# SPEECH

OF

# HON. JOHN A. DIX, OF NEW YORK,

IN RELATION TO

## TERRITORIES ACQUIRED FROM MEXICO.

DELIVERED

IN THE SENATE OF THE UNITED STATES, FEBRUARY 28, 1849.

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# NEW MEXICO AND CALIFORNIA.

The Civil and Diplomatic Appropriation Bill having been reported to the Senate from the Committee of the Whole, and the question being on concurring in the amendment of Mr. WALKER in relation to the Territories acquired from Mexico—

Mr. DIX said: I regret to be under the necessity of asking the indulgence of the Senate at this late period of the session; but I feel it my duty to make some remarks upon the amendment offered by the Senator from Wisconsin, [Mr. WALKER,] and the general subject to which it relates. I regret also to be under the necessity of discussing the question of providing a government for California, in the form under which it is presented to us—in an amendment to an appropriation bill. Independently of this objection, I have considered it from the beginning a measure of too great importance to be disposed of in this incidental manner. The proposition of the Senator from Tennessee, [Mr. BELL,] also in the form of an amendment to this bill, was almost ruled out of this body, upon the ground that it was incongruous and out of place. It received in the end but four votes. I consider this amendment equally irrelevant and misplaced.

The amendment of the Senator from Tennessee proposed to admit California and New Mexico into the Union as a State. The amendment of the Senator from Wisconsin arms the President with extraordinary powers to govern these territories. On the score of congruity, in respect to the general purposes of the bill upon which they were proposed to be ingrafted, I see no difference between them; and I do not understand how one proposition should be resisted on the ground that it is incongruous, and the other entertained as unobjectionable in this respect. Although I did not concur in the propriety of the proposition of the Senator from Tennessee, and although I considered his argument not very happily adjusted to the conclusion it aimed to enforce, yet I must say that I decidedly prefer his proposition to the one before us. I would rather admit California and New Mexico into the Union as a State, wholly unfit as I think they are, than to arm the President with despotic powers to govern them; not from any distrust of the individual by whom those powers would be exercised, but because I consider such a delegation of authority to any individual utterly indefensible.

The proposition of the Senator from Tennessee is disposed of, and I have therefore not a word to say in respect to it. But there are three other propositions before this body: first, the bill introduced by the Select Committee, of which the Senator from Illinois [Mr. DOUGLAS] is chairman; second, the amendment of the Senator from Wisconsin, now under immediate consideration; and third, the territorial bill which was received from the House yesterday, and referred to the Committee on Territories this morning. The first creates a State out of a portion of California, and admits it into the Union; it also creates the State of New Mexico *in futuro*, and leaves it out of the Union. The amendment of the Senator from Wisconsin vests in the President all the power which a State or territorial government ought to possess over both territories. It authorizes him to prescribe and establish all proper and needful rules and regulations, in conformity with the Constitution of the United States, to carry into operation the laws referred to in the first part of the proposition, for the preservation of order and tranquillity, and the establishment of justice therein, [not an executive, but a creative power,] and from time to time to modify or change said rules and regulations, in such manner as may seem to him desirable and proper. It authorizes him to establish offices, and to appoint and commission officers, for such terms as he may think proper, and to fix their compensation. It is literally arming him with dictatorial powers. It appears to me to delegate to him, nearly in the language of the Constitution, the power under which the authority to establish governments for the territories has been claimed. And, sir, if the President elect, on taking into his hands the reins of government, should find himself, in respect to the States, a less absolute ruler than he was at the head of his army, he will, in respect to these territories, be amply indemnified for any diminution of authority he may have sustained by exchanging a military for a civil station. He will find himself in the possession of larger powers than he ever before possessed. I repeat, my objection is not founded on any distrust of the individual by whom these powers are to be exercised. I believe him to possess honesty and truth, the highest ornaments of exalted station. But I will not consent to delegate to any individual, whatever confidence I may have in him, the powers this amendment proposes to confer—"mighty powers," as the mover himself pronounced them.

I forbore, Mr. President, to take any part in the debate while the Senate was in Committee of the Whole, except to urge that all such amendments might be withdrawn. I forbore to make any proposition, by way of amendment, to that offered by the Senator from Wisconsin, because I believed all such propositions to be out of place. But when this amendment had been adopted by a deliberate vote of the Senate, I prepared a bill—a full territorial bill—with a view to establish a government in California, on the basis of law, with powers clearly defined for the governing, and rights clearly defined for the governed. When the territorial bill was received yesterday from the House, I resolved not to offer mine as an amendment to the bill before us, extremely averse as I am to all of these propositions, in the manner in which they are presented. But I hold a territorial government the

only proper one to be created for these territories, under a system like ours, excepting for the merest temporary purposes. The object of the amendment of the Senator from Wisconsin is more than temporary, whatever its language may import. It has no limitation in point of time. The powers it confers are equally unlimited in scope and duration. And, Mr. President, I am constrained to say, with all deference to the majority of the Senate, that I consider it the most objectionable proposition I have been required to vote upon since I have been a member of this body.

Precedents have been cited to sustain this amendment: one in the case of Florida, and the other in that of Louisiana. Now, sir, let me refer to dates to see how far the precedents are applicable to it. The treaty with Spain for the cession of Florida was ratified here on the 22d of February, 1819, and it was to be ratified in six months, or sooner if possible, by the King of Spain. This was the short session of Congress; and the six months would have brought us to the 22d August, 1819, when Congress was not in session. The act of the 3d March of that year was therefore passed, authorizing the President to take possession of the territory. It was to expire at the end of the next session of Congress. But the treaty was not ratified by the King of Spain until the 24th of October, 1820, and I believe Florida was not taken possession of under this act at all. The treaty as ratified by Spain was sent to the Senate on the 14th February, 1821, as the ratification was not within the time limited. It was ratified by the Senate on the 19th February of that year. The act of the 3d March, 1821, was then passed, reënacting substantially the act of 3d March, 1819. This was also to expire at the close of the next session of Congress. The Senator from New Jersey stated that Florida was governed about three years under the act of 1819. Am I mistaken?

Mr. DAYTON. Two years.

Mr. DIX. The territorial government of Florida, as I have stated, was established on the 30th March, 1822, one year and twenty-seven days after the passage of the last act authorizing the President to take possession of the territory.

The Louisiana treaty was ratified by the Senate on the 20th October, 1803. An act was passed on the 31st of the same month, eleven days afterwards, authorizing the President to take possession of the territory; and this act was to expire at the close of the same session of Congress. On the 26th March, 1804, a territorial government was established, to take effect the 1st October, 1804. The power was exercised in this case eleven months. In both cases, the duration of the act was limited to the close of the same or the ensuing session of Congress. The powers conferred were to expire at a certain period. The want of such a provision in this amendment constitutes one of the strongest objections to it. But even this omission sinks into insignificance when compared with the magnitude of the powers which the amendment confers.

I cannot believe this amendment can receive all the constitutional sanctions necessary to give it the validity of law. I shall, therefore, proceed to examine the other propositions before the Senate, as we may be called upon to act on them when it is too late for discussion. I wish to avail myself, for a very short time, of the privilege which has been taken by other Senators, of speaking upon the different propositions before us.

The 14th May, 1787, was the day fixed for the meeting of the Federal Convention by which the Constitution of the United States was framed. A majority of the States was not convened until the 25th of the same month; and nothing was done, with the exception of organizing and adopting rules for the orderly transaction of business, until the 29th, when Governor Randolph, of Virginia, to use the language of the Journal, "opened the main business of the session;" or, as he expressed himself, "the great subject of their mission." He spoke of the difficulty of the crisis, the necessity of revising the Federal system, the properties such a government ought to possess, the defects of the Confederation, the dangerous situation of the States, and the remedy. His propositions for the correction and enlargement of the Articles of Confederation, so as to accomplish the objects of their institution, were stated in a series of resolutions, one of which declared that provision ought to be made for the admission of States, lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory, or otherwise. He was immediately followed by Mr. Charles Pinckney, of South Carolina, who presented a plan of a Federal Constitution, in which it was provided that the Legislature should have power to admit new States into the Union on the same terms with the original States, provided two-thirds of the members present in both Houses agree. We all know in what manner these propositions were modified in the subsequent proceedings of the Convention, and the limitations by which the exercise of the power was guarded by the framers of the Constitution. How far the extension of our political jurisdiction beyond the existing boundaries of the States and their territories was in contemplation at that time, I do not stop to inquire. We have given a practical construction to this provision of the Constitution. We have admitted into the Union six States beyond the limits of the thirteen original States and their territories—one an independent nation, and the others colonial dependencies at the time of their acquisition.

The debates in the Federal Convention, which seem to have had an exclusive reference to the admission of new States from territory we then possessed, show that, even in these cases, the extension of the proposed system, so as to include new members, was deemed a matter of the utmost delicacy and importance, not only as affecting the proper balance of its parts, but in respect to the moral influence of such extension upon the character of the whole. This disposition in the original States to surround the system with all the safeguards necessary to insure its stability, and to perpetuate the principles in which its foundations were laid, had even an earlier date than the era of the Federal Constitution. It is shown in the ordinance of the Congress of the Confederation, providing for the territory northwest of the Ohio river. The ordinance prescribed rules for the government of that territory, in its moral as well as its political relations; and it imposed upon the admission of the States to be formed out of it, in respect to representation, conditions more onerous than those which were annexed by the Federal Convention to the representation of the thirteen original States. These exactions and conditions all had for their

object to maintain the purity of the system, the homogeneousness of its parts, and the harmony of its movements. They looked to training and discipline in the school of representative government before the communities which were to be incorporated into the Union were raised to the dignity and equality of sovereign States.

Sir, I hold to this prudence and caution in the founders of the Republic. I believe it to be due to ourselves, to the institutions they framed, and to the future millions whose destiny for good or for evil is in some degree to be wrought out in our political action.

I deduce, then, from the organization of the Government, this practical principle, which I hold to be fundamental: that no State ought to be admitted into the Union which has not been prepared by a familiar knowledge of the theory and practice of our political system, and by such a training in the discipline of free institutions as to render its participation in the administration of the general concerns an aid and an advantage, not an embarrassment and an obstacle, to the steady action of the system.

This requirement, which I consider absolute, is not fulfilled by the condition of California. The bill reported by the select committee admits that territory into the Union at once as a sovereign State. That, too, was the purport of the amendment of the Senator from Tennessee, though it embraced New Mexico also. This proposition is directly opposed to all the practical rules and usages of the republic, from its foundation to the present day. It is in palpable violation of the principle I have stated as inherent in the organization of the Federal Government. It discards all the prudential considerations which entered into the reasonings of the framers of the Constitution concerning the extension of our political system.

Let me state some of the leading objections to it, as they relate to the condition of California: 1. Its present inhabitants are, to a considerable extent, Indians or Mexicans of mixed blood. 2. They are, for the most part, uneducated. 3. They are not sufficiently familiar with the business of self-government. 4. They do not even speak our language. 5. They would not come into the Union with an enlightened understanding of the principles of our political system, or with the general cultivation and intelligence essential to such a fulfillment of the duties and responsibilities of the American citizen as to render them safe participants in the administration of the Government. I need not enlarge upon these propositions. Those who are familiar with the condition of California and the character of the people will assent to their truth. I hold these objections to the immediate admission of California into the Union as a State—objections drawn from the character and condition of the people—to be insuperable. I know very well that territory is rapidly filling up, and that it is receiving from us thousands of citizens, active, enterprising, and of unexceptionable character. But we know also that it is receiving multitudes of adventurers from almost every quarter of the globe—from both hemispheres—from Oceanica to the European continent and islands—some for a permanent abode, but more for mere temporary purposes. I wish to see this heterogeneous mass pass through the process of fermentation, to which it is destined, and settle down into something like consistence, before we undertake to endow it with all the attributes of self-government.

This view of the subject is sustained by the uniform practice of the Government. 1. Our alien laws have always prescribed a period of probation for individuals who come among us for a permanent abode, and to unite their fortunes to ours. This period has always been of several years in duration. The most liberal (and of these I have always claimed to be one) have never proposed to dispense altogether with this probationary term. The only question is as to its proper extent. It proceeds upon the principle, admitted by all, that no man shall become a member of our political association until he has been taught by experience to appreciate its advantages, and to take part in its deliberations with some knowledge of its requirements. 2. The same principle which has governed in cases of individual immigration has been applied to territories acquired by treaty and to large masses of persons. When Louisiana was ceded to us by France, we stipulated that the inhabitants should be incorporated into the Union, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of the rights, advantages, and immunities of citizens of the United States; and in the mean time that they should be maintained and protected in the enjoyment of their liberty, their property, and in the exercise of the religion they professed.

Louisiana was acquired in 1803. The inhabitants made repeated applications for admission into the Union; they protested against the tardy action of Congress; they appealed to the treaty in vindication of their right to such admission. Yet Congress refused to admit Louisiana into the Union as a State until 1812. Nine years were deemed necessary to prepare the inhabitants for the exercise of the highest political rights, though there was a strong infusion of our own citizens among them.

Florida was acquired in 1820; and in the treaty with Spain there was a stipulation nearly identical in language with that which was contained in the treaty with France for the cession of Louisiana, in respect to the admission of the inhabitants into the Union. Yet Florida was not admitted as a State until 1845—a quarter of a century after its acquisition. I know that numbers had something to do with this delay; but other considerations doubtless had their influence also. These territories were both foreign; and, when acquired, their inhabitants were presumed to have but little knowledge of the theory or practice of our political institutions.

But, even with our own territories and our own people, we have dealt with the same caution and the same prudent regard to the privileges which an admission into the Union confers. Instead of curtailing the period of probation, where Congress had a discretion, we have rather been disposed to insist on a rigid fulfillment of the prescribed conditions, both in respect to numbers and time.

The ordinance of 1787, by which the division of the territory northwest of the Ohio river into States, and the ultimate incorporation of those States into the Union, were provided for, fixed on sixty thousand free inhabitants as the number necessary to their admission; but it was provided also that, so far as it should consist with the general interest of the Confederacy, such admission

might be allowed at an earlier period, and with a less number of inhabitants. Yet Ohio was not admitted into the Union until 1802. It must have had sixty thousand inhabitants; and it was admitted with a single member of Congress. At the same time the ratio of representation in Congress was one member for thirty-three thousand inhabitants.

Indiana was admitted in 1816, Illinois in 1818, Michigan in 1837, and Wisconsin a year ago. These Territories were settled chiefly by our own people. The settlers came from the old States. They were nurtured in the love of liberty, and trained to the exercise of political rights. All their associations were of a character to render them safe depositaries of the priceless treasure of freedom. Yet they were subjected to a protracted probation. They were held in political subjection, not only in respect to the appointment of their chief executive officers, but in the more delicate relation of supervising and overruling them in the exercise of the power of legislation.

Such, Mr. President, has been our practice, not only in respect to territories acquired by treaties with foreign Powers, but in respect to our own people occupying territories held by a tenure coeval with our political independence. The bill reported by the select committee proposes to overthrow and reverse the uniform practice of the country in this essential particular. This practice assumes that some familiarity with the duties and privileges of citizenship is necessary for the inhabitants of a territory as a preparation for the independent management of their public affairs. It supposes that a territorial government, founded upon principles and administered according to laws analogous to those which govern the State administrations, should precede the admission of a Territory into the Union. It holds the privileges, the responsibilities, the rights incident to an independent membership of the political association, into which the States have entered, to be of too great a value to be communicated to other communities without a just regard to their capacity for assuming and exercising them with advantage to others as well as to themselves.

The bill discards all these considerations. California has not yet been acquired a single year; nine months ago it was foreign territory. Its population is foreign; its interests, associations, usages, laws, and institutions, are, in some degree, alien to our own. The people do not even speak our language; they cannot read our Constitution or laws without translating them into a foreign tongue. Yet the committee propose to admit it into the Union on the footing of the original States, and to give it a weight in this body equal to that of Virginia, or Pennsylvania, or New York. With a population, perhaps, of twenty thousand souls, it is to wield here an influence equal to that of New York with three millions.

I cannot consent to cheapen in this manner an independent membership in the union of the States. I believe it to be unjust to the present members of the Union, hazardous to the stability of the Government, a departure from a wise and well-considered policy, and unjust, as I shall endeavor to show, to California herself.

Her physical and social condition is as unsuited to the independent management of her own concerns as her intellectual and moral. Her population is scattered over a vast surface; her improvements are not such as to give stability to her political organization; she has no commerce; she has hardly emerged from the pastoral state and risen to the grade of an agricultural community. She has not the strength to uphold an independent sovereignty. The recent discoveries of gold have made a bad condition worse; they have dissolved, for the time being, the very bonds of society. It will require months, if not years, to restore order, to bring back her people to the sober pursuits of industry, and to qualify them for any deliberative purpose. I believe there never was a community less fitted than California is at this moment, and under existing circumstances, to organize a government and put it in operation. All the influences which are at work with the minds and passions of men, are to the last degree unfavorable to the high duty the bill imposes on them. When all the obligations which bind men to the performance of their duty appear to have lost their force; when ships are abandoned by their crews; when soldiers desert by platoons and companies; when villages and towns are depopulated; and when the whole community is possessed by the phrensy of gold digging, and lose sight of all other objects, we call upon them to meet in solemn conclave and perform the highest and most responsible of all deliberative acts—that of framing a constitution for their own government—a work of deliberation and soberness and calm reflection. I have been from the beginning opposed to this whole scheme. I believe, if ever there was an occasion, since the foundations of this Republic were laid, when it was incumbent upon Congress to establish a temporary government for a Territory, to provide for its wants, to give direction to its action, and to sustain it by the collective wisdom and strength of the whole community, until it shall have passed through the period of probation to which all our Territories have been subjected—a period rendered doubly perilous there by the prevailing disorganization—that occasion is presented in the condition of California.

I am in favor, then, of a territorial government, endowed with the energy to control and remedy existing embarrassments and evils. I believe the course proper in all similar cases is preëminently proper in this. I shall concur in no other, unless it be for a mere temporary purpose. And it was with great regret that I heard honorable Senators say there was no hope of giving California a territorial government. I do not concur in opinion with them. I will not relinquish hope until the last moment. The most certain mode of giving effect to a feeling of hopelessness is to despair of the battle before it is fought, and resort to other devices to supply our own want of constancy and courage.

The objections I have stated to this bill are insuperable; they are fundamental, and therefore not to be obviated. There are objections of detail, which might be remedied; but I will merely state, without enlarging upon them—as no variation in the details can reconcile me to the general purpose of the bill—the immediate admission of California into the Union as a State.

Of these objections I consider the dismemberment of California one of the most serious. I would keep that territory as it is until the spread of population and the growth of improvement shall indicate where the division line can be drawn with

least prejudice to the parties concerned. The bill proposes a chain of mountains as the eastern boundary. Sir, physical obstacles are not always the most appropriate or convenient for statistical divisions. Moral obstacles are more powerful to repel, and moral affinities more powerful to attract, than physical. Identity or diversity of race, association, or condition often does more than rivers, and mountains, and plains to bind men together or force them asunder. What is there, for instance, in the class of natural obstacles more appropriate for a statistical demarcation than the Alleghany mountains? And yet they have not sufficed to divide Virginia into two distinct communities. Nor have they sufficed to divide Pennsylvania into two States. What is there more suitable for such a purpose than the Chesapeake bay? And yet Maryland lies on both sides of it. If we were to look to physical obstacles as constituting the most appropriate boundary for California on the east, we ought to stop at the Sierra Nevada, which is more elevated than the boundary of the committee, "the dividing ridge separating the waters flowing into the Colorado from those flowing into the Great Basin," or we ought to go on to the Sierra Madre, and leave the territory with its present limits. We need not consider geographical extent as an objection to the organization of a territorial government. When Louisiana was acquired, we placed all that part of it north of the thirty-third parallel of latitude under the direction of the Governor and the Judges of the Indiana Territory, for the purposes of government and the administration of justice; and it had a more extended area than California.

Let us leave statistical divisions to be fixed by events. The movement of population, physical development, social progress, and their incidents —these are the great causes which mark out permanent boundaries between separate States. Let us leave California to be filled up, and the races which occupy it can better determine than we who shall live apart and who together.

The disposition which the bill makes of New Mexico, I consider, if possible, still more objectionable. She was known long before the era of Von Humboldt as having a distinct organization. In connection with Durango and Chihuahua, she constituted an independent member of the Mexican Confederation, under the constitutive act of 1824, and a separate territory under the constitution of that year. The consolidation of the confederated States into a central republic, under the constitution of 1836, made her a separate department, with an independent organization for the management of her local concerns. We have held commercial intercourse with her under laws applying only to herself and another member of the Mexican Republic. She has had an individual name, existence, and organization. So far as I am concerned, they shall be respected. I will neither consent that she shall be dismembered nor merged in a more extended organization. Subjection by conquest is the greatest humiliation that can befall a community. The magnanimity of the conquerors should spare the subjugated State the further humiliation of dismemberment, or the obliteration of its identity in a useless extension. I will neither consent to play towards New Mexico the part of Austria, Russia, and Prussia, towards Poland, nor the part of the Holy Alliance towards Genoa. I will neither agree that she shall be divided nor swallowed up. She has petitioned to us to save her from dismemberment. I am for exercising our power over her with humanity as well as forbearance—for conforming, as far as we can, to the wishes of the vanquished. I believe she is now, considering all circumstances, as well fitted to come into the Union as California. I will not consent to dilute what fitness for self-government she possesses by a territorial expansion, of which I can neither comprehend the object nor foresee the result.

But it is not quite clear, from the language of this bill, what is to be the fate of New Mexico—whether she is to be merged wholly or in part in Texas, or merely drawn out to the Pacific. If the latter—and I suppose this to be the intention of the committee—she will be stretched out some two or three hundred miles westward on the north, and eight or nine hundred on the south. But the New Mexico created by the bill is to be bounded on the east by the summit of the Rocky Mountains and the State of Texas. The Rocky Mountains, or the Sierra Madre, a continuation of them, are now the western boundary of New Mexico. I am not sure whether they would not under this bill become the western boundary of Texas. I am not sure that New Mexico would not be merged in Texas by the mere designation of a boundary line. The bill seems to me, by a literal construction of its terms, to accomplish these three objects, alike objectionable in my mind: 1. The annexation of New Mexico to Texas. 2. The dismemberment of California. And, 3, the creation of a new State of New Mexico, wholly within the limits of California, and wholly without the limits of the present New Mexico.

Nor is this all. While the bill introduces California into the Union, it leaves New Mexico out of it. We consent that it shall become a State of this Union, with the name and style of the State of New Mexico, as soon as it shall have the proper number of inhabitants. What is the proper number of inhabitants? Louisiana was admitted into the Union with about eighty thousand; (I speak in round numbers;) Ohio with about sixty thousand; Illinois with forty thousand; Michigan with one hundred and fifty thousand; and Florida with perhaps thirty thousand white persons. Where is the criterion of proper numbers to be sought for? Is it in the ratio of representation in Congress? Why not say so, if it be intended? The greater portion of the territory is nearly unpopulated. It is not likely, either from its position or physical character, to be populated rapidly. What is to be its political condition until it has the proper number of inhabitants? It cannot be admitted into the Union until then. What is to become of it in the mean time? To what political category is it to belong? It is not to be a Territory. The bill makes no provision for it as such. We merely cut it off from California, and leave it to the uncertain progress of events, and the still more uncertain phraseology of our own statute. We cast it away, to use a barbarous law phrase, "*a flotsam*" on the ocean of politics—"*incertum quō fata ferant*" —to reclaim it ourselves at some future day, if we can find it first, and agree afterwards on the meaning of our own enactment.

I am opposed to this whole scheme; it seems to me to have been dictated by a desire to avoid embarrassing questions. I trust I appreciate rightly

the motives of honorable Senators. But I hold that there is always more embarrassment in postponing or evading troublesome questions than in meeting them boldly, and disposing of them promptly when they present themselves. I propose to myself but two inquiries in reference to the course we ought to adopt. 1. What does the interest of the country, and, 2. What does the interest of California and New Mexico require? The answer seems to me to be too clear to be mistaken. I have already given it. Both considerations point to a territorial government, framed on proper principles.

What shall these principles be? This is the only question which remains to be considered. Recognizing, as I do, to the fullest extent, the Democratic doctrine of instructions, I am not altogether a free agent in this matter. During the last three years resolutions have been as many times passed by the Legislature of New York, and presented here by myself, declaring that in any territories acquired from Mexico slavery ought to be prohibited. I have endeavored to carry out the instructions by which those resolutions were accompanied. I have done so with the more cheerfulness, because, apart from all obligation of obedience, I believe them just.

I hold, then, that territorial governments ought to be organized for California and New Mexico, and that the act establishing them should contain a prohibition of slavery. I believe there never was an occasion in which such a prohibition was demanded by higher obligations than the present. I shall endeavor to make it apparent to the judgment of the Senate, and for this reason I shall be under the necessity of entering into a brief review of the origin and progress of slavery in the United States; and I shall begin with the condition of the American colonies before the establishment of their independence.

Slavery, I believe, was never originally established by law in any State in this Union, nor was it so established in the British colonies in America. The relation of master and slave, in modern times and in civilized States, usually springs up in the transactions of commerce, without positive authority, and the law afterwards comes in to regulate it. It was so in the American colonies. It is a curious fact, that the same year (1620) which witnessed the landing of the Pilgrims on the Rock of Plymouth saw the first ship enter the waters of the Chesapeake bay and the James river with Africans to be sold into slavery. It is still more curious that the ship freighted with freemen and the ship freighted with slaves commenced their voyages from the same country—Holland. In the same year the monopoly of the London company was overturned, and the commerce of the colony of Virginia was thrown open to free competition.

The introduction of slaves into that colony was one of the first fruits of this commercial freedom; not necessarily, but as one of those incidents which the chances of life bring with them to illustrate its uncertainties and its contradictions. There was no law in Virginia at that time authorizing the existence of slavery; nor was there any such law in England. It gained a foothold without law. Indeed, the early enactments of the colony of Virginia had for their objects to restrain the introduction of slaves, and to limit the control of their masters over them. Before the Revolution, she petitioned the British king to sanction the measures she had adopted for the suppression of the slave trade. The appeal was vain. It was the interest of British traders, who derived a mercenary profit from this detestable traffic, that it should continue; and, down to the period of the Revolution, every effort on the part of Virginia and the other colonies to put a stop to it was fruitless. Slavery was thus forced upon us by Great Britain; we are not responsible for its origin. In the North it has been abolished; in the South, peculiar circumstances have continued it in existence. I make no inquiry into those circumstances, or their necessary influence upon the result. The responsibility which rests upon us is to see that it is not further extended; that it shall not, as far as depends on us, be planted where it has never existed, or where it has been abolished.

After the termination of the war with Great Britain, when the American colonies, to use the language of the Declaration of Independence, had "assumed among the Powers of the earth the equal and separate station to which the laws of Nature and of Nature's God entitled them," the attention of the great men of the country was turned to the subject of slavery; not only with a view to its exclusion from the unoccupied portions of the Union, but with a view to its extinction in the States where it existed. The definitive treaty of peace with Great Britain, acknowledging our independence, was signed in September, 1783. In March, 1784, Mr. Jefferson introduced into the Congress of the Confederation a plan of a temporary government for the territory northwest of the Ohio river, containing a provision abolishing slavery after the year 1800 in that territory, now comprising the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin.

The anti-slavery clause received the votes of six States out of the ten present in Congress. Under the Articles of Confederation the delegates voted by States; and by the same Articles a majority of the thirteen States was requisite to carry any proposition. Mr. Jefferson's proposition, having received only six votes, was not adopted.

I hold in my hand, Mr. President, a copy of his plan for a temporary government for the Northwest Territory, made from the original, which I found a few weeks ago, among the archives of the Confederation, in the State Department, where they are deposited. [Appendix, No. 1.] The original is in the clear, careful handwriting of Mr. Jefferson; and it settles the question of authorship. It divides the territory into ten States instead of five, as was finally determined; and it contains the anti-slavery clause to which I have referred, and which has heretofore been attributed to him. I will read it for the information of the Senate. Like some other propositions of a kindred character, and of later date, it is in the form of a proviso:

"After the year 1800 of the Christian era, there shall be neither slavery nor involuntary servitude in any of the said States otherwise than in punishment of crimes whereof the party shall have been duly convicted." [Appendix, No. 2.]

I am happy to have had it in my power to refer this declaration to the author of an earlier declaration in favor of human freedom—I mean that of our independence—and to have found it in his own handwriting. Without this testimony, no one could doubt, on reading the whole paper, that it was written by him. It contains internal evidences of

authorship which, to any one familiar with his style of composition and his peculiarity of thought, must be conclusive. Let it be known henceforth as the Jefferson proviso. As such, it will at least escape the imputation of selfish motives, from which, in the prevailing heat of party contention, no follower in the same field can hope to be exempt, however unjustly they may be attributed to him. I have already said that this proposition failed for the want of a single vote. It was renewed in 1785 by Rufus King, then representing the State of Massachusetts, and it was referred to a committee, though it was not finally acted upon at that time. The reference was made by the votes of eight States out of eleven present, one State being absent, and another represented by a single delegate, and therefore not entitled, according to the Articles of Confederation, to vote. [Appendix, No. 3.]

Thus things remained until 1787, when the ordinance of that year was passed establishing a government for the Northwestern Territory, and prohibiting slavery within it forever, except for crimes. This ordinance was reported by a committee of which Mr. Edward Carrington, of Virginia, was chairman, and Mr. Nathan Dane, of Massachusetts, a leading member. It received the votes of all the States present. It was a unanimous vote as to States, and unanimous, with a single exception, as to delegates. There were only eight States present, viz: Massachusetts, New York, New Jersey, Delaware, Virginia, North Carolina, South Carolina, and Georgia. The five absent States were New Hampshire, Connecticut, Rhode Island, Pennsylvania, and Maryland. The four first—New Hampshire, Connecticut, Rhode Island, and Pennsylvania—voted for Mr. Jefferson's proviso in 1784, and Maryland voted to refer Mr. King's proposition in 1785. [Appendix, No. 4.]

Thus, I think, it may be fairly asserted that if all the States had been represented in Congress, the vote would have been equally unanimous. The ordinance would have been adopted by the votes of the thirteen States.

The South united with the North in excluding slavery from this territory. It was a unanimous verdict of the whole country against the extension of slavery. It was the first great movement of our revolutionary fathers to rid themselves of the responsibility and the country of the evil of slavery. And I take great pleasure in awarding to a southern man (Thomas Jefferson) the conception of this great measure of justice and humanity.

While the Congress of the Confederation, sitting in New York, was framing the ordinance of 1787, the Federal Convention sitting in Philadelphia was framing the Constitution of the United States. While the former body was devising measures for the exclusion of slavery from the Northwestern Territory, the latter was engaged in providing for the suppression of the African slave trade. Thus, the representatives of the newborn Republic, legislating for the old Government, and framing a new system for the better administration of their common concerns—sitting in different places, and acting in separate capacities—were jointly engaged in eradicating what they considered a great public evil and reproach. While the former declared that slavery should thenceforth be forever prohibited in the Northwestern Territory, the latter virtually declared (though in the form of a restriction on the exercise of a power) the American slave trade should cease after the year 1807. It would have been abolished at once but for the opposition of South Carolina and Georgia, the only States which were at that time desirous of continuing it.

In the Federal Convention Virginia was among the foremost in her opposition to the slave trade. Madison, and Mason, and Randolph were distinguished for the ability and zeal with which they advocated its immediate suppression. They were unwilling to wait twenty years for its abolition. But their efforts were unavailing; and, for fear South Carolina and Georgia would not come into the Union, a compromise was agreed on, and the traffic was tolerated until 1808. On the first day of January of that year, the very first day Congress had power to make its prohibition effective, the slave trade was abolished forever by an act passed ten months before.

I have stated these historical details, Mr. President, for the purpose of showing two facts: 1. That the policy of the founders of the Republic was to get rid of slavery, by preventing its extension, and by suppressing the African slave trade; and 2. That some of the southern States were among the foremost in advocating both measures, with a view to the accomplishment of the ultimate object. One of the avowed objects of the abolition of the slave trade was to prevent the extension of slavery into the Territories. The same policy prevailed for many years. The inhabitants of the Northwest Territory, or a portion of it, (that portion, I believe, which now constitutes the States of Indiana and Illinois,) petitioned Congress for the privilege of importing slaves from the States; and they had sufficient influence to obtain two reports in favor of a temporary suspension of the sixth article of the ordinance of 1787. But their prayer was not granted. The inhabitants of Louisiana, before the abolition of the slave trade, petitioned for the privilege of importing slaves. Their prayer was denied. Wherever Congress had the power, it was exercised to prevent the extension of slavery beyond the States and Territories in which it existed.

I have always been opposed to interference with slavery where it exists. The Federal Government has no control over it, directly or indirectly, within the limits of the States. It is a civil relation over which they have exclusive jurisdiction. It must ever rest with them to determine whether it shall be continued or abolished within their limits. But it is not so with the Territories. Congress has always exercised the power of regulating their civil as well as their political relations. The territorial governments are the creatures of federal legislation; they have no powers except such as are conferred on them by Congress. Congress stands to the inhabitants of the Territories in the relation in which the State Legislatures stand to the people of the States. The power of regulating the internal concerns of the inhabitants of the Territories has been exercised under every administration since the adoption of the Constitution.

Sir, I hold the exercise of this power for the exclusion of slavery from California and New Mexico to be even of higher obligation than it was in respect to the Northwestern Territory. Slavery existed in that Territory at the time the ordinance of 1787 was framed and passed. The tenure of slaves owned by the inhabitants of the Territory and held within it was sanctioned by the courts.

The prohibition was construed to extend only to persons born or brought into the Territory subsequently to the adoption of the ordinance.

The situation of California and New Mexico is entirely different. Mexico long since abolished slavery throughout her limits. The abolition was first publicly proclaimed by President Guerrero in 1829, in pursuance, as the decree declares, of extraordinary powers vested in him. It was again declared to be abolished by an act of the sovereign Congress in 1837, and again by the constitution of 1844. Though, as a nation, but imperfectly civilized, struggling against the embarrassments of bad government, and distracted by internal dissensions, arising, in a great degree, out of the heterogeneous character of her population, Mexico has, nevertheless, placed her institutions on the broad foundation of human liberty, by declaring all within her limits to be free.

To permit slavery to be carried into California and New Mexico would be to annul this declaration, and to reëstablish slavery where it has been abolished. I cannot consent to any settlement of this question which can by possibility have such a result.

Mr. BERRIEN. I desire to inquire of the Senator from New York if he intends to assert that the proclamation of President Guerrero was issued under any power specially delegated to him in reference to this subject?

Mr. DIX. I will answer the Senator with pleasure. I take the decree as I find it. I said that the first public declaration was made by President Guerrero in 1829, in pursuance, as his decree stated, of extraordinary powers conceded to him. I am under no obligation to inquire further in relation to the matter, or to look behind the act for the authority on which it was founded.

Mr BERRIEN. I ask the question with a view of ascertaining whether the Senator was disposed to contend that slavery was abolished in New Mexico by virtue of any other power than this proclamation?

Mr. DIX. I suppose it was abolished by virtue of the authority on which the decree was made. I have the decree, and will read it, if the Senator from Georgia desires it.

Mr. BERRIEN. The Senator is not aware, perhaps, of the fact, that the power granted to the President was given him for the purpose of repelling invasion, and had no other object. I would propound another question: If slavery was abolished by force of the proclamation of President Guerrero, in 1829, what slavery remained in Mexico to be abolished by the act of the sovereign Congress, and whence did the sovereign Congress derive the power to do that which belonged to the municipal authorities of the several States exclusively?

Mr. DIX. I prefer not to answer the inquiry of the Senator; it will require a diversion from the course of my remarks, which I do not care to make. [See Appendix, No. 5.] I repeat—the first public declaration that slavery was abolished was made in 1829; the next by the Congress of 1837; and they were virtually reaffirmed by the constitution of 1844. I do not design now to go beyond the limits of these executive, legislative, and constitutional acts, to inquire into the authorities upon which they rested. I stated, when I was interrupted, that the effect of carrying slavery into California would be to subvert the prohibition contained in these acts. This is the first great objection. The second is, that it would be unjust to the community at large, by promoting the multiplication of a race which adds neither to the intellectual nor physical power of the body politic, and which excludes free labor as far as it extends the labor of slaves. I consider this one of the greatest objections to it. It should be our object to promote, in every constitutional mode, the extension of free labor, and the most effectual is to devote the unoccupied spaces of the West to the white race. The third objection is, that it would be unjust to California and New Mexico. They have no slaves. I believe I am authorized to say, they desire none.

Mr. FOOTE. I would inquire of the Senator from New York, if he considers that any injustice will result to California and New Mexico, by allowing the people of those territories to do with this matter as they please?

Mr. DIX. I am in favor of doing what the fathers of the Republic did in relation to the Northwestern Territory—of preventing the extension to California of what they considered, and what I consider, a great evil. If we carry slavery into New Mexico and California, we shall do it against the wishes of the people there. They have no slaves now, and we should plant slavery where it does not exist. We should stand before the world in the same relation in which Great Britain stood to her American colonies. She allowed slavery to be carried into those colonies against their wishes, and, in some instances, against their earnest remonstrances.

The introduction of slavery into California and New Mexico, as I conceive, would be the more indefensible, as there is nothing in the soil and climate which renders the labor of the African race necessary—nothing that makes it unsafe or oppressive for whites to be employed in productive industry under any of its forms. New Mexico consists, for the most part, of mountains, with narrow valleys between, which require to be watered by artificial means. There is no need of the African race. A large portion of California is elevated and broken. It yields nothing to the production of which slave labor is even claimed to be indispensable. Much of the value of that Territory consists in the maritime valley which lies on the Pacific. It is about five hundred miles long, and one hundred and fifty wide, with an area of some seventy-five thousand square miles. The breezes from the Pacific moderate the temperature, and the mountains on the east, rising to the height of thousands of feet, collect and precipitate the moisture of the atmosphere, and pour it down in fertilizing streams into the valley below. It is said by Frémont to bear a strong resemblance to Italy in soil, climate, and capacity for production. It is perhaps the finest region of the same extent in the western hemisphere. The vine, the olive, and the fig, the infinite variety of fruits and grains which are produced within the tropics, are to be found in California. Nature has, in a word, lavished upon it her choicest gifts. In the recent discoveries of gold, there is much to be deplored. Let us hope that it will soon become exhausted, and that the steady pursuits of agricultural, commercial, and mechanical industry, by which alone nations are made prosperous, may constitute the sole objects of application. There is no need of blacks in California; the white race can labor there

without difficulty. The productions are such as to require the care and intelligence of the more intellectual race. It would be a perversion of the purposes of nature, in more senses than one, to carry slaves there.

I believe this will be the effect of the amendment of the Senator from Wisconsin, but not by virtue of any right conferred by the Constitution. I do not acknowledge the existence of any such right. I speak of practical effects. Slaves have been carried, and always will be carried, wherever they are not prohibited. Ohio, Indiana, Illinois, and Missouri are in the same range of States. The fortieth parallel of latitude divides them all. The influences of soil and climate are much the same in each. From the first three slavery has been excluded by the ordinance of 1787. The last has been overrun with slavery for want of a prohibition. The fate of California in this respect will be settled by similar laws. I believe we shall by the amendment under consideration lay the foundation of a contest among the inhabitants of California far more disastrous than their present disorganization. I hold it to be our duty to settle this question ourselves, instead of sending it out to the Pacific to distract our countrymen in laying the foundation of a new government.

I have but one more consideration to present in connection with this topic; and I submit whether this ought not to weigh much with us all? When the war with Mexico was commenced we were charged with the intention of acquiring territory with a view to carrying slaves into it. The charge was denied. We repelled the imputation as doing injustice to our motives. Yet, in the very first attempt to establish a government for that territory, the right is insisted upon—the purpose is confessed. Whether the Mexican Government was aware of this imputation I do not know; but, in the negotiation with Mr. Trist, the Mexican commissioners wished us to stipulate not to carry slavery into the territory which was proposed to be ceded.

Mr. FOOTE. Will the honorable Senator from New York allow me to propound a question to him? That question is this: Who, from the South, either here or elsewhere, has avowed any such purpose? Had southern Senators insisted upon anything but that Congress shall not legislate on the subject of slavery in the territories at all? Have we asked Congress to legislate for the introduction of slavery, or avowed any purpose of doing anything except to resist unconstitutional encroachment?

Mr. DIX. I was speaking of an avowed purpose to carry slaves into California; and I thought I understood the Senator from Mississippi not only as asserting the right, but as supporting his argument by contending that a portion of the country was likely to become a slaveholding region.

Mr. FOOTE. I said this, on that point: It is well known that slavery is adapted to only a small portion of this territory. Believing this to be the case, I urged that the moderation and forbearance of the South, in order to establish a territorial government affording protection to the people of these territories, is strikingly exhibited in her not urging her right, in any shape or form, to be authorized specially by law to carry slaves there. We ask nothing but to *be let alone*.

Mr. DIX. I cannot consent to go into this discussion now. I said, that whether the Mexican Government was aware of the imputation cast upon us, I did not know; but that in the negotiation with Mr. Trist, the Mexican commissioners wished us to stipulate that we should not allow slavery to be established in any territory they should cede to us. I will read a brief extract from a letter addressed by Mr. Trist to Mr. Buchanan upon this subject, while the negotiation was pending. It is dated the 4th September, 1847, and is contained in a document printed by order of the Senate:

"Among the points which came under discussion was the exclusion of slavery from all territory which should pass from Mexico. In the course of their remarks on the subject, I was told that if it were proposed to the people of the United States to part with a portion of their territory in order that the *Inquisition* should be therein established, the proposal could not excite stronger feelings of abhorrence than those awakened in Mexico by the prospect of the introduction of slavery in any territory parted with by her."

I could make no comment on this correspondence, if I were disposed, which would be half so eloquent as the facts. These Mexicans, whom we have been accustomed to consider half-civilized, vanquished in the field, driven from their capital, compelled to make peace with us almost on our own terms, and forced to cede a portion of their territory, implore us not to carry slavery into it. Sir, I ask how should we stand before the world, liberal and enlightened as we are, proclaiming to mankind the principle of human liberty as one of the inalienable rights of our race, if we were to disregard these entreaties?

Mr. MASON. Does the Senator refer to the petition which has been presented from New Mexico?

Mr. DIX. No, sir, I refer to Mr. Trist's negotiation in Mexico, and the representations made to him during an interview with the Mexican commissioners.

Mr. RUSK. I wish to ask the honorable Senator whether he does not know that the Mexican commissioners negotiated the treaty under the influence of an agent of the British Government?

Mr. DIX. I suppose there can be no doubt that the treaty is in strict accordance with the feelings and wishes of the Mexican people on this subject. Their repeated declarations in respect to the abolition of slavery prove it, under whatever influences the treaty may have been framed.

Mr. President, two years ago, when I first addressed the Senate upon this subject, under the instructions of the State of New York, I said that, by no instrumentality of hers, should slavery be carried into any portion of this continent which is free. I repeat the declaration now: by no act, by no acquiescence of hers, shall slavery be carried where it does not exist. I said at the same time that, in whatever manner this question should be settled, if it should be decided against her views of justice and right, her devotion to the Union and to her sister States should remain unshaken and unimpaired. Speaking in her name, and for the last time within these walls, I repeat this declaration also. She does not believe in the possibility of disunion. I am thankful that her faith is also mine. My confidence is founded upon the disinterestedness of the great body of the people, who derive their subsistence from the soil, and whose attachment is strong in proportion to their close communion with it. They have incorporated with it the labor of their own hands. It has given them back wealth and health and strength—health to

enjoy and strength to defend what they possess. In seasons of tranquillity and peace they are unseen; too often, perhaps, forgotten; but it is in their silent and sober toil that the public prosperity is wrought out. It is only in the hour of peril that they come forth from a thousand hills and valleys and plains to sustain with strong arms the country they have made prosperous. In them the Union will find its surest protectors. They are too virtuous and too independent to be corrupted. They are spread over too broad a surface for the work of seduction. It is in towns and public assemblies, where men are concentrated, that the tempter can with more assurance sit down, as of old, in the guise of friendship, and whisper into the unsuspecting or the willing ear the lesson of disobedience and treachery. From this danger the great body of the people are secure. And let us be assured, that they will never permit the banner which floats over them at home, and carries their name to every sea, to be torn down, either by internal dissension or external violence. Such is my firm, my unalterable conviction. But, if I am mistaken in all this—if the spangled field it bears aloft is destined to be broken up—then my prayer will be, that the star which represents New York in the constellation of States may stand fixed until every other shall have fallen!

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## APPENDIX—No. 1.

The following is a copy of Mr. Jefferson's plan:

The committee appointed to prepare a plan for the temporary government of the Western Territory, have agreed to the following resolutions:

*Resolved*, That the territory ceded or to be ceded by individual States to the United States, whensoever the same shall have been purchased of the Indian inhabitants, and offered for sale by the United States, shall be formed into distinct States, bounded in the following manner, as nearly as such cessions will admit—that is to say: northwardly and southwardly by parallels of latitude, so that each State shall comprehend, from south to north, two degrees of latitude, beginning to count from the completion of thirty-one degrees north of the equator: but any territory northwardly of the forty-seventh degree shall make part of the State next below; and eastwardly and westwardly they shall be bounded, those on the Mississippi by that river on one side, and the meridian of the lowest point of the rapids of Ohio on the other; and those adjoining on the east by the same meridian on their western side, and on their eastern by the meridian of the western cape of the mouth of the Great Kanawha; and the territory eastward of this last meridian, between the Ohio, Lake Erie, and Pennsylvania, shall be one State.

That the settlers within the territory so to be purchased and offered for sale, shall, either on their own petition, or on the order of Congress, receive authority from them, with appointments of time and place for their free males, of full age, to meet together for the purpose of establishing a temporary government, to adopt the constitution and laws of any one of these States, so that such laws nevertheless shall be subject to alteration by their ordinary legislature; and to erect, subject to a like alteration, counties or townships for the election of members for their legislature.

That such temporary government shall only continue in force in any State until it shall have acquired twenty thousand free inhabitants; when, giving due proof thereof to Congress, they shall receive from them authority, with appointments of time and place, to call a convention of representatives to establish a permanent constitution and government for themselves: *Provided*, That both the temporary and permanent governments be established on these principles as their basis: 1. [That they shall for ever remain a part of the United States of America;] 2. That, in their persons, property, and territory, they shall be subject to the Government of the United States in Congress assembled, and to the Articles of Confederation in all those cases in which the original States shall be so subject; 3. That they shall be subject to pay a part of the Federal debts contracted or to be contracted, to be apportioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on the other States; 4. That their respective governments shall be in republican forms, and shall admit no person to be a citizen who holds any hereditary title; 5. That after the year 1800 of the Christian era there shall be neither slavery nor involuntary servitude in any of the said States, otherwise than in punishment of crimes, whereof the party shall have been duly convicted to have been personally guilty.

That whensoever any of the said States shall have, of free inhabitants, as many as shall then be in any one of the least numerous of the thirteen original States, such State shall be admitted by its delegates into the Congress of the United States on an equal footing with the said original States: after which the assent of two-thirds of the United States in Congress assembled shall be requisite in all those cases wherein, by the Confederation, the assent of nine States is now required: *Provided*, The consent of nine States to such admission may be obtained according to the eleventh of the Articles of Confederation. Until such admission, by their delegates into Congress, any of the said States, after the establishment of their temporary government, shall have authority to keep a sitting member in Congress, with right of debating but not of voting.

That the territory northward of the forty-fifth degree, that is to say, of the completion of forty-five degrees from the equator, and extending to the Lake of the Woods, shall be called SYLVANIA.

That of the territory under the forty-fifth and forty-fourth degrees, that which lies westward of Lake Michigan, shall be called MICHIGANIA; and that which is eastward thereof, within the peninsula formed by the lakes and waters of Michigan, Huron, St. Clair, and Erie, shall be called CHERRONESUS, and shall include any part of the peninsula which may extend above the forty-fifth degree.

Of the territory under the forty-third and forty-second degrees, that to the westward, through which the Assenisipi or Rock river runs, shall be called ASSENISIPIA; and that to the eastward, in which are the fountains of the Muskingum, the two Miamies of the Ohio, the Wabash, the Illinois, the Miami of the Lake, and Sandusky rivers, shall be called METROPOTAMIA.

Of the territory which lies under the forty-first and fortieth degrees, the western, through which the river Illinois runs, shall be called ILLINOIA; that next adjoining to the eastward SARATOGA; and that between this last and Pennsylvania, and extending from the Ohio to Lake Erie, shall be called WASHINGTON.

Of the territory which lies under the thirty-ninth and thirty-eighth degrees, to which shall be added so much of the point of land within the fork of the Ohio and Mississippi as lies under the thirty-seventh degree, that to the westward, within and adjacent to which are the confluences of the rivers Wabash, Shawanee, Tanissee, Ohio, Illinois, Mississippi, and Missouri, shall be called POLYPOTAMIA; and that to the eastward, further up the Ohio, otherwise called the Pelisipi, shall be called PELISIPIA.

That the preceding articles shall be formed into a charter of compact, shall be duly executed by the President of the United States in Congress assembled, under his hand and the seal of the United States, shall be promulgated, and shall stand as fundamental constitutions between the thirteen original States and those newly described, unalterable but by the joint consent of the United States in Congress assembled, and of the particular State within which such alteration is proposed to be made.

This paper is endorsed as follows, in a different handwriting, supposed to be that of a clerk: "Report—Mr. Jefferson, Mr. Chase, Mr. Howell."

WASHINGTON, *February* 20, 1849.

I certify, that at the request of my father, and with the permission of Mr. Buchanan, Secretary of State, the foregoing copy of "a plan for the temporary government of the Western Territory" was made by me from the original, deposited in the State Department among the archives of the Congress of the Confederation; and that I compared the copy with the original, with the assistance of Lund Washington, Jr., Esq., and found it correct. MORGAN DIX.

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## APPENDIX—No. 2.

The following is the vote on the anti-slavery clause of Jefferson, above given, April 19, 1784:

| | | | |
|---|---|---|---|
| New Hampshire..... | Mr. Foster, | ay | ay. |
| | Mr. Blanchard, | ay | |
| Massachusetts..... | Mr. Gerry, | ay | ay. |
| | Mr. Patridge, | ay | |
| Rhode Island..... | Mr. Ellery, | ay | ay. |
| | Mr. Howell, | ay | |

| | | | |
|---|---|---|---|
| Connecticut | Mr. Sherman, | ay | ay. |
| | Mr. Wadsworth, | ay | |
| New York | Mr. De Witt, | ay | ay. |
| | Mr. Paine, | ay | |
| New Jersey | Mr. Dick, | ay | * |
| Pennsylvania | Mr. Mifflin, | ay | ay. |
| | Mr. Montgomery, | ay | |
| | Mr. Hand, | ay | |
| Maryland | Mr. McHenry, | no | no. |
| | Mr. Stone, | no | |
| Virginia | Mr. Jefferson, | ay | no. |
| | Mr. Hardy, | no | |
| | Mr. Mercer, | no | |
| North Carolina | Mr. Williamson, | ay | div. |
| | Mr. Spaight, | no | |
| South Carolina | Mr. Read, | no | no. |
| | Mr. Beresford, | no | |

[*Journals of Congress, (Way & Gideon,) vol.* 4, *p.* 373.]

## APPENDIX—No 3.

The following is a copy of Mr. King's proposition:

"That there shall be neither slavery nor involuntary servitude in any of the States described in the resolve of Congress of the 23d of April, 1784, otherwise than in punishment of crimes whereof the party shall have been personally guilty; and that this regulation shall be an article of compact, and remain a fundamental principle of the Constitution, between the thirteen original States and each of the States described in the said resolve of the 23d of April, 1784."

On the question for commitment, the yeas and nays being required by Mr. King, the vote was as follows:

| | | | |
|---|---|---|---|
| New Hampshire | Mr. Foster, | ay | ay. |
| | Mr. Long, | ay | |
| Massachusetts | Mr. Holton, | ay | ay |
| | Mr. King, | ay | |
| Rhode Island | Mr. Ellery, | ay | ay. |
| | Mr. Howell, | ay | |
| Connecticut | Mr. Cook, | ay | ay. |
| | Mr. Johnson | ay | |
| New York | Mr. W. Livingston, | ay | ay. |
| | Mr. Platt, | ay | |
| New Jersey | Mr. Beatty, | ay | ay. |
| | Mr. Cadwalader, | ay | |
| | Mr. Stewart, | ay | |
| Pennsylvania | Mr. Gardner, | ay | ay. |
| | Mr. W. Henry, | ay | |
| Maryland | Mr. McHenry, | no | ay. |
| | Mr. J. Henry, | ay | |
| | Mr. Hindman, | ay | |
| Virginia | Mr. Hardy, | no | no. |
| | Mr. Lee, | no | |
| | Mr. Grayson, | ay | |
| North Carolina | Mr. Spaight, | no | no. |
| | Mr. Sitgreaves, | no | |
| South Carolina | Mr. Bull, | no | no. |
| | Mr. Pinckney, | no | |
| Georgia | Mr. Houston, | no. | * |

[*Journals of Congress, vol.* 4. *p.* 481.

The vote was taken on the 16th March, 1785.

## APPENDIX—No. 4.

The sixth article of the ordinance of 1787 is inserted here to show how far it conforms in language to the anti-slavery proposition of Mr. Jefferson, in 1784, and that of Mr. King, in 1785:

"That there shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: *Provided, always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid."

On the 13th July, 1787, the ordinance of which the above is a part was passed by the following vote:

| | | | |
|---|---|---|---|
| Massachusetts | Mr. Holten, | ay | ay. |
| | Mr. Dane, | ay | |
| New York | Mr. Smith, | ay | ay. |
| | Mr. Haring, | ay | |
| | Mr. Yates, | no | |
| New Jersey | Mr. Clarke, | ay | ay. |
| | Mr. Sheurman, | ay | |
| Delaware | Mr. Kearny, | ay | ay. |
| | Mr. Mitchell, | ay | |
| Virginia | Mr. Grayson, | ay | ay. |
| | Mr. R. H. Lee, | ay | |
| | Mr. Carrington, | ay | |
| North Carolina | Mr. Blount, | ay | ay. |
| | Mr. Hawkins, | ay | |
| South Carolina | Mr. Kean, | ay | ay. |
| | Mr. Huger, | ay | |
| Georgia | Mr. Few, | ay | ay. |
| | Mr. Pierce, | ay | |

[*Journals of Congress, vol.* 4, *p.* 754.

## APPENDIX—No. 5.

The answer which Mr. Dix declined making to Mr. Berrien, from an unwillingness to be further interrupted in the course of his remarks, he now proceeds to give.

The decree of President Guerrero will be found, as indicated below, in the collection of laws and decrees of the General Congress of Mexico. It is classed among the decrees made by the Government by virtue of extraordinary powers, and the original is in the following words:

ABOLICION DE LA ESCLAVITUD.

El Presidente de los Estados Unidos Mejicanos a los habitantes de la republica, sabed:

Que deseando señalar en el año de 1829, el aniversario de la independencia con un acto de justicia y de beneficencia nacional que refluyia en beneficio y sosten de bien tan apreciable; que afiance mas y mas la tranquilidad publica; que coopere al engrandecimiento de la republica, y que reintegre à una parte desgraciado de sus habitantes en los derechos sagrados que les dió naturaleza y proteje la nacion por leyes sabias y justas, conforme à lo dispuesto por el art. 30, de la acta constitutiva; usando de las facultades extraordinarias que me estàn concedidas, he venido en decretar:

1. Queda abolida la esclavitud en la republica.

2. Son por consiguiente libres los que hasta hoy se habian considerado como esclavos.

3. Cuando las circunstancias del erario lo permitan, se indemnizarà a los propietarios de esclavos en los terminos que dispusieren las leyes.

Mejico, 15 de Setiembre de 1829. A. D. José Maria de Bocanegra.

[Coleccion de Leyes y Decretos, etc., en los años de 1829 y 1830, pag. 147.]

[Translation.]

ABOLITION OF SLAVERY.

The President of the United Mexican States to the inhabitants of the Republic:

Desiring to signalize, in the year 1829, the anniversary of Independence by an act of national justice and beneficence, which may tend to the benefit and support of so important a good; which may strengthen more and more the public tranquillity; which may coöperate in the aggrandizement of the Republic; and which may restore to an unfortunate portion of its inhabitants the sacred rights which nature gave them, and the nation protected by wise and just laws, in conformity to the provision of the 30th article of the constitutive act; exercising the extraordinary powers which are conceded to me, I do decree:

1. Slavery is abolished in the Republic.

2. Those who until to-day have been considered slaves, are consequently free.

3. When the condition of the treasury will permit, the owners of the slaves will be indemnified in the manner which shall be provided for by law.

Mexico, 15*th September*, 1829. A. D.

JOSE MARIA DE BOCANEGRA.

[Collection of Laws and Decrees, &c., in the years 1829 and 1830, page 147.]

The following addition, not contained in the above collec-

* The asterisk opposite the name of Mr. Dick, of New Jersey, indicates that the vote was not counted, as a State could not be represented by less than two members or delegates. (See section 2, art. 5, of the Articles of Confederation.)

tion, will be found at page 147, of the American Annual Register, of 1829, 1830:

And, in order that the present decree may have its full and entire execution, I order it to be printed, published, and circulated to all those whose obligation is to have it fulfilled.

Given in the Federal Palace of Mexico, on the 15th of September, 1829. VINCENTE GUERRERO.
LORENZO DE ZAVALA.

The publication of this decree in the general collection of the Laws and Decrees of Mexico would seem to afford, *primâ facie*, sufficient evidence of its authority. But there are higher evidences. In the law of 5th April, 1837, of which an extract is given below, it is recognized in the following terms:

"Los dueños de esclavos manumitidos por la presente ley ó por el decreto de 15 de Setiembre de 1829, serán indemnizados," etc. [Coleccion de Leyes y Decretos, etc., tomo 8, pag. 201.]

[Translation.]—The masters of slaves manumitted by the present law or by the decree of the 15th of September, 1829, shall be indemnified, &c. [Collection of Laws and Decrees, &c., vol. 8, page 201.]

The extraordinary powers, by virtue of which this decree was made, do not appear to have been conferred, as Mr. Berrien supposes, for the purpose of repelling invasion. The decree does not show that they had such a purpose at all. They were vested in the Executive by an act of the Third Constitutional Congress, in the following words:

FACULTADES EXTRAORDINARIAS AL GOBIERNO.

Art. 1. Le autoriza al ejecutivo de la Federacion para adoptar cuantos medidas sean necesarias à la conservation de la independencia, del sistema actual de gobierno, y de la tranquilidad.

2. Por el articulo anterior no queda el gobierno autorizado para disponer de la vida de Mejicanos, ni para espelerlos del territorio de la Republica.

3. Esta autorizacion cesará tanluego como el Congreso General se reuna en sesiones ordinarias.

[Coleccion de las Leyes y Decretos expedidos por el Congreso General, etc., de 1829 y 1830, pag. 55.]

[Translation.]

EXTRAORDINARY POWERS TO THE GOVERNMENT.

Art. 1. The Executive of the Confederation is authorized to adopt whatever measures may be necessary for the preservation of independence, of the present system of government, and of tranquillity.

Art. 2. By the preceding article the Government is not authorized to dispose of the lives of Mexicans, or to expel them from the territory of the Republic.

Art. 3. This authority shall cease as soon as the General Congress shall meet in ordinary sessions.

[Collection of Laws and Decrees made by the General Congress, &c., of 1829 and 1830, page 55.]

The powers conferred by the first article are only limited by the provisions of the second and third, excepting so far as they may be considered restrained by the purposes for which they were conferred. These purposes are very extensive—so much so as to comprehend nearly all the great ends of government. The decree of President Guerrero, as will be perceived, has reference to the very purposes for which the extraordinary powers were delegated—to support "independence" and strengthen the "public tranquillity." The extraordinary powers referred to were conceded on the 25th August, 1829, and the government was required to report to the Congress to assemble in January, 1830, the necessity that existed in the cases in which it had exercised the powers conferred by the first article. The Congress met in January, and continued in session, ordinary and extraordinary, with brief intermissions, till the 29th December, 1830. During this period, the decree of Guerrero was untouched. But on the 15th February, 1831, a resolution was passed by Congress declaring that the laws, decrees, rules, orders, and provisions, which belonged to the legislative authority, and which the government had made by virtue of the extraordinary powers referred to, were subject to the qualification of Congress, and were to be without effect until revised by the Chambers. There were, however, exceptions to the rule. How far the decree of Guerrero was affected by this declaration—whether it was an authority executed and not to be revoked, or whether it was suspended in its operation until 1837, it is not necessary to inquire. The subsequent recognition of the decree by legislative and constitutional enactments disposes of the question of authority. It is hardly admissible in us to dispute the validity of an act of the Mexican Government thus recognized in Mexico; or to assert, in the face of that recognition, that the power of abolishing slavery belonged to the municipal authorities of the several States.

The act of Congress of 1837, referred to by Mr. Dix, is in the following words:

"Queda abolida sin escepcion alguna la esclavitud en toda la república: Abril 5, de 1837." [Colleccion de Leyes y Decretos, etc., tomo 8, pag. 201.]

[Translation.]—Slavery is forever abolished, without any exception, in the whole republic: April 5, 1837. [Collection of Laws and Decrees of the General Congress of the United Mexican States, volume 8, page 201.]

The constitution of 1844 (of Tacubaya) reiterates the prohibition of slavery in the following words: "Slavery is forever prohibited."—*Thompson's Mexico*, page 180.

It will be perceived that the constitution of 1844 does not abolish slavery: it prohibits it. From the difference between the phraseology of the decree of 1829 and the act of Congress of 1837 and that of the constitution of 1844, is it not fairly to be inferred that the latter designed to prohibit in the future what the two former acts had abolished in the past?

On the strength of these authorities, Mr. Dix asserted that Mexico had long since abolished slavery throughout the republic.