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An Episode of
Early California Life:
The Squatter Riot
of 1850 in Sacramento

Preliminary Note

The following paper was first prepared as a contribution to local history, and was addressed to an audience familiar with the traditions of the early days of California. The text still retains forms of speech due to this origin. The author here often speaks as a Californian to his fellows, refers freely to local issues, and presupposes an interest in a special region and group of people.

Yet if the affair here in question is one of local history, the passions, the social forces, and the essential ideas concerned, are of permanent significance. How often, even in some of our latest American conflicts, at Homestead, at Chicago, or at Hazletown, can we not recognize the same essential motives that were at work in the affair here described? A lofty and abstract idealism, such as, despite the opinions of foreigners, is a permanent and potent force in our American life, appears, then, in this little story, as coming into contact with a very concrete problem of social existence—a

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problem about land ownership, about the rights and privileges of poor men, and about the good order of a new community. The Transcendentalist—a being who is, in one form, a characteristic American—imagines himself called upon to lead his fellows in a struggle for property and for bread. The Idealist gets into conflict with the sheriff; the Higher Law has to face the processes of the courts; a company of homeless wanderers have to solve, in a moment, a critical problem of civilization. The philosopher (who is here also a man of the people) pretends, for the passing hour, to be, by popular choice, the king; and a crowd of men, who know not precisely what they mean, are forced to decide whether or no to follow this new king. Such incidents may well be studied in miniature as on a grand scale. They may seem petty, local, transient, accidental, but their meaning is permanent, and they will recur, over and over, and perhaps on a constantly grander and grander scale, as long as our national history lasts. In miniature we have then, in this case, a process of universal meaning.

As an example of the way in which the solution of the most practical problems of the daily life of a community may involve the ultimate issues of an idealistic philosophy, the present Study of Good and Evil seems to me to have its place in this volume. And I have deliberately left its locally determined form essentially unchanged.

The most general outlines of early Californian history are very commonly known, and may here be, for the most part, presupposed. California, acquired by the United States during the Mexican War, had long been under the irregular government characteristic of a remote and sparsely settled Spanish-American province. Land ownership, at the time of our conquest of the country, was legally founded upon Grants, which the various governments of the province had, from time to time, made to settlers. These "Spanish Grants," frequently in the region near the coast, both in the central and in the southern parts of California, did not extend (except in a single instance), into the mountain regions where, in 1848 and later, the great gold discoveries were made. On the other hand, the portions of California nearer the coast, where the large towns soon grew up, and where the commercial interests of the new State, during the gold period, were principally centered, were especially affected by the controversies which soon began concerning the validity of the land-titles of Mexican origin. By the
treaty of 1848, between Mexico and the United States, the general validity of all such titles was guaranteed. On the other hand, the precise definition of individual titles was often doubtful; their authenticity could easily be questioned by unsympathetic strangers, unused to the simple provincial ways of a Spanish-American community; and the rude surveys through which, in some cases, their supposed boundaries had been determined, had sometimes been carried out in a most primitive fashion. Such titles needed a very considerate treatment, if they were to be recognized at all.

But the American newcomers were, in a goodly proportion of cases, men from the regions of our Middle West, where land ownership had very generally been determined either directly by settlement, or through conformity to easily comprehensible general laws. The Oregon wilderness, from which some of the newcomers came to California, was similarly the natural paradise of the "squatter." In consequence, the settlers in California were ill-prepared to be patient with the Californian laws, and with mysterious sources of land ownership. To add to the confusion of men's ideas, the lands of the gold region were, in general, actually free to all; for they were, on the whole, untouched by the Grants. They were therefore now public lands of the United States. The National Government refused, for years, to part with the title, or to survey the gold-producing lands, and thus left the whole question of the practical ownership of claims to be determined, so far as mining was concerned, by the local "Miners' Custom" of each district. The result was, for California miners, a system of temporary land ownership, determined by the actual occupancy and use of the land itself, the limits of such occupancy being subject to local regulation by miners' meetings. The contrast between this simple and practical system of the mining districts, and the complex and mysterious problems of land ownership in the large commercial towns and in the coast regions, was especially vexatious for those who, in the course of their business, needed land in the portion of the State covered by the Grants, and who could not get such land by the process with which the mining life, as well as the customs common to all squatters, had familiarized them.

Social unrest and discontent immediately resulted. The remoter consequences, however, have been very far-reaching. The agrarian theories of Mr. Henry George (to mention one instance only) form a striking example of the later outcome, in certain minds, of
this early Californian experience. The ideal of land ownership which Mr. George defends is simply the ideal suggested by the miners' methods in the gold districts of California. The ideal which he combats is the ideal of whose difficulties the weary history of the early litigation over the "Spanish Grants" in California was a peculiarly tragic example.

The present paper, in dealing with a single incident of the early struggle, is led to study, however, not so much the special problem as to the best form of land ownership, as the still more universal question of the conflict between abstract ideas and social authority, at a moment when the order of a new society, and the eternal conflict between the private and the universal Selves, had to be settled, for the time, by men of energy, of idealistic temper, and of very fallible intelligence, just as we to-day have, as men and as citizens, to solve our own analogous problems.

That the issues of the passing moment are also the issues of metaphysics, and that the eternal problems are met with in the midst of the temporal, is the familiar lesson for the sake of which I have ventured to introduce this paper into the present series.

So much by way of preliminary. Now follows the original discussion.

A prominent California pioneer, Doctor Stillman, published in the Overland Monthly for November, 1873, as one of the chapters of his since well-known book called Seeking the Golden Fleece, a contemporary record of his experiences at the time of the Squatter Riot of 1850 in Sacramento. In a note to this valuable reminiscence, Doctor Stillman remarked that no detailed account of the remarkable affair had ever been printed. So far as I know, the same thing can still truthfully be said. But the scenes of violence themselves form but a small part of the real story of the movement; and I shall venture in the following to try to present a somewhat connected account of the events that preceded the riot and that culminated therein. I draw my materials principally from the contemporary files of the Placer Times and the Sacramento Transcript; but I shall also seek to accomplish what has certainly so far been neglected—viz., to indicate the true historical significance of this little episode in our pioneer annals. For, as I think, the importance of the conflict was greater than even the combatants themselves knew; and most of us are not in a fair way to comprehend
the facts, unless we remind ourselves of a good many long since forgotten details of the narrative.

I

And now to begin the story with the moral, let us try to understand at once why this episode should seem of a certain more general significance. That a few lives should be lost in a squabble about land, is indeed a small thing in the history of a State that has seen so many land quarrels as California. The Squatter Riot of 1850 was but a preliminary skirmish, if one will judge it by the number of killed and wounded, while the history of settler difficulties in the whole State, during the thirty-five years since, seems, by comparison of number, a long battle, with killed and wounded who would need to be counted, not by fives, but by hundreds.

Not, however, for the number of lives lost, but for the importance of just that crisis at that moment, must we consider the Squatter Riot noteworthy. Just as the death of James King, of William, by leading to the formation of the famous Vigilance Committee of 1856, happened to seem of more importance to the California community than the death of ninety-and-nine just miners and other private persons, who were waylaid or shot in quarrels; just as that death had many times the historical significance that it would have had if King had been slain under the most atrocious circumstances a few months earlier; even so the Squatter Riot in Sacramento is significant, not because bloodshed was unknown elsewhere in California land quarrels, but because nowhere else did any single land quarrel come so near to involving an organized effort to get rid, once for all, of the Spanish titles as evidences of property in land. Elsewhere and later, men followed legal methods, or else stood nearly alone in their fight. Men regarded some one title as fraudulent, and opposed it; or frankly avowed their private hatred of all Mexican land titles, but were comparatively isolated in their methods of legal or illegal resistance to the enforcement of the vested rights; or they were led into lengthy and often murderous quarrels by almost hopelessly involved problems of title, such as so long worried all men alike in San Francisco. Elsewhere than in Sacramento men thus tried, in dealing with numerous questions of detail, to resist the enforcement of individual claims under Mexican titles; but in Sacramento
in 1850 the popular opposition was deeper, and its chances of a sweeping success were for a moment far greater.

In form, to be sure, even the Sacramento squatters, like so many successors, pretended to be doubtful of the legal validity of Sutter's "Alvarado grant," and to believe that, if it were valid, the grant still did not cover Sacramento. But this pretense was here a very thin veil for an undertaking that was in its spirit and methods distinctly revolutionary. The squatters of that time and place were well led, and they meant to do, and contemporary friends and foes knew that they meant to do, what would have amounted to a deliberate abrogation by popular sovereignty, of Mexican grants as such. Had they been successful, a period of anarchy as to land property would probably have followed far worse in its consequences than that lamentable legalized anarchy that actually did for years darken the land interests of our State, under the Land-Law of 1851. Bad as that enactment proved, the squatter doctrine, as preached in 1850, came near proving far worse. To investigate how the people of Sacramento showed their weakness in letting this crisis come on as it did, and their strength in passing it when it at last had come on, is to my mind, in view of the dangers of that and of all times, a most helpful exercise in social science; since it is such investigations that enable us to distinguish the good from the evil tendencies of the popular mind, and to feel the difference between healthy and diseased states of social activity. I want, in short, to make this essay a study of the social forces concerned in early California land difficulties.

Captain Augustus Sutter, the famous Swiss pioneer, whose name is closely connected with the gold discoveries of 1848, owned at the time of the conquest, and, in fact, since 1841, eleven leagues under a grant from the former Californian Governor, Alvarado. Moreover, as is again notorious, Sutter supposed himself to own much more than this grant by virtue of promises made to him by Governor Micheltorena, in 1845. In the latter supposition Sutter made a serious blunder, as was pointed out to him in 1858, by the United States Supreme Court. Micheltorena had made to him no valid grant whatever. In 1848, as soon as the gold seekers began to come, Sutter began to lose his wits. One of the pioneer statements in Mr. H. H. Bancroft's historical collection says rather severely that the distinguished captain thenceforth signed "any paper that was brought to him." At all events, he behaved in as
unbusinesslike a fashion as could well be expected, and the result was that when his affairs came in later years to more complete settlement, it was found that he had deeded away, not merely more land than he actually owned, but if I mistake not, more land than even he himself had supposed himself to own. All this led not only himself into embarrassment, but other people with him; and to arrange with justice the final survey of his Alvarado grant proved in later years one of the most perplexing problems of the United States District and Supreme Courts.

One part of his land, however, seemed from the first clearly and indisputably his own, to deed away as he might choose. That was the land about his own "establishment at New Helvetia." Here he had built his fort, commanded his laborers, received his guests, and raised his crops; and here the newcomers of the golden days found him, the reputed possessor of the soil. That he owned this land was, in fact, by this time, a matter, so to speak, of worldwide notoriety. For the young Frémont's "Report," which, in various shapes and editions, had years before become so popular a book, and which the gold-fever made more popular than ever, had distinctly described Sutter as the notorious and indisputable owner of this tract of land in 1844. If occupancy without any rival for a term of years could make the matter clear to a newcomer, Sutter's title to his "establishment" seemed beyond shadow. Moreover, the title papers of the Alvarado grant were on record. Governor Alvarado's authority to grant eleven leagues to Sutter was indubitable, and none the less clear seemed the wording of the grant, when it gave certain outer boundaries within which the tract granted was to be sought, and then defined the grant so as to include the "establishment at New Helvetia." Surely, one would say, no newcomer could attack Sutter's right, save by means of some purely agrarian contention. A settler might demand that all occupied land in California should be free to every settler, and that Mexican land-ownership should be once for all done away with. But unless a man did this, what could he say against Sutter's title to New Helvetia?

And so, when the town of Sacramento began to grow up, the people who wanted lots assented at the outset to Sutter's claims, and recognized his title. That they paid him in all cases a perfectly fair equivalent for his land, I venture not to say. But from him they got their titles, and under his Alvarado grant they held the
lands on which the town grew up. Land-holders under Sutter they were who organized the town government, and their speculation was soon profitable enough to make them quite anxious to keep the rights that Sutter had sold them. The question, however, quickly arose, whether the flood of the new immigration would regard a Spanish land-title as a sufficient barrier, at which its proud waves must be stayed. The first safety of the Sutter-title men lay in the fact that the mass of the newcomers were gold-seekers, and that, since Sacramento was not built on a placer mine, these gold-seekers were not interested in despoiling its owners. But this safeguard could not prove sufficient very long. The value of land in the vicinity of a thriving town must soon attract men of small capital and Californian ambitions from the hard work of the placers; and the rainy season would, at all events, soon crowd the town with discontented idlers.

Moreover, the whole question of California land-titles was a critical one for this new community. The Anglo-Saxon is, as we so often hear, very land-hungry. Many of the newcomers were accustomed to the almost boundless freedom of Western squatters; the right to squat on vacant land had come to seem to them traditional and inalienable; they would probably have expected to find it, with a little search, somewhere in the Declaration of Independence, or among the guarantees of the Constitution. Among these men some of the more influential pioneers were strongly under the influence of the Oregon tradition. In Oregon, squatter sovereignty, free and untrammeled, had been settling the land question of a newly occupied wilderness most happily. The temptation to apply these methods to California was very strong; in fact, during the interregnum after the conquest of the Territory of California, and before the golden days began, the discontented American settlers of the Sacramento Valley and of the Sonoma region had freely talked about the vexations caused by these Mexican land-titles, and had even then begun to propose methods of settling their own troubles. The methods in question would ultimately have plunged everybody into far worse troubles.

The dangerous and blind Americanism of some among these people is well shown by discussions in the California Star for 1847 and 1848, a paper which I have been able to consult in Mr. H. H. Bancroft's file. There is, for instance, a frequent correspondent of the Star in those days, who signs himself “Paisano.” Although I
have nobody's authority for his identity, I am sure, from plain internal evidence, that he is L. W. Hastings, then a very well-known emigrant leader, and the author of a descriptive guide to California and Oregon. Hastings was a very bigoted American, at least in his early days on the Pacific coast, and his book had filled many pages with absurd abuse of native Californian people and institutions. Such a man was, just then, an unsafe popular leader, although he was a lawyer by profession, and later did good service in the Constitutional Convention of 1849. In discussing land-titles, in these letters to the Star, "Paisano" plainly shows the cloven foot. Let us insist upon a Territorial Legislature at once, he says, in effect; let us set aside this nuisance of military government by its own consent if possible, and let us pass laws to settle forthwith these land difficulties. All these "Paisano" cloaks under an appeal to the military government to call such a Legislature. But the real purpose is plain. The Legislature, if then called, would certainly have been under the influence of the squatter-sovereignty tradition of Oregon, since its leaders—e. g., Hastings himself—would have been, in many cases, Oregon men. It would, at all events, have been under purely American influence; it would have despised the natives, who, in their turn, fresh from the losses and griefs of the conquest, would have suspected its motives, would have been unable to understand its Anglo-Saxon methods, and would have left it to its work of treating them unfairly. Unjust land laws would have been passed, infringements on vested rights would have been inevitable, and in after time appeals to the United States authority, together with the coming of the new immigration, would have involved all in a fearful chaos, which we may shudder to contemplate even in fancy. Yet "Paisano" did not stand alone among the pioneers of the interregnum in his desires and in his plans. That such plans made no appearance in the Constitutional Convention of 1849 is due to the wholly changed situation of the moment, and to the pressing business before the Convention.

But if things appeared thus to the comparatively small group of Americans in the dawn of our life here, even before the gold discovery, how long should this complex spider web of land-titles, wherewith a Californian custom or caprice had covered a great part of the Territory, outlast the trampling of the busy newcomers? Who should resist these strange men? The slowly moving processes of the courts—how could they, in time, check the rapac-
ity of American settlers before the mischief should once for all be done, and the memory of these land-titles buried under an almost universal predatory disregard of them, which would make the recovery of the land by its legal owners too expensive an undertaking to be even thought of? The answer to this question suggests at once how, amid all the injustice of our treatment of Californian land-owners, our whole history has illustrated the enormous vitality of formally lawful ownership in land. Yes, this delicate web, that our strength could seemingly so easily have trampled out of existence at once, became soon an iron net. The more we struggled with it, the more we became involved in its meshes. Infinitely more have we suffered in trying to escape from it, than we should have suffered had we never made a struggle. Infinitely more sorrow and money and blood has it cost us to try to get rid of our old obligations to the Californian land-owners, than it would have cost us to grant them all their original demands, just and unjust, at once. Doubt, insecurity, retarded progress, litigation without end, hatred, destruction of property, expenditure of money, bloodshed: all these have resulted for us from the fact that we tried as much as we did to defraud these Californians of the rights which we guaranteed to them at the moment of the conquest. And in the end, with all our toil, we escaped not from the net, and it binds our land-seekers still. But how all this wonder came about is a long story, indeed, whereof the squatter riot of 1850 forms but a small part.

At all events, however, the critical character of the situation of Californian land-owners at the moment of the coming of the gold-seekers appears plain. That all the rights of the Californians should ultimately be respected was, indeed, in view of our rapacious Anglo-Saxon land-hunger, and of our national bigotry in dealing with Spanish-Americans, impossible. But there were still two courses that our population might take with regard to the land. One would be the just-mentioned simple plan of a universal squatter's conspiracy. Had we agreed to disregard the land-titles by a sort of popular fiat, then, ere the courts could be appealed to and the method of settling the land-titles ordained by Congress, the disregard of the claims of the natives might have gone so far in many places as to render any general restitution too expensive a luxury to be profitable. This procedure would have been analogous to that fashion of dealing with Indian reservations to which
our honest settlers have frequently resorted. Atrociously wicked as such a conspiracy would have been, we ourselves, as has been suggested above, should have been in the long-run the greatest sufferers, because the conspiracy could not have been successful enough to preserve us from fearful confusion of titles from litigation and warfare without end. Yet this course, as we shall see, was practically the course proposed by the Sacramento squatters of 1850, and for a time the balance hesitated between the choice of this and of the other course. The other course we actually adopted, and it was indeed the one peculiarly fitted to express just our national meanness and love of good order in one. This was the plan of legal recognition and equally legal spoliation of the Californians; a plan for which, indeed, no one man is responsible, since the coöperation of the community at large was needed, and obtained to make the Land-Act of 1851 an instrument for evil and not for good. The devil's instrument it actually proved to be, by our friendly coöperation, and we have got our full share of the devil's wages of trouble for our ready use of it. But bad as this second course was, it was far better than the first, as in general the meanness and good order of an Anglo-Saxon community of money-seekers produce better results than the bolder rapacity and less legal brutality of certain other conquering and overbearing races.

This struggle, then, resulting in the triumph of good order over anarchy, we are here to follow in a particular instance. The legalized meanness that was to take the place of open rebellion disappears in the background, as we examine the immediate incidents of the struggle, and we almost forget what was to follow, in our interest in the moment. Let us rejoice as we can in an incident that shows us what, amid all our folly and weakness, is the real strength of our national character, and the real ground for trust in its higher future development.

II

In the winter of 1849–50, that winter of tedium, of rain, of mud, and of flood, the trouble began. The only contemporary record that I know bearing upon this controversy in that time, I did not mention above, because it is so brief and imperfect. Bayard Taylor, then travelling as correspondent for the New York Tribune, had
his attention attracted by the meetings of malcontents on the banks of the Sacramento. They were landless men, and they could not see why. These people, Taylor tells us,\(^1\) "were located on the vacant lots which had been surveyed by the original owners of the town, and were by them sold to others. The emigrants, who supposed that the land belonged of right to the United States, boldly declared their intention of retaining possession of it. Each man voted himself a lot, defying the threats and remonstrances of the rightful owners. The town was greatly agitated for a time by these disputes; meetings were held by both parties, and the spirit of hostility ran to high pitch. At the time of my leaving the country, the matter was still unsettled; but the flood which occurred soon after, by sweeping both squatters and speculators off the ground, balanced accounts and left the field clear for a new start."

The papers of the following spring and summer refer a few times to these meetings. Taylor was wrong in supposing that the affair was to be ended in any fashion by the flood. More water does not make an Anglo-Saxon want less land, and this flood of 1850 itself formed a curious part of the squatter's pretended chain of argument a little later, as we shall see. Much more efficacious in temporarily quelling the anger of the landless men was the happy but deceitful beginning of the spring of 1850. Early fair weather sent hundreds to the mines, and put everybody into temporary good humor. Arguments gave place to hopes, and the landless men hunted in the mountains for the gold that Providence had deposited for the sake of filling just their pockets.

The intentions of Providence included, however, some late rains that spring. The streams would not fall, mining was delayed, provisions were exhausted in some of the mining camps, and a good many of the landless men went back to that city where they owned no land, abandoning their destined fortunes in the mountains, and turning their attention afresh to those ever-charming questions about the inalienable rights of men to a jolly time and a bit of land. And then the trouble began to gather in earnest; although, to be sure, in that busy society it occupied a great place in the public attention only by fits and starts. The growth of the evil seems to have been steadier than the popular notion of its character and magnitude. But let us turn for an instant to glance at the general

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social condition of the city that was to pass through this trial.

The Sacramento Transcript, in its early numbers in the spring of 1850, well expresses the cheerful side of the whole life of the early days. The New California world is so full of wonders, and the soul of the brave man is so full of youth and hope! Mr. F. C. Ewer, the joint editor with Mr. G. Kenyon Fitch, is a person of just the sort to voice this spirit of audacity, and of delight in life. "The opening of a new paper," he says (in No. 1 of the Transcript, April 1, 1850, *absit omen*), "is like the planting of a tree. The hopes of many hearts cluster around it. . . . In the covert of its leaves all pure principles and high aims should find a home." As for the city, he tells us in the same issue, everything is looking well for its future. The weather is becoming settled, business activity is increasing, substantial buildings are springing up, health "reigns in our midst." The news from the mines is good. There is Murderers' Bar, for instance. Late reports make "its richness truly surprising"; two ounces per day's work of a man for from one hundred to one hundred and fifty workers. To be sure, however, there has been a great rise in the water, and a large portion of those holding leads have been obliged to suspend operations. But all that is a matter of time. When one turns from the contemplation of the mines to the contemplation of the general condition of the country at large, one is struck with awe; for then one has to reflect on what the great American mind has already done. "Never has a country been more orderly, never has property been held more inviolable, or life more sacred, than in California for the last twelve or fourteen months."—(Editorial, April 20.) "Is it strange, then, that this feeling of self-reliance should be so strong and broadcast in the land? With a country so rich in resources—so blest in a people to manage it—the future destiny of California is one of the sublimest subjects for contemplation that can be presented to the mind."—(*Id.*) All this sublimity is, of course, quite consistent with occasional items about affrays and robberies of a somewhat primitive sort here and there in the sublime country; but such things do not decrease one's rapture. Surely "bliss was it in that dawn to be alive," and Mr. Ewer and Mr. Fitch were the generous youth to whom "to be young was heaven."

In such a good humor one finds, of course, time to write glowing accounts of the wondrously good society of Sacramento, of the great ball that those charming belles attended; that ball whose
character was so select that every gentleman had to send in beforehand to the committee his application for tickets for himself and for the fair lady whom he intended to take, and had to buy a separate, presumably non-transferable, ticket for her; the ball, whose brilliancy and high character, when the great evening came, surprised even Mr. Ewer, in this delightful wilderness of the Sacramento Valley. Nor in such a period does one forget the fine arts of music and poetry. One’s heaven-favored city is visited by Henri Herz, indubitably the greatest of living pianists, “every lineament” of whose face “marks the genius,” and who is therefore comparable in this respect to Daniel Webster, to Keats, to Beethoven, and to Longfellow (see the Transcript of April 20). Herz plays the sublimest of music to an enraptured audience: “The Last Rose of Summer,” “The Carnival of Venice,” and, greatest of all, his own grand “Voyage Musicales,” actually a medley of national songs, with passages of his own composition, illustrating the Rhine, the castles, the sunny vales of Bohemia, the Napoleonic wars, a storm at sea, and other similarly obvious and familiar experiences, even on unto his “California Polka,” wherewith he concludes! It is divine, this artistic experience, and the story of it fills columns of the generous little paper. Furthermore, one writes even sonnets, and having first printed them, one later finds occasion to quote them one’s self, since, after all, one’s own newspaper is a good place to be quoted in. The intellectual life of Sacramento is thus at the highest point. What shall such a community fear?

As for the Placer Times, that paper, a little later, calls attention to the stability of Sacramento conditions. San Francisco is a restless place, but for Sacramento, the speculative era is past. Solid business, permanent and steady growth, now begin. All this, you must remember, is in the spring of 1850. The whole picture is really an enchanting one; and only a churl could fail to feel a quickened pulse-throb when he reads these generous and innocent outbursts of splendid courage in both the newspapers. Here are energy, high aim, appreciation of every hint at things beautiful and good; here is every element of promise, save any assurance of real steadfastness and wisdom. Are these qualities truly present? For the trial is coming, and by another year these two papers will be as realistic and commonplace as you please. Will their purposes and those of the community gain in wisdom and in tried purity
what they must lose of the bloom and beauty of a childlike delight in novelty?

III

On April 23, 1850, there appears in the Transcript, for the first time, an advertisement that announces as “just published,” and now for sale, a “translation of the papers respecting the grant made by Governor Alvarado to ‘Mr. Augustus Sutter,’ showing that said grant does not extend any further south than the mouth of Feather River, and, therefore, of course, does not embrace Sacramento City.” This document could be bought for fifty cents. I have never seen the pamphlet itself, which contained some comments that would now have much interest; but the course of its argument, at all events, when taken together, with the other popular squatter talk of the time, is made plain by subsequent discussions in the newspapers. John Sutter, the squatters intend to show, has no claim, save, of course, as squatter himself, to the land on which Sacramento is built. Fremont found him here; but then he was, for all that, just a squatter. For, behold, what becomes of his boasted grant, when you turn a keen American eye upon it? In the first place, it is incomplete, since no evidence is produced that the central Government in Mexico ever sanctioned it. Furthermore, it is informal, if you will insist upon legal technicalities at all. For we will let land speculators have all the law that they want, if it is law that they are talking about. The grant is to “Mr. Augustus Sutter.” Is that the Sutter known to us as the great captain? Still more, the grant is within a tract that is to have Feather River for its eastern boundary. Is the Feather River east of Sacramento? Yet again, the grant is specially framed to exclude land overflowed in winter. Let the land speculators, who were lately driven off their precious possessions by the flood, read and ponder this provision. Can you float in boats over a grant that is carefully worded to exclude the overflowed tracts near the river? Best of all, however, is the evidence of figures that cannot lie. Sutter’s grant is not only too informal and ill-defined, but it is also far too formal and well-defined to afford the speculators any shadow of excuse for their claims. For the latitude of the tract granted is limited by the outside boundaries, recorded in the document. The southern
boundary is, however, expressly stated as latitude $38° 41' 32"$. And this parallel is some miles north of the city, crossing the Sacramento River, in fact, not far above its junction with the Feather. This is conclusive. The inalienable rights of man are no longer to be resisted by means of such a title as this one. The public domain is free to all. And Sacramento is obviously upon the public domain.

Such was the contention for which this pamphlet undertook to state the basis. Many a man has heard the old story repeated in lawsuits, occurring years after that time. Early in the seventies the California Supreme Court Decisions contain a settlement on appeal of a suit in which the appellant, resisting a title in the city of Sacramento derived from the Sutter grant, had managed still, after all State and national decisions, to present as a forlorn hope the old argument about the latitudes. The argument was, of course, at that date promptly rejected; but one watches with interest the reptilian tenacity of its venomous life. The whole case had received, as late as 1864, the honor of restatement in the records of the United States Supreme Court, by the help of Attorney-General Black, who never missed an opportunity of abusing a Californian Land Grant title. The court, indeed, had failed to recognize the force of the argument.

And yet, even in 1850, this chain of squatter reasoning seems as one reads it to express rather a genuine American humor than any sincere opinion of anybody's. It is so plain that the squatter, annoyed by the show of legal right made by the other side, has determined in a fit of half-amused vexation to give the "speculators" all the law they want "hot and heavy." It is so plain, too, that what he really means is to assert his right to make game of any Mexican title, and to take up land wherever he wants it. For every item of his contention is a mere quibble, which would have been harmless enough, no doubt, in court proceedings, but which at such a moment, when urged with a view to disturbing the public mind of an established community, could easily become a very dangerous incitement to disorder and violence. Every Californian land-title had, of course, to be interpreted with reference to the conditions under which it was given. Substantial rights could not be left at the mercy of quibbles about matters of detail. A \textit{bona}

\footnote{United States Reports, 2 Wallace, 575.}
fide grant to Sutter, intended to include his "establishment at New Helvetia," could not be ignored because its boundaries were awkwardly described, nor because a surveyor, with poor and primitive instruments, had blundered about the latitude both of the northern and of the southern boundary, after Sutter's petition had described both of them with sufficient clearness, by the natural landmarks. Nobody, for instance, could have pretended that by Sutter's Buttes, the "Tres Picos" of the grant, must be meant some imaginary point out in the plains to the north, merely because the surveyor, Vioget, had erred about the latitude of the peaks, so that the grant put them just north of the northern outside boundary, while the line of latitude named for that boundary actually ran north of those familiar landmarks themselves. The Tres Picos formed an evidence of the true northern boundary of the tract in question, that was worth far more than Vioget's figures; for the peaks are visible and the lines of latitude are "merely conventional signs," after all. The figures did in fact lie, and Vioget this time, so soon as the trouble had begun, frankly confessed his old error in an affidavit signed by him at San Francisco. There had been a constant error in latitude in his work, he averred, and by the southern boundary in latitude 38° 41' 32" he had meant "the estimated latitude of a point of land on the east bank of the Sacramento River, on the high ground south of the lagunas, below a town now called Sutter and distant about four and one half miles in a southerly direction from Sutter's fort." As for the argument about the exclusion of the overflowed lands, that capped the climax of the squatter humor. The flood was, indeed, a land-speculator whom no one could gainsay, and to its writ of ejectment nobody made successful resistance. But then, if one calls his beloved tract of firm land swampland, because a great flood has driven him from it, one is understood to be amusing himself with hard words.

Here, then, was the outer armor in which the squatter doctrine encased itself. Its inner life was a very different thing. "Captain Sutter," said a squatter correspondent of the Placer Times, "settles this question himself, by plainly declaring with his own lips that he has no title to this place, but he hopes Congress will give him one." These words of the correspondent are false on their face, but they

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3 Transcript for June 8; see also Placer Times of the same date.
express truthfully enough the spirit of the squatter contention. Sutter "has," indeed, as yet no patent from the United States and he "hopes" that Congress will pass some law that will protect his right to his land. So much is true. But when a squatter interprets Sutter's position as this correspondent does, he plainly means that there are at present no legally valid Mexican land-titles in the country, since Congress, the representative of the conquering power, has so far passed no law confirming those titles. The squatter wants, then, to make out that Mexican land-grants, or at the very least, all in any wise imperfect or informal grants, have in some fashion lapsed with the conquest; and that in a proper legal sense the owners of these grants are no better than squatters themselves, unless Congress shall do what they "hope," and shall pass some act to give them back the land that they used to own before the conquest. That the squatters somehow held this strange idea about the grants, is to my mind pretty plain. The big Mexican grant was to them obviously an un-American institution, a creation of a benighted people. What was the good of the conquest, if it did not make our enlightened American ideas paramount in the country? Unless, then, Congress, by some freak, should restore to these rapacious speculators their old benighted legal status, they would have no land. Meanwhile, of course, the settlers were to be as well off as the others. So their thoughts ran.

Intelligent men could hold this view only in case they had already deliberately determined that the new coming population, as such, ought to have the chief legal rights in the country. This view was, after all, a very obvious one. Providence, you see, and manifest destiny were understood in those days to be on our side, and absolutely opposed to the base Mexican. To Providence the voyagers on the way to California had appealed at Panama, when they called on General Persifer Smith to make his famous proclamation excluding foreigners from the Californian mines. "Providence," they in effect declared, "has preserved the treasures of those gold-fields all through these years of priestcraft and ignorance in California, for us Americans. Let the Government protect us now." Providence is known to be opposed to every form of oppression; and grabbing eleven leagues of land is a great oppression. And so the worthlessness of Mexican land-titles is evident.

4 See the Panama Star, in the early part of 1849.
Of course the squatters would have disclaimed very generally so naked a statement as this of their position. But when we read in one squatter's card that "surely Sutter's grant does not entitle to a monopoly of all the lands in California, which were purchased by the treasure of the whole nation, and by no small amount of the best blood that ever coursed or ran through American veins," the same writer's formal assurance that Sutter ought to have his eleven leagues whenever they can be found and duly surveyed, cannot blind us to the true spirit of the argument. What has this "best blood" to do with the Sutter grant? The connection in the writer's mind is only too obvious. He means that the "best blood" won for us a right to harass great land-owners. In another of these expressions of squatter opinion I have found the assertion that the land-speculators stand on a supposed old Mexican legal right of such as themselves to take up the whole territory of California, in sections of eleven leagues each, by some sort of Mexican preemption. If a squatter persists in understanding the land-owner's position in this way, his contempt for it is as natural as his wilful determination to make game of all native Californian claims is obvious.

But possibly the squatters would not have shown, and in fact would not have developed, their doctrine as fully as they in the end did, had not events hastened on a crisis. With mere argument no squatter was content. He was a squatter, not because he theoretically assailed Sutter's title, but because he actually squatted on land that belonged to somebody else. In order to do this successfully, the squatters combined into a "Settler's Association." They employed a surveyor and issued to their members "squatter-titles," which were simply receipts given by the surveyor, who was also recorder of the Association, each certifying that A. B. had paid the regular fee for the mapping out of a certain vacant lot of land, 40 × 160, within the limits of the town of Sacramento. The receipts have the motto, "The public domain is free to all." The Association announced its readiness to insist, by its combined force, upon the rights of its members.

A member, who has already been quoted, wrote to the Placer Times, that "with the Sutter men there has been and is now money and power, and some of them are improving every opportunity to

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5 Transcript, June 21, 1850.
6 Placer Times, June 7th.
trouble and oppress the *peaceable, hard-working, order-loving,* and law-abiding settler, which, in the absence of the mass of the people in the mines, they do with comparative impunity." The italics are his own. The letter concluded with an assurance that the settlers were organized to maintain what "country, nature, and God" had given to them. The mention of the "absence of the people in the mines" is very characteristic of the purposes of the squatters; and the reference to "country, nature, and God" illustrates once more the spirit of the movement.

As for this "absence of the people," the squatters plainly hoped for much in the way of actual aid from the mining population, whenever it should return for another rainy season. That system of land-tenure which was so healthful in the mining districts, was not just the best school for teaching a proper respect in the presence of Mexican land grants. Colonel Frémont's later experience in the matter of the Mariposa grant proved that clearly enough. And not only the miners, but also the newly arriving emigrants, were expected to help the squatter interest, and to overwhelm the speculators. In an editorial on squatterism the Placer Times expressed not ill-founded fears, as follows: "Reckless of all principle," it said, the squatters "have determined to risk all hopes upon the chances of an immediate and combined effort, as upon the hazard of a die." "They hope," the editorial continued, "to overcome all resistance for the moment, and to get the land. Then they will have a colorable show of title; surveys and associated action of other sorts will make the thing look formal; and there will be the law's delay. Then the immigration of strangers from the plains will come in with the autumn, undisciplined by our system, untutored by our customs, ignorant of our laws, and wholly actuated by a desire for rapid and enlarged accumulation." These will finish the mischief. "Through their thronging ranks the apostles of squatterism" will "penetrate far and wide, disseminating radical and subversive doctrines, and contending for an indiscriminate ownership of property by the whole people, qualified only by a right of possession in the actual possessor." The editor, of course, considered a conflict imminent when he wrote these words. And what makes me think his notion of the significance of the squatter movement correct, is, in addition to what has been mentioned above, the fact that the squatters continued to assert their claims

7 Weekly edition, June 29th.
more and more violently and publicly from this time till the end, but never took any pains to allay the very natural alarm that they had thus aroused as to their intentions. The movement was plainly an agrarian and ultra-American movement, opposed to all great land owners, and especially to all these Mexican grantees.  

The appeal quoted above, to "nature, country, and God," is also, as I have said, characteristic of the spirit of the movement. The writer of the letter in question is very probably no other than the distinguished squatter-leader, Doctor Charles Robinson himself, a man to whom the movement seems to have owed nearly all its ability. And when we speak of Doctor Robinson, we have to do with no insignificant demagogue or unprincipled advocate of wickedness, but with a high-minded and conscientious man, who chanced just then to be in the devil's service, but who served the devil honestly, thoughtfully, and, so far as he could, dutifully, believing him to be an angel of light. This future Free-Soil Governor of Kansas, this cautious, clear-headed, and vigorous anti-slavery champion of the troublous days before the war, who has since survived so many bitter quarrels with old foes and old friends, to enjoy, now at last, his peaceful age at his home in Lawrence, Kansas, is not a man of whom one may speak with contempt, however serious his error in Sacramento may seem. He was a proper hero for this tragic comedy, and "nature, country, and God" were his guiding ideals. Only one must understand the character that these slightly vague ideals seem to have assumed in his mind. He was a newcomer of 1849, and hailed from Fitchburg, Massachusetts. He was a college graduate, had studied medicine, had afterwards rebelled against the technicalities of the code of his local association, and had become an independent practitioner. His friends and interests, as his whole subsequent career showed, were with the party of the cultivated New England Radicals of that day. And these cultivated Radicals of the anti-slavery generation, and especially of Massachusetts, were a type in which an impartial posterity will take a huge delight; for they combined so characteristically shrewdness, insight, devoutness, vanity, idealism, and self-worship. To speak of them, of course, in the rough, and as a

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8 One of the Tribune squatter correspondents (see Tribune for October 8, 1850) says, after the crisis, that, owing to the crowd in California, people are much in one another's way; but, he adds, "of necessity the rights of the majority are most worthy of respect, and ought to be maintained." This is the old story of robbers.
mass, not distinguishing the leaders from the rank and file, nor blaspheming the greater names, they were usually believers in quite abstract ideals; men who knew how to meet God "in the bush" whenever they wanted, and so avoided him in the mart and in the crowded street; men who had "dwelt cheek by jowl, since the day" they were "born, with the Infinite Soul," and whose relations with him were like those of any man with his own private property. This Infinite that they worshipped was, however, in his relations to the rest of the world, too often rather abstract, a Deus absconditus, who was as remote from the imperfections and absurdities of the individual laws and processes of human society, as he was near to the hearts of his chosen worshippers. From him they got a so-called Higher Law. As it was ideal, and, like its author, very abstract, it was far above the erring laws of men, and it therefore relieved its obedient servants from all entangling earthly allegiances. If the constitution upon which our sinful national existence depended, and upon which our only hope of better things also depended, was contradicted by this Higher Law, then the constitution was a "league with hell," and anybody could set up for himself, and he and the Infinite might carry on a government of their own.

These Radicals were, indeed, of the greatest value to our country. To a wicked and corrupt generation they preached the gospel of a pure idealism fervently and effectively. If our generation does not produce just such men, it is because the best men of our time have learned from them, and have absorbed their fervent and lofty idealism into a less abstract and a yet purer doctrine. The true notion, as we all, of course, have heard, is, that there is an ideal of personal and social perfection far above our natural sinful ways, and indeed revealed to us by the agencies of spiritual life, and not by baser worldly means, but not on that account to be found or served by separating ourselves, or our lives, or our private judgments, from the social order, nor by rebelling against this whole frame of human error and excellence. This divine ideal is partly and haltingly realized in just these erring social laws—for instance, in the land laws of California—and we have to struggle in and for the actual social order, and cannot hope to reach the divine by sulking in the bush, or by crying in the streets about our private and personal Higher Law, nor by worshipping any mere abstraction. That patient loyalty to the actual social order is the
great reformer's first duty; that a service of just this erring humanity, with its imperfect and yet beautiful system of delicate and highly organized relationships, is the best service that a man can render to the Ideal; that he is the best idealist who casts away as both unreal and unideal the vain private imaginings of his own weak brain, whenever he catches a glimpse of any higher and wider truth; all this lesson we, like other peoples and generations, have to study and learn. The Transcendentalists, by their very extravagances, have helped us towards this goal; but we must be pardoned if we learn from them with some little amusement. For when we are amused at them, we are amused at ourselves, since only by these very extravagances in our own experience do we ever learn to be genuine and sensible idealists.

Well, Doctor Robinson, also, had evidently learned much, in his own way, from teachers of this school. The complex and wearisome details of Spanish Law plainly do not interest him, since he is at home in the divine Higher Law. Concrete rights of rapacious land speculators in Sacramento are unworthy of the attention of one who sees so clearly into the abstract rights of Man. God is not in the Sutter grant, that is plain. It is the mission of the squatters to introduce the divine justice into California: no absurd justice that depends upon erroneous lines of latitude, and establishments at New Helvetia, and other like blundering details of dark Spanish days, but the justice that can be expressed in grand abstract formulae, and that will hear of no less arbiter than the United States Supreme Court at the very nearest, and is quite independent of local courts and processes.

For the rest, Doctor Robinson added to his idealism the aforesaid Yankee shrewdness, and to his trust in God considerable ingenuity in raising funds to keep the squatter association at work. He wrote well and spoke well. He was thoroughly in earnest, and his motives seem to me above any suspicion of personal greed. He made out of this squatter movement a thing of real power, and was, for the time, a very dangerous man.

Thus led and moved, the squatter association might easily have become the center of a general revolutionary movement of the sort above described. All depended on the tact of the Sacramento community in dealing with it. If the affair came to open bloodshed, the public sentiment aroused would depend very much upon where the fault of the first violence was judged to lie. The mass of people
throughout the State looked on such quarrels, so long as they avoided open warfare, with a mixture of amusement, vexation, and indifference. Amusement they felt in watching any moderate quarrel; vexation they felt with all these incomprehensible land grants, that covered so much good land and made so many people trip; and indifference largely mingled with it all, at the thought of home, and of the near fortune that would soon relieve the average Californian from all the accursed responsibilities of this maddening and fascinating country. But should the “land speculators” seem the aggressors, should the squatters come to be looked upon as an oppressed band of honest poor men, beaten and murdered by high-handed and greedy men of wealth, then Robinson might become a hero, and the squatter movement, under his leadership, might have the whole sympathetic American public at its back, and the consequences we can hardly estimate.

How did the community, as represented by its generous-hearted papers, meet the crisis? Both these newspapers of Sacramento were, as the reader sees, editorially opposed to the squatters. They bandied back and forth accusations of lukewarmness in this opposition. But in July the Transcript, not formally changing its attitude, still began to give good reason for the accusation that it was a little disposed to favor squatterism. For, while it entirely ceased editorial comment, it began to print lengthy and very readable accounts of the squatter meetings, prepared, it is said, by a reporter who was himself a squatter, thus giving the squatters just the help with the disinterested public that they desired, and supplying for the historical student some amusing material. By the beginning of July the arguments were all in; the time for free abuse and vigorous action had come. Yet it is just then that this paper, whose motives were but yesterday so pure and lofty, shows much more of its good humor than of its wisdom, and so actually abets the squatter movement.

IV

The reader needs at this point no assurance that the quarrel was quite beyond any chance of timely settlement by an authoritative trial of the Sutter title itself. Such a trial was, of course, just what

\(^9\) See the bitter letter to the editor of the Placer Times just after the crisis, published Aug. 16th. This letter may probably be trusted as to this one fact.
the squatters themselves were anxious to await. It was on the impossibility of any immediate and final judicial settlement that their whole movement depended. Mr. William Carey Jones's famous report on California Land Titles reached the State only during the very time of this controversy. Congress had, as yet, made no provision for the settlement of California Land Claims. The Supreme Court was a great way off; hence the vehemence and the piety of squatter appeals to God and the Supreme Court. Regular settlement being thus out of the question, some more summary process was necessary to protect the rights of land-owners. In the first session of the State Legislature, which had taken place early in this year, the landed interest seems to have been fairly strong, apparently by virtue of those private compromises, which one can trace through the history of the Constitutional Convention at Monterey, and which had been intended both to meet the political exigencies of the moment, and to further the personal ambitions of two or three men. The result had been the establishment in California of a procedure already well known elsewhere. The "Act Concerning Forcible Entry and Unlawful Detainer" provided a summary process for ejecting any forcible trespasser upon the land of a previous peaceable occupant, who had himself had any color of right. This summary process was not to be resorted to in case the question of title properly entered into the evidence introduced in defense by the supposed trespasser, and the procedure was no substitute for an action of ejectment. It was intended to defend a peaceable possessor of land from violent dispossession, even in case the assailant happened to have rights that would in the end prove on final trial superior. The act, therefore, was well able to meet the case of the naked trespasser, or squatter, who, without pretense of title, took possession of land that was previously in the peaceable possession of anybody. The act provided for his ejection, with the addition of penalties; and its framers had, of course, no intention to make it any substitute for a judicial determination of title.

To this act some of the land-owners of Sacramento now appealed for help. Moreover, as they were in control of the city council, they proceeded to pass, amid the furious protests of the squatters, a municipal ordinance, which in the end was indeed practically unenforced, forbidding any one, under serious penalties, to erect tents, or shanties, or houses, or to heap lumber or other encumbrances, upon any vacant lot belonging to a private
person, or upon any public street. The land-owners also formed a
"Law and Order Association," and printed in the papers a notice
of their intention to defend to the last their property under the
Sutter title. They began to drill companies of militia. A few per­
sonal encounters took place in various vacant lots, where owners
tried to prevent the erection of fences or shanties. Various pro­
cesses were served upon squatters, and executed. The squatter as­
sociation itself plainly suffered a good deal from the internal
jealousies or from the mutual indifference of its members. Only
the ardor of Doctor Robinson prevented an utter failure of its or­
ganization long before the crisis. In the latter part of June, and for
some time in July, the movement fell into the background of pub­
lic attention. The Transcript helped it out again into prominence.
But the squatters themselves longed for a newspaper of their own,
and sent for a press and type. They were accused, meanwhile, of
threats to fire the town in case their cause was put down. But, after
all, their best chance of immediate success lay in raising money
to resist the suits brought against them; and to this course Doctor
Robinson, although he had conscientious scruples about the au­
thority of any California law, urged his followers as to the most
expedient present device. It is at this point that the meetings of the
squatters begin to receive lengthy reports.

At a meeting reported in the Transcript for July 2d, one squatter
objected to going to law. It was unnecessary, he said; for this whole
thing of the Sutter title was illegal. He was answered by one Mr.
Milligan, to the effect that the object was to keep their enemies at
bay until the question could be brought before a legal tribunal,
where justice could be done. Mr. Milligan was then sent about in
the country to the "brother squatters," who were so numerous near
Sacramento, for subscriptions. In a meeting narrated in the Tran­
script for July 4th, he reported imperfect success. Some of the
brethren were not at home; one told the story about a man who
got rich by minding his own business; few had money to spare.
Doctor Robinson had some reassuring remarks in reply to this re­
port, and Mr. Milligan himself then made an eloquent speech.
"The squatters were men of firmness; their cause had reached the
States; they had many hearty sympathizers on the Atlantic shores."
His thoughts became yet wider in their sweep, as he dwelt on the
duty of never yielding to oppression. "He saw, a few days ago, a
crowd of Chinese emigrants in this land; he hoped to be able to
send through these people the intelligence to the Celestial Empire that the Emperor don't own all the land in the world, and so he hoped the light would soon shine in Calcutta—throughout India, and Bengal, and Botany Bay, and lift up the cloud of moral darkness and rank oppression.” This Oriental enthusiasm reads very delightfully in these days, and is worth preserving.

By the time of the meeting of July 24th, which was held in “Herkimer Hall,” and was reported in the Transcript of the 25th, the talk was a little less world-embracing, and the feeling keener. Some land-owners had taken the law into their own hands, and had been tearing down a fence erected by squatters. Doctor Robinson announced that he would help to put up that fence next day, whereupon rose Mr. McClatchy.10 He was a law-abiding citizen, but would submit to no injustice. He would rather fight than collect subscriptions any day. If land-owners wanted to fight let them fight, and the devil take the hindmost. “Let us put up all the fences pulled down, and let us put up all the men who pulled them down.” This last suggestion was greeted with great applause and stamping.

Doctor Robinson introduced resolutions declaring, among other strong words, that “if the bail of an arrested squatter be refused simply because the bondsman is not a land-holder under Captain Sutter, we shall consider all executions issued in consequence thereof as acts of illegal force, and shall act accordingly.” In urging his resolutions, he pointed out how the land speculators’ doctrine about land grants would certainly result in the oppression of the poor man all over California. “Was this right? Was it a blessing? If so, Ireland was blessed, and all other oppressed countries. Would any Anglo-Saxon endure this? The Southern slave was not worse treated.” Doctor Robinson dwelt on the low character of these speculators. Look at the mayor, at the councilmen, and the rest. “There were no great minds among them. And yet these were the men who claimed the land. Can such men be men of principle?”

He thought that “we should abide by all just laws, not unjust.”

Mr. McClatchy now pointed out that God’s laws were above man’s laws, and that God gave man the earth for his heritage. In

10 James McClatchy, author of the March 25th letter to the New York Tribune, had previously been associated with land-reform movements in New York State. He, too, knew the Higher Law by heart, and was a man of some ability.
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this instance, however, the laws of our own land, whenever, of course, we could appeal to them in the Supreme Court, were surely on our side, and so seconded God's law. "If the land-holders," he said, winding up his philosophic train of thought, "act as they do, we shall be obliged to lick 'em."

A Mr. Burke was proud to feel that by their language that evening they had already been violating those city ordinances which forbade assemblages for unlawful ends. "A fig for their laws; they have no laws." "Mr. Burke," says the report, "was game to the last—all fight—and was highly applauded." The resolutions were readily adopted, and the meeting adjourned in a state of fine enthusiasm.

In the second week of August a case under the "Forcible Entry and Detainer Act" came before the County Court, Willis, Judge, on appeal from a justice's court of the city. The squatters' association appealed, on the ground that the plaintiff in the original suit had shown no true title to the land. The justice had decided that under the evidence the squatter in question was a naked trespasser, who made for himself no pretense of title, and that, therefore, in a trial under the act the question of title had not properly entered as part of the evidence at all. The appeal was made from this decision and was promptly dismissed. The squatters were furious. Sutter had no title, and a man was a squatter on the land for just that reason; and yet when the courts were appealed to for help in sustaining the settler they thus refused to hear the grounds of his plea, and proposed to eject him as a trespasser. Well, the United States courts could be appealed to some time. One could well afford to wait for them if only the process under the State act could be stayed, and the squatter left in peaceable possession meanwhile. To this end one must appeal to the State Supreme Court. But alas! Judge Willis, when asked in court, after he had rendered decision, for a stay of proceedings pending appeal to the State Supreme Court, replied, somewhat informally, in conversation with the attorneys, that it was not clear to him whether the act in question, or any other law, permitted appeal from the county court's decision in a case like this. He took the matter under advisement. But the squatters present, in a fit of rage, misunderstood the judge's hesitating remark. They rushed from the court to excited meetings outside, and spread abroad the news that Judge Willis had not only decided against them, but had decided that from him there was no
appeal. Woe to such laws and to such judges! The law betrays us. We will appeal to the Higher Law. The processes of the courts shall not be served!

Doctor Robinson was not unequal to the emergency. At once he sent out notices calling a mass-meeting of "squatters and others interested," to take place the same evening, August 10th. It was Saturday, and when night came a large crowd of squatters, of landowners, and of idlers, had gathered. The traditional leisure of Saturday night made a great part of the assembly as cheerful as it was eager for novelty and interested in this affair. Great numbers were there simply to see fair play; and this general public, in their characteristically American good-humor, were quite unwilling to recognize any sort of seriousness in the occasion. These jolly onlookers interrupted the squatter orators, called for E. J. C. Kewen and Sam Brannan as representatives of the land-owners, listened to them awhile, interrupted them when the thing grew tedious, and enjoyed the utter confusion that for the time reigned on the platform. At length the crowd were ready for Doctor Robinson and his inevitable resolutions. He, for his part, was serious enough. He had been a moderate man, he said, but the time for moderation was past. He was ready to have his corpse left on his own bit of land ere he would yield his rights. Then he read his resolutions, which sufficiently denounced Judge Willis and the laws; and thereafter he called for the sense of the meeting. Dissenting voices rang out, but the resolutions received a loud affirmative vote and were declared carried. The regular business of the meeting was now done; but for a long time yet various ambitious speakers mounted the platform and sought to address the crowd, which amused itself by roaring at them or by watching them pushed from their high place.

Next day Doctor Robinson was early at work drawing up in his own way a manifesto to express the sense of his party. It was a very able and reckless document. Robinson had found an unanswerable fashion of stating the ground for devotion to the Higher Law as opposed to State Law. There was, the paper reminded the people, no true State here at all; for Congress had not admitted California as yet, and it was still a mere Territory. What the Legislature in San José had done was no law-making. It had passed some "rules" which had merely "advisory force." These were, some of them, manifestly unconstitutional and oppressive. The act now in question was plainly of this nature. Worst of all,
the courts organized by this advisory body now refused an appeal from their own decisions even to the Supreme Court of the State. Such a decision, thus cutting off an appeal on a grave question of title, that could in fact be settled only by the Supreme Court of the United States, was not to be endured. The settlers were done with such law that was no law. "The people in this community called settlers, and others who are friends of justice and humanity, in consideration of the above, have determined to disregard all decisions of our courts in land cases, and all summonses or executions by the sheriff, constable, or other officer of the present county or city touching this matter. They will regard the said officers as private citizens, as in the eyes of the Constitution they are, and hold them responsible accordingly." If, then, the document went on to say, the officers in question appealed to force, the settlers "have deliberately resolved to appeal to arms, and protect their sacred rights, if need be, with their lives."

The confused assent of the Saturday night torchlight meeting to a manifesto of this sort, an assent such as the previous resolutions had gained, would have been worth very little. Where were the men and the arms? Doctor Robinson was man enough himself to know what this sort of talk must require if it was to have meaning. But what he did he can best tell. In his tent, after the crisis, was found an unfinished letter to a friend in the East. It was plainly never intended for the public eye, and may surely be accepted as a perfectly sincere statement. The newspapers published it as soon as it was found, and from the Placer Times of August 15th I have it noted down.

The date is Monday, the 12th of August. "Since writing you we have seen much and experienced much of an important character, as well as much excitement. . . . The County Judge on Saturday morning declared that from his decision there should be no appeal." Then the letter proceeds to tell how the meeting was called, as narrated above. The call "was responded to by both parties, and the speculators, as aforetime, attempted to talk against time. On the passage of a series of resolutions presented by your humble servant, there were about three ayes to one nay, although the Transcript said that they were about equal. Sunday morning I drew up a manifesto, carried it to church, paid one dollar for preaching, helped them sing, showed it to a lawyer, to see if my position was correct legally, and procured the printing of it in handbills and in
the paper, after presenting it to a private meeting of friends for their approval, which I addressed at some length. After a long talk for the purpose of comforting a gentleman just in from the plains, and who, the day before, had buried his wife, whom he loved most tenderly, and a few days previous to that had lost his son, I threw myself upon my blankets, and 'seriously thought of the morrow.'

"What will be the result? Shall I be borne out in my position? On whom can I depend? How many of those who are squatters will come out if there is a prospect of a fight? Have I strictly defined our position in the bill? Will the world, the universe, and God say it is just, etc.? Will you call me rash if I tell you that I took these steps to this point when I could get but twenty-five men to pledge themselves on paper to sustain me, and many of them, I felt, were timid? Such was the case."

In the night we deal, if we like, with the world, the universe, and God. In the morning we have to deal with such things as the Sheriff, the Mayor, and the writs of the County Court—things with which, as we have already learned from the squatters, God has nothing whatever to do! One wonders, in passing, whether the church in which Doctor Robinson so lustily sang and so cheerfully paid his dollar that bright August Sunday was Doctor Benton's. If so, the settlers' leader surely must have noticed a contrast between his own God of the Higher Law and the far more concrete Deity that this noted and able pioneer preacher always presented to his audiences. That orthodox Deity, whatever else may have seemed doubtful about him, was surely conceived and presented as having very definite and living relationships to all rulers who bear not the sword in vain. And nobody, whatever his own philosophic or theological views, ought to have any hesitation as to which of these two conceptions is the worthier of a good citizen, however incomplete both of them may be for philosophy. And now, to state this crisis in a heathen fashion, we may say that the concrete Deity of the actual law, and Doctor Robinson's ideal abstract Deity of the Higher Law, were about to enter into open warfare, with such temporary result as the relative strength of unwise city authorities and weak-kneed squatters might determine. For to such earthen vessels are the great ideals, good and evil, entrusted on this earth.

What other squatters thought meanwhile is sufficiently shown by two letters from their side, one written just after the crisis, the other some months later, and published in Eastern newspapers. The
first says: "The cause of all this [difficulty] is nothing more or less than land monopoly," and denies that the squatters could have done anything but what they did. The second says, long after, be it noticed, and when the lessons of the affair ought to have been clear to every one, that the squatters have clearly shown their intent to fight to the death against all "favoritism" shown to old Californians. American citizens will never, the writer of the letter says, submit to such outrageous injustice. He was himself present at the fight and speaks authoritatively.

V

Morning came, and with it the printed manifesto. The city, with all its show of care and all its warnings during the last few months, was wholly unprepared for proper resistance to organized rebellion. The populace was aroused, crowds ran to and fro, rumors flew thick and fast. Doctor Robinson was found on a lot, at the corner of Second and N Streets, where the Sheriff was expected to appear to serve a writ. By adroitness in making speeches and by similar devices the doctor collected and held, in apparent sympathy with himself, a crowd of about two hundred, whom he desired to have appear as all squatters, and all "men of valor." Mean-while names were enrolled by him as volunteers for immediate action, a military commander of the company was chosen—one Maloney, a veteran of the Mexican War—and in all some fifty men were soon under arms. Mayor Bigelow now approached on horseback, and from the saddle addressed the crowd. It would be best, he said, for them to disperse, otherwise there might be trouble. Doctor Robinson was spokesman in answer. "I replied," he says in his letter, "most respectfully, that we were assembled to injure no one and to assail no one who left us alone. We were on our own property, with no hostile intentions while unmolested." The Mayor galloped off, and was soon followed to his office by a little committee of the squatters, Doctor Robinson once more spokesman. They wanted, so they said, to explain their position so that there could be no mistake. They were anxious to avoid bloodshed, and begged Bigelow to use his influence to prevent service of the processes of the Court. Doctor Robinson understood the Mayor to promise to use the desired influence in a private way and as a

11 See his letter, after the passage quoted above.
peaceloving citizen. They then warned him that, if advantage should be taken of their acceptance of his assurance, and if writs were served in the absence of their body of armed men, they would hold him and the Sheriff responsible according to their proclamation. The Placer Times of Tuesday morning declares that the Mayor's reply assured the squatters of his intention to promise nothing but a strict enforcement of the law.

Doctor Robinson's letter seems to have been written just after this interview. In the evening the rumor was prevalent that a warrant was out for his arrest and that of the other ringleaders. Many squatters, very variously and sometimes amusingly armed, still hung about the disputed lot of land. On Tuesday, possibly because of the Mayor's supposed assurance, the squatters were less wary. Their enemies took advantage of their dispersed condition, and arrested the redoubtable McClatchy, with one other leader. These they took to the "prison brig," out in the river. In the afternoon the Sheriff quietly put the owners of the disputed lot in possession, apparently in the absence of squatters. The Mayor's assurance, if he had given one, was thus seen to be ineffective. There was no appeal now left the squatters but to powder and ball.

It seems incredible, but it is true, that Wednesday morning, August 14th, found the authorities still wholly unprepared to awe the lawless defenders of the Higher Law. When the squatters assembled, some thirty or forty in number, all armed, and "men of valor" this time when they marched under Maloney's leadership to the place on Second Street, and once more drove off the owners; when they then proceeded down to the levee, intending to go out to the prison brig and rescue their friends; when they gave up this idea, and marched along I Street to Third in regular order, Maloney in front on horseback, with a drawn sword, there was no force visible ready to disperse them; and they were followed by a crowd of unarmed citizens, who were hooting and laughing at them. Reaching the corner of Third Street, they turned into that

12 The letter in the New York Tribune of October 15, 1850, by a squatter, says that the young man who claimed possession as a squatter was absent from the disputed land on Tuesday by reason of his attendance at the examination of the arrested squatters in court. McClatchy is also here said to have given himself up.

street, passed on until J Street was reached, and then marched out
J toward Fourth Street.

At this point, Mayor Bigelow, who had already been busily at­
tempting to rouse the people near the levee, appeared in the rear
of the crowd of sight-seeing followers, on horseback, and called
upon all good citizens to help him to disperse the rioters at once.
His courage was equal to his culpable carelessness in having no
better force at hand; but to his call a few of the unarmed citizens
replied (men such as Doctor Stillman himself, for instance) that
the squatters could not be gotten rid of so easily by a merely ex­
tempore show of authority, since they surely meant to fire if mo­
ested. The Mayor denied, confidently, this possibility; the squat­
ters were, to his mind, but a crew of blustering fellows, who meant
nothing that would lead them into danger. He overtook the crowd
of citizen followers, repeating his call; and the mass of this crowd
gaily obeyed. Three cheers for the Mayor were given, and the im­
provised posse, led by Mayor and Sheriff, ran on in pursuit of their
game. Only one who has seen an American street-crowd in a mo­
ment of popular excitement, can understand the jolly and careless
courage that seems to have prevailed in this band, or their total
lack of sense of what the whole thing meant. They were indeed not
all unarmed, by any means; but it seems impossible that, acting as
they did, they could have been expecting to draw fire from the
squatters.

On J Street, Maloney of the drawn sword turned about on his
horse to look, when lo! the Mayor, with the Sheriff, and with the
little army, was in pursuit. The moment of vengeance for broken
promises had come. Promptly the squatter company wheeled,
drew into line across Fourth, and awaited the approach of the
enemy, taking him thus in flank. Undaunted the Mayor rode up,
and voiced the majesty of the law, by ordering the squatters to lay
down their arms, and to give themselves up as prisoners. The citi­
zen army cheerfully crowded about Bigelow, and in front of the
armed rioters, curious, no doubt, to watch the outcome, anxious, it
would seem, to enjoy a joke, incredulous of any danger from the
now so familiar boasters. Armed and unarmed men seem to have
been huddled together in confusion, beside the Mayor and the
Sheriff. But the armed men displayed their weapons freely, and
were ready for whatever might result. Thus everything was done
to tempt a distaster.
The accounts of the scene that are written by the squatters themselves, pretend that they replied to the Mayor, refusing to surrender their arms, and even add that he himself first discharged a barrel of his own pistol before they began. But the newspaper reports, and Doctor Stillman's account, make it tolerably clear that the squatters had no intention of treating further at this moment with the Mayor, and make it doubtful whether they even replied to him. As the Mayor spoke, Maloney was heard giving orders. “Shoot the Mayor,” he said; and at the words firing began—a volley, Doctor Stillman calls it, who saw the whole from a block away—an irregular, hasty, ill-aimed, rattle of guns and pistols, most accounts make it.

Men standing further down the street saw the crowd scatter in all directions, and in a moment more saw the Mayor's horse dash riderless towards the river. Those nearer by saw how armed men among the citizens, with a quick reaction, fired their pistols, and closed in on the rioters. Maloney fell dead. Doctor Robinson lay severely wounded. On the side of the citizens, Woodland, the city assessor, was shot dead, the Mayor himself, thrice severely wounded, had staggered a few steps, after dropping from his horse, and had fallen on the pavement. In all there were two squatters and one of the citizens' party killed, and one squatter and four citizens wounded. Like a lightning flash the battle came, and was done. The array of squatters melted away like a mist when the two leaders were seen to fall; the confused mass of citizens, shocked and awe-stricken where they were not terrified, waited no longer on the field than the others, but scattered wildly. A few moments later, when Doctor Stillman returned with his shotgun which, on the first firing, he had gone but half a block to get, the street was quite empty of armed men. He waited for some time to see anyone in authority. At length Lieutenant-Governor McDougal appeared, riding at full speed, “his face very pale.” “Get all the armed men you can,” he said, “and rendezvous at Foster's hotel.”

“I went to the place designated,” says Doctor Stillman, “and there found a few men, who had got an old iron ship's gun, mounted on a wooden truck; to its axles was fastened a long dray

14 Three, says the Transcript, but never gives the name of this third. The other accounts name two.

15 Of these four one indeed was a non-combatant, a little girl just then on the street, whose injury was not very serious.
pole. The gun was loaded with a lot of scrap iron. I wanted to know where McDougal was. We expected him to take the command and die with us. I inquired of Mrs. McDougal, who was stopping at the hotel, what had become of her husband. She said he had gone to San Francisco for assistance. Indeed he was on his way to the steamer 'Senator' when I saw him, and he left his horse on the bank of the river."

In such swift, dreamlike transformations the experiences of the rest of the day passed by. In the afternoon, Caulfield, a squatter leader, who had fled from the scene of the fight, was captured, and brought toward the prison brig, his feet tied under his horse's belly, his face covered with blood and dust. He had been knocked from his horse with the butt of a pistol as he fought with his pursuers. So Doctor Stillman tells us. From the newspapers we learn how people generally felt that afternoon. Rumors were countless. The squatters had gone out of the city; they would soon return. They were, it was asserted, seven hundred strong. They meant vengeance. They would fire the city. Yes, they had already fired the city, although nobody knew where. No one could foresee the end of the struggle. The city, men said, had been declared under martial law. Everybody must come out. The whole force of the State would doubtless be needed. If the squatter's failed now, they would go to the mines, and arouse the whole population there. One would have to fight all the miners as well. Such things flew from mouth to mouth; such reports the "Senator" carried towards San Francisco, with the pale-faced Lieutenant-Governor, who himself landed, by the way, at Benecia, to appeal for help to the general of the United States forces there placed. Such reports were even sent East by the first steamer, and there printed in newspapers ere they could be contradicted.

As a fact, however, the most serious danger was already past. The opening of the fight had made the squatters seem, in the public eye, unequivocally lawless and dangerous aggressors. They could expect, for the moment at least, no sympathy, but only stern repression. And so, in reality, the city was never safer, as a whole, than it was a few hours after the fatal meeting at the corner of Fourth and J Streets. A little flowing blood is a very effective sight for our public. Conscience and passion are alike aroused in the community. American good-humor gives way, for the instant, to the sternest and most bigoted hatred of the offenders. So, in Sac-
ratemento, there was just now no mercy for the squatters. Their late attorney was threatened with hanging. Their friends fled the town. And even while the wild rumors were flying, the most perfect safety from invasion had been actually secured in the city limits.

But yet neither the bloodshed nor the terror was wholly done. Outside the city limits there was yet to occur a most serious and deplorable encounter. The squatters were actually scattered in all directions; but the rumors made it seem advisable to prevent further attacks, by armed sallies into the country, and by arrest of leaders. Thursday afternoon (just after the funeral of Woodland), the Sheriff, McKinney, with an armed force in which were several well-known prominent citizens, set out towards Mormon Island, with the intention of finding and bringing in prisoners. That the Sheriff had no writs for the arrest of any one, and only the vaguest notion of his own authority, seems plain. Panic was king. At the house of one Allen, who kept a bar-room some seven miles out, the Sheriff sought for squatters, having been informed that several were there. It was now already dark. Leaving the body of his force outside, the Sheriff approached the house with a few men and entered. There were a number of occupants visible, all alarmed and excited. The writless Sheriff’s party were unaware that, in the back room of the house, Mrs. Allen lay seriously ill, attended by her adopted daughter, a girl of sixteen. To be seen at the moment were only men, and they had arms. McKinney called out to Allen to surrender himself to the Sheriff. Allen replied, not unnaturally, that this was his house, his castle. He proposed to fight for it. McKinney repeated: “I am Sheriff; lay down your arms.” What followed is very ill-told by the eye-witnesses, for the darkness and the confusion made everything dim. At all events, some of the Sheriff’s party left the house, perhaps to call for assistance from the main body; and in a moment more the occupants had begun firing, and McKinney was outside of the house, staggering under a mortal wound. He fell, and in a short time was dead. That the firing from without soon overpowered all resistance, that two of the occupants of the house were shot dead, that others lay wounded, and that the assailants shortly after took possession of the place and searched it all through, not sparing the sick room; these were

16 See on this affair the Transcript and Times of August 16th and 17th, and Dr. Stillman’s experiences, Golden Fleece, pp. 176, 177; also see the account in the New York Tribune.
very natural consequences. After about an hour the arresting party left, taking with them four men as prisoners. Allen himself, sorely hurt, had escaped through the darkness, to show his wounds and to tell his painful story in the mines.

The little dwelling was left alone in the night. Nobody remained alive and well about the place save the young girl and two negro slaves. The patient lay dying from the shock of the affair. For a long time the girl, as she afterwards deposed, waited, not daring to go to the bar-room, ignorant of who might be killed, hearing once in a while groans. About ten o'clock a second party of armed men came from the city, searched again, and after another hour went away. "Mrs. Allen died about the time the second party rode up to the house," deposes the girl. She had the rest of the night to herself. 17

The city was not reassured by the news of the Sheriff’s death. In the unlighted streets of the frightened place, the alarm was sounded by the returning party about nine o'clock. Of course, invasion and fire were expected. The militia companies turned out, detailed patrolling parties, and then ordered the streets cleared. The danger was imminent that the defenders of the law would pass the night in shooting one another by mistake in the darkness. But this was happily avoided. The families in the town were, of course, terribly excited. "The ladies," says Dr. Stillman, "were nearly frightened out of their wits; but we assured them that they had nothing to fear—that we were devoted to their service, and were ready to die at their feet; being thus assured, they all retired into their cozy little cottages, and securely bolted the doors." During the night, the Senator arrived from San Francisco, with reinforcements. Lieutenant-Governor McDougal had already returned on Thursday from Benecia, bringing, according to the Placer Times, muskets and cartridges, but no United States soldiers. He had felt seriously the responsibilities of his position, and had accordingly gone to bed, sick with the cares of office.

But morning came peacefully enough. Quiet in external affairs was restored. In the city Sam Brannan and others talked mightily of law, order, and blood. There were, however, no more battles to

17 Allen was a Missourian, who, like others, had brought his slaves to California at a venture. The State Constitution, when once the State was admitted, made slavery, as is known, impossible. Allen survived, and found his way back to Missouri in a year or so. I there lost sight of him.
fight. In a few days, quiet of mind also was restored; people were
ashamed of their alarm. Squatters confined themselves to meetings
in the mining districts and in Marysville, to savage manifestoes,
and to wordy war from a distance, with sullen submission near
home. The real war was done. A tacit consent to drop the subject
was soon noticeable in the community. Men said that the laws must
be enforced, and meanwhile determined to speak no ill of the
dead. There was a decided sense, also, of common guilt. The com­
munity had sinned, and suffered.

Of the actors in this drama little needs further to be narrated
here. Doctor Robinson disappeared for the moment as wounded
prisoner in a cloud of indictments for assault, conspiracy, murder,
and what else I know not. Mayor Bigelow was taken to San Fran­
cisco, where he almost miraculously recovered from his three bad
wounds, only to die soon of the cholera. The squatter movement
assumed a new phase. Doctor Robinson, indeed, was in little dan­
ger from his indictments, when once the heat of battle had cooled.
He was felt to be a man of mark; the popular ends had been gained
in his defeat; the legal evidence against him was like the chips of
drift-wood in a little eddy of this changing torrent of California
life. With its little hoard of drift, the eddy soon vanished in the
immeasurable flood. After a change of venue to a bay county, and
after a few months' postponement, the cloud of indictments melted
away like the last cloudflake of our rainy season. *Nolle pros.* was
entered, and the hero was free from bail, as he had already for a
good while been free on bail to recover his bodily health, to edit
the previously projected squatter newspaper, to run for the Legis­
lature, and even to form friendships with some of the very men
whom he had lately been assailing. In a district of Sacramento
County, Doctor Robinson's friends managed, with the connivance
of certain optimists, to give him a seat in the Assembly, that late
"advisory" body, whose "rules," before the admission of the State,
he had so ardently despised. The State was admitted now, and
Doctor Robinson cheerfully undertook his share of legislation.
But the Legislature cared more for senatorial election, and such
small game, than for the Higher Law. Doctor Robinson was not
perfectly successful, even in pleasing his constituents. Ere yet an­
other year passed, he had forever forsaken our State, and for his
further career, you must read the annals of the New England
Emigrant Aid Society and the history of Kansas. I have found an
account of his career in a Kansas book, whose author must have a little misunderstood Doctor Robinson's version of this old affair. For the account says that the good Doctor, when he was in California in early days, took valiant part for the American settlers against certain wicked claimants under one John Sutter, who (the wretch) had pretended to own "99,000 square miles of land in California." Alas, poor Sutter, with thy great schemes! Is it to come to this?

I cannot close this scene without adding that a certain keen-eyed and intelligent foreigner, a Frenchman, one Auger, who visited our State a little later, in 1852, took pains to inquire into this affair and to form his own opinion. He gives a pathetic picture of poor Sutter, overwhelmed by squatters, and then proceeds to give his countrymen some notion of what a squatter is. Such a person, he says, represents the American love of land by marching, perhaps "pendant des mois entiers," until he finds a bit of seemingly vacant land. Here he fortifies himself, "et se fait massacrer avec toute sa famille plutôt que de renoncer à la moindre parcelle du terrain qu'il a usurpé."18 This is well stated. But best of all is the following: "Celui qui se livre à cette investigation prend dès lors le titre de 'squatter,' qui vient, je le suppose, du mot 'square' (place), et signifie chercheur d'emplacement." It is evident to us, therefore, that Doctor Robinson and all his party were "on the square." And herewith we may best end our account.