

Saddlebag **Newsletter**

March 2021

Roy B. Young,
Editor
royyoung@pldi.net



A supplement to the
WWHA Journal

Available Only Via
www.wildwesthistory.org

WWHA

14th Annual Roundup

Fort Smith

The WWHHA Officers and Board of Directors has determined that the best move we can make is to conduct the Fort Smith Roundup **September 1st - 4th, 2021**. The hotel remains the same - the Doubletree - and the schedule of events will be quite similar to that which has been previously announced, pending reconfirmation of speakers and presenters.

The decision follows a membership poll of all those who have submitted their e-mail addresses. If you are not on the e-mail list, once again we request that you submit this contact information to Linda Wommack: lwomm3258@aol.com. This is the fastest and most efficient means we have to contact our members with news and announcements.

The poll revealed that many members simply did not want us to keep the July dates. While the COVID19 pandemic appears, now, to be slowing down and, hopefully, will soon come to an end, the majority of those responding to the poll expressed concern about assembling, wearing masks, social distancing, and other requirements that the State of Arkansas may yet have in July.

Additionally, in responding to the question about a Fall meeting, the majority of respondents stated they would like to see us move the meeting to September. The Roundup co-chairs were able to make this arrangement with the Doubletree and, so, September it is.

In fact, moving Roundups to September in the future will be a discussion topic at Fort Smith. The Rapid City - Deadwood Roundup in 2022 is still set for July and will not be moved. However, the month for Roundups in 2023 and beyond will be discussed/considered. The board is not ready at this time for responses to this idea, but will soon give all members an opportunity for input.

In this issue of the *Saddlebag*, we present an article by Daniel Buck, "A Story Retold is a Story Improved: Jovita Idar and the Texas Rangers," that developed after an interesting on-line discussion among several WWHHA members and others. Additionally, we present the second and final installment of an e-mail discussion among a number of Wyatt Earp - Tombstone enthusiasts, "The Vendetta 1882: Legal, illegal... or *'let's just look the other way.'*" We hope you enjoy and are benefited by both articles.

We are sad to note the death of Ed Kirby. Ed was a long-time member of NOLA and a charter member of WWHHA. Ed, along with Barclay Prindle and John Mahoney were often, in a good way, referred to as the "Connecticut Mafia." Ed's presence at our annual gatherings is missed.

Roy B. Young, Editor



WWHA Roundup **Rescheduled**

to

September 1-4, 2021
Doubletree Hotel

Hotel Reservations:
Doubletree by Hilton

Fort Smith City Center
700 Rogers Avenue
Fort Smith, Arkansas, 72901

Guest room reservations are now being accepted by the Doubletree Fort Smith City Center Hotel. Please request the Wild West History Association rates, group code WWH; room rates are good three days before and three days after the scheduled dates.

The reservation number is: **479-783-1000**.

NOTE: At the time of publication of this issue of the *Saddlebag*, program details, the daily schedule, and other information related to the Roundup are yet in the rescheduling process; details will appear in the June *Journal*, as well as on the association's website:

www.wildwesthistory.org.

WWHA Board Meetings

During the pandemic, the business of the association has continued to be conducted via ZOOM meetings, organized and arranged by board member Paul Marquez. Thus far, the board has met via this avenue in January, February and March. The next ZOOM meeting is scheduled for the first

Monday in April, and subsequent meetings will be conducted on the first Mondays of the month, as needed.

Any member wishing to be on a meeting agenda should contact WWHHA President, Jim Dunham at 1876jim@gmail.com.

The board expresses its appreciation to all WWHHA members for their patience, cooperation, and encouragement during these trying times as we endeavor to make the best decisions for the association.

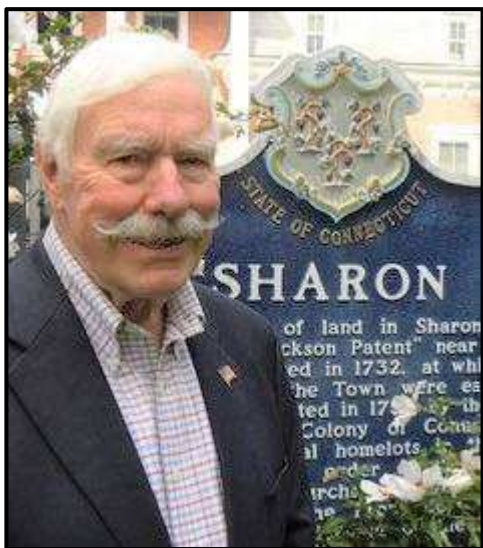


WWHA wishes to express condolences to the families of our members as well as Wild West friends and associates whose deaths are noted since the last *Saddlebag* newsletter in September 2020.

Edward M. Kirby **1927-2021**

A long and multi-layered life came to an end Monday, Feb. 1, 2021, with the death of Edward M. Kirby, 93, a lifelong resident of Sharon and communicant of St. Bernard's Church. Kirby was born Aug. 26, 1927, the son of Kathleen and Edward J. Kirby. He was married to the former Mary Tobin of Kent for 68 fulfilling years and they had five children. Kirby grew up on the estate of Emily Winthrop Miles, whose mentorship was largely responsible for developing his intellectual curiosity and deep cultural appreciation for the arts and nature. Following graduation from Housatonic Valley Regional High School in 1945, Kirby served in the Army Combat Engineers as a topographic surveyor in Okinawa, Japan and other Ryukus Islands. Discharged as a corporal, he returned to Connecticut and enrolled in the Teacher's College of Connecticut (Central Connecticut State University), studying biology, history and coaching. In 1959, he received a Master's Degree in Education from the University of Hartford and in 1971 completed a

Sixth-Year Program, also at Hartford. He completed courses in various aspects of education at Vassar College, Seattle Pacific University and the University of Connecticut.



He was first employed as an elementary school teacher at Cornwall Consolidated School, while also acting as a basketball coach for the school and as a volunteer baseball coach at HVRHS. When a teaching position opened at HVRHS, Kirby joined the science department and ultimately enrolled in a summer course in geology at Vassar College, awarded to him by National Science Foundation. It sparked a lifelong interest in geology and led to further development of the geology curriculum at the school. He performed extensive geological research in both the East and the West, as well as authored several books about geology and the local iron industry. He continued to teach geology until 1979, even after being appointed principal in 1966. Following his tenure as the second principal of HVRHS, he became assistant superintendent of schools for Region 1 before retiring in 1985 to pursue other ambitions.

Kirby's love of all sports gave way to coaching Housatonic's baseball, football and basketball teams. "Baseball was always his first love," said his wife, Mary. He led his teams to multiple conference championships and state tournament appearances. Kirby scouted for the Pittsburgh Pirates, nurtured the nascent careers of five Housatonic players who signed major league contracts, including Steve Blass, his most accomplished player. In 1971 Blass won game three and game seven of the World Series with two complete game performances. Kirby was twice

part of on-field honors at PNC Park in Pittsburgh. He also coached Babe Ruth and Little League teams. Kirby was an accomplished athlete, excelling in area basketball leagues for years and playing in a softball league, retiring at age 74. He became HVRHS Athletic Director in 1960 and was named to the Connecticut High School Coaches Association Hall of Fame in 1983 with one of the highest winning percentages in the state.

In 1968, Kirby ventured to the American West as a consulting geologist for a small oil company; this was the initial journey of a series of many trips to that part of the country. During these trips, he developed an interest in the people and history of the West culminating in definitive biographies of Butch Cassidy and the Sundance Kid and many additional scholarly articles about the American West. When the movie "Butch Cassidy and the Sundance Kid" was released, he kindled a friendship with Butch's sister whom he brought to the high school to speak to history classes.

He served on the advisory boards and boards of directors for the Wild West History Association, the Outlaw Trail History Association and the National Association for Outlaw and Lawman History and was a member of the Western Writers of America. True to form, he spent part of his last Friday watching his favorite movie surrounded by family. As Kirby developed his skills as an industrial archaeologist, he worked to restore iron industry relics in the tri-state region, working as project manager for the preservation of blast furnaces in Lime Rock, Mt. Riga and Canaan, and for the Sharon Valley Lime Kiln. He oversaw preservation of the Sharon Town Clock Tower and the expansion of the Sharon Historical Society building. His work with the Historical Society resulted in his authorship of a number of books focused on local history. He also appeared in numerous television documentaries as an expert in American history.

In addition to serving a long tenure as president of the Sharon Historical Society, he received a lifetime service award in 2013. He also served on the town's Inland Wetlands & Watercourse Commission from 1972 until 2019 and was active in community politics. Each Memorial Day, he pulled out his restored 1941 tractor, attached a decorated wagon, loaded it up with his grandchildren. The tradition continued even as the grandchildren grew up. Family and friends recall him as a friendly, witty man with a twinkle in his eye. "It was his sense of

humor that was everything for me," said his wife. "He never lost it." She recalled that when a tree was planted in his honor at the high school, he was introduced as a Renaissance Man. "I thought that was appropriate," she said.

Edward Kirby is survived by his wife; three daughters, Anne Kirby (Fred Kantrowitz), Medfield, MA, Maureen Dore (Thomas P. Jr.) Sharon, and Kaki Kirby (Charles Caulkins) Fort Lauderdale, FL; two sons, Kevin Kirby (Lynne), Wethersfield, and Edward M. Kirby, Jr. (Laurie Cheney) Kent; seven grandchildren, Gregory, William, Kevin, Jonathan, Kathleen, Emily and Thomas, and a great-grandson, Jack Edward. He was predeceased by his parents and a sister, Mary (Kirby) Loper. Funeral services will be private with a memorial service to be planned after the corona crisis passes. Memorial donations may be made to the Edward M. Kirby Scholarship, administered by the trust department at Salisbury Bank & Trust, P.O. Box 1868, Lakeville, CT 06039-1868, c/o Darilyn Woods; to the Sharon Fire Department and Ambulance Squad, P.O. Box 357, Sharon, CT 06069, or to the Sharon Historical Society,

Published in *Hartford Courant* on Feb. 6, 2021.

To contact Mary Kirby: 100 Cornwall Bridge Road, Sharon, CT 06069 or mtkirby49@gmail.com

John E. Purcell 1937 - 2020

John E. Purcell, 83, of Paragould, passed away on Monday, December 28, 2020. He was born July 6, 1937, to John and Anna Purcell. John worked in law enforcement for over 34 years. He was an Arkansas State Trooper for 26 and a half years and was a member of the Wild West History Association.

Above all, John loved his family. Survivors include his wife of 57 years, Barbara Purcell; son and daughter in law, Harrell and Zhaoxiu Tan Purcell; daughters, Carol Purcell, Naomi Purcell and fiancé, Corey Straub; brother and sister in law, Don and Sherri Purcell; grandchildren, Sarah Purcell, Zack Purcell, and Yi Wei; and great-granddaughter, Desiree Wynn.

A graveside service under the direction of Phillips Funeral Home was held on Wednesday, December 30, at 11:00 A.M. at Greene County Memorial.

Calendar of Events



**April 15 - Dr. Brassell Tombstone
Dedication, Yorktown, Texas;
Chuck Parsons, speaker.**

**April 17 - "Ash" Upson Tombstone
Dedication, Uvalde, Texas**

**June 16-19 - Western Writers of America
Loveland, Colorado**

**September 1-4 - WWHHA Roundup
Fort Smith**

**September 23-26 - Santa Fe Trail
Bicentennial Symposium,
La Junta, Colorado**

**October 7-10 - Order of the Indian Wars,
Oklahoma City**

**October 8-9 - East Texas Historical
Association, Nacogdoches, Texas**

**October 20-24 - Tombstone Territory
Rendezvous**

**October 24 - WWHHA Regional Roundup
Tombstone**

Please report other events: royyoung@pldi.net

NEWS! & EVENTS!

Congratulations!

WWHA wishes to congratulate Erik and Laura Wright on the adoption of their two children, Lexie, age ten, and Jensen, age eight. Adoption was officially held in December 2020 at the Greene County Courthouse in Paragould. The adoption took place remotely. The judge was in Fort Smith and some of the family was able to join via Zoom from Italy and Tucson.



Erik reported, "Larry Ball has given Jensen a nice copy of Rosa's *The West of Wild Bill Hickok*. Though he is a bit too young to really grasp all that, we have read through Lea McCarty's small album of gunfighters."

Congratulations!

Congratulations to WWHA member Eddie Lanham who has been recently honored by the State of Georgia Adopt-A-Stream with the "Volunteer of the Year" award.



Eddie Lanham

Each year, Georgia Adopt-A-Stream recognizes outstanding volunteer monitors, trainers, and groups for their hard work and dedication. Eddie was selected for this award from 904 volunteers.

Your friends in WWHA are proud of you Eddie!

Order of the Indian Wars

The Order of the Indian Wars has set their next meeting for October 7-10, 2021 in Oklahoma City. The host hotel will be the Embassy Suites, Will Rogers International Airport.

Among the speakers will be John Carson, great, great grandson of Kit Carson, recently retired as park ranger and interpreter of Old Bent's Fort, and Roy B. Young, editor of the Wild West History Association's *Journal* and *Saddlebag* publications.

Bus tours will include Fort Sill, Fort Reno, Fort Gibson, and sites in and around Tahlequah, Oklahoma.

For further information see the organization's website: indianwars.com.

Dr. Philip Brassell Tombstone Dedication

Eddie Lanham



Dr. Philip Brassell
Murdered Sutton-Taylor Feud
(Via: Findagrave.com)

Born 1827 Fayette Co. GA. – Died 1876
Shiloh, DeWitt Co., TX

Upper Yorktown Cemetery
Riedel St. (CR 240)
Yorktown, Texas

11:00 a.m. April 15, 2021
(rain date, April 16th)

Sponsored by WWH
in cooperation with the
Yorktown Historical Society
and the
DeWitt County Historical Commission

Three years ago, fellow historian and friend Bobby Kerlin asked me to join with him in researching a Fayette County native by the name of Dr. Philip Brassell. Off and on I spent two years

“armchair” researching, only to find out I had very little to add to Bobby’s collection, and realized the only way to possibly complete this project was a research trip to south Texas.

In January of 2020 I was invited to attend a Wild West History Association winter board meeting in Three Rivers, Texas, which would allow several of us time to explore a few local courthouses and historical societies. What started out as a single trip to the Lone Star State, ended up being five. One door opened two, then four and so on; you know how that sometimes happens while researching.

Over the past year, we learned much about Brassell and why in the late 1860s the family left their home, family, and friends in Fayette. Philip closed his medical practice and resigned from the Georgia legislature. Diagnosed with the dreaded consumption, he migrated west to a somewhat drier climate in Texas. Brassell purchased a 130-acre tract of land near the Shiloh community in DeWitt county and set up shop.

Per DeWitt deed records, the property was some 3,000 feet from the Shiloh church. Using old maps overlaid onto Google Earth I located his land and with permission from the current owner walked the entire tract.

From Texas, I emailed Bobby my maps and photos, but got no reply which I thought was strange as I knew he would be over excited. A few days later he called after reading my email...from the hospital. Since the final chapter in the life of Philip Brassell was now complete, it was Bobby’s plan to soon present Brassell’s story to the Fayette Historical Society.

Two weeks later, we lost our friend Bobby Kerlin.

Shown below is a short summary of the murder of Dr. Philip Brassell and his son George during the Sutton-Taylor Feud.

Philip Haddox Brassell was born on October 13, 1827 in Fayette County, Georgia. At the age of twenty-four, he married Mary Ann Gay. He was made a Mason Master in 1850, the same year he graduated from medical school in Philadelphia, at the Pennsylvania School of Medicine. The doctor served as a surgeon during the War Between the States, and later as a member of the Constitutional Convention in 1866 and on the Georgia legislature in 1868, 1869, and 1870.

After being diagnosed with consumption, in the late 1860s, Brassell moved his family to Shiloh,

Dewitt Co., Texas. This placed them in the center of the feuding Sutton-Taylor factions. Life was good for the Brassell family until the night of September 19, 1876.

Due to his declining health, on September 18, 1876 Dr. Brassell had made a disposition of his property, gave money to his wife to defray funeral expenses and picked out the site where he would be laid to rest. He was suffering from consumption (tuberculosis) and knew he had only a short time to live. Around 10:00 p.m., on the 19th, the household was aroused by someone hollering, "Hello." Thinking at first it was a neighbor, they soon realizing it was not, when the same voice yelled, "Surround the house boys." A man referred to by the others as "Mr. Sheriff" entered the house and told the Brassell family to not be alarmed and that they were looking for someone who might be in the house. The family was ordered to dress and leave the house whereupon "Mr. Sheriff" searched the house. Dr. Brassell's son George, told the family that three of the men were Bill Meador, Jake Ryan, and Joe Siterlee and that he knew all of them. The group asked for directions to a Mr. Ainsworth's place and it was pointed out to them. The posse then placed Dr. Brassell, George and the other two sons, Sylvanus and Theodore, under arrest and the group headed for the Ainsworth home. Not long after, Mrs. Brassell heard gunfire.

Dr. Brassell was shot in the chest and son George in the face, while the other two sons managed to jump into the brush and hide out. Theodore managed to reach Mr. Ainsworth's home and inform them of what happened. They were joined by another neighbor and all returned to the Brassell home. It took two hours to find George and 35 yards away was Dr. Brassell. The so called "posse" were all members of the Sutton gang, but there was never a reason determined for the double killing. A few theories were developed, but the most plausible one was that it was a mistake and the killings were to cover up identities. Seven members of the gang were indicted. Five were freed on technicalities, one was murdered to keep him quiet, and Dave Augustine was the only person ever convicted; he was pardoned in 1899 before he ever got to jail. It took 23 years, for the courts to decide that no one would be held accountable for the Brassell killings.

All WWHHA Members are Invited to attend!

WWHA Tombstone Project: The Further Adventures Of "Team Upson"

Pam Potter and Eddie Lanham

South Texas, January 2021. Four WWHHA members, Kurt House, Dave George, Eddie Lanham and Pam Potter, part of the intrepid posse of #teamupson, once again have engaged in more sepulcher adventures.

Our first adventure was to the ghost town of Shiloh, DeWitt County, Texas. In mid-January we set a headstone for Dr. Philip Brassell, surgeon in the Confederate army and last victim of the Taylor-Sutton Feud, brutally murdered along with his son George, by members of the Sutton faction. Also present during the monument installation was Beverly Bruns from the Yorktown Historical Society. On April 15, 2021, there will be a dedication ceremony with members of the Yorktown Historical Society, DeWitt County Historical Commission and local dignitaries. Of course all WWHHA members are welcomed and encouraged to join us.

Next on our list was a visit to the Old Clinton Cemetery in Clinton, DeWitt County. Once the county seat of DeWitt County, it is now a ghost town. This small piece of sacred land was very overgrown with some of the tall headstones exposed above the grass and smaller markers almost buried in the weeds.

Other historic cemeteries we visited were the Griffin Cemetery in Gonzales County, the House Cemetery in DeWitt County and Salt Creek Cemetery located on the Karnes-DeWitt County line.

One of our greatest finds was the old ghost town of Albuquerque in Gonzales County. Published directions pointed us to several historical markers along the highway west of Nixon, Texas, which we found, but realized that at some point in time the markers had been relocated to a more "visible" location, 2.4 miles from the actual site. With help from old maps, creek locations, and other landmarks, we located Albuquerque where Jim Taylor and John Wesley Hardin killed Jack Helm.

We knew the McCracken Cemetery (aka Albuquerque Cemetery) Wilson County, to be the

final resting place of Jack Helm. Using GPS coordinates, Google Earth Pro, a little instinct and a lot of luck, we found ourselves at a ranch house. We drove up the dirt drive and hailed the owner. Sure enough, the cemetery was on his land and he had the gate key and directions. Good thing we had a truck as we bounced over pasture roads and through a couple of gates. We got out, fanned out on foot, greeting cattle as we moseyed through pasture and cactus filled forest, and found our destination behind a barbed wire enclosure. It took a lot of searching before we found Jack Helm's marker, a flat stone almost buried among the weeds. The incorrect spelling on the marker tells us Jack "Helms" is buried here. While there, we righted a fallen marker, the name of which we did not record. It turns out the ghost town of Albuquerque is within 1000 yards of the cemetery.

The Asher Cemetery in Karnes County where Jane Bowen Hardin, John Wesley Hardin's wife, is buried, was theoretically located but it was on private property and no one was home to direct us to the cemetery. Through the use of 56 year old directions and current aerial photographs, we, without much doubt, have established the location. We have not given up on this challenge and will return.

The locations of our efforts have been recorded on maps, in hopes other WWHHA members will do the same so we can share with each other and all members of the historical community. All of our recorded locations have accurate GPS coordinates which are much more accurate than outdated or inferior directions.

As many of the headstones read, these Texas pioneers are "Gone but not Forgotten."

Relatively Speaking

Linda Wommack, our "Relatively Speaking" columnist is looking for WWHHA members to share stories of their "Wild West" ancestors for her quarterly *Journal* column. Please send your stories and ancestor photos to Linda at lwomm3258@aol.com

Marshall Ashmun Upson Tombstone Dedication



Marshall Ashmun "Ash" Upson
(WWHA Files)

The tombstone dedication ceremony for "Ash" Upson is scheduled for Saturday, April 17th, at the Uvalde, Texas City Cemetery, Highway 90 West. Start time is set for 2:00 at the grave.

A biographer of Ash's life has been scheduled to be the featured speaker, sharing some background and interesting stories of Ash's life. His confirmation is pending.

WWHA members taking part in the day's agenda include: Roy Young, Kurt House, Pam Potter, and Eddie Lanham. Additionally, representatives of Uvalde's *El Progreso* Library and the Uvalde County Historical Association will participate.

Following the activities at the cemetery, the group will move to the *El Progreso* library for a reception, book signing, and a "Question and Answer" program related to Ash, Pat Garrett, and Billy the Kid.

All WWHHA members are invited to attend.

Call for Papers

The East Texas Historical Association invites proposals for papers and sessions for its 2021 annual fall meeting, to be held in Nacogdoches, Texas, at the Fredonia Hotel from October 8 & 9, 2021.

Topics that cover all aspects of East Texas' regional heritage and history receive some preference, but any proposal that deals with Texas history is welcome. The Association prefers the submission of complete sessions (presider and three presenters or presider/commentator and two presenters), but individual submissions are also encouraged.

For all proposals, utilize the submission forms at our website, <http://etha.wildapricot.org>

On the Proposal form, include the names, physical addresses, phone number, and email addresses of presider/commentator and presenters, along with the session title, title of presentations or topics, and a short summary (less than 50-words) of each presentation.

Individual proposals should also submit individual information. The Association welcomes innovative formats for sessions, including discussion panels. Poster presentations, or forums, as well as traditional paper presentations.

The East Texas Historical Association, headquartered on the campus of Stephen F. Austin State University in Nacogdoches, Texas, is committed to the preservation and enhancement of East Texas' great historical heritage.

Submission Deadline: July 1, 2021. Presenters will be notified of acceptance by July 15, 2021. Please make all submission electronically using the proposal form located on the website: <https://etha.wildapricot.org>

Send proposals to Program Chair Jeff Littlejohn at littlejohn@shsu.edu

Just Wondering

What is the difference between "first" and "very first"? Is there a difference between "new" and "brand new"?

Did Cowboys always "drift" from one town to another? Why are all frontier towns noted for their "dusty" streets? If it is true frontier saloons did not allow women, how did "Miss Kitty" come to own Dodge City's Long Branch?



Pam Potter, WWHF Facebook Coordinator

The WWHF Facebook page now has 11.8 thousand members from across America and all around the world.

To join the group, everyone is vetted. If their profile page has no information or all they post about are motorcycles and naked women and the only groups they belong to are swap and shops and knitting sites, their requests are usually disregarded. It is preferred they speak English but if they speak German and like John Wayne and Billy the Kid, then that's OK.

Currently the membership is made up of 34% female and 66% male members. The greatest percentage of members is over 65 years of age.

The top three cities for members are in Texas: Fort Worth, Houston and San Antonio, while the fourth one is Oklahoma City.

There are 158 members from the United Kingdom and 27 members from Italy.

Cowboy Translations

Ya'll

Two or more people

All Ya'll

Three or more people

Might Could

Might be able to

I Reckon

I guess

Fixen To

I'm going to

Yonder

Over there somewhere

A Story Retold is a Story Improved: Jovita Idar and the Texas Rangers

Daniel Buck

In 1984, the octogenarian Aquilino Idar sat for an interview as part of a University of Texas at San Antonio oral history project. According to Aquilino, in 1912 or 1913 Texas Rangers had raided Laredo newspaper *El Progreso* because it had published an editorial slamming the U.S. occupation of Vera Cruz, and had beaten up and tried to hang Manuel García Vigil, the editor. A gun-waving Nicasio Idar, Aquilino's father, blocked the Rangers from killing Vigil. A month later, after he was released from a hospital, the Rangers forced Vigil into Mexico and deported *El Progreso's* employees.

Later in the interview, Aquilino was reminded to tell how his sister Jovita had "stopped the Rangers," and he returned to the story, changing the date to 1914 and dropping his father's gun bravado. In this version, his sister "stood in the door" of the newspaper, not allowing the lawmen to enter. He quoted her as saying, "If a woman stands at the door, you can't go in." The Rangers left but came back the next morning, when Jovita was absent, and they destroyed *El Progreso's* press with "hammers and sledgehammers."

Aquilino's medley of recollections became the basis for what is now perhaps the most famous episode in Jovita Idar's biography, the dramatic moment she faced down the Rangers. The moment has been repeated in history journals and books, posted on the Texas State Historical Association's *Handbook of Texas Online*, and published in a commemorative obituary of her in the *New York Times* last August.

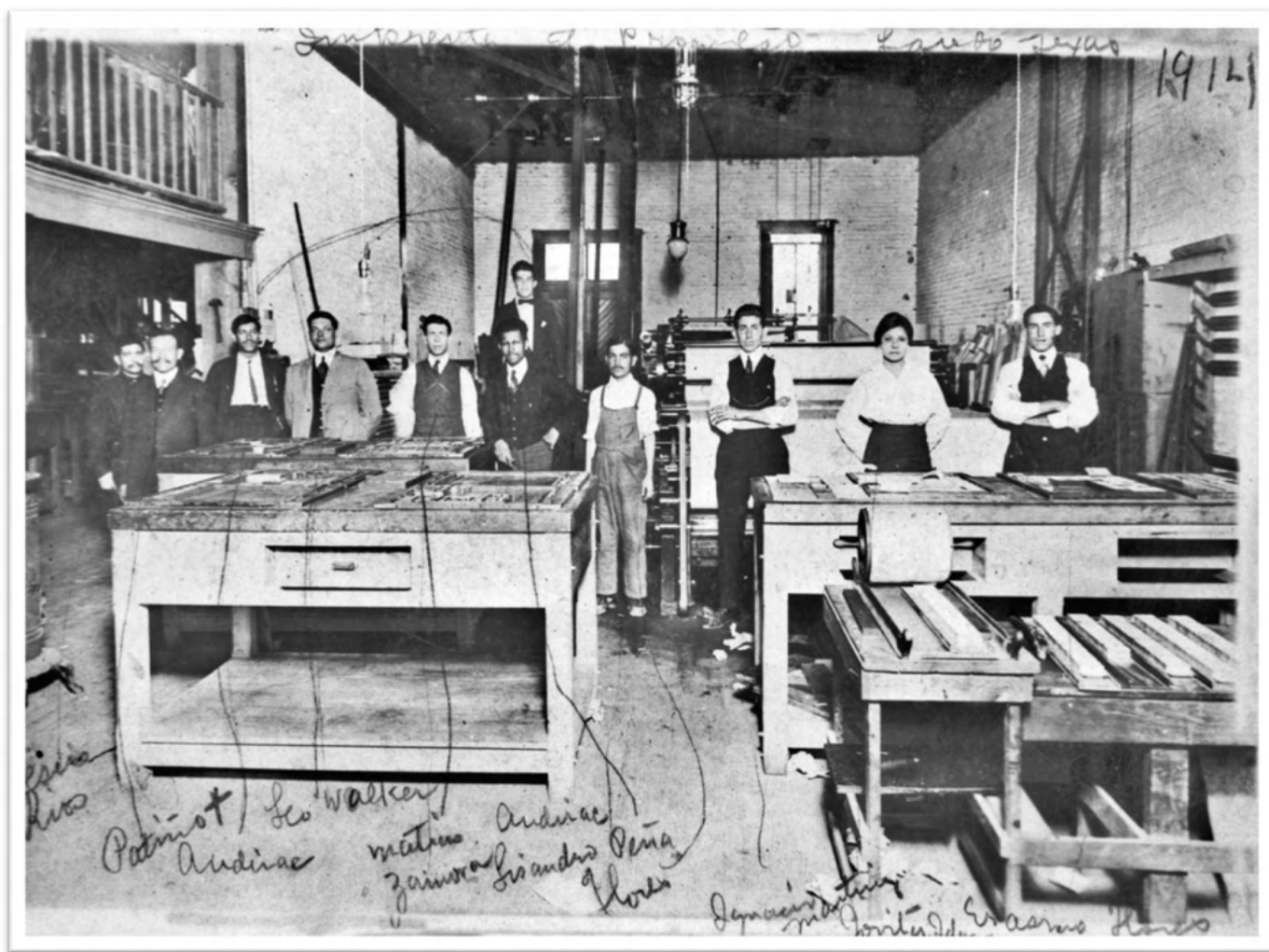
There does not, however, appear to be any evidence aside from Aquilino's stories that the stand-off ever happened. His recollections are an example of memory's fragility, not to mention its creative powers.

In fairness to Aquilino, he had left Laredo as a teenager, and spent the rest of his life in San Antonio. At the time of the interview, he was an

80-year-old man speaking off the cuff, trying to remember events of many decades earlier that he had probably only heard about as a boy.

Although Jovita Idar is the most celebrated member of the Idar family, in the early 1900s she and her father Nicasio and her brothers Eduardo and Clemente were prominent in Laredo as crusading journalists, civil rights activists, and labor organizers. During World War I, they promoted war-bond sales. Nicasio owned *La Crónica*, the city's leading Spanish-language newspaper, and was a deputy U.S. Marshal and a justice of the peace. Clemente was a courtroom translator, labor organizer for Samuel Gompers, and confidential informant for the Department of Justice, keeping tabs on seditious activities among Spanish-language newspapers and Mexican exiles. Jovita and Eduardo founded the newspaper *Evolución* and Eduardo helped start LULAC, the League of United Latin American Citizens. Nicasio and Jovita launched the *Primer Congreso Mexicanista*, a pioneer civil rights effort. Jovita wore many other hats -- teacher, suffragette, translator, and census enumerator -- and was active in *La Cruz Blanca*, a nursing corps during the revolution.

Based on my review of 1910s Texas newspapers, Aquilino had jumbled and conflated several different incidents. First, early in 1913, the year before the Vera Cruz occupation, *El Progreso* editor Manuel García Vigil and Webb County sheriff Amador Sanchez, who backed different factions in the Mexican Revolution, had a sidewalk gun fight, which evolved into a judicial Grand-Guignol: A wounded Vigil was arrested for assaulting Sanchez; the *Laredo Weekly Times* reported that an unknown had tried to murder Sanchez; *La Crónica* reported that Sanchez had tried to murder Vigil (and Clemente Idar); Sanchez sued Nicasio Idar for libel; charges against Vigil were suddenly dropped; and, finally, Sanchez was indicted for the assault of Vigil -- and convicted.



***El Progreso* editor Leo D. Walker, fourth from the left, and reporter Jovita Idar, second from the right, in the pressroom, 1914, the year after federal authorities raided the newspaper for alleged violations of neutrality laws. (University of Texas at San Antonio, Special Collections)**

Second, in August 1913, federal lawmen raided *El Progreso* for violating neutrality laws by storing supplies destined for Venustiano Carranza's rebel forces. The case was apparently dropped, and the newspaper remained open. Vigil, who was not harmed, returned to Mexico.

Finally, three years later, May 1916, Texas Ranger J.J. Sanders arrested *El Progreso* editor Leo D. Walker on a criminal libel warrant issued by Webb County district attorney John A. Valls, a supporter of ousted Mexican president Porfirio Diaz. (Seemingly everyone in Laredo had a favorite in the revolution.) Walker had published broadsides against the U.S. government, then at serious odds with the now Carranza-led Mexico, and recently had condemned Mexican-Americans

in San Benito, near Brownsville, for having volunteered for militia duty on the border. Walker called them "vermin" and "dirty Americans."

By the mid-1910s, borderland tensions were high. The prolonged Mexican Revolution was sending tens of thousands of refugees into the U.S. The *Plan de San Diego*, an irredentist if barmy manifesto calling on Hispanics, Blacks, and Indians to rise up and kill Anglo males, had sparked insurgent and bandit raids on the border and violent Texas Ranger and vigilante reprisals. And the Germans, already at war in Europe, were intriguing the Mexican government against the Americans, in hopes of keeping the U.S. out of the hostilities. President Woodrow Wilson had ordered 50,000 soldiers to the border, and Texas newspapers

headlined that the U.S. and Mexico were on the brink of war,

Soon after his arrest, Walker was released on \$5,000 bond, but a month later a vigilante mob of Anglo businessmen in a car caravan kidnapped him, forced him at gunpoint across the Rio Grande into Mexico, and warned him that he would be shot if he returned. The vigilantes then visited the offices of *El Progreso*, telling the employees to cease publication, which they did. Per one account, the vigilantes had found "two ladies at work and in a gentlemanly manner asked them to leave." No presses were destroyed, and no employees deported. Walker settled in Monterrey, where he edited another Carranza newspaper.

Jovita was not mentioned in the newspaper accounts of these events, but she worked for *El Progreso* at the time so it is possible that stories were later told about her that in the retelling – a story retold is a story improved -- inspired the standing-in-the-doorway parable.

The Texas Ranger involvement was limited to Sanders serving the initial warrant, which was fortunate because he could be trouble. Suspects had died in his custody, "resisting arrest" as the euphemism goes, and Sanders had once attempted to pistol whip a lawyer inside a courthouse. In 1919, he was forced out of the Rangers.

As for the bombastic Leo D. Walker, two years after being told he would be shot if he ever set foot north of the Rio Grande, he was attending a reception with President Wilson at the White House, with a delegation of Mexican newspaper editors invited to tour the U.S. as part of a campaign to improve binational relations.

Further Reading:

Gabriela González, *Redeeming La Raza: Transborder Modernity, Race, Respectability, and Rights* (2018);

Charles H. Harris III and Louis R Sadler, *The Texas Rangers and the Mexican Revolution* (2004) and *The Plan de San Diego* (2013);

Paul L. Murphy, *World War One and the Origin of Civil Liberties in the United States* (1979);

José A. Ramírez, *To the Line of Fire: Mexican Texans and World War I* (2009);

Emilio Zamora, *The World of the Mexican Worker in Texas* (1993).

Revisionist History



Below is a compilation of high school history students bloopers:

- Socrates was a famous Greek teacher who went around giving people advice. They killed him. Socrates died from an overdose of wedlock. After his death, his career suffered a dramatic decline.

- Nero was a cruel tyranny who would torture his subjects by playing the fiddle to them.

- Writing at the same time as Shakespeare was Miguel Cervantes who wrote Donkey Hotee. The next great author was John Milton who wrote Paradise Lost. Then his wife died and he wrote Paradise Regained.

- One of the causes of the Revolutionary War was the English put tacks in their tea. Also the colonists would send their parcels through the post without stamps. Finally the colonists won the War and no longer had to pay for taxis.

- Benjamin Franklin discovered electricity by rubbing two cats backward and declared, "A horse divided against itself cannot stand. Franklin died in 1790 and is still dead.

- Abraham Lincoln's mother died in infancy and he was born in a log cabin that he built with his own hands. Lincoln signed the Emasculation Proclamation. At a moving picture show, Lincoln was shoot by John Wilkes Booth, an insane actor; this ruined Booth's career.

- Meanwhile in Europe, the enlightenment was a reasonable time. Voltaire invented electricity and wrote a book called "Candy." Gravity was invented by Isaac Walton. It is chiefly noticed in the autumn when the apples are falling off the trees.

- Some people think Billy the Kid died in 1881, but why did he later show up as Brushy Bill and become friends with Emilio Estevez?

Marriage Certificate of Benjamin F. Daniels Found

Finding pictures and documents in attics, closets, old trunks, and on rare occasions in an antiques store or at a flea market is something many genealogists, family historians, and authors of Wild West history often dream of. Well, it does happen now and then. And, below is the proof:



Marriage Certificate of Benjamin F. Daniels and Anna L. Broadbudd, March 6, 1887
(Courtesy J.T. McConnell)



Benjamin F. Daniels
(Courtesy Arizona Historical Society)

Those readers who are familiar with the book *A Rough Ride to Redemption: The Ben Daniels Story*, by Robert K. DeArment and Jack DeMattos, will recall Ben's 1887 marriage to the girl he called "Laura," for which Anna's middle initial stood. The marriage certificate shows her with a surname of Broadbuddus, however, she was generally known as Laura Ware, the daughter of John and Belle Ware. Page 54 of the DeArment/DeMattos book features a picture of Ben and Laura with her parents and siblings.

J.T. McConnell, who now owns the certificate, which he plans to donate to the Arizona Historical Society, related to *Journal* editor Roy Young how this document was found:

"I acquired it from my grandfather who was a collector of "things." He lived in Washington D.C. The certificate was found behind a framed print, "Ignorance is Bliss," a 1914 picture by E.W. Kemble; it is of an old Black man walking through the snow, leaning on his cane, carrying a jug of "something" in his left hand that is leaking onto the snow.

"Behind this print was the marriage certificate of Benjamin F. Daniels (34) and Anna L. Broadbuddus

(28). The information on the certificate indicates he was from Dodge City, Kansas and she was from Blue Springs, Missouri. The two witnesses were Jas. Burrus and Edgar Duncan. The Baptist minister who performed the ceremony was Ath. Cocksill."

The newlyweds moved to Lamar, Bent County, Colorado where Ben accepted an appointment as deputy sheriff of Bent County during January 1888.

On August 26, 1906 "Laura" Daniels, died while visiting Ben's sister, Elizabeth Daniels Copple in Emporia, Kansas. Laura was buried at her family's home town of Blue Springs, Missouri. Ben Daniels did not long remain a widower. On July 15, 1908, he married second time to Anna Evaline (Stakebake) Seayrs (39).

How the certificate came to be hidden behind the framed print is simply unknown; perhaps it at one time belonged to Ben and Laura. However, this is only speculation and no other provenance is known.

The *Journal* wishes to thank J.T. McConnell who provided a copy of the marriage certificate and accompanying history, as well as WWA member Jack DeMattos for putting McConnell in touch with us.

Fort Smith Roundup Registration Forms

For 2021, the Roundup registration forms will be available only on the WWA website:

www.wildwesthistory.org

The forms will be posted there by April 1st and will include:

**Individual and Family Registration
Vendor/Exhibitor Registration
Program Advertiser Forms**

The "Registration Chair" for individual and family registration is Jean Smith. Forms may be submitted by USPS mail or submitted on-line. Payment may be made by mail or by PayPal. For PayPal send to registration@wwharoundup.org

Payment instructions for vendors/exhibitors and advertisers will appear on those forms.

Check the website often!

The Vendetta 1882: Legal, illegal... or

"let's just look the other way." Part Two

Edited by Roger S. Peterson

Saddlebag Editor's Note:

The following is "Part Two" of an exchange of e-mails related to what is commonly known as Wyatt Earp's "Vendetta Ride." It took place in July 2020 between several good friends who had, and have, questions about the legality of Wyatt's posse and the killings of Frank Stilwell and others during the months of March and April, 1882. "Part One" will be found in the on-line *Saddlebag* for September 2020.

These e-mails do not take into consideration the finding of Stilwell's guilt in the murder of Morgan Earp. See the December 2020 WWAH *Journal* article, "Who Killed Morgan Earp," by Roy Young.

Visit www.wildwesthistory.org to read and/or download the first part of the two-part series that contains introductory remarks regarding the focus of the exchange and questions for consideration.

Participants were: Tom Gaumer, Gary Roberts, Jeff Morey, John Boessenecker, Casey Tefertiller and Roy Young. Roger Peterson volunteered to assemble all the e-mails for the purpose of publication.

We hope those of you who are Earp/Cow Boy aficionados, authors, or arm-chair buffs will find the exchange enjoyable and perhaps profitable.

Dr. Gary Roberts, July 8, 2020:

About the rules:

Dec. 3, 1881--Marshal Dake advised the Acting Attorney General that he had the Cow-Boys on the run, citing the street fight, as example, and promised, *"Hereafter my deputies will not be interfered with in hunting down Stage Robbers, Mail Robbers, Train Robbers, Cattle thieves, and all that class of murdering banditti of the border."* That's broad. Dake promised the war on the Cow-Boys had just begun, and that the Earps were the men for the job.

Dec. 28, 1881-- Virgil is shot, followed by a telegram from Wyatt to Dake requesting

appointment to deputy's post "with power to appoint deputies.

Dec. 29, 1881-- Dake telegraphed appointment and instructed him to spare no pains or expense in discovering who shot Virgil.

Dec. 29, 1881-- The *Epitaph* offered the following: *"How long will our people stand this sort of thing?"*

Dec. 30, 1881-- Wyatt appointed deputies including Doc, Morgan, Warren, McMaster, Vermillion, Johnson, Tipton, Smith and possibly others.

Jan. (early) 1882 -- The *San Francisco Stock Report* published an editorial saying, *"It is time for respectable citizens to take the law in their own hands ...This seems to be one of the cases in which a Vigilance Committee and a few hangings would be justifiable."* Later reprinted in a Yuma paper.

Jan. 23, 1882-- Judge Stilwell issued warrants *"for the arrest of divers persons charged with criminal offenses."* Wyatt departs Tombstone with ten men.

Jan.. 24, 1882-- Mayor Carr issues proclamation requesting the public not to interfere with the execution of the warrants.

Jan. 24, 1882-- Second posse under John H. Jackson, was sent to prevent Ringo from obstructing the execution of the warrants.

Jan. 24. 1882-- Wyatt's posse descended on Charleston.

Jan. 25, 1882-- Earp's posse is reinforced by two dozen more men, miners and volunteers led by Charley Bartholomew.

Jan. 30, 1882-- Ike and Finn Clanton arrested on charge of *"assault with intent to commit murder"* in the shooting of Virgil.

Feb. 1, 1882-- Wyatt and Virgil resign as federal deputies.

Feb. 2. 1882-- Trial of the Clantons. They were acquitted.

Feb. 2, 1882-- Dake met with local Tombstone citizens, appointed John Jackson deputy U.S. marshal, and REFUSED TO ACCEPT THE EARPS' RESIGNATIONS.

Feb. 2, 1882-- After the acquittal, Wyatt always said Judge Stilwell told him, *"Next time you'd better leave your prisoners out in the brush where alibis don't count."*

Feb. 4, 1882-- Letter to *Tucson Weekly Citizen*: *"If by chance one or more of these robbers are arrested, they have innumerable friends through whom they always do prove an alibi. Hence, they obtain their liberty regardless of what may be the evidence against them. I venture to assert that a conviction of one of these festive cowboys will never be obtained in Cochise county as long as the present state of affairs exists."*

Feb. 9, 1882-- Clanton swore out warrants for the Earps for the street fight killings.

Feb. 15, 1882-- After delay, the Earps and Doc were released on writs of habeas corpus.

Feb. 17, 1882-- Wyatt with a portion of his posse takes the trail again in pursuit of Pony Diehl, Al Tiebot, and Charles Haws, for robbery of the Bisbee stage on January 6. The papers again noted that Dake had not accepted the resignations of Wyatt and Virgil or revoked their appointments.

Feb. 24, 1882-- Earp posse returns to Tombstone, and things seem to settle down.

Mar. 17, 1882-- Morgan Earp was killed.

Mar. 19, 1882-- Wyatt, Warren, Doc, McMaster, and Johnson escort Virgil and Allie to Benson. Near Benson, someone [the Hooker manuscript says Chief Deputy Evans] told Wyatt and Virgil that Stilwell, Ike, and two others had traveled to Tucson ahead of them with the intention of killing both Wyatt and Virgil. Wyatt decides to go to Tucson.

Mar. 19, 1882-- Arriving at the train station, the Earp party encountered Chief Deputy Evans, who was in the area seeing to matters related to the Cow-Boys. After eating dinner, Wyatt and Virgil briefly conferred with Evans, before boarding the train. Virgil is told by a passenger that men were lying on a flatcar near the engine. Wyatt saw the men as well and went after them. Stilwell was caught and killed by Wyatt and others.

Mar. 19, 1882-- Jerry Barton, another Cow-Boy, was acquitted at trial in Tucson (the stated reason for Ike being there). Barton's acquittal reinforced the idea that the Cow-Boys couldn't be convicted in court.

Mar. 23, 1882-- Parsons wrote, *"More killing by the Earp party. Hope they will keep it up."*

Mar. 26, 1882-- Clara Brown wrote *"that is was not the Earps who first disturbed this quiet, and that their criminal actions since have been from the determination to avenge the murder of a dearly loved brother. I do not present this as sufficient excuse for their conduct or approve any act contrary to law; but there are certainly extenuating circumstances to be taken into consideration."*

Mar. 27, 1882-- George Parsons said, *"there are about three men who deserve to get it in the back of the neck."*

Mar. 29, 1882-- Judge B.L. Peel repeated the view of many citizens, when his son was murdered: *"There is a class of cut-throats among you and you can never convict them in court. You must combine and protect yourselves to wipe them out, or you must give up the country to them, or you will be murdered one at a time, as my son has been."*

This is not exhaustive, and I have not included those who were outraged by the killing of Stilwell. What surprises me though is how few people thought Stilwell was innocent. Even John Pleasant Gray believed he was the killer. But there was an outcry over the Stilwell killing, and it would change the political climate in Arizona. I include most of this because it addresses the questions of the foundation of Wyatt's continued authority, Dake's refusal to accept the resignations, made easier by the fact that Dake was in Tombstone the day the letter was published, and provides the arguments that were used to justify what happened to Stilwell.

Of course, there were rules, but the state of affairs was such that people were prepared to use extreme measures when it appeared the courts couldn't get convictions. Even the Sooners will allow a late hit now and again! Note, as well, that Wyatt did have warrants signed by Judge Stilwell.

Roy Young, July 8, 2020:

We've entered a new aspect of this discussion with the addition of both religious and philosophical principles. [see part one.] I want to be brief and move back to the "what" rather than

the "why." But, please indulge me for a few comments.

Most of you know my background as a minister in the Church of Christ for 50+ years (now retired from full-time work). So, I'm fairly well-versed in any biblical principles we might want to apply to the two situations at hand: 1) Someone murdered Morgan Earp, likely Frank Stilwell; 2) Wyatt Earp killed Frank Stilwell in "vendetta" or "retaliation" method, believing Stilwell the culprit who pulled the trigger on Morgan.

My approach to Wild West history is somewhat like that of Joe Friday, "Just the facts, Miss." I admit to being insufficient on the "why" aspects of things in my books. This is a prime reason my book on Bob Paul is considerably different than John Boessenecker's book on him. John is far and away better at the "why" of things. So, my brief venture into the "why" of the two situations shown above is stated below and may be easy to poke holes in.

****First - Religious principles:**

Fundamentally "An eye for an eye" or the law of retaliation is the principle that a person who has injured another person is to be penalized to a similar degree by the injured party. By one interpretation, it means the victim receives the estimated value of the injury in compensation. Its genesis is found in the Old Testament book of Exodus 21:22-25: *"If people are fighting and hit a pregnant woman and she gives birth prematurely but there is no serious injury, the offender must be fined whatever the woman's husband demands and the court allows. But if there is serious injury, you are to take life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise."* At this point, I could go into the difference in how this statement from the Old Testament Law of Moses compares to the New Testament Law of Christ as found in His "Sermon on the Mount" statement of repudiation in Matthew (5:38-42) in the New Testament, *"You have heard that it has been said, An eye for an eye, and a tooth for a tooth: But I say unto you, That you resist not evil: but whosoever shall strike you on your right cheek, turn to him the other also."* But, do we want to take the two situations at hand into a biblical

discussion? I think not, as there are simply too many trails to follow if we do.

****Second - Philosophical principles:**

Proportionality, having its origin in the Mosaic Law, is "a general principle of fairness and justice in statutory interpretation processes, especially in constitutional law, as a logical method intended to assist in discerning the correct balance between the restriction imposed by a corrective measure and the severity of the nature of the prohibited act. Within criminal law, it is used to convey the idea that the punishment of an offender should fit the crime." (Quote origin: A. Nony Mous)

The law of proportionality was formulated to prevent arbitrary vigilante justice that could quickly escalate into a never-ending cycle of retaliation - exactly what happened in the aftermath of Morgan's murder.

I do not think your questions, Jeff, to be far-fetched. Parsons, Clum, etc., for the most part, supported all that Wyatt and company did in the "Vendetta" period of his life - March-April, 1882. I seem to remember a statement from Clum in the 1920s in which he took Wyatt to task for some of the things he did, but for the life of me, I can't recall or find the quote. [See December 2020 *Journal*, "Who Killed Morgan Earp."

I do thank each of you who have commented, thus far. I would yet like to find the Arizona Territorial laws that apply to the above two situations. Either Wyatt was right in what he did as a federal officer, right in what he did as a citizen, or he was wrong on both accounts. Did he commit murder or was this a case of legally justifiable homicide?

Dr. Gary Roberts, July 8, 2020:

The problem is that the things we usually call "whats" don't explain themselves. And why Wyatt acted as he did is a "what." You can't explain a what without an explanation of why. Facts yield explanations. Even Joe Friday took his facts and arrived at conclusions. I can conclude that Wyatt's killing of Stilwell was a mistake (morally and legally) and still understand why he did it.

Tom Gaumer, July 8, 2020:

Roy, it can be right and illegal at the same time. In the courts there is something called jury nullification. The courts don't like it at all and some prosecutors will dismiss a juror if that juror happens to know about it.

It means the jury is ignoring the question of whether the defendant is technically guilty and saying justice requires them to vote not guilty. The jury is putting right above the law.

I think it can also be seen in a thing called officer's discretion. The policeman decides to not enforce a particular law because he feels it is not useful to do considering the situation. I was pulled over for not having my new license plates on my car. I had the plates on the passenger's seat, having just acquired them. The cop saw them and waived me on. A number of times, say five, I have been stopped for minor things, like five miles over the speed limit or not signaling a turn in the middle of the night at a deserted intersection. I was friendly and respectful, because I am very pro-police, not in an attempt to influence him. I got warnings only.

Roy Young, July 8, 2020:

Thanks, Tom. Both you and Jeff showed me the error of my earlier e-mail statement about "right" and "illegal." I'm not yet convinced, however, that Wyatt's killing of Frank Stilwell is in any way related to the examples given. This was a blood-feud, i.e. "You killed my brother, so now I am killing you. The law be damned!"

Your examples point out to me that lawmen are allowed some discretion and I bet \$\$ against donuts there's a legal statement made in their official code of conduct that allows this.

Roy Young, July 8, 2020:

Tom, I do not believe a lawman could just venture out on his own to arrest someone because their name appeared in the report from a coroner's inquest. There had to be warrants! He could request a warrant, but he couldn't simply strike out on his own to carry out such action as arrest or "shoot to kill." That this has happened is undeniable, but we're talking "law" here.

Either Stilwell was in Tombstone and carried out the steps that led to the murder of Morgan, or

he was in Tombstone but someone else did the deed, or he was in Tucson and had nothing to do with the deed. These seem to be the only three possibilities. Mrs. Spence and her mother followed the Kate Holliday manner of accusations, though the wife and mother had better results than did Kate. How well these statements would have stood up in a court of law, I don't know; Pete did not face trial and Frank was dead.

What Wyatt knew and what he didn't know, we don't know. How much investigation, if any, he did is unknown. All we know for sure is that he soon came to believe Frank Stilwell was the culprit who pulled the trigger. That Stilwell was in Tucson - for whatever reason - proved quite unfortunate for him. What might have transpired had he not been at the depot that night? Ike walked away; Stilwell didn't. Ike lived; Stilwell didn't. We would have a totally different set of circumstances had Stilwell not been at the depot or if he was successful in getting away. Would the Vendetta have been carried out? Very likely, but very different.

Jerry Barton arrived by another train and that is part of the Bob Paul story (see my Paul book, or John's).

What I still want to know: Were Wyatt and Virgil yet deputy U.S. marshals after both their letter to Dake and their public notification of resignation? Was the group with Wyatt and Virgil in Tucson a lawfully constituted posse? And, again, what made them a posse? That they were travelling with a supposed set of two deputies and therefore automatically a posse simply because they had previously been with one or the other of the two men in the form of a legally constituted posse? No. Either they were sworn members of a posse, or they were not. Which was it? And how can we know?

Let's leave Behan and his posse out of the discussion for now.

Dr. Gary Roberts, July 8, 2020:

There's an alternative, Roy. The Earps didn't know that Stilwell would be in Tucson, that the riders with him were, at the least, acting as bodyguards. Remember, there had already been an assassination attempt and an assassination of Earp family members. I'd want bodyguards. The al-

ternative is that the Earps determined that Stilwell was at the train station after they arrived. As to police procedures, the processes followed were much looser than they are today. Check out Brown's *No Duty To Retreat* and the points John makes about firing after fleeing suspects.

Dr. Gary Roberts, July 8, 2020:

Having been called a "Wyatt worshipper" literally hundreds of times and stashed in this "faction" or that group (all of which carry with them assumptions about what I believe), I'd like to clarify a thing or two. Very early in my pursuit of Wyatt Earp as a subject, my first serious "reads" were Burns' *Tombstone* and Raine's *Wyatt Earp: Man vs. Myth*, which represented two very different approaches to the subject. The vast majority of works were pro-Earp or anti-Earp (the latter really taking off in the late fifties with writers like Edwin Burkholder and publications like the early versions of *Real West* (the magazine got better over time), but I decided pretty quickly. I took my first shots in an exchange with Harry Sinclair Drago, and explained my concerns in an article for the *Potomac Westerners* in 1962, but the essence of it was that the good guys/bad guys, pro/anti approach was essentially non-productive and marred both sides because both groups were more interested in proving a point than finding the truth. I was able to test some of my ideas with the likes of Ramon Adams, Ed Bartholomew, Frank Waters, John Myers Myers, and Stanley Vestal, and I had the good fortune of having mentors like Leland Sonnichsen, Bob Mullin, and Nyle Miller, who encouraged my perspective, even though I was still wet behind the ears in the field. From J. Frank Dobie, I learned the importance of context. From Francis Paul Prucha (who never wrote a word about gunfighters) I found an approach that made sense to me. Besides that I grew up with the likes of Joe Rosa and Joseph Snell (they were ahead of me both by age and productivity).

Dobie said it all in a single letter to me in 1961. He told me plainly that if I wanted to write about the West, I needed a broad context. These aren't his words, but the essence was that to understand what happened in Arizona Territory in 1880-1882, I needed to know what was going on

in the world at that time. He impressed upon me that I could not truly understand what happened in Cochise County (or any other local place), if I didn't have a sense of the times broadly speaking. He gave me the titles of books that didn't even have anything to do with the United States, along with the astounding assertion that I could learn more from those books about the West than anything written about the West. It took me a while to figure that out (along with working on my degree in history), but I got the message. It is one thing to have a particular perspective; it is another to be a partisan who discounts anything that disagrees with original perspective. You have to learn before you can understand. I have all five volumes of one of the books he recommended a good "social distance" from where I'm sitting. I have shelves of books on the late nineteenth century that have given me a view of what life was like. I learned about the turmoil created by the industrial growth and social disruptions brought about by the "Age of Exploitation" and by the "search for order." I learned about how politics worked and that the period between 1865 and 1900 was probably the most violent in American history (and spent most of my professional career trying to figure out why). I have an assortment of books that have helped me to figure out social standards and moral perspectives.

Right here beside me, by chance, I have a copy of Richard Stott's *Jolly Fellows: Male Milieus in Nineteenth Century America*, which explores the world of men and their values in the nineteenth century. There are a half-dozen or so such books, published over decades of time, that I keep at hand in case I have need to answer a question. Not only do I regard Burns' *Tombstone* to be one of the best written books on Wyatt Earp, but also I find his world-view helpful in understanding Earp. Most people see Burns as pro-Earp (and if I had to put him in a category I would reluctantly concede the point), but what Burns found compelling about Earp was not that he was a "good guy" but that he represented a set of values that Burns could admire. Dust it off and read what he had to say about the vendetta. I still find his summation of Wyatt full of insight. Throw a wide loop, so that you can understand not only how you feel about a topic but how the people of

the time felt about it. You'll find differences there too, but they'll be of a different sort.

Which brings me to something that sometimes surprises people. I don't really care what the truth is about Wyatt Earp; all I care about is finding it, whatever it is. I really don't like Earp that much. He's not likeable like a Bat Masterson or mysterious like Doc Holliday or dominating like Wild Bill Hickok, but he is still a fascinating character, embodying the complex of Gilded Age values better than just about anyone. I'd rather hang out with Bat or even Doc, but that stoic Mr. Earp even mystified the people of his own time. As Jeff pointed out, given much that we know, how do you explain why men like John Clum, George Parsons, Charles Hatton, Ed Colbourn, not only were drawn to him but defended him throughout their long and successful lives. We're not talking about his gambling buddies here, but respectable, honorable professionals. John's new book does a good job of demonstrating that the Cow-Boys were in fact not just a bunch of good old boys but rather a loosely organized criminal combine that kept Arizona and New Mexico, Sonora and Chihuahua in turmoil for several years.

It is easy enough to go after Marshal Dake in light of the investigation that began late in his tenure, but it is also worthwhile to put Dake's association with the Earps in the context of his larger tenure. Are you aware of Dake's operation, under the direction of U.S. Attorney Everett Pomroy, against individuals recruited and trained in Arizona to become armed groups to join a revolution against the Diaz government in Mexico? Dake and his chief deputy, Joseph W. Evans, organized an expedition against Brijido Reyes that won the praise of the government of Sonora. Ten men were tried for violation of the Neutrality Act as a result of this expedition. From his arrival in Arizona, with the encouragement of Pomroy, Dake was forced to concentrate on an epidemic of stage robberies (1878-1879). The Dake/Pomroy team had a good record in dealing with the robbers (mail and bullion shipments gave them jurisdiction). Pomroy's conviction rate was substantial. The *Arizona Miner*, August 31, 1878, was prophetic: "*Mexico will soon object to being overridden with people belonging to the United*

States whose hands are fresh stained with the blood of their fellow man."

In April 1881, Attorney General Wayne McVeagh asked Pomroy to investigate the "gang of desperadoes called cowboys." In May, 1881, Deputy Evans reported that so many Mexicans were being killed that "*If the cowboys are not suppressed soon these depredations will occasion serious international trouble.*" In fact, Dake (with Evans' assistance) and Luis Torres of Sonora were in constant contact outside regular diplomatic channels. Pomroy and Dake were under pressure from Washington to restore order. Pomroy pointed out that most of the crimes were territorial (murder, assault, highway robbery, and cattle rustling), but argued that the Justice Department should become involved anyway because the territories were "wards of the Government" and looked to his office for support and because of the potential impact on relationships with Mexico. As early as September 1881, Deputy Evans was trying to put together a large posse of at least thirty men to pursue the Cow-Boys and recommending the hiring of "spies" to infiltrate the outlaws. [Incidentally this may suggest that folks like McMaster and Johnson were federal spies earlier than we have assumed.] In December 1881, Dake declared to McVeagh that "*hereafter my deputies will not be interfered with in hunting down stage robbers, mail robbers, cattle thieves, and all that class of murdering banditti on the border.*"

Don't forget, either, that the general citizenry was suspicious of the federal government. Dake frequently had trouble getting people to serve on posses or to take federal criminal cases seriously. Nor can you discount businesses that were in league with cattle rustlers or settlers who were intimidated by the Cow-Boys. So while I certainly do not approve of everything the Earps did—in fact think them stupid in some of their moves—their moral failings appear to have had more to do with the gambling fraternity's activities than organized criminal enterprises. Their record certainly pales in comparison to Cow-Boy operations from 1878 to 1882. In frontier environments like Cochise County or Lincoln County in New Mexico, the law was viewed somewhat differently. I think that Wyatt's

vendetta proved to be too much even for some of their supporters, but there was also a view that when the law failed, a more elemental form of law was justified. Christianity, after all, has more than one form: Fear God and judge others; love God and love others; and vary the formula based on practical circumstances. More on that later.

Tom Gaumer, July 9, 2020:

Roy, I thought the sheaf of warrants was given to Wyatt much earlier in 1882 when he went to Charleston and accomplished nothing. Stilwell is 2 ½ months later. Would the warrants have no limit on them as to time?

Wyatt's successor was appointed almost instantly in John Jackson. Virgil was likely out of it due to his serious wounds and one replacement for both might be enough? Shouldn't that fulfill the "only until our successors are appointed?"

That should prove Wyatt was not a deputy marshal when he killed Stilwell, except now the idea that Dake rejected their resignations must be dealt with. Maybe Gary can clear that up with a good source? The idea it was just a delay to settle accounts, as I found in another email, seems to me a lot different than a rejection?

With no solid knowledge I would guess Jackson filled Wyatt's place. Virgil didn't matter as a deputy as he was in such bad shape and Wyatt probably was not a deputy marshal when dealing with Stilwell. We might solve this if we are not careful.

Roy Young, July 9, 2020:

Good question, Tom. Does an arrest warrant have a time limit in which it must be served? I have many copies of warrants and often they will state something like "*Unable to find this man in my county.*" I'm not sure about a federal warrant and need to find out.

I'm looking closely to learn if Jackson can truly be said to have replaced Wyatt as deputy U.S. marshal. This is a key turning point in our discussion.

Tom Gaumer, July 9, 2020:

I think you are right about warrants. Listing Stilwell as a "prime suspect" seems like something that would generate a warrant pretty

quick. Resisting the warrant might generate some shooting. There was no warrant for Wyatt to enforce that has popped up so far.

I think Pete Spence not being charged would reflect on the coroner's doubts about what Mrs. Spence had to say. I don't think what she said can be ignored but, if that is all they had, it seems unlikely to be enough. Pete didn't kill her for it so he might not be as bad a boy as she described.

I don't think we can determine whether Stilwell was part of the killing of Morgan for sure. Like you say though, we can be certain Wyatt believed Stilwell guilty as he killed him for it. What led Wyatt to be sure enough about that to kill, when he did not kill before or after this short time? It was something or he wouldn't have killed, in my opinion.

One of the questions that I've never figured out is why Stilwell did not walk away with Ike? Did he not know he was a prime suspect and should steer clear of Morgan's friends or relatives?

How would the Vendetta have been different minus the Stilwell incident?

Tom Gaumer, July 9, 2020:

Roy, be sure to look on page 198 of *Cochise County Stalwarts* for a pretty clear statement that Jackson did replace Earp. Unfortunately, there seem to be other versions and timelines and reasons Earp may have been around for a while longer.

The mud on the windshield is pretty thick. Do you have an axe?

Roy Young, July 9, 2020:

Thanks, Tom. For a warrant to be issued, someone has to request it be issued. Apparently, no one did this. But, if the sheaf of warrants Judge Stilwell gave Wyatt were "John Doe" warrants, Wyatt had all he needed. If the warrants were for specific persons, was Stilwell one of them? It would seem so, seeing Stilwell was considered a suspect in the shooting and maiming of Virgil in December.

Now to the matter of Wyatt's and Virgil's resignations as deputy U.S. marshals. The following from the resignation letter is of interest, "...it is our duty to place our resignations as

deputy United States marshals in your hands, which we now do, thanking you for your continued courtesy and confidence in our integrity, and shall remain subject to your orders in the performance of any duties which may be assigned to us, only until our successors are appointed."

Two points - the resignation letter was "placed in your hands" by either one or both of the Earp brothers or by a courier. And, the two deputies would continue in service "only until our successors are appointed." They did not wish to leave Dake shorthanded. So, Dake promptly takes action to replace them and succeeds in replacing one of them, Wyatt (I believe, because of Virgil's infirmity that had kept him from active deputy service), with John Henry Jackson. This appointment helps us to understand that Wyatt had been replaced and was not acting in the capacity of a deputy U.S. marshal when he killed Frank Stilwell.

See my article: "John Henry Jackson: Arizona Lawman and Captain of the 'Tombstone Rangers'" in the June 2020 issue of the *Tombstone Epitaph* in which I detail how Jackson became deputy US marshal in February 1882. Note especially, Dake's letter published in the *Tombstone Nugget*, on February 28, 1882.

Does this clear-up the matter of Wyatt's resignation? Likely not, since Gary has shown in his list on February 17, 1882 that Dake had not accepted their resignation nor revoked their appointments.

Roy Young, July 9, 2020

Gary, thank you for taking time to do this for us. Very helpful. Three questions:

1. Were the federal warrants issued by Judge Stilwell on January 23, 1882 "John Doe" warrants, or did they contain specific names? The terminology "*divers persons*" can mean several things and is not clear. If "John Doe" warrants, the deputy marshals had a great deal of latitude in regard to whom they could/would arrest. Do we know of anyone arrested on these warrants either before or after the deaths of Morgan and Stilwell?

2. One week after the issuance of the warrants: The date of February 1st for the resignation of Wyatt and Virgil. This is the date of the newspaper announcement, but is it also the

date of the presentation of the resignations to Dake? Were the resignations made in person or via a telegram or by letter? Feb. 2nd "Dake Refuses Resignations" - what is the source of this statement? To be in the newspaper the day following the resignations, the refusal must have been made on February 1st. So, how did Wyatt and Virgil take this refusal? Did they say, "Well we're still deputies, we have a sheaf of warrants, nothing we can do but continue to act in this role"? By March 19th, Virgil has decided to leave Arizona, was he yet a deputy after that date, perhaps on a leave of absence? No, it appears he didn't care if Dake accepted or refused his resignation as he was bound for California and leaving Arizona behind. So, does Wyatt say, "OK, I'm still a deputy and I'm going to act in that capacity"? Did he do anything in this continuing capacity between February 1st and February 17th other than look for Diehl, et.al.? On the 17th, Dake reiterates his refusal of the resignations - source?

3. December 30, 1881, Wyatt appoints deputies. Are members of a posse considered deputies? If they are deputies rather than simply members of a posse, do they not have to be commissioned, sworn-in? What is the length of time a posse is actually a posse? Could the posse appointed on December 30th still be the same posse on March 19th? What actions constitute the official actions of a posse? Are they individually a posse? Or, are they a posse only when actually working under a deputy? Are they a posse 24 hours a day? Are they paid? So many questions and I don't know where to turn for the answers regarding the "rules" of a posse.

Pretty ambiguous set of circumstances and actions open to several interpretations.

I'm still wondering if even Wyatt considered himself a deputy U.S. marshal on the night he killed Frank Stilwell. Is there any indication that Wyatt promoted himself at any time or any place - following the two deaths - as a deputy U.S. marshal?

Dr. Gary Roberts, July 9, 2020:

Warrants are usually handled in one of the following ways: (1) They are served; (2) They are quashed by a judge or magistrate; (3) They are not

served because the persons named in the warrants cannot be found; (4) Statutes of Limitation apply [remember, for murder and certain other crimes, statutes of limitation do not apply]. Many "outstanding warrants" are never served. They end up as cold cases.

Remember that the number of appointed deputies in a particular county was not limited to one. Earlier in Tombstone, there were two regular appointed deputies--Virgil Earp and Leslie Blackburn. So, Dake would not have to "replace" anybody; he could simply appoint an additional officer. Jackson had a background in mining and was well respected in Tombstone. Lynn Bailey and Don Chaput argue in *Cochise County Stalwarts* that prominent Republicans, including some Earp friends who would continue to help them, like Milton Clapp, recommended to Dake that he replace Earp. They believed that the Earps submitted their resignations in response to Dake's visit with Fonck, Clapp, and others. Actually, two names were submitted--Jackson and Silas Bryant. Once Jackson was appointed, Governor Tritle authorized Jackson to organize a "militia company," to be ready to respond to the sheriff (please note) as a territorial posse. The group was designated the "Arizona Rangers" or "Tombstone Rangers." Tritle appears to have believed that this would give him more flexibility, having authority both as federal officers (by virtue of Jackson's appointment as deputy U.S. marshal) and territorial officers subject to call by the sheriff. As Bailey and Chaput note, the problem was there was no money. Tombstone businessmen were appointed to help raise money. The Rangers were not formally recruited until April 4-6. By then, the Earp party was in the process of planning their departure from Arizona. The Rangers thus did not play a role in Cow-Boy campaign; their first assignment being to scout the border for Apaches. They left Tombstone on May 1, 1882. Financing the Rangers failed, and the unit was disbanded by June. The reason they had been organized--to bring some balance to efforts to deal with the Cow-Boys--was no longer a need. And those inclined to give credit for ending the Cow-Boy problem gave it to the Earps and their aggressive actions. Even some of those who had

supported Jackson would afterwards credit the Earps for ending the Cow-Boy War.

We do know that in the month between February 18 and the end of their stay in Arizona, they were regarded as federal officers. On February 18, 1882, the *Nugget* reported that Wyatt and Morgan, Doc, Texas Jack, Charlie Smith, McMaster, and "one or two others" left Tombstone, divided at Waterville, with four going toward the San Simon to arrest Pony Diehl and one or two other characters, while the rest went to Charleston. The article ended with this: "*It is supposed they are acting in the capacity of U.S. deputy marshals, their resignations not having been accepted or their appointment revoked by U. S Marshal Dake, as was generally supposed some time ago.*" The Earp posse did not return to Tombstone until February 24. The *Nugget* explained the situation on Feb. 28, by reprinting an article from the Prescott *Daily Democrat*: "We are informed by Marshal Dake that the resignations of the Earps, as United States Marshals, have not yet been accepted, owing to the fact that their accounts have not yet been straightened up. As soon as that is done they will step down and out." Dake's accounts were a problem. (Stephen Cresswell, in his overlooked book *Mormons, Cowboys, Moonshiners & Klansmen: Federal Law Enforcement in the South & West, 1870-1893*). Dake defended himself and the accounting problems when he was investigated later in 1882, and specifically pointed out that he was waiting on reports from a deputy who was in Colorado [Wyatt]. After the killing of Frank Stilwell, the *Tucson Star* made a point of criticizing the fact that his killers were deputy U.S. marshals. Nevertheless, Dake continued to use Wyatt, to defend him, to raise money for him from private sources like Wells Fargo and other Arizona and New Mexico business interests, and to consult with him even after he left the territory. I'm of the opinion that he and Tritle, the governor, and former Tombstone business partner of J.L. Fonck, helped to arrange the departure. It is notable that Tritle signed the extradition papers in the Frank Stilwell case and drug his feet on anything originating in Cochise County. Some have always believed that the papers Bob Paul carried to Denver were deliberately flawed. Tritle

and Dake didn't want to look a gift horse in the mouth.

Roy Young, July 10, 2020:

Right. What I'm wanting to find out - for sure - is, if the warrants were issued, who issued them and to whom were they issued. I'll check the *Epitaph* reference of March 27th to see what it says.

Tom Gaumer, July 10, 2020:

Roy, here is another thing to consider which would seem to prove there were warrants sworn out for Stilwell and the others mentioned in the coroner's jury.

This is from John Bossenecker's book *Ride the Devils Herd*, page 331:

"The coroner's jury rendered a verdict that Morgan Earp had died 'by reason of a gunshot or pistol 'wound' inflicted at the hands of Pete Spence, Frank Stilwell, and a party by the name of Freis, and two Indian half-breeds, one whose name is Charley, but the name of the other was not ascertained.' The "Indian half-breeds" were actually mestizos of mixed race. Based on the jury's findings, warrants charging them with murder were issued." (Source: *Tombstone Weekly Epitaph*, March 27, 1882).

Read the next 10 pages about Stilwell's case also.

Roy Young, July 10, 2020:

Thank you, Tom. Lynn Bailey has it right in my estimation and his statements are similar to mine in my *Tombstone Epitaph* article on Jackson, June 2020. Still mulling-over all of this.

Roy Young, July 10, 2020:

Gary, on item 4, can we know the statute of limitations on federal or territorial warrants other than a capital crime? I suppose this is a recorded policy that can be found.

Paragraph 2. Correct. The big problem was money, so little \$\$ to run the marshal's office, so little \$\$ to pay deputies. Jackson finally quit and moved to California with Dake paying his train fare.

Paragraph 3. "Being" a federal officer and being "regarded" a federal officer and "supposing

they are acting in the capacity of U.S. deputy marshals" are different things. The February 28 Prescott news article is somewhat telling, however. With Dake keeping office in Prescott, the newspaper there had face-to-face opportunity for interviews with him. The article does reveal that Dake intended to accept their resignations as soon as some financial matters were cleared up. So, were they cleared up by the third week of March? The Creswell book is excellent and I keep it at hand for reference. Creswell indicates the officer in Colorado - we assume Wyatt, as Virgil was in California - yet, at that late date, had outstanding financial matters to be cleared up.

One step forward and two steps back. Nonetheless, it is my considered opinion that when Wyatt killed Stilwell, it was a brother's retribution and not the act of a federal officer; that Wyatt would have done what he did no matter what he considered his "official" capacity to have been. I'm quite sure the thought of being "official" never entered his mind that night at the Tucson train depot. We're talking 1882, not 2020, but even then a federal officer, including that officer's deputies, could commit a crime, including murder. And, it appears that is why Wyatt et.al. were wanted men from the get-go. Murder.

Thank you, sincerely, Gary, for taking part in this discussion. Your comments have been most helpful and your patience with my questions, albeit from the point of view of a "strict constructionist," are very much appreciated.

Dr. Gary Roberts, July 10, 2020:

Bob Palmquist and John could probably answer your question about statutes of limitation off the top of their heads. I think I have somewhere a paper Bob wrote years ago on territorial jurisprudence, but I'll have to find it. Today, generally speaking, crimes without a statute of limitations would include any crimes punishable by death or life imprisonment, including murder and treason. Felony rape cases would be included as well, and embezzlement of public money. Now these generalizations may vary from state to state or in federal cases. We would also need to be time specific as well (i.e., the laws in territorial Arizona in 1882 and Arizona state law today probably vary in detail; the same is

likely true for federal law in 1882 and federal law today.

The Arizona Memory Project of the Arizona State Library, which is online, includes Acts and Resolutions of the Territorial Legislature. I have not researched the files, but apparently they consist of the published A.T. laws by year. Of course, these papers include all laws and resolutions, not just criminal laws.

The problem of funding in Arizona is covered in some detail by both Larry Ball and Cresswell. Cresswell seems sympathetic to Dake. Dake was under investigation for an extended period, but in the end no charges were ever filed. When Wyatt was running a saloon in Aspen, the Congressional Delegate of Arizona, C.C. Bean, visited him about Arizona matters. I have not pursued Bean's report of the visit and what was discussed, but it would certainly be worthwhile to run the newspaper sites for 1885 to see if the visit is mentioned. It would also be another thing to look for in the National Archives files.

The accounts were not settled when the Earp party left Arizona for Colorado. I haven't gone through the documents of the Dake investigation in years, but I'll try to see if the investigators addressed the question of their status.

A "brother's retribution" and "an act of a federal officer" are not necessarily mutually exclusive. I suspect you could find more than one example of an officer carrying out retribution. I think Wyatt's damning mistake was shooting up the body so badly--that's what branded it as personal. Have you read Hayhurst's *Hardpan: A Story of Early Arizona*? He includes a list of killings in southern Arizona from the late 1870s to 1890. I don't know how complete it is, but it amazing how few convictions are on the list. So, the complaint about killers getting off had a basis. I know you have this, but it relates to the questions you've raised and seems important for more than one reason. It is an editorial from the *Arizona Daily Star*, Friday, March 24, 1882: "*One of the worst features of the present state of outlawry which is being carried on by those who assassinated Stilwell, is that they are Deputy United States Marshals, sworn to protect and sustain the laws of the country. Instead of this, they have and are continuing to take the law into*

their own hands. It is stated on good authority that they proposed at the outset to kill five men. Two already have fall[en], Stilwell on Monday night and a Mexican Wednesday. They have three more on their list yet. What a comment on the United States government, that a band of so-called officials with a high hand over the country murdering human beings out of a spirit of revenge. This red-handed assassination will not do. No matter how much the friends of the Earps may sympathize in their loss, there is another side to the question. The community have some rights which must be respected. The world at large are not supposed to stand and behold this high handed violation of the law and not denounce it, for in striking at law, it is an assault upon every citizen in the country. If they can kill one citizen in defiance of the law, they can do so with every citizen. The question is, law or no law; which shall prevail? The people say the former must." So, the *Star* did not seem to doubt the Earps' positions as lawmen; in fact, in magnified the crime in Mr. Hughes' eyes.

By the way, it is worth remembering that Jerry Barton was acquitted the day after Stilwell was killed--a man who had a murderous career over several years in Arizona. That is why a significant number of "good citizens" could excuse the Earps and agree with the sentiment attributed to Judge Stilwell in dealing with the problem.

Another reason that I'm inclined to believe that the Earps were still toting badges and warrants as federal officers is their contact with Chief Deputy Joseph Evans. Virgil said that he and Wyatt had an extended conversation with him in Tucson before Stilwell was killed. I don't justify what happened to Stilwell, but I continue to note how exceptional the vendetta was in the life of Wyatt Earp. It should be remembered, as well, that it followed the ambush of two of his brothers, and several court proceedings that resulted in dismissal of charges. It is also worth noting that neither of Tombstone's newspapers questioned the authority of the Earps when they left Tombstone in pursuit of Pony Diehl and others in February. You would think that if it was commonly assumed that they were no longer officers, someone would have questioned what happened. I can't speak for Tritle,

but I am pretty well convinced that Dake was still working with the Earps. Leigh Chalmers, an examiner investigating Dake, made this report in September 1885, about Dake's visit to see John J. Valentine in January or February 1882. Dake *"represented that in the matter of the disturbance at Tombstone in Cochise Co., Arizona, A.T., that he, Dake, was powerless to do good as U.S. Marshal for want of funds, and if the Company would advance him \$3,000, he would use it in quieting the disturbance and return the amount as soon as the vouchers could be approved at Washington and the money could be gotten in return--upon which representation by Dake, Mr. Valentine advanced \$3,000, taking Dake's receipt for the sum."* Dake had some influence with Wells, Fargo because of the rash of stage robberies in January in southern Arizona. He was soon back in Tombstone working with the very same businessmen who were talking with Tritle. It would make perfect sense to me that Dake would use the unfinished reports of Wyatt and Virgil as an excuse for keeping them on the job and in the field.

...P. S. Just got your most recent. I'll answer this quickly. First, if Stilwell issued federal warrants as opposed to territorial warrants for his district, those records could be in the California National Archives Record Center. I've found tons of documents of this kind in Kansas City for the Indian Territory and the State of Kansas. I'm not sure I agree with you about Stilwell and Behan, especially if the warrants in question were related to the "Cow-Boys" embroiled with the Earps. I've not done much research on the topic, but Tritle's effort in forming the Rangers seems to me to be a way of bypassing local authority using a "territorial" force (militia) in matters beyond the scope of Dake's authority. Warrants must have been issued quickly in the Morgan Earp murder; Spence, Swilling, and Bode were incarcerated almost at once. We don't know what Evans may have told Pima County authorities. Stilwell likely thought he'd covered his tracks, but if he thought he was in the clear, what the heck was he doing at the depot--perhaps to take out Wyatt? One source that isn't mentioned much is an item from the *Weekly Epitaph*, March 27, 1882: "There is positive evidence Stilwell was in Tombstone

Saturday night Morgan was murdered and that he rode into Tucson on horseback on Sunday." Surely there will be more.

Roy Young, July 10, 2020:

Here is a transcript of a letter from S.R. Martin, investigator, to Honorable Benjamin Harris Brewster, Department of Justice, Washington D.C., written from Tucson on April 19, 1882:

"Sir, under your instruction, I have made inquiry as to the standing of Marshal Dake of this Territory and beg leave to report as follows - I do not find anyone who thinks him fit for the position he now holds. It is very hard to get men holding public office to express their opinion in regard to a brother officer but I found no one who would say that he had the ability and energy necessary for a marshal in this wild country. The United States Coll[ector] of Rev[enue] says he cannot get his writs served and that the man is totaly [sic] unfit for the office. The United States Dist[ri]ct Att[orney] though unwilling to express himself fully says he lacks energy and ability, that no United States court has been held since September 1882 [sic 1881] for the reason that this marshal refused to summons a jury, giving as a reason that he had no money to pay their fees. He retains upon his force as deputy, one of the Earp boys of Tombstone who is now an outlaw and with others are hiding in the mountains awaiting their time for a big fight in Tombstone. I have consulted with such men as Governor Tritle, US Dist[ri]ct Att[orne]y Pomroy, Thomas Cordis Case - Int[ernal] Rev[enue], Gen[era]l Willcox, editors of newspapers and many citizens and I say that as general testimony he is not the right man for marshal. This must be said in his favor, he says that he has no money to run his office with. A gentleman named Reed [Reese?] an ex officer of the army has, I am told, sent forward a petition with a large number of names asking for the appointment. I would recommend a thorough examination before giving it to him. I do not think he is the man for this place. I have the honor to be your obediently, S.R. Martin."

All I can learn about Martin is that he was a special investigator for the Department of Justice. This letter is rarely mentioned in

Earp/Tombstone books and causes me to think that Dake simply failed to take action on the Earps' resignations.

Another reference I am running down is that John Henry Jackson was made deputy U.S. marshal in place of Virgil, at least during his convalescence. Jackson was a resident of Tombstone, formerly a miner, and at that time running a hotel with his sister.

There is a good bit more in the Dake papers I have collected regarding the Earp's work as deputies under the marshal. Interesting stuff.

Dr. Gary Roberts, July 11, 2020:

Well, Roy, you have the answer to at least one question: April 19, 1882 : *"He retains upon his force as deputy one of the Earp brothers of Tombstone..."* I don't see that there is much doubt that Wyatt was retained (Virgil may have been in a kind of limbo because of his injuries, but officially still a deputy until accounts were settled).

Martin was a Justice Department examiner sent to investigate Dake's tenure. Cresswell seems to think that Dake was creative in the face of the difficulties he faced securing financial support and that most of his difficulties were beyond his control. Dake left office under a cloud in 1882, and the case of the *United States v. C.P. Dake* was filed in 1885. The 1885 investigation records include several letters/affidavits by principal figures that help to put the financial situation into clearer relief. Remember that deputies were paid by a fee system. This meant that the individual deputies had to maintain records of their duties and expenses.

Reports would be submitted to the marshal's office and payments made to the deputies based on these reports--days of service and other allowable expenses. I do not know what official expenses may have been incurred by Virgil or if he was able to submit reports to Dake during his recuperation after he was shot, but Wyatt would have been in the field for much of the time after his appointment, and once Morgan was murdered, Wyatt was in the saddle for most of the time until he left Arizona, and I can't really imagine him sitting around the campfire after Cottonwood Springs, recording expenses in a ledger. So, when

Dake said he was waiting for reports, I have no doubt he was right.

In his supplementary report, September 9, 1885, Leigh Chalmers, the investigator in Dake's case, indicated that he was enclosing a letter from Wyatt Earp about his financial accounts with Dake's office. Unfortunately, that letter apparently was lost at some point, as it is not found in either the Justice Department or Treasury Department records related to Dake. This letter would have been written before Curtis C. Bean, Arizona's territorial delegate to Congress, visited Wyatt in Aspen on September 17, 1885.

When I was working on DOC, I was surprised by how much contact there was between the Earp party and Tombstone businessmen. The group returned to the outskirts of Tombstone more than once, and when you add the movements of Tipton and Smith, Kraker and Wright, Whelan, and Valentine, an argument could be made that Wells Fargo was providing most of the funds, using the money that Valentine gave Dake and administered by Tombstone bankers who were on the Citizens' Safety Committee.

Add this for more evidence that Wyatt continued as a deputy: *Gunnison Daily News-Democrat*, "Wyatt is a Deputy United States Marshal and is here on business partly, and then Tombstone got too hot for them just now."

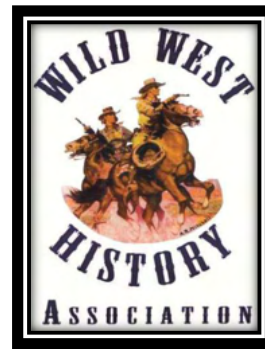
Jackson is interesting, and I think it is obvious that some Tombstone lights wanted the Earps gone (even on the Citizens Safety Committee), but I think that Dake clung to the idea that the only officers who had had any success dealing with the "Cow-Boys" were the Earps. Wasn't Jackson working with George Hearst during part of this time? Jackson was appointed deputy U.S. marshal by Dake on January 27, 1882, and was sworn in before Wells Spicer in Tombstone, February 2, 1882. Both documents are in the National Archives.

Do you have the March 25, 1882, *San Diego Union* article on Frank Stilwell, subtitled "The Kind of Men They Make Deputy Sheriff's of at Tombstone, Arizona?"

I've been trying to track down the article that was published some years back on Joseph Evans. I have it somewhere. I looked at it when we were working on the [Wyatt Earp] anthology, but as I

recall, Evans was the person who helped Dake calculate expenses for the operations against the Cow-Boys. Oh, and one other thing about Evans. According to the Hooker ms, Evans was the person who told Wyatt and Virgil that Stilwell was looking for them. This could be important. First, it means that Evans would have traveled to Tucson the same day as the Earp party, though probably by horseback. It is possible that he did not know that Wyatt decided to change his plans and continue on to Tucson in light of the new information. By the same token, Stilwell would probably have been expecting only Virgil, if he knew about any of the plans. That is why it is important that Ike and friends were at the train station. They were watching all trains coming from the south. They would have had a schedule to work with. The timeline for Evans is not clear. We don't know for certain how much time elapsed from when Wyatt and Virge talked to Evans (or whoever warned them) until Wyatt changed his plans. I suppose it is possible that Evans took an earlier train or that he proceeded to Tucson on horseback with a good head start of the train that carried Virge and Allie. Or, at least theoretically, Evans could have been on the train with the Earp party.

One thing more, I believe that U.S. Commissioners could issue warrants and handle other routine court-related functions. Eventually the name of these federal officers was changed to United States Magistrates.



WWHA Executive Board

Jim Dunham, President
Cartersville, Georgia
Roy B. Young, 1st Vice-President
Apache, Oklahoma
Marshall Trimble, 2nd Vice-President
Scottsdale, Arizona
Elizabeth Weathers, Secretary
Springdale, Arkansas
Ron Woggon, Treasurer
Tucson, Arizona
Pam Potter, Past President
Solvang, California

Board Members

Dr. James Bailey, Bailey, NC
Alan Blanchette, Aptos, CA
Donna Harrell, Phoenix, AZ
Kurt House, San Antonio, TX
Bill Hunter, Hermitage, TN
William I. Koch, West Palm Beach, FL
Paul Marquez, Lakewood, CO
Carroll Moore, Brentwood, TN
Ruth McWhirter, Collierville, TN
Charlotte Steele, Fayetteville, AR
Michael Wallis, Tulsa, OK

Advisory Board

Daniel Buck, Louis Harrell, Dr. Paul Hutton,
Ron Ligon, Herb Marsh, Rick Miller,
Bill O'Neal, Chuck Parsons, Barclay Prindle,
Bob Pulcipher

Advisory Board Emeritus Member
Frederick Nolan

Roll of Honor

Robert K. DeArment (1925-2021)
Leon C. Metz (1930-2020)
Robert G. McCubbin (1937-2020)

**The Next
Saddlebag Newsletter
will be available
on-line following the
Fort Smith Roundup
September 1st-4th**