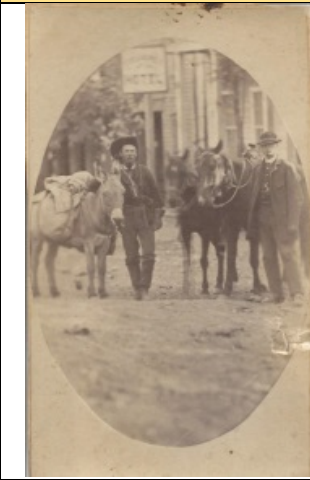


## Chapter 172 – The Issue Of Statehood For California Heats Up



**Dates:**  
January 1848  
to 1849

**Sections:**

- The Gold Rush Propels The Need For A California State Government
- The Rules For Admitting New States To The Union Are Well Established
- California Writes Its Constitution Calling For “Free State” Status
- A Proposal To Ban All Blacks Is Debated

\*\*\*\*\*

Date: January 1848 – June 1849

### The Gold Rush Propels The Need For A California State Government



”

From his first day in office, Taylor is acutely aware of the need to organize a sustainable government for California in light of the new settlers flooding in to search for gold.

Word of the initial “find” gradually spreads after the January 24, 1848 discovery of nuggets in the trace water below John Sutter’s sawmill. In August 1848 easterners hear the news in the *New York Herald*, but it is President Polk’s announcement to Congress on December 5, 1848 that fully fuels the “Forty-Niner” stampede.

While the port of San Francisco is first to experience the transition from sleepy Spanish mission to overnight boom town, the entire state is affected by the gold rush. California’s total Caucasian population jumps from roughly 8,000 in 1840 to 120,000 in 1850 and 380,000 by 1860.

“Lived The Miners, Forty-Niners...

In the face of this influx, the duty of maintaining law and order continues to fall on a string of Military Governors on site since the Bear Flag rebellion and the end of the Mexican War in 1847. Their public safety challenges mount daily:

*It is clear to every man that San Francisco is partially in the hands of criminals, and that crime has reached a crisis when life and property are in imminent danger. There is no alternative left us but to lay aside our business and direct our whole energies as a people to seek out the abodes of these villains and execute summary vengeance upon them.*

President Polk tries several times to have California declared an official Territory during his final year in office, but Congress stalls for two reasons:

- Any move toward statehood will require a decision on whether or not to allow slavery there; and
- That decision will in turn upset the Union's current 15 Free vs. 15 Slave state balance.

So Taylor is left with this thorny issue, and in true military fashion decides to take it on as quickly as possible.

On April 3, 1849, just a month after his inauguration, he sends sitting Georgia congressman Thomas Butler King to San Francisco to explore the shift from military to civilian rule. King follows the Panama route and arrives there on June 4, to learn that activities are already under way to form a government. Spearheading this effort is General Bennett Riley, the Military Governor who fought under General Scott in the overland drive to take Mexico City.

The day before King arrives, Riley issues a call to elect representatives for a Constitutional Convention to be held on September 1, 1849 – a move that Taylor supports wholeheartedly.

\*\*\*\*\*

Date: 1849

### **The Rules For Admitting New States To The Union Are Well Established**

The process for admitting new states like California to the Union has worked smoothly over time, with seventeen new additions approved, the latest being Wisconsin, in May 1848.

The one exception to the rule goes back three decades to the Missouri application in 1820, where the Tallmadge Amendment, seeking to ban slavery in the state, causes a congressional crisis. It is resolved through Henry Clay's Missouri Compromise Bill which draws a "slave vs. free state" demarcation line at 36'30" across all of the Louisiana Purchase territories.

But this 1820 slavery line precedent does not apply to the new Mexican Cession Territories, and therefore any decision on California will require further congressional debate and agreement.

Aside from the "slavery question," the basic ground rules for adding new states are laid out in the Land Ordinance of 1784 and in the Admission to the Union Clause (Article IV, Section 3) of the 1787 Constitution.

The steps involved are first applied to the "Northwest Territory" lands west of the Appalachian Mountains won from Britain in the Revolutionary War, and go as follows:

1. All lands within a new Territory are placed in the “public domain” – i.e. they are owned by the government.
2. Congress surveys the land and decides how many new states will be created over time.
3. The path to statehood begins when a threshold number of citizens settle in the defined boundaries.
4. A representative group of residents convene a Territorial Convention to write a proposed state constitution.
5. The State Constitution is submitted to the population at large for an up or down vote.
6. If approved, the proposed state sends its Constitution and plans to the U.S. Congress to seek admission.
7. The Congress debates the admission and either accepts or rejects it.
8. Once admitted, new states are granted “equal footing” with prior states when it comes to rights and laws.

The threshold level on residents, initially set at 20,000 (and later raised to 60,000 and 93,000) is easily met by California in 1849.

\*\*\*\*\*

Date: August – October 1849

### **California Writes Its Constitution Calling For “Free State” Status**

The call by General Riley to hold a convention is met by enthusiasm among the settlers.

On August 1, 1849, a total of 48 delegates are chosen by secret ballot to attend the assembly. Half have lived in the state for an extended time, with twelve residing there for ten or more years and another twelve for at least three years. Their backgrounds are quite diverse, including fourteen lawyers, twelve ranchers, nine merchants, and four military men.

This group gathers on September 1 at Colton Hall in Monterrey, and works steadily over 43 days to write the initial constitution, which they sign on October 13.

The final document borrows heavily from the 1787 U.S. Constitution – with several notable exceptions:

For one, California takes the lead in defining its own Territorial boundaries, rather than waiting on Congress to complete this task. Their proposed plat also defines a total of 29 counties.

It offers an expanded Bill of Rights, listing twenty-one in total rather than the usual ten.

Among the additions are calls for a statewide system of public K-12 schools together with a University, all paid in part by local funds. Both single and married women are accorded the right to own and control their own property. A debt limit is established at \$300,000.

The Constitution also makes one other declaration that will cause a firestorm in the U.S. Congress – it officially announces its intent to enter as a “Free State.”

\*\*\*\*\*

Date: Fall 1849

### A Proposal To Ban All Blacks Is Debated



Mocking Image Of A Boy With A Pot On His Head

The debates over “Free State” status that occur among the California delegates in Monterrey display the intensity of the anti-black racism prevalent across white America at the time.

They are covered in depth by *The Californian*, a one-sheet newspaper that begins publishing in August 1846. It links the proposed ban on slavery to the wish for an all-white population:

*We entertain several reasons why slavery should not be introduced here:*

- *Negroes have equal rights to life, liberty, health and happiness with the whites.*
- *It is wrong for slavery to exist anywhere.*
- *We left the slave states because we didn't want to bring up our families in miserable conditions.*
- *There is no excuse for its introduction into this country, by virtue of climate or physical condition.*
- *We desire only a white population in California.*

This is the spirit of David Wilmot's Proviso writ large – with the “Free State” label now signaling “free of all black residents!”

This notion of an all-white society has surfaced across Northern states from Ohio through Indiana, Michigan, Illinois and Iowa. But it will not be written into a final constitution until 1859 when Oregon is accepted as the nation's 33<sup>rd</sup> state.