

her barbaric bliss, is thrown wildly on our vision, by the author of "Two Years Before the Mast." Her geography, the habits of her citizens, and her resources, when little known beyond the furtive glances of the coaster, are faithfully delineated in the pioneer pages of Col. Fremont, Capt. Wilkes, and Mr. Robinson. Every traveller can find in California some new untouched feature for a sketch. They unroll themselves on the eye at every glance. With the reader they are rather sources of wonder and amusement, than solid advantage. Our globe was invested with no claims to utility till it had emerged from chaos; then verdure clothed its hills and vales; then flowing streams made vocal the forest aisles; then rolled the anthem of the morning star.

CHAPTER XXX.

THE GOLD-BEARING QUARTZ.—THEIR LOCALITY.—RICHNESS AND EXTENT.—SPECIMENS AND DOUBTFUL CONCLUSIONS.—THE SUITABLE MACHINERY TO BE USED IN THE MOUNTAINS.—THE COURT OF ADMIRALTY AT MONTEREY.—ITS ORGANIZATION AND JURISDICTION.—THE CASES DETERMINED.—SALE OF THE PRIZES.—CONVENTION AND CONSTITUTION OF CALIFORNIA.—DIFFICULTIES AND COMPROMISES.—SPIRIT OF THE INSTRUMENT.

THE surface gold in California will in a few years be measurably exhausted; the occasional discovery of new deposits cannot long postpone such a result; nor will it be delayed for any great number of years, by any more scientific and thorough method of securing the treasure. California will prove no exception in these respects to other sections of the globe where surface gold has been found. The great question is, will her mountains be exhausted with her streams and valleys? Will her rock gold give out with her alluvial deposits? The gold-bearing quartz is the sheet-anchor at which the whole argosy rides; if this parts, your golden craft goes to fragments.

When an old Sonoranian told me in the mines that the quartz *swetted* out the gold, all the young savans around laughed at the old man's stupidity; and I must say the *perspiration* part of the business rather

staggered my credulity, which has some compass, where there are no laws to guide one. But the old digger was nearer the truth than many who have more felicitous terms in which to express their theories. Though the gold may not ooze from the quartz as water drips from a rock, yet it is *there*, and often beads from the surface like a tear that has lost its way among the dimples of a lady's cheek. In other instances it shows itself only in fine veins; and in others still, is wholly concealed from the naked eye, and even eludes the optical instrument; but when reduced to powder with the quartz, flies to the embrace of quicksilver, and takes a virgin shape, massive and rich. The specimens of quartz which have been subjected to experiment, have yielded from one to three dollars the pound. These specimens were gathered at different points, in the foot range of the Sierra Nevada, and are deemed only a fair average of the yield that may be derived from the quartz.

The gold rocks of Georgia and Virginia yield, on an average, less than half a cent to the pound, and yet the profits are sufficient to justify deep mining. What then must be the profits of working a rock which lies near the surface, and which yields over a dollar to the pound! The result staggers credulity; and we seek a refuge from the weakness of faith in the more reasonable persuasion, that the specimens tested are richer than the average of the veins and quarries which remain. And yet the poorest specimen, which the casual blow of the sledge has knocked

from the sunlit peak, has seemingly more gold in its shadow, than the rock unhouseled from its mine in Virginia beneath forty fathoms of darkness. The only real defence for our incredulity lies in the presumption, that the gold-bearing quartz, like the surface deposits, has its confined localities. And yet Mr. Wright, our member of Congress from California, who has traversed the slopes of the Sierra, collected more specimens, and made more experiments than any other individual, is sanguine in the opinion that the gold-bearing quartz occupies a broad continuous vein through the entire extent of the foot range: and in this opinion the Hon. T. Butler King, in his lucid report, coincides. Still such a wide departure in nature from all her known laws, or capricious impulses, in the distribution of gold, leaps beyond my belief. In no other part of her wide domain has she deposited in the quartz rock a proportion of gold more than sufficient barely to compensate the hardy miner: and it is difficult to believe, that with all her affection for California, she has been so prodigal of her gifts. It surpasses the rainbow-inwoven coat bestowed by the partial love of the patriarch on his favorite child.

When a simple swain saw a necromancer break a cocoanut shell and let fly half a dozen canary birds, he remarked, there was no doubt the young birds were hatched in the cocoanut; but what puzzled him was, to know how the old bird could get in to lay the eggs. But a deeper puzzle with me is, that each and every cocoanut on this California tree, should

have a nest of canaries in it. And yet, with all these dogged doubts and dismal dissuasives, were I going to invest in California speculations, my inklings would turn strongly to quartz and stampers.

But I would send out no machinery which should have a piece in it weighing over seventy or eighty pounds: no other can be taken through the gorges, and over the acclivities to the lofty steeps where the quartz exists. The machinery which can be readily taken to the mines in Virginia, would cost a fortune in its transportation to the proper localities in California. The heaviest capitalist would find himself swamped before he got to work. Every piece must be taken over elevations where a man can hardly draw himself up, and where his life is often suspended on the strength of the fibres which twine the bush to the fissures of the rock. It should be so light as to render its removal to any new and more productive locality practicable, without involving a ruinous expense. A machine wielding the force of one man, and stamping on the spot, will be more productive than a forty-horse power working at a distance. All the transportation must be done by hand, for no animal can subsist among the steeps where the quartz prevail. Watch the eagle as he soars to his high cliff with a writhing snake in his beak, and then seize your light machinery and pursue his track. But, chained to a heavy engine, you would make about as much progress as that mountain bird with his talons driven into the back of a mastodon or whale.

COURT OF ADMIRALTY.

There were seven prize cases introduced into the court of admiralty at Monterey, on which condemnation and sale of the property libelled ensued. They were all clearly cases of legal capture, and came under the well-established rule of international law, that the hostile character attaches to the commerce of the neutral domiciled in the enemy's country. This rule is enforced by every consideration of sound policy and national justice. If the flag of the neutral can protect the property over which it waves, the entire commerce of the belligerent might assume this neutral garb, and be as safe in time of war as peace. To prevent such an abuse, the comity of nations has conceded the general principle, that all commerce flowing to or emanating from a mercantile house, established in the enemy's country, shall be deemed hostile, and be held liable to seizure.

A much more difficult question arose connected with the competency of the court. Its organization arose out of the exigences of war; the alternative lay between a recognition of its jurisdiction, and the extreme right of the belligerent to burn and sink his captures. Congress, in a declaration of war, virtually invests the executive with authority to prosecute it, and secure the ends for which it has been waged. He is necessarily entrusted with extraordinary discretion and corresponding powers; when, in the due prosecution of these measures, he finds himself

borne beyond their statutory provisions, and surrounded by exigences, lying at the time perhaps beyond the purview of legislative enactment, he must either forego the objects which animated the acts of the national legislature, or temporarily assume the responsibility which the crisis demands. He must authorize the maintenance of civil government in territories acquired by our arms, and judicial proceedings in cases of capture on the high seas, which cannot be brought within the jurisdiction of our established courts.

Nor is there any thing in such judicial proceedings which trenches upon the laws of nations; these laws never assume the right to define the powers vested in the executive of a realm. They claim no authority to bring into court the constitutional prerogatives of a prince or of the president of a republic; these are questions which appertain to the forms of government where the acts originate, where the power is exercised, and which must be disposed of as the wisdom of the nation may deem proper. It is enough that national law allows the captor at his peril to burn or sink his prize. Any executive measure to prevent such a precipitate result, and to subject the legality of the capture to the forms of a judicial investigation, is in accordance with every dictate of moral justice, and that strong sense of right which binds every civilized nation in a period of war as well as peace. Nor can the captor, from a want of jurisdiction in the court that determines his case, lose his prize. All the

claimant can do is to require him to appear before a court of competent authority, where the case must be examined and decided *de novo* on its merits. This great principle in maritime jurisprudence has been recognized and confirmed in the decision of the High Court of Admiralty in England. Half a century has rolled over that decision, but its authoritative force remains firm and unshaken as the base of the sea-girt isle.

It devolved on the court at Monterey not only to determine the prize cases submitted, but to assume an onerous responsibility in the disposal of the property libelled and condemned. The cargo of one of these prizes consisted of a large amount of cotton, paper, and iron, destined to a Mexican market, and for which there was no adequate demand in California. The highest cash bid that could be procured at a sale duly notified, was \$34,000. To this bid the property must be knocked down, or surrendered to a credit bid of \$60,000, involving conditions for the benefit of the purchaser wholly inadmissible in law. In this perplexity I bid the ship and cargo in; placed a faithful, competent agent and crew on board, and sent the whole to Mazatlan, which had become a port of entry. The result was, that after discharging all claims existing against the property, I paid over to the Secretary of the Navy, as the net proceeds of the sales, the sum of \$68,000, and stand credited with that amount on the books of the department. But this is rather a matter of personal service than a topic of public interest; it

is, however, connected with official duty, and exhibits one of the many forms in which private responsibility may be tasked in saving from sacrifice property confided to its care. A failure in such cases often brings ruin; and even success may be obliged to seek its meagre remuneration through the slow forms of legislative relief.

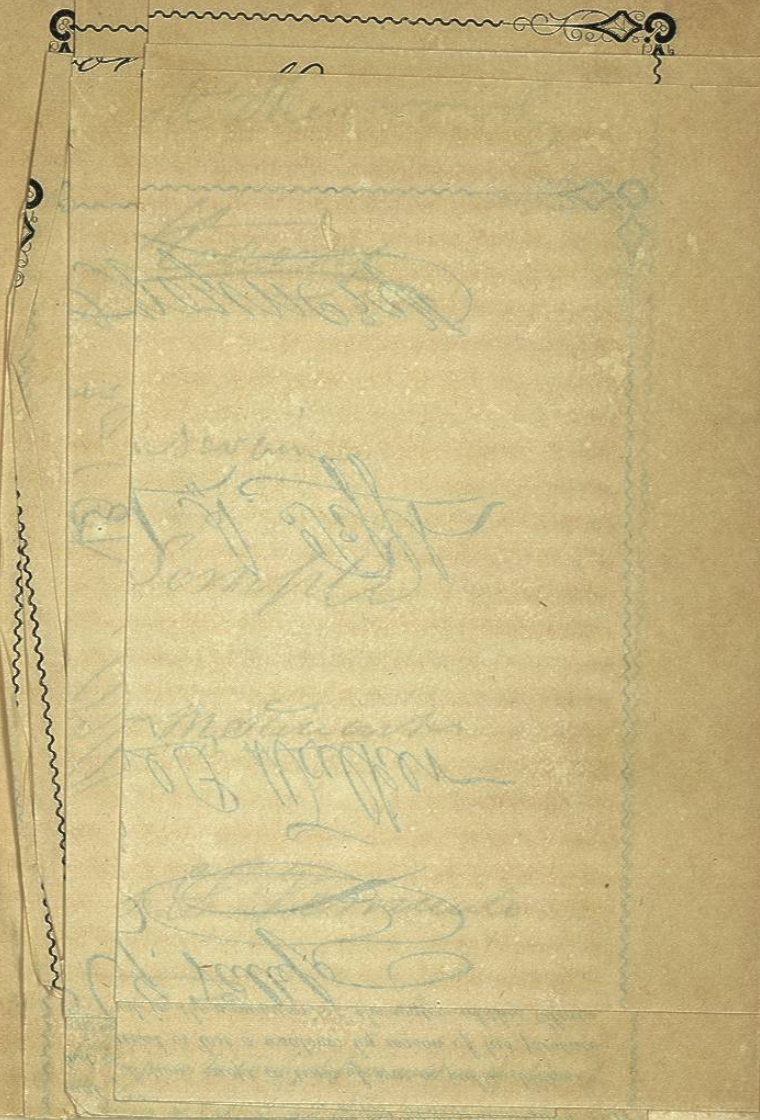
CONSTITUTION OF CALIFORNIA.

The desires of the people of California for a civil government, suited to their new condition, at length found utterance at the ballot-box. The best informed and most sedate of her citizens were elected in their several districts, and commissioned to proceed to Monterey, for the purpose of drafting in concert the provisions of a constitution. Never were interests, habits, and associations more diverse than those represented in this body. Unanimity could be reached only through the largest concessions. It was the conquerors and the conquered, the conservatives and the progressives; they who owned the lands, and they who worked the mines, assembling to frame organic laws which should equally secure and bind the interests of all. No cloud ever cast its shadow on equal incongruities grouped in cliffs and chasms, pinnacles and precipices, without having it broken into a thousand fragments. But the honest and patriotic purpose which animated the convention, raised that body above all national prejudice and local interests, and poured its spirit in blending power over its measures.

They had been commissioned to plan and perfect a constitution for California, and they were true to their trust. Day after day they labored at that eventful instrument; no passion, no prejudice disturbed their counsels: where opinions clashed, they were softened; where interests jarred, they were harmonized; where local feeling sought assertion, it was surrendered. Till at last, through this spirit of deference, compromise, and public concern, the instrument was finished. And now let us glance at its prominent features.

This constitution is thoroughly democratic; no prescriptive privileges, or invidious distinctions are recognized; the interests of the great mass fill every provision. Political and social equality are its bases, while the rights of private judgment and individual conscience flow untrammelled through its spirit. It is the embodiment of the American mind, throwing its convictions, impulses, and aspirations into a tangible, permanent shape. It is the creed of the thousands who wield the plough, the plane, the hammer, the trowel, and spade. It is the palladium of freedom, rolled in from the seaboard, and down from the mountains, and which has caught its echoes from every river, steep, and valley. It is the fraternal oath of a great people, uttered in the presence of God and the hearing of nations. Millions will turn their eyes to the fulfilment of its promises, when time and disaster have engulfed the monuments of their own splendor and strength.

The 13th of October, 1849, will never fade from the annals of California. It was not the sun, circling up into a broad and brilliant heaven, that gave this morn its brightness: it was not the thunder of the Pacific on the sea-beaten strand, that gave the day its impressive force: it was not the long heavy roll of the artillery that most signalized the hour; nor the harmony of the winds rolling their anthems from the steep forests that stirred most strongly the human heart. It was the silent signatures of the members of the convention to the constitution, which had been confided to their wisdom and patriotic fidelity. It was this last crowning act in an eventful moral enterprise, having its source in the exigences of a great community. I wonder not the old pioneer of the Sacramento pronounced it the greatest day of his life; I wonder not that the veteran "Hero of Contreras" forgot the laurels gathered on that field of fame, in the higher and nobler honors showered upon him in this day's achievements. It was his steady purpose and fearless responsibility that threw into organized forms and practical results, the plans and purposes of the people of California. He will find his reward in the happiness and prosperity of a great state, over which the flag of the Union shall never cease to wave. The tide of Anglo-Saxon blood stops not here; it is to circulate on other shores, continents, and isles; its progress is blent with the steady triumphs of commerce, art, civilization, and religion. It will yet flow the globe round, and beat in every



DECLARATION OF INDEPENDENCE

The 13th of October 1820, will be
the day when the people of the United States
will declare their independence from the
British Empire. The people of the United States
do hereby solemnly declare their independence
from the British Empire, and they do hereby
declare that the United States are now free
and independent States, entitled to all the
rights and liberties which belong to free
States.

It will yet flow the globe round, and beat in every

nation's pulse; morn will not blush, or twilight fade where its swelling wave is not; its guiding-star is above the disasters in which the purposes of man are sphered.

I regret my limits will not permit me to follow the Pacific squadron, under the command of Com. Shubrick, to the Mexican coast. The capture and occupation of Mazatlan has hardly stirred a whisper in the trump of fame, which has poured out such strains on the other side of the continent. And yet this achievement of the commodore had in it a spirit of wisdom, resolution, and firmness that might emblazon a much loftier page than mine. When the history of the Mexican war shall be written, and the services of those who shared in its hardships and perils be duly recognized, Com. Shubrick, with the gallant officers and brave men attached to his command, will receive a lasting meed of merited renown. It is now silently written in that international compact which terminated the apprehensions of one republic and sealed the triumphs of another. It was the waving of the stars and stripes on the strand of the Pacific which left a forlorn hope without a refuge, and coerced the terms of an honorable peace; and long may that peace remain unbroken by the monster of discord and war.