

No other cases being ready for hearing before the Circuit Court, he took the train on Tuesday, the 13th, at 1:30 o'clock in the afternoon, for San Francisco, where he was expected to hear a case then awaiting his arrival immediately upon his return, being accompanied by Deputy Marshal Neagle. On the 14th, between the hours of 7 and 8 o'clock in the morning, the train arrived at Lathrop, in San Joaquin county, which is in the northern district of California, a station at which the train stopped for breakfast. Justice Field and the marshal at once entered the dining-room, there to take their breakfast, and took their seats at the third table in the middle row of tables. Justice Field seated himself at the extreme end, on the side looking toward the door. The deputy marshal took the next seat on the left of the justice. What subsequently occurred is thus stated in the testimony of Justice Field:

"A few minutes afterward Judge Terry and his wife came in. When Mrs. Terry saw me, which she did directly she got diagonally opposite me, she wheeled around suddenly, and went out in great haste. I afterward understood, as you heard here, that she went for her satchel. Judge Terry walked past, opposite to me, and took his seat at the second table below. The only remark I made to Mr. Neagle was: "There are Judge Terry and his wife." He remarked: 'I see them.' Not another word was said. I commenced eating my breakfast. I saw Judge Terry take his seat. In a moment or two afterward I looked round and I saw Judge Terry rise from his seat. I supposed at the time he was going out to meet his wife, as she had not returned, so I went on with my breakfast. It seems, however, that he came round back of me—I did not see him—and he struck me a violent blow in the face, followed instantaneously by another blow. Coming so immediately together, the two blows seemed like one assault. I heard 'Stop, stop,' cried by Neagle. Of course I was for a moment dazed by the blows. I turned my head round and I saw that great form of Terry's with his arm raised and his fist clinched to strike me. I felt that a terrific blow was coming, and his arm was

descending in a curved way, as though to strike the side of my temple, when I heard Neagle cry out, 'Stop, stop; I am an officer.' Instantly two shots followed. I can only explain the second shot from the fact that he did not fall instantly. I did not get up from my seat, although, it is proper for me to say, that a friend of mine thinks I did; but I did not. I looked around and saw Terry on the floor. I looked at him and saw that particular movement of the eyes that indicates the presence of death. Of course it was a great shock to me. It is impossible for any one to see a man in the full vigor of life, with all those faculties that constitute life, instantly extinguished, without being affected, and I was. I looked at him for a moment, then rose from my seat, went around and looked at him again, and passed on. Great excitement followed. A gentleman came to me whom I did not know, but I think it was Mr. Lidgerwood, who has been examined as a witness in this case, and said: 'What is this?' I said: 'I am a justice of the Supreme Court of the United States. My name is Judge Field. Judge Terry threatened my life, and attacked me, and the deputy marshal has shot him.' The deputy marshal was perfectly cool and collected, and stated: 'I am a deputy marshal, and I have shot him to protect the life of Judge Field.' I cannot give you the exact words, but I give them to you as near as I can remember them. A few moments afterward the deputy marshal said to me: 'Judge, I think you had better go to the car.' I said: 'Very well.' Then this gentleman, Mr. Lidgerwood, said: 'I think you had better.' And with the two I went to the car. I asked Mr. Lidgerwood to go back and get my hat and cane, which he did. The marshal went with me, remained for some time, and then left his seat in the car, and, as I thought, went back to the dining-room. (This is, however, I am told, a mistake, and that he only went to the end of the car.) He returned, and either he or some one else stated that there was great excitement; that Mrs. Terry was calling for some violent proceedings. I must say here, that dreadful as it is to take life, it was only a question of seconds whether my life or Judge Terry's life should be taken. I am firmly convinced that had the marshal delayed two seconds both he and myself would have been the victims of Terry."

[To be continued.]