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**SPEECH**

OF

HON. HANNIBAL HAMLIN, OF MAINE,

ON THE PROPOSITION

TO ADMIT CALIFORNIA AS A STATE INTO THE UNION.

DELIVERED

IN THE SENATE OF THE UNITED STATES, MARCH 5, 1850.

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## ADMISSION OF CALIFORNIA AS A STATE.

Mr. HAMLIN said:

Mr. PRESIDENT: You and the Senators present are fully sensible that I have rarely trespassed upon the patience of the Senate. But for the extraordinary character of the proceedings of this body—but for the unparalleled opposition which has been offered, in this incipient stage, to the admission of another sovereign State into this Union—I should have remained silent. But from a sense of duty to those citizens who have gone from the State, which it is my duty in part here to represent, into that distant country, and who have gone there to make it their home in future life—a duty which I owe to the people who inhabit that territory—I should have remained still silent. The question before us is on referring the message of the President, accompanying the constitution of California, to its appropriate committee. I would myself have preferred to have met the discussion of this question upon a bill, after it should have been reported by a committee. In my opinion, such a course would have been more pertinent—more appropriate. The Senate, however, have deemed it expedient to pursue a different course. The whole merits, upon this question of reference, have been open and discussed; and every view which could properly pertain to the question of the admission of California as a State, has been entered into by Senators upon this preliminary question of reference to a committee. Under the direction which Senators have seen fit to give it, I have sought this occasion to give the reasons why I shall favor the admission of that State into this Union, as one of its sovereign and independent States. In this discussion, the whole broad field has been opened—slavery in all its forms, the question relating to the formation of territorial governments, the question of the boundary of Texas, the question of the restoration of fugitive slaves, and every other question conceivable, and almost inconceivable, connected with them, have been permitted to mingle in the discussion of this body. Sir, with all these questions, I have nothing to do; with all these questions, upon the proposition which is now submitted to us, I have nothing to say. Let them bide their time; and when they shall properly and pertinently come before the Senate, then, if I shall deem it expedient, I may have something to say upon some of those measures. The question of slavery in the territories, or slavery in the States, has no connection with the admission of California—it should have had no connection with it, in my humble judgment, in

our discussion here. What are, or what are not, the boundaries of Texas, has as little to do with the question which is directly before us. Nor has the subject of territorial governments any more connection with the admission of California than these other questions I have named.

When these questions are legitimately submitted to us, I shall be ready to act upon them. Let the question of slavery in the territories be settled according to the spirit of the Constitution, and the previous action of the Government, and let us deal with Texas, in reducing her boundaries—one of these sovereign States—justly; ay, if you please, generously; but let these matters be discussed and settled where they appropriately belong; and let not the admission of California, as a State, here be either retarded in its progress, or finally prevented by them.

The people of California ask no entangling alliances with these or any other questions. They ask the aid of no fortuitous circumstances not directly connected with them. They ask not to be affected by any circumstances calculated to retard or defeat them. Let each question depend upon itself, and let each issue be met in its proper and appropriate manner.

I am happy, Mr. President, to know, that in expressing this opinion, it is but a concurrence in opinions which have been expressed by the oldest and the ablest Senators upon both sides of this chamber. This, then, being the view which I take upon this question, I am decidedly in favor of the amendment which has been offered by the Senator from Missouri, [Mr. BENTON,] that this question shall be referred to the appropriate committee—that it shall there be considered and reported back, disconnected with any and every other subject. When it shall come back, then will be the time for us to give our final action, although the discussion of the question has been entered into in this preliminary stage. Let each stand upon its own merits, or fail for the want of merit. The maxim of Tacitus—*par negotiis, neque supra*—is as true now as when it was uttered.

But, sir, in passing along, while I have no disposition to connect any subject which is not properly connected with California, I may be permitted to make a single remark or two, in relation to what we have so often witnessed and heard in this hall. I allude to that cry of Disunion! disunion! which has so often resounded in our ears. Sir, I have no eulogiums to pronounce upon this Union. It furnishes its own best eulogy. The progress

of art, of science, of literature, and of everything that serves to elevate a people; its impress upon our arts and our arms; the respect which our flag commands in every portion of the habitable globe; the busy hum of thrift and enterprise that comes up from the marts and market places of twenty millions of people, speak a more noble eulogy than I could pronounce, were I disposed to eulogize it here. Sir, all these things pronounce its greatness, its glory, and its grandeur. I would rather, sir, that my acts as a Senator, and the acts of the people whom I represent, should speak their devotion to that Union which was formed by the wisdom of our fathers, and which shall be perpetuated by us.

Sir, there is one other matter to which I wish to refer in this connection. I allude to that state of alarm which has been created here by Senators in speeches of an extraordinary character, or elsewhere by the public press, or by the aid of such stage machinery as could be put in motion. Sir, there is a method in all this madness. No man can doubt the design which it is attempted to accomplish, by first alarming the public mind, and producing through that alarm those results which are desired. I feel that I owe it, sir, to myself, and to those who sent me here, to declare that from all the investigation which I have been able to bestow upon this subject, and from all the evidence which I have been able to obtain from everything which I can see and hear, this so much talked-of alarm is entirely unfounded and factitious. There need be no alarm. There is no cause for real alarm; and none should be created by unnecessary fear.

"Fear admitted into public councils betrays like treason."

We, in the non-slaveholding States, are determined that there shall be no cause for disturbing the harmony of the States; and we are equally confident that the sound sense and patriotism of the people of all the States, will determine that there shall be no disunion. We once had in that section of the Union from which I come, a class of men who were known to be disunionists. Those who shall pattern after their example (and there are some) must occupy the same page of history which they have occupied. There is no real alarm—there is no cause or fear of disunion. I have never felt the slightest alarm at any time, and I think we can all now see that the bubble has burst. This Union will stand as a monument of grandeur, and glory, and greatness, long, long after every Senator here shall have crumbled into dust. The affections of our people will cling to it, and sustain it, in spite of the madness of party and of politicians. The true question, then, Mr. President, when separated from all these extraneous matters which have been forced into this discussion, is, whether another star shall be added to our flag—another sister to our Union? We must come to this, the only real question before us; and in considering it, I propose to examine—first, the right of the people of California to form the constitution which they have presented to us; and, secondly, having the right to form that constitution, have they so exercised it, that we, in the discharge of our duty, should admit them as another of the States of this Confederacy? The Constitution of the United States, in article 4, section 3, declares that

"New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within

the jurisdiction of any other State, nor any State be formed by the junction of two or more States or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress."

Under this clause of the Constitution, the simple question of the admission of a State is the one which we are to decide. Congress cannot create a State. It is not within the power or jurisdiction of Congress to create a State. In this day, sir, I have learned to be surprised at no opinion. It has been called the age of progress. So great has been that progress, and so various are the opinions which have been expressed, that I have long since ceased to be surprised at the expression of any opinion. But whoever has examined the debates of the Convention which formed our Constitution, cannot doubt that the question of the formation or erection of new States by Congress, was one which never entered into the minds or thoughts of the men who constituted that Convention. The only territory then belonging to the Government of the United States was that which was covered by the ordinance of 1787. That ordinance itself provided the mode and manner in which new States should be erected from it and admitted into this Union. The Constitution is silent as to any power to create a State. The Convention that framed the Constitution did not consider any proposition of that sort. It clearly never entered the minds of that body, to insert any provision for creating new States. Mr. Madison, in the 43d number of the Federalist, expressly states, "that 'the eventual establishment of new States, seems 'to have been overlooked by the framers of that 'instrument.'"

It was only at the last session of Congress, that a proposition was made to admit California—the whole of California—as one State, and the whole matter was referred to the Committee on the Judiciary. Upon that question, the learned Senator from Georgia [Mr. BERRIEN] made a report, and upon this very question—this very power of Congress to create new States. I read from that report:

"The power conferred by the Constitution on Congress is, to admit new States, not to create them. According to the theory of our Government, the creation of a State is an act of popular sovereignty, not of ordinary legislation. It is by the will of the people, of whom the State is composed, assembled in convention, that it is created."

That doctrine, I believe, met with the approbation of nearly the whole Senate. It certainly is a doctrine to which I fully subscribe—it is the doctrine of the Constitution.

Mr. BERRIEN, (interposing.) Is it the purpose of the Senator to deduce from that report the inference, that it was the opinion of the Judiciary Committee that it belonged to the Territories, without the sanction of Congress, to erect themselves into States? If so, he misunderstands that report. The sovereignties, in the view of that committee, only become incipient with the authorization of Congress to form a Constitution. When that authorization is obtained, then, and not until then, the territory can proceed to act in the erection of a State and the formation of a government and constitution.

Mr. HAMLIN. I do not think that there was any necessity for the honorable Senator from Georgia to interrupt me. I speak in all kindness. I was not speaking of the power of the Territory to erect a Territorial or a State government, whether authorized to do so by Congress or not, but of



the power of Congress to create a State government. I quoted the report made by the Senator from Georgia, for that and for no other purpose; but, taking the language of that report, I must be permitted to declare, that I find in it no such explanation as that which the Senator has just now seen fit to give us. It is the undoubted right of the Senator from Georgia to make whatever explanation he may now deem fit; but the report itself nowhere affirms or denies the power of the people of the territories to erect themselves into a State, without the previous assent of Congress; nor does it claim that such assent must be given. That belongs to the explanation of the Senator from Georgia.

Mr. BERRIEN. That was not the question before the committee. It was, whether an unauthorized body could erect a State?

Mr. HAMLIN. That report has been quoted for the purpose I have already stated; but I propose to inquire into the very point which the Senator from Georgia has suggested in his interruption.

My first proposition is, that Congress has not the power to create a State. My second one is, that the people of this territory have. Congress having failed to make a territorial government for the people of that territory, it is clearly within the power of the people inhabiting that territory to create a State government, as they have done, and to present their constitution here, and ask to be admitted into this Union as one of the sovereign States. They are the persons who are to act, not us; they are the persons more directly interested, and who have this power. We have none. California has acted from right as well as from necessity. The people of that territory, I hold, have first the right, and, secondly, under that right, there was a necessity for exercising it. We have been told, within these halls, that we have no power to create a territorial government. That is one doctrine. Another is, now, that the people of the territory have no power to erect themselves into a State. Taking both propositions, and presenting them to the people of the territory, in what manner are they to institute a government, or in what manner are they to become a part of this Union? We speak, sir, in just praise of the character of our country—its influence upon other nations and other people; but, to my mind, there is no one single feature in all our government, or in its history, better calculated to spread abroad its true character—there is no one incident in the whole history of our people, or our government, of which we may be more justly proud, than the institution of this government in California, among a people assembled from every State of this Union, virtually without law. And when it was declared that the bowie-knife and the revolver would be the common law of the land, they, in obedience to the institutions under which they had been taught to understand that they were a responsible part—in obedience to those lessons of civil government and the rights of man which they had learned while citizens of the States—they assembled themselves together, and from that necessity which existed, erected themselves into a State. It is one of the finest features of our government. No other people upon the face of this globe, thus brought together, save those who have been educated in our States, and who have been made to

know and feel that they constituted a part of the State itself, would have ever thus formed themselves, as have the people of California, into a State. Without that education and training which they have received in the various States from which they went, it would have been true that the revolver and the bowie-knife would have been the common law of that land. It is, indeed, a sublime spectacle, to witness the order and deportment of that people. It should excite a just pride in every breast, and produce a living faith in the capacity of man for self-government.

Now, sir, I hold that the people of that territory have, by the law of nature—by that law which God gave man—a right to form themselves into a government, for the protection of life, liberty, and the pursuit of happiness. Our Government is based upon that right; its foundations are laid deep and broad upon that principle. It was in the assertion of that right—the right of the people to self-government—the right to institute a government to suit themselves—a government which should protect them in their lives, their liberty, and their property—it was in the recognition of that principle—that the first blood of the Revolution fertilized the soil of Lexington. It was in recognition of that principle that the Declaration of 1776 was signed. It was in recognition of that very principle that our Government, great, and broad, and extensive as it is, was reared; and it is by the recognition of that principle that it is at this day sustained. Sir, allow me to read from the chart of our liberties, the Declaration of Independence:

“We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.”

It is too late in this day to controvert or to deny these doctrines. So strongly have these principles been cherished in the hearts of our people, that in almost every State in this Union, they have been incorporated as the fundamental principles of the State. The Senator from Alabama, [Mr. CLEMENS,] the other day, if I understood him right, controverted and denied these propositions. Allow me to read, sir, from the constitution of Alabama:

“All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and therefore they have, at all times, an inalienable and indefeasible right to alter, reform, or abolish their form of government, in such manner as they may think expedient.”—*Constitution of Alabama.*

I will also read from the constitutions of Arkansas and Maine brief extracts:

“That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness. For the advancement of these ends, they have, at all times, an unqualified right to alter, reform, or abolish their government, in such manner as they think proper.”—*Constitution of Arkansas.*

“All power is inherent in the people; all free governments are founded in their authority, and instituted for their benefit. They have, therefore, an inalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it.”—*Constitution of Maine.*

Massachusetts, New Hampshire, Vermont, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Kentucky, Tennessee, Ohio, Indiana, Mississippi, Illinois, Michigan, Florida, Wisconsin, Iowa, and other States, affirm the same *sovereign and unlimited* capacity of the people to form their constitutions. Now, we are told that the people of California, having been denied by Congress any government, have no right to erect themselves into a State. The right of the people to form a State, in such a case, is a proposition which I do not see fit to argue. It is a proposition which I am not disposed to discuss; it is too well established, and the argument would certainly add nothing to, if it did not weaken, the proposition. I prefer rather to give authorities and precedents.

But we must not forget that Oregon, the other sister territory upon the Pacific slope, proceeded precisely in the same course, in relation to her early organization. She formed, under the right which the law of nature and of nature's God gave to her, a government, until it was deemed proper and expedient for this Government to extend to her a territorial organization, and throwing the burden of that organization upon the General Government.

My friend from Iowa [Mr. DODGE] would tell you, that in the early settlement of that country, precisely similar governments existed, and that penalties of death were inflicted by the government which they themselves created, long ere the Government of the United States had thrown its shield and protection, in the form of a territorial government, over that country. It is but the law of right, it is but the law of necessity, which compels men, when they are thus thrown together, in any country without law, to associate themselves together for common benefit, for common protection, and for common defense. Sir, the people of California had that power, and they have exercised it. It is the exercise of a right which they properly possess; it is but the exercise of that right which has been exercised by nearly all the territories and all the States of this Union. Under the exercise of that right, they have come here, and presented to us their constitution for admission.

But I could go still further. I could quote from the most eminent statesmen in the land. I could quote from the most learned jurists that our country ever produced. There is a concurrence of opinion of statesmen, of politicians, of jurists, upon this point. I can find hardly a dissenting opinion until this latter day—in this day of progress—when a few individuals have attempted to controvert the position, and to deny the doctrines of the Declaration of Independence. With such doctrines, sir, I have no sympathy, and in such opinion, I have no belief.

I will quote one single opinion from Justice Patterson, one of the justices of the Supreme Court of the United States:

“The Constitution is a form of government delineated by the mighty hand of the people. It is paramount to the will of the legislature, and is liable only to be revoked or altered by those who made it.”

Now, it was in accordance with this very authority, in accordance with this very right, that the people of California have acted in the formation of their government. It is said, I know, that there has been Executive interference. Now,

sir, I have no lance to break here in the Senate in defence of the Executive. Its champions on this floor will be found on the other side of the chamber. And while I have no defence to make for the Executive, I have no reproaches to cast upon it, when it shall have done only its legitimate duty. As to what is really the true state of the case, I believe we are all in doubt. The evidence which has been submitted to us is yet with the printer. I have been unable to learn precisely the character of the acts of this or of the past Administration; but so far as I am authorized to judge by the declarations of General Riley himself, the inference might well be drawn, that it was under the direction of the late, as well as the present Administration, that he saw fit to act so far as he has acted in the formation of that government.

Mr. KING, (in his seat) Not at all.

Mr. HAMLIN. The Senator from Alabama says not at all. I say again, so far as the language used by General Riley is concerned, we might be justified in drawing the inference, that whatever instructions he might have received, were received under the late, and not the present, Administration. I say so, because I find this language used in the proclamation of General Riley:

“The method here indicated to attain what is desired by all, viz., a more perfect political organization, is deemed the most direct and safe that can be adopted, and one fully authorized by law. It is the course advised by the President, and by the Secretaries of State and of War of the United States, and is calculated to avoid the innumerable evils which must necessarily result from any attempt at illegal local legislation. It is therefore hoped, that it will meet the approbation of the people of California, and that all good citizens will unite in carrying it into execution.”

Now, sir, that proclamation was issued by General Riley upon the 3d day of June, 1849. I learn in the correspondence of Thomas Butler King, and from other sources, that on his first arrival in California, subsequent to the inauguration of the present Chief Magistrate, he met this proclamation by General Riley one day subsequent to that upon which it was issued; or, in other words, that Mr. T. Butler King was the first individual who arrived at California after the inauguration of President Taylor; consequently, there could have been no such information as that to which General Riley could have referred as coming from the present Administration. I am aware that both Mr. Buchanan and Mr. Marcy, (late Secretaries of Departments,) in this morning's paper, deny clearly and unqualifiedly that any orders were issued under either of these several departments, justifying the inference which General Riley draws. What the orders were which were issued from that department, remains for us to see when they shall be printed. They are not yet printed. It is enough for me to say, that the case stands thus: General Riley claims to have drawn from those instructions this authority or these directions. The Secretaries, upon the other hand, declare to us that no such instructions were issued. We are bound to believe, as I myself most fully believe, that no such instructions were issued, as intending to give to General Riley power or authority to draw such deductions from them as he has drawn. The instructions are in our possession; and when they shall have been printed, we shall know precisely what they are. I have already stated that I have been unable to learn precisely what they were; but it is enough for me to say, that General Riley, if

he acted under any instructions, acted under some other than those of the present Administration. If you take his word for it.—

Mr. KING. Will the Senator allow me to interrupt him? I am sorry to do so, but the tenor of his speech would lead me to believe that the late Administration, through the Secretary of State, or of the War Department, had given such instructions to General Riley as authorized him to act as he has done. Now, we have in our possession—though it is true that the papers have been sent to the printer—a letter of the Secretary of State, Mr. Buchanan, in which he expressly advises the people of California to remain under the laws then in force, to wit, the Mexican laws—to get along as well as they can, until Congress shall see fit to give them a territorial government. Mr. Marcy's instruction is of the same description.

We have more, sir. General Persifer Smith's statement is to this effect, whatever Mr. T. Butler King may state: That the first steamer that arrived after the adjournment of Congress, brought the information that no action had taken place on the part of Congress, giving a territorial government; in consequence of which, General Riley took the step he has. Now, if that was the first arrival which took out Mr. King, the statement of Gen. Persifer Smith conflicts with that of Thomas Butler King.

Mr. DOWNS. If the Senator will pardon me, I will state what I understood to be the fact. The fact was, I believe, that Mr. King arrived in the first steamer sent by order of the Government to San Francisco. But before that, a steamer had arrived at that place, and it was that one which took out the first news that Congress had adjourned without action; and, on the reception of that news, as I am told by the Senator elect from California, General Riley issued his proclamation.

Mr. HAMLIN. I have only stated what I repeat again. I made no charge against the late Administration, even if the matter were precisely as Mr. Riley says he understood it. I only say that Mr. Riley has drawn that deduction from the instructions which he received. That is all I need say—all that I am justified in saying. That I think is clearly evident from the fact, that this proclamation of Gen. Riley, dated on the 3d of June, was issued at an earlier date than any instruction could have reached him from the present Administration. That there were any such instructions, I do not pretend to say—I have never said. On the other hand, I have already stated that we have the authority of Mr. Buchanan and Mr. Marcy for saying that no such instructions were issued, let the instructions be what they may. It was only from these instructions that General Riley has drawn his deductions. It is for him to answer, not for me. Whether he has drawn them properly or improperly, I do not undertake to say. But had the late Administration seen fit to have instructed Gen. Riley to aid the people in the formation of a Government there, leaving the people to act perfectly free, I would not have complained, but would have justified it.

But there is one other point in this matter. Objections against the action of the people of the territory, are raised upon this side of the chamber by another class of individuals, who say, as I understand, that there may have been a merely "sug-

gestive influence" on the part of the present Administration. Now, whatever may or not have been the influence of this Administration, I have nothing to say about it. But, granting that it is precisely as those who raise the objection state, that there has been a "suggestive influence" used by the present Administration in relation to the formation of this government, and that "suggestive influence" from this Administration was, that the people possessed the power, and that they should organize themselves into a government and seek admission as a State, who are they that make these objections? Sir, they are men who are precluded by the record from raising them here. The Senator from Wisconsin, [Mr. WALKER,] very near the last day of the last session of Congress, offered an amendment to the appropriation bill, conferring full and plenary, not to say despotic, power upon the President of the United States, authorizing him to establish *all rules and regulations* necessary for the government of that territory. I did not vote for that amendment. I did not believe it was justifiable. Those who voted to put into the hands of the President full and plenary, not to say despotic, power, certainly cannot turn round now, and say that the people of California are to be kept out of this Union, simply because they acted under a merely "suggestive influence" of the Executive. Senators who voted, as the record shows, for conferring full and plenary powers upon the President, authorizing him to adopt any rules and regulations necessary for the government of that territory, I say have no right to accuse the Executive of exercising the merely "suggestive influence" which he may have exerted there. They have no right to complain of the influence of that suggestion. If the President has conducted himself improperly—if he has gone beyond the scope and power of the Constitution—they may arraign him, and others may defend him—I will not. But if I vote to put full powers into the hands of any man, and if, subsequently, he exercises a suggestive influence, I am the last man on earth to complain of that influence, thus exercised, although I may complain of the man thus exercising it. The thing itself they have no right to complain of, though they may complain of the President for doing it, and his friends on the other side of the chamber may defend him.

Mr. WALKER, (interposing.) If the Senator pleases, I will remark, that it has been so often repeated that my amendment gave plenary, if not despotic, power to the President, that it is, perhaps, necessary for me to say, that the amendment, properly read and understood, will not warrant such a conclusion.

Mr. HAMLIN. I will read that part of the Senator's amendment on which I have been commenting:

"The President of the United States is hereby authorized to prescribe and establish all proper and needful rules and regulations (in conformity with the Constitution of the United States) for the enforcement of said laws in said territory, and for the preservation of order and tranquillity, and the establishment of justice therein; and from time to time to modify or change the said rules and regulations in such manner as may seem to him discreet and proper, and to establish, temporarily, such divisions, districts, posts, offices, and all arrangements proper for the execution of said laws."

Mr. WALKER. The Senator will find that the Executive is limited to a "conformity with

the Constitution of the United States, and with said laws."

Mr. HAMLIN. Precisely: I so understand it. I did not understand, that the Senator designed to travel outside of the provisions of the Constitution; but I did understand, that the power which was to be conferred upon the President by that amendment, was to establish such needful rules and regulations, in conformity with the Constitution of the United States, as he should deem fit and proper, making him not only the Executive, but Legislative, power to that Government—giving him plenary power, within certain limits, to do just what he pleased.

What were "proper and needful rules and regulations?" The President was made the sole judge; it was placing a discretionary power in his hands, and did authorize him to determine, by his own will and judgment, what rules and regulations should govern that territory. Yet men who voted for this, are alarmed at a "suggestive influence" now.

But, sir, in relation to this interference of the Executive with the people of California, I wish to say a single word. That there has been any interference by the Executive of any Administration, which would materially change, or in any material sense affect, the action of that people, I do not believe. They have acted upon their own responsibility, and in conformity with their rights. They have so acted as has pleased themselves, and no other power. What is the history of this matter? Some time before the proclamation of General Riley was issued, the people in their primary meetings, without even a suggestive influence from any Administration, took preliminary steps for the organization of a government. Subsequently to the organization of these primary meetings, General Riley issues his proclamation; and the time fixed by General Riley is the very time fixed by the people themselves in their own meetings, gotten up in opposition, if you please, to the proclamation of General Riley, or gotten up without any connection with it. Sir, I discard entirely all this talk about interference, either directly, indirectly, or suggestively, of any Administration, in relation to the people of that territory. They were a people who knew their rights. They were a people calculated, after knowing and understanding their rights, to exercise them, as they have already done, without regard to any influence from any quarter. There is in my mind, then, not the slightest force or importance to be attached to this declaration, that there has been any interference whatever, either directly or suggestively.

But, it is said, that in the formation of this territorial government, the people of all classes, climes, and complexions were allowed to participate. A little examination into that matter, together with such information as I draw from the Senators and Representatives who are here from that country, will, I believe, show that this suggestion is totally incorrect. A part of the 8th article of the treaty is as follows:

"Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican republic, retaining the property which they possess in the said territories, or disposing thereof and removing the proceeds wherever they please, without their being subjected on this account to any contribution, tax, or charge whatever.

"Those who shall prefer to remain in the said territories, may either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in the said territories after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States."

Now, sir, under the proclamation of General Riley, I find that the qualifications of voters were thus defined:

"Every free male citizen of the United States and of Upper California, twenty-one years of age, and actually a resident in the district, hereafter has, and will be entitled to, the right of suffrage; also citizens of Lower California, who have been forced to go to that country on account of having rendered assistance to the American army."

The qualifications of voters, prescribed in that proclamation, are of two classes: first, American citizens residing in California; and second, citizens of Lower California, who have been forced to go to that country on account of having rendered assistance to the American army. I am told, that in consequence of the services which a certain portion of the Mexicans in Lower California rendered to our armies in the late war with Mexico, some four or five hundred did leave Lower California, and establish themselves in Upper California. Then, sir, there was that class of persons, who were not, by the laws of the land, citizens of the country. They were not American citizens. They did not possess the rights of American citizens. But those of the Mexicans, who were residents upon that territory at the ratification of the treaty of peace, were American citizens. The very terms of the 8th article, to which I have already referred, makes them citizens of this country. "Every Mexican citizen, residing in that territory for the term of one year, is, and shall be, considered to have made an election to become a citizen of the United States." At the adoption of that constitution, more than twelve months had elapsed, and every Mexican, so residing in that territory of Upper California, was an American citizen, and had the same right to vote, that American citizens had, who had gone there from the States. That class of Mexicans, who had come into the territory from Lower California, were, by the very article of the constitution, precluded from voting on its adoption. It was ratified and confirmed by American citizens only—by those who had the right, as American citizens, of voting. The final ratification or adoption of this constitution, was by the act of American citizens. This was the last act in the progress of events. Who instituted the first proceedings—what influences operated before—is really of no practical importance. The final act was that of the people themselves. That, at least, is enough for me.

But, sir, there is a word to say in relation to this right of voting. The right of voting in our territories, in the formation of constitutions, is as varied as the right of voting in the States. I doubt if you can find, in any two territories of the United States, that the same rule has been laid down as regards the right of elective franchise. Who voted in Maine when she became an independent State, and prepared her constitution for admission into the Union? Sir, the negro voted there; and was there any objection raised? No, sir; he was recognized as an American citizen, and voted there then, as he votes there now. It

was a question with which Congress had no right to interfere. It was a question which belonged to that sovereign power to determine; and in her judgment she saw fit to confer the right of voting upon the colored man; and he exercised it then, and exercises it to this day. Then, sir, when we come to the State of Illinois, we find that foreigners voted there—that the very law of Congress, authorizing the admission of Illinois as one of the sovereign States into this Union, made provision, that foreigners should vote for the adoption of that constitution—in indirect terms, perhaps. It prescribed—first, that every American citizen of twenty-one years of age, who had resided in that territory for six months previous, should have the right of voting; and then provided, that every other person, that the people of that territory should see fit to bestow that right upon, should have the right to vote. The people of the territory did confer that right upon foreigners then residing within her limits, and they did participate in the formation of that constitution, and have exercised the right of elective franchise under that constitution until within about two years. We come to Michigan; and what do we find there? Michigan is a State which formed her constitution without the consent of Congress previously given. I find in her constitution a provision, securing to foreigners the right to vote; and when she come here with her constitution, asking admission of Congress into this Union, by an express provision in her constitution, the foreigner in that State had the right of voting. Why, sir, the rights of the people in these territories, in relation to the elective franchise, have been as varied as the rights in the States; and this is the first time that I ever heard an objection raised in the Senate, or in Congress, or an attempted interference, as to who should possess that right in the territories, when they framed their constitutions, or when they exercised the powers granted to them under a territorial government by Congress. But suppose that foreigners were allowed, in the incipient stages, to vote upon the adoption of a constitution. The authorities to which I have alluded, I think, will satisfy every Senator, that it is a question which has never before been raised—it is one which we cannot control: the people of the territories themselves must determine this question, and not us.

There is another class of authorities, to which I beg leave to call the attention of the Senate: it is to those States which have been admitted into this Union. Now, sir, of all the States which have been admitted into this Union, nine have been admitted *without any previous assent of Congress to form a constitution*, and eight with it. The rule is in favor of admitting States without the previous consent, and not in accordance with a previous act. It is true, that in these various States I find a difference. They are of several classes, differing somewhat, and hardly any two coming within precisely the same rules. But I assert, and I have the authorities here by me, that nine of the seventeen States that have been admitted into this Union, have been admitted without any previous authority having been given on the part of Congress for the people thereof to form constitutions, and to erect themselves into a State, for admission into the Union. The rule, then, is against that assent. The Senator from Alabama

[Mr. CLEMENS] was pleased to rely—somewhat, as I thought, with an air of triumph—upon the acts of this body in regard to the admission of Tennessee as one of the States of this Union. Vermont, Kentucky, Tennessee, Maine, Arkansas, Michigan, Florida, Texas, and Iowa, were admitted without any previous act of Congress authorizing them to form a constitution; and Ohio, Louisiana, Indiana, Mississippi, Illinois, Alabama, Missouri, and Wisconsin, with a previous act—making nine without an act, and eight with a previous act.

There are some features in relation to these States to which I beg leave to call the attention of the Senate. First, that of Vermont. Senators will not forget that, under the clause of the Constitution which I have already read, new States may be admitted into the Union, but no new States shall be carved out of old States, or be made by the junction of two or more States, without the consent of the Legislatures thereof, and of Congress. The point I raise is, that if sufficient reasons exist for a prior act of Congress for the admission of a State into this Union, it applies with just as much force to a State coming, as Vermont, Kentucky, and Maine come, as to any of the other States, out of a territory. There was just the same necessity for a prior assent of Congress, in relation to the formation of a State out of an existing State, as there was for the making of a constitution by the people of a territory. I cannot see any real difference. There is none—there can be none. Then, in the early action of the Government, we find that Vermont, which was in fact an independent State, during the Revolutionary war, although exercising a jurisdiction conflicting somewhat with that of New York, presented herself here in '91, and was admitted as one of the States of this Union—New York assenting simply for the purpose of quieting the conflicting jurisdiction that existed between the two States. Her constitution was never presented to this body for its consideration.

Kentucky was the next State admitted into this Union. She was formed of a part of Virginia—the Legislature of that State giving its consent. Virginia gave her consent December 18, 1789. An act passed Congress February 4, 1791, for the admission of Kentucky as a State into the Union, to take effect on the first day of June, 1792. When Kentucky applied for admission, she had not even formed a constitution at all; nor had she done anything of the kind when the act passed admitting her. But before that act took effect, she did meet in a convention of her people and form a constitution; but that was never presented to Congress. There was no consent either asked by Kentucky or given by Congress, for the formation of a constitution in Kentucky. Officially, Congress indeed never knew whether Kentucky had a constitution or not. This is the history of the admission of Kentucky.

Now, sir, comes the next in order, Tennessee; and to that case I beg leave to call the particular attention of the Senate, because it is, as I think, perfectly parallel in its bearings to that of California. I confess that I was much surprised at the remarks which fell from the Senator from South Carolina [Mr. CALHOUN] yesterday. He tells us that Tennessee, upon presenting herself here, was remanded back to her territorial condition. Let me tell the Senator that he is mistaken; that he has

not looked closely at the authority upon which he has relied, and upon which he asks us to reject that sister State upon the Pacific. After enumerating our duties, and after alluding to the case of Tennessee, as one parallel in its character, the Senator from South Carolina tells us that we should pursue the course now which Congress pursued then. In that conclusion I concur. But the course which Congress did pursue then, is not the one which was indicated by the Senator from South Carolina. No, sir. Tennessee was ceded to the United States by North Carolina; and in that deed of cession, there was contained an express provision that it should be admitted into this Union as one or more States, as Congress should determine, when there should be sixty thousand inhabitants within the territory; and a territorial government was formed in 1790 for the territory, by Congress. In 1796 there was the requisite number, and a census was taken by the people of that territory, and it was found that its population exceeded the number specified in the deed of cession by North Carolina. She came here with her constitution formed, and which defined her limits as including the whole of that territory, which might be admitted as two States, if Congress should so determine.

Who settled that question? The people in that territory settled it. Who formed their constitution? They formed it without any prior consent, or without asking the prior consent of Congress. Who fixed the boundaries? The people of that territory fixed their boundaries. And I agree with the Senator from South Carolina, [Mr. CALHOUN,] that the action of Congress now, should be what it was then. What was that action? I take issue with the Senator. He is wrong in his historical facts. I find, sir—but I will not trouble the Senate by reading: I have it here—I find that that constitution, upon the 8th of May, 1796, was presented to the Senate in a manner precisely as this has been presented, accompanied by a message of the then President of the United States. It had been formed, and all the transactions attending it have been as I have narrated. It came here. It was referred to a committee of this Senate. That committee reported. That report in substance—I will not cite it at length—did lay down the position, that, inasmuch as there had been no census taken of the people of that territory by the United States, and inasmuch as Congress had not determined whether there should be one or more States—that report did come to the conclusion that the proceedings of the territory were informal, and that she should be remanded back to her territorial condition. After a debate in this body, that report was accepted upon a vote of eleven to thirteen. A bill in accordance with that report was presented, and passed—no division. It went to the House. The House took that bill, amended it by striking out all after the enacting clause, and inserting two sections, admitting Tennessee as one of the States of this Union. That came back to the Senate. The Senate insisted upon their former vote. Conferees were appointed, and, in accordance with their report, the Senate receded from their former vote—thus admitting Tennessee, the first session she applied, and never remanding her back to her territorial condition—never sending her back, but affirming her acts after she had thus embraced, within her own limits as one State,

all that territory which Congress had a right to erect into two. She defined her own boundaries, and took her own census.

Iowa formed her constitution November, 4, 1844, describing and defining her boundaries. Under this constitution, on her application for admission, Congress passed a law, admitting Iowa with different boundaries. This act was absolutely refused by Iowa, and she was thrown back into her territorial form of government.

On the 18th of May, 1846, Iowa formed another constitution, again describing and defining her boundaries. August 4, 1846, Congress passed an act, defining the boundaries of Iowa, and taking the same boundaries named in the constitution of Iowa. December 28, 1846, she was admitted as a State.

It will be seen that Iowa thus erected her State without the assent of Congress, defined her own limits, and took such a part of the Territory of Iowa as she chose, leaving what she did not see fit to include in the State.

Sir, there are facts in relation to the other States, which would be pertinent, and would show a great analogy between California and them. But, as I have already enumerated a number of States which have come in, without the authority of Congress, to form a constitution, I will leave it there, with a single remark in relation to Texas. I include that in the number. There was a prior assent of Congress that she should be incorporated within this Union. She was a foreign State. But the question which is now put in issue—the question which we are called upon to decide—is, whether the people of this territory have the natural, inherent right, and, having that right, whether it was their duty, to exercise that power of forming a constitution? So far, then, as the admission of Texas was concerned, it certainly has that analogy to this case. But while we gave an assent to her admission prior thereto, there was no assent to the formation of her constitution, leaving that to the people, and without our interference, precisely in the same way that it was left in the territories. There is another view in this connection. The people, I hold, in California have higher claims upon us; and we are bound to recognize their acts with warmer commendation than we should the acts of those who have exercised the power of forming a constitution under a territorial government. Under a territorial government, there is a recognition of the power of the General Government, to give them the form at least of a territorial government, acting under that government which comes from the United States—acting under the authority which has been given to them by the General Government. There is a greater assumption of power upon those thus acting under a territorial government, if there could be an assumption of power anywhere. There is a greater assumption of power by persons acting under a previous territorial government, than there is in the people who have acted in California. In the territories to which I have alluded, they have a complete government, which protects them in all their rights, which secures to them liberty, and guarantees to them protection in everything which they enjoy. Not so in California. Coldly and cruelly—I had almost said, wickedly—you have refused to her any government at all; and then, after having thus neglected to furnish her any

government, you turn round and deny to her the authority to create a State for herself. If the people of a territory come to Congress, and ask for our bounties and our protection under a territorial government, which is a mere appendage to this Union, and which, as such, is supported, and protected, and guarded, and fostered by the Government, they would have less necessity for forming a State for themselves, than the people of California have; yet in such cases, their acts and their right to act have been fully recognized, as we have seen.

Mr. TURNEY, (interposing.) I should like to inquire whether the Senator was not in favor of no territorial government for this territory at the last Congress? I would inquire whether he has voted for any bill proposing such a government, or whether the gentleman himself did not uniformly vote against any bill giving her such a territorial government?

Mr. HAMLIN. I recollect, Mr. President, what the Senator refers to. I do not design to be drawn from the thread of my argument here, but I will answer, briefly, that I recollect very well how I voted upon a motion submitted by the honorable Senator from Illinois. The motion was made by that Senator [Mr. DOUGLAS] that the Senate proceed to the consideration of the bill giving a territorial government to California, at the last session. For that motion I voted with great cheerfulness—I refer to the bill that had passed the House. For that bill I should have voted. I think the Senator from Tennessee [Mr. TURNEY] was found voting in the *negative*, thus preventing the Senate from acting on that bill. Another thing: I have voted on all occasions for governments to those territories—such governments as I believed the people of those territories themselves wanted, and such as I believed were right. It is true, the Senator from Tennessee and myself have not always agreed in our opinions as to what bills were best adapted to the territories—

Mr. TURNEY. I would ask of the Senator whether he voted for the Clayton bill, which neither admitted nor excluded slavery in the establishment of a territorial government for California, but left it to the judiciary?

Mr. HAMLIN. I did no such thing. I did not vote for the Clayton bill. I regarded it as no compromise of the question at all, but as a cunning device to spread slavery in that territory. And for such a bill the Senator from Tennessee knew well that I never would vote. Such was my opinion of that bill. Other Senators, I am aware, entertained a different opinion. I think that bill did not leave it to the judiciary even. There was no way by which to reach the judiciary provided in the bill. If there had been, it would have been perfectly nugatory. That proposition was most admirably ridiculed in the speech of the Senator from Ohio, during the last Congress, now in my eye, [Mr. CORWIN.] He asked whether the slave would have power to come on here from California to protect himself by an appeal to the Supreme Court? The idea was so preposterous, that I supposed it was admitted on all hands, that that bill contained no such provision as would give to the slave any practical rights in the Supreme Court.

Mr. BUTLER, (in his seat.) This was a bill to make a State, for which the Senator voted.

Mr. HAMLIN. No, sir; it was not to make a State. It was a territorial bill—the territorial bill which come from the House, with the ordinance of 1787 in it. That is the very bill. That is all the difference between *memum* and *tuum*.

Sir, in this connection, and as affecting the people of California, I have another authority, to which I beg leave to call the attention of the Senate. It is an extract which I make from the "Union," a newspaper published in this place, of February 4, 1849, a little more than one year since:

"The South denies that Congress has any jurisdiction over the subject of slavery, and contends that the people of the territories alone, when they frame a constitution, preparatory to admission into the Union, have a right to speak and be heard on that matter. THIS FACT BEING SETTLED, it really seems to us that this exciting question might be speedily adjusted, if calm counsels prevail. The South contends for her honor, and for the great principles of non-intervention and State equality. Why, then, cannot all unite, and permit California to come into the Union as soon as she can form a constitution?"

Now, sir, what was the influence which such an article, published in the official organ of the Government, was calculated not only to have upon the people of that country, but upon the people who should go there? Why, sir, it was recognizing, in all its length and breadth, the power for which I contend—the power to form a State as she shall see fit. Now, sir, the influence of that press must have been felt even upon the Pacific coast, laying down the doctrine, that the people had a right to form that government—nay, going as far as the people have gone—that they had a right to admit or reject the institution of slavery, as they should see fit. Let me ask now, in the language of the "Union," why all this excitement cannot subside, and why cannot all unite and permit California to come into this Union? Why, sir, whatever may be my opinions in relation to the powers or the duties of this Government over the territories, I have a right to insist, that those who promulgated such doctrines, are bound by the acts of that people, having been instrumental in inducing them to perform these very acts.

But, sir, let me read another extract from the last annual message of the late Executive, President Polk, and see what was the language then held upon this question, whether Congress shall legislate or not:

*Extract from the Annual Message of President Polk, December 5, 1848.*

"Whether Congress shall legislate or not, the people of the acquired territories, when assembled in convention to form State constitutions, will possess the sole and exclusive power to determine for themselves whether slavery shall, or shall not, exist within their limits. If Congress shall abstain from interfering with the question, the people of these territories will be left free to adjust it as they may think proper, when they apply for admission as States into the Union."

Here is clear and certain authority for the people to do just what they have done—exclude slavery from the State. And yet who doubts that she is, in fact, opposed in her admission, for having done that very thing? Was not this an inducement for the people thus to act? and, followed up by its official organ, recognizing the doctrine of the right of the people thus to act, inducing them by this very course thus to act, are we to turn round now, and coldly say that they are to be remanded back—not to a territorial government, for they had none—but back to a quasi civil government, or where what is precisely the law none seem to know? And, sir, I have another extract to read.

It is from a speech delivered by the Senator from South Carolina [Mr. CALHOUN] in February, 1849. It says:

"Sir, [said he] I hold it to be a fundamental principle of our political system, that the people have a right to establish what government they may think proper for themselves; that every State, about to become a member of this Union, has a right to form its own government as it pleases; and that, in order to be admitted, there is but one qualification, and that is, that the government shall be republican. There is no express provision to that effect, but it results from that important section which guarantees to every State in this Union a republican form of government."

Now, sir, even the Senator from South Carolina, one year since, standing here as an exponent of the institutions of the South, then raised his voice, encouraging the people to go there—people to whom we had furnished no government—encouraging them to perform the very acts which they have now performed. What may be his opinion upon the right of the people to form a constitution, I do not know; but I hold, that the people in California might well claim to act under such opinions as are here expressed.

Sir, I could quote from now until the sun goes down—I could quote until it rises to-morrow morning—from statesmen, orators, and newspapers of the South, recognizing the very doctrine that they were willing to leave this question to the people of the territory. After having thus encouraged them to perform the very act, which was admitted as legitimate and proper for them to do, it is too late in the day, after this, Senators, to attempt to resist the admission of California, for no other or better reason, than that she has not acted in conformity with a prior act of Congress. There must be an assent of Congress, it is true; and in this connection I beg leave to say, that it is far better in all cases that there should be a prior application to Congress, that no questions of boundaries, that no other questions tending to produce conflict, may arise, when she comes to ask her final admission. It would be vastly better that there should be, in all cases, a preliminary step taken by Congress. But as California has seen fit to adopt for herself a constitution without this preliminary act, why, every man knows that when we do admit her, that is the assent of Congress, as broad, as clear, as positive, as if it had preceded it. Here I leave the question of the right of the people to form a constitution, without the consent of Congress.

Having the right to form a constitution, has that right been so exercised that she should be admitted as a State? The first objection raised is one relating to her boundaries. The Senator from South Carolina, [Mr. BUTLER] now before me, upon this, speaks with much emphasis. This question of boundary is one of importance; it is one in which the governments interested are to be consulted. I concur in all the importance of the boundaries of a State—in all the importance which the honorable Senator from South Carolina [Mr. BUTLER] attaches to them. I hold it is just as competent for us to give our assent to the boundaries now, as it would have been to have given our consent at the outset. I know the tenacity with which individuals, as well as nations, adhere to monuments. We all know that god *Terminus* has been an obstinate god, from the very creation. He might as well be called, and for aught I know is, the legitimate offspring of Mars. The obsti-

nacy with which individuals, as well as nations, have adhered to their boundaries, has been the cause of the shedding of more blood than any other, save that of religion, in the history of the world. Of all wars that have deluged the earth, more blood has been shed in the defense of the boundaries of nations, than for any other cause, save that to which I have alluded.

Sir, the fable of the Carthaginian, Philæni, is not without its instructive lessons. Where they fell, monuments were erected to their memory; and there was the boundary of Carthage. Now, sir, the argument I deduce from all this is, if there is so much importance to be attached to boundaries of nations, then we should give our assent to the admission of California, and not circumscribe her because she may not have fixed precisely the limits that might have been preferred by some of us. To prevent that very conflict which might arise from changing the boundaries, is the very reason, of all others, why we should accept her as she is.

But, sir, what are her boundaries? It is true that she contains from one hundred and forty to one hundred and fifty thousand square miles. She is bounded upon the north by Oregon—I suppose no Senator will change the limits of that territory: she is bounded upon the east by the Great Desert; she is bounded upon the south by Mexico, and upon the southeast by a desert. Now, sir, looking at the description of that country, there would, in the opinion of some, be a better boundary, to take the crest of the Sierra Nevada for her eastern boundary; but from the information which has been imparted to me by Senators and Representatives of that State, I learn, that upon the eastern slope of the Sierra Nevada, there is a long belt of land, varying from ten to thirty miles in breadth, which can be attached to no other State in that section, and it is valueless, entirely, unless connected with California. Whether it will be valuable there, time alone can determine. For grazing and for agricultural purposes, it may have some slight value; but as a mere belt of land lying west of, and bordering, that desert, it could be incorporated into no other State in this Union, save the State of California, where it is to be incorporated. Yes, sir, the very construction of that country renders it so homogeneous, while it is so large that it should retain its present boundaries. Look at its situation. Here is the Sacramento rising in the north, and the San Joaquin rising in the south, coming to a common centre, and finding their outlet upon the Pacific. You may erect new States upon the slope of that country, and if you choose, you may dot it over with States no larger than Delaware and Rhode Island. But every man knows, from the homogeneous character of the country, that while the *San Joaquin* must run north, and the *Sacramento* run south, its commerce, its products, its wealth, its everything, must float down those rivers to a common centre. You may as well speak of preventing the productions of the mighty West from going down to New Orleans. You may as well attempt to divert them by your artificial communications overland; while the Mississippi shall run to New Orleans, that depot must be the one where all the commerce west will go. So in relation to this State of California: it is homogeneous; the commerce of the country, and everything connected with it, must



find its outlet upon the coast of the Pacific, at the port of San Francisco; and what matters it so far as we may be concerned, whether that river shall water one or more States? The people of that country will be bound together by a common interest, and should be embraced in one State.

But, sir, it is said, because she possesses an area of one hundred and forty, or one hundred and fifty, thousand square miles, that we are not to receive her at this time as a State of this Union.

I think, Mr. President, neither you nor I, nor any other Senator, heard these startling complaints, when our sister Texas came in as one of the States of this Union. There was nothing to startle or alarm the public mind then. Texas with her three hundred and twenty-five thousand square miles, was not rejected because she was too large a State. No attempt was made to keep her out of the folds of this Union, because she possessed an area about five times as large as our largest State. No complaints or objections then of this sort were made. Now, sir, taking the bill of the Senator from Missouri, [Mr. BENTON]—I think that circumscribes Texas within the smallest limits—taking that bill, and reducing the territory of Texas, with her consent, to the limits which that bill proposes, you will find that Texas still remains with one hundred and fifty thousand square miles, and is larger than California with a territory that has the capacity to sustain a population ten times as large as that of California. And where is the alarm at the bill offered by the senator from Missouri, [Mr. BENTON?]. Where is the alarm that it does not reduce Texas down to a proper limit? But it may be said, that there is contained in that bill, as there was in the original articles of annexation, a provision that she may be divided. Granted, sir. You have no more jurisdiction over her than if she were not admitted with that provision. We might, if we please, put it in the bill admitting California. She may be divided at some subsequent period, with her consent. That gives us no greater power to make a division at some subsequent time, than if such a provision were not contained in it. It would be a matter of agreement between the government of the United States, and the people of that State, whether she should be severed or not—whether the provision contained in her act of admission should be carried out or not: she holds the power within her own hands. So long as Texas shall insist that she will not be reduced, it is not within our power to touch her. Whenever she shall grant that assent, it may be done. So with California; if, at any subsequent period of time, it should be deemed expedient or proper to circumscribe her in her limits, with the assent of the people of that State, it can be done. Without her consent, it could not be done.

Again: judging from the information we can gather from that country, there cannot be a single doubt, that the capacity of Illinois, the capacity of Indiana, of Pennsylvania, or Ohio, or any of our first-class agricultural States, is vastly greater to sustain a population, than the territory embraced within the limits of California. One of those best acquainted with the matter has asserted that there is more arable land in the State of Massachusetts, small as she is, than is to be found within the whole limits of California. However that may be, it is beyond a doubt, that one of our first-class

States contains the elements of a vastly greater population, and possesses a vastly greater number of acres of arable land. Then, sir, taking her homogeneous character, taking the quality of her soil, we can have, I apprehend, no doubt upon our minds, that we shall not only be justified in admitting, but that we are imperiously called upon by every principle of reason and justice to admit California, as one of our sister States, in this Republic.

But it is said that no census has been taken of her population, and therefore she should be remanded back to her original condition. Who heard these arguments, of perfect equality in population, so eloquently enforced by the honorable Senator from Alabama, [Mr. CLEMENS,] when Florida came here asking for admission? The honorable Senator from Alabama was not here then to raise his voice against the admission of Florida, because she did not present a perfect equality in population; or, in other words, because she did not, to a certainty, possess a population which would entitle her to one Representative in the popular branch of Congress. Now, we find that, of all colors and complexions, in 1840, she had only fifty-four thousand, while more than seventy thousand inhabitants were needed as the basis for one Representative. Deducting two-fifths, not representable, of the colored population, and she had only about forty thousand. Was there any individual then alarmed, lest the compromises of the Constitution would be trodden down, if Florida come in with her population thus limited? This was her population in 1840. Allowing her for a progressive increase, and she could not have had fifty thousand at the time of her admission.

When Texas came in, no provision was made to ascertain, by act of Congress, her population, for the purpose of coming down to that rule of perfect equality which was so forcibly illustrated by the honorable Senator from Alabama, [Mr. CLEMENS.]

Well, how was it in relation to Texas? Was there any particular alarm in relation to that territory, lest it should not have a population large enough to entitle it to an admission into this Union? Was there any fear that the compromises of the Constitution were to be broken down, and that she was to be remanded back to her independent position until a census should be taken? No. There never had been a census taken, at any previous time to that when she came and knocked at the door for admission into this Union; and the honorable Senator from Texas [Mr. Rusk] told us the other day, in his place here, that they had a population less than thirty thousand with which to achieve their independence.

Well, sir, she had a population, in fact, slightly beyond that which would have entitied her to one representative. The honorable Senator from Texas himself remarked to me, in answer to an interrogatory, that she probably had about eighty thousand. California, from information upon which reliance can well be placed, has a population from 110,000 to 120,000 inhabitants, and is increasing with astonishing rapidity.

There is, in the 9th article of the treaty of peace with Mexico, a stipulation that the territories ceded to our Government shall be incorporated into the union of the United States. There should be no obligation of a nation more sacred, or more faithfully complied with, than that which is con-

tained in its treaties with other governments. Our treaty with Mexico imposes upon us an obligation which we cannot disregard at this time, unless we mean to be faithless to our treaty stipulations. Here is the article to which I refer:

"ART. 9. The Mexicans, who, in the Territories aforesaid, shall not preserve the character of citizens of the Mexican republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and in the mean time, shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion, without restriction."

Now, such Mexicans as remained in the territory for twelve months after the ratification of the treaty of peace with Mexico, became thereby American citizens. Under the 9th article, it is expressly stipulated that they shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States. Taking the existing state of things into account, who can doubt for a single moment what is our duty, and whether we should not give our assent now? True, we are made the tribunal which is to judge of the time. In the exercise of that power we are to deal justly; and with the population now in California, and with its rapid increase, we are bound by the highest consideration to admit California. To my mind, there can be no reasonable doubt. It is certainly no more than fair to admit that, when California has a population as large as she now has, we should admit her at once and without delay.

Taking the history of the Government, the manner in which States have been admitted, the character of the country, its population, its homogeneous character, our obligations to admit them, the right which the people of the country had to act, the manner in which they did act, it seems to me there cannot rest upon the mind of any individual a doubt that we should admit this State. And the question, the only question, under the view which I take of this matter is, "Is the constitution which she has presented to us republican in its form?" That, sir, it appears to me, is the simple question which we are to determine. Such, I believe, is the constitution of California. She has created it in pursuance of her rights. It is, to all intents and purposes, a State, so far as her action is concerned; it is a State, and *it will be* a State of this Union, when we shall have admitted it within our limits, and when we shall have passed the necessary laws to make it so, *as we will*.

The simple, plain question then is, "Is the constitution presented here republican in its character?" I have heard no exception to it. I have heard no Senator interpose that objection; and from a careful examination of all its features, no man can come to any other conclusion than that it is republican, and that it has within it many features which challenge our admiration. It has many features which might well excite admiration, and induce older and other States to follow its example.

She has, first and foremost, already provided for the education of her children; and there is nothing

that serves so much to elevate the character of a people, and promote the best interests of a State, as general education. Wherever education is promoted, and the character of the people is elevated, we have long since learned that the duties and services of the recruiting sergeant will be much less required. She has secured the right of suffrage to every freeman. She has prohibited slavery within her limits. Other States of the South have guaranteed it. There are a variety of other features in the provisions of her constitution well worthy of commendation and imitation.

There is one other point which Senators should not lose sight of. She must come in, if she comes in at all, with her present limits—her present boundaries. Any change in her boundaries will demand that State back to her former condition. The provisions of her constitution are such that, if changed, all that she has done in the election of her representatives, the formation of her constitution, the creation of her government, must fall, and she go back again to her natural rights—again to prepare another constitution, which shall conform to the will or wishes of Congress, if this does not. We are not, then, to lose sight of the fact, that any change, however slight, in relation to the boundaries of this territory, is a *rejection*. We may as well reject her in terms as to reject her indirectly. We may as well refuse to admit her at all as thus to refuse to recognize her boundaries, and thus to *reject her indirectly*. It cannot, it seems to me, remain doubtful as to what is our duty to those whom we represent, as well as to the people of California. We should admit her, and admit her at the earliest day possible; and the earlier the day the better, not only for her, but for the whole country.

There have been various reproaches cast on the people of these territories. A sufficient answer to all this might be found in the character of the Senators and Representatives which she has sent here, and who are worthy and true representatives of that people. Any State might well be proud of such a delegation. Yet the people have been denominated squatters and vagabonds, and almost every opprobrious epithet has been cast upon them. But who are they who have gone to that land, and are thus vilified? Why, this constitution which they have presented here is the evidence of their handiwork; it is an evidence of the character of the people; and I may say, from what I know of that people, that they may challenge a comparison with the constituents of any Senator on this floor. They are intelligent, worthy men, who have gone there to build up a Republic, and to make it one of the marts of commerce, which shall connect us with the far-distant East. They have gone there to adorn that land, and make it bud and blossom as the rose. They have gone there and asserted their rights as citizens of our country, and have come here asking us to admit them into this Union as one of its sovereign States. That, sir, is the question for our decision. Judging from indications which cannot well be mistaken—judging from the indications which are all around us—I have no doubt that she is to be welcomed into this Union, and the State of California is to be known as one of our sisters, and her star is to stud with other stars our national flag.





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