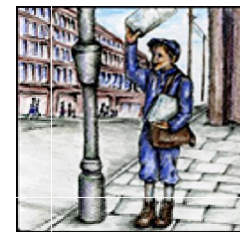
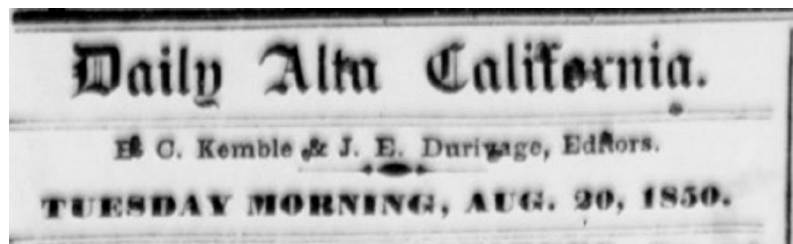


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SACRAMENTO SUBSCRIBERS.—Our subscribers in Sacramento City can have the *Alta* served at their residences, by leaving their names at the store of Still, Conner & Co., in the *Placer Times* Building, Second street. Subscriptions and advertisements will be received by them.

SAN JOSE.—Mr. BONACINA, (of Berford & Co's Express,) is duly authorized to receive subscriptions and advertisements for the *Alta California*. Subscribers will find their papers at his office, City Hotel and Mansion House, upon the arrival of the Express line of stages, daily.

We need make no apology for occupying the leading columns of our journal to-day with the valuable and entertaining paper appearing below. The subject is one of the earliest and deepest importance to California, and the perfect competence of the author to carefully and thoroughly consider that subject, will commend his article to the strictest attention of every Californian. The writer is doubtless known to most of our citizens as having rendered valuable service to our Government at Washington, by the full, learned and comprehensive Report which was made on a subject to which the present bears a close affinity. The complete and proper refutation of statements made on the floor of Congress by a distinguished member of the Senate, will be relished by our readers.

The plan and object of Mr. Soulé in his attack upon our State, is shown in his Amendment, which was as follows :

1. To divide the State on the line of 36 deg. 30 min.
2. To send back the Constitution for re-adoption north of that line, and to make it a condition precedent that an ordinance shall be passed waiving all claims to the public lands on the part of the State.

the part of the State.

3. To allow the Senators and Representative \$2,500 a year, in lieu of the traveling allowances now allowed by law to members of Congress.

4. To give to the State, on compliance with these conditions, the revenue collected on imports from the time of peace to the day of admission, which shall remain unexpended on that day.

Mr. Soulé, (from Louisiana,) is a Frenchman by birth, and a man of undoubted ability, as an advocate—a ready, fluent and pleasant speaker. His two day's speech was a most bitter tirade, delivered against our claims, in which he resorted to a species of argument more proper in the stump speaker than in the grave Senator. He seized upon the volume of California Debates, and took advantage of clerical errors to denounce and assail our rights. Not content with this, he proceeded to quote the opinions of different members of the Convention, in such a manner, by wresting a few lines from the context, as to do them injustice. This injustice was rendered still more apparent, by his attempt to draw the forced conclusion that these opinions were the sentiments of the people of California.

The course of Mr. Soulé towards California was neither generous nor just; nevertheless, he conducted the whole debate with that subtlety and shrewdness which is the *forte* of men who are in the habit of addressing juries. He is a lawyer, and he determined to neglect no advantage or quibble to secure his triumph. Though conversant with the usages of foreign courts, with the laws of countries, and foreign languages, it will be seen by the following article, how widely he dissented from the fair and truthful evidence which was before him, in debating the character of land claims and mining grants existing in Spanish possessions—in California.

Ownership of the Public Lands and Mines in California.

MESSRS. EDITORS—Mr. Senator Soulé of Louisiana, notwithstanding his known acquaintance with the Spanish language and laws, has fallen into some curious mistakes, in his recent speech in the Senate, concerning the actual condition of the mining laws of Spain and Mexico; and as his remarks are intended and calculated to prejudice the application of this State for admission into the Union, a brief correction of his mistakes may perhaps be worth so much space in your column. Mr. Soulé's idea is, that, in the ample permission which the Spanish sovereign gave to private individuals to discover, possess and work mines, the crown thereby parted with its entire patrimony in the mines. To establish this he

entire patrimony in the mines. To establish this, he quotes a law of Philip II. in the ordinances of the New Code (so called) respecting mines, and an extract from the Recopilacion of the Indias, as follows:

New Code, Ordinance, &c.—"In order to benefit and favor our subjects, and the natives of these kingdoms, and all other persons whatsoever, though strange to these kingdoms, who shall work or discover any silver mines whatsoever, discovered or to be discovered, it is our will and command that they shall have them, and that they shall be their own possession and property, and that they may deal with them as with anything of their own, observing, both in regard to what they have to pay us in the way of duty, and in all other respects, the regulations and arrangements ordered by this edict, in the manner hereinafter mentioned."

Laws of the Indies: title 19, lib. 4, law 1.—"It is our pleasure and will that all our subjects, whether Indians or Spaniards, and of whatever station, condition, rank or dignity (except governors, ministers, &c.) may work the mines freely and without impediment, in such manner that they may be common to all, and in all quarters and limits."

Mr. Soulé erroneously terms these extracts "*grants*," whereas they are but *laws*; and to support the conclusion which he draws from them, namely, that through them "the sovereign *divested himself of all right of domain* over the mining repositories within the possessions which Spain then held in the new world." He refers to the opinions of *Don Mateo de Lagunes*, judge of the audiency of *Quito*, and of the *Cardinal de Luca*. The works of these authors I am not acquainted with, *in extenso*, and am not aware that they exist in the United States. But I am acquainted with so much of them, as, I imagine, Mr. Soulé himself had access to, namely, what is quoted from them in *Gamboas's Commentaries on the Spanish Mining Laws*, and it is certain that, in these passages, his suggestion that they have set the opinion he advances in so "effulgent a light" as to be irresistible, is not borne out. At all events, those writers stand alone among the authors who treat of that subject, in the view they take of the effect of those laws. *Don Gaspare de Escalona*, author of an elaborate work (also quoted in *Gamboas*) under the title of *Garofilacio Real de el Reyno del Peru* (*Garophiliacium Regium Perubicum*) takes exactly the contrary view. So, also, *Colorano*, in his work on the government, laws and policy of the Indies, as well as others quoted by *Gamboas*. Likewise, *Gamboas* himself, whose *Commentaries on the 'New Code'* are the most celebrated works in the Spanish language on the laws of Mines and Mining, entirely disputes and confutes the opinion expressed by *De Luca* and *Lagunes*. Finally, the modern author, *Escriche*, (*Madrid, 1848*), remarking on this very law of the New Code, quoted by Mr. Soulé, says that it "leaves in its force

quoted by Mr. Soule, says that it "leaves in its force the said incorporation into the royal patrimony of all mines of gold, silver and quicksilver," (*dejaudo en su fuerza la reperida incorporacion en real patromonio de todas las minos de oro, plata y azoyne.*")

The weight of authority and reason, therefore, are against the position of Mr. Soulé, even supposing the existing laws of the subject to stop with his quotations. But they do not. The most remarkable of his mistakes is in quoting only a part of the law, and that the part that has least bearing on the subject matter of his discourse. His quotations relate to the mines of *old Spain*, except only the extract given from a former law of the *Recapilacion de Indias*; whereas, the great "mining repositories within the possessions then held by Spain in the New World," (which are the point of Mr. Soulé's remarks,) are covered by

distinct and more recent codes, to wit: that of Peru, and the celebrated Mining Ordinances of *New Spain*, adopted by royal order in 1783. Both these codes declare mines of the precious metals to be *property of the crown*. That of *New Spain*, which was the law in California, declares (title V, art. 1, "On the Radical Dominion of the Mines,") as follows: "mines belong to my royal crown, both by their nature and origin, and by their re-union provided in law 4, tit. 13, book 6, of the *Nueva Recopilacion*." The same code, to be sure, as did the laws which preceded it, provides a means by which the immediate property (or more properly, *usufruct*, since it is expressly provided that the mines should not be thereby "separated from the royal patrimony,") in mines might be transferred to individuals, but it would be too much, even for this illogical branch of Mr. Soulé's argument, to say that because a law provides a mode in which the domain *may be* gradually divested, that therefore and thereby the whole stands divested. And the fallacy of the opinion will be still more apparent when we consider, that if the crown were divested of its ownership, those mines which were not occupied would be without any ownership at all; mere waifs. On the contrary, the prescription of a means by which a subject might acquire the right, possession, or property from the sovereign, showed the ownership to be in the sovereign.

Not less unsound, in my opinion, is the *conclusion* to which Mr. Soulé advances, and which is the object and point of his argument, viz: that as the United States received the mines and mining lands of California in no other or better condition than he supposes Spain and Mexico held them before, they can have no other right in them than to levy a duty on their products, and can hold this right only by virtue of *sovereignty*; hence, if they part with their sovereignty, by admitting California, without an express stipulation, agreed to by California beforehand, *they lose all right in the mines whatsoever!*

The argument comes simply to this: that there is no *title* in these mines existing anywhere; that Spain, (and consequently Mexico), after the license given by Philip the Second, had no rights over them except of taxation, *by virtue of sovereignty*;* that this precarious and slippery tenure was all that they transferred to the United States; and hence, if they part with their sovereignty over the country, without an express stipulation for the reservation of so much of it, the mines, so far as Uncle Sam is concerned, are a *gone case*. Hence, California must not be admitted till the United States have proposed and this State consented, that the remnant of a right which Philip II. happened to reserve out of his before plenary power, may continue in the Federal Government, which has inherited it.

To an unsophisticated eye, the matter does not seem so desperate. Undoubtedly, according to the mining laws which formerly existed in this country, any man might go on the domain, and, having discovered a mine, acquire a property in a specified small portion of it, to continue as long as he worked and improved it. But when the land, on which those mines are, become the property of the United States, I apprehend the case was instantly different. I apprehend it was then a part of that property to which the Constitutional provision applies, and which Congress alone could dispose of, or provide for the disposal or regulation of. It is a mooted question whether the Constitution, in its political character, is extended to the territories except by special enactment, but I suppose there can be no doubt that this economic provision reaches to all property of the government, whether within or without the State organizations, and as much over the United States lands here as over a vessel of war in a port of China or elsewhere. I apprehend, then, that in order to secure the rights, whatever they may be, of the United States in the mines from lapsing, there is no necessity for postponing the admission of California, and exposing this people to the dangers of anarchy.

But, again, the argument of Mr. Soulé utterly fails: if the United States have no *property* in the mines of California, as he labors to show they have not, then no treaty stipulation can give it a right—no compact with this State can secure it in a right—to *tax* those mines; for that just and equitable constitution under which we were all bred, and for extension to us of whose protecting ægis we are all so anxiously seeking and patiently waiting, provides that “duties, imposts, and excises shall be *uniform throughout the United States*.” If the United States have not the *ownership* of the mines situated on the public domain here, then it is mere folly to talk about securing, by compact with the State, a right to collect revenue from them. The State could make no such compact; and if she could or did, the paramount law would override it.

ride it.

Another branch of Mr. Soulé's argument against the admission of our State, is to this purport: that if Congress should admit the State without a previous express contract, reserving the rights of the United States, all the public lands (that is, United States lands,) within the State would instantly be lost to the United States, and become the property of this State. Now this seems to be a mere confounding of the *rights of property* with the *eminent domain*. The change of sovereignty works a change in the eminent domain, but not in the rights of property; otherwise, the admission of the State, or the establishment of its sovereignty would work a forfeiture of the property of individuals as well as that of the Union. If the United States acquired any property in the territories ceded to them by Mexico, then I hold that is demonstrable that there are only three ways by which that property can by any possibility be divested; first, by law of Congress providing for its disposal according to the terms of the constitution; second, by treaty with a foreign power, in virtue of the potent character which the constitution imparts to treaties; third, by act of war, or by revolution, in virtue of the right of conquest, as acknowledged by the laws of nations. The first is the only constitutional mode: the others incidents of all proprietary rights in a power which has authority to make treaties, and against which war can be levied. I hold that the admission of this State will not bring into operation either of those three means; but that while the *sovereignty* of this country will depart (has departed?) from the United States and vest in the State, the *rights of property* of the United States will remain intact.

W. C. J.

SAN FRANCISCO, August 19, 1850.

* The argument of the Spanish law is to the reverse of this. The king, perhaps, held the *ownership* of the mines by virtue of his sovereignty; but the proportions which he exacted of their products, was not as a right of taxation, or by virtue of sovereignty, but *by virtue of his ownership*.

LAND O' CAKES.—Mr. Gregory, of the Express, presented us with a package of what we presumed to be newspapers, which on opening we found to be a liberal dispensation of delicious *fruit cake*, not to be outdone in honest purpose. We were puzzled to know, and inquired how we should present the contents of the supposed news parcel to the public. Our donor promised to undertake this if we would announce the fact that plenty of the same sort remained at the office of the Express, that it came "around the Horn," and is in prime condition, (and so it is!) for sale, etc., etc., etc.

TROUBLES WITH SEAMEN.—Not a day passes but wha
seamen are brought before the Courts for desertion

seamen are brought before the Courts for desertion. Yesterday four or five complaints were lodged in one court. Two Kanakas, who had deserted from the brig Henry Harbeck, were remanded into the custody of the captain, and a number of cases were taken under advisement by the Court. A sailor, upon desertion, forfeits all wages which may be due him, and is liable to be arrested, locked up until the vessel is ready to sail, and then sent on board ship.

ROWE'S OLYMPIC CIRCUS was well and fashionably attended again last evening. We have no room to-day to notice the performances, which were diversified, sprightly and attractive.

MAYOR BIGELOW.—We learn by the *Placer Times* of yesterday, that this gentleman still continues to improve. He is thought now quite out of danger.

GOV. BURNETT has arrived at Sacramento City.

◊ ◊ **New Harbor Improvements.**

Within a few days we have received from several attentive friends established at the new cities on the coast north of our bay, communications of a valuable and interesting nature, concerning the progress of affairs, mining and commercial, in that attractive quarter. Trading vessels arrive at this port every two or three days from Humboldt and Trinidad bays, and depart almost as constantly. The Reindeer, which sailed yesterday for Eureka, is followed tomorrow by another vessel "laid" for the same thriving port. Passages hence to Humboldt Bay usually consume ten or twelve days, but the return trip is often made inside of three days. A brisk trade is springing up between our new harbor cities in the north and our own, which is destined to increase four-fold monthly, and build up in an incredibly short space of time, heavy commercial cities, whose influence shall be felt abroad.

One of the letters received embodies some entertaining and useful facts regarding the growth and general prosperity of Eureka city. We are not requested by the author to make these public, and indeed the privacy of the communication would restrain us from so doing, were not the interest which is felt in our community concerning the new Harbor, so all-commanding as to render the sacrifice of such consideration almost obligatory. The letter is from our

eration almost obligatory. The letter is from our much esteemed friend, J. C. L., well known to many of our citizens, and it is dated in the second week of August. He says: "Kelsey, of Sonoma, (the Indian killer,) is on his way here with his own and several other families, and some 5000 head, of cattle and horses; besides, hundreds in the mines have signified their intention of wintering here. Some have bought lots and intend building next winter. The citizens have presented Mr. Andrew White, (a native of Albany, N. Y., but of late years a resident of New Jersey,) with a large lot of land for the purpose of erecting a *steam saw mill* of 12 horse power. The machinery is here and by agreement the mill is to go into operation by the first of November next. There is also a shingle machine attached to the mill. Mr. White says he can turn out 100,000 feet per month; this mill will be a great addition to the place and enhance the value of property, besides inducing people to settle here. Getting out piles for wharves in S. F. is going on famously. Large contracts have been made and a great many hands will be employed in cutting and hauling them to the banks of the bay. Mr. White has already eight men at work for him clearing his lot for the mill."

"House building is quite a lively business here. Two large two story houses are in progress of erection, five one story houses are nearly completed, and several other frames are waiting carpenters. We shall make some show of a city two months hence. The climate here is delightfully pleasant, mild during the day, with fresh breezes towards sunset. These winds disperse the mosquitoes that sometimes annoy us, and are favorable to refreshing and comfortable sleep. These insects constitute the only annoyance we have, and that is trifling in comparison with the ever cold winds of San Francisco."

Below will be found extracts from a communication prepared for this paper by a highly intelligent gentleman located at Trinidad. The writer indignantly hurls back the allegations which he complains have been made to disparage the fortunes of his city. Too much of the letter is occupied in decrying the advantages of neighboring and kindred enterprises, and so invidious are portions that we have been compelled to exclude them altogether. We have but little doubt

in our own mind that Trinidad is destined to rank among the important places in California. We object to the use of detraction, however, in the building up of its hopes. We have in all cases restricted the exercise of this power in our correspondents from Humboldt Harbor, and are desirous that each place may stand or fall by its own merits. Our Trinidad correspondent dates—

August 13th—Supposing that a line from these parts might not be uninteresting to your readers, I have availed myself of the departure of the Sierra Nevada to give you the latest intelligence with regard to the affairs and prospects of our town. For a time it was the general impression that the El Dorado of this section of the country was the north fork of the Trinity river, and to that point most of the travelling was done both from this place and the settlements on Humboldt Bay. Recent discoveries however have brought to light new, and much richer diggings on the Klamath and Shaste rivers, and thither miners are flocking and have already commenced operations with varied success. All are doing well, and many are preparing to winter there. It is my firm opinion that things have assumed such an aspect here as to place commercial operations beyond mere experiment.

As regards the country itself, I am convinced it is as rich, if not richer, than any yet discovered in California. The story of the gold found upon the beach 35 miles north of this place *is true*; a hundred men can testify to it. Let no man come here, however, with the intention of working it, for it is so fine as to require a quicksilver machine, and not in large quantities, but scattered at intervals along the beach, and varying in quantity with the tides. Now the immense wealth of the reservoir from whence this treasure comes, must be apparent to the most superficial observer; its full extent will doubtless be soon developed, and then, perhaps, the scales will fall from the eyes of the public and they may at last believe, when their interests compel them, that it is quite as well to hear all before they condemn—"Let those laugh who win."

The Indians are hostile at the forks of the Klamet and Trinity, and it has been found necessary to administer to them the same rebuke, we did to those on the coast. Some fifty or sixty Indians were killed, and three villages burnt. Since these measures were resorted to the effect has been decidedly good, their thieving and other annoying propensities having sensibly decreased. Nothing of local interest has occurred here of late, we get on quietly among ourselves, and are awaiting the arrival of fresh supplies of goods, for which the demand of the past few days has left abundant room. I wish it distinctly understood that in writing the above, I have been chiefly

stood that in writing the above, I have been chiefly actuated by a desire to refute some of the many mis-statements which have recently appeared in the papers in relation to Trinidad, and to place things with regard to this region in a proper light before the people.

SYNTAX.

SHIPMASTERS' MEETING.—At a meeting of the masters and owners of ships held on Saturday last, a committee was appointed to draw up a set of resolutions expressive of the opinions and feelings of the meeting and to endeavor to suggest some remedy for the grievances related.

The committee will report at an adjourned meeting to be held this (Tuesday) P. M. at 3 o'clock, in the spacious rooms over Mr. Delmonico's saloon, on Montgomery street, on which occasion a general attendance of all persons interested in either American or foreign shipping, or in the safe carriage and delivery of cargoes to and from this port, is requested. The officers of the United States here stationed, the authorities of the city, the members of the press, and the public generally are invited to attend, and to lend their co-operation so far as they consistently can towards the accomplishment of the desired objects.