

THE DARK DAYS OF CALIFORNIA

A Martyr to Principle—By D. W. Higgins, Author of "The Mystic Spring," etc.

"But whether on the scaffold high,
Or in the battle's van,
The fittest place where man can die
Is where he dies for man."

"Greater love hath no man than this, that a man lay down his life for his friends."—St. John, xv, 13.



CALIFORNIA in 1849 and for many succeeding years drew to its shores a heterogeneous population from all parts of the globe. This population, thrown hurriedly together, in a community where there were no homes, no social restraints, few good men and women, and no churches, needed the strong arm of the law to keep it in check and moderate its tendency to go wrong. Unfortunately the administration of the law was confided to weak and often bad men, whose instincts, if not vile and corrupt, at least led them to act as apologists and confederates of the evil-disposed. The moral conditions when the writer landed at San Francisco were deplorable. The police judges and policemen had been drawn from the criminal classes. The magistrate was an ex-convict from an Eastern penitentiary, who sold his judgments to those who paid the most for them. The mayor, the sheriff, the chief of police, and a majority of the aldermen were steeped in corruption if not crime. The coroner, if legitimate business was dull and bodies were scarce, when an unknown corpse came into his hands, by an ingenious change of its clothing and location, would drop the corpse into the harbor and "find" it over and over again, and hold inquest after inquest on the same "remains" as long as they held together, collecting big fees in every case. Murders and robberies were of night and day occurrence. Gambling was carried on openly. The doors were swung back to enable the passer-by to see what was going on within, and the crash of German brass bands or the more refined music of piano and violin lured people inside and often to their ruin.

In the mining camps conditions were even worse than at the cities. Women as well as men dealt three-card monte and faro and played poker, twirled the deceptive roulette, and tilted the mysterious chuck-a-luck box with its loaded dice. Large sums of money were lost nightly by the victims, whose complaints of foul play were often silenced with a bullet or a whack on the head from a sandbag or bludgeon, or with the less noisy dose of knockout drops, which stupefied where they did not kill the person for whom they were prescribed.

It was from communities which were ruled by the dangerous classes that the administrators of the law were elected by popular vote. The police authorities, the magistrates and the judges were elected for short terms, and to insure their re-election they leagued with the worst elements of society and dealt out law in accordance with the wishes of the criminals and their friends.

The first chief justice of the Supreme court was named Hugh C. Murray. He was either a Scotchman or the son of a Scotchman, and was a very able man, well versed in the law, eloquent, plausible and attractive, but not the slightest confidence was felt in him, because he was a drunkard and an habitual gambler, and his associates were of the vilest. Cases were often "hung up" for months because the chief justice was on one of his too frequent sprees, and litigants were severely mulcted in costs in consequence.

At last the inevitable occurred. Murray died, and was succeeded by David S. Terry, a Southern gentleman of fair repute. Under the new chief some of the abuses that had grown up in Murray's time were removed, and confidence in the court was re-established. Terry, as I have said, was a Southerner. When a very young man he had invaded Texas, then a state of Mexico, and assisted in wresting it from its rightful owners and transferring it to the American republic. Educated for the church, Terry, after his Texan experience, abandoned the pulpit and became a member of the bar of California, where he rapidly rose to distinction and the Supreme Court bench. His wife was a lovely woman and noted for her piety and good works.

California at that time was racked by two opposing elements—Northerners and Southerners. David C. Broderick, an able and astute politician from New York, headed the Northerners, while Terry led the Southerners. The Northerners were known to their opponents as "Mudsills"—so called because in congress a member from the South had invented the phrase. At the door of every house in the South there is a sill on which visitors are expected to scrape their boots before entering. The inference drawn from the speech was that men from the North were created for the Southern people to wipe their feet on. The insult cut to the quick. From all over the North indignant protests came, and the bitterness which three years later led to a long and disastrous war, as a result of which the South was subjugated and the negro slaves freed, was increased.

The first and only time that the writer saw Judge Terry was when he was being driven in a carriage through Montgomery street, San Francisco, surrounded by an armed guard. He had been taken prisoner by the vigilance committee, which had been formed to purify the city by hanging and expelling rogues and murderers. Upon inquiry I was informed that the chief justice had arrived from the interior and had issued writs of habeas corpus for the bringing before him certain men who were prisoners in the committee's hands.

The court messengers bearing the writ were

stopped at the entrance to the committee's rooms and the papers were returned to the judge unserved. Terry then proceeded toward the militia armory, accompanied by a federal official named Maloney, for whose arrest a warrant had been issued by the committee. Maloney took refuge within the armory, and Terry, who carried a musket, placed the weapon across the doorway to prevent the vigilante's entrance. A man named Sterling A. Hopkins, who headed the vigilante police, seized the musket and was immediately stabbed in the neck with a bowie knife by Terry. The wound was deep and dangerous, and the blood spurted up as from a fountain. The judge's party took refuge in the armory and barricaded the doors. The alarm was given and several hundred armed men with a fieldpiece were rushed to the armory, forced the doors and seized Terry and Maloney. The prisoners were placed in cells at Fort Vigilance. Had Hopkins died, Terry would have been hanged; but Hopkins' life, which seemed to hang by a thread, after some weeks of anxiety was saved, and Terry was liberated. Hopkins with his wife came to Victoria in July, 1858, and remained here a short time.

Terry's arrest caused a tremendous sensation throughout the United States. So long as low-down criminals were dealt with there was but little opposition to the actions of the committee; but the arrest and confinement of the chief law authority with his existence hanging on the issue of the life or death of Hopkins, the contemptuous disregard of writs of habeas corpus, and the threats that were heard to "hang Terry anyhow," caused a general feeling of alarm lest the committee should go too far and eventually commit acts that would amount to a rebellion against federal authority and the withdrawal of California from the Union. An American man-of-war anchored in the harbor in a position to command with her guns the rooms of the vigilance committee. The committee laughed at these preparations and threatened if fired upon to blow up the war vessel. After Terry's release the committee disbanded, having hanged four malefactors, banished forty or fifty others and restored San Francisco to a condition of lawful prosperity and peacefulness.

The leader of the Mudsills was, as I have said, David C. Broderick. The year following the formation of the vigilance committee the Mudsills at an election carried California. Two United States senators were to be chosen by the legislature, which body Broderick controlled. He procured his own election for the

long (or six years) term, and persuaded his followers to vote for and elect W. M. Gwin, a Southerner, for the short term, with the written understanding that Gwin would acknowledge Broderick as his leader. The bargain was no sooner made than Gwin betrayed Broderick. The warfare which had been stayed by the agreement broke out afresh, and the Southerners made a dash for the federal patronage, and got it.

Broderick and his friends were deeply chagrined at Gwin's deceit. Personal altercations between members of the rival political parties were frequent, and the feeling grew in intensity and bitterness as the months rolled on. The climax was reached in the summer of 1859, and it was a bloody one. Terry was still on the bench. He had never ceased to take an active part in the political contests, and to speak with contempt of the Mudsills, who were only fit, as he expressed it, for the Southerners to wipe their boots on.

At the International hotel, San Francisco, one morning in the summer of 1859, Senator Broderick and two friends were breakfasting. At an adjoining table sat D. W. Perley, a lawyer, and a native of St. John, New Brunswick. Perley came to California in 1849 and became a citizen of the United States. He took a warm interest in politics, espousing the cause of the Southern party. In the course of conversation one morning, Broderick referred to Terry, in a voice loud enough to be heard by Perley, in complimentary terms.

Perley took fire at once, but said nothing for awhile, and Broderick, in a still louder key, referred again to the chief justice, employing offensive epithets to express his meaning.

"Senator," exclaimed Perley, rising, his face aflame and his figure trembling with excitement, "I cannot sit still and hear you talk of my friend in that manner without rebuking you."

"Well," retorted Broderick, "if you wish to take it up, you may do so."

"No," said Perley, "I have no quarrel with you. But I shall convey your words to the chief justice."

"I shall be pleased if you do," returned the senator. "I spoke so that you might hear me, and I knew that you would carry the news, like the sneak that you are."

Perley left the room and proceeded to Sacramento, the capital of the state. The result of his visit was a hasty trip by Terry to San Francisco. Upon his demand for an apology, Broderick refused. Then followed a challenge, which Broderick accepted, naming pistols as

the weapons, and the two with their seconds and surgeons met on a piece of farming land not far from San Francisco early the next morning. Accounts differed as to the demeanor of the two men. One account had it that Terry was as cool as an iceberg and displayed the utmost unconcern. Another account said that Broderick was as pale as death and nervous, that the hand in which he held the pistol shook violently, and he was altogether unstrung. This statement was always doubted by his friends, who pointed to the fact that in 1852 he fought a duel with a man named J. C. Smith. Six shots were exchanged without results, when the parties shook hands. It was contended that Broderick on that occasion manifested the utmost bravery and showed no concern for his safety. I am inclined to think that if, when he met Terry, he showed nervousness, it arose from a different cause than fear—not from drink, certainly, for he was a total abstainer.

The ground was paced off—sixty feet—the width of a Victoria town lot. Terry won the choice of position by the flip of a coin. This placed Broderick at a serious disadvantage with his face to the morning sun, that was just peeping over the eastern hills, as if to gaze on the tragedy which was about to be enacted beneath its rays.

At the word "Fire!" Broderick's weapon went off first—before, indeed, he could raise it to a line with Terry's body. The ball tore up the ground at his antagonist's feet. Terry, who took deliberate aim, fired three seconds later. His ball, winged with the pent-up malice and hatred of a vindictive nature, found its billet in Broderick's body. Broderick sank slowly into the arms of his friends. From the first it was seen that the wound was mortal. He was conveyed to a neighboring farmhouse, where he breathed his last.

All San Francisco was plunged in grief. Flags were set at half-mast. Houses and places of business were hung with crepe, the newspapers turned their rules as a manifestation of their sorrow, and the distinguished remains were borne along an avenue lined with weeping spectators to the cemetery. Over his resting place was erected a handsome monument, which was standing when the recent earthquake laid it low.

John Ferguson, a gifted orator and member of congress, delivered the funeral oration over the remains as they lay in state in the Plaza Park at San Francisco, before a congregation that numbered 50,000, who showed by their falling tears and their sobs how much

they were moved by the scene and by the eloquent words that fell from the lips of the matchless orator. I can only recall Ferguson's peroration, which was:

"Brave warrior, faithful friend, noble martyr, angelic spirit, may the principles you have planted take root and become a great tree beneath the sheltering branches of which the oppressed of all nations shall find protection and rest. Hail and farewell!"

The oration, which has been favorably compared with that of Marc Antony over the body of Julius Caesar, while eulogistic of the dead man, was a severe arraignment of the slave party. A year later Ferguson himself fell in a duel at the hands of George Penn Johnston, a Southerner, and his body was accorded similar honors to those that had been given his friend Broderick. It was said that the Southern party never forgave Ferguson for his funeral oration, and that Johnston was put forward to insult, challenge and slay him. This programme (if the statement be correct) was carried out, but at what a terrible cost! Ferguson died, Johnston never held up his head again. He was a proud, handsome, chivalrous man, who on one occasion had declined a challenge, asserting that he did not recognize the code. His friends and family "cut" him as a coward, and it was believed that to restore himself in their favor he consented to go out with Ferguson, who undoubtedly lost his life as the result of a conspiracy formed to punish him for his remarks at the funeral of Broderick.

Broderick's death created a great sensation everywhere. It occurred scarcely two years before the revolt of the South against federal rule. The rebellion was forced by the slaveowners in the South, who resented the encroachments upon their peculiar institution by the Northerners, of whom Broderick was the mouthpiece on the Pacific coast. That rebellion caused the loss of at least one million lives and several billions of money; but it freed the blacks.

When in New Orleans ten years ago, I was shown the block on which niggers stood when they were offered for sale by auction; the slave pens in which they were huddled as cattle and hogs and sheep are confined on our wharves to-day, until it came to their turn to be bid upon, and the bar at which buyers and sellers refreshed their clay after each transaction. At intervals in the pens were iron rings set in stout posts, and from these rings depended body chains and leg shackles. To those posts human beings whose only offense was that they were black were chained to insure their safe-keeping. In many instances the men, women and children were nearly white, but if they had a dash of the negro in their blood they were "chattels." Fathers had been known to sell their own offspring by colored women and not lose social-caste in consequence. When placed on the block, the good qualities of the slaves were extolled by the auctioneer and the buyer was allowed to examine the teeth, the hair and the bodies of the "chattels" as horses are examined. In fact, the wretched victims of the odious system were treated with every indignity, and the feelings of delicate women were shown no more consideration than if they had been dumb animals.

These relics of the past furnished an interesting study, and a romantic, imaginative mind easily converted the silent rooms into a busy mart, and heard the auctioneer as he called, "How much am I bid, gentlemen, for this likely negro man (or this handsome, light-colored wench, as the case might be), warranted sound in wind, limb and body, and worth \$1,000 of any man's money. How much, gentlemen, as I bid?"

I am not a very old man, although old enough to be a good deal better; but I can recall the days when advertisements appeared in the American press, with the picture of a runaway slave, carrying on his back a stick from which depended a little pack that was supposed to represent the poor devil's change of clothes or a meagre lunch. The advertisements ran in this way:

"Walked away, too lazy to run, a negro. Answers to name of 'Josh.' Flat nose, very dark skin, deep-set eyes, big hands and feet, and a constitutional liar. On his right leg is a scar caused by a bullet. On his off shoulder there is branded the letter 'S.' Fifty dollars will be paid for the return of the negro to J. Castle, his owner. Any person harboring him after this notice will be dealt with as the law directs."

Just think of it! Within the lifetime of men and women still living, human beings were bought and sold as chattels and branded with hot irons as cattle and horses are branded on the Western prairies and in British Columbia today! Some of my readers will doubt the correctness of this hideous practice; but it is too true. It was against a continuance of this vile, debasing traffic that Broderick protested in the United States Senate, and in support of the principle of the abolition of slavery, he laid down his life. His language to Perley which provoked the duel, was indiscreet; but bear in mind that he was the son of a poor Irishman, and self-educated. He had risen, like our own Alexander Mackenzie, from the position of a stone-cutter, to be the leader of a great party and the embodiment of a great principle by his own exertions, and might have urged in extenuation of his indiscretion, with Othello:

"Rude am I in my speech,
And little blessed with the soft phrase of peace."

In my next I shall sketch the further career and miserable end of Terry, the gifted jurist and exponent of slavery.

Review of "The Duke of Gandia"

REVIEWING the book "The Duke of Gandia," by Algernon Charles Swinburne, the London Times says:

The Duke of Gandia is not a name that will convey much to most people. His father, his brother, and his sister are among the most famous, or rather the most infamous, names in all history. Till human beings have ceased to feel the horrible fascination of enthroned vice enjoying itself in the luxury of an omnipotence of cruelty and lust, not Nero himself is more sure of being remembered than the three frightful Borgias, Alexander, Lucretia, and Caesar. But who remem. Caesar, Alexander, and Lucretia? Yet, strangely enough, Mr. Swinburne has chosen for his new poetic drama, in which Alexander and Caesar are on the stage all the while and Francesco only for a moment, not the name either of the Pope or of the Prince, of world-wide infamy, but that of the weak, amiable, short-lived, and obscure Francesco, Duke of Gandia.

It is a curious choice. It is true that the play turns on Francesco's murder, as a certain play of Shakespeare's turns on the murder of Julius Caesar, and that Shakespeare has also called his play by the name of a character who appears but little in it. But the parallel is only superficial. The "mistery" Julius, alive or dead, is ever present from the first word to the last of Shakespeare's play; he is its dominant spirit. Everything centres round him in life and after death; men love him or hate him, but no one pretends to be his rival. It is the exact opposite with Francesco. He is a person intrinsically of no consequence. His life only matters because it stood in Caesar's way; his death only interests us as an episode in the rise of Caesar's fortunes and as the last act of the destruction of the Borgia empire. The play deals not with Francesco as an individual, but with his death as an affair in the history of the Borgia family; and, though, it is true that that "affair" provides the only action of the piece, it is action which he does nothing to make us either desire or regret, action, in fact, of which he is neither the cause nor the pivot, but only the unimportant and uninteresting victim.

The real interest of this short play lies elsewhere. It lies principally in the study of Alexander VI. Mr. Swinburne has, of course, shrunk from nothing. "The Genius of Evil," as Symonds called him, "whose sensuality, as unrestrained as Nero's, were relieved against the background of flame and smoke which Christianity had raised for fleshly sins" makes no pretence here of being anything else. Some readers will find that no dramatic considerations can prevent their feeling his language—and still more Caesar's—intolerably and painfully profane, as in parts of that speech of Caesar to his mother, which begins:

And what hast thou to do with sin? Hath he
Whose sin was thine not given thee there and then
God's actual absolution?

Throughout the play we see both Caesar and Alexander as they were, naked and unshamed. The Vicar of Christ, severe, chastity, of orthodox faith, and officially, has no pretence of faith when he is talking to his son, has no certainty even that he possesses such a thing as a soul.

By my faith—
Wherein, I know not—by my soul, if that
Be—I believe it.

says the Pope; and a little further on his son replies to the question why he slew Francesco:

Not for hate or love,
Death was the lot God bade him draw, if God
Be more than what we make him.

The spirit of both is the same; the spirit of the Renaissance paganism. There is no earnest atheism or sceptical agnosticism. The deity is more practical

than theoretical; the notion of a God had proved too useful to these lords of Christ's heritage to be given up on any intellectual grounds. Italy was still waiting for the north to teach it that it was possible to believe and not to believe at the same moment. For the present, for some twenty or thirty years longer, the Pope could still say what Alexander says here to his quarrelling sons:

God or no God, man
Must live and let man live—while one man's life
Galls not another's. Fools and dunces are men
Who play the mend that is not. Why shouldst thou
Girt with the girdle of the church, and given
Power to preside on spirit thou
Clothed with the glad world's glory—priest or prince,
Turn on thy brother an evil eye or deem
Your father God hath dealt his doom amiss
Toward either or toward any? Hath not Rome,
Hath not the Lord Christ's Kingdom, where his will
Is done on earth, enough of all that man
Thirsts, hungers, lusts for—pleasure, pride, and power
To eat you and to share between you? Whence
Should she, the greatest headship's gods, have once,
Discord, have up her leading head again
Between love's Christian children—love's? Hath God
Lost short the thrill that glorifies the flesh,
Called the sharp raptures pang that burns the blood,
Because an hundred even as twain at once
Partake it? Boys, my boys be wise and rest,
Whatever dream set all your life on fire,
Friends.

This speech will be enough to show that Mr. Swinburne's hand has not lost its cunning in the art of making verses, nor taken to any new method of making them. The Duke of Gandia is the work of the author of Chastelard and Bowdler and Mary Stuart; it is not quite so good as the author of Atalanta and Erechthys. The verbal and metrical mastery of the earlier plays is here; but the dramatic weakness, which is no conspicuous in the Scotch plays, is unfortunately quite as conspicuous in this. The play is inconceivable on the stage. It has no dramatic moment, nothing, except perhaps the bringing in of the body of Francesco to the Pope, that could possibly produce any effect on the stage. And that single action of the piece is related in a way that leaves its details in considerable obscurity. Curiously enough the most effective dialogue in the play owes its effectiveness to a brevity and terseness, a pithy and pregnant irony, which one would not have looked for from such a master of abundance as Mr. Swinburne. It is that which opens the final scene between the father and son:

Alexander. Thou hast done this deed.
Caesar. Thou hast said it.
Alexander. Dost thou think
To live, and look upon me?
Caesar. Some while yet.
Alexander. I would there were a God—that he
might hear.
Caesar. 'Tis pity there should be—for thy
Caesar.

Alexander. Wilt thou slay me?
Caesar. Why?
Alexander. Am not I thy sire?
Caesar. And Christendom's?—
Alexander. I pray thee, man,
Slay me.
Caesar. Then myself? Thou art crazed,
but I.

Alexander. Sense.
Caesar. Art thou very flesh and blood?
Alexander. They say,
Thine.
Alexander. If the heaven stand still and smile
Thee not.
Caesar. There is no God indeed.
Nor thou nor I.

Alexander. Know.
Caesar. could pray to God, that God
might be,
Were I but mad; thou liest;
I do not pray.

Caesar. Most holiest father, no.
Thy brain is not so sick yet. Thou and
God Father? Man, how long would
God have let thee live—
Thee?

Alexander. Long enough he hath kept me, to
behold
His face as fire—if his it be—and earth
As hell—and this, begotten of my
joins,
Satan.

Caesar. The first fruits of thy fatherhood
Were something less than Satan. Man
of God,
Vaunt not thyself.

Alexander. I would I had died in the womb.
Caesar. Thou shalt do better, dying in Peter's
chair.
Thou shalt die famous.

And so it continues to the end, and closes almost on a note of interrogation. The cynical self-assurance of the son is gaining, perhaps, on the father's fear and remorse; but it has not yet conquered them; the curtain falls on a moment of transition, or rather of uncertain balance; there is no solution of the plot of the drama, but only a suspension of its action and of its words. Such interest as the play has lies in the inter-action of the characters, but in the study of the most famous of all infamous families, and especially of the father and son, who were the most perfect embodiments of its horrible genius. The book has also, of course, a literary interest in the simple fact that it is Mr. Swinburne's, and possesses a good many of the qualities which belong to him alone and have for forty years or more been the delight of those who care for English verse. The blank verse is his and could not come from any one else; its well-managed pauses, its strangely-placed negatives, its astonishing use of his own monosyllables, following each other one by one, arresting the attention, giving an air of suspense which makes us listen in curious wonder to the argument, and yet for all their number never becoming monotonous, so cunningly are their pauses and their very sounds varied. There is a speech, for instance, of the Pope in the first scene, in which of the first eighty words all but five are monosyllables. Who but Mr. Swinburne could have done that without producing the slightest effect either of monotony or of affectation? One other thing only. The play has but one lyric in it, and there are only four lines of that, and nothing in them that Mr. Swinburne has not put into his poems many times before. But yet all lovers of his verse will come with pleasure upon the page which gives them a thing so purely Swinburnian as the verse which Francesco is singing as he walks out to his death:

Love and night are life and light;
Sleep and wine and song
Speed and slay the halting day
Ere it live too long.

An odd and not unmelodious musical instrument may be constructed of ordinary glass bottles partly filled with water. It consists of two broom handles resting on the back of two chairs, from which the bottles are suspended by means of strings tied to the neck.

Of course it takes a good ear for music to "tune" the bottles, which is done by putting more or less water in each. It is said that all the tones and their octaves, including the sharps and flats, may be thus reproduced.

The instrument is played by means of two sticks, drum sticks are best, with which the bottles are struck. Two parts of an air may easily be played, and there may be two performers, one playing on each side.

A similar arrangement may be made with glass tumblers, as is well known, but this bottle device is more unique and striking. The notes are soft and melodious, and pleasant to listen to.



Dr. Macneil, Goulding, Smith, MacVeagh, and F. B. Brodribb, Fabian W. Peacock, Dunn, and tary.)

Lord K. gret at his My very great tax them. I afflicted their labor found com when they they are i numerable a very ba too great of time, s reluctantly ground ou that you e Balfour's s more emp any other reporting pleasure, any circum

After related the of Cabine Balfour's s dressing-g great cour tion he wa

Mr. Sp. Guests" four, not s wished lea but as one not know on had n on more t material c cheers.

pride of e was evil c while othe dious tas tion, genti (Laughter, and it wa hateful to The other Jacoby, ch of the Ho be describ —(Laug private s, who untill lery," and able and d

Mr. Ba rising to r who is h which I se sarily com diffidence prising in they must (Cries of h has nothin of speech



Qu

with grow which that London T ilization of the morals developme impossible the proble now broug belief and the specul courts and to Oxford ions in As detaken amongst great Asia in the histo whole bod terial univ also taken other views regard the their ambil learning to and they w as a whole