

(B)

Office 1624 Park St.

Alameda May 1st 1891.

My Dear Mr. Ward:-

It is something worth ^{state} living for to help found a great that is fast growing into the proportions of an empire. You have sometimes asked me why and when I came to California and what part I took in establishing its Government.

I came at the instance of Howland & Aspinwall the great shipping merchants who were clients of Abner Benedict, a celebrated lawyer with whom I had been associated for five years, with offices at 27 Wall St., New York City.

They owned the steamers, California, Oregon, and Panama. The California was the first that sailed from New York about Oct. 1848, for Panama to open the line from Panama to Oregon, touching in parts of Mexico and California.

We received official news of the gold discoveries about the first of Dec. 1848, and Mr. Aspinwall, who was in our office very frequently, proposed to me, to start, at once for California. It was arranged by him, and Mr. Benedict, that I should go for one year, and on my return have my position in the office, with a liberal allowance, meantime, during the year. It was ten years before I again saw N.Y. city.

I left Christmas day 1848, for Chagras, crossed the Isthmus among the first of the gold seekers, intercepted the steamer California that sailed from Panama Feb. 1, 1849 and entered the Golden Gate Feb. 28, 1849, with about 450 passengers, and on scrambling up the rocks at Clark's Point, - now the foot of Broadway - was told that there was about 700 people, all told, in San Francisco.

We did not double the population but come pretty near it. I took -

root in the country, at once, arrived
at Suters fort March 10, 1849, Mormon
Island, Junction of the Americans, on
the 15th and saw a lot of dirty sun
burned men, delving among the
boulders, gravel, and dirt, in the
blazing midday sun, and that I was
told, was, the way they dug for gold.

It was a new revelation to me,
the contrast between the honest gold
miners of California, and the appear-
ance of a Wall St., N. Y. Lawyer, was
certainly a striking contrast. I witted
on mining, and took shelter under
the shady trees on the bank, to watch
the process, and harmonize my
position with the N.Y. theory of picking
up gold laying around loose.

Something in my outfit and
appearances, attracted some of the
gold diggers to come up to the tempting
shade. I was enjoying and we fell
into very friendly confidences about
each other, at once.

They offered to sell me clean
fine gold, at \$10. an ounce for coin.

Here was my chance. I bought all I could pay for in coin, and, as it was worth from 16 to 17 dollars per ounce I figured up my \$200 in coin had given me a profit of, say \$120, counting the dust at \$16, which I realized on my first shipment.

This solved my method of gold mining. I never dug an ounce with my own hands, but I used "the other fellows hands" and, as I had reasonable credit to draw on New York, I had coin.

They were surveying Sacramento City and I bought some lots, took a third interest in town sight of "Vernon" at the mouth of the Sacramento, and Feather Rivers. In July, 1849, by invitation I went with Hon. Thomas Butler King's party to see the mines on the Yuba, Bear Creek, and American, North and South forks. Mr. King was special agent sent out by President Polk, to view the lands and mines of California.

He took as his escort Genl. Percifer F. Smith and staff, which included Col. Joe Hooker and Lieut. Stoneman in command of 30 dragoons and 7 Army-Wagons, a band of extra

saddle horses, camp servants, & etc, etc,
and Commodore Ups Catesby Jones
of the frigate Ohio, and a royal list
of officers of the Navy, and servants.

The fun in this expedition was
immense. I doubt if its equal ever
meandered through the wild mining
regions of early California's mining
days. (Incidents of this trip would make a good story)

August 1st I was elected a delegate
to the first constitutional convention of
California that met at Monterey Sept. 1st.

Sacramento district embraced all
the territory lying east of the Sacramento
River and north of the Cosumnes River
that empty into the Bay of Suisun at the
north mouth of the Sacramento, and
San Joaquin Rivers, and included
what are now about thirteen counties.

Eight delegates took their
camping blankets and proceeded to
Monterey as best they could, and there
joined the other forty delegates, and
commenced hewing out a Constitution for a
full fledged State Government complete
in all its parts.

I was appointed chairman of the Finance Committee, and when the Convention instructed the Committee, to learn and report how \$70,000 could be raised to pay the expenses of the convention. I called my committee together, and asked for suggestions. Some said it could not be done, Others, that the Delegates were all Patriots, and must give time and expenses, and pay pro rata the other expenses, and incidentals; Joel P. Walker, an old trapper formerly of Virginia, then a delegate from Sonoma, said he had a plan that would be a success. It was this - "To double the committee, out of the stoutest men in the convention, and roll up our camping blankets, and go back to the mines, and if we had good luck, we could raise that amount in gold dust, by the time the other delegates got a good Constitution ready to be signed." We all applauded. "How the Money was Obtained" is an interesting subject for a popular article.

I have seen some accounts purporting to be the inside true history of that celebrated and very important Convention

that laid the foundation of a great state,
and did it without authority from Congress.
Yet it triumphed, and endured for a third
of a century, and none of these accounts
came direct from active members, but extracts
from the limited stenographic report of J. Ross
Brown, which is not considered full, by any
means, of what was done both inside, and
outside of the public sittings. I have Brown's
original letter proposing to make and print
these proceedings for \$10,000, and I drew the
warrant for that amount, as chairman
of the finance committee.

There are lots of good points about that
convention that have never been told, and
probably never will be, as the members
are most all deceased; yet they should be
rescued from oblivion.

I was appointed Prefect of the
Sacramento District by Genl Bennett Riley
Sept. 27, 1849, during the sitting of the Con-
vention, and, at the request of the Sacramento
Delegation.

The Committee did arrange for the pay-
ment of the expenses of the Convention, without
adopting Uncle Joel P. Walker's proposition

to go back to the mines and dig out the necessary amount of gold.

Most of the work, was done outside of the public sessions, and hence the stenographic report gave but a limited history of the making of the Constitution, or the motions influencing its most important provisions.

We signed the Constitution, and adjourned Oct. 13, 1849, amid the roar of cannon and the cheers of the populace of Monterey.

A general election, was ordered to be held Nov. 13, 1849, under direction of the Prefects of the ten several districts of California. To approve the constitution, elect two congressmen, a full set of state officers, State senators and Legislators.

Half the population was in my district of Sacramento, as it embraced most all the gold mines, and the terminus of the overland emigrant trails. Every white male citizen of the U. S. over 21 years of age, was a voter at that election, as soon as he entered California.

Votes counted two ways, first they

were the only means by which we could show a population in California sufficient to seat our representatives in Congress, and second to show the adoption of the Constitution, and to decide who were elected to the different offices.

We run up against a stump once more for want of money to carry on the election, and to get the Sacramento District vote in time to be counted at Monterey Dec 10, 1849, following. We had to get over 12,000 votes in the whole of California, and half must come from Sacramento district.

I was appealed to, not only as the successful chairman of the old Finance Committee of the Convention just ended, but one of the delegates who had made some money in California and was able to do the handsome thing and furnish the money and do the service and trust to the first Legislature to pay when the state was admitted (if it ever was).

Of course the whole proposition was absurd as a business proposition and it seemed to me so much like a dream

that my past life in California, could not be a part of my real future life. I however told the delegates that I would see the election in Sacramento district carried out to the best of my ability, and with the length of my purse.

I secured relays of horses on my return from Monterey to San Francisco to take my messenger back with the vote which I was to get from the Sacramento district.

The 30 days through mud, rain, and storm, both day and night, to Nov. 13th the day of the general election, throughout the rough mining regions and tributary valleys is a long story and the roughest experience I ever had in my life.

I appointed Col. Winn my sub-prefect, and with five special messengers to different points in the mines I established fifty-two precincts to receive votes. From these precincts I collected over 6,000 votes, and that was half the number required to seat our ^{two} Congressmen, and entitle California to admission as a state.

I began collecting these returns of votes as rapidly as possible, and then followed the race to Monterey where these returns had to be delivered by Dec. 10, 1849. to be counted in the general canvass.

Six selected messengers awaited me for three days, and when the last returns were received our boat shot out down the Sacramento River, across Suisun, San Pablo, and San Francisco Bays, reaching San Francisco beach at twilight Dec. 7th where I trusted the packages of election returns to my messenger. I asked him if he could make the run to Monterey with the relays of horses I had on the road, within 24 hours. He said he could.

I said "will you do it?" He said "I will if it kills every horse you have on the route." I told him an extra hundred dollars would await his arrival on time. He rode to Monterey in 22 1/2 hours but he disabled two of the horses which I had to pay for.

His arrival secured the count of the vote of Sacramento district. The judge of the election at one of the precincts said he had to take the vote in his hat held under his umbrella.

The rain was descending in torrents and any irregularity was waived in the manner of receiving the votes. I was out about \$3,000, which the Legislature of California, ~~which~~ refunded thirty-eight years after.

My year's furlough was about up, and I thought about going back to 27 Wall St. N. Y. to resume practicing law. The balance of my gain in California would have been about 15,000. or 16,000 dollars a sum much more than my year's share of the business of the law firm in N. Y.

I was elected a State Senator from the Sacramento District at the general election, and went to San Jose to see the first Legislature organized which it did December 15, 1849, and to bid the boys good-bye as I proposed to sail on the steamer Jan 1, 1850.

The Senate did not have a quorum on the 15 of Dec. so I was sworn in as a State Senator, and appointed Chairman of the Judiciary Committee of the Senate.

The joint Convention of the Legislature met three days afterward and elected two

United States Senators to sail on the
steamer Jan 1st, 1850 on their way to
Washington with the two members of Congress
elect to present our application for admission
as a state. I expected to have sailed for
hours at that time but did not. I had
taken too firm hold in the country and
the fascination of last years novel life
was so great and everything moved with such
velocity I hesitated and staid.

California was admitted next year.

It is a satisfaction to know that I
am a part of its history and written upon
almost every page of its fundamental laws and
the early years of its gold mining life.

10.
W. H. Ward, Esq.

Very Truly Yours, E. O. Crosby,

THE MEMBERS

Of the First Constitutional Convention of California, Held at Monterey in September and October, 1849.

MEMBERS.	AGE	NATIVITY.	DIST. REPRESENTED.	OCCUPATION.
Joseph Aram*	39	New York	San Jose	Farmer.
Charles T. Botts	40	Virginia	Monterey	Lawyer.
Elam Brown*	52	New York	San Jose	Farmer.
Jose Anto. Carrillo	53	California	Angeles	Labrador.
Jose M. Covarrubias	40	California	San Louis Obispo	Ranchero.
Elisha O. Crosby*	34	New York	Sacramento	Lawyer.
Lewis Dent	26	Missouri	Monterey	Lawyer.
Manuel Dominguez	46	California	Angeles	Banker.
Kimball H. Dimmick	34	New York	San Jose	Lawyer.
A. T. Ellis	33	New York	San Francisco	Merchant.
Stephen G. Foster	28	Maine	Angeles	Farmer.
Pablo de la Guerra	36	California	Santa Barbara	Ranchero.
Edward Gilbert	29	New York	San Francisco	Printer.
William M. Gwin	44	Tennessee	San Francisco	Farmer.
Julian Hanks	39	Connecticut	San Jose	Farmer.
Henry Hill	33	Virginia	San Diego	United States Army.
J. D. Hoppe	35	Maryland	San Jose	Merchant.
Joseph Hobson	39	Maryland	San Francisco	Merchant.
Henry Wager Halleck	32	New York	Monterey	Lieut. of Engineers.
I. W. Hastings	30	Ohio	Sacramento	Lawyer.
J. McH. Hollingsworth*	25	Maryland	San Joaquin	Lieut. of Volunteers
James McHall Jones	25	Kentucky	San Joaquin	Lawyer.
Thomas O. Larkin	47	Massachusetts	Monterey	Trader.
Francis J. Lippitt*	37	Rhode Island	San Francisco	Lawyer.
Benjamin S. Lippincott	34	New York	San Joaquin	Trader.
M. M. McCarver	42	Kentucky	Sacramento	Farmer.
John McDougal	32	Ohio	Sacramento	Merchant.
Ben F. Moore	29	Florida	San Joaquin	Elegant leisure.
Myron Norton	27	New York	San Francisco	Lawyer.
Pacificus Ord	34	Maryland	Monterey	Lawyer.
Miguel de Pedorena	41	Spain	San Diego	Merchant.
Rodman M. Price*	30	New Jersey	San Francisco	Purser U. S. Navy.
Antonio M. Pico	40	California	San Jose	Agriculturist.
Jacinto Rodriguez	36	California	Monterey	Agriculturist.
Hugo Reid	38	Scotland	Angeles	Farmer.
J. A. Sutter	47	Switzerland	Sacramento	Farmer.
Jacob R. Snyder	34	Pennsylvania	Sacramento	Surveyor.
Winfield S. Sherwood	32	New York	Sacramento	Lawyer.
William E. Shannon	29	Ireland	Sacramento	Lawyer.
Pedro Sainsevain*	31	France	San Jose	Negotiant.
Abel Stearns	51	Massachusetts	Angeles	Merchant.
W. M. Steuart	49	Maryland	San Francisco	Lawyer.
Robert Seaple	42	Kentucky	Sonoma	Printer.
Henry A. Teft	26	New York	San Louis Obispo	Lawyer.
M. G. Vallejo*	42	California	Sonoma	Military.
Thomas S. Vermeule	35	New Jersey	San Joaquin	Lawyer.
Joel P. Walker	52	Virginia	Sonoma	Farmer.
O. M. Wozencraft*	34	Ohio	San Joaquin	Physician.
William G. Marcy*, Secretary	31	New York		Capt. Coms'y U.S.A.

* Surviving.

Elisha Oscar Crosby,

Who represented Sacramento district, was born July 18, 1818, at Groton, Tompkins county, New York. He was educated at the Cortland Academy, in the town of Homer, Cortland county, New York. After graduation he commenced the study of the law, which he completed in the office of his maternal relative, Hon. E. G. Spaulding, a prominent lawyer in the city of Buffalo. In 1843 he was admitted to practice in the Supreme Court, and also the Court of Chancery of the state of New York. In the same year he removed to New York City, opened an office in Wall street, and commenced his professional career. He formed a partnership with Hon. Abner Benedict, an eminent member of the New York bar. His first official commission was that of Examiner in Chancery, to which he was appointed by the distinguished Chancellor Walworth. He held this office for several years, and until he left the state for the Pacific coast. Though prosperous in his profession, and with pleasant companionship in his personal intimacy with the most distinguished lawyers of the New York bar, he felt the glow of adventure, and drifted into the swelling tide of emigration caused by the discovery of gold in California. It was a new field, with a grand prospect of fame and fortune to an industrious and well equipped professional or business man. He arrived in San Francisco February 28, 1849, and proceeded to Sacramento, where he established himself. He soon became widely and favorably known as an excellent lawyer, a good citizen, and one who took an active interest in whatever conduced to the public benefit. Of liberal and enlarged views, he commanded public confidence, and very naturally when the proclamation was issued by General Riley, the military Governor of California, calling a convention to assemble at Monterey, September 1, 1849, for the purpose of framing a state constitution and establishing the civil authority, Mr. Crosby was one of the representatives chosen by the people of Sacramento. And very faithfully he performed his duty. He was one of the most active, intelligent and industrious members of that body. He was Chairman of the Finance Committee and had much to do in organizing the judiciary system of the new state. In the committees in which the real work of all parliamentary and deliberative bodies is mainly done, he was constant in at-

tendance and an untiring worker. With the active support of Captain Halleck, also a delegate, and on whose judgment the General greatly relied, as Chairman of Finance Committee, he solved the worrying problem as to how the members and officers of the convention should be paid, by suggesting to General Riley that the large civil fund in his hands, arising from the collection of customs dues at the California seaports, should be applied as far as necessary for this purpose. The General agreed to this, with the condition attached that the members of the convention unite in giving him a bond of indemnity, in case the general government should repudiate his action in the matter. This was done; but as the accounting officers at Washington approved the disbursement, the bond, of course, was void. It was but a formality growing out of the fact that it would be exceedingly unjust to the sturdy and honest old soldier, if he should be embarrassed or annoyed by having the amount suspended against him.

On the adjournment of the convention, at the request of the Sacramento delegation, Mr. Crosby was appointed by General Riley the Prefect of that district. As such officer, he ordered the first election in his district, establishing precincts at which the votes were cast for the adoption of the constitution, the election of two Congressmen, Governor, members of the Legislature and other state officers. The votes from the fifty-two precincts which he established were collected and expressed to Monterey, to be counted December 1, 1849. In his public zeal he expended not only his time, but his money, and was out of pocket in this election transaction to the extent of \$1,400, which the state has never returned to him.

Mr. Crosby was elected to the State Senate, and served through the first and second sessions of the Legislature. He was chairman of the Judiciary Committee of the Senate, and reported the bill organizing the Supreme and District Courts, and also upon the adoption of the common law, with accompanying bill. Serving thus both in the convention and the first Legislature which framed the statutes of California conforming thereto, he very properly deserves the title of one of the "Fathers of the State." Turning his attention to the study of the peculiar situation of land titles in California, he became quite an expert in the matter of the Spanish and Mexican land grants in the state. He was so frequently

consulted by parties interested in the settlement of land cases, that in 1853 he removed to San Francisco and engaged in the prosecution of these grants before the United States Land Commission and the United States District and Supreme Courts on appeal. While in Washington in 1861, in attendance on the Supreme Court in connection with these cases, he was appointed by President Lincoln Minister to Guatemala. He remained in this position for over three years, performing his duties to the satisfaction of the government, and gaining the esteem and respect of the authorities of the Central American republic to which he was accredited. During his term of diplomatic office he served as umpire to the Joint Commission appointed by Great Britain and Honduras to settle treaty stipulations for adjustment of claims growing out of the protectorate of the Bay Islands of Honduras and the Mosquito coast. He received thanks from both countries for the able and impartial manner in which he discharged this duty. His health failing through the enervating influence of his long residence in Guatemala, he resigned his position, and went to Philadelphia for medical treatment. He remained in Pennsylvania three years, and made a fortunate investment in the oil regions, the profits of which he, however, afterwards lost in Western land speculations. He visited Europe, and spent over a year in traveling on the continent. From Europe he returned to California, stopping for a few months en route at Fremont, Nebraska. It was his misfortune some five years ago, through a violent cold settling in his eyes, and the subsequent maltreatment of a professed oculist, to lose the sight of his right eye, with the impairment of the vision of the other. He was forced, therefore, to abandon the further active practice of his profession. Possessed of a moderate competence, the remains of a somewhat considerable fortune, he was unwilling to be idle, and accepted the position of Justice of the Peace in the town of Alameda, in which he resides. Though rather different from the high stations which he has filled, and hardly in keeping with his excellent standing as a lawyer, he performs the duties cheerfully, and to the entire satisfaction of the community. It affords him a respectable income. Devoted to his family, which consists of a wife and bright boy of 12 years of age, possessed of a comfortable home, free from anxiety, he is passing the declining years of his life contented in his happy surroundings, and with an every-day enjoyment in watching the wonderful development of the grand state which he helped to found.

For several years he has been a member of the Ethnological Society of New York, and a contributor to the journal of that society. In the Masonic order he is a Knight Templar. He is also a member of the California Pioneers, the Legion of Honor and other benevolent orders. His grandfather, who was a soldier in the revolutionary war, was the first cousin of Enoch Crosby, the celebrated "Spy of the Revolution," so graphically described by Fenimore Cooper, the novelist, in his book of that name.