree with the Earp version of events. He seems to give this away right at the beginning of his testimony when, claiming to be at the O.K. Corral main entrance before the gunfight, he describes one of the Clanton party as saying “they would kill the whole party of the Earps when they met them”. This is interesting because it seems to be a case of reporting someone foreseeing the future. This looks like a fabrication to show that the Clanton group intended to kill the members of the Chief of Police's posse, including three Earps. Note also that the reported claim is “when” not if they met them, as if a confrontation is inevitable, even possibly sought after. The problem with this is that when supposedly this threat was made there was no posse with a party of Earps. The posse was formed afterwards. So how could someone in the Clanton party have known at that time that there was a party of Earps out on the streets to meet up with! It has been argued that if Sills’ testimony was fabricated then he would have taken the opportunity to identify Tom McLaury with a gun. However, no other witnesses other than the Earps were likely to corroborate this. Other witnesses could however corroborate that Ike Clanton was making threats that day and so any fabricated threats would be plausible. Sills also stated that he spoke to Virgil Earp and warned him of the threats. This was possibly concocted to provide justification for the subsequent police action. This was very important because it served to indicate that the police were forewarned that they were dealing with a plot to kill law officers and not just a gun control issue.

Sills was a surprise witness for the defense. This would partly explain why the cross examination of Sills was poor. The Prosecution seemed to give priority to challenging his identity. They should perhaps have challenged more precisely what he saw and heard and when and where he saw and heard it. This could have raised doubts about his evidence. For example, his observations about the Clanton party at the O. K. Corral main entrance do not match in any respect the testimony of Coleman at the Coroner’s Inquest and Coleman was also a police supporter. Another suspicious detail is that in his testimony for the defense he numbers the Clanton party at four or five when he sees them at the O.K. Corral main entrance but then confidently settles on four under cross examination. The suspicion here is that Sills was coached in his evidence and whoever did the coaching forgot to impress the peripheral involvement of Billy Claiborne. There is also some inconsistency about time scale. In his testimony for the defense, in his opening statement, Sills first said he spoke to Virgil Earp about the threats he overheard just a few minutes before the posse set off to find the Clanton party, but under cross examination he said that this was about half an hour before the gunfight. Both cannot be true. What is actually recorded in the Epitaph is that when he went up to Virgil Earp the first time it was about half an hour before the difficulty (the gunfight). Very intriguing this, why, where, and when did he go up to Virgil Earp the second time and why didn't the prosecution pounce on this for an explanation? There is also the question of the extremely fortuitous vantage point he takes up in front of the Courtroom. This is why his initial claim about seeing the Clanton party from the post office is so crucial in his testimony. It provides the justification for crossing to the north side of Fremont to a vantage point where there is a better view of events. However, as previously mentioned, it is highly unlikely that the Clanton party could be seen from the post office at this time.

The prosecution did not have time to look into the background of Sills. He claimed to be a railway worker and did offer good detail about railway operations. He seemingly came to Tombstone alone not for work or to visit with anyone but just as a tourist as it were. It must be allowed that this is

credible. Despite being difficult to get to without a rail link, Tombstone would have been an attractive exotic destination with its bars, restaurants, gambling, and other entertainments. He claimed to be living in Las Vegas, NM, at the time of the hearing and it would have been interesting to find out if he was there two years earlier in 1879. At this time there was a separate railway boomtown community growing at Las Vegas and Doc Holliday was a high-profile resident. If Sills was there at that time, as a railway worker he would likely be living in the railway boomtown and might well have known Holliday.

Sills' evidence is questionable. What he saw is suspiciously fortuitous. Nothing of importance he testifies to is corroborated by anyone except the Earps. No witness places him at the locations where he says he was and there is contradictory testimony and also suspicious and inconsistent details in his account. His testimony supporting the Earps seems too perfect to be true. His highly detailed version of Virgil Earps's actions in particular suggests that he was possibly coached in his testimony by Virgil or one of Virgil's friends. Also, despite offering himself as an independent witness with important information he did not put himself forward to testify at the coroner's inquest. For someone who apparently went out of his way to be a good public servant by notifying the police of threats to them, this failure is surprising. At the time of writing nothing is known with certainty about Sills' life before or after his hearing appearance.

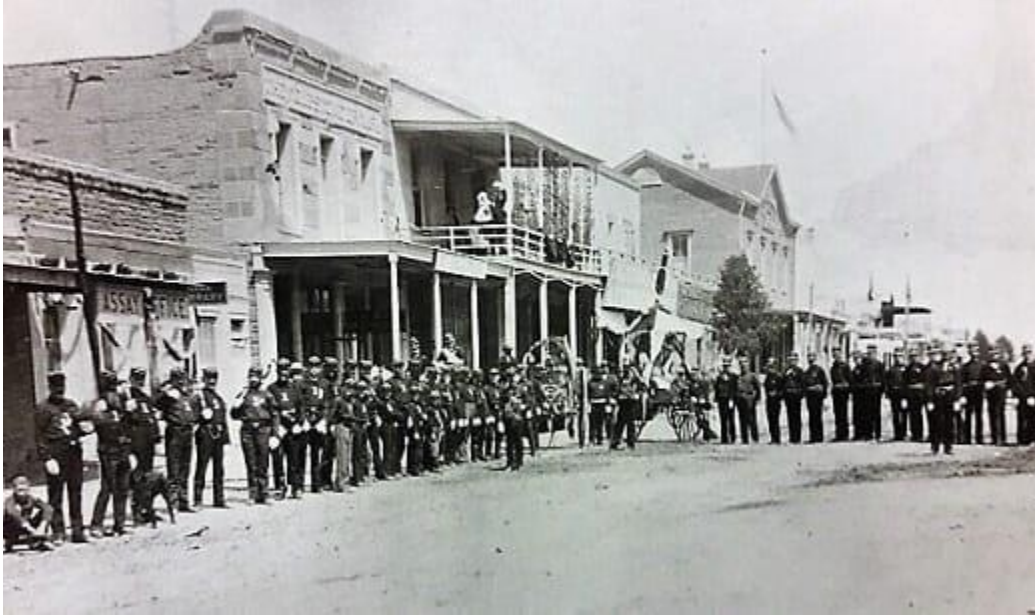
WHAT MIGHT HAVE HAPPENED, THE FIRST SHOT

If the testimony of Sills is discounted, there is a plausible alternative version of events to be obtained in the recollections of other non-participant witnesses. Particularly with regard to the testimony recorded at the Coroner's Inquest held only 3 days after the gunfight (Sills testified at the hearing almost a month after the gunfight).

Sheriff Behan testified at both the Coroner's Inquest and the hearing. On his own initiative he had gone to question the Clanton party about their plans with a view to forestalling a confrontation with Virgil Earp. He was close by when the gunfight started and should have been an experienced dependable witness by virtue of his office. However, as he was significantly involved in the events leading up to the shootings, he had a strong personal interest in the outcome regarding his reputation in the community. For this reason, like the Earps and the survivors of the Clanton party, he should be regarded more as a participant in the gunfight rather than as an onlooking witness. One thing that is worthy of mention regarding Behan's testimony is that he is often regarded as being biased against the Earps but perhaps this is not fair. At the Inquest he said that when he asked Frank McLaury to lay down his guns he argued about the request. This was very useful testimony for the posse. If Behan had wanted to make life difficult for the Earps, he could have said that, just before the posse arrived, Frank McLaury had agreed to go with him to his office to lay down his guns or had confirmed that he was leaving Tombstone, there would have been no witness to dispute this.

There were several people in the vicinity at the start of the gunfight and yet the evidence as to who fired first is very weak. This is not surprising because the observers were probably not expecting a gunfight and so were not looking for the first shot. They were probably expecting to see arrests, some roughing up by the police perhaps, or to see the visitors run out of town. If they had expected a gunfight between the nine men, they would have kept well away from bullets flying in the street.

A witness at the Coroner's Inquest was C. H. 'Ham' Light. He is a valuable witness because he was not at all involved in the build up to the gunfight. Of the main non-participant witnesses, he was the only one not involved in the build up to the gunfight. In his testimony he says that of the participants he only knows Ike Clanton and the Earps.



The Gird Block on Fremont Street

There are two things that are very significant about Ham Light's testimony. The first is that he wasn't interested in the developing conflict between the Earps and the Clanton party. The second is that he could have taken sides with Ike Clanton and supported his version of events, but he didn't. He says that he was in the barber shop before the shooting and is told by the barber that there is likely to be trouble between the Earps and the Cowboys (at this time and place a commonly used term for some of the small livestock ranchers and their associates). He is also told that the Earps had just passed down the street with their guns. This is a confusing observation. Coleman in his testimony mentions a barber shop on Fremont that must have been in the vicinity of the gunfight. However, from this location, with the posse moving down Fremont, there would not be enough time for Ham Light to reach his house before the shooting started. It must refer to the Earps' movements in the vicinity of Hafford's saloon before the posse set off for Fremont Street. There was a barber shop near Hafford's near the intersection of Allen and Fourth streets. Ham Light then goes to his home on the north corner of Fremont and Third. He might even have walked past the Clanton party in the vacant lot. He does not hang around to see what the police are going to do, and this shows that he had no interest in the unfolding drama. He is in his house when he hears the first shot. He actually hears two shots in rapid succession, moves quickly to a window on Third Street and immediately sees a man reel and fall on the southeast corner of the Fremont and Third intersection and not move thereafter. We know that this was Tom McLaury. He thinks they are pistol shots and must be from two guns as they are so close together. In the course of the shooting, he sees six men firing, that is all the shooting participants, but only identifies Holliday by name.

Ham Light is the only witness to the shooting from his end of Fremont Street. He has a good view of the area of the vacant lot where the Clanton party are gathered. He is fifty yards away. Everything he claims to see can be seen from his vantage point. He does not describe Frank McLaury falling because this could not be seen from his vantage point, and he acknowledges this. He does not name any of the shooters apart from Holliday and this makes his description of the progress of the gunfight confusing. He knew Ike Clanton and likely could have had opportunity to confer with him. He could have supported him and said he saw men with their hands up when he dashed to the window. He did not do this, and this also indicates that he should not be seen as a biased witness.

Ham Light did not see who started the shooting but if his evidence is believed then this information is there in his testimony 'hidden in plain sight'. He hears two shots in very rapid succession, dashes to the window and sees Tom McLaury fall fatally wounded at the corner of the block. This is at the corner of the building alongside the one commonly known as the Harwood house. In this scenario Tom McLaury must have been the victim of one of these two shots. If he ran from the vacant lot until he collapsed, then this would fit perfectly with Ham Light's testimony. He would have travelled fourteen yards. This would have taken just a few seconds and Ham Light dashing to a window after hearing the shots in time to take in the scene and see him reel and fall fits the scenario perfectly. We know that Tom McLaury was shot with the shotgun, and we know that Holliday was holding the shotgun so it must have been Holliday who fired one of the shots. There were two shots very close together and it was claimed by Ham Light and others that because of this there must have been two shooters. This is because the personal firearms of the time, although capable of repeat firing, required more time than this for the mechanism to be cycled. So, the big question is who fired the other shot? Coincidences do happen, another posse member or one of the Clanton party could have fired at exactly the same time but perhaps a more likely explanation is that Holliday fired first and fired off both barrels of the shotgun with only one of the shots hitting Tom McLaury.

The type of shotgun used would have been a side-by-side double barrel gun with short barrels intended for the defense of horse drawn coaches. It would have had a double trigger arrangement. There are several ways that both barrels can come to be fired very quickly one after the other (sometimes known as fan fire in the firearm world). If both hammers are cocked it would be possible to fire both barrels almost simultaneously deliberately if two fingers are used, one on each trigger. It is also known that an inexperienced shooter wielding the gun like this will often fire the second barrel after the first accidentally. This is caused by the recoil from the first shot producing an instinctive tightening of the grip that fires the second barrel a split second later. Because of this possibility it is well known that it is considered inadvisable to use two fingers to shoot this kind of gun.⁶ It is also known that using a single finger, this can unintentionally slip off the front trigger after firing the first shot and fire the rear one immediately after in the same motion⁷. A faulty trigger mechanism is also known to cause this result. Such an occurrence would fit the many observations that the shooting started with two shots very close together. Ham Light thought the two shots were pistol shots, but in his version of events at least one of them must have been from a shotgun and as both sounded the same to him then both are likely to have been from the shotgun. Ham Light was viewing from a window. It was a cold day, so the window was probably closed. It was also a very windy day. These conditions would make identification of the type of gunshots difficult. He did think there was one report from a shotgun later in the shooting, but significantly

he did not see anyone with a shotgun. If Holliday did fire both barrels in rapid succession the first shot would likely have been the one to hit McLaury and the second would have gone high. This is a known consequence of this kind of double discharge. The gun ‘jumps’ upward with the recoil of the first shot sending the second high.⁸ This would explain why there was no evidence of a second shot at the scene. The status of the Clanton party’s guns was investigated and reported afterwards, but there are no records of the status of the Posse’s guns, so it is not known if both barrels of the shotgun were discharged. If there was a double discharge as suggested above, then this would be hugely significant. It would show that neither Billy Clanton nor Frank McLaury started the shooting.

In this scenario Holliday probably fired the second barrel unintentionally. It was not his weapon. It was Virgil Earp's weapon given to him to carry discreetly under his long overcoat. Given his history as a well-educated professional man he was likely not familiar with this kind of firearm. It would be understandable if someone unfamiliar with this kind of gun accidentally fired the second barrel along with the first as detailed above. He should have handed the shotgun off to Morgan or Wyatt who both had experience working as 'shotgun guards' on stagecoaches. Realizing he had fired both barrels he would presumably either drop the shotgun or switch it to his other hand when he drew his pistol. This might explain why none of the witnesses, aside from butcher Kehoe, reported seeing him with a shotgun after the gunfight started. If he held on to the shotgun in his non-pistol hand down at his side it would likely be concealed in the folds of his long unbuttoned overcoat.



Fremont Street Behind the O.K. Corral

R. J. Coleman also testified at the Coroner’s Inquest. He seemed to have had nothing better to do than follow Ike Clanton around Tombstone from one spot of trouble to another and as a consequence saw many events leading up to and including the gunfight. From his behavior it would be fair to describe him as an excitable busybody. He was a good witness in that he provided a great deal of detail about the events at the Inquest. His observations were also reported the day after the confrontation by the *Epitaph* newspaper. This newspaper version is very short in comparison to the Inquest testimony and does not describe the start of the gunfight only the progress.⁹ At the Inquest, Coleman stated that he thought that the report he gave to the *Epitaph* was pretty near

correct as published. There are some differences in the two accounts, but it would not be fair to accuse Coleman of being an unreliable witness because of this. The differences could have been the result of errors in the *Epitaph* reporting. Counting against him as a witness is that he might not have been known to the protagonists, but he was certainly not an independent witness because he was suspicious of the Clanton party and got involved. He was at the main entrance to the O.K. Corral on Allen Street when the Clantons and McLaurys crossed over from the Dunbar Corral and entered the O.K. Corral. He noted that Billy was riding and Frank leading his horse. Billy asked him where the West End Corral was. He saw that some of the group had guns. He then went out of his way to urge both the sheriff and chief of police to disarm the Clanton party because "I thought they meant mischief." He then joins with Billy Allen. This is interesting in that they are an 'odd couple' with Allen friendly with some of the Clanton party and Coleman hostile to them. They return to the O.K. Corral main entrance and went through the corral to Fremont (following 50 yards behind the sheriff according to the *Epitaph* article) where he arrived at the vacant lot in time to see Sheriff Behan leaving the Clanton party to speak to Virgil Earp. He heard someone in the Clanton party calling at the departing sheriff not to be afraid, that they are not going to have any trouble. He saw Virgil's posse walk past the sheriff (at this point, opposite the butcher shop, he has them walking down the center of the street when other witnesses had them on the sidewalk). He saw them approach the Clanton party and heard a 'sons of bitches' remark from someone. He heard the call for them to raise their hands. In the *Epitaph* article he said that Frank McLaury made some reply. Then, after helping to stir up trouble, just when he could have made himself really useful as a witness, he turned away as the first shot was fired. He heard two shots fired. He said that he could not see if anyone put their hands up when called upon because he was at that moment in the act of turning away. After the first two shots however, he saw Billy Clanton with his right hand across his body, his hand on his pistol in the scabbard (his term). This is a very important observation because if true it means that Billy Clanton could not have fired one of the first shots. After the first two shots were fired, Coleman saw Tom McLaury run down Fremont Street and fall. The *Epitaph* reportage had him saying that Tom McLaury was the first to fall but raised and fired again before dying. This is the most significant difference in the two accounts. This did not happen because Tom McLaury was so severely wounded and did not have a gun, but this could be the reporter confusing him with Billy Clanton. Coleman did not see anyone with a shotgun. However, Tom McLaury was shot with a shotgun and there is no doubt that Holliday had the shotgun. Although Coleman did not see Holliday shoot, he did see Tom McLaury run away and fall after the first two shots. This indicates that Holliday fired at least one of the first two shots and could have fired both. This agrees with the testimony of Ham Light. The testimony of Coleman is worthy of serious consideration because he was not friendly towards the visitors. He was hostile to the Clanton party, supportive of the police and yet his testimony does not agree with the Earp version of events. It is also significant that Coleman gave his recollections soon afterwards to the *Epitaph* and three days later at the Inquest. Importantly, in both versions his observations strongly indicate that Tom McLaury was the first to be shot.

There is more support for the scenario of Holliday firing first and shooting both barrels of the shotgun at the same time from some hearing testimony that has come down to us. Billy Allen testified at the hearing for the prosecution. He was convinced that Holliday fired first from the smoke about his person but with a pistol from the sound. This shot was then closely followed by the sound of a shotgun firing. But the shotgun was fired by Holliday, so Billy Allen is describing an impossible scenario. His observation is however believable if Holliday fired not with a pistol

but with both barrels of the shotgun. Billy Allen also saw Tom McLaury clasp his hand to his chest after the first two shots. He then saw Tom McLaury move into the vacant lot and assumed that he must have gone all round the Harwood house to end up where he did. Billy Allen dashed for cover after the first two shots so he missed seeing Tom McLaury run away down the sidewalk before falling. Tom McLaury was also holding a horse and this horse might have obscured his movements. Billy Allen was friendly with the McLaurys and he was also involved in the drama. He updated Frank McLaury when he arrived in Tombstone about the assault on brother Tom by Wyatt Earp. For this reason, he cannot be seen as an impartial witness. His testimony is also compromised because he testified before newspaper reporters were allowed in court. The only record is the edited court transcript. Taking these reservations into account however, it must still be noted that the testimony does tie in with that of Ham Light and R.J. Coleman if the reported initial pistol use by Holliday is discounted. Billy Allen did not *see* a pistol fired first; he went by the *sound* for his identification.

Addie Borland, only testified at the hearing and not at the Coroner's Inquest. She viewed the events across the street from the vacant lot next to Fly's lodging house and had the best view of all the non-participant witnesses. In her evidence that has come down to us she apparently proved frustratingly uninformative. She saw the start of the shooting but could not offer anything useful other than that Holliday had the shotgun and that no one had their hands up. That she saw Holliday with the shotgun levelled just before the shooting started supports the argument that Holliday fired his first shot with the shotgun and would not have fired his first shot with his pistol. She also observed that the Clanton party moved out of the vacant lot to meet the posse and that Holliday put a large dark bronze pistol against the stomach of a man with a horse. It is generally agreed that the large bronze pistol description would be her interpretation of the short barrel coach shotgun.

P. H. Fellehy testified at the Coroner's Inquest and the hearing. He saw the posse walking down Fremont. He was crossing the intersection at Fourth and Fremont streets when the shooting started but could not say who fired first. From his vantage point 95 yards away in the middle of the intersection he only saw Morgan Earp and Holliday in the roadway. From Fellehy's position the viewing angle would allow very little view of the vacant lot itself. There were probably awning support columns in front of Fly's and the butcher's and from this viewing angle it is possible that these would partially obscure the sidewalk area in front of the vacant lot. His testimony is of interest because it places two of the posse members at the moment the shooting starts and because he did not see any of the Clanton party it also can be seen to lend suspicion to the testimony of Sills.

Drawing on the evidence of these five witnesses and discounting the evidence of Sills (and the participants) there is an alternative believable scenario that emerges regarding the start of the gunfight. There probably was some shout to the effect that "you sons of bitches have been looking for a fight and now you can have it." This would have been very unlikely to have come from Virgil. It is more likely to have come from one of the other posse members or from a hostile spectator. There would have been the call from Virgil to the Clanton party to raise their hands and submit to disarmament and it would be likely that Frank McLaury responded to the effect that they were leaving Tombstone or arguing why they should. And then Holliday started the gunfight by shooting Tom McLaury with the shotgun. In the process he fired the second barrel accidentally a split second after the first.

Of the three possibilities for how the gunfight started, the Earp version supported by Sills, the Ike Clanton version supported by Claiborne and Fuller, or the possibility outlined above that Holliday starting the shooting supported by the non-participant witnesses. This latter scenario might seem the most likely on the balance of probabilities and be worthy of serious consideration.

There are several possible reasons for Holliday to shoot the unarmed Tom McLaury. It could have been an accidental discharge. He could have thought Tom was going for a gun or was being non-compliant. It could have been a deliberate premeditated act. It is quite possible that Holliday fired the first as well as the second barrel accidentally given the stress of the situation and probably an unfamiliar type of gun for him. It is possible that Tom rather than raise his hands when called upon to do this by Virgil made some movement that had Holliday thinking that he was going for a gun. He was reportedly shot in his right side. The evidence for this is unfortunately not absolutely certain. The coroner testified first at the hearing when newspaper reporters were not allowed. His evidence was nonetheless reported by the press from some other source and so we have to work on the assumption that the reportage is accurate, and Tom McLaury was shot in his right side. This means that, given the disposition of the posse when he was shot, Tom McLaury had turned his back on Chief of Police Virgil Earp and was right side on to Holliday who was standing in the roadway. It seems that Tom turned away from Virgil and this movement might have prompted Holliday to shoot. In their testimony that has come down from the hearing, both Wyatt and Virgil Earp alluded to a turning away motion by Tom McLaury. In their version they have this happening later, after the first shots.

It is also possible that Tom McLaury just started to walk away. This is not as unlikely as it might seem. There is evidence that the Clanton party had started to depart the vacant lot to continue to their planned destination, the West End Corral, just as the posse arrived. Frank McLaury would probably have been group's leader by virtue of his seniority and because he was not hung over or beat up. In an ideal world he might have wanted to return to the butcher's shop to finish his business, but given the situation possibly decided to leave forthwith. His understanding would have been that Sheriff Behan as the authority in charge, was going to stop the approaching city police posse and had no issue with him leaving in possession of his guns, only staying in possession of his guns, so he was free to leave. The sheriff had not issued an ultimatum or arrested him; they had just been arguing about the gun carrying situation in the city. Frank possibly decided they should move on to leave Tombstone and they could have started on this just as the posse arrived. The evidence for this is in Addie Bourland's testimony that they came out from the side of the Harwood house to meet the posse. This was possibly a response to the posse's arrival at the vacant lot but could also be a coincidence. The posse walking down the sidewalk would not have been able to see anyone in the vacant lot and vice versa. Virgil's testimony from the hearing had him seeing just 'half a horse' as he approached the lot. If this situation persisted Frank and his group would not have seen the posse until it reached the corner of the lot and was upon them, leaving them little opportunity to move to meet them. Going by the witness statements there does not seem to have been time for this moving out to take place. The lot was only 20 feet wide, so neither does there seem any purpose in moving a few feet away from the house in response to the appearance of the posse. Addie was watching from across the wide street and would not be aware of who could see who and when. From her viewpoint the Clanton party starting to exit the lot at the same time as the posse arrived could look like moving to meet the posse as it approached the lot. Also,

Addie Bourland stated that Holliday pushed his gun into the stomach of a man with a horse (one of the McLaurys). If the Clanton party were still in the confines of the lot as the posse arrived then this would require Holliday to move into the lot to get close enough to prod one of the McLaurys with his shotgun, then retreat out of the lot into the roadway from where he would subsequently shoot from. This would be very aggressive and very strange behavior. However, if the McLaurys were in the process of leaving the lot as the posse arrived then Holliday's action would be a 'you're not going anywhere' containment gesture taking place on the sidewalk or road. This is a far better explanation for his action. Tom might simply have carried on walking away from the lot, despite Virgil's call for them to raise their arms, prompting Holliday to shoot.

Tom McLaury had arrived in Tombstone the day before with Ike Clanton. They both probably started drinking on arrival. They were both then at an all-night poker game with Behan and Virgil Earp where they probably drank more. Next day lunchtime (day of the gunfight) Tom was clubbed about the head during an altercation with Wyatt Earp. Tom McLaury was probably tired, hung over and suffering from the blows to the head when the posse arrived. It would not be surprising if he did something ill-considered when Virgil called for them to raise their hands, that prompted an edgy Holliday to shoot.

The evidence for a deliberate premeditated attack is the 'sons of bitches' remark possibly made by a posse member when they reached the Clanton party. There is also the evidence of Mrs. Martha J. King who testified at both the Coroner's Inquest and the hearing. She did not see the start of the shooting. At the Coroner's Inquest she said that she was in the doorway of the butcher's shop watching the police posse walk down the sidewalk towards her. After they passed her at the doorway, when they reached what she calls "the second door" she said "this man on the outside looked at Holliday and I heard him say let them have it and Doc Holliday said all right." It is hard not to see "let them have it" as anything other than a call to open fire. This seems to be strong evidence that Holliday was predetermined to open fire on the Clanton party when they met up. Also, for motivation, he could have been angered that the Clanton party was next to his lodgings. He would not have known that they had been waiting there for Frank McLaury to finish his talk with butcher shop owner Kehoe. It would be understandable if Holliday thought that the Clanton party were waiting in the vacant lot in order to attack him when he returned to his lodgings. Holliday had a reputation as a bad-tempered confrontational individual. Addie Borland testified that Holliday put a large bronze pistol (the shotgun) to the stomach of a man with a horse then stepped back two or three feet (this would have been away from one of the McLaurys). This is certainly a confrontational gesture. Taking all this into account it leads to a strong suspicion that Holliday "let them have it" by deliberately firing first and shooting Tom McLaury in anger and just for personal gratification whilst knowing that as a member of the posse he had a measure of legal sanction.

This seems to be powerful testimony suggesting premeditation. However, Judge Spicer at the hearing was apparently not impressed. This could have been because of prejudice against the testimony of a women or something else we don't know about today.

Holliday deserves the benefit of the doubt on an accusation of premeditated murder. He certainly had a reputation for hostility especially when drunk. However, in this instance he was likely not

drunk (by his standards). He had not stayed up the night before at the poker game but had gone back to his lodgings.

There are also some problems with Martha King's testimony at the Coroner's Inquest. She was intrigued by a group of men on the sidewalk outside the shop as she arrived. She went inside and learned there was the promise of trouble between the Earps and the Cowboys and must have understood that the group of men had something to do with this so she went back to the doorway where she saw Frank McLaury part company with his lawyer. She went back inside the shop for her produce. Then she heard that the Earps were coming down the street and went back to the door from where she heard the "let them have it" words. After hearing the "let them have it" conversation, she said this frightened her and caused her to run for the back of the shop. She claimed that the first shot came before she reached the middle of the shop. This is a physically impossible scenario. This must cast doubt on all her testimony. She was claiming that in the time it took for her to run to the middle of the small butcher shop from the doorway, that the posse continued down Fremont past Fly's boarding house to the vacant lot and a few words were exchanged. The vacant lot was 21 yards away from the shop door. The next door down from the shop was an assay office. This was 13 yards away from the vacant lot. The only way her scenario would work is if her "second door" was the entrance to Fly's. That was next to the vacant lot but 17 yards away from the shop. This is not far away but if she was able to hear the infamous remarks at that distance on a windy day then the Clantons and McLaurys, Sheriff Behan and the people in the street would also. Ike Clanton would certainly have mentioned such remarks if he heard them so this could not have been the situation. The butcher shop proprietor, James Kehoe, testified at the hearing and according to the edited transcript said that the posse passed by him (at his premises presumably) and he saw the meeting with Sheriff Behan, and he heard some of the words between them and saw the posse pass the sheriff and move on to the Clanton party. He was ideally placed to hear any "let them have it" type remark but made no mention of this. As a client of the McLaurys and a prosecution witness he could be expected to support the prosecution by mentioning such remarks if he heard them.

Also suspicious in Martha King's testimony (signed by her and presumably read through beforehand) is that just a few lines after mentioning the "let them have it" remark she said "I don't know who said give it to them." "Give it to them" is a similar sentiment to "let them have it" but this inconsistency is also not good for her credibility as a witness.

To be charitable to Martha King however, perhaps a "let them have it" type remark could have been made and Mrs. King did not invent this, but perhaps she got it wrong. She seemed to attribute it to one of the posse (man on the outside of Holliday who was on the inside of the sidewalk), but it was highly unlikely that someone in the posse made it because no one else heard it and that makes no sense. Why would one of the Earps choose this moment, with witnesses in earshot, to make such a potentially incriminating remark. There would have been no prior qualifying remarks as has been suggested, because the posse was walking away from Mrs. King, and she would surely have heard any because the posse would have been closer to her. What could have happened was that there were other onlookers in the vicinity and one of these shouted out "let them have it" or something similar to the posse as they moved down towards Fly's and a posse member looked across to Holliday as if to check if he heard the remark and Holliday responded "all right" as either confirmation of his murderous intent or just by way of acknowledgement without any real intent.

Or his remark could have been unconnected, he could just have been checking on how a member of the posse was bearing up. Either is a much more natural, likely scenario. No bystander admitted to making this exhortation but given what transpired, no bystander would have done. A prime candidate for shouting out such a remark would have been the aforementioned Coleman. He seemed to get very excited by the day's goings on and seems to have been given to shouting out. In his testimony he said that he shouted out to Holliday and photographer Fly during the gunfight itself. He also testified that he was at the butcher's shop when the posse walked past. Another significant problem regarding the "let them have it" remark is that if it happened as Martha King described then all of the posse must have heard it and this means that Virgil Earp, the chief of police, either said it or was happy with it because he didn't stop to remonstrate with his posse. It is very unlikely that Virgil would have been happy with a prior commitment to violence. It must also be remembered that there was a strong wind blowing. There must have been considerable wind noise in a place like Tombstone with wood frame buildings, fascias and awnings. It must have been difficult to hear and place conversations accurately out in the street.

The evidence for premeditation seems weak and the shotgun firing by Holliday was perhaps more likely to have been an accidental discharge or an unpremeditated mistake. The kind of mistake that happens on a regular basis when armed police are dealing with armed suspects or suspects they think might be armed. In these situations, the police can understandably get so stressed and anxious that any unexpected movement or non-compliance on the part of suspects can be read as a threat and the police will open fire. Holliday was not experienced at police work. It would not be surprising if he was in an excited state.

WHY DID IT HAPPEN?

It seems extraordinary that such an event as this gunfight should come to pass. Discounting the claim of Sills, there is no evidence the Clanton party was looking for a fight, quite the opposite. Coleman claimed that one of the party said they were not looking for trouble and only the two recent arrivals had their guns with them.

The main driver would seem to be animosity of many in the incoming mining and commercial community towards some of the livestock ranchers who were believed to be engaged in criminal activity. They were often called 'Cowboys' implying criminality and were believed to be associating with outlaws and to be part of an organized crime network. How this state of affairs came to pass is worthy of research in its own right.

It seems surprising in retrospect that Tombstone residents should be so concerned about an inebriated, well-known, local blowhard wandering the morning streets with his guns looking for a fight and then after he had been dealt with, further alarmed by the arrival of his younger brother with a local rancher friend. The faction hostile to the Cowboys included many influential people in the city. They managed to generate a climate of fear based on the false supposition that there was an army of organized criminal Cowboys outside the city looking to waylay travelers and pounce upon the inhabitants. A Citizens' Safety Committee was established, and a vigilante force organized to combat this non-existent threat. Immediately after the shooting this force was mobilized on the streets of Tombstone by pre-arranged signal. This was siege mentality, probably caused by the isolation of Tombstone within frontier territory and the lack of a rail link to the outside world. The small, isolated mining operations might have been at the mercy of criminal

gangs but Tombstone was a mini-metropolis containing the county sheriff and his deputies and the Chief of Police and his deputies, there was little to justify this fear.

An already tense situation before the gunfight was made worse by some unfortunate events and coincidences and some law enforcement mistakes. Wyatt Earp exacerbated the situation by roughing up Tom McLaury just before his brother arrived. There was no law enforcement purpose to this, Tom McLaury was not disarmed or arrested. It is arguable that Wyatt Earp had no police authority on the streets at this point or even the authority to carry a gun on the streets. This has the appearance of a gratuitous punishment beating administered by someone with police connections who knew he could get away with it. Tom McLaury, like Ike Clanton, had been up all night at the poker game and was likely still a bit drunk at the time and might have expressed his displeasure to Wyatt at the treatment of Ike. Even if this was the case, for someone with aspirations to high office in law enforcement, a recent acting chief of police, this was an excessive and inappropriate response. It looks like a bully finding someone he doesn't like alone on his home turf and taking the opportunity to rough him up. The likely result of this was that Frank McLaury wanted to argue about checking in his guns when asked by Sheriff Behan. Also, this probably encouraged the Clantons and McLaurys to stick together for safety. This was understandable on their part, but it only served to agitate many city residents all the more because, given Ike Clanton's earlier behavior, it gave them the look of a gang of troublemakers on the prowl.

It was an unfortunate coincidence that Frank McLaury and Billy Clanton arrived when they did. To many, this would have looked like they had been summoned by Ike Clanton to provide back up for his drunken campaign to fight Holliday and the Earps. This was not the case, they lived too far away from Tombstone for this, but this would explain why there was a 'buzz' about the City that there was going to be trouble between the Earps and the Cowboys. Another unfortunate coincidence was that the visitors wanted to stock up on ammunition. Considering that, earlier in the month, an Apache raiding party had moved through the region killing and stealing this should not have been surprising. However, to the citizenry this would have fuelled the fear that the Cowboys were preparing for a shootout on the streets of Tombstone. Another unfortunate coincidence was that one of the McLaury's butcher clients was close to Holliday's lodgings. The vacant lot next to the lodgings was probably the nearest convenient place offering some shelter from the wind where the Clanton party could wait for Frank McLaury to do his business with the butcher before they all moved on. However, to Holliday and the Earps it must have caused some suspicion and anger when they saw this. Yet another unfortunate coincidence was that the owner of the shop was there. The Clanton party did not have to go past Holliday's lodgings to get to the corral where Ike Clanton had his wagon. They probably went via the O.K. Corral just on the off chance that the owner was there to allow the McLaurys to speak to their client. If the owner had not been there, they would almost certainly have moved on to pick up Ike Clanton's wagon, collect up their guns and head straight home away from trouble. Another unfortunate coincidence was that Sheriff Behan was isolated. His undersheriff plus two experienced deputies were out of town. If Behan had been able to call for his backup, he would have been in a much stronger position when he intervened to try to prevent a confrontation.

It was particularly unfortunate that Billy Claiborne tagged along with the Clantons and McLaurys because just three weeks earlier he had shot and killed someone in a barroom altercation in nearby Charleston. He was awaiting trial for murder. This was unfortunate because his presence, likely

advised in advance to Virgil Earp, would have caused him concern when he went to confront the Clanton party. It might have encouraged him to recruit the inexperienced Holliday, a questionable decision. Despite the reputations that history has bestowed on them as gunfighting desperados there is no good evidence that any of the Clantons and McLaurys in the party had ever been suspected of shooting anyone. Similarly, despite the posse members becoming known as gunfighting legends of the wild west, there is no good evidence that any of them had been involved in a face-to-face shooting at this time. Holliday had been involved in some drunken barroom altercations where shots were fired without serious consequences and that was all. It is highly likely that Virgil and the posse members were considerably on edge because of the presence of Claiborne, a young man with a proven record for shooting a man to death. Sheriff Behan seemed to understand this. When the shooting started, at great personal risk and to his great credit, he grabbed and shepherded the unarmed Billy Claiborne, a likely target for the posse, away from the shooting.

It was a mistake that Chief of Police Virgil Earp did not introduce himself and speak to the new arrivals. He seemed to be in a state of some confusion. He should not have stayed up all the night before at a poker game. He had been away most of the previous day with Sheriff Behan chasing escaped prisoners and he might have wanted to wind down a little, but this probably impaired his performance the day of the gunfight. He had had to get up having little or no sleep to arrest and disarm Ike Clanton for openly carrying guns on the streets that morning. This was necessary police work on his part, but he then failed to act when Billy Clanton and Frank McLaury, both of them apparently with guns visible on their person, went to the gun shop after arriving in town. Virgil Earp should have spoken to them at this point to ask what their plans were and enforce the gun prohibition law if appropriate to the circumstances. Not to speak to the visitors at this point, when they were in the street in front of him, was an act of weakness that only served to provide tacit approval for their gun carrying at a time when many of the city residents were getting agitated. The situation called for a law enforcement intervention. Only two of the visitors apparently had guns and Virgil had Wyatt there for support in case of difficulty so there was no need to wait for reinforcements. It seems that Virgil also suspected that the recent arrivals were reinforcements summoned by Ike Clanton for a fight, so he held back. This misunderstanding was probably the catalyst for the tragedy that followed. Wyatt confronted Frank McLaury about his horse being on the sidewalk and Virgil with a shotgun to hand had just observed the Clanton party and said nothing. It was the Earps who had the hostile attitude not the visitors. Virgil Earp was subsequently pressured by some of the notable city residents to do something and if he had spoken to the Clanton group he would likely have been in a position to give assurances that they were leaving Tombstone. As it was, according to Behan's testimony, he seems to have become very exasperated and irritable as the pressure came on him to take action and he made more bad decisions.

Regarding the gun carrying situation, Frank McLaury had his horse with him at the gun shop and Billy Clanton possibly had his horse with him all the time also. There might have been a convention in operation that if an armed man had his horse or wagon with him, it would be assumed they were passing through and could keep their guns. However, if this was the case then nothing had changed when the Clanton party moved to the location of the eventual gunfight and there should have been no reason to confront them.

Virgil made another mistake in not giving Sheriff Behan enough time to deal with the situation or report back. Although Sheriff Johnny Behan has been much maligned since the gunfight, he did try to prevent a confrontation between the city police and the Clanton and McLaury party. Just like Virgil he probably did not give of his best because of being up all night at the poker game. From his Inquest testimony it would seem that he noted that Virgil was struggling to cope with the situation, becoming aggressive. He offered to speak to the Clanton party about their plans and their guns. Something that Virgil should have already dealt with. Given a reasonable amount of time Behan would likely have talked Frank McLaury round into either leaving Tombstone or checking in his guns if he intended staying. However, Frank unfortunately seems not to have appreciated the seriousness of the situation and wanted to argue with the sheriff about the request to check his guns. Ironically, from his movements, it looks like he was on the way out of Tombstone with the others in his party and was arguing with the sheriff purely on a point of principle. He had good reason to be unhappy because there were double standards in operation regarding gun control. The out-of-town ranchers and their hands seem to have been expected to check in their guns whilst in Tombstone but if you were 'in' with the authorities you were not. Doc Holliday was apparently routinely carrying a gun in public places but there was seemingly no legal justification for this. It is also arguable that at this time Wyatt Earp had no law enforcement role to justify carrying a gun out on the streets before the posse was formed. In the version of the hearing testimony that has come down to us Wyatt claimed his Deputy City Marshall (i.e. acting chief of police) status when he confronted Frank McLaury about his horse on the sidewalk outside the gun shop. However, with Virgil back in Tombstone this would seem not to be true and when reporting the status of the posse members at the hearing, Virgil does not confirm this and only acknowledges Wyatt's limited special policeman status with reference to his saloon business. This means that Wyatt likely had no right to carry a gun on the street at the time and also no police authority to confront Frank McLaury about his horse.

Wyatt Earp's status might have been more significant than it appears because this was likely the main issue in the argument between Frank McLaury and Sheriff Behan regarding laying off his guns. Both Behan and Ike Clanton testified about this at the hearing. Unfortunately, their testimony has to be treated with suspicion as both had personal agendas. When Behan asked him to check in his guns it would seem that McLaury wanted Wyatt Earp or the Earps generally to likewise be disarmed. At the hearing this was important, because along with the testimony of Sills, the Judge placed great emphasis on this and in his judgement seemingly unjustifiably elevated it to a demand by McLaury that the chief of police and his assistants should be disarmed, that is that the posse should be disarmed. The judge describing this as a proposition both monstrous and startling. Earlier in his judgement he said it was Virgil's duty "to at once call to his aid sufficient assistance and persons" so he does seem to be referring to the posse. However, when McLaury started his argument with Behan they had no knowledge that a posse had been formed so he could not have been asking for this. If, however McLaury was demanding that Wyatt Earp be disarmed also then, given Wyatt Earp's law enforcement status at the time, this was not a proposition both monstrous and startling but a perfectly reasonable argument. This was likely to have been the focus of his argument because Wyatt Earp had roughed up his brother under the threat of his gun and he had also confronted Frank about the management of his horse.

Virgil Earp made a mistake with the recruitment of his posse members, or this might have been yet another unfortunate coincidence that his other deputies were not available. Morgan, Wyatt, and Holliday had been in recent confrontations with some of the Clanton party so choosing them as his posse was no way to try and calm the situation. Holliday in particular had no track record of peace keeping, quite the reverse. Also, afterwards, the gunfight looked not so much like law enforcement but a personal affair of feuding families.

The situation could still have passed without incident, but Virgil Earp then made a final mistake as he set off to confront the Clanton party with his posse. A drunk and armed Ike Clanton had made threats against Holliday and the Earps before witnesses, but he had been dealt with. This meant that for Virgil his only law enforcement concern for certain was the gun carrying issue (discounting the threats reported by Sills). Before he reached them, Sheriff Behan asked him to turn back and apparently according to Virgil and Wyatt said he had disarmed the Clanton party (Behan denied this but it is possible that he did offer this lie to try to stop a confrontation). Virgil must have believed that Behan had disarmed the suspects because he claimed that he tucked his gun away on hearing this and Wyatt similarly claimed to have pocketed his gun. There is evidence that they did this. Also, he did not take back his shotgun given to Holliday to hide under his long overcoat as they walked through the streets. Yet apparently despite believing that the Clanton party have been disarmed by the sheriff, Virgil Earp did not turn back but walked on to confront them. This was a mistake because, believing them to be disarmed, he had no reason to do this. This is another example of his confused thinking. He had some agitated important city men getting on at him, looking for action to be taken and he saw the cause of all this agitation now only twenty yards or so away. It seems that they are so close that he could not resist walking on to face them but probably without much idea of what he was going to do when he got there. He was no doubt exasperated by the goings on of the morning and possibly wanted to give the Clanton party some words of displeasure, wanted to encourage them to leave Tombstone or perhaps wanted to warn them off if he suspected they were plotting against the Earps. He would have been taken by surprise when he saw their guns. Thinking quickly, he called for the Clanton party to raise their hands and submit to disarmament, but the shots that started the gunfight seem to have come only seconds after this.

It was irrational for so many Tombstone residents to be fearful of and hostile towards this small group of visitors in the city. Chief of Police Virgil Earp should have been defending the Clanton party from the hostile mood of the citizenry and trying to calm things down because, Ike Clanton excepted, they had not been causing any trouble. Frustrating though it might be, he even had a duty of care to the troublesome Ike Clanton. It is unlikely that any of the Earps or Holliday were fearful of Ike Clanton. They probably saw him as something of a buffoon, who when drunk became an argumentative blowhard and brawler. At the late night confrontation the day before the gunfight and at the courtroom following Ike Clanton's arrest next morning, from the reports at the time, it looks like Holliday and the Earps were ridiculing Ike Clanton, not taking him seriously. Unfortunately, Virgil also seems to have gone along with the idea of an organised crime Cowboy menace to Tombstone and he over-reacted. The situation had become one of local politics as much as it was law enforcement and Virgil Earp did not handle it well. It could be argued that law enforcement became police harassment in this instance. Virgil Earp was not the first choice for chief of police, he was a temporary stand in who got to stay on in post, he had only been in the

position for five months. The events seemed to show that the top police job in a big boomtown like Tombstone was a bit too much for him.

It is an interesting speculation as to what would have happened if the Clanton party had raised their hands or Frank and Billy had not drawn their guns or Holliday had not fired at Tom depending on what is believed. Billy Clanton was leaving Tombstone with brother Ike. Frank McLaury, faced with this new situation would almost certainly have said that he was leaving also, with brother Tom. Billy Claiborne was unarmed. In this eventuality all that Virgil Earp could do was let them all go on their way or arrest just the two for carrying firearms in the city. If he was to arrest them in these circumstances this would certainly be perceived as victimization by many in the community.

WHAT MIGHT HAVE HAPPENED NEXT

If Holliday fired first, it is also interesting to speculate as to what would have happened next. After Holliday's shots this would likely be the moment, not before the first shots, that Virgil shouted his "Hold, I don't want that," or similar as he claimed he at the hearing. It might be expected that the two armed members of the Clanton party would be the next to fire in retaliation. However, the Clanton party allegations that the posse opened fire in general before Billy Clanton and Frank McLaury drew their guns could be correct. What often seems to happen in instances of police firing on suspects in stressful situations, is that if there is more than a single officer, when one fires the others tend to join in. The immediate response would be that if their side is shooting there must be a threat and they should give support. This could have happened on this occasion, that probably Morgan Earp (who could have had a gun in hand) and possibly Wyatt was prompted to open fire by the firing from Holliday. It does seem very unlikely that any of the Clanton party raised their hands in response to Virgil's call as claimed by Ike Clanton because the witness testimony suggests only a few seconds between the call and the first shots. Also the witnesses Coleman, Light and Bourland did not see this. As regards the justification for the posse to start shooting this cuts two ways of course, did the Clanton party refuse to comply or were they not allowed a reasonable amount of time to comply. If they were fired at before they drew their guns, Billy Clanton and Frank McLaury might have been able to save themselves by throwing up their hands but it would be understandable if they went for their guns to defend themselves. It would appear that Frank McLaury initially either tried to get at his rifle or take cover behind his horse, or both and this resulted in a delay before using his pistol. This would explain why he only fired four shots at the most despite being last to fall. Billy Clanton emptied his gun. According to Ham Light his last went in the air. So between them they only managed nine shots at the most at the posse (if they left one chamber unloaded for safety as was common then this would have been seven shots). This was an unequal gunfight, four against two and it is possible that one or both of Frank and Billy were already wounded before they drew their guns. Even if this was the situation, the posse was very lucky that it did not go worse for them. They were fortunate that in the early stages of the shooting Billy Clanton was shot in his gun hand and had to use his weaker hand. They were also fortunate that Frank McLaury did not get his rifle from his horse. Had he managed this, then would allowing and the posse's attention divided between two shooters, he would have been a formidable opponent with the repeating rifle at the close range.

To continue the speculation, if Holliday fired first then the Earps would have known it. They might have thought this was justified, they might not, but they would have realized that this was going to be a big problem for them. Legally it might possibly be excused by virtue of Tom McLaury's non-compliance in not raising his hands immediately. However, in the court of public opinion such a shooting would be strongly condemned because Tom McLaury was unarmed (discounting the rifle on Billy Clanton's horse he was holding). This is probably why Virgil Earp feared a lynch mob coming for him after the gunfight. Also, as the date of the hearing approached, they would know that a witness (Martha King) would testify that Holliday had agreed beforehand to "let them have it" and Sheriff Behan would likely testify that they fired first. With this evidence added to an understanding that Holliday started the shooting by killing an unarmed Tom McLaury, a trial for murder was a likely outcome of the hearing. The Earps would have had a very strong motive to protect Holliday and themselves by inventing an alternative scenario. Initially, in the *Epitaph* the day after the fight, Virgil Earp is reported as saying that both Billy Clanton and one of the McLaurys fired to start the shooting. They would then have plenty of time afterwards, before the hearing, to organize their story with a supportive witness in the person of Sills. They needed to explain two shots very close together and it would be good for them to claim that someone other than Holliday fired first from their side and also that the unarmed Tom McLaury was not the first to be shot. They decided not to continue with the claim that both Billy and a McLaury fired at the same time but instead, claimed that it was Wyatt and Billy firing at the same time. As Wyatt Earp tells it in the testimony from the hearing that has come down to us, this is a somewhat fanciful story. He has placed his gun in his coat pocket, he supposedly sees Clanton and McLaury both draw their guns yet manages from this position of disadvantage to fire at the same time as Billy Clanton. The only way this would be possible is if Clanton and McLaury drew their guns as a defensive move and then paused to see what would happen, thus waiting for Wyatt Earp's response before one of them fired. This is an improbable scenario. Also improbable in this scenario is the pause after these supposed first two pistol shots. None of the claimed shooters was out of action after these two shots so why would they pause before following up with more shots? If, however Holliday fired first but unexpectedly, then there would be a pause before the Clanton party retaliated or the Earps followed up what Holliday had started.

It would be interesting to know if the reporting of Wyatt Earp's version became the first recounting of a quick draw gun duel in the 'wild west', or if Wyatt Earp appropriated this scenario from the wild west literature of the time. This particular aspect might be one of the reasons for the abiding appeal of the O.K. Corral gunfight story. As told by Wyatt Earp it would appear to be a real-life version of the theatrical cliché of wild west adversaries facing off for a quick draw shooting showdown.

AFTER THE GUNFIGHT

Although Judge Spicer did not put the case forward for trial, this might seem a questionable decision in hindsight considering the testimony from the Inquest and the testimony that seemed to have been provided at the hearing. The testimony of Light and Allen has Holliday firing first. Also, there is testimony by Martha King suggesting pre-meditation to shoot on the part of Holliday. The testimony of Coleman has Tom McLaury shot first and Billy Clanton with his gun holstered at the first shots disputing Wyatt Earp's version of events. The county sheriff even testified that the police

posse fired first. On the face of it such testimony would seem worthy of being placed before a jury at trial. However, Coleman and Light did not testify for the prosecution at the hearing. Perhaps they did not want to testify against the city police. Coleman was certainly a police supporter. Perhaps they might have been seen as a liability as well as an asset by the prosecution because they did not see the victims with hands in the air before the shooting started, thus disagreeing with their main witnesses. The remaining testimony of Allen, King and Sheriff Behan was not regarded as strong enough to secure a trial. Ike Clanton's testimony was obviously biased and from the record available was also very weak. Judge Spicer did unfairly favor the defendants in one regard as previously mentioned, but his verdict does not seem to be a hometown 'fix'. At his own discretion he interviewed Addie Borland out of court after her testimony and this angered the defense team. Ike Clanton might have won a trial if he had been less ambitious and argued for a manslaughter trial rather than a murder trial.

If Sills' testimony had not been available for the hearing, the case would have been harder for the judge to dismiss. There would be no evidence of prior threats towards Virgil and his brothers from the Clanton party and no independent evidence that Clanton and McLaurry drew their guns before the shooting started. However, there was also no independent evidence that the Clanton party complied with the police and raised their hands. It would have to be decided which of the participants should be believed. Judge Spicer might have felt it appropriate to put these deliberations to a jury.

If Sills was a false witness and the gunfight started as suggested above, then Holliday and the Earps were very fortunate that their cover up worked, and they avoided a trial. However the gunfight started, after the hearing the sensible thing for them to do was to leave the area immediately but foolishly they stayed on, no doubt buoyed by the support for them in the Tombstone community. However, there was also considerable anger in the area about the shootings and the hearing outcome. The ensuing violence should have come as no surprise.

¹ Testimony at the preliminary court hearing of Virgil Earp, Wyatt Earp, William Allen and others from *The O. K. Corral Inquest*, Alford Turner, Editor, 1992. Testimony is not the original court hearing transcripts but taken from the edited copies of the originals by researcher Hal Hayhurst. Some of the testimony in Turner's book is available online at the website Famous Trials listed as the O. K. Corral Trial. Note: although the book has 'Inquest' in the title it is badly named and does not include testimony from the actual Coroner's Inquest.

² Transcripts of the Coroner's Inquest evidence available online at the Arizona Memory Project, Arizona Digital Library, Arizona State Library, Archives and Public Records.

³ Testimony of H. F. Sills at the preliminary court hearing as reported by the *Tombstone Epitaph* November 22, 1881, available online at the Tombstone History Archives.

⁴ 1886 Sanborn Fire Insurance Map from Tombstone, Cochise County, Arizona, available online at the Library of Congress website.

⁵ Photo taken before the fire of May 1882 on the Wyatt Earp Explorers by John D Rose website, Gunfight near the O.K. Corral web page.

⁶ Wikipedia webpage, Double-barreled shotgun, Trigger mechanism https://en.wikipedia.org/wiki/Double-barreled_shotgun

⁷ Thefiringline.com forum webpage, Any sxs or over unders that fire both chambers with one trigger pull?

⁸ www.Thefiringline.com , online webpage, How do you use double triggers?

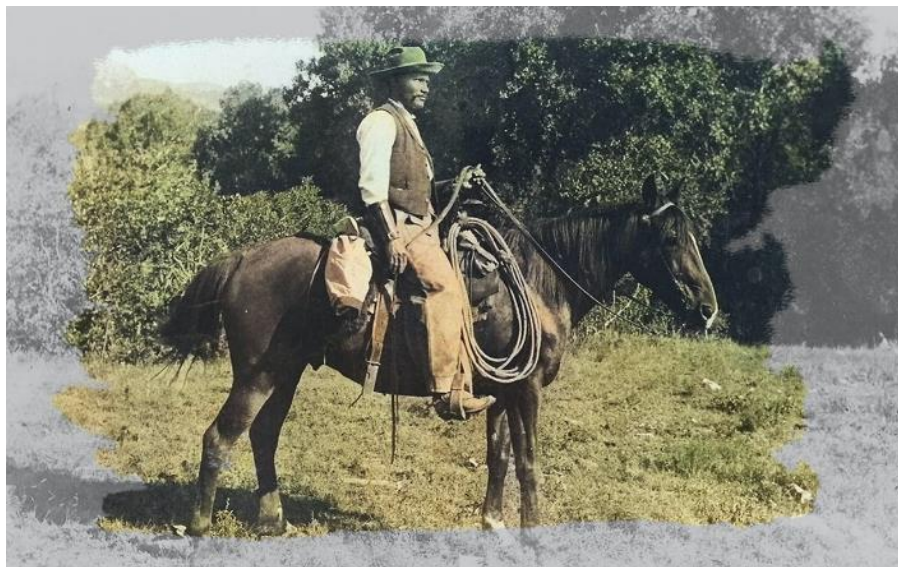
⁹ The reportage of the words of R. F. Coleman the day after the gunfight, the Tombstone Daily Epitaph October 27 1881. This is also available online at the website Famous Trials

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Black Cowboy Archaeologist
George McJunkin made a Discovery Near Folsom, New Mexico Territory, That Pushed
Back the Age of Man in North America

By Lynda A. Sánchez

On Aug. 27, 1908, a devastating flood brought death and destruction to Folsom, New Mexico Territory, a community of nearly 1,000 people. More than a foot of rain in the Cimarron Valley created a 5-foot wall of turbulent, muddy water that shattered the town. Seventeen residents lost their lives that day, and most buildings were swept away. The flood also ripped into the banks of nearby Wild Horse Arroyo, felling trees, moving boulders and leaving enormous deposits of mud downstream. On August 31, Folsom's weekly *La Epoca* deemed it "a most extraordinary and terrific battle of the elements." The paper noted that the "downpour of torrential waters was heralded by the lowing of cattle...and howling of dogs." Folsom had become a ghost town practically overnight. Today it is home to some 60 residents.



Colorized photo of George McJunkin

Like so many others, a black cowboy named George McJunkin had his life upended by the 1908 flood, but he was destined to rise above the disaster. According to a 1999 article in *The Denver Post's Empire* magazine, McJunkin was "the forgotten man at the center of the century's most startling archaeological find."

Details about McJunkin's early years are sketchy. He was born into slavery on the ranch of John Sanders McJunkin in Rogers Prairie, Texas, about a decade before the start of the American Civil War (1856, according to his headstone at Folsom Cemetery.) He studied the art of cowboying in

Texas and apparently was a fast learner. Once he had proved himself, he reportedly exchanged tips in bronc busting for reading lessons. His Mexican and Anglo compadres likely also taught him how to read the stars and understand the lay of the land.



Always polite and doffing his hat to the public during this parade, George had found a home in Folsom, NM. He was an incredible rider, roper and all-around renaissance man.



Folsom during the flood of 1908

McJunkin was bilingual, played the fiddle and guitar, roped well and was considered an amateur naturalist, archaeologist and all-around Renaissance man, though he may have been unfamiliar with

the latter term. During long hours in the saddle he collected unusual rock, bone, and other items of archaeological interest. People seemed to enjoy his company, and it appeared he had found a home in Folsom, a town born in the late 1880s when the Colorado & Southern Railroad cut across the northeast corner of the territory. The infamous Ketchum Gang robbed the train near Folsom three times in the late 1890s.



Rare images of the 5-foot wall of water that destroyed Folsom in 1908 after more than 12 inches of rain fell in a very short time. Seventeen people lost their lives that day.

McJunkin's reputation and responsibilities grew over the years, and he was noted for his cow savvy and ability to break horses. For a time, he rode fence and worked as wagon boss at Dr. Thomas E. Owen's Hereford Park and Pitchfork ranches. When Owen died in 1891, McJunkin signed on as a foreman of neighbor William H. Jack's 8,000-acre Crowfoot Ranch. The 1908 flood not only destroyed Folsom but also tore away many range fences, leaving area cattle to wander aimlessly. As soon as it was feasible to ride fence, foreman McJunkin filled his saddlebag with bailing wire and pliers and set out to begin the arduous repair work.



Only after McJunkin's death in 1922 did the public, including the unidentified man above, take an interest in the Folsom Site. Left: This spearpoint (a Folsom point) was found embedded between two fossilized bison ribs.



Close-up of the famed Folsom point imbedded between two bison ribs.

While riding along Wild Horse Arroyo about 8 miles west of the devastated town, McJunkin noticed huge bones protruding from a newly exposed bank. Having worked with cattle most of his life, he was of course familiar with their bones, and as a young man he'd hunted buffalo. These bones belonged to neither. He figured correctly they belonged to an extinct species of buffalo much larger than modern bison.



A *Bison Antiquus*, a species much larger than modern bison, battles spear throwers in a fight for survival

At that realization, he became a man on a mission. For the next 14 years, until his Jan. 21, 1922, death in Folsom, McJunkin sought to bring attention to the find by showing people bone samples. Few seemed interested. Four months after McJunkin's death, however, Carl Schwachheim, a blacksmith from nearby Raton, N.M., visited the site west of Folsom with fellow collector Fred Howarth, a banker. Years earlier McJunkin had shared details about his find with both men. But while early literature about the find acknowledged both Schwachheim and Howarth, none credited McJunkin.



George McJunkin was not your average cowboy. Also an amateur naturalist and archaeologist, he discovered bones of the extinct buffalo species near Folsom, New Mexico Territory

In 1926, the Colorado Museum of Natural History (since renamed the Denver Museum of Nature & Science) sponsored a dig at the site that revealed bones from at least 30 extinct *Bison antiquus*. The team also discovered a stunning spearpoint embedded between two bison ribs. Museum director Jesse Figgins cut out the segment and took it to Denver for further study (it remains on display at the museum). His researchers found several such projectiles, which would become known as Folsom points and blow the roof off our knowledge of early man's existence in North America. It was already known that *Bison antiquus* had roamed the region around 9000 B.C., so the discovery of the Folsom kill site and camp proved humans had inhabited this land thousands of years earlier than previously thought. Noted archaeologist David Eck summed up the significance of the discoveries:

Sixteen spearpoints were found with the bones. The way the Folsom point was fluted and shaped represented a major leap in Stone Age weapon technology. The discovery pushed back the known human occupation of North America 6,000 years.

The timeline didn't last long. Three years after the museum dig near Folsom, amateur archaeologist Ridgely Whiteman stumbled across fluted points at a site farther south near Clovis that backdated humans another 2,500 years. Today evidence suggests humans have inhabited North America for some 23,000 years.

McJunkin, though, remained unknown until the early 1970s when George Agogino, founding chair of the Department of Anthropology at Eastern New Mexico University, and author Franklin Folsom recognized the unsung cowboy as the true discoverer of Folsom man. The former slave

who had made himself into a roper, range rider, and man of the West had finally gotten his due for turning the field of North American archaeology on its ear.



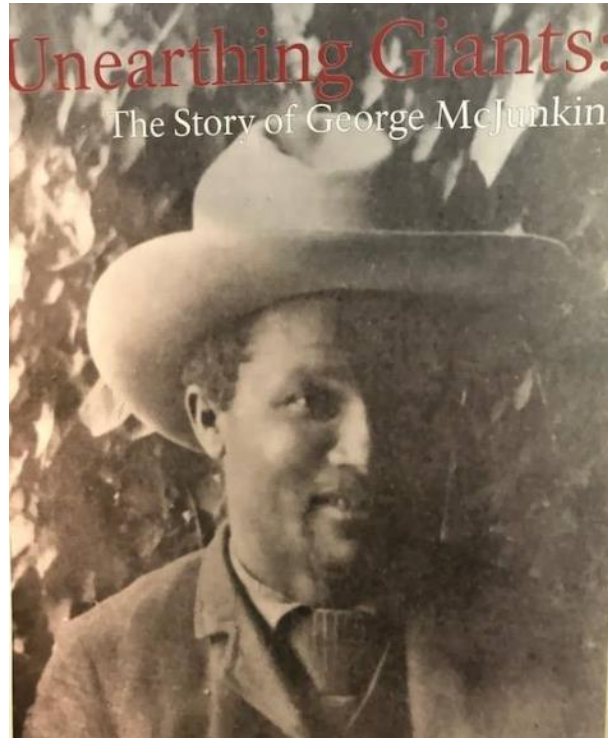
The family that cared! McJunkin worked for the family (Owens) and Matt Doherty (seated) nominated George for entrance into the Hall of Great Westerners at the National Cowboy and Western Heritage Museum in Oklahoma City. (2019) McJunkin had worked for Matt's great, great, great grandfather. We thank them for this successful effort.

In 1961, Congress designated the Folsom Site a national historic landmark, and in 2019 McJunkin was inducted into the Hall of Great Westerners at the National Cowboy and Western heritage Museum in Oklahoma City. Seventh-generation rancher Matt Doherty submitted the nomination. McJunkin had worked for Doherty's great-great-great grandfather, Dr. Owen. If the curious cowboy hadn't made his Folsom find, the mud may have dried up, leaving the bones and points undiscovered for generations to come. "It is a discovery that made him famous, but his courage, determination and perseverance is what is remembered about the man," Doherty said. "A true cowboy!"

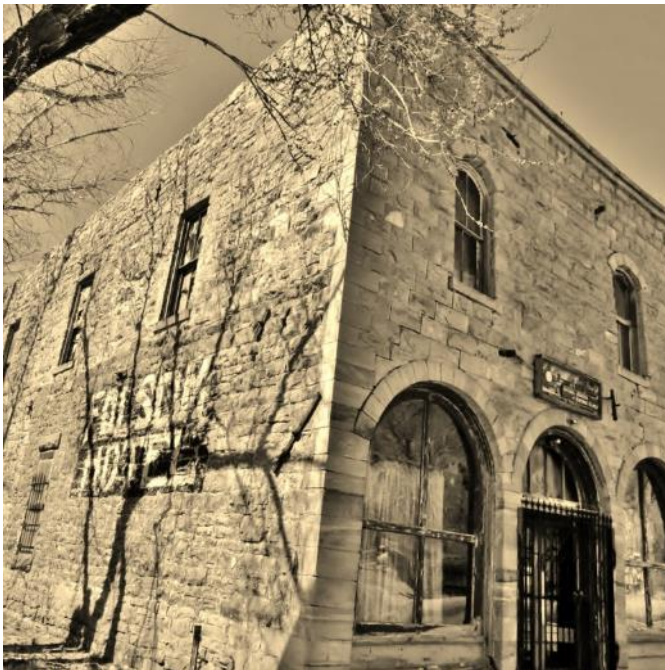


A simple grave marker for the man who set archaeology on its ear and changed the dating of man's existence in North America. McJunkin was buried at the Folsom Cemetery surrounded by the land and friends he came to love. No doubt, the Cowboy Archaeologist

is smiling today because at last, his discovery has become known and appreciated by everyone who works in the fields of North American and Southwestern archaeology.



Recommended for further reading *Unearthing Giants: The Story of George McJunkin*

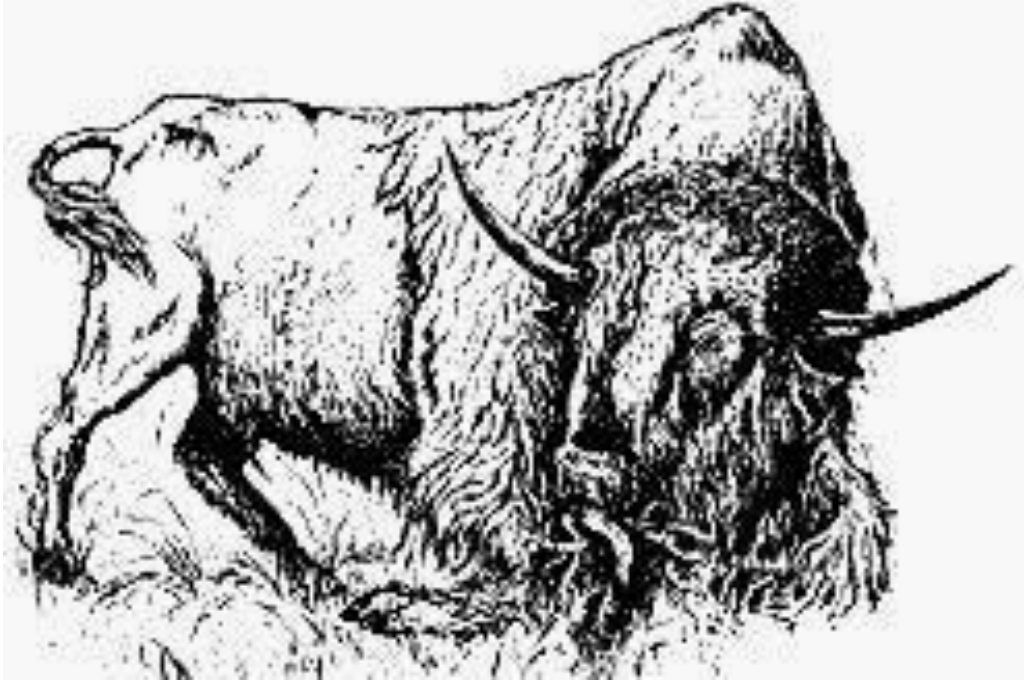




George spent his last days at the Folsom Hotel. The photo of George on the porch with a local child was taken shortly before his death. This year marks the 100th Anniversary of his passing. The famed Pecos (Archaeology) Conference will be held in this section of New Mexico in August. Stay tuned...

The above article was published in the January/February 2022 issue of *Wild West* magazine. The author found the story of George McJunkin so compelling she gathered together images from a variety of sources to better illustrate his life. Flooding images are dramatic, and personalized photos show how well loved he was in northeastern New Mexico. His dexterity and keen eye, interest in the world around him and his sense of humor have left a compelling legacy. The author would also like to thank the Blackwater Draw museum for their assistance in locating better images of the Black Cowboy Archaeologist.

Inkslinger – It may be difficult for some to understand how important McJunkin’s find had been and what it shows about how observant he was and the nature of the education he had given himself. The theory, known as "Clovis First," became the predominant hypothesis among archaeologists in the 20th century. According to Clovis First, the people associated with the Clovis culture were the first inhabitants of the Americas. The primary support for this claim was that no solid evidence of pre-Clovis human habitation had been found. In the early 20th century, archaeology had been rocked by scandal involving faked finds of early man. Acceptance of Folsom man and Folsom culture did not come easy. Almost immediately Clovis culture was in competition for the spot as first. Once that was settled, the archaeological community did not want to accept anything else. Frank Hibben discovered 25,000-year-old Sandia Man in a cave near Albuquerque and the anthropological community did its best to destroy his reputation. Only recently has that community accepted evidence that man has been in North America at least 23,000 years.



Bison antiquus

Sopa de Arroz
A Recipe from the Old West

By
Debbie Hocking

In September 2021, Doug and I attended the 200th Anniversary of the founding of the Santa Fe Trail at Bent's Old Fort in Colorado. I became interested in the kind of foods served in the 1830s and 1840s. At the banquet in the fort, we had buffalo steaks, *calabacitas* (summer squash), Spanish rice, and *churros*. Later on at the celebration of the 1821 arrival of William Becknell from Missouri, the official opening of the trail, we ate at the La Fonda, dining on buffalo ribs, sourdough bread, *calabacitas*, corn and bean soup and spotted dog for dessert, which isn't a dog at all. It's a bread pudding with apples and raisins to give it spots. The other name for it is spotted dick, but that sounds too much like a social disease.

In 1847, eighteen-year-old newlywed Susan Magoffin traveled the trail with her husband making astute observations along the way which are recounted in her journal, *Down the Santa Fe Trail and Into Mexico*. She especially enjoyed the new foods that she ate. One dish that she especially enjoyed was *Sopa de Arroz* a dish of rice and eggs. I learned my version from *Eating Up the Santa Fe Trail: Recipes and Lore from the Old West*, by Sam'l P. Arnold, Golden: Fulcrum Publishing, 1990. I've made a few adjustments. Be warned, Sam'l's version is enough to feed two families.

2 cups rice (uncooked)
4 cups chicken broth
Salt and pepper to taste
3 Tbs oil
1 onion (minced)
2 cloves garlic (minced)
8 strips bacon (finely minced)
6 hardboiled eggs (Halved or diced)
Cilantro (for garnish)
Red chili (chopped fine)
Sweet red Bell pepper (chopped fine)

Fry the bacon in the oil with onion and garlic until bacon is browned and the onions translucent. Add the rice and stir into this hot mixture, coating the rice as much as possible by mixing well with a wooden spoon. Add chicken broth and bring to a boil. Simmer 10 minutes. Then cook tightly covered on very low heat until rice is done, about 15 minutes. Serve garnished with egg halves, cilantro, sweet red bell pepper and red chili.

Book Reviews

Cilch, Kenneth R. *Wyatt Earp, The missing Years. San Diego: Gaslamp Books/Museum, 1998.* Ken Cilch writes about Wyatt Earp's life when he lived in San Diego, California and traveled from there at different times. The Gaslamp Museum of Historic San Diego has a large display of Earp memorabilia. Ken Cilch, a lawman himself, has found significant new sources that you will find valuable for adding to the history of Wyatt Earp.

Rosanna Baker

Miller, Kristie. *Isabella Greenway, An Enterprising Woman.* Tucson: The University Press, 2004.

This is an intriguing story about Isabella Greenway from Arizona. At the 1932 Democratic National Convention, the New York Times reported, Isabella Greenway of Arizona was the most talked of woman and was something of a political phenomenon. She served in Congress and organized many projects during her lifetime. She founded the Arizona Inn in Tucson that is still recognized as one of the best hotels in the world.

Rosanna Baker

Sánchez, Lynda A. "The Last Drop from his Stetson." *True West*, November 2021.

The painting titled *The Last Drop from his Stetson* by Lon Megargee inspired this researched historical story about the Stetson hat. This cowboy hat is known for style and class and represents the Western tradition. This article will take one through the beginning idea of the Stetson hat inspired and made by John B. Stetson to how the hat is viewed and still so popular today.

Rosanna Baker

Cox, Mike. "Time for an Arbuckles' Break." *Journal Wild West History Association*, March 2017.

This article is about the Coffee that Won the West. This coffee actually came from the East coast. A long time before Arbuckles' coffee, merchants sold green coffee only. The coffee had to be ground and roasted on the trail after a long day's ride. In 1868, the Scottish-born brothers patented a process for covering roasted coffee beans with a glaze made of egg white and sugar. They discovered this kept the beans flavorful, fresh, and aromatic. Arbuckles' became a synonym for coffee. Arbuckles' spread nationwide and especially across the wild west.

Rosanna Baker

Erwin, Allen A, *The Southwest of John Horton Slaughter, cattleman and sheriff.* Spokane: The Arthur H. Clark Company, 1997.

This book is a comprehensive story about the life of John Slaughter who is part of our Southeast Arizona history. He was a Civil War soldier, Texas Ranger, Indian campaign army scout and drover on cattle trails. He was a Sheriff of Cochise County (the book says Tombstone, where he was headquartered) and a developer of the town of Douglas. John Slaughter purchased a ranch in 1884 from a Mexican Land Grant owned by the Perez family. The ranch can still be visited today east of Douglas.

Rosanna Baker

Traywick, Ben T. *The Chronicles of Tombstone*. Los Angeles: We Print It, Inc., 1990.

Ben Traywick is Tombstone's official historian and has written many books about our area. You will read about Ben Traywick in the last few pages of the book. There are 17 chapters with individual stories of people depicting events that happened in our area with pictures. This book is informative and a joy to read.

Rosanna Baker

Boessenecker, John. *When the Law was in the Holster*. Norman: University of Oklahoma Press, 2012.

This is a moving biography of the life of Bob Paul from the time of his youth to the very end of his life. We are most familiar with his shoot out with the Cowboys when riding shotgun on the Tombstone stage while being employed by Wells Fargo. The reading of this book is a very moving story of our southwest history involving Bob Paul for a better understanding of how we became a state and the relationship of some of the problems we are still dealing with today. Bob Paul was involved in several exploits even though he remained in law enforcement most all of his life and eventually became US Marshall for Arizona Territory.

Rosanna Baker

Polzer, Charles W. *Kino Guide 11*. Tucson: Southwestern Mission Research Center, 1982.

Eusebio Francisco Kino was a priest and missionary to the Pimeria Alta. Father Kino exceeds any other men that came to the Southwest with regards to his record of influence with the Indians, missionary work, and expeditions. He built missions, drew maps, and worked to help the people he met better their lives. He is honored by both the US and Mexico.

Rosanna Baker

Brand, Peter. "Blood on the Green Cloth." *True West*, October 2021.

Johnny Tyler was from Sacramento, California and a member of the West coast cardsharps, also known as the "Slopers." They competed with the Easterners in control of the gambling tables in Tombstone. You will read about some of the gambling parlors that Johnny Tyler was in and how he cleaned house. Wyatt Earp was a partner in the gambling parlor on the second story of the Oriental. Johnny Tyler went to the new club rooms intent on causing trouble and cleaning house. Wyatt Earp would not tolerate Tyler's behavior, immediately grabbed him and threw him down the stairs and out onto Allen Street. Earp ordered him out of Tombstone.

Rosanna Baker

Bourke, John G. *On the Border with Crook*. Lincoln: University of Nebraska Press, 1891. Captain John G. Bourke served on the staff and was an aide to General George Crook for 11 years from 1872-1883 during the Plains Indian wars and in the Southwest. Bourke wrote extensively and kept precise notes about his experiences with General Crook during the

campaigns. The stories are written from these journals and describe the regions, landscapes, the Indian tribes, and battles during these years. Captain Bourke knew General Crook and held him in high esteem calling him his great chief.

Rosanna Baker

Enzle, Jerry. "Knight of the Rockies." *True West*, December 2021.

This article tells about Jim Bridger who is often thought of as the greatest American frontier scout. His survival skills were unparalleled, and he could read land at a moment's glance. He was an American mountain man, trapper, Army scout, and wilderness guide during the 1st half of the 19th century. He lived among the Indians and the mountains. He built Fort Bridger on the California and Oregon Trails. This article reveals how he helped shape America.

Rosanna Baker

Edelstein, Robert. *Legends of the Wild West*, December 2020.

The Wild West was an American dream and consisted of 30 years between the Civil War and the beginning of a new century. You will read about Buffalo Bill, Billy the Kid, General George Custer, Jesse James, Annie Oakley, and Sitting Bull, as well as others. These stories developed into myths and tall stories that ended up in written dime novels and tells how Hollywood keeps the stories alive today. It is hard to put down the reading about tales of the Wild West. A judge in the Old West had a sign "We never did hang the wrong one but once or twice."

Rosanna Baker

Morgan, Phyllis S., Foreword by Marc Simmons, *As Far As the Eye Could Reach: Accounts of Animals Along the Santa Fe Trail 1821-1880*. Norman: University of Oklahoma Press, 2015, pp 164.

This is a delightful, entertaining and educational account of animals on the Santa Fe Trail. The author draws heavily on the standard firsthand accounts bringing them all together to focus on one species at a time. She adds relevant new material to increase our understanding of each creature. For an author of Westerns, this is a way to understand oxen, mules, burros and horses as they participated in the march west. What was it like to experience prairie dog towns and the buffalo hunt? The answer is here.

Doug Hocking

Cavaliere, Bill, *The Chiricahua Apaches: A Concise History*.

Rodeo, N.M.: ECO Herpetological Publishing, 2020

Softcover, pp. 139, 25 B&W, 28 Color Illus. & 1 map. \$15.95

ISBN 978-1-938850-61-5

This easy-to-read history of the Chiricahua Wars includes a graphic account of almost every incident and battle. Remaining true to the history, the account is balanced showing the concerns of and suffering experienced by both sides. A friend of historian Ed Sweeney, Cavaliere reflects his respect for the Apache and their leaders especially those in the family of Cochise. While historians might fault the work for failing to expound at length on causes of conflict, this is a wonderful book for those with a casual interest in the Chiricahua and an excellent quick

reference for the serious historian who needs to keep his timeline straight. There are many color photos of the land where these people lived as well as historic photos.

Doug Hocking