

THE MURDER OF JIM AVERILL AND ELLA WATSON. (CATTLE KATE.)

The first of the ghastly crimes that ultimately brought things to a head and, indirectly dealt the death blow to the great stock associations that had flourished, practically undisturbed since 1862, came when, in the summer of 1889, ten cattlemen, led by A. J. Bothwell, forcibly, with loaded and drawn guns, took from their homes, James Averill and Ella Watson (Cattle Kate). Without semblance of trial, contrary to all customs and in violation of all law, they hanged them to trees and rode carelessly away leaving the bodies swinging in the air, the prey, so far as they knew or cared, for the beasts of the earth and the birds of the air.

This was the first and bloody beginning. It was followed, swiftly followed, by other equally cruel, bloody and shocking crimes.

What had these people done to deserve such a fate! They were called, by their murderers, "thieves and rustlers." Not a man among their murderers but had rustled his dozens, some of them their hundreds. Were they? Let us quote, as we shall frequently in this brief narrative, from a history of these stirring times, a history written by a man of unquestioned veracity and a history that has never been, successfully questioned or refuted. And one that never will be successfully refuted, for it is "gospel truth." This is A. C. Mercer's little booklet, THE BANDITTI OF THE PLAINS. Mercer tells us, "James Averill had taken a claim on the rich valley lands and opened a store where a post office had been established, with Averill as Post Master. Adjoining Averill's claim, "Cattle Kate" (Ella Watson) had also taken a claim. These claims were in the center of a large section of the country occupied by a cattle ranch and the presence of the "squatters" or "settlers" was disagreeable to the 'Lord of the Manor'."

This taking claims in territory, claimed by the cattle barons, was the crime for which Jim Averill and Ella Watson gave their lives. No other crimes were ever proven

against them. No charges were brought forward in court and neither before nor since their death has proof of a criminal sort been adduced. Averill was well-known and well-liked, a fine appearing, friendly fellow, well-educated and well-reared, and until his murder, seemingly liked by the cow men as well as the small rancher, hunter and trapper. Ella Watson, "Cattle Kate," was a different character, a lewd woman, making her way as did others of her class, the "Rahab" and her sisters so frequently and favorably mentioned in "Holy Writ." Her claim adjoined that of Averill and she spent much of her time in his store, assisting him in his duties there in return for his heavier work outside, building and fencing her claim. Jim Averill's reputation for honesty was good. Never had his integrity been questioned. On the contrary, by the larger cattlemen, Cattle Kate was called a rustler or cattle thief. Her character as a lewd woman and a rough frontier Amazon, was well deserved. Never have I known a man to use fouler or more profane language than did this modern Rahab when angered. Such was her life. The charge that she was a rustler and cattle thief was unproven during her lifetime, nor has it ever been proven. To be sure, in a small pasture she had fenced off near her house and out-buildings, a small and flourishing herd of young stock gradually and steadily increased. These numbered, at the time of her murder, some sixty to eighty head. I never carefully counted them, but familiar with stock and a fair judge of the size of a bunch, I am positive there could not have been more. These calves, from time to time, she had purchased from the small ranchers and cowboys. It was well known throughout the country that Cattle Kate would always buy a calf providing it were priced within reason. Small ranchers and cowboys needing money would sell to her.

These calves, the larger cattlemen swore, had been stolen from them by wandering cowboy, hunter, trapper or small rancher and given to her by way of "exchange" or "trade." (Genesis 38. 16-17.)

This claim was spread about the country, but as Mercer says, "No civil or criminal action was ever begun in the courts to prove these allegations."

When Bothwell and his followers took Cattle Kate and Averill out and hanged them, there were two witnesses to the wanton act, one, a young lad known to us as "The Kid" (Gene Crowder, we believe, was his real name), was taken away by the cattlemen. We knew the boy slightly, was friendly with him. Several times we tried to call on him, but always, excuses were made. He had gone to town, was out hunting or some other equally valid reason, all, we have reason to believe, "false as hell." We were told later, some years later, by a cowboy friend that the Kid was not allowed to leave the place unless accompanied by an escort or guard and, there, some weeks later, he died. Mercer credits rumor with openly accusing his "protectors" of causing his death with slow poison. Mercer, as always, was right. Rumor did so claim, and rumor, in this case, was most brazen as the charge was openly bruited about.

The second witness, near enough to see and recognize the cowardly assassins, gave their names to the sheriff and the names were turned in to the Grand Jury, but before the Grand Jury could meet and act, the witness had disappeared. Here, again, we quote Mercer, "Meanwhile, the informant was hunted like a wild beast and as he failed to appear before the Grand Jury, and has never been seen or heard of since a few days after the hanging, the supposition is that he sleeps beneath the sod, in some lonely mountain gorge, where naught but the yelp of the passing wolf disturbs the solemnities of his last resting place, or, perchance, this same howling beast picked the bones and left them to bleach on the barren hillside."

With the Kid, Crowder, dead (poisoned as supposed and believed) of consumption or Bright's disease (an untimely disease to strike a fourteen to sixteen year

old boy), with Ralph Cole successfully "dry-gulched" and with Frank Buchanan "spirited out of the country," no witnesses were to be found, so no charges were brought against the lynchers, prominent citizens led by J. A. Bothwell, and including such men as John Durbin, prominent in religious circles, "a pillar of the church" and well known in Carbon County's Methodist gatherings, and one of the biggest land owners in the county. Bob Connors, (Averill had angered Connors by contesting his land titles). Ernest McLain, others, too, were present, among them a visiting friend of the gang, a large ranch owner from beyond Rawlins. The band of prominent citizens who had arrogated to themselves the powers of prosecuting witness, sheriff, coroner, judge, jury and executioners all in one, escaped all consequences and, thus encouraged, it was not long before other lives were sacrificed.

Mercer says, "They (the cow men) had in their employ, men of known recklessness and daring." In truth, at this time, practically every large rancher had his paid "killer" or "killers." These hired gun-men rode the range, their ostensible purpose to guard against thief and rustler but their real purpose to fight their employer's battles, to take up his quarrels, guard and defend his person and to meet, with their deadly guns, any person or persons their "boss" feared, personally, to tackle.

A neighboring rancher, especially a small rancher, one too strong for the boss to handle, or too quick with his guns for him to face safely in a quarrel, would be turned over to the "tender mercies" of the paid killer. If death were not desired, the victim would be beaten almost to death. If it were deemed necessary to "get rid of him," a quarrel would be picked and in the gun fight that followed the killer almost invariably "came out on top." Always, except in isolated cases where a man was shot from ambush, (and usually the killer's pride forbade him taking this advantage) the influence of the boss would hush up matters. A picked jury, coroner's

or otherwise, would bring in a verdict of "self defense" or "justifiable homicide." Many a homesteader or "nester" was shot down in cold blood during these enforced quarrels and his assailant cleared by perjured testimony. (At least one case, that of Mike Shonsy, will be touched on as we proceed.) Thus spread and continued the "reign of terror."

Alone, the small ranchers knew they faced death and destruction; by banding together, they had a "fighting chance." Therefore, they "banded." For several years during the later eighties and early nineties, few of us moved abroad alone. Nor were we alone at home, if we could work it otherwise. Safety, alone, lay in numbers and unless necessity compelled, always we worked and traveled in company.

No more cold blooded and dastardly murder ever occurred, if we except the hanging and burning of Ketchum and Mitchell, by the Olive gang in Custer County, Nebraska, in the later seventies, than that of Waggoner, near Newcastle, on Thursday, Junr 4, 1889.

Waggoner, a Nebraska rancher who recently moved to Wyoming and located near Newcastle, had started a horse ranch. Under good care, careful management and frequent and constant purchase, his herd increased rapidly and soon the envious stockmen began calling him the usual thief and rustler. Just as soon as any one outside the "favored few" began to control a few head of horses or cattle, and they began to feed on and roam over the unfenced government land, such person, or persons, man or woman, became, in the eyes of the stockmen and their employees, thieves and rustlers. Waggoner conscious of his own innocense, fearing nothing and coming, but recently, from a country where law was obeyed, went unconcernedly about his business until the fatal date, Thursday, June 4, 1891.

Working about his home this Thursday morning he noticed three men approaching. These three men rode up, addressed him and showing papers, announced themselves as "officers of the law." Waggoner, a law-abiding man, prepared to go with them

to straighten out, as he supposed, the mistake that had been made. Waggoner was a married man and his wife and two small children were at home with him. Without alarming her, he asked permission to get ready and same was given. While he was in the house getting his coat, chaps and spurs and telling his wife he would be away but a short time, these bogus officers, or at least one of them, played with and amused one of Waggoner's small children. After playing with and fondling the children, as they rode away with Waggoner, he waved a farewell greeting to them.

After thus heartlessly playing with the children they were so soon to make fatherless, the men rode away, accompanied by Waggoner, heading in the direction of Newcastle.

Eight days later, on Friday, the 12th of June, Waggoner's body was found hanging from the limb of a tree growing in a gulch some miles from his home. Hands were pinioned behind the back, legs were bound and his body so badly decomposed that his heavy mustache had fallen from his upper lip and was lying on the ground below and almost beneath the swinging body. Magpies, jays, buzzards or other scavengers had picked out the eyes and otherwise, marred and disfigured the naked and exposed parts of the body.

This cowardly act set the eastern part of Weston county practically aflame. Horrible as was the crime of murder, still more atrocious was it made by the despicable act of leaving a hanging human body, food for birds of the air and beasts of the field. Had the murderers been known and captured, they would have been literally "torn to pieces," but as in the case of Averill and Gattle Kate, thanks to the influence of "interested parties," investigations were dropped and the murder remains, to this day, a mystery unsolved and its perpetrators at large and unpunished.

Though accused by the large ranchmen of being a horse thief, the fact remains that of the one thousand horses in Waggoner's possession at the time of the murder, not one single head was found to which other claim was ever laid.

Just five months (lacking three days) later, on Sunday, November 1, 1891, at the rough one-room shack of W. H. Hall, on Powder River, an attempt was made on the lives of Nate Champion and Ross Gilbertson. Champion, a brave and fearless man, was a sort of leader among the small ranchers and their sympathizers, and had thus won the hatred of the large stockmen and their gangs of hired killers.

Champion's account of this attack, told us in person at a later and subsequent date, is substantially as follows, "Ross and I were staying at the Hall cabin. We knew Joe Elliott and his gang had it in for us and would get us if they could. We were always watching out for trouble. It was between four and five a. m. on the morning of Sunday, November 1, that they made their attack. The bunk on which I was sleeping was beside the door. When the door was burst open, it flew back and struck against the side of it. With revolvers in hand, the gang crowded in, shouting, "Give up, you sons-of-b'tches, we've got you where we want you now! Both Ross and I slept with our revolvers beneath our pillows. We grabbed them and opened fire. All this time Elliott and his party were shooting. How we escaped injury is a miracle to me. The crack of the guns was deafening and the shock of the bullets as they thudded into the walls and roof were continuous. At the first shot we drew our guns and returned the fire. When we opened fire, they began yelling and turned to run. We followed them outdoors, shooting, and we continued to shoot so long as they remained in sight or we could hear sounds of their running.

Returning to the cabin, we lit a torch and examined the room. Blood was everywhere. It was none of ours, neither Ross nor I was injured. A hat and coat lay on the floor. A partly emptied six shooter lay where it had fallen. When day dawned, we found horses tied without, not far from the cabin. The would-be assassins had been too cowardly to return for their mounts.

This, in brief, was Champion's tale, his personal story of that early Sunday morning attack. Champion always believed they had killed on or more of the attacking party; if so, they were underlings and the bodies, spirited away, were quietly buried and nothing further said of the matter.

The guns, clothing, horses, etc, identified at least one of the assailants. Joe Elliott was arrested, charged with attempted murder and released on \$5,000 bond. As it would have been simply suicide for Champion and Gilbertson to appear against him, he was released for lack of prosecuting witnesses.

The next crime carried out as planned was the murder of Orley E. Jones, commonly called "Ranger Jones." Ranger, a fine young fellow of some three or four and twenty years, was expecting to get married along about the Christmas holidays. He was building a cabin on his claim and had made a trip to Buffalo to order lumber for the house. His lumber ordered and arrangements made for its delivery to his claim, Jones prepared to return home. He left Buffalo along in the afternoon of Saturday, November 28, 1891. Where the road crosses Muddy Creek, some fifteen miles out from Buffalo, he was killed, the assassin firing three shots from his place of concealment beneath the bridge. The murderer coolly mounted the buckboard, made sure that his victim was dead and then drove the team some distance off the road. Leaving the outfit in a small gulley, the body of the murdered youth lying within the bed of the buckboard, he turned the horses loose and sought safety in flight.

The hired killers were now getting their hands well in. Only three days later, on the morning of Tuesday, December 1, J. A. Tisdale was shot.

Tisdale had come in from his ranch to purchase winter supplies for himself and family. He had spent several days in Buffalo, had loaded his wagon with feed, groceries, Christmas presents and the like and had started home, leaving Buffalo

toward evening, Monday, November 30. It was sixty miles from Buffalo to the Tisdale ranch, but Tisdale had planned on spending the night with friends at the Cross H ranch, some four miles out of Buffalo. At the Cross H, Tisdale spent the night, worried, uncomfortable, and fearing trouble.

Before leaving Buffalo, Tisdale had told friends of over-hearing a conversation between Frank N. Canton and Fred Hesse. Canton and Hesse were talking about the country, the stockmen and the small ranchers, or rustlers as they called them. Canton, angered at something Hesse was saying, raised his voice and Tisdale heard, distinctly, "Never mind this part of it. I'll take care of Tisdale." Worried over this and fearing for his safety, Tisdale purchased a double-barreled shot gun and a box of shells, loaded with buckshot, thus armed he was prepared to sell his life dearly.

At the Cross H that night, Tisdale's worry grew. In conversation with one of the boys, he stated that the cow men had threatened his life and that he believed they had hired Frank Canton to kill him. He had the window blinds pulled down and kept well within doors and away from the lights.

Early the next morning, still worried and uneasy, he pulled out, heading homeward with his heavily loaded outfit. Weighted as he was, his progress was slow. Three miles beyond, in a dark, brush-lined ravine, the assassin was hidden. Too cowardly, even with this advantage, the miscreant waited for Tisdale to pass. Slowly, the heavily loaded wagon rumbled by. When, but twenty-five feet away, the rifle of the cowardly assassin vomited flame and lead. The first shot struck the handle of Tisdale's six shooter, which he wore beneath his coat, on his left side, and glanced off. Before he could cock and raise his shot gun (that he had attempted to do so was proven by the fact that one of the primers was dented where the hammer had slipped as he was trying to draw them back) the assailant's Winchester again spoke and poor Tisdale, with a forty-five-ninety ball through his heart, fell backward and rested, dead, upon his loaded wagon.

As in the case of Ranger Jones, killed, undoubtedly, by the same hand, (the ear marks of both jobs were identical) the team was driven some half mile or more from the scene of the tragedy and here the wagon and dead man, out of sight of the road, were left. The horses were shot and then, after rummaging about among the supplies (searching, it is presumed, for tobacco), the killer prepared to depart.

Not so lucky this time, was the fiend. Not so fortunate as when he had made away with Ranger Jones. Charlie Basch, approaching on horse-back from the south, had heard the shots, and drawing near, had witness the last part of the doings. As the cowardly brute fled from the scene of his crime, Basch rode rapidly for Buffalo and reported the crime to Sheriff Angus. Basch furthermore swore that Frank M. Canton was the murderer.

Sheriff Angus sent out a posse to search for and arrest Canton, and another smaller party to bring in Tisdale's body. Excitement was intense. Crowds gathered about the body, vowing vengeance, for Tisdale was well-liked and stood high with the Buffalo public.

As Tisdale's body was brought in, "Curley" Jones, Ranger's younger brother, arrived at Buffalo. Worried over Ranger's long absence, he had started out in search of him. Nowhere along the road had he been sighted. Here, at Buffalo, he quickly learned that Ranger had ordered his lumber and left for home, some two days before. Curley was, of course, alarmed. Fears for his brother's safety were uppermost in his mind and thoughts. Quickly, friends joined him, and a hurried search was made. At the crossing of the "Muddy," signs were discovered. In an adjoining gulley, the buck-board and body were found as left by the assassin.

Tisdale had told friends that he had heard Frank Canton tell Fred Hesse that he, Canton, would take care of Tisdale, and Charles Basch, having sighted the murderer, and had sworn to ^{him as} ~~him as~~ Frank Canton. Many believed that it was Canton who had slain Jones, although some held, and still hold, Jones was shot by Fred Hesse, for his part of the contract.

Canton was arrested, and two days were spent in a preliminary hearing before Justice Of The Peace, Parmalee. He was released. Says Mercer, "The people freely charged the court with corruption, and declared the evidence ample to justify placing the prisoner behind bars, without bail. Only the presence of cool heads in the community prevented the wreaking of vengeance upon Canton and his sympathizers."

A few days later, the country, having become too warm for them, Canton and Hesse left Buffalo and the state of Wyoming. A little later, new evidence was found and new information filed. Canton was known to be in the state of Illinois, and Acting Governor Barber was asked to issue requisition papers for his return. This request, Barber refused, and, for a time, his friend and pet, Canton, remained at liberty. However, some four months later, in March, 1892, when Canton returned to Cheyenne to join the invading forces, Sheriff Angus had the papers served on him. Canton was arrested, taken before Judge Blake at Laramie City (Laramie and Buffalo were in the same judicial district), and here, in the judge's chambers, he was given a hearing. Blake released him on a \$30,000 bond. Twenty-one prominent stockmen signed same. On the list we find the names of Fred Hesse and Ex-Governor Baxter.

Of other attempted murders, the destructing of property, cutting fences, burning buildings, breaking ditches, destroying crops and such williany, we must remain silent. Dozens, almost scores of attempted killings might be enumerated in the stirring times of the later eighties and early nineties before the time was ripe for the wholesale killings and the great invasion. The killings we have given are set down in history. While we have not glossed them over, neither have we made them as black as they well might be painted. We might dwell on the "callousness" of Waggoner's murderers, playing with his babes and then taking their father's life by hanging him, bound and defenseless; or, on the wanton act of Tisdale's assassin,

breaking open a package of Christmas toys he had purchased for his children, scattering dolls and tiny toys about on the ground, and deliberately crushing and breaking them. These wanton and vandal acts added to the popular hatred, and further inflamed and infuriated the masses.

Less than one-half year after this last crime, the Tisdale murder, came the invasion of Johnson County and the murder, shooting and burning, of Champion and ^Ray. These crowning acts of infamy ended the reign of terror, ended it forever, for, in spite of repeated threats, organized cow-men and their hired helpers and thugs never again returned, as an organized body, to Northern Wyoming.

To be sure, the matter was not allowed to entirely drop. The hired killer, Tom Horn, murdered several in Albany and Laramie counties, but, alas for the stockmen, "The Glories of Israel had departed." Horn was arrested and, in spite of his wealthy ranch employers, the law took its course and he was hanged, as should have been Canton and his fiendish companions.

I have, so far, gone pretty well into detail. If Mercer's little booklet were in circulation, I might well have avoided some of these details. As it is, I believe there is no authentic account of these doings easily accessible to the public. Mercer's book was practically destroyed, he himself frequently threatened with violence, and several times he narrowly escaped death. Of the few copies remaining, fewer than a dozen, it is almost impossible to get a glimpse of one. They have been purchased, stolen and destroyed by the "interests" until now, at this date, January, 1928, some four and thirty years after publication, a copy is almost as rare as that rare bird, the Dodo. The original cattle barons, their descendants, friends and others implicated with them, have used every effort toward making away with this "over-whelming evidence." Much of this evidence now, outside of Mercer's pages, has been destroyed. Everything possible has been done to keep the real truth from the public. In this great crime, many of its participants,

ignorant of the real truth at the time, were prominent stockmen, officers of the law, state officers, Federal judges, United States senators and representatives, nor are the skirts of the President entirely clean.

To be sure, no one, not even the persecuted people of Johnson County, believes now, or ever has believed, that President Harrison had any idea of the real conditions. His mistake was in trusting too much to state officials and national representatives. Some of these, not all, were likewise deceived.

So far, my part and the part of Negus has been that of the casual observer. I saw none of the crimes so far enumerated, really committed. Some of the results I saw, and in most cases, I talked with those who were present when the victims were found. I did not see the bodies of Waggoner, Jones or Tisdale. Champion's account of the attack on he and Gilbertson was related, by he and Ross, to me. That I saw the bodies of Averill and Cattle Kate was by accident. Hunting along the Sweet Water and the neighborhood, I had ridden to Averill's store to secure needed ammunition. In all these early doings, Negus was not involved; he, at the time was working in the Union Pacific Shops at Laramie City. From now on, I speak mainly as an eye witness. Of my own doings, there is little to tell. I saw enough, but Negus was in the very heart of it, as will be seen as my tale opens.

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