

GAINING ADMISSION:

The Historical Record of
How States Joined the Union

by Robert Rudney

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★ Statehood
= Research DC

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SRDC is a nonprofit 501(c)3 organization that seeks to educate the public and policymakers about the economic, financial and historical aspects of the movement for DC statehood. It fulfills its research agenda through publication of papers and other materials. It was created by prominent members of the DC business community and is being incubated at the Federal City Council, a nonprofit, nonpartisan business civic organization committed to the improvement of the District of Columbia.

About the Author

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Executive Summary

Thirty-seven states—from Vermont in 1791 to Hawaii in 1959—have attained full admission to the Union under Article IV, Section 3 (Admission Clause) of the US Constitution. A simple majority vote in both Houses of Congress is all that is required. Yet for more than 200 years, the citizens of the District of Columbia have been denied their full voting representation that comes with statehood. DC is still treated by Congress as a territory and is subject to Congressional oversight of its local laws, funding and operations. No other democracy denies voting rights in its legislature to the citizens of its nation's capital. Yet, the DC statehood campaign has attracted criticism for allegedly overlooking past history and legal precedent in the admission of new states to the Union. The objective of this report is to address this criticism and to shed light on:

- The strategies by which states joined the Union;
- What the outstanding issues were; and
- What interests were at stake in the process.

Key points include:

- The Northwest Ordinance of 1787 under the Articles of Confederation laid out the principle that all new states were to be admitted on equal footing with the original thirteen states.
- Tennessee in 1795 circumvented this admissions process by proactively electing a full slate of federal officeholders, including senators and representatives. The Tennessee Plan was copied by many states and prospectively by the District and Puerto Rico.
- The 60,000-population threshold was overlooked time and again in efforts to expedite a territory's admission. Moreover, the requirement for approval of a new state's constitution by a vote of the (mostly white male) electorate was often brushed aside.
- The two biggest territories, Texas and California, were literally annexed by the United States as a result of war, with little deliberate political debate or due process.
- The single biggest factor for years was race and slavery. From the Missouri Compromise of 1820 to the outbreak of Civil War in 1861, the paramount statehood issue was expansion of slavery westward and the political balance of power in the US Senate, therefore states joined the Union in pairs of slave and non-slave states.
- In the late 19th Century, raw political partisanship motivated congressional Republicans to admit several Western states to cushion their majorities in both the House and Senate.
- Ethnic and religious discrimination clouded statehood accessions for New Mexico, Utah, Hawaii and Oklahoma.

The main takeaway:

These disparate paths to statehood underscore that the process is always subject to political controversy, legal interpretations, divisive socio-cultural issues and discrimination. In each case, after admission, the controversies faded away and the new states became part of our nation's social and political fabric. In this context, the debate over the District's aspirations is neither unusual nor unresolvable.

Some statehood campaigns were sidetracked for a few decades, but these delays were nothing compared to the District's 221 years of "taxation without representation." Only Hawaii exceeded the District's current population when it joined. Unlike

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the District, no other new state's median income surpassed the national average. It can be argued that by comparison, the case for admission to the Union by the District is stronger and with fewer questions of legal precedent than previous successful admissions. In sum, the District is more ready for statehood than practically any other state was:

- Except for Hawaii, the District has a larger population than any other prospective state at time of accession.
- Similarly, the District has a larger economy than those states in waiting.
- The District has a better educated, more diverse workforce.
- More than 11,000 DC residents presently serve in the US military.
- The District is unique in that it is still treated as a territory by Congress, and is subject to the whims of the federal government where Congress interferes with its local laws, local funding and operations.
- Finally, DC citizens clearly want statehood, as reflected in the 86% favorable vote in the 2016 referendum.

Introduction

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 of the Congress.

US Constitution, Article IV, Section 3

The DC statehood campaign has attracted criticism for allegedly overlooking history and legal precedent in the admission of new states to the Union. The objective of this report is to address this criticism and to shed light on the strategies by which states joined the Union, what the outstanding issues were, and what interests were at stake in the process. DC citizens' struggle for full voting rights and congressional representation is detailed comprehensively in the inaugural report of the nonprofit Statehood Research DC.¹ This present study addresses the statehood process and the politics of accession to the Union.

The Constitution's Admission Clause (above) is remarkably straightforward, according Congress the right to create new states and prohibiting the forced division of existing states. Congress has determined that once a territory applies for admission, a simple majority vote in both Houses is all that is required.

The Admission Clause offers no threshold on size (and therefore it can be a city) or population (as both Vermont and Wyoming now have fewer inhabitants than the District, and Alaska has slightly more at 730,000). Among the 37 past candidates for admission, only Hawaii exceeded the District's 700,000 level in population at the time of accession. Unlike the District, none of the new states' median income surpassed the national average at elevation to statehood. No other candidate for statehood has a comparable history of self-government and participation in the American presidential election process. Yet, no state has ever had to tolerate the 'exclusive' congressional prerogative to invalidate any law or initiative the DC government might pass. Yet, these "exclusive" provisions of Article I, Section 8, Clause 17 do not explicitly deny DC citizens the right of voting representation in Congress, and the Twenty-Third Amendment directly permits their right to vote in presidential elections.

Not surprisingly, this survey of how states actually joined the Union has turned up a number of procedural discrepancies, legalistic inconsistencies and political deals. All these issues were ultimately resolved in the 37 cases of states seeking admission. Some statehood campaigns were sidetracked for a few decades because of these issues, but these delays were nothing compared to the District's 221 years of "taxation without representation." The District is still treated by Congress as a territory and is subject to Congressional oversight of its local laws, funding and operations. No other democracy denies voting rights in its legislature to the citizens of its nation's capital. This report provides a needed historical context for future considerations of DC statehood. It is salutary for participants in the debate in the fifty states to understand how their states achieved admission before passing judgment on the DC petition.

Northwest Ordinance vs. Tennessee Plan

The accepted process for achieving statehood dates back to the Articles of Confederation. In the Treaty of Paris in 1783, the British ceded the land between the Appalachians, the Ohio River, the Mississippi River and the Great Lakes to the United States. The Confederation Congress enacted the Northwest Ordinance of 1787, which underscored federal sovereignty in this vast region by disallowing the expansion of existing states and setting a framework for the admission of new states. Thomas Jefferson was a strong proponent for the creation of new states and even suggested as names: Cherronesus, Sylvania, Assenisipia, Illinoia, Metropotamia, Polypotamia, Pelisipia, Washington, Michigania and Saratoga.

According to a key provision of the Northwest Ordinance, all new states were to be admitted on equal footing with the original thirteen states. At the initial stage, a congressionally appointed governor would rule the territory.^{iv} When the population attained 5,000 free adult males, a legislature could be elected. Once a territory reached a population of 60,000, it could petition for statehood. Congress could then vote an enabling act authorizing a state convention to produce a constitution to be approved by the electorate. The last point is critical since it enshrined the principle of popular sovereignty in the state admission process.

However, in the rush to statehood, both the 60,000 threshold and popular sovereignty principle were ignored on numerous occasions. Vermont, Kentucky, Ohio, Louisiana, Alabama and Missouri were admitted without the benefit of a single statehood referendum or constitutional ratification process that would have demonstrated popular support for admission.^v

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The Northwest Ordinance prohibited slavery in this region, effectively establishing the Ohio River as the geographic divide between free and slave states. The extension of this divide to the West represented a major conflict point in the admission of states west of the Mississippi.

While the Northwest Ordinance was being promulgated, controversy brewed over admission of two states—Vermont and Kentucky—outside the geographic bounds of the Ordinance. Both New York and New Hampshire had sizable claims over Vermont lands, and Virginia laid claim to all of Kentucky. Vermont actually declared itself an independent republic between 1777 and 1791. To offset Northern power, the idea of an expanded Virginia was initially supported by Jefferson, James Madison and James Monroe. Ten constitutional conventions between 1784 and 1792 were required before Kentucky threw off Virginia claims and achieved admission to the Union. In the interim, Kentuckians flirted with an independent republic and exploited rumors

of diplomatic recognition by Britain and Spain as leverage on Congress and Virginia to admit Kentucky as a state. Vermont and Kentucky established the precedent for admitting one slave and one free state more or less concurrently.

Tennessee represented the first serious test of the Admissions Clause and the process laid out in the Northwest Ordinance. For years, settlers had chafed under the control of the mother-state North Carolina, which claimed the entire territory. In 1785, rebellious Tennesseans even established a secessionist State of Franklin, which sought recognition from the Confederation Congress (which refused). In 1795, without an enabling act, voters approved statehood, ratified the proposed state constitution, and elected a full slate of state officers, US senators and representatives. By this fait accompli, Tennessee leaders essentially converted the territory into a state before asking Congress for approval. After much squabbling between Federalists and Democratic-Republicans, Congress approved admission on June 1, 1796. This Tennessee Plan to circumvent the admission process was subsequently used by Alabama, Michigan, Iowa, California, Oregon, Kansas and Alaska. In essence, the District of Columbia and Puerto Rico have followed suit by unilaterally approving a state constitution.

Ohio, the next state to be admitted, was the object of a 150-year blunder. The Ohio state convention agreed to petition for admittance into the Union on November 29, 1802. Congress approved this action on February 19, 1803, but missed a critical part of the statehood process—congressional ratification of the state constitution. Without congressional approval of its constitution, Ohio technically remained part of the Northwest Territory. It took 150 years for Congress in 1953 to correct this oversight and retroactively grant statehood.^{vii}

Louisiana's case was unique. It had been ruled by Spain and France, had strong French and Spanish cultural and linguistic ties (including predominant Catholicism), operated under the Napoleonic legal code, and had large free Black and Creole populations.^{viii} The Louisiana Purchase Act promised early statehood and granted immediate citizenship to white residents. However, Senate opposition to extending suffrage rights to "free people of color" impeded the statehood movement until the House capitulated in 1811 and eliminated the suffrage provision.

Slavery and States' Admission

The proposed extension of slavery by admission of Missouri raised the statehood debate to a fevered pitch. At the time, a precarious balance of power existed between 11 free and 11 slave states, an especially critical equilibrium in the US Senate. Fortuitously, free-soil Maine, which felt subjugated as a District of Massachusetts, applied for admission in 1819. By the Missouri Compromise of 1820, both Missouri and Maine were admitted, but the legislation prohibited slavery in the remaining Louisiana Purchase lands north of the 36°30' parallel except for Missouri. Slavery was permitted south of that parallel which followed Missouri's southern border.^x The Missouri Compromise reinforced the practice of coupling admissions between slave and free states: Arkansas in 1836 was followed by Michigan in 1837, Texas and Florida in 1845 were followed by Iowa and Wisconsin in 1846 and 1848, respectively.

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In 1836, American settlers in Texas broke away from Mexico and declared the Republic of Texas. At first, the United States recognized the Republic, but was reticent about Texas statehood, fearing a war with Mexico. Texans were split between nationalists supporting an independent republic that conceivably could expand to the Pacific and statehood advocates led by Sam Houston. Another motivation for statehood among Texans was the fear that Mexico might emancipate their slaves. Eventually, on March 1, 1845, Congress passed legislation authorizing the direct annexation of the Republic of Texas and granting of statehood, thereby bypassing the territorial phase.^{xi} Texas President Anson Jones called for a convention to draft a state constitution, and, on October 13, 1845, Texan voters overwhelmingly approved the constitution and annexation ordinance. Not surprisingly, the annexation of Texas triggered the Mexican-American War. The rapid US victory led to signing of the Treaty of Guadalupe Hidalgo in 1848 whereby Mexico abandoned all claims to Texas.

Another result of the war was the annexation of California in 1846. The 26-day California Republic, declared after 30 settlers seized the garrison at Sonoma, simply evaporated and was replaced by military rule. Efforts to establish a territorial government foundered over the congressional obsession about maintaining the free/slave state balance. Southerners even sought to split the prospective state in two to preserve the balance. On June 3, 1849, General Bennet C. Riley, the military governor, convened a state convention which drafted an anti-slavery constitution that was approved by the electorate in November.^{xii} California was admitted to the Union as part of the Compromise of 1850 which, *inter alia*, abolished the slave trade in the District of Columbia.

The 1856 Kansas-Nebraska Act heightened the slavery controversy by allowing the people in each state to decide whether slavery was to be allowed. This 'popular sovereignty' provision,

regarded as a capitulation to Southerners, touched off widespread violence in 'bloody' Kansas as each side attempted to set up a territorial government.^{xiii} Nebraska was spared much of this violence, as its inhabitants were overwhelmingly anti-slavery. But Kansas was invaded by belligerent settlers from neighboring Missouri, who engaged in an outright war with Free-Staters. Each side had its own state legislature, constitution and capital city, and each legislature outlawed the other. Only after Southern legislators in Washington walked out of Congress in January 1861 was Kansas finally admitted as a free state.

Oregon was another prospective state whose admission was sidetracked by the slavery debate. In May 1858, the statehood bill was introduced in the US Senate amid the turmoil over 'bloody Kansas.' Southerners opposed statehood as the Oregon electorate had voted overwhelmingly against slavery. On the other hand, Northern Senators expressed qualms about the racist Black Exclusion Acts in Oregon that outlawed slavery, but prohibited free African Americans from entering the state, owning property or negotiating contracts.^{xiv} Ultimately, the Oregon statehood legislation squeezed through the House 114-103, and the proclamation was signed by President James Buchanan on February 14, 1859. The last of the Black Exclusion Acts was only repealed in 1926.

West Virginia statehood erupted out of opposition to Virginia secession. In 1862, Western counties revolted against the Confederate authorities in Richmond and petitioned the US Congress to be admitted as a separate state.^{xv} The move was patently unconstitutional. As cited above, Article IV, Section 3 of Constitution states: "No new states shall be formed or erected within the jurisdiction of any other state...without the consent of the States concerned."

At the First Wheeling Convention in 1861, representatives of the Western counties had declared all state offices vacated by Virginia Confederates and established a 'Restored' State Government for Virginia. On June 20, 1862, delegates to the Second Wheeling Convention duly elected a new Virginia governor and two new Virginia US senators. The seat of the 'Restored' State Government was moved to Alexandria, Virginia, then under Union control. This 'Restored' (read 'Figurehead') Virginia State Government then gave its 'approval' for the Western counties to secede and form their own state, originally to be named Kanawha. The Senate had rejected an initial statehood bill that did not include a commitment to emancipation. But President Abraham Lincoln signed a later version on December 31, 1862 with the condition that a provision for the gradual abolition of slavery be inserted into the state constitution.

Lincoln's cabinet had been evenly split, with the President making the final decision. He characterized the move as "secession in favor of the Constitution." West Virginia officially became a state on June 20, 1863. After the war, Virginia brought suit against West Virginia, claiming that its admission to the Union was unconstitutional. The US Supreme Court decided in West Virginia's favor in 1871 (but it did not directly rule whether its admission was constitutional). Virginia only officially recognized West Virginia in 1911.

Admitting Western States

With the Civil War looming on the horizon, congressional Republicans saw the advisability of admitting several Western states to the Union, including Nevada and Colorado Territories. The 1864 admission of Nevada (with a population of only 40,000) was expedited because, with the presidential election looming, both President Lincoln and the Republican congressional leadership saw the advantage of admitting another solidly Republican state with three electoral votes. Nevada statehood might also have been critical if more than two major candidates competed (as seemed possible in early 1864), and if the outcome were to be thrown into the House where Nevada would have one vote, the same as New York or Pennsylvania.

The Republicans also sought control of the mineral-rich resources in the Colorado Territory. Once pro-slavery Southern Democrats left the Union, Republicans moved to pass the Colorado Organic act in mid-February 1861. Yet the Colorado electorate voted against the proposed statehood constitution in 1864, primarily because of concerns about suspected higher taxes. The next year, voters did approve a constitution, but local Democrats charged vote fraud and President Andrew Johnson vetoed the legislation. Republicans overrode Johnson's veto of Nebraska statehood, but supporters of the Colorado bill could not override the veto.

The Colorado statehood movement finally attained success in the mid-1870s. President Ulysses S. Grant supported it but Congress was reticent, though it eventually passed an enabling act on March 3, 1875, the final day of the congressional session.

Coloradans voted 15,443 to 4,062 in support, concluding that the cost of taxing themselves to pay for their own government was preferable to rule by Washington-appointed carpetbaggers. The bill was signed by President Grant on August 1, 1876. In the contested November 1876 election, Colorado cast its vital three electoral votes for Republican Rutherford B. Hayes. Had Colorado not achieved statehood by that date, Democrat Samuel J. Tilden would have been elected President.

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South and North Dakota were carved out of a larger Dakota Territory for political reasons by Republican leaders who wanted to maintain their control of Congress.^{xvi} In 1861, the Territory had been officially created to incorporate what today constitutes both Dakotas and much of present-day Montana and Wyoming. Subsequent legislation in 1868 reduced Dakota Territory to the actual boundaries of the two states.

Southern Dakota Territory had only about 10,000 white residents in 1870, while white inhabitants of the future North Dakota amounted to only 2,400. But with the Black Hills gold

rush, arrival of the railroads, and a growing number of homestead farmers, the Territory grew rapidly (by 1880, to 98,000 in the South and 37,000 in the North). The boom in the South led to early calls for statehood. The Northern part of the Territory was still considered as wilderness, inhabited by belligerent native peoples.

The railroads ran east and west, so that southern and northern Dakota had little economic contact with each other. This orientation of major railroads strengthened the southerners' economic ties to Sioux City and ultimately to Omaha and Chicago, while railroad systems linked Northerners more to Minneapolis through Fargo and Bismarck. The power of the external railroad interests was demonstrated by the 1883 removal of the territorial capitol from Yankton to Bismarck on the main line of the Northern Pacific Railway. But the loss of the capital became a rallying point for South Dakota statehood supporters, who eventually selected Pierre as their capital.

Southerners initiated the statehood campaign in 1885 by voting for a Dakota state constitution that provided for admission to the Union for the South (below the 46th parallel north latitude), while the North was to remain organized as a territory. This statehood application was rejected by the Democrat-led US Congress that balked at the idea of admitting another Republican-dominated state.

However, in the 1888 elections, the Republicans won control of Congress, and Benjamin Harrison, a strong statehood supporter, was elected President. In the end, the lame-duck Democrats agreed to a compromise whereby Dakota was divided into two states and Montana and Washington were put on track for statehood. On October 1, 1889, voters in both Dakotas overwhelmingly ratified their state constitutions and elected state governments. Ironically, in 1995, a North Dakota citizen claimed that the state constitution was technically invalid because it ignored Article VI of the US Constitution requiring all legislative, executive and judicial officers in the state to be bound by an oath to uphold the US Constitution. The 1889 document contained no such provision. Ultimately, in 2011, the state legislature passed amendments to rectify this oversight.

Wyoming was the first state to permit women to vote and hold public office. Women's suffrage actually dates back to laws passed by the territorial legislature in 1869. These provisions were incorporated in the 1890 state constitution, much to the chagrin of Congressmen in Washington. Just before the statehood vote, the territorial legislature reportedly dispatched a telegram to Congress stating: "We will stay out of the Union a hundred years rather than come in without our women."^{xviii} Still, the statehood bill only passed the House 139-127 on March 27, but coasted through the Senate 29-18 on June 27. President Benjamin Harrison signed the proclamation on July 10, 1890.

Discrimination and Denial of Statehood

Democrat-dominated New Mexico, with twice the population of any of the other prospective Western states, was left out of the 1889 equation. New Mexico first requested statehood in 1850, but was rebuffed, largely because of its Hispanic population. At the time, Sen. Daniel Webster saw the vast territory as dry and unpopulated: “There will, then, be two senators for 60,000 inhabitants in New Mexico to the end of our lives and to the end of the lives of our children.”^{xix} But the 62-year delay in achieving statehood was largely owing to discrimination. In the words of one commentator: “[T]hey’re primarily Hispanic, they’re Roman Catholic, they don’t speak English, they’re poorly educated.”^{xx}

A 1905 bill to combine Arizona and New Mexico into one state of Montezuma was approved by New Mexicans, but defeated in the Arizona vote.^{xxi} New Mexico was finally admitted on January 6, 1912. Approved in 1911, the Arizona Constitution was a progressive document that included the initiative, referendum and recall, and even the recall of judges. Expressing his opposition to this last point, President William Howard Taft, a future Chief Justice of the Supreme Court, vetoed the legislation. Andrew Johnson’s veto of the Nebraska and Colorado statehood bills are the only other examples of presidential prerogative. Arizonans did relent and cut the offending language in a subsequent draft. However, at the very first state election in November 1912, Arizonans overwhelmingly reinstated the recall provision.^{xxii}

Religious discrimination was not aimed solely at Catholics. The specter of polygamy and prejudice against Mormons impeded Utah’s campaign for admission. The first effort in 1849-50 failed because of suspicion of Mormon leadership. Only in 1890 did the Mormon

Church officially condemn ‘illegal’ marriages, and the people of Utah duly voted for the constitution prohibiting polygamy, but including women’s suffrage. President Grover Cleveland declared Utah a state on January 4, 1896.

“The long wait by New Mexico, Utah and Hawaii to join the Union can only be explained by pervasive prejudice in Congress.”

In neighboring Idaho, Republican lawmakers in 1884 established the Idaho Test Oath, which prevented Mormons from voting, holding public office or serving on a jury. This provision was included in the state constitution in 1889, upheld by the Supreme Court in *Davis v. Beason* (1890), but repealed in 1892. The Utah-based *Deseret Evening News* on April 19, 1889 wrote: “Hundreds of American citizens who have violated no law will be debarred from taking any part in the formation of the proposed State, while yet they are and will be taxed for its support.”^{xxiii} This ‘no taxation without representation’ argument resonates with the DC statehood campaign.

Hostility and discrimination toward native peoples pervaded many statehood campaigns, as these peoples were relentlessly squeezed out of their historic lands. Up until 1890, most of the land area now known as the state of Oklahoma was quasi-independent Indian Territory consisting of the

holdings of the Cherokee, Choctaw, Chickasaw, Creek and Seminole (Five Tribes) nations. After the 'land run' of 1889, the Oklahoma Organic Act officially carved off the western half of Indian Territory and reorganized it as Oklahoma Territory. In 1898, the US Congress passed the Curtis Act, which called for the abolition of tribal governments by March 4, 1906. Realizing that their governments would soon be suppressed, leaders of the Five Tribes convened the Sequoyah Convention in August 1905 in Muskogee to write a constitution and to present a petition to Congress for a separate Sequoyah state.^{xxiv} This petition was rejected. In the end, the 1907 Oklahoma Enabling Act merged Oklahoma Territory and Indian Territory to create the single state of Oklahoma. A state election, taking place September 17, 1907, proved to be a landslide for Democrats who won 40 of 44 state senate seats, with Republicans claiming vote fraud.

Alaska and Hawaii statehood represented geographic leaps from the continental United States.

President Dwight Eisenhower initially opposed Alaska statehood for national security reasons. In addition, Democrats controlled the territorial government in Alaska and were lobbying for statehood. Through the 1950s, a coalition of conservative Republicans and southern Dixiecrats blocked Alaska's admission as they did DC home rule. Alaska had to live down its reputation as "Seward's Icebox," but the Japanese occupation of Aleutian Islands underscored its critical strategic location. Only in 1958 did Eisenhower change his mind when Alaska statehood was twinned with admission of Hawaii (then a Republican stronghold) to the Union. Alaska Sen. Lisa Murkowski has observed: "I'm probably one of the few that was actually born in a territory and in my life time we fought for statehood. It was something driven by the residents and whether we are talking DC or Puerto Rico, as long as it's driven by residents, I'd pay attention."

Hawaii has a complicated history as a kingdom, a British protectorate, a 'republic' from 1894 to 1898, and a US territory. The so-called 'Republic of Hawaii' was really a seizure of power by a cabal of non-native Americans who overthrew Queen Lili'uokalani and paved the way for US annexation. In 1993, Congress passed the Apology Resolution, admitting that the coup was engineered by US agents and acknowledging that "the Native Hawaiian people never directly relinquished to the United States their claims to their inherent sovereignty." As with Alaska, Southern Democrats impeded the statehood process. Sen. James Eastland (D-MS) stated that admission of Hawaii would mean "two votes for socialized medicines, two votes for government ownership of industry, two votes against all racial segregation and two votes against the South on all social matters." At the same time, an indigenous Hawaiian sovereignty movement developed out of fear that a state government would be dominated by Asian Americans. Reflecting native concerns, Territorial Senator Alice Kamokila Campbell stated in 1946: "I do not feel...we should forfeit the traditional rights and privileges of the natives of our islands for a mere thimbleful of votes in Congress."^{xxvi}

As with Alaska, World War II raised awareness of Hawaii's strategic importance. President Eisenhower finally signed the Hawaii Admission Act into law on March 18, 1959. In June of 1959, 93 percent of Hawaii voters approved a referendum to accept the statehood bill, and on August 21, 1959, President Eisenhower signed the official proclamation admitting Hawaii as the 50th state, seven months after Alaska had joined the Union.

Conclusion

All told, the historical record of state admissions to the Union is spotty at best. The procedures laid out in the Northwest Ordinance were accepted by Congress as the general practice for all states, but many subsequent exceptions have undermined this model. The Tennessee Plan to shortcut the admissions process was copied by many states and prospectively by the District and Puerto Rico. The 60,000 population threshold was overlooked time and again in efforts to expedite a territory's admission. Approval of the state's constitution by a vote of the (mostly white male) electorate was often brushed aside. The principle of popular sovereignty to approve a state's admission was subverted by rival factions who engaged in civil insurrection in 'bloody' Kansas. Both Texas and California were literally annexed by the United States as a result of war.

From the Missouri Compromise of 1820 through the Civil War (1861-1865), the onerous burden of the slave question largely determined the speed at which a state was admitted. Southerners were distressed by the rapid growth of the North and the specter of upsetting the careful regional balance of power, particularly in the Senate, where each new state represented two additional seats. Southerners could see the writing on the wall, and 'bloody Kansas' served as a harbinger of a much bloodier conflict.

Pure political expediency to maintain the Republicans in power led to the 1889 division of the Dakota Territory into two states and the premature admission of several other Western states to the Union. In addition, charges of graft and corruption often emerged in the congressional debate over admission of states, as did claims of voter fraud in ratification of state constitutions. Colorado's admission was delayed for years over allegations of kickbacks in the territorial government. A supporter of Montana statehood reportedly arrived in Washington with \$2,500 in gold nuggets to expedite the process. Admission of the Western states (Oregon, Washington, Idaho and Montana) required lengthy debate over the precise boundaries, influenced by mining, railroad and agricultural interests. More recently, in May 2021, several conservative counties in Eastern Oregon approved ballot measures to secede and join Republican Idaho.^{xxvii} While this movement does not appear to have much chance of success, it shows that Oregon boundaries can still arise as an element of controversy.

Not that statehood was automatically popular among the electorate. Many voters feared higher taxes as government transitioned from territorial rule (where the federal government picked up much of the cost) to self-government (where the tax onus fell on the state and its inhabitants). In March 1860, a majority of Nebraska voters actually defeated a statehood motion, largely because of fear of higher taxes. In 1840 and 1842, voters in Iowa rejected successive draft state constitutions because of qualms over the tax burden. On the other hand, Maine statehood advocates in 1819 bemoaned Maine's underrepresentation in the Massachusetts legislature, which passed tax laws deemed unfair to Maine farmers. As mentioned above, Mormons in Idaho

were taxed even though they were prohibited from voting, among other restrictions. The Jim Crow laws in the South severely restricted voting rights for African Americans, who nonetheless paid taxes to support a government in which they had no voice. So “no taxation without representation” did emerge as a civil rights issue.

Discrimination on the basis of race, language, culture, religion and sex was endemic, both in the US Congress and in territorial legislatures. The long wait by New Mexico, Utah and Hawaii to join the Union can only be explained by pervasive prejudice in Congress. Racism was prevalent among ‘free’ states: Oregon was the only state admitted to the Union with a black exclusion law, though Illinois was admitted with a ‘Black Code’ in its 1818 constitution that severely restricted black civil rights. Among other provisions, the law required blacks living in the state to obtain and carry a Certificate of Freedom; without this Certificate, they were presumed to be slaves. Native peoples were ignored or, as in Oklahoma, shunted aside. The Hawaiian statehood movement was blocked for decades by racist attitudes in the US Congress, yet only in Hawaii has Congress recognized the transgressions against ‘inherent sovereignty’ of the native people.

Since Vermont’s admission in 1791, Congress has added 37 states to the original Union. Like the DC case, each admission has had its own unique set of circumstances. Roughly half (19) of the new admissions were for a bounded territory, while ten represented a partial

“DC statehood is still linked to fears of expanded voting rights and fears of the growing political power of minorities.”

admission of a territory. Congress could play fast and loose with territorial borders in order to gain political and economic advantage. All said, political expediency, not democratic principles, has often been the guiding strategy in how Congress decided to admit a state. Reflecting on the 1889 Republican manipulation of the admissions process, Prof. Heather Cox Richardson of Boston College has written: “The Republican Party .. must stay in power to protect Big Business. If that meant shutting more populous territories out of statehood and admitting a few underpopulated western states to enable a minority to exercise political control over the majority of Americans, so be it. Today, the District of Columbia has more residents than at least two other states; Puerto Rico has more than 20. With numbers like that, admitting either or both to the union is less a political power play on the Democrats’ part than the late-19th-Century partisan move that still warps American politics.” While this rhetoric has softened since the late 19th Century, DC statehood is still linked to fears of expanded voting rights and fears of the growing political power of minorities. Yet, based on past history of states’ accession, the District’s case for statehood is certainly deserving of congressional approval.

- ⁱ Derek Musgrave and Chris Asch, "Democracy Deferred: Race, Politics, and D.C.'s Two-Century Struggle for Full Voting Rights," Statehood Research DC, March 2021, <https://www.statehoodresearchdc.org/>.
- ⁱⁱ For an excellent recent analysis, see Heather Cox Richardson, "When Adding New States Helped the Republicans," *The Atlantic*, September 2019, <https://www.theatlantic.com/ideas/archive/2019/09/when-adding-new-states-helped-republicans/598243/>. See also Mark Glassman, "The Procedures for Adding States to the Union," *Legislative Procedure*, October 23, 2020, <https://www.legislativeprocedure.com/blog/2020/10/23/the-procedures-for-adding-states-to-the-union/>; Luis R. Davila-Colon, "Equal Citizenship, Self-Determination, and the Statehood Process: A Constitutional and Historical Analysis," *Case Western Reserve Journal of International Law*, Vol. 13, No. 2, (1981) 315-374, <https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=1860&context=jil>
- ⁱⁱⁱ "Report from the Committee for the Western Territory to the United States Congress," March 1, 1784, reproduced in *Envisaging the West*, n.d., <http://jeffersonswest.unl.edu/archive/view.doc.php?id=jef.00155>. See also "The Northwest Ordinance, 13 July 1787," University of Wisconsin Center for the Study of the United States Constitution, December 11, 2020, <https://csac.history.wisc.edu/2020/12/11/the-northwest-ordinance-13-july-1787/>
- ^{iv} Denis P. Duffey, "The Northwest Ordinance as a Constitutional Document," *Columbia Law Review*, Vol. 95, No. 4 (May, 1995), pp. 929-968, https://www.jstor.org/stable/1123211?read-now=1&refreqid=excelsior%3A90f39a4256ad275c8bbaa98a7cdfbd82&seq=40#page.scan...tab_contents
- ^v Davila-Colon, p. 361.
- ^{vi} District of Columbia, "Path to Statehood," <https://statehood.dc.gov/page/path-statehood>
- ^{vii} See Tim Pawlack, "Ohio the 48th state?," Ohio History Connection, March 2018, <https://www.ohiohistory.org/learn/education/resource-roundup/march-2018/ohio-the-48th-state>
- ^{viii} Ron Chapman, "How Louisiana Became a State," March 1, 2012, <https://www.myneworleans.com/how-louisiana-became-a-state/>
- ^{ix} Liam Riordan, "Maine Statehood: An Overview," Maine Statehood Factsheet, December 21, 2016, <https://umaine.edu/mhc/wp-content/uploads/sites/276/2016/12/ME-Statehood-Factsheet.pdf>
- ^x "Missouri Compromise Ushers in New Era for the Senate," US Senate Historical Office, n.d., https://www.senate.gov/artandhistory/history/minute/Missouri_Compromise.htm
- ^{xi} C.T. Neu, "Annexation," Texas State Historical Association Handbook of Texas, November 1, 1994, <https://www.tshaonline.org/handbook/entries/annexation>
- ^{xii} Rockwell D. Hunt, "How California Came to be Admitted," Museum of the City of San Francisco, reprint from *San Francisco Chronicle*, September 9, 1900, <http://www.sfmuseum.org/hist5/caladmit.html>
- ^{xiii} Nicole Etcheson, "Bleeding Kansas: From the Kansas-Nebraska Act to Harpers Ferry," *Civil War on the Western Border*, September 22, 2021, <https://civilwaronthewesternborder.org/essay/bleeding-kansas-kansas-nebraska-act-harpers-ferry>
- ^{xiv} Bethany Nemecek, "Exclusion Laws," End of the Oregon Trail, April 2, 2019, <https://historicoregoncity.org/2019/04/02/exclusion-laws/>
- ^{xv} West Virginia Department of Arts, Culture and History, *West Virginia Statehood* (2021), <http://www.wvculture.org/history/archives/statehood.html>
- National Archives, Center for Legislative Archives, "West Virginia Statehood, June 20, 1863," <https://www.archives.gov/legislative/features/west-virginia>
- ^{xvi} South Dakota's statehood accession drew recent attention when Sen. Mike Rounds (R-SD) tweeted: "The Founding Fathers never intended for Washington, DC to be a state. #DCStatehood is really about packing the Senate with Democrats in order to pass a left-wing agenda." Among other supporters of DC statehood, author James Fallows fired back in a tweet: "The Founding Fathers also never intended there to be a Dakota Territory or [to] split it in two. The only reason Sen. Rounds has a state (SD) to represent is [a] late-19th Century political deal to split the territory in two, explicitly to pad the number of likely GOP Senate seats." See <https://www.newsweek.com/founding-fathers-didnt-want-south-dakota-critics-tell-senator-against-dc-statehood-1577988>. Prof. Kevin Kruse from Princeton echoed Fallows' arguments against Rounds: "The Dakota territory was cut in half and admitted as two states, as part of a larger scheme by Republicans to add six new states over a nine-month period in 1889-1890 and thereby pack the Senate with Republicans." <https://twitter.com/kevinmkruise/status/1374317872604930048>
- ^{xvii} Tom Geoghegan, "Who, what, why: Is North Dakota really a US state," BBC News, July 14, 2011, <https://www.bbc.com/news/world-us-canada-1414211>
- ^{xviii} Quoted in "Women's suffrage in Wyoming," Wikipedia, https://en.wikipedia.org/wiki/Women%27s_suffrage_in_Wyoming.
- ^{xix} Cited in Congressional Record-House, 1876, p. 2931, https://www.google.com/books/edition/Congressional_Record
- ^{xx} Quoted in Leslie Linthicum, "New Mexico's path to statehood often faltered," *Albuquerque Journal*, October 23, 2013, <https://www.abqjournal.com/286241/new-mexicos-path-to-statehood-often-faltered.html>
- ^{xxi} Archa Malcolm Farlow, "Arizona's Admission to Statehood," *Annual Publication of the Historical Society of Southern California*, Vol. 9, No. 1/2 (1912-1913), pp. 132-153; <https://www.jstor.org/stable/pdf/41168902.pdf>. "Arizona Documents Leading to Statehood," Blog of the State of Arizona Research Library, retrieved at <https://statelibraryofarizona.wordpress.com/arizona-documents-leading-to-statehood/>
- ^{xxii} Albert Bender, "The Lost State of Sequoyah: The Five Tribes' fight against Oklahoma statehood," August 25, 2020, <https://www.indianz.com/News/2020/08/25/the-lost-state-of-sequoyah-the-five-trib.asp>
- ^{xxiii} See "The Idaho Statehood Squeeze" reproduction of newspaper article, <https://news.google.com/newspapers?nid=336&dat=18890419&id=Z7BLAAAIAIAJ&sjid=pDADAAAIAIAJ&pg=1089,3785997>
- ^{xxiv} Quoted on NBC News, July 1, 2020.
- ^{xxv} Cited in Haunani-Kay Trask, *From A Native Daughter* (Honolulu: Univ. of Hawai'i Press, 1993) p. 2.
- ^{xxvi} "Their Own Private Idaho: Five Oregon Counties Back a Plan to Secede," *New York Times*, May 22, 2021, <https://www.nytimes.com/2021/05/21/us/oregon-idaho-secession.html>
- ^{xxvii} Richardson, op. cit.
- Author Note: Robert Rudney retired as Senior Adviser in the Department of Defense in 2012 and served as a 2008 Congressional Fellow in the office of Sen. Bernie Sanders (I-VT). He holds a Ph.D. in History from the University of Michigan. He has published extensively on European defense issues, arms control, and disability topics.



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