

Memo?

FROM THE OFFICE OF
STATE SENATOR RICHARD J. DOLWIG

DIVISION OF CALIFORNIA
By
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From A Paper Read Before
The Sunset Club, March 29, 1907

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Can the State be Divided?

The subject of the division of the State of California may be fully considered in the answers to three questions, viz.:

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- (a) Can the State be divided?
- (b) Should the State be divided?
- (c) Will the State be divided?

The question is by no means a new one in California. Indeed, one of the most hotly contested subjects discussed in the Constitutional Convention of 1849 was that with reference to the proposed boundaries of the new State. Among many others, a proposition was submitted which would have included practically all of the territory now constituting California, Nevada, Utah and Arizona, the proponents maintaining that this immense territory could afterwards be subdivided into several states. After a very bitter controversy this proposition was actually adopted by a vote of twenty-four to twenty-two, but the announcement of the vote resulted in such excitement and confusion, that a motion for reconsideration was finally carried and the whole subject was threshed over again, the result being that the present boundaries of the State were finally adopted by a vote of 32 to 7.

In the year 1850, a delegation of Mormons from the State of Deseret submitted to the State of California a proposition that a new Constitutional Convention be called so that the Salt Lake region might be included "for the time being" within the boundaries of the State of California. At the same time they attached, as a condition, that a line might be agreed upon which was ultimately to separate California and Deseret, when the latter had attained a greater population.

This communication, as presented to the legislature, was accompanied by a special message from Peter H. Burnett, the governor, giving reasons why the proposition should not be accepted, and upon the reading of this message, the legislative body promptly declined to consider the advances made by their Mormon neighbors and the proposition was "respectfully laid on the table."

When the question of the admission of California as a state came before Congress, even there, efforts were made to divide the territory included in the boundaries as adopted. One member proposed that all south of latitude 36 degrees 30 minutes north (which would have been a line some distance north of the present northerly line of San Luis Obispo, Kern and San Bernardino counties) should be cut off and a territorial government to be created therein, to be known as Southern California, and to be admitted as a state, when willing and able to perform the functions of a state. Another moved to amend by changing the name of the territory to Colorado. Efforts to change the original proposition were not successful and on September 9, 1850, President Fillmore signed the bill, and the great and incomparable State of California was finally established. As stated, however, its admission, as at present constituted, was not accomplished without the most bitter opposition, proving that even at that time a very large percentage of the state and national legislative bodies favored the creation of two separate governments for the territory included within the present boundaries.

Nor did the agitation cease with the admission of the state. In the Legislature of 1852, the question of State division was presented in the form of a resolution which was referred to a committee of thirteen, which after due consideration, filed a majority report favoring a Convention "for the revision of the Constitution and the consideration of the division of the State." Upon filing this report a bill was introduced by a representative from San Francisco to divide the State, but did not meet with any consideration, being immediately laid upon the table where it remained during the entire session. In the succeeding session (1853) the subject was again introduced in the form of a joint resolution for the division of the State into "two or more States" which received full and serious consideration, but was finally laid upon the table by a vote of fifteen yeas to eleven nays.

Again in 1855 a member from San Joaquin County introduced in the Assembly a bill to divide the State into three States, to be known as North, South and Middle California. The measure was regularly referred to a committee, but never reached the files of either House for further consideration.

But the question would not drop and, in 1856 a member from Trinity County introduced a bill for the creation of three States which was referred to a committee and favorably reported therefrom, but never reached a vote in either House.

It was in this year also that a very ludicrous effort was made by certain persons, in a district lying east of the Mountain Range and known as the Honey Lake section, to secede from the State government. Peter Lassen, a pioneer, for whom the county of Lassen was named, and one Isaac Roop, together with eighteen others, met and adopted "a form of association," elected Lassen president and Roop secretary, and proceeded to declare Honey Lake Valley not within the limits of California, but to be a separate territory under the name of Nataqua. Dissensions almost immediately arose among the organizers of the scheme and shortly after its inception, Lassen was murdered, and Roop fled to Nevada where he attempted to repeat the experiment in that territory.

In 1858 another proposition was submitted to the Legislature of California asking the cession by the State of all lands lying east of the main Sierra Nevada Range of mountains for the purpose of combining that with other lands and forming a new territory. The matter was duly referred to a committee but was never returned to the files.

It is a significant and interesting fact that up to this time all propositions looking to the division of the State originated with members from the north or middle portions of the State, and that at least two of them proposed the formation of three states within our present boundaries.

In 1859, another bill was introduced in the assembly by representative from Siskiyou County to authorize the withdrawal from the State of all lands lying north of the 40th parallel of north latitude and the creation therein of a separate government. This line would have been the present southerly line of Humboldt County extended eastwardly and would have included the whole of seven counties as they now exist and a part of two others. It does not appear that this measure ever received any consideration from the legislature.

At the same session Andres Pico of Los Angeles County introduced a bill to permit the six southern counties to separate from the State and form a territory to be known as Colorado. This was the first definite action by a resident of Southern California in favor of the division of the State. After the bill had taken its regular course through the committees of both houses, it was duly passed on the 18th day of April, 1859, and by it, consent was given to the segregation of all that portion of the State now included in the counties of San Luis Obispo, Santa Barbara, Ventura, Los Angeles, San Bernardino, Riverside, Orange, San Diego and about two-thirds of the county of Kern. The measure was conditioned upon its adoption by a two-third vote of the territory to be separated, and being submitted to the voters at the next general election, was carried by about two to one. I have not been able to obtain figures showing the exact vote for and against the proposition.

Section 1 of this Act is as follows: That the consent of the Legislature of this State is hereby given to the effect, that all of that part or portion of the present territory of this State, lying all south of a line drawn eastward from the west boundary of the State, along the sixth standard parallel south of the Mount Diablo meridian, east to the summit of the Coast Range; thence southerly, following said summit to the seventh standard parallel; thence due east, on said standard parallel to its intersection with the northwest boundary of Los Angeles County; thence northeast, along said boundary, to the eastern boundary of the State, including the Counties of San Luis Obispo, Santa Barbara, Los Angeles, San Diego, San Bernardino, and a part of Buena Vista, be segregated from the remaining portion of the State, for the purpose of the formation by Congress, with the concurrent action of said portion -- the consent for the segregation of which is hereby granted -- of a territorial or other government, under the name of the "Territory of Colorado," or such other name as may deemed meet and proper."

The boundaries would include all of the county of San Luis Obispo, about two-thirds of the county of Kern, all of the county of San Bernardino, a small portion of the county of Inyo and all of the counties of Santa Barbara, Ventura, Los Angeles, Orange, Riverside, and San Diego.

The statute also provided the method of the submission of the question to the people residing in the portion to be segregated and for certifying the results of such election and the presentation of the subject matter to Congress, and in the event of favorable action by that body, the appointment of Commissioners to "settle and adjust the property and financial affairs between the State of California and the new government."

The passage of the act was not obtained without bitter opposition on the part of the press and some of the representatives from the northern part of the state. The Sacramento Daily Union, of March 17, 1859, contained an editorial in which not only the act itself, but the members of the Legislature voting therefor were denounced in the following language-- "It will scarcely be credited by the readers of the Union that a bill providing for the division of the state has actually passed the lower branch of the Legislature. Notwithstanding the many proofs which the body has given of its servility to party measures, its general imbecility and the low standard of its morals, there are few who would have believed it capable of deliberately favoring a project so ridiculous, uncalled for and mischievous as this. Among those who voted for the measure will be found the names of bulk-headers, county-divisionists, capitol-movers and others personally interested in schemes and local bills concerning a great many of whom we have knowledge almost amounting to certainty, that their votes were secured by promises of due return in behalf of their favorite measures."

It will be a little disappointing to those who are wont to enlarge upon the honesty and integrity of the members of the Legislature in the good old days of the past, to find that they were charged with "imbecility" and "low morals," just as are the members of our present Legislatures. It will scarcely be a surprise to anyone that the press of that date should have charged them with culpability, the same as do the newspapers of today.

The Act, having been duly adopted by the Legislature and ratified by more than a two-thirds vote of the people, to whom it was submitted, it became the duty of Milton S. Latham, who was inaugurated as governor of the State of California on January 8, 1860, to see that proper measures were taken to bring the matter before the Congress of the United States, and on the 12th day of January, 1860, he sent a communication to the legislature, embodying a letter which he had written to James Buchanan, President of the United States, not only calling the attention of the President to the matter, but containing an elaborate and forceful argument in favor of the constitutionality of the proceedings, in which he stated among other things, that "the urgency of the act is found in the dissatisfaction of the mass of the people in the southern counties with the expenses of state government * * * which dissatisfaction arises largely from the difference in the character and occupations of the people of the two sections; the north being devoted to mining, the

south to agriculture and stock raising." He stated that he had no doubt that the sentiment of the people of the state as a whole was against division, but that owing to the fact mentioned above, and for other reasons, the union of southern and northern California was unnatural. He stated that some question had arisen as to the legality of the ratification of the act by a part only of the electors of the State, but claimed that under the Constitution it was not necessary to submit the question to a vote of the people at all. He sighted numerous instances of analogous cases and claimed that the Federal Constitution gave express power to form a new state by dividing a state.

This communication was submitted by Governor Latham after his election as United States Senator, there being at that time no constitutional inhibition against the chief executive of the state being elected to the United States Senate. This communication was in the form of a special message to the legislature in which he called attention to the passage of the act above referred to and stated that as he might soon be called upon as a member of Congress, to take part in the consideration of the question, he had written the letter to the President of the United States concerning this subject in which the people of California were so deeply interested. He did not state what his position would be with regard to its consideration in Congress, but he was known to be favorably inclined to the proposition, having been elected Governor with the knowledge, by the people, of the fact. Although he stated in his letter, and it was openly proclaimed throughout the state, that the basis of the movement in favor of state division was the inequality of taxation by reason of the failure of the mining interests of the north to pay their fair proportion of taxes, it was also tacitly understood that the question of negro slavery entered largely into the proposition. The Democratic party of the state was divided into two factions, one in favor of and the other against the extension of slavery into new territories. Latham was the nominee of the pro-slavery faction of his party and it was supposed that he would favor the creation of a new state or territory for the purpose of making it possible to establish negro slavery therein. Upon the submission of his special message above referred to, a resolution was introduced into the Assembly to carry out the provisions of the act of 1859 by the formation of a territorial government in the six southern counties. The resolution was adopted in both Houses, thus completing all that could be done by the state government to carry out the provisions of the act. It only remained for Congress to ratify the action of the State Legislature and this action was never taken. When the matter reached the National Capital, the whole country was excited over the vital questions which had arisen between the north and south as to the extension of negro slavery and the rights of the states to secede from the general government, and it was feared that if secession followed, the creation of a new state or territory in southern California would greatly strengthen the secessionists by giving them another territory, which would favor negro slavery and furnish them with an outlet upon the Pacific Ocean, which might be made use of to their advantage, in the event that a confederation of seceding states was created. This, as far as I have been able to ascertain, was the only reason why the question of the division of the State of California

was never considered by Congress, and had it received consideration, there is no reason to believe that the state would not have been divided and a new state or territory created in its southern part.

I am aware that a distinguished jurist in northern California claims that it would be a "practicable impossibility" under the Constitution of the United States to create a new state within the boundaries of one already existing. The provisions of the federal constitution upon this subject are found in Section 3 of Article IV., which reads as follows:

"New states may be admitted by the Congress into this Union; but no new states 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 that of the Congress."

The attorney referred to claims that the words "but no new state shall be formed or created within the jurisdiction of any other state" are independent of the other portions of the Section and are prohibitive in terms of the creation of any new state already a part of and one of the United States. He also contends that the state constitution of California while not saying anything upon the subject, makes no provision for the division of the state and that, therefore, the legislature has no power to take any action looking to the creation of a new state within our present boundaries and concludes that an amendment to the Constitution of the United States would be necessary in order to legalize such a division of an existing state. But no matter how able an attorney may be, nor what opinion of the law he may express upon any subject, it is not difficult to find other attorneys of equal ability and equally ready to express a conflicting opinion; hence we are not surprised to find an ex-judge of a superior court in one of the counties of Southern California take issue with the northern jurist on the question of constitutionality, and in an elaborate opinion published in one of the newspapers of Los Angeles produces very convincing arguments to show the correctness of his position and the falsity of that of the northern attorney. He cites proceedings from the Convention of 1787, which adopted the federal constitution, and concludes that they established "beyond all controversy that the intent of the convention was, that a state might be formed within the jurisdiction of another state by the consent of the legislature of the state thus divided, and Congress" and that "to construe the meaning of this Section otherwise, would be, not only to mis-conceive the plain intendment of the language itself, but to distort a fact, and to contradict the validity of those constitutional deliberations, out of which all of our federal supreme law was evolved." Answering the claim that the two clauses of the Section are independent, he says that attempting to read the sentence with the second clause eliminated would leave it with "scarcely any possible sense and absolutely no coherency," while "these provisions read together in one sentence make perfect sense, as the word 'nor' refers back to the word 'no' showing their grammatical connection and the plain intent of the framers of the Section."

It is not necessary for us to pass upon the relative merit of the profound arguments advanced by the legal gentlemen from the north and the south. It is always easy to place technical constructions upon the provisions of the law and it is to be regretted that the attorneys with keen analytical minds resort so frequently to this method of defeating the plain intent and purpose of the framers of statutory and constitutional law. In passing, I venture the assertion that if such methods are not modified and if the courts do not pay less regard to such arguments, the judiciary will not retain the high respect which it has heretofore received from the people, but will soon be accorded the same degree of disrespect, not to say contempt, which is now given its co-ordinate branch, the legislative department, a condition not only deeply to be deplored, but which would be fraught with grave danger to our boasted Republican institutions.

Whether or not the framers of our federal constitution had in mind the creation of one state within the jurisdiction of another, such action has frequently been taken, specific instances being: the admission of Vermont in 1791, that state being originally a part of New York, which latter received \$30,000 for the relinquishment of its claims. Kentucky was also originally a part of the State of Virginia from which it separated in 1790 and formed a territorial government, being admitted as a state two years later, namely in 1792. Tennessee was a part of North Carolina and was voluntarily relinquished by the latter to the United States, the people of the separated territory forming a government known as the State of Franklin, which continued in existence four years, but was not accepted by the federal government and was eventually abandoned and a territorial form of government adopted which in turn was given up, and a state government, under the National Constitution, formed in 1796. Maine was also originally a part of Massachusetts and in 1816 a petition for its separation was presented to and granted by the Legislature of that State, whereupon Maine was admitted to the Union in 1820. Mississippi was a part of the State of Georgia for ten years before its organization as a separate territory in 1798. Every one is familiar with the creation of West Virginia from within the boundaries of Virginia in 1861.

The northern jurist contends that these were treated as territories or districts belonging to the states, and were ceded to the United States as such territories, but were not regarded as integral portions of the States from which they were separated, with the exception of West Virginia, and were then admitted into the Union. Even he admits, however, the segregation of West Virginia from the State of Virginia, but claims that this was done simply as a war measure, Virginia being then in rebellion against the authority of the federal Union and, therefore, not under the binding effect of the Constitution of the United States, and that the creation of West Virginia was not because the Constitution permitted it, but upon the theory that Virginia at the time was outside the pale of the Constitution.

He also ignored, for we cannot assume that he overlooked, the Act of 1845, admitting Texas into the Union, which contained the following provision: "New states of convenient size, not exceeding four in number, in addition to the said State of Texas, and having sufficient

population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution." It is hardly to be presumed that the Congress of the United States in admitting Texas with the provision that it might subsequently be divided into four states did so in violation of a provision of the Federal Constitution, and yet this must have been done, if the attorney's construction is a correct one.

In my own humble judgment I believe that he is mistaken and that there is no inhibition contained in the Federal Constitution against the creation of a new state from within the boundaries of one already existing, and that if the Statute of 1859 is still in force, the only thing legally necessary to secure the division of the State of California is the consent of Congress.

If this Statute is not still operative it would, of course, be necessary to obtain the consent of the Legislature of California by the passage of another act and possibly the consent of the people of the State, or at least of that portion to be segregated, upon submission to them of the proposition at a general election, such action, of course, to be followed by the subsequent consent of Congress. I say "possibly the consent of the people," as it is by no means certain that such consent is necessary in order to effect the division of a state. As heretofore stated, Governor Latham, in his special message to the Legislature and his letter to the President, after the adoption of the Statute of 1859, produced elaborate and plausible arguments in favor of the view, that such consent was not necessary. He cited the fact that in 1812 Louisiana was admitted into the Union with certain boundaries; subsequently, Congress passed "an Act to enlarge the limits of the State of Louisiana," by the provisions of which a very considerable portion of territory was to "become and form a part of said State," in case the Legislature of the State consented thereto. This power of Congress and the State Legislature to alter the boundaries, independent of any action of the people was discussed and affirmed. He also cited the case of the separation of Maine from Massachusetts, which was accomplished by the passage of an act of the legislature of the latter state, authorizing the people of that part of the state, known as the District of Maine, to form a Constitution and become an independent State. The people of that "District" alone voted upon the question, formed a Constitution and were admitted into the Union. Subsequently (in 1842) the question of the northern boundary between our country and Great Britain was discussed and the Legislatures of Massachusetts and Maine surrendered a large portion for a consideration of \$300,000 and a portion of the surrendered territory went to the foreign government, the remainder to New York, New Hampshire and Vermont, without the question having been submitted to the vote of the people. Governor Latham submitted that "the settled practice of the nation in this respect becomes the law."

Our own State Constitution, Article XXI, sets forth the boundaries of the State of California and it has been claimed that a change of boundaries by the division of the State, or otherwise, would be an

amendment to our Constitution, which could only be effected by the submission of the question to the vote of the people. If, however, the contention be correct that Article III of the Federal Constitution provides a means of state division, it would take precedence over any requirements of our State Constitution, and the vote of the people would not be necessary for the creation of a new state within the boundaries of one already existing.

The question, then, of the present status of the Act of 1859 becomes of vital importance in the consideration of the subject of State division. My own conclusion is that the said act is still in full force and effect. It has never been expressly repealed, and repeal by implication is never looked upon with favor by the courts. Unless repealed by the adoption of the codes in 1872 or of the new Constitution in 1879, the Act is still a part of the laws of our State.

In Sections 18 of the Political Code and 20 of the Civil Code the following language is found: "But in all cases provided for by this Code, all statutes, laws and rules heretofore in force in this State, whether consistent or not with the provisions of this Code, unless expressly continued in force by it, are repealed and abrogated." Only subjects provided for by this Code are repealed by these provisions and absolutely no provision is made in any of the Codes for State division; and Section 6 of the Civil Code expressly provides that "no right accrued is affected by these provisions." Unless, therefore, the adoption of the Constitution in 1879 nullified the statute of 1859, it is still in force. The provisions of the Constitution of 1879 relating to the repeal of laws are found in Section 1, of Article XXII., which reads as follows: "That all laws in force at the adoption of this Constitution, not inconsistent herewith, shall remain in full force and effect until altered or repealed by the Legislature; and all rights, actions, prosecutions, claims and contracts of the State, counties, individuals, or bodies corporate, not inconsistent herewith, shall continue to be valid as if this Constitution had not been adopted. The provisions of all laws which are inconsistent with this Constitution shall cease upon the adoption thereof, except that all laws which are inconsistent with such provisions of this Constitution as require legislation to enforce them, shall remain in full force until the first day of July, eighteen hundred and eighty, unless sooner altered or repealed by the Legislature."

As the life of a statute is not affected by the lapse of time, it seems to me that the conclusion is unavoidable that the Act of 1859 is still in full force and effect, and that a proper representation to Congress of this act and of the result of the vote of the people, taken in accordance with the provisions of the said Act, will properly bring before that body the question of division of the State of California for consideration and action.

Should the State be Divided?

This brings us to the consideration of the second sub-division of our subject -- should the State be divided? If the state of public sentiment in Southern California were an answer to this question, I do not believe that I would need to consume time in offering arguments for or against state division, as I think that within the last few months, the people with practical unanimity have accepted the opinion that it would be desirable and advantageous to our section to effect a division of the state. It is equally certain, however, that public opinion throughout the northern and central portions of the state does not favor division, although there are not a few in that section who are willing at least to see the separation effected. The San Francisco Chronicle, commenting upon state division, said: "It is of course evident that no separation can be had without the consent of the main body of the state - the counties concerned having but a little more than one-fifth of the total population. While it is not considered as a matter of great consequence whether the southern counties stay in or go out, yet we doubt whether the consent to the separation could be obtained without years of costly agitation. It has even yet to be made to appear that there is a majority for secession in the counties which it is proposed should secede. If they were to go, they would of course be compelled to leave the name of 'California' behind them, for no one in this part of the state would even consider the proposition of having the name 'California' applied as part of any other state in the Union. We, here, live in California; we do not intend to move out of it into 'North' or any other kind of California, nor shall we ever consent to allow any other state to make use of the noble word in its title."

The San Francisco Argonaut in a late issue said: "Nobody in Northern or Southern California can see either rhyme or reason in the suggestion for division. Nevertheless, the idea continues to survive in the south, where there is at all times an undertone of agitation to the end of having an independent state organization. That there is even in the south anything like a fixed and widespread popular sentiment for state division, we very much doubt.* * * * If the people of the southern counties don't want to live with us in political domesticity, if they have yearnings and ambitions to go it alone, if they think they would be happier and more prosperous by themselves, we would not restrain them. Enforced political relationship, maintained in violation of a fixed sentiment, is not a relationship in which Northern California ought to take any satisfaction. If Southern California prefers divorce -- let her go!"

But even public sentiment is not entitled to consideration and would not justify state division unless based upon good judgment and sound reasoning. There are many substantial arguments in favor of the division of this state. Among the most important, I should place the fact that large subdivisions of government, whether states or counties, are always exceedingly expensive to maintain, and result in a very great inconvenience frequently amounting to hardship, to the people residing within their jurisdiction. Few people realize the enormous

extent of the area of California (155,980 square miles) which is practically as large as all the New England states, New York and Pennsylvania combined. Imagine the storm of indignation that would arise were the residents of Pennsylvania compelled to go to Boston to attend to business necessary to be transacted at their state capital! At present, a resident of Siskiyou or of San Diego would require at least four or five days and the expenditure of seventy-five or a hundred dollars to visit and transact any business at Sacramento, the capitol of the state.

The transportation of criminals and incompetents from the various counties of this state to its public institutions is an item of enormous expense in the administration of the state government. Our own county (Los Angeles) in the year 1905 paid out in round numbers \$20,000 for this purpose alone, and this notwithstanding the fact that we have in the South a state hospital to which the insane of this section are sent. Add to this the expenditures by other counties of equal or greater distance from the public institutions, and one is startled by the enormous amount involved.

One of the most serious and far-reaching objections to the inconvenience arising from the great distance from one point to another in the State of California is the enormous political power given to transportation companies who are always willing to provide passes to delegates and "cheerful workers" in attendance upon political conventions. Perhaps it should not be so, but it is nevertheless true that good citizens and busy men hesitate and generally refuse to become delegates to the state conventions, attendance upon which involves the loss of practically a week's time, and the expenditure of from fifty to one hundred dollars in money. Of course, the man who is willing to mortgage his independence and manhood by the acceptance of free transportation is not generally very much concerned with the question of loss of time, and not at all interested in the question of railroad fare or other transportation expense. It at once becomes apparent that by fixing the place for holding political conventions in distant or inaccessible localities, a political organization dominated or influenced by special interests, acquires a power which is practically invincible. Were it possible to hold conventions at places within easy reach of business men of independent political opinions and actions, the personnel of the delegates would be found to be better, and far different from that which would characterize a gathering held under present conditions in the State of California. The same argument applies with only a difference of degree to the division of states or counties. Some years ago, when the legislature of this state was asked to create the County of Riverside from portions of San Diego and San Bernardino Counties, the strongest argument in favor of the act, which undoubtedly secured its adoption, was the fact that residents of San Diego County were compelled to come to Los Angeles by rail, thence down the coast to San Diego, consuming at least three days for the round trip and requiring an expenditure of from twenty-five to fifty dollars in money in order to visit their county seat for the payment of taxes, attendance upon the courts as witnesses or parties litigant, or the transaction of

any other business calling them to the seat of county government. I have never heard that these people have become dissatisfied with the creation of the new county which has enabled them to transact their official business conveniently and expeditiously.

It has been suggested that the creation of a new state in Southern California would destroy the political power of the railroad companies. I do not believe that such would be the effect. I am not aware that the influence of the railroads in political affairs is any less potent in Southern than in Northern California, and I do not see that it would make any great difference whether they were working under one or two state governments. It must be remembered, however, that many members of the Legislature, while feeling kindly to the railroad corporations, recognizing the rights of their large vested interests and realizing that some members of the Legislature are willing to occupy the position of highway robbers in attempting to hold up corporations, compelling them to maintain lobbies and expend moneys to prevent the enactment of unjust and unfair legislation, are not by any means completely subservient to such influences, and that if the place of holding legislative sessions were accessible and could be easily and quickly reached by citizens generally, such members could be influenced along right lines and be prevented from making mistakes by voting for bills detrimental to the interests of the people. Most people, whether in official positions or not, are greatly influenced, and their actions largely governed, by their immediate environment, and, if the large and influential legislative delegation from this county could hold their sessions in the City of the Angels, where the people could be in close touch with them, it is easy to perceive that their action as legislators might be very different from that which it is under present conditions, which make it impossible for their friends and neighbors to consult and advise with them during the progress of legislative sessions.

The laws of our State provide for the holding of sessions of our Supreme Court in three different parts of the State, a fact resulting in very heavy expense because of the duplication of court records the maintenance of additional officials, and which is rendered necessary solely by the vast extent of our territory. As it is, however, it very frequently happens that litigants are compelled to attend the sessions of the Supreme Court at a distance of from five hundred to six hundred miles from their homes, involving enormous expense, amounting in many cases almost to a denial of justice. Under such circumstances do not the burdens of government come near to exceeding its benefits, and if so, should not relief be granted by proper and legitimate means even to the division of the State?

Another, and possibly the most potent argument in favor of state division, is the fact that it would increase the representation of the Pacific Coast in the United States Senate. At present, the entire Pacific seaboard, with its coast line of about two thousand miles, has but six representatives in this body, whereas the Atlantic seaboard, not including the Gulf States, has twenty-eight representatives, and with the Gulf states, thirty-two United States Senators. With the

great era of development upon which the west has entered, have come most urgent demands for greater attention from our National Government. Our harbors need improvement; our coast defenses are utterly inadequate; we should have a far greater number of war vessels patrolling the Pacific, and in numerous other ways we are not receiving our fair and just proportion of the expenditures of the general government. I believe that this is due more largely to the small number of our representatives in the upper house of Congress than to any other one cause. Even our neighbors on the north admit the force of this argument. The article in the San Francisco Argonaut, heretofore referred to, admits the necessity for increased representation in the following words: "In the organization of the West into states there has been too little thought of the ultimate relative strength of the old and the new parts of the country in the national senate. * * * * It would be well indeed for the interests of the Pacific coast if it could be more adequately represented in the point of numbers than under the existing scheme. It is to be remembered that the East is exceedingly jealous of its preponderating power in the Senate, and that its jealousy was not a small part of the motive which joined Oklahoma with Indian Territory unwillingly in statehood and which has recently attempted to combine New Mexico with Arizona." Only a few days ago in conversation with a prominent state official, the admission was made that it was practically impossible for a United States Senator fairly to represent the whole vast State of California. He admitted that the interests of the different sections were conflicting; that the people were unlike in sentiment and character and that it would be for the best interests of the people if the state could be divided into three separate governments.

The jealousy admitted by the Argonaut to exist between the east and the west is equally apparent between the north and south of this state. What assistance was ever rendered by any representative in Congress from the northern part of this state in the fierce struggle which resulted in the establishment and improvement of San Pedro harbor? It has not been forgotten that it was with the greatest difficulty that at an election a few years ago, at which the question was submitted to the people, bonds for the improvement of the sea-wall at San Francisco were carried by the voters of this State. The fact is, and it may as well be admitted and declared, that the improvement of the harbor at San Francisco or Eureka is of no more material benefit to the residents of Southern California than would be the improvement of the harbors at Portland or Seattle, and it is just as evident that the completion of an adequate harbor at San Pedro or San Diego would be positively detrimental to the material interests of the northern part of the state.

At the present time there exists in Northern California a condition which should cause every thoughtful citizen of the state to pause and consider. The great valley of the Sacramento, than which there is none more fertile in the world, is submerged by a volume of water which has carried with it destruction and desolation, so that it has been estimated that damage to the extent of at least fifty millions of dollars will follow in the wake of the destroying floods. What

should be done to prevent a recurrence of such disaster? That some remedy should and must be provided goes without saying, but upon whom should the burden fall? Should we depend upon the National government alone for relief, or, as has been done in the past, provide State aid also for the prevention of these flood waters? Personally, I am strongly in favor of the latter course, provided the area of the State is such that it will all be measurably affected by the relief sought. From the mere standpoint of material interests how can the residents south of the Tehachapi be expected to look with a great deal of complacency upon taxation levied upon their property for the protection of the gardens and orchards in the Sacramento Valley?

The State of California by its peculiar location and topographical formation is subject to the most widely varying conditions of climate, resulting in greatly diversified products and constantly conflicting interests. In round numbers, it is 800 miles from its northern to its southern boundary line. In the north, the climate is temperate; in the south - semi-tropic. The north is one of the most heavily wooded countries in the world, so that its timber interests are paramount. The south is practically without forests available for the manufacture of lumber. The north is well watered by living streams; the south is a semi-barren country until fructified by the application of irrigating waters. These differences in climate, conditions and products make it almost impossible to pass general laws which will satisfactorily meet the requirements of both sections. The fact of their existence enables members of the legislature to make free and almost unlimited use of that most pernicious element of state legislation, the trading of votes, thus rendering possible the passage of acts, which, while satisfactory to one section of the state, are entirely useless, if not absolutely detrimental to the interests of the other. For many years the mining interests of the north were enabled to maintain their privilege of dumping the slickens from hydraulic mining upon the fertile farms of the valleys, because of the support they obtained from members of the Legislature from Southern California who were not materially interested in the subject, in return for support, which they gave southern members, for measures which they had introduced into the Legislature.

I have referred to the difference and character of the people of the sections and of the existence of a more or less pronounced uncongeniality and feeling of jealousy. In the early days of California, immigration was practically confined to the northern part. The result was a population of that portion of the state by a class of people, the most unique and in many respects the most admirable that ever settled any portion of the United States. Physical vigor and energy unlimited, mental ability and courage unsurpassed, unyielding determination and indomitable will, characterized the pioneers who braved the hardships and dangers of a journey across the burning plains and scorching sands of the deserts, intervening between the east and the place of their destination. We of the south, of a later immigration, freely and gladly accord credit to those sturdy spirits, without whom, California, as she exists today, would have been an impossibility; but this

acknowledgement of indebtedness should not necessarily close our eyes to the fact that with the passage of time the character of the people changed, that there was less of the old time vigor and determination and unity of purpose, which accomplished so much in so short a time, leaving in succeeding generations less of those admirable qualities and something of a willingness to rest upon the honors and laurels achieved by their predecessors and to assume, unconsciously perhaps, that the battle had been won; that their work was accomplished, and the supremacy of their section established for all time to come. Neither they nor their fathers ever realized that lying some hundreds of miles to the south of them was a sun-kissed section of the country where the blue skies and the balmy breezes were inviting the coming of all who valued an unsurpassed climate, and the comforts and opportunities it presented. They were aware of the dreamy and romantic race peopling the sunny valleys of the south, and did not recognize the possibility that the character of the population might be changed by immigration from other parts of the world.

But the leaven of progress was at work, and ere the north had awakened to the fact, the pastoral people of the south had been exchanged for a hustling, bustling population keenly alive to, and promptly availing themselves of, all the possibilities of their environment; that however keen competition might be among themselves, they stood as one man for the advancement and betterment of the community. Then the spirit of jealousy awoke within northern breasts and has increased and strengthened with the lapse of time, and, today, there is a large and easily discerned fly in the ointment of their boasted patriotism, which is not founded upon love of the State as a whole, but upon love of themselves, and the tardy, but now thorough, appreciation of the material value of the southern portion of the state. A short time ago, an assemblyman from this county, whose character and integrity are above reproach, declared his belief that separation is the only course upon which Southern California can depend, for the consideration to which its wealth and population entitle it. He cited the fact that the request of Los Angeles members for an appropriation of \$200,000 for a citrus fruit exposition was denied, while San Francisco and its vicinity succeeded in passing appropriation bills for their benefit amounting to nearly seven millions of dollars. All of this vast amount was not asked for at once, but one of the senators from San Francisco, in presenting the demands stated, that in the near future San Francisco and vicinity would require an estimated expenditure of \$30,000,000 for harbor improvements. If Southern California should effect separation before the bond issues necessary to meet this enormous expenditure, Northern California would be compelled to bear it alone, and as Southern California pays nearly one-fourth of the taxes levied by the State, which proportion will undoubtedly be much greater hereafter, it will readily be seen that it is greatly to the interest of the northern part of the state to prevent the creation of a state south of the Tehachapi.

The above are some of the arguments in favor of state division and I must confess, from the standpoint of a Southern Californian, I have

been unable to discover any valid arguments against state division. Only a few days ago, one of the state officials, a resident of Oakland, while declaring his unqualified opposition to state division, admitted to me that there were no arguments against it, except that of sentiment, which to him was all-powerful and entirely sufficient.

The opponents of state division, however, have suggested that the creation and maintenance of a new government in the south would be far more expensive for us than to contribute our share for the support of the present state government. I do not think that this is true. Of course, it would be necessary for a new government to erect the necessary state buildings, including a capitol, prison and some other institutions, but this expenditure, while large, would certainly not be any greater than we will have to contribute to the rehabilitation of state institutions in the north, which were injured or destroyed by the earthquake of last year, and the harbor improvements deemed necessary by the residents of San Francisco and vicinity, and some provision for guarding against damage by floods in the San Joaquin and Sacramento valleys. The amount contributed to the State Tax Fund by the nine southern counties for the year 1906 was over two millions of dollars, of which Los Angeles County alone paid \$1,328,874.63 and basing an estimate for the present year upon the first installment already paid, the amount contributed by Los Angeles County alone will exceed one million and a half dollars. When we consider the vastly increased economy of the state administration by reason of the more restricted territory, we cannot doubt that we could maintain a state government in Southern California with very little, if any, greater cost to the tax payers than would be our proportion for the maintenance of the state government with its present enormous area.

On the whole, I conclude that Southern California would be amply justified in frankly confessing, that while she entertains a high regard and profound respect for her neighbor of the north, she feels deep down in her heart that she prefers to be only a sister to him.

Will the State be Divided?

I confess that I have slight expectation that this will be accomplished. Admitting that the Statute of 1859 is still in force, and that all that is necessary to carry it into effect is the consent of Congress, there must be back of this right, the will and the determination to enforce it. If the people of Southern California desire a separate state government, they must demand and insist upon consideration of their rights by Congress. If the Chamber of Commerce of Los Angeles City would take hold of this matter with the vigor and determination which always characterizes its efforts, there is no doubt in my mind that they could obtain consideration from the next session of Congress. It is a matter of history (see Willard's History of Los Angeles City, page 342) that "In 1881 a mass meeting was held in Los Angeles at which a report was drawn up in the shape of a series of questions addressed to the leading attorneys of the City, asking them what

steps were necessary to bring about state division. The reply, signed by eight attorneys, was to the effect that the action taken by the Legislature in 1859, followed as it was by a favorable vote of the southern counties, was still in effect and that the new territory could proceed to organize and ask for admission to the Union. A circular was then issued calling for delegates from each county to meet in convention at Los Angeles, September 8, 1881. This gathering came together on the appointed day, all of the counties being represented. Resolutions were passed favoring state division, but it was decided to take no active steps until the population of the new district was large enough to insure its reception as a state. In 1888 the subject was again called up in a mass meeting at Hazard's Pavilion, in Los Angeles. * * * * The meeting was slimly attended and little enthusiasm was shown." Subsequently General Vandever, who represented the Sixth Congressional District, then composing Los Angeles, Ventura, Santa Barbara, and San Luis Obispo counties, introduced a bill into Congress, providing for the division of the State, but the measure not being supported by an enthusiastic and determined public sentiment, received no consideration and was never reported back from the committee. I have already stated that if demanded by the respective Chambers of Commerce throughout the south a proper measure for the division of the State would be considered by Congress, but I must qualify the assertion by the condition that it would be done if the Speaker of the House saw fit to permit it. I have no idea how Uncle Joe Cannon would feel about this matter, but I am inclined to suspect that he would not favor such a measure; and as it does not seem possible to pass any act in the Lower House without his consent, the fate of a bill for the creation of a new state in California would be entirely problematical, to say the least.

And, even if he should consent to its consideration by Congress, it by no means follows that consent could be obtained.

The East is just beginning to realize the prodigious possibilities of the illimitable West. Its statesmen, its scholars, its captains of industry, are recognizing the fact that the West must not longer be ignored if our nation is to maintain its position among the great powers of the world. The thoughtful among them already see the fleets of all countries dotting the bosom of the broad Pacific, transporting the commerce of the world between the Orient and the Occident. The result is a battle for supremacy among the giants of finance. Additional lines of transcontinental railway companies are bending their energies of mind and means to obtain a foothold upon the western shores bordering upon the waters that soon will teem with the traffic of the world. The vested interests of the East will not be benefited by this development and are already exhibiting a jealous fear of its accomplishment. Their representatives in Congress realize beyond any shadow of doubt what it means to give to these competing interests additional representation and consequent power in the halls of national legislation. No one has forgotten the bitter contest over the question of the admission of Arizona and New Mexico as separate states of the Union. Unquestionably one of the strongest reasons for the inexcusably

unjust attempt to compel the union of these two territories against their will and interest, was the fact that their separate admission would give the West four instead of two more senators, and I cannot avoid the feeling that this will be the most important factor in the consideration that may be given it in attempting to secure the creation of a new state within the present boundaries of California. This feeling will certainly increase with the lapse of time and if Southern California desires to avail herself of her present right to ask for admission as a state, the sooner it is done, the better; for the longer it is delayed the less apt will she be to attain her object.

But even if we were assured of a favorable consideration I am not certain that it would be for the best interests of Southern California to proceed under the Act of 1859. The boundaries provided for in that Act are not what we should ask for at this time, as they exclude the County of Inyo from which our future water supply is to be obtained if the Owens River project is carried out, as it undoubtedly will be; and it might result in unpleasant complications to have the source of our water supply located within the boundaries of another state. Outside of this consideration, the County of Inyo should be included if the new state is to be created in Southern California, as it is naturally tributary to this section, and with the completion of the railway now projected from Los Angeles into that county, it will at once become easily accessible, whereas it can never be easily reached from any of the business centers of the northern part of the state. If the new state is created in the south, it should include San Luis Obispo, Kern and Inyo counties and all of the territory lying south of them. This would give us a state of over 60,000 square miles, vastly larger in area than most of the states in the Union, and with a present population of half a million, amply sufficient to support a separate government economically and advantageously.

As stated before, if it should be deemed inexpedient by the people of the south to accept the boundaries defined in the Statute of 1859, it would then be necessary for the Legislature of California to pass another act before further steps could be taken looking to the separating of the State. This would involve a delay of some years and would nullify some of the existing arguments in favor of state division, as by that time large appropriations would doubtless be made for the betterment of conditions in the north, of which we would have to pay our pro-rata, and in the meantime our representation and consequent power would be increased in the State Legislature by the re-districting of the State which must be done again in 1910. With increased representation we might possibly obtain more recognition, but even this would not alter the fact that the vast area of our State results in great expense and inconvenience in the support and maintenance of our State government. On the whole it might be better to accept the provisions of the Act of 1859, taking the risk of any complications that might arise by the admission of Inyo County, and trusting to securing it later on as a part of the new state.

If any action is taken, what should be the name of the new state? We have already been served with notice by the San Francisco Chronicle that the North would neither consent nor submit to our calling ourselves any kind of California, but it is not very plain how they would prevent us from doing so if Congress consented to our organization as a state with that name. Still I am inclined to think that it would be as well not to ask to retain the name. Why not call the new state Los Angeles? Not only throughout the United States, but throughout the world, our great and beautiful city is as well known and as well advertised as the entire State of California, and if we are given the right to separate from California and assume the powers and duties of an independent state organization, why not do so under the name which has become a household word in every part of our great nation?

I would also favor paying the remainder of the state a fair and just proportion of the cost of repairing the damage done by the disaster of last year. Such a sum of money added to the splendid contribution made from the south when the great calamity fell upon the metropolis of our State, would convince the people of that section that we were not trying to avoid any burden which we should in justice bear, and that our petition for the segregation of our section and the formation of a new state, was based upon justifiable grounds, and made with the firm conviction that such a course will be not only for our own advantage and that of the remainder of this State, but for the benefit and advancement of the entire western coast.