

the sum of One Thousand Dollars (\$1,000) freight money ; the costs of suit to be divided between the parties. S. HALEY, Clerk.

By order of the judge."

It seems that subsequent transactions between plaintiff and defendant in regard to the goods in question, rendered the judgment of October 8th, an inequitable one, and they, therefore, "appeared in Court" to have their affairs re-adjusted. The minutes further show, by an entry made under the above on the same page :

"Nov. 15, 1849. The above parties appeared in this Court and reported the delivery of the goods in the mines. Defendant claimed damages for non-delivery. After examining the account the Court decreed that Martinez should pay Jelley Six Hundred and Sixty-nine (\$669) Dollars and costs."

The earliest criminal case of which any record is found, is the case of "*The People of Upper California vs. John Tracy*," wherein the defendant is charged with murder. The minutes of this case show the uncertainty then prevailing as to the jurisdiction and practice of the courts, and the validity of certain laws. It appears from the records that the *District Attorney indicted the prisoner for murder*, and arraigned him before the court for immediate trial, when counsel for the accused appeared and objected to the proceedings. The minutes show :

"The District Attorney read the following indictment and arraigned the prisoner for trial before the Court: To John Tracy: You are charged by the people of Upper California with the commission of the following crime, to wit: The willful murder of Dennis Mehon, by means of a pistol or revolver, on or about the 9th day of October, 1849, at Stockton, District of San Joaquin, U. S., and within the jurisdiction of this Court. Stockton, Oct. 16th, 1849."

Messrs. Lyons, Fair, Brooks, and Creanor, counsel for the accused, appeared and objected to the jurisdiction of the court, on the grounds that "It, (the Court) is not so constituted as to secure to a person the rights guaranteed by the Constitution of the United States," and alleging there had been no action of a grand jury. The Court sustained the objection made and the sheriff summoned a grand jury of sixteen men. This grand jury, after taking a peculiar oath, returned into court on the following day and presented an indictment against Tracy. The prisoner was thereupon arraigned and required to plead ; but his counsel refused to have him plead, and moved for a change of venue,