

HOW CALIFORNIA CAME INTO THE UNION.

FORTY years ago in this month of September, California was admitted into the Union. The rounding out of four decades of State life will be the occasion of a great celebration at San Francisco on the 9th of this month, in which an effort will be made to restore and to make real to the generation of to-day the hardy pioneers and gold hunters who founded in this far western land as genuine an American commonwealth as Massachusetts or New York. It will help the young Californian of to-day to appreciate the services of the men who, despite many errors, laid firmly and well the foundations of the chief State on the Pacific coast.

The philosophic historian, with a perspective of forty years, is apt to look back with a certain polite condescension upon the leading events of early Californian history, and especially upon the Bear Flag movement.¹ He condemns it out of hand as unnecessary, impolitic, and the work of men who had sinister or selfish motives. But the historian is unable to put himself in the place of the men who were the chief actors in that episode as in the other stirring events in California that crowded the ordinary normal development of a century into a decade of strenuous life. To get the full measure of this early Californian life one must have shared in the experiences of the pioneers, or have heard the story of their perils and privations from the lips of survivors. Their stories furnish the best answer to the historian's strictures that the policy of the American settlers in California, just before the cession of the territory to the United States by Mexico, was uncalled for and unjustifiable.

It is impossible to get a correct idea of the period without a clear knowledge of the envi-

ronment and without some sympathy with the actors. The California pioneers were made heroic by the deeds which they performed. In part, they had greatness thrust upon them, for the very stress of circumstances developed those qualities which enabled them to bring order out of chaos and to solve questions in government and social order that had never been solved before in this country. Yet they were only plain Americans, many of them as rude and uncouth as Lincoln in his rail-splitting days, but all had that fund of sound common sense which is born of hard experience and that ready adaptability to a new land and new customs that makes the western pioneer the ideal colonist. They brought with them across the plains in their huge wagons, that have been so aptly termed "ships of the desert," that passionate love of freedom and of individual rights that colored all their life in this far western land. They found a pastoral people living a life as gracious as their climate. The two elements refused to mingle, and the stronger at once asserted itself. That the conquest was made with so small a loss of life and so little personal suffering is greatly to the credit of the more aggressive race. With Englishmen in the place of the American pioneers the first sign of restiveness on the part of the weaker race would have been the signal for hostilities that would not have ended in a well-nigh bloodless revolution. What the conquest of California proved above all other things was the rare self-control of the men who were gathered from all parts of the country. Down-east Yankee lawyers and Missourian backwoodsmen fraternized and made common cause in the effort to plant American institutions in this new land. This work was marred by occasional outbursts of race prejudice and by undue haste in executing punishment, but these exceptions

¹ The revolution against Mexican authority in California, known as the Bear Flag movement, will be fully treated of in future papers of the series on the Gold Hunters of California, to which the present paper is preliminary, being here printed out of place chronologically by reason of its appositeness to the anniversary of the admission. It is enough for the purposes of the present paper to say that the movement was the result of friction between certain American settlers in California and the Mexican authorities, and that it was more or less intimately connected with the misunderstandings between General Castro, commander-in-chief of the Mexican forces, and Captain

Frémont on the occasion of his visit to California with an exploring expedition in 1846. As a symbol of revolt the flag, of which the cut on page 784 is a representation, was hoisted at Sonoma on the 14th of June. The capture of Sonoma was effected, without resistance, by thirty-two of the settlers under command of Ezekiel Merritt; and General M. G. Vallejo, Colonel Victor Prudon, Captain Salvador Vallejo, and Jacob P. Leese, brother-in-law of the Vallejos and an American who refused to join the rebels, were taken to Sutter's Fort as prisoners. Merritt was succeeded in the command of the insurgents by William B. Ide.—EDITOR.

only prove the essential justice and fairness of the work of the pioneers.

It is not in the province of this article to discuss the Bear Flag episode. Only a brief summary of the salient events that led up to the cession is necessary to comprehend the curious tangle of political interests in California that was destined never to be unraveled but to be cut by the hand of war. The conquest of California would probably have been pushed resolutely by the settlers had not the Mexican war broken out, since the raising of the Bear Flag and the declaration of the independence of California made it impossible for the actors in this revolution to recede from their position. Four years before, Commodore Jones had taken possession of Monterey and hoisted the American flag on the report that Mexico had begun hostilities. He made a formal apology when he discovered his mistake, but it is very unlikely that Frémont would have apologized for his part in the Bear Flag revolt, or that Mexico would have accepted any explanation.

All the actors in this period with whom I have talked declare positively that the settlers were convinced that the occupation of Upper California by the Americans would be a question of only a few months. They all felt assured that the United States was prepared to seize the country on the first sign of hostilities on the part of Mexico. And their position was rendered the more difficult by the constant fear of English annexation. The historians who have made the most careful study of this period look upon this fear of England as a bogey, but survivors of those days declare it was real and had no small part in influencing the acts of the settlers. Whether England had any intention of appropriating the territory is a point which will probably never be satisfactorily determined. Although there was nothing stronger at the time than rumors of English designs on California, it is only natural that men who had a vivid recollection of the war of 1812 should suspect the motives of England. She possessed British Columbia; she claimed all territory north of the Columbia; she had not even relaxed her grip on Oregon. Here was a magnificent stretch of territory, with the finest harbor on the Pacific, that could be gained should the United States be found napping. It would have been against human nature for the settlers at the time of the conquest not to suspect England of lusting after this fair domain. It was known to a few also that the British vice-consul in California for several years had been trying to induce his govern-

ment to intervene and establish a protectorate over the territory, which in English hands could so easily be transformed into actual possession.

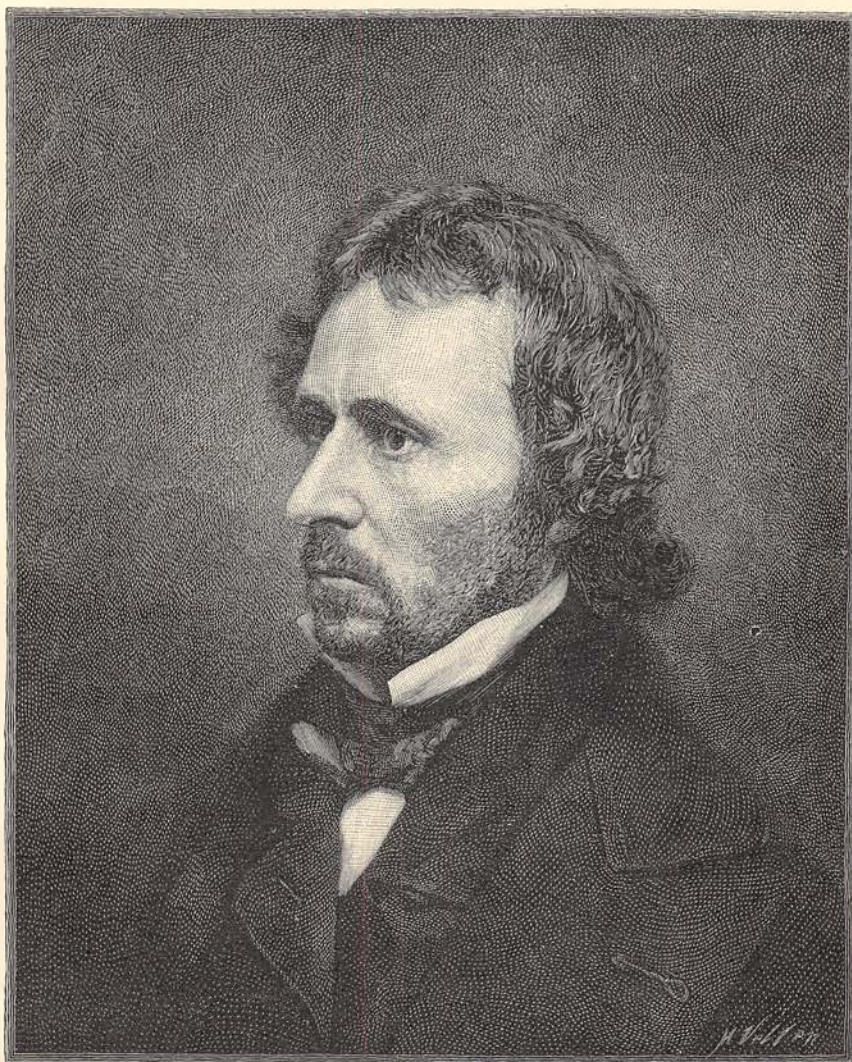
About the time that the Bear Flag party were getting ready for action in Sonoma the American naval commander in charge of the Pacific squadron was at Mazatlan. Commodore Sloat had received the most specific orders to occupy California at the first outbreak of hostilities with Mexico. In the harbor of San Blas was the English admiral Sir George Seymour on board the British frigate *Collingwood*. Sloat feared that Seymour might receive the first news of the Mexican war and thus anticipate him in seizing Monterey; so as soon as he obtained positive proof of the capture of Matamoras by General Taylor he sailed for California. Our navy was then a fair match for the British, especially in speed, and the *Savannah* could easily outsail the *Collingwood*; but Sloat took no risks, crowded on all sail, and reached Monterey on July 2. He had the sloops *Cyane* and *Levant* at Monterey and the *Portsmouth* at Yerba Buena (San Francisco) and no British sail had yet appeared.¹ Sloat was a man who dreaded responsibility. He expected to find California peaceful; he even hoped to meet small opposition in raising the American flag. But what was his astonishment to learn that the native Californians were bitterly opposed to any change, and that they were in a red heat of resentment over Frémont's action. He found the British vice-consul, Forbes, supporting General Castro and Governor Pio Pico in their diatribes against the American adventurers, while the Spanish vice-consul, Lataillade, surpassed all the others in his condemnation of the Sonoma revolution. Sloat accordingly hesitated five days before taking possession of Monterey.

On July 7, 1846, Commodore Sloat took formal possession of California in the name of the United States. After making a formal demand for surrender upon the Mexican commandant, which that officer evaded by disclaiming authority to act for Castro, the commodore prepared for action. He issued orders warning the men against plundering or maltreating any of the natives. Under Captain Mervine a force of two hundred and fifty seamen and marines was landed and marched up in front of the old custom-house, which usually bore the Mexican colors. There is a conflict of authority as to whether the flag was flying on this day. The people crowded about, eager to see the spectacle, but there was no hostile demonstration. The commodore's proclamation to the people of California was read. It declared that he proposed to hoist the American flag at Monterey and to carry it

¹ We give place to this widely received version of Commodore Sloat's action; but see the article in "Californiana" in the present number by Professor Josiah Royce of Harvard University.—EDITOR.

throughout California. It was Greek to most of the spectators, who understood Spanish only, and was received in silence. Then the Stars and Stripes were run up, three roaring cheers were given, a salute of twenty-one guns was

American flag was raised there was unbounded enthusiasm on the part of the settlers. The native Californians looked on in apathetic silence. It may be that they counted on British interference; but when Admiral Seymour ar-



JOHN C. FRÉMONT. (FROM A DAGUERRETYPE TAKEN ABOUT 1850; LENT BY GENERAL FRÉMONT.)

fired, and California thus passed into the hands of the Americans. On the following day the proclamation was read on the plaza at Yerba Buena, and the Mexican colors were supplanted by the American flag. At the old presidio, near the Golden Gate, was the dilapidated Mexican fort with its rusty and useless guns; but over these also the Stars and Stripes were raised—an earnest that this main gateway of the Pacific would now be held against all comers. In the other towns where the

rived in Monterey Bay he courteously accepted the announcement of American possession, as did also the captain of the British war ship *Juno*, which visited San Francisco Bay two days after the flag was raised.

This bloodless transfer of authority could probably have been the beginning and the end of the conquest of California but for the enmity aroused by the Bear Flag uprising and the feud between Frémont and Castro. As it was, the subsequent events of the conquest



COMMODORE SLOAT, U. S. N. (FROM A PORTRAIT IN OIL PAINTED AT PANAMA IN 1846. PHOTOGRAPH LENT BY HIS GRANDSON, J. B. WHITTEMORE.)

may be put in a paragraph. Sloat declined Frémont's offer of his Bear Flag battalion; but the chagrin which this caused was speedily forgotten, for Sloat, ill in body and weary of responsibility, turned over his command to Commodore Stockton and departed for the East. Stockton was the exact antithesis of Sloat. Responsibility did not worry him; in fact, he enjoyed it. He promptly accepted Frémont's troops and issued orders for their prompt organization into a regiment. He pushed the campaign vigorously against the native Californians, who were massed at Los Angeles; but when he reached that city he found everything quiet, took possession, and declared the war at an end. He had only just reached Monterey on his return when he was informed that all the south was again in arms. It required six months to subdue this revolt; but the power of the insurgents was broken by General Kearney, who arrived over-

land from New Mexico, after one of the severest marches on record. He cooperated with Stockton's marines, and finally the Californians gave up the fight; and the treaty of Cahuenga on January 13, 1847, ended the last stand made by the natives for control of the territory. The Californians surrendered to Frémont probably because they counted on getting better terms than from Stockton; and this expectation was fulfilled, as unconditional pardon was granted to all who had borne arms, with freedom to leave the country, and full rights of citizenship to those who chose to remain.

There was a strong element of *opéra bouffe* about the conquest. Seldom did the opposing forces number over five hundred men, and even the engagements at San Pasqual and San Gabriel were little more than skirmishes. But it is undeniable that much hard work was done by Stockton, Frémont, and Kearney.

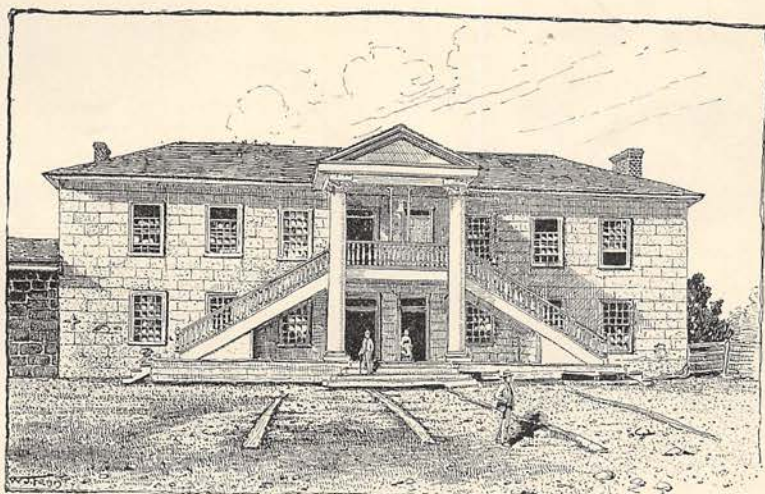
The ensuing five months before the cession

were filled with controversies between Stockton and Kearney, and then between Kearney and Frémont. They resulted in the departure of all three to the East and the succession of Colonel Richard B. Mason to the position of governor of the territory and commander of the United States forces. The country was disquieted by rumors of an expedition from Mexico to reconquer the territory, and by reports of strong disaffection among the native Californians in the southern counties, where few Americans had settled.

All doubts and fears were ended, however, on August 6, 1848, when news of the ratification of the treaty of Guadalupe Hidalgo was received. The territory ceded by Mexico included not only California but Arizona, New Mexico, and Texas. One year's time was given to all residents of this territory to decide whether they would remain as United States citizens or depart for Mexico. Property rights and Mexican grants and titles were to be fully respected. Governor Mason issued a wise proclamation, in which he assured all the old inhabitants that they would be protected in the free enjoyment of their liberty and property. But hard-headed American pioneers demanded a better system of government than the Mexican law gave them.

decisions; and though this system might suit a primitive pastoral community, it was as obsolete for Americans as the laws of feudal England.¹

The urgent necessity for a stable government led the California settlers to believe that Congress would not adjourn without providing proper officers for the new territory, which was now American in name as well as in fact. President Polk, in a special message to Congress on July 6, 1848, called attention to the peculiar situation in California and urged Congress to establish a territorial government. At this time it began to be foreseen by the friends of California that a hard struggle was before them, but it is doubtful whether any one suspected that the fight over California between the two sections would become so bitter as to threaten secession and civil war. Extension of slavery and maintenance of the slave-holding power in Congress were the great issues. The admission of Iowa and Wisconsin had neutralized the South's advantage in securing Texas. Thus the lines were evenly drawn in the Senate,—fifteen States on each side,—and the Southern leaders saw clearly that unless they obtained control of the new territory ceded by Mexico all the fruits of the Mexican war would be



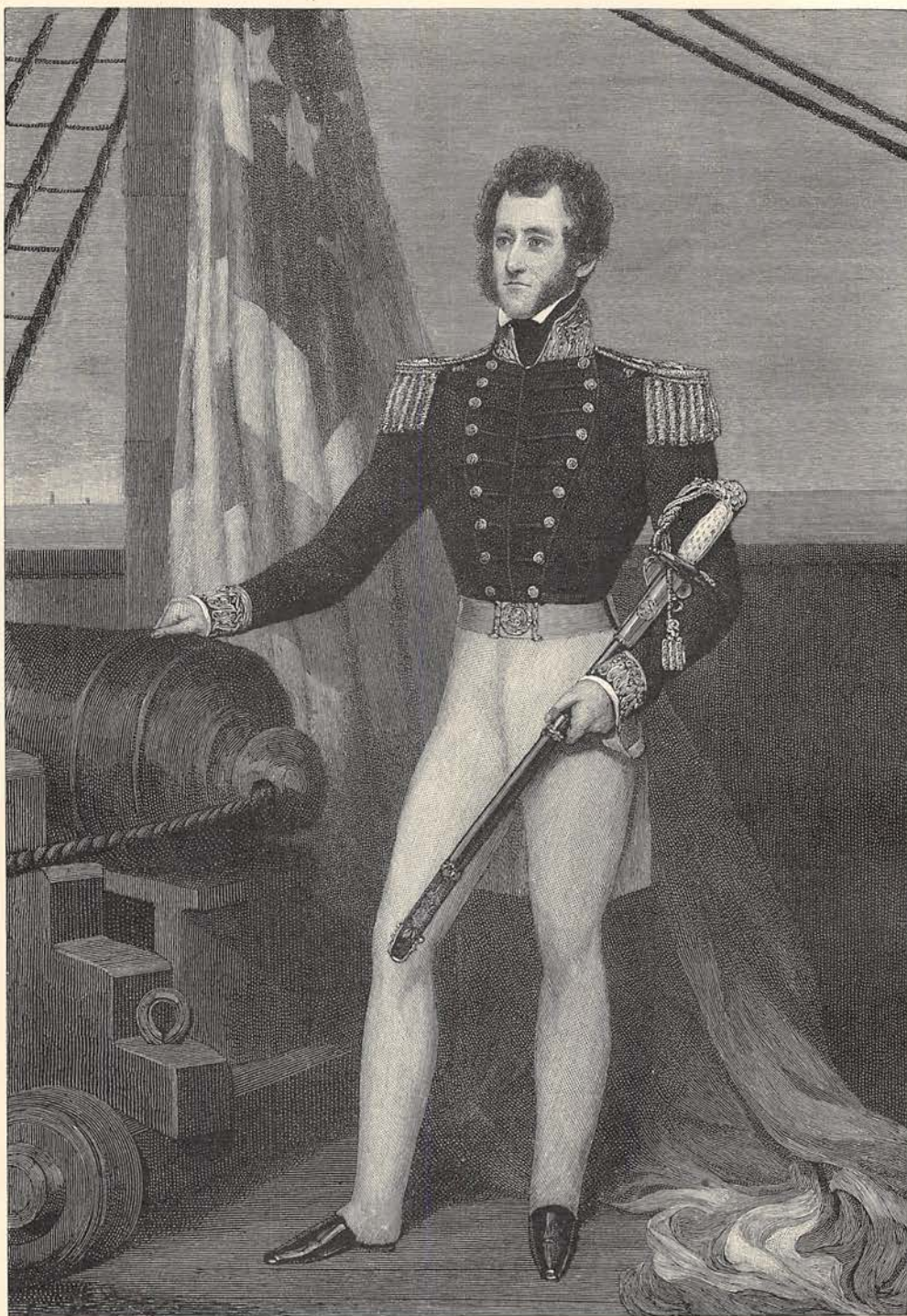
COLTON HALL, MONTEREY — SCENE OF THE CONSTITUTIONAL CONVENTION.

Under this system the alcalde, or district judge, was given more power than the Supreme Court enjoys to-day. There was no appeal from his

lost to them. For three years the power of the free States had been growing at a rate which threatened speedily to place the slave States

¹ Governor Mason had received no instructions, but as military governor he wisely determined to make no change until Congress provided a territorial government. The situation was anomalous. The treaty of peace with Mexico left California with no other than a *de facto* government. Mason frankly admitted that he had no authority to collect duties should merchants refuse to pay them, and he expressed the fear that the rapid desertion of troops would leave him without any mili-

tary backing; yet he declared he would exercise control over the alcaldes appointed and maintain order if possible. He held that no one had any right to move in providing a better government until Congress should act in the matter. Directly opposed to his assumption of power were the majority of the American settlers, who held that they had a perfect right to establish a government so long as Congress failed to make California a territory and provide a suitable government.



ENGRAVED BY T. JOHNSON.

COMMODORE ROBERT FIELD STOCKTON.

(FROM A PAINTING ON IVORY OWNED BY HIS SON, HON. JOHN P. STOCKTON.)

in a feeble minority. The struggle over the Wilmot proviso—which prohibited the introduction of slavery into the territory to be acquired by the Mexican war—was an earnest of the savage political warfare that was to follow. The pioneer effort for compromise on California was made just after the treaty with Mexico. This was the reference of the subject to a committee of eight from the Senate, which decided to admit Oregon, California, and New Mexico as Territories, but to refer the slavery question to the Supreme Court. This satisfied the Senate, but the House promptly refused to adopt it.

While California thus served as a bone of contention in Congress, an event occurred that gave an enormous impetus to the movement in favor of State government. This was the discovery of gold by James W. Marshall in Captain Sutter's mill race at Coloma on January 19, 1848.¹ Most significant of all dates in California history is this, for the gold discovery has colored every phase of social and political development in the chief State of the Pacific coast. Yet, to the men who preceded the gold hunters we must look for the impulse towards a sound government. The Forty-niners aided the movement by sheer force of numbers, but the yeoman's work was done by the many able men who had helped to conquer California or who came in from the adjoining Territory of Oregon.

One of the anomalies of the gold discovery was its slowness in reaching Americans in California. It was midsummer before the news was generally credited in California and Oregon. Then, when people became convinced that the reports were true and that fortunes could be made in a few months in the Sacramento Valley, there was a rush such as was never before known in history. Of course the California settlers had the great advantage of proximity to the new El Dorado. Next, perhaps, came those in Honolulu. The Oregonians obtained their news by way of the Sandwich Islands and Fort Vancouver. These hardy pioneers had just emerged from a long struggle with hunger, the wilderness, and the Indians. They were poor, and they saw in the future only a vista of weary work with small profits, as they had no market for their produce. Suddenly the scattered settlements were electrified by the news of the gold discovery. Those who took part in the rush declare that not less than two-thirds of all those capable of bearing arms swarmed over the Siskiyou Mountains and came down to the gold fields

of the Sacramento. In the mean time the news had spread to the East, to Australia, and to South America. From all quarters came young men as eager for adventure as for gold. Not one in a thousand had any practical knowledge of mining or any plan of remaining in the country after a fortune had been made. Eighty thousand is a conservative estimate of the number of gold hunters who flocked to California in the first twelve months that followed Marshall's discovery. The great majority of the gold seekers were crowded into the Sacramento Valley, where the richest placers had been found on the Sacramento, Yuba, American, and Feather rivers. Sacramento City had been founded on the river hard by Sutter's historic fort, and was the chief town in the valley. The American passion for corner lots developed early among the miners, and to record transfers some legal officers were required. In January, 1849, the people of Sacramento accordingly elected a first magistrate and recorder for the district. In San Francisco and San Jose the same trouble was experienced and the same desire was felt for a suitable government. Meetings were held in the three cities, and it was decided to elect delegates to a convention for forming a provisional government. San Francisco was in the most grievous plight because of conflict of authority between the provisional officers. In August, 1847, Governor Mason had sanctioned the election of a town council, but this went out of existence in December, 1848. An election for a new council was declared invalid through fraud. San Francisco differed from nearly every other large town in California in that it had no basis of native inhabitants. It was almost purely American, and the national desire for self-government led to the election of a legislative assembly and three justices of the peace. The old office of alcalde was to be abolished. This programme was carried out, but the alcalde refused to give up his office. Finally the offices of sheriff, register, and treasurer were added, and the alcalde was legally ejected. Yet none of the acts of this improvised body was ever legally sanctioned. General Persifer F. Smith had succeeded Mason as military commander, and General Bennett Riley had been appointed military governor. Smith's duties were to defend California and Oregon from attack and to preserve peace. To Riley was intrusted the difficult task of administering the civil affairs of a land which was neither an acknowledged Territory nor a State. Two months before Riley's arrival the delegates elected to the convention decided to postpone this meeting until August. If by that time Congress had taken no action, the delegates were to meet at Monterey and draft a constitution to be submitted to the people.

¹ This is the commonly accepted date, but Mr. John S. Hittell has demonstrated in the "Overland Monthly" that the actual date was January 24.—EDITOR.



PETER H. BURNETT, FIRST GOVERNOR OF CALIFORNIA. (FROM A DAGUERRETYPE.)

Old Bennett Riley was perhaps the best man who could have been selected for governor, as he was the embodiment of all that was just and impartial in the military system. He had strong convictions; but, unlike most of the military men who came into prominence in California, he was not prejudiced or vacillating. He made a thorough study of the situation, and when he had once become convinced of the soundness of his position, neither coaxing nor bullying could move him one jot. His arrival in May brought to a head the whole question of the government of the new territory. There was absolutely no precedent for the cession of the territory, and the neglect of Congress to provide territorial officers left California in the unique position of a land without a government. Two opposing theories of the status of the country were held, one by

the settlers and the other by the military governor; yet, though the settlers prevailed, the legal question was never referred to a competent court, and remains undecided to this day.

Many of the settlers who were most active in demanding that the people should elect their own officers came from Oregon. They were gold hunters, but they had had valuable pioneer training in redeeming Oregon from the wilderness and in working out unaided the problem of self-government. At their head was Peter H. Burnett, a Tennessean who migrated to Missouri and started for Oregon in the summer of 1843. He was a lawyer, and did good work in the legislative committee of Oregon which drafted a good constitution and established an efficient government. Burnett, who was destined to play an important part in the movement for statehood in Cali-

ifornia, is a fine specimen of the Western pioneer; for he is still alive, in full possession of his faculties, at eighty-two years. He had done his part in Oregon, and now he saw the same necessity arising in California that he had aided to meet and satisfy in the neighboring State. He presided at the first meeting held in Sacramento to devise plans for a provisional government, and in June, 1849, he became a member of the legislative assembly of San Francisco, and at once took an active part in the movement that resulted in the calling of a constitutional convention.

Early in June, Riley issued two proclamations. One, addressed to the people of California, gave a clear summary of the situation and announced a special election for delegates to a convention which he called to meet at Monterey in September for the purpose of forming a territorial or State organization. It also included a list of officials, adapted from the Mexican system, to be elected. The second proclamation, issued a day later, was a formal declaration that the legislative assembly of San Francisco had usurped the powers vested only in Congress. It fell to Burnett to head the settlers' party in its opposition to the claims of General Riley. The situation was unique in American politics. Riley's position may be briefly stated as follows: The laws of California, he held, must continue in force until changed by competent authority. The power to replace these laws by others is vested in Congress. The situation differed from that in Oregon, for Oregon was without laws, while California had a complete system, which, though defective, must continue in force until repealed by valid legislative power. California, in fine, resembled Louisiana after the purchase; and the decision of the Supreme Court recognizing the validity of the laws of Louisiana under French rule formed a safe guide in the present case. Thus, according to Riley's logic, the San Francisco legislative assembly had usurped powers belonging to Congress, and had absolutely no right to call a convention.

The position of the settlers may be summed up in a few words. The moment the treaty took effect, according to their view, the United States Constitution and American laws superseded in California the Mexican civil law; while Congress refused to legislate for California, the people had the right, under the Constitution, to exercise that power; a subordinate military officer could not fill the office of governor; it was not common sense to ex-

pect Americans, unfamiliar with Spanish, to administer the Mexican law, which they did not understand, and which had no bearing on practical life. Finally, a temporary exercise of legislative power by the people was not in violation of the Constitution, but only the practical application of the rights of American citizens.¹

Political excitement ran high when General Riley's two proclamations reached San Francisco on June 9. It had been an eventful week. On the 4th the long-expected steamer arrived from Panama. As she came into the harbor the wharf was crowded with men, eager to learn the news of the action of Congress. The majority were confident the new territorial officers were on board, empowered to provide for some representation of California in Congress. Deep was the disgust when it was found that Congress had not only failed to make any provision for the government of California, but had actually voted to extend the revenue laws to the new territory and had sent a collector to levy the duties. The re-



DR. W. M. GWIN. (FROM A PHOTOGRAPH BY BRADLEY & RULOFSON.)

sources of Californians in picturesque profanity were sadly taxed on that day. The Plaza, the streets, the saloons, the gambling palaces, echoed to the indignant protests of men who felt the injustice of taxation without representation as keenly as their forefathers smarted under the measures of Lord North. The excitement

¹ See article by Francis Lippitt in "Californiana" in the present number.—EDITOR.



J. ROSS BROWNE.
(FROM A PHOTOGRAPH IN THE ROOMS OF THE SOCIETY OF CALIFORNIA PIONEERS.)

found vent in a great mass meeting on the Plaza, or Portsmouth Square—the scene of most of the stirring events in early San Francisco history. Resolutions, written by Burnett, expressed in no uncertain language the feelings of the people. They declared that both parties in Congress evidently expected California to settle the question of her admission, which hinged solely on slavery, and that the quicker this was done the better. They recommended the immediate election of delegates to the constitutional convention.

The scenes in Congress during this second struggle over California were intensely exciting. When the second session of the Thirtieth Congress met on December 5, 1848, President Polk again presented the claims of California, fortified by Governor Mason's report, and by letters of Thomas O. Larkin, United States consul at Monterey, detailing the importance of the gold discovery and the certainty of an enormous immigration into the new territory. Stephen A. Douglas, who was eager to prevent an open rupture between the two sections, drafted a bill for the admission of all the new territory as the State of California, with the proviso that Congress divide it, after admission, into other States. The judiciary committee pronounced this unconstitutional, and recommended the making of two new Territories out of the ceded domain. The Congress that discussed this question included some of the ablest of American statesmen, yet not one appeared to foresee the importance of California or the significance of the gold discovery. Several of the schemes pro-

posed were puerile and senseless. A motion was even adopted by the committee of the whole to cede back to Mexico all of California except the port of San Francisco, which would then have been for this country what Hong Kong is for England on the coast of China. The quarrel over California grew more and more envenomed as the session proceeded, until finally a deadlock resulted. Amendments providing for revenue laws in California had been added to the civil and diplomatic appropriation bill. The followers of Calhoun denounced this as an invidious scheme on the part of the Northern faction to force the issue over California, and they threatened to defeat the appropriation bill and thus leave the Government without funds unless the California section was withdrawn. Congress expired by limitation on Saturday, March 3, at midnight, but the new President, General Taylor, was not to be inaugurated until Monday. The Southern senators filibustered in the hope of killing the bill, and with it any recognition of California. The Senate Chamber has witnessed many exciting scenes, but none perhaps ever equaled the storm that raged on this night as the hands of the great clock neared the midnight hour. The Southerners insisted that the session ended at midnight; but the logic of Webster, who held that the legislative day ended only with the sitting, at last prevailed. All through the night the fight went on, but just before daybreak the Southern forces weakened and the bill was passed.

The steamer which bore this news of congressional inaction brought to California two men, one destined to prominence in the first ten years of California's stormy political life, the other to brief notoriety, due as much to his eccentricity as to his official position. The first, who showed from the outset his dominating mind, was Dr. William M. Gwin of Mississippi, who had served in Congress, and who came to California with the purpose of becoming the first United States senator from the new State. He



THE BEAR FLAG HOISTED AT SONOMA JUNE 14, 1846;
FINALLY LOWERED AT SAME PLACE JULY 11, 1846.
(FROM THE COLLECTION OF THE SOCIETY OF CALIFORNIA PIONEERS, SAN FRANCISCO.)

was an ardent disciple of Calhoun, and was counted upon to do all in his power to throw California into the slave-holding ranks. The other was Thomas Butler King, a Georgia congressman, sent out by the Taylor administration to advocate the admission of California as a State. Both spoke at the mass meeting in San Francisco three days after their arrival. In several other towns meetings were held approving the San Francisco resolutions, and one assemblage on Mormon Island, in the Sacramento River, pledged itself to discountenance any effort towards secession from the Union. The report of this meeting, with vague rumors of the growing discontent, appeared to confirm the suspicions of General Riley that there was a real plan to form an independent government. He thereupon issued a third proclamation, denouncing the scheme, and asserting that recent orders from Washington confirmed his previous views that the plan of establishing an independent government could not be sanctioned. Burnett at once replied, showing the absurdity of the suspicion that the settlers wanted independence, and making a strong plea for the wisdom and justice of the course the people had been forced to adopt. That there was no intention wantonly to antagonize General Riley was proved by the action of the delegates in agreeing to hold the convention at Monterey on the day fixed by the governor.

Having decided the important question of the calling of a convention, the California settlers returned with renewed zest to the business of gold-hunting and money-getting. In this interregnum of two months about the only incident worthy of note is furnished by Butler King, President Taylor's ambassador to the new territory. In July he made an official tour of the mines. He traveled in state, being escorted by General Smith, Commodore Jones, and a body of cavalry under Lieutenant Stoneman, afterwards prominent in the war and lately governor of the State. It was the height of the dry season, when the wide plains of the Sacramento and the San Joaquin glowed under the fierce heat of a semi-tropical sun. Only men in search of gold could be induced to work under this sun during the middle of the day, because of the danger of fever from overheating. Even hardy frontiersmen, when passing through the great California valleys in summer, rose early, and adopted the native custom of a long siesta at midday. King, however, rose superior to the climate as well as the customs of the far West. He kept precisely the same hours as when in Washington—rose at eight, dressed himself with extreme care, had his boots polished, took a leisurely breakfast, and then set out on the day's journey, when the sun was high in the heavens, and the mercury far up

in the nineties. The spectacle of a modern "dude" among the red-shirted miners of Leadville ten years ago, when the silver fever first broke out, was not more irresistibly comic than this picture of the old-time Southern exquisite arrayed like a bridegroom for a long, hot, dusty ride through the plains of the San Joaquin. General Smith protested, but to no avail; yet he had the satisfaction of seeing his prophecies fulfilled when King, on his return, was stricken with fever that came near ending his eccentricities.

The Whig administration that sent out Butler King to smooth the way for statehood in California blundered in this as in most of its other acts. It was vitally important that the man selected for this work should be quick to see the spirit of the people; but King tried to mold this Western life, which he never comprehended, to fit his orders, and the result was that he played directly into the hands of the men who came so near to securing the greater part of the new territory to the slave-holding States. Gwin used King as he used others, to carry out his scheme, which was only thwarted by the shrewdness of a few antislavery men in the convention. During the two months before the convention met Gwin had strongly impressed his personality upon California public affairs, and secured election as a delegate to the convention. Although when the convention opened he had been in California only four months, he had managed by his skill and address to become possessed of all the political influences at work and to gauge accurately their strength and importance. The result of the election of delegates was to give the proslavery men the predominance, although later, when additional delegates were admitted to form a quorum, the Northern men numbered 22, against 15 from the slave-holding States, 7 native Californians, and 4 of foreign birth.

The convention met on September 1, but was not organized until two days later, for lack of a quorum. The meeting-place was Colton Hall, in Monterey, which had the distinction of being the only plastered house in the new territory. Considering the haphazard way in which the delegates were selected, the convention was an able body. The curious mingling of races in California, as well as the youth of the pioneers, was seen in its composition. Of the 48 members 36 were Americans; New York furnished 11, New England 6, and Maryland 5. Of native Californians there were 7, while 5 delegates were of foreign birth. Only two of the native Californians spoke English with any fluency or understood it easily; hence it was necessary to employ an interpreter, and the proceedings were recorded in English and

Spanish. It was probably the most youthful legislative body that ever met; 9 men being under thirty, 23 over thirty but under forty, 12 between forty and fifty, and only 4 over fifty years of age. Four members had been in California only four months; nine had been there one year or less.

There is pretty good evidence that Gwin went to the convention with the purpose of becoming its president and thus guiding its deliberations, but the native Californians and several of the pronounced antislavery men had strong prejudice against him, and Robert Semple, a typical Western backwoodsman, who was equally ready with the rifle and the printer's stick, was chosen to preside. Captain Marcy, who had arrived with Stevenson's New York regiment, was elected secretary, and J. Ross Browne, who in later years gained fame on the coast as humorist and traveler, was appointed official reporter. Of all the members Gwin easily occupies the foremost place. He did not speak so often as many others, but, like Halleck, what he said had great weight, and in nearly every controversy he either carried his point or effected a compromise well-nigh as advantageous as a victory. A master of the arts of the parliamentary, Gwin was constantly called upon to exercise his skill, and it is no exaggeration to say that his readiness, courtesy, suggestiveness, and persuasive powers have rarely been surpassed in a deliberative body. A careful reading of the debates in this convention, aided by the suggestions of survivors, proves conclusively that Gwin had the settled purpose to secure so large a territory for California that Congress would feel bound to divide it. He was too shrewd a politician to hope to commit the new territory to slavery. The spirit shown at public meetings of settlers and miners which he had attended proved that slavery would not be tolerated. Hence instead of pressing the slavery issue, he devoted his energies to securing the best ultimate advantages for the slave-holding States. California had a coast line of over five hundred miles, and her territory was popularly supposed to extend to the Rocky Mountains. What was more simple and logical than to secure the admission of this immense domain as free territory and then persuade Congress to divide it, giving the southern half—the lion's share—to slavery? Division on no other than lateral lines seemed feasible at that time, as the great central region was regarded as a desert. A new State must possess a coast line, and the most natural division was on the historic parallel of $36^{\circ} 30'$ —that color line that was drawn with such monotonous regularity by Calhoun and his followers. In this work Gwin betrayed masterly political

manipulation. He made an easy conquest of Butler King and Halleck, and these allies he used to win over the suspicious native Californians. It was not difficult to prove to them that they would be benefited by the erection of Southern California into a new territory, distinct from the North. Then, as now, it was a plausible argument that the southern half of the country differed so materially from the northern part as to demand a separate government. The Californians were quick to see that in the North their political supremacy was clear gone—swept away by the thousands of gold hunters. Gwin shrewdly intimated that the policy backed by the representative of the Administration must be the winning one, and that the men who aided King and himself in getting the admission of the whole Western territory could depend upon recompense in legislation that would lighten the burden of taxation and secure them in possession of their royal grants of land, measured not by miles, but by leagues. The Californians had everything to gain by this alliance, while on the other hand the settlers who opposed the admission of so vast a territory had nothing to offer them. It was to the strongest sentiments of human nature that Gwin appealed, and his success seemed a foregone conclusion. That he failed to carry his point in the convention was due mainly to the superb fight made by Charles T. Botts, a Virginian, aided by the firm backing of the old settlers, Semple, Hastings, Shannon, McDougall, Snyder, and others. Twice Gwin obtained a majority for his plan. On the second occasion, when the measure passed the house, having been previously adopted in committee of the whole, the most exciting scene of the convention ensued. McCarver, an old Oregon pioneer, moved for immediate and final adjournment, crying out passionately, "We have done enough mischief." Snyder shouted, "Your constitution is gone! Your constitution is gone!" For a few moments it looked as though the convention had hopelessly split upon this rock, but finally an adjournment was secured to the following day, when, after long debate, the boundary was fixed as it stands to-day, with the Sierra Nevada and the Colorado as the eastern line, with the great central desert, to be formed later into Nevada, Utah, and Arizona.¹

The constitution adopted by the convention was one that did good service for thirty years, until the Kearney agitation swept it away in a great outburst of popular feeling against railway and land monopolies, which, gathering force for years, was brought to a head by the cynical defiance of a few powerful corpo-

¹ For an account of how this was done see "Californiana" in this number of THE CENTURY.—EDITOR.

rations and a small clique of millionaires who fancied they owned the State. The constitution was largely drawn from that of New York, with some provisions by the then recently adopted constitution of Iowa. What will strike any reader of the debates is the strong desire of the members to secure the rights of settlers and the equally strong wish to make education as free and as thorough as possible. Two sections in each township were set apart as school lands, seventy-two sections for a university, as well as five per cent. of the proceeds of the sale of all public lands. Semple and McCarver, both self-made men, who came up from the people, and who therefore placed a high value on free education, made eloquent pleas for a liberal school fund. Semple argued that California could have a university equal to any abroad, as she had the gold-dust to pay for "talent," and he naïvely added, "We can bring the president of Oxford University here by offering a sufficient salary."

Another amusing feature was furnished by the discussion over the seal of the new State. Every interest wished to be represented, but the old settlers were determined to have the grizzly bear in the foreground. This naturally excited Vallejo, who had suffered at the hands of the Bear Flag party, and he grimly suggested that *Ursus* of the Sierra have a lasso about his neck. The debate ended in the adoption of the well-known design — *Minerva*, type of the entrance of California full grown into the Union, with the grizzly at her feet; wheat-sheaf and vine, the miner and his tools, represented the leading industries; while the background was the bay of San Francisco framed in by the Sierra Nevada, and over all the magic word, "Eureka."

One of the men who worked hard in the convention, but who has received little credit for his labor from the historians, was Captain Halleck, the governor's secretary and his representative in the debates. Governor Riley made no attempt to influence the convention, but Halleck was tacitly understood to speak for him. Halleck had great legal ability, and he drafted the excellent public papers that Riley issued. He also prepared an excellent digest of the Mexican laws for the use of Americans. He spoke frequently in the convention and always to the point, and no survivor of that body fails to declare that his judgment was sound and that his services were invaluable because of his intimate knowledge of the country. Some recognition of his merit has been made by the erection of a statue to his memory in Golden Gate Park, San Francisco.

Of the native Californians in the convention, Carrillo, who had been a valued adviser of

Pio Pico, the last Mexican governor of California, was the ablest. He made the best speeches, and seemed to have the clearest apprehension of the great change that had come over the country and of the new measures that were needed. More popular than any of his Californian associates was General M. G. Vallejo, the lord of an enormous estate in the Sonoma Valley, stretching from San Pablo Bay for forty miles up the beautiful valley. His sister had married Jacob P. Leese, an early pioneer, and Vallejo always professed the warmest admiration for the Americans. Even the rude treatment he received from the Bear Flag party did not sour his temper. Like Sutter, he had a magnificent opportunity to take a foremost place in the affairs of the new territory; but he was formed for the life he had led for forty years,—the pleasant life of a landed grandee,—and he had neither the energy nor the mental suppleness to adapt himself to the new régime. To Vallejo, however, belongs the great credit of using his large influence to persuade his fellow-Californians to accept the new government cheerfully, and to do all in their power to strengthen the hands of the conservative men who he saw clearly formed the only hope of safety from wholesale spoliation of land and herds.

Long before the convention was over candidates for office had announced themselves, and the first political campaign in California had begun. From all accounts it was as unique as the other features of State-making. Peter H. Burnett, who was then Chief-Justice of the Supreme Court appointed by General Riley, was the most prominent candidate for governor, his opponents being W. S. Sherwood, a New York lawyer; Captain Sutter; Geary, the popular last *alcalde* of San Francisco; and William M. Stewart, who had been prominent in the work of securing a State convention. Gwin and Frémont were the leading candidates for the United States Senate. All started out on electioneering tours that extended into many of the new mining camps. The Argonauts of 1849 in the remote camps had cavalier methods of settling the claims of candidates. A man who "put on style" was sure to be defeated. A "boiled" shirt could be tolerated, but not a silk hat, and there were grave doubts about the honesty of a candidate who did not chew tobacco or take his liquor like a man. Burnett's great claim to popularity lay in his championship of the settlers' rights, his rigid honesty, and his knowledge of the law. He had some amusing adventures on his tour of the mines that would have discouraged any one except a pioneer. At Mud Springs, in the heart of a rich placer-mining country, the proprietor of the canvas hotel honored his guest with the best

bed in his big lodging-tent, and the weary candidate hoped for sweet and refreshing sleep, but during the night rain fell in torrents, the wind arose, tore away the fastenings of the tent, and the structure collapsed. The guests were forced to hug the main pole with the loose canvas flapping about them and the rain beating without. Of this unhappy town the writer has a vivid recollection in 1857, when very heavy rain swelled the creek that formed the center of the main street, and the floors of all the shops and houses were two feet under water. Many of the miners regarded the election as a huge joke. A typical instance of the way miners voted was recorded at the lower bar of the Mokelumne River. One fellow, who had voted a straight ticket, gave his reasons over the bar in the saloon in this original fashion: "When I left home I was bound to 'go it blind.' I did go it blind in crossing to California, and I'm not going to stop now. I voted for the constitution, and I've never seen the constitution. I voted for all the candidates, and I don't know a d——d one of 'em. I'm going it blind all through — I am!"

The first election resulted in a small vote. Three-quarters of the American miners did not leave their tents to go to the polls. The Mexicans and native Californians took considerable pride in casting their first ballot, though in later years they have not betrayed any keen interest in politics, and they have never held the balance of power which early observers feared because of their numerical majority. Burnett was elected governor, receiving 6716 votes; his next competitor, Sherwood, getting 3188, and Sutter 2301. On the 15th of December, 1849, the first legislature met at San Jose, that city having secured the honor of the State capitol by guaranteeing to furnish suitable buildings. The conditions were found even more primitive than at Monterey. The Capitol building was a rude, unfurnished wooden structure. The Assembly, composed of thirty-six members, succeeded in using the large upper chamber, but for several weeks the sixteen senators were forced to meet at a private residence. Five days after the first meeting Governor Burnett was installed, General Riley having on the same day resigned his powers as governor. Despite the discomforts and the lack of all the usual facilities, this first California legislature went to work manfully. Again was seen the triumph of the pioneer over circumstances that would have paralyzed an older community. The first business was the election of United States senators, for it was wisely urged that the presence of these men at Washington would hasten admission of the State. Among the candidates were Butler King, the eccentric Administration agent; Fré-

mont, about whom was the glamour of border adventure and who was generally regarded as the Bear Flag hero; Gwin, whose ability had been proved in the convention; Geary, the San Francisco alcalde; Halleck, whose friends claimed this reward for his services; and Semple, whose aspirations were as lofty as his stature. Frémont was the most popular, partly because of his prominent part in the conquest, and partly because he was known to have behind him Senator Benton, a political power who could do much for California. Frémont was elected on the first ballot and Gwin on the second. George W. Wright and Edward Gilbert had been elected representatives.

It has been common for Californians to regard this first legislative body as a roistering crowd that drank and swore like the troops in Flanders. But it must be said that these pioneer legislators proved far more industrious than any of their successors. They framed in a few weeks an excellent body of laws. Although they included a few rampant proslavery men, they were mainly the old settlers who had worked for a State government. One man by his horse-play gave to the body the unsavory but picturesque title of "The legislature of a thousand drinks." This was Thomas Jefferson Green, a professional politician who was attracted to California, like Gwin, Butler King, Geary, Broderick, and others, by the hope of a good office and political influence. Green seemed to look upon the session of the legislature as a picnic. He had a room near the State House liberally supplied with all kinds of drinks, and after every adjournment his sonorous voice was heard crying, "Come, let's take a thousand drinks!" Survivors of this legislature declared that Green was a seasoned vessel, and seldom appeared the worse for potations that would have put Squire Western under the table before midday. Even with the inducement of free liquor always on tap the drinking was not general. The little coterie that Green gathered about him had no influence upon the working members. Well would it have been for California had every succeeding legislature been as honest and as efficient as this pioneer body. To these men lobbying and the huckstering of votes were unknown. They felt deeply their responsibility to constituents, and they would have regarded the methods of legislative politicians of the present time as an insult to common decency.

While the first California legislature was wrestling with a code of laws for the new State the fight over California was renewed in Congress with greater bitterness than before. President Polk in his message made a strong plea for the admission of California. He set

forth briefly the causes that led the people to decide to form a constitution, declared there was reason to believe they would soon apply for admission as a State, and warned Congress against introducing sectional issues that were dangerous to the Union. Towards the close of January, 1850, Henry Clay introduced his compromise bill for the admission of California, which, though greatly modified, formed the ground on which an agreement was finally reached after six months of debate. The main feature of Clay's plan was that California be admitted with suitable boundaries and without slavery. A sop to the South was a resolution that the remainder of the land ceded by Mexico should be erected into territorial governments unhampered by any restrictions on slavery. He also introduced clauses forbidding the interference of Congress with the slave-trade between the States, and calling for more effective enforcement of the fugitive-slave law. Clay's compromise, though artfully devised, did not accomplish the desired object of placating the Southern leaders. Debate began immediately upon their introduction. Conspicuous among the proslavery men were Jefferson Davis and Foote, who argued that the Missouri Compromise line should be recognized throughout the new territory and that slavery should be valid below that line. Clay vehemently opposed this, holding that the people of the Far West should decide for themselves whether they wished to establish slavery; if they chose to introduce it, then he would favor the admission of California and New Mexico with such slavery provisions in their constitutions.

It was at this critical period that Gwin and Frémont and the California representatives arrived in Washington. They brought the new constitution of California, which President Taylor transmitted to Congress with the notification that the State would soon apply for admission to the Union. A motion was made to refer the message to the committee on Territories, but this procedure was more than Calhoun could endure. He was greatly incensed over the action of the Californians in prohibiting slavery, and though merely the shadow of his old self, with strength so spent that he could not speak in the Senate, he prepared a speech against the admission of California. It was read by Mason of Virginia. The gist of this address, which proved to be the dying utterance of the great proslavery leader, was a vigorous attack on the admission of California, because its people in assuming to meet in convention and adopt a constitution had been guilty of a revolutionary act. He held that there was no excuse for such open defiance of Congress, and hence he suggested that California

be remanded to the condition of a Territory. To admit her as a State, with this constitution just adopted, would be to bar out the South from the territory acquired from Mexico and imperil the political equilibrium of the sections.

Webster followed in his great speech of March 7, second only in its impassioned passages to the reply to Hayne. Any paraphrase of its majestic language is flat and commonplace. It was an eloquent appeal for the freedom of the new territory which the South had vainly struggled for in the interests of slavery. He closed with the passage against "peaceable secession" which has become a classic in American literature.

The California senators, of course, were appealed to by the rival leaders. Frémont was in favor of anything which Benton championed, and Benton was determined to see the new State admitted, even if it led to the civil war that Calhoun and Jefferson Davis predicted. Gwin was placed in a very embarrassing position, as to carry out the desires of his constituents he must oppose Calhoun and his party. He had a stormy interview with President Taylor, who declared that whether California was admitted or not he intended to drive the Texan authorities out of New Mexico. Gwin refused to cooperate with Taylor, which aroused the wrath of the old soldier, and the conference ended in anger.

Gwin also had a conference with Calhoun, his old master in political arts, who roused his dying energies to try to convince his friend that the admission of California as a State would result in the supremacy of the North and the rupture of the Union. Gwin was greatly impressed with the earnestness of the dying statesman and the gloomy prophecies that he made, but he refused to adopt the policy decided upon by his party in Congress. To escape from his embarrassing position he went to New York, but after a short stay he was sent for by Henry Clay. In some unpublished memoranda Gwin has left an interesting account of this conference. It throws so much light on the causes that led to Clay's compromise bill that I give a portion of it entire. He says:

When the California delegation reached Washington and asked for the admission of the State into the Union, I was in favor of its being acted on as a separate and independent measure, and with the least practicable delay. I found Mr. Clay, General Cass, Mr. Webster, Judge Douglas, and others who were the great leaders in Congress at that time, in favor of this policy. But afterwards they changed their views and I was sent for by Mr. Clay, who gave me the reason. He said he had been called upon by members of the House of Representatives

and informed that a sufficient number of the members of that body from the Southern States to control its action had entered into a solemn compact, which they would execute at the risk of their lives, never to permit a bill to pass the House admitting California until the right of the South to carry their property to the Territories of the United States was first guaranteed by law. Mr. Clay was incredulous; he thought it impossible for such a body of men to come to so desperate a resolve — which was revolution itself. He called for facts, which were furnished him; names also were given, and, if necessary to remove all doubts from his mind, it was proposed to bring each member who had entered into this league to his room to make the declaration to him in person. Mr. Clay said that then, for the first time in his life, he thought the Union in immediate peril, and that the short remnant of days left to him would see it destroyed. He at once determined upon the course he would pursue, and the first person he consulted was Colonel Benton — with whom he had been up to that time acting in full concert for the immediate admission of California into the Union — and my colleague, Colonel Frémont. The interview lasted for an hour, and he exerted all the powers he possessed to induce Colonel Benton to join him in postponing the admission of the State until the question of the territorial government was settled, but in vain. Colonel Benton sternly refused, and Mr. Clay confessed to me that he did what he had never done before in his life — he implored a fellow-man to do his duty, but all to no effect. That was their last interview and intercourse in life. Mr. Clay then sought the interview with me; and, after stating the case fully, I had no doubt of the facts, and told him that I never wished to see California *forced* into the Union in a revolutionary way which would destroy its existence, and that I was willing that the admission of the State should be considered in connection with all the questions that were then agitating the country.

In the great debate on Clay's compromise, Seward, then coming to the front as a leader, made one of the most vigorous speeches. He declared that the settlers had shown the proper spirit, and that if not granted admission to the Union speedily California would be perfectly justified in founding with the other Pacific coast States an independent nation. Four days after Webster's speech the California delegation, in response to a demand, presented a memorial which reviewed in detail the work done in the new State, its great resources, and its urgent need of admission to the Union. This memorial ignored the slavery issue, but it simply added fuel to the partisan flame. To Clay's compromise measures were added others by Bell of Tennessee, and both sets were referred to a special committee. The result was the omnibus bill of which, aside from the compromise features, the admission of California was the chief proposition. Again the partisan debate broke out with increased rancor. Four months of wrangling ensued, ending finally in the passage of the bill for the admission of Cal-

ifornia, separated from the compromise resolutions. On August 13, by a vote of thirty-four to eighteen, the Senate passed it. Jefferson Davis, Mason, and others could not see it adopted without a last word, so they issued a protest which summed up all the Southern hatred of national sanction of the free constitution of the California settlers. This protest had no effect on the lower house, which on September 7 also passed the bill, by one hundred and fifty to fifty-six. On September 9, 1850, the act was formally approved by President Fillmore, and within the next two days the California delegation was sworn in — not, however, without objections from Jefferson Davis and his small party of irreconcilables. The South had been worsted at every point; but it was a costly victory for the country, for a decade later burst out the pent-up fires of partisan hatred, whose lurid gleams were seen during this long struggle over California.

The California legislature adjourned in April, but it was the 18th of October before news came of the admission of the State. These six months of waiting tired the souls of impatient Californians more than all the previous period of doubt and uncertainty. Complaints came from several of the southern counties of burdensome taxes that would fall upon them should Congress admit the whole of California as a State. Among Americans, however, the desire for statehood was so strong that many openly advocated separation from the Union. In no other period of their history, perhaps, was the self-control of the Americans in California more thoroughly proved than in these dreary months. Climate and life, then as now, conspired to rob the settler of patience. He yearned to gain fortune or to compass any purpose at a bound. With a people of less moral stamina disunion influences would have prevailed and the world would have seen the fiasco of an independent state on the Pacific coast. But that rare judgment and foresight which comes with the Anglo-Saxon strain in American blood again prevailed. Some of the old Bear Flag party emerged again and gave vent to their anger in violent language; but these manifestations were merely the froth on the surface. Loyalty to the Union before they formed an actual part of it was as strong as it was eleven years later when Sumter was fired on.

Five weeks after California became a State the news reached San Francisco. The Panama mail steamer *Oregon* was sighted one October morning by the lookout on Telegraph Hill. He rubbed his glasses to make out what had transformed her familiar lines. Surely she was dressed in all her bunting, and now as she entered the harbor the rapid discharge of her

gun conveyed the long-expected news. Old pioneers cannot speak with unmoistened eyes of the scene that followed. Nerves had been strung to so high a tension that the rebound demanded violent exercise. The whole city swarmed to the water front and the hills around it. Merchants rushed to close their stores as they did on that other day, sad and long to be remembered, when the news came over the wires that Lincoln was assassinated. By a common impulse every one ran to the old Plaza. There were cheers, shouts, ringing of bells, blowing of whistles, and booming of guns. Provident passengers who brought copies of New York newspapers sold them readily for five dollars a copy. At night the young city was ablaze with bonfires, illuminations, and rockets.

By steamer, stage, and pony express the news was carried to all parts of the State. On many roads there was keen opposition between rival stage lines, and this led to lively races to see which should be the first bearer of the welcome news. Crandall was one of the pioneer stage drivers who with Foss and "Hank" Monk made a reputation for daredevil skill in handling six-horse teams on bad mountain roads. He started for San Jose, the morning after the news reached San Francisco, with his coach decked with flags. Governor Burnett was beside him on the box. Down they dashed through the level Santa Clara Valley, then one wide tawny plain, unbroken by fence or farm-house. Behind them came the rival stage, its driver urging his Mexican mustangs to their utmost speed. As Crandall's coach passed the houses on the road all on board swung their hats and shouted "California is admitted to the Union!" and the cheers that rounded out this shout were taken up by the delighted people. Ex-Governor Burnett is an old man now, but he grows young again when he describes this race, full of excitement to the very end, when Crandall dashed up to the main hotel in San Jose in a cloud of dust, like one of the Homeric heroes, the victor in one of the hardest stage races ever run in this country.

The formal celebration of the admission was held on September 29, and was the first of the annual commemorations of the birthday of the State that have become a feature of California life. San Francisco was young, but it showed then that passion for picturesque street spectacles which has made its parades unique and noteworthy. The place of honor in the procession was given to the native Californians, who had come so cordially under the new régime. They were well represented by a band of young men, superbly mounted and richly dressed, who carried a blue satin banner with

the inscription in gold letters, "California: E Pluribus Unum." Then came the pioneers; not old and bent as to-day, but in the full strength of young manhood. They bore a banner with the State seal and the inscription, "Far West, Eureka, 1846. California Pioneers, organized August, 1850." The banner also bore a device of historical significance—a typical Yankee stepping ashore and meeting a native Californian, with serape thrown over his shoulder and lasso in hand. After the army and navy officers, the Mexican war veterans, and the civil dignitaries came the unique feature of the parade—a large company of Chinese in gala costume of sky-blue, yellow, red, and brown silk blouses, with flowery skirts such as are worn at their annual New Year ceremonies, and carrying a blue silken banner with the legend, "The China Boys." Following them came a large car in which were seated thirty boys, each representing a State, while in the center was a white-robed girl, like a fairy in the Christmas pantomime, upon whose gleaming breastplate were the words, "California: the Union, it must and shall be preserved." The volunteer fire department, that had already had one great battle with a fire that well-nigh swept the city off the sand dunes, turned out in great force on the Plaza. There were the usual exercises—an oration and a poem that fired the patriotic heart.

Forty years seems a brief period in pastoral California, where the hand of time moves as slowly as in the land of the Aztecs; but in California as a State it has seen marvelous changes. The young Californian has been accused of lack of reverence. The climate makes him precocious, and he has a keen eye for the material side of life; yet withal he has a large fund of sentiment, and no South Carolinian in the days before the war was ever prouder of the Palmetto State than is the youthful Californian of this commonwealth, whose birth marked a period of national travail that ended only with the freedom of four million slaves. A touch of provincialism there is in this State pride, for to most of these younger men the blue line of the Sierras is the eastern boundary of the only world they know; yet their perfect confidence in everything Californian is, in its way, a source of strength. To General A. M. Winn first came the idea of a union of the young men born in California, in order to perpetuate the memory of the founders of the State. The society, formed at his suggestion in 1875, under the rather florid name of "Native Sons of the Golden West," began with a roll of twenty-one members. Its purposes found favor; the 9th of September—the anniversary of the admission of California to the Union—was made a legal holiday through-

out the State; every year has seen it observed by the Native Sons, who have increased in fifteen years to 8000 members.

The New England Society of California Pioneers visited San Francisco last May, and the old men looked vainly for landmarks that they could identify in a city which has sprawled over miles of sand dunes and has neared the Golden Gate. San Francisco's growth in these forty years is typical of the enormous progress of California. Changed is the old order of mining life, gone forever the supremacy of the pioneer gold hunter with pan and rocker; but in his place is the scientific mining engineer, using machinery that is the wonder of the world; the wheat-grower, whose steam plow

turns a mile-long furrow and whose harvest hands camp at night in the vast fields over which they move; the fruit-grower, who has made the level valleys and even the steep foothills smile with fruitage of orange, lemon, fig, grape, and apricot; and, best of all, the tiller of small farm and orchard, who is proving that in this Italy of the far West may be seen the ideal country life, with work out-of-doors which refined women may share in without risk of coarsening their hands or their natures. California to-day, with its thoroughly American people, of tireless energy and equally great self-control, is the best monument to the wisdom of the pioneers who laid the foundations of its statehood.

George Hamlin Fitch.

CALIFORNIANA.

Light on the Seizure of California.

WITHIN the last few years much has been done by local historians, notably by Mr. H. H. Bancroft's collaborators, to clear up the mysteries that used to obscure the story of the seizure of California by our naval forces in 1846. The present note intends to offer one additional scrap of information bearing upon the matter. By way of introduction I shall venture to summarize, in unoriginal fashion, the now well-ascertained facts concerning the naval capture of California, leaving aside wholly any detailed discussion of evidence until I come to my one additional piece of evidence itself.

The Polk Cabinet, as is well known, planned the Mexican war for some time before it broke out. They devoted, of course, much attention to the best way of obtaining possession of the Mexican "Department of Upper California," a province which was not only very sparsely inhabited, but which also had a very loose connection with the mother country, and a very imperfect sense of loyalty to the central government, so that its seizure, whenever hostilities should break out, seemed to be no very difficult matter. In the Sacramento Valley were already a few hundred American settlers. Our recently appointed consul at Monterey, Thomas O. Larkin, a shrewd Yankee trader, who had done business on the coast for a number of years, was in intimate personal relations with several prominent public men among the Californians. He wrote frequently and voluminously to the State Department, trying to convince his official chiefs that the Californians were distracted by their own petty provincial political quarrels, that they had little feeling for the central Mexican government but jealousy or dread; and that, with some care, the land could be won away from Mexico, on the breaking out of the war, by the consent of the Californians themselves, and without bloodshed. In consequence of these representations the Cabinet instructed Commodore Sloat, in command of the Pacific squadron, to hold himself in readiness for the first news of hostilities, and then, without delay, to proceed to California, to seize Monterey and San Francisco, and to invite the Californians to change their allegiance.

Beyond the actual seizure of the defenseless ports, which his overwhelming force might be expected to accomplish without any collision of arms, he was instructed to show no violence, and to do everything in his power to conciliate the inhabitants, and to "encourage them to adopt a course of neutrality." "It is rumored," said Secretary Bancroft in one later communication, "that the province of California is well disposed to accede to friendly relations. . . . You will take such measures as will best promote the attachment of the people of California to the United States."

Meanwhile, with the same purpose in mind, the Government sent to Larkin, in October, 1845, a secret despatch, which was committed to memory by a special agent, Lieutenant Archibald Gillespie, and so carried by him across Mexico for oral delivery. A written duplicate of this despatch was sent around the Horn on one of the naval vessels bound for the Pacific. Both Gillespie's oral version of his secret instructions, as taken down from dictation at Monterey, and the duplicate afterwards received by Larkin, are now extant, and agree down to one or two very slight verbal differences. The despatch instructed Larkin and Gillespie to cooperate in an intrigue intended to win over the Californians, who, even in case the outbreak of the war should be delayed, were to be induced, if possible, to declare their independence of Mexico, and were to be assured of the support of our Government in any such action.

It is perfectly sure that the instructions of the Government in no wise contemplated or authorized any revolt of the American settlers in the Sacramento Valley against the Californians, or any employment of force beyond the already mentioned seizure of the wholly defenseless ports by Sloat upon the receipt of news of actual war. As is well known, however, Captain Frémont's exploring party was at the time of Gillespie's arrival still within the territory of California. Frémont had come during the winter, and had requested permission of the authorities at Monterey to rest his party "on the frontier of the department." A controversy which had grown up out of this request, and which had been in large measure provoked by mem-

bers of Frémont's party, had led Castro, as Prefect of Northern California, to order Frémont out of the department altogether. After considerable waiting and defiance Frémont had begun to obey the order, going northward through the Sacramento Valley. Gillespie arrived at Monterey on April 17, 1846, and after delivering his instructions to Larkin proceeded to follow up Frémont, in order to acquaint him with the Government plans, and to deliver to him private letters from the Benton family. Gillespie actually overtook Frémont in the Klamath region. This act of Gillespie's was indeed part of his official mission, but there can be no doubt that the only instructions which he had to convey to Frémont were the ones already made known to Larkin, namely, to coöperate in a peaceful intrigue for the purpose of inducing the Californians to leave the Mexican allegiance, and be ready for our formal seizure of the territory.

Frémont, however, who had his own personal interests to consider, and who had already quarreled with Castro, now unfortunately decided upon a course of action directly contrary to the instructions, trusting apparently to the nearness of the Mexican war itself to shield him against all the consequences of his disobedience. His trust was well placed; for he has ever since been popularly regarded as the chief servant of his country in the winning of California. He even induced Gillespie to coöperate with him. What they did was to return southward into the Sacramento Valley and stir up the American settlers to the well-known "Bear Flag" revolt, a movement which was brought about through flagrant misrepresentations of the purposes and hostile preparations of the Californian leaders, and which was a wholly unprovoked assault upon a peaceable people. That it led immediately to but little bloodshed was due to the fortunate fact that, before it had gone far, Sloat appeared at Monterey with news of the outbreak of war and seized the ports. Meanwhile it is certain that the whole Bear Flag affair was a distinct hindrance to the successful seizure of California, and to the later pacification of the province; and that the chief mover in this affair, in all his hostile acts up to July 7, when Sloat raised the American flag, is to be credited only with having wrought mischief, endangered American interests, and disobeyed his instructions.

Sloat, meanwhile, who had been waiting at Mazatlan for news of the outbreak of war on the Rio Grande, went through a series of experiences which have since led to numerous legends. Near him, on the Mexican coast, was the English flag-ship *Collingwood*, with Admiral Seymour on board. An understanding grew up among the American officers, either at that time or later, that Seymour was waiting, like Sloat, for news of hostilities on the Rio Grande, and that he no doubt had instructions "to take California under English protection," as the thing is usually stated, as soon as war should break out. When Seymour appeared in Monterey Bay, some two weeks later than the date of Sloat's arrival, and when after one week's stay, and after the interchange of the customary courtesies, the English flag-ship sailed away again, the tradition gained ground that there had been a "race," and that, in case Seymour had come in first, the territory of California would have passed into English possession. For this whole tradition no reasonable and truthful evidence has ever been ad-

vanced, except the actual presence of Seymour on the coast as described. Numberless are the mutually inconsistent and wholly worthless tales that have been told about incidents before, during, and after the "race." Many of these tales are ordinary family legends, narrated by relatives of this or that officer concerned. A decidedly careful examination of several of them has convinced me, as it would convince any impartial person, of their insignificance. They are usually in the most obvious conflict with known dates and with known events.

The facts themselves, so far as they are known, are as follows (compare the account written by one of H. H. Bancroft's ablest collaborators, Mr. Henry L. Oak, in Bancroft's "California," Vol. XVII. of the "History of the Pacific States," p. 205 *seq.*): Sloat heard of hostilities on the Rio Grande as early as May 17. But the commodore showed himself throughout this whole affair a timid and irresolute man, so far as concerned the fulfilment of his very explicit instructions; for he waited in entire inactivity until May 31, when he heard further news, this time of General Taylor's battles of the 8th and 9th. He then decided that this must mean that "outbreak of war" which his instructions contemplated. He accordingly wrote to Secretary Bancroft, "I have received such intelligence as I think will justify my acting upon your order — and shall sail immediately to see what can be done." Hereupon, however, Sloat actually did nothing, and remained where he was until June 5, when the news came of the capture of Matamoras. Even such startling evidence of the reality of the war only led Sloat to write on June 6 to Bancroft, "I have upon mature reflection come to the conclusion that your instructions will not justify my taking possession of California, or any hostile measures against Mexico." And, to cap the climax of this irresolution, the log of Sloat's ship, the *Savannah*, contains as the entry of the next day, "June 7.—News received of the blockade of Vera Cruz by the American squadron; at 2 P. M. got under way for Monterey."

Nor was Sloat's mind much relieved when, on July 2, he reached Monterey. Here, of course, he learned how the Bear Flag had thrown everything into confusion in the north. Both Larkin, who was perplexed by Frémont's disregard of known instructions, and Sloat, who was now looking to Larkin's instructions for new light, were for some days in doubt as to what was to be done. At length, July 7, Sloat made his decision, landed his forces, and took possession of the port. The seizure of San Francisco Bay and the occupation of several points in the interior immediately followed. Commodore Stockton, arriving July 15, relieved Sloat at the latter's request, and after an interview with Frémont, who reached Monterey with the "Bears" on July 19, the new naval commander decided to seize the southern towns and harbors as well, and to proceed, in as imperious and hostile a spirit as possible, to the entire subjugation of the country. The result of this new policy of official hostility to the very inhabitants whom all the American officers had been instructed to "conciliate" was the arousing of such bitterness that in the following winter a revolt occurred in the south, much unnecessary blood was spilled, and the seeds of permanent hatred between the Californians and their conquerors

were sown. But of the events later than July this note need not further treat.

We have now seen how speedily Sloat did his share of the "racing" with Seymour. It remains to examine Seymour's share in the same international contest. In favor of the supposed English scheme for the seizure of California in 1846 there is, as I have said above, no known evidence whatever, except the actual presence of Seymour on the coast. I say this after long and diligent search for such evidence, and I venture to defy any one to produce any other but legendary testimony for this favorite element in all the legends of the conquest of California. Seymour was probably on the Mexican coast to watch our fleet with special reference to the Oregon complications, whose settlement was not made known in these remote regions until a time later than this. The stories have placed the *Collingwood*, during the time of waiting for the "race," sometimes at San Blas, sometimes at Mazatlan, where she lay "alongside" Sloat's *Savannah*. Anxious to get what information I could about the *Collingwood's* actual movements, I sometime since asked Mr. Clements R. Markham, the well-known traveler and historian, to give me further advice. He courteously took considerable trouble to aid me. Why he could do so with particular success will appear from the following letter, which, with his inclosure, I now print as my additional piece of evidence. It has before been referred to by me in an article in the "Nation," but has not before been quoted in full.

21 ECCLESTON SQUARE, S. W.
LONDON, 20 MAY, 1887.

MY DEAR MR. ROYCE: I have just finished reading your "California." . . . I was particularly interested in the pages devoted to a discussion of Admiral Seymour's proceedings at Monterey, because, as I think I told you, I was then serving as a very young midshipman on board the *Collingwood*. I believed your conclusions to be correct; but, to make certain, I referred the matter to the present Admiral Lord Alcester, who was then Lieutenant Beauchamp Seymour, and flag-lieutenant to his uncle on board the *Collingwood*. I inclose a copy of what he has written to me on the subject, and which he says you are at liberty to make any use of you see fit.

Ever yours, very truly,

CLEMENTS R. MARKHAM.

[Inclosure.]

FROM ADMIRAL LORD ALCESTER TO MR. CLEMENTS MARKHAM.

19 MAY, 1887.

Mr. Royce . . . is perfectly correct in his surmises. There is not one word of truth in the statement to which he alludes, for I know for certain that Sir George Seymour never had orders to hoist the English flag in California, or to assume the protectorate of that dependency of Mexico in 1846, or at any other time. Neither was there a race between him and Commodore Sloat as to who would reach Monterey first. If we had wanted to precede the *Savannah* there we should not have begun by going in an opposite direction for several days. For I see by my journal that we left Mazatlan (where the *Savannah* was) on the 24th of May, 1846, arrived at San Blas, which is to the southward, on the 27th, did not leave San Blas until June 13, and arrived at Monterey on July 16. Sir George Seymour treated me with confidence on public matters, and I was completely *au fait* of all questions with which he had to deal, and of the orders he received.

We went to California to protect English commerce and interests, having heard of the proceedings of the party which hoisted the so-called "Bear Flag." As to what Sir George Seymour is suggested to have said to American naval officers as a harmless jest after dinner, it is simply impossible. Fancy him, of all men in the world, a *preux chevalier* of the old school, and who was

sobriety itself, taking American officers into his confidence and telling them what he never would have told to his own captains even.

As for what the foregoing letter proves, it must be remembered that when the *Collingwood* left Mazatlan to sail south, on May 24, news of the first hostilities had been in Sloat's hands for one week, and that when Seymour left San Blas, June 13, Sloat was already six days out of Mazatlan. It is impossible that Seymour should not have been advised of the hostilities on the Rio Grande before so late a date. Lord Alcester uses terms in his, not in our sense, when he calls the news that decided Seymour to go north news of the "Bear Flag" party. This news must have referred to the earlier quarrel of Frémont and Castro, which, of course, an English observer would not easily distinguish from the American settlers' revolt that followed.

I need hardly say in closing how much I feel indebted to Mr. Markham for this piece of information, which would have saved us many false reminiscences if it had been known to our own histories thirty or more years ago.

CAMBRIDGE, MASS.

Josiah Royce.

The California Boundary Question in 1849.

UNDERSTANDING me to have been personally connected with the organization of the State government of California, THE CENTURY has honored me by asking whether I could furnish any fresh matter "from the inside" relating to that important event.

My connection with it was simply as a delegate from San Francisco to the Constitutional Convention held at Monterey in July, 1849, under a proclamation issued by Brigadier-General Riley, U. S. A., the acting governor of California. Most of the important debates were in committee of the whole, in which I usually presided as chairman, and, in that capacity, I had the honor of putting the question on the clause prohibiting "slavery or involuntary servitude" in the new State, and of announcing a unanimous vote in its favor. Some of the delegates were from Southern States; but Dr. William M. Gwin, from Mississippi, under whose guidance they evidently acted, and who had openly proclaimed his intention of being elected a United States senator from the new State, was too shrewd a politician to risk, by a pro-slavery vote of himself or of his friends, a defeat in his senatorial campaign. A decided majority of the people on whose votes he depended had come from Northern States, and would presumably oppose the admission of slavery.

I regret to state that, owing to the constant pressure of professional business in San Francisco from 1848 to 1853, I had no time or opportunity to inform myself as to any of those "inside" facts and influences that go to make up *l'histoire inédite* of every important political event; but I recollect distinctly one incident which, though in some degree personal to myself, may be thought to be not devoid of interest.

It was in the last days of the Convention. Every clause of the constitution had been fully debated and agreed to in committee of the whole and reported to the Convention, where the entire constitution had been read twice and finally adopted on the third reading.

But a terrible blunder had been committed. California, as part of the territory of Mexico, extended to

the Rocky Mountains, and the last article of the constitution had made the Rocky Mountains, instead of the Sierra Nevada, the eastern boundary of the new State. This extravagant claim had not been started until a short time before the close of the debates, it being apparently taken for granted that the State would claim only to the Sierra Nevada. Before the final vote on the Rocky Mountains boundary line, the article had met with vigorous opposition on the part of some of the wiser heads in the Convention, but it had passed, nevertheless, by a decided majority. I was afterwards informed that this boundary line had been adopted at the instigation of the clique of members from the Southern States, with the view to a subsequent division of California by an east-and-west line into two large States, each having its share of the Pacific coast; and further, to the future organization of the southern of these two States as a slave State—an event that would be quite certain, inasmuch as most of the settlers in that part of California had come, and would continue to come, from the South or Southwest. Thus the new free State would be offset by a new slave State.

But the deed was done, and it was apparently irrevocable. The final vote on the boundary article had been taken and it had become a part of the constitution. No member that had voted with the majority had moved for a reconsideration, and no one of the minority had thought of changing his vote in order to enable him to move for such reconsideration. What was to be done?

For a considerable time I had been subject to periodical attacks of nervous sick headache caused by malarial exposure during the Mexican war. For three days I had been ill in bed with one of these attacks, which was of uncommon violence, when, to my surprise, I was visited by two members of the Convention, with a message that I must go there without a moment's delay, as another and decisive vote was about to be taken on the boundary question. I protested in vain my inability to do any speaking, or even to rise from my bed. They insisting, I swallowed a formidable dose of laudanum, and in a few minutes its quieting effect enabled me to rise and dress and accompany them to the Convention. On the way I was informed that the friends of the other boundary line had hit upon an ingenious device by which the battle might still be won, and which was this: the Rocky Mountains boundary article, it was true, had had its final passage on the third reading, *but the vote to engross it had yet to be taken*. In other words, substantially, the convention had not yet voted to *authenticate* the article as a part of the constitution, without which vote it would have no practical operation. It is true that when a bill has been passed on a third reading the vote to engross usually follows, of course, as a mere matter of form. But the ground was taken that it is not necessarily so, and in the present case there was some hope that were the motion to engross opposed, the sober second thought of some of the more intelligent members that had voted for the article would impel them to come to the rescue and help to defeat it. The Convention on our arrival was in the midst of a very excited debate, but I was soon able to obtain the floor. As to what I said I have not the slightest recollection, except that I dwelt earnestly on the improbability of the admission of a new free State covering such an immense

territory as the Rocky Mountains boundary would give us, in view of the fierce and persistent opposition it would encounter from the Southern members in Congress. I was afterwards warmly complimented for my speech; but I have never taken any credit to myself for it, well knowing that whatever there may have been effective in it was due to the influence of the narcotic I had taken.

To conclude: the motion to engross was defeated, and Article XII. as it now stands, making the Sierra Nevada substantially the eastern boundary of the State, was afterwards introduced and adopted.

POSTSCRIPT.

I HAVE read carefully, and with great interest, the article by Mr. G. H. Fitch entitled "How California came into the Union," and can vouch for its general accuracy. Of most of the facts stated I had personal knowledge. But in justice to the "Legislative Assembly of San Francisco" (*quorum pars fui*) let me add a few words.

It is true, as stated, that General Riley issued a proclamation declaring it to have "usurped powers vested only in Congress."

Under Mexican law, the pueblo of San Francisco extended from San Francisco to San Jose, a distance of fifty miles, more or less, and its governing body was the "ayuntamiento." In the spring of 1849 there were two distinct ayuntamientos, each claiming to be the rightful one. The result of this state of things was, of course, virtual anarchy. There seemed to be no near prospect of any action by Congress to give us a legitimate government. Under these circumstances the people of that district, not recognizing any *civil* authority as residing in General Riley, deemed themselves entitled to frame some sort of a government for the protection in the mean time of their lives and property. They accordingly established a provisional one, consisting of a legislative assembly (in which I had the honor to preside as speaker), three magistrates, a treasurer, and a sheriff. The leading and most able member of the assembly was Judge (afterwards Governor) Peter H. Burnett, one of the purest of men, as well as a sound lawyer. The instant General Riley's proclamation was received, calling for a convention for the formation of a State constitution, the assembly issued an address to the people of California recommending them to obey it, and then, by its unanimous vote, the provisional government was dissolved.

On these facts I leave it for your readers to decide whether the Legislative Assembly of San Francisco "usurped powers vested only in Congress."

WASHINGTON, D. C.

Francis J. Lippitt.

The Date of the Discovery of the Yosemite.

BY ONE OF THE PARTY OF DISCOVERY.

IN an article written in Mariposa, California, for "Hutchings' California Magazine," at an early day, when the events to which the paper related were fresh in memory, I stated that the Yosemite Valley was discovered in March, 1851. I did not fix the day of the month, but remembered that the discovery occurred during a long-continued rain and snow storm at about

the time of the vernal equinox. That statement was verified in writing at the time by James M. Roan and George H. Crenshaw, two comrades who with the writer were the first white men to enter the valley, and who were then members of the California legislature. The few members of the Mariposa Battalion who were on the first expedition to the mountains and the valley were not likely to forget the snow-storms encountered, nor the very deep snow through which they passed. Major Savage, our commander, had waited at our camp in the foothills, knowing that rain below indicated snow in the mountains, and that by marching in and through the storm we would be most likely to surprise and capture the hostile Indians. We made a night march to the south fork of the Merced River, and at the summit of the Chow-chilla Mountain pass found the snow at least four feet deep, but as we descended through the dense forest to the stream the snow lessened to a few inches in depth. At daylight the storm had ceased, but it was renewed at intervals for several days in succession. Fortunately we had provided barley for our animals, and they did not suffer for lack of forage.

We captured one Indian village on the left bank of the south fork, and crossing over to the right bank assembled on a river table now known as Bishop's Camp, named for Sergeant Samuel A. Bishop, of San Jose, California. This table has a southern exposure that does not allow the snow to remain long, but at that time, while in camp, the snow covered the ground to a depth of three or four inches.

By advice of Pon-wat-chee, chief of the village captured, Indian runners were despatched to bring into headquarters the Indians in hiding; but no response was made by the Yosemite. Upon a special envoy being sent, Ten-ei-ya, their chief, came alone, and stood in dignified silence before one of the guard until ordered into camp. Ten-ei-ya was immediately recognized and was kindly cared for, and after he had been well supplied with food Major Savage informed him of the orders of the Indian Commission, under which we were acting. The old sachem was very suspicious, but finally agreed to conduct an expedition into his beloved valley.

Only a few men were required for this service, though all volunteered, notwithstanding it had been represented that horses might not be able to pass along the rocky trail. Finally a foot race was ordered to determine the fleetness, and consequent fitness, of those most anxious to go; some, in their anxiety to win the race, ran barefoot in the snow.

Led by Ten-ei-ya and Major Savage, the expedition started next morning on a trail of lowest altitude, but we were compelled to pass through snow from three to five feet deep in places, and in a few instances, where the snow had drifted, even of greater depth. Only small detachments were finally taken by the commanders of Companies B and C, Boling's and Dill's, as the trip was looked upon as likely to be only an exploration of some mysterious cañon. The importance of recording the date of the discovery of the Yosemite did not impress itself upon my mind at the time, for I became completely absorbed in the sublimity of my surroundings. It seemed to me that I had entered God's holiest temple, where were assembled all that was most divine in material creation. For days afterward I could only think of the magnificence, beauty, and grace of the

waterfalls, and of the mountain scenery; and an almost total lack of appreciation of the event on the part of Major Savage caused me to think him utterly void of sentiment.

Such experiences were not likely to have been soon forgotten, and hence my surprise when I saw in print the statement that the Yosemite Valley was first entered by the Mariposa Battalion on May 5 or 6, 1851, when the rainy season would have been past. This statement is said to have been officially made by our adjutant, and, if so, must refer to the date of our second entrance, as our adjutant was not with us on our first entrance, or discovery. I have never seen the report referred to, but will suggest that if made by our adjutant there should have been no doubt left as to whether it was the 5th or 6th of May when he first saw the Yosemite, for an adjutant's report, like a ship's log, should be accurate. I do not wish to call in question the motives of our officers, but our little squad who first entered the valley should have the credit of the discovery, let it be what it may.

The cliff now known as El Capitan had been seen by the writer from Mount Bullion as early as 1849, but nothing could be learned concerning it. After the discovery we were most positively assured by Ten-ei-ya and by other Yosemitees that we were the very first white men who had ever entered this valley, and that it could not have been entered without their knowledge. Subsequent observations of Indian methods of placing sentinels and wafting signals by smoke confirmed the old chief's statements. Owing to a slight fall of snow during the second night of our encampment in the valley, we left in the morning, fearful of being cut off from our base of supplies.

After a campaign against the Chow-chillas, on the San Joaquin, of about six weeks duration, we returned to the Yosemite under command of Captain John Boling, with a part of Captain William Dill's Company C added to our own. Upon this occasion, about the 5th of May, 1851, we made the valley our headquarters until after the recapture of Ten-ei-ya's band at Lake Ten-ei-ya on or about June 5, 1851. After his surrender in March Ten-ei-ya had escaped. Upon our return to the Fresno I accompanied Captain Boling on his way with despatches to Colonel Frémont and the Indian Commission, who in the mean time had finished their work in the San Joaquin Valley and had gone to Los Angeles. Colonel McKee of the Commission asked the writer concerning the heights of cliffs and waterfalls, and when I gave the most moderate estimates my judgment would allow, his pitying look for my lack of judgment warned me not to invite the world's scorn. I had estimated the altitudes far below the reality.

The lapse of time intervening before the public would believe in the unique character of the Yosemite discouraged effort to inform the literary world, and the data preserved were for the most part withheld from publication.

Angivine Reynolds, of the Mariposa "Gazette," published in the county in which the Yosemite Valley is situated, once wrote me, asking concerning its discovery, saying, "Can you give me the date?" I of course could not. Hoping to obtain something definite, I wrote to S. M. Cunningham, then guardian of the Big Tree Grove, who had in early days been a business asso-

ciate of Major Savage, and his reply only serves to show the errors into which the old pioneers had been led. Mr. Cunningham said, "Boling's and Kukendall's company's first trip to Yosemite Valley, according to Mr. M. B. Lewis's adjutant's report, was early in April, 1851." The fact is, Kukendall's company was never in the Yosemite, but was on duty on King's River and in the Kah-we-ah, or Four Creeks country. I had, previous to this correspondence, been induced to take up the subject of the discovery by seeing numerous errors concerning it, and had written to Adjutant-General L. H. Foot of California for any records in his possession. The reply of General Foot was, "The records of this office, both written and printed, are so incomplete that I am not aware, from consulting them, that the organization to which you allude [the Mariposa Battalion] had existence." This reply decided me to record the events which led to the discovery of the valley, and my book, "The Discovery of the Yosemite," is the result.

In his valuable work, "In the Heart of the Sierras," Mr. J. M. Hutchings, after giving me full credit in the preface, says, "I have been able to supply the missing links needed for the completion of the historical chain of events so much desired and so unavailingly sought after by Dr. Bunnell concerning some of the valley's earlier history." Mr. Hutchings then introduces some valuable documents obtained from the journals of the California legislature, and quotes from Elliot's "History of Fresno County," with the idea of being accurate in his historical work. On page 56, referring to our first entrance into the valley, he says, "This was on May 5 or 6, 1851, although Dr. Bunnell incorrectly gives the latter part of March as the date."

An old California pioneer, as Mr. Hutchings is, should have remembered that the rainy season is over by May 5 or 6, and that with the exception of mountain storms no severe or long-continued ones occur so late. Our waiting on account of the rain at our camp in the foothills below Mariposa could scarcely have occurred in May, or have been forgotten by any of the expedition. Our major was talented, but unlettered,

and was dependent on his adjutant for all written communications, and these were frequently made long after the events to which they related. At the date of the discovery of the Yosemite our adjutant was not with us. As we were broken into scouting squads, an adjutant would have been no more useful in hunting Indians than would have been a drum-major, and consequently he was left at headquarters. Viewing the valley under snow and through a clouded sky, disappointed in his search for Indians, the only one found being an old squaw, our major seemingly had no appreciation of the Yosemite. Adjutant Lewis was a most genial, kind-hearted gentleman, but I never knew of any duties he performed in the field. The character of Major Savage's reports may be judged by his official estimate of the number of Indians engaged in hostilities (23,000).

Mr. Hutchings says, "The Mariposa Battalion was mustered out of service July 1, 1851." I have, however, an official statement from the War Department, Washington, D. C., that it was mustered out of service on July 25, 1851.

On page 272 the Mariposa Indian war is represented as the war of 1851-52. The first attack upon James D. Savage was made in May, 1850, his men were killed at the Fresno, in December of that year, and hostilities ceased with the capture of Ten-ei-ya and his band in June, 1851. Lieutenant Treadwell Moore, U. S. A., caught and executed five Yosemite murderers in 1852, but no war followed.

Comrade Starkey, of our old battalion, was murdered in 1853. His murderers were pursued by Under-sheriff James M. Roan, also a comrade, and when overtaken three of them were killed, and the others put to flight. Mr. Moore was compelled to notice the criticisms of the press, and in doing so, in 1854, became the first to draw attention to the wonderful character of the Yosemite scenery.

In 1855 Mr. Hutchings first visited it, and since that date has done more to bring the valley into public and appreciative notice than any other man.

HOMER, MINNESOTA.

Lafayette H. Bunnell.

TOPICS OF THE TIME.

Amateur Management of the Yosemite Scenery.

THE articles by Mr. John Muir in the present and preceding numbers of THE CENTURY on the Yosemite Valley and the proposed National Park will have failed of their natural effect if, in addition to exciting the wonder of the reader at the unique beauty of waterfall and cliff effectively portrayed in Mr. Muir's picturesque descriptions, they do not also stimulate the pride of Californians to an active interest in the better discharge of the trust assumed by the State in its acceptance of the Yosemite grant.

Mr. Muir shows abundantly how desirable it is to reserve for public use, under national supervision, contiguous lands, only less rich in natural wonders than the Yosemite. The reservation is not only desirable for its intrinsic value, but also because incidentally it will attract attention to the valley itself, and especially to the dangers to which it is exposed from the lack of

skill and knowledge in the commission which should be its most intelligent guardian. On this point Mr. Muir, who in California is recognized as the best authority on matters relating to the Sierra, adds his testimony to that of many other unprejudiced observers and lovers of the valley. He says:

Ax and plow, hogs and horses, have long been and are still busy in Yosemite's gardens and groves. All that is accessible and destructible is being rapidly destroyed—more rapidly than in any other Yosemite in the Sierra, though this is the only one that is under the special protection of the Government. And by far the greater part of this destruction of the fineness of wildness is of a kind that can claim no right relationship with that which necessarily follows use.¹

One might multiply testimony as to the injury already done to the floor of the valley were not the later boards²

¹ See p. 667 of the present number of this magazine; also "Destructive Tendencies in the Yosemite Valley," THE CENTURY for January, 1890.