

Admission of New States into the Union

Article IV, Section 3 of the Constitution deals with the relationship between states, Congress and the power to admit new states.

On the issue of Creating New States

- ↪ The Constitution is vague on any specific the process, saying only “New states may be admitted by the Congress into this Union.”
- ↪ If forbids a new state from being created out of the territory of an existing state, without the consent of both that states’ legislature and of the Congress.

Generally accepted process:

1. Organized government of a territory would make it known that a majority of its population favored statehood.
2. Congress would direct them to organize a Constitutional Convention, for the purpose of writing a State Constitution
3. Upon its acceptance of the State Constitution, Congress will vote on whether or not to admit the territory as a state.

Congress is under no obligation to accept a territory (even if the population favors statehood)

- ↪ Republic of Texas requested annexation of the US in 1836; fears of conflict with Mexico and over the spread of slavery delayed statehood for 9 years.
- ↪ Utah territory was denied admission for decades due to the practice of polygamy.

Why is statehood important?

- ↪ States are required to give “full faith and credit” to the acts of one another.
 - ↪ State judicial opinions, legal contracts, marriage recognition, validity of state-issued identification, and criminal judgments
- ↪ The new states can be recipients/beneficiaries of money from Congressional decisions.
- ↪ Protection from foreign aggressors.
- ↪ Credibility in conducting agreements with other nations.

A sampling of reasons for accepting statehood applications

- ↪ It widens the number of tax payers.
- ↪ Political advantage – one of the major parties will be strengthened in the near term by their addition to Congress.
- ↪ If carved out of an existing state, it would reduce the political influence of that state.
 - ↪ For instance, to break California in half would minimize its importance in presidential elections.

A sampling of reasons for resisting statehood applications:

- ↪ More states dilutes the power of existing states.
- ↪ Political balance – in the short term, would it appear to be leaning Democratic or Republican.
 - ↪ For instance, Republicans have resisted granting Washington DC statehood as, being liberal, it would benefit the Democrats in presidential elections and would strengthen that party’s vote in Congress.
- ↪ If that territory would be geographically in a predictable area of disaster, then it may not be prudent.
 - ↪ For instance, Puerto Rico is in the path of hurricanes and may regularly need disaster relief.

Today there are few US territories left that might potentially become new states

- ↪ Puerto Rico
 - ↪ Voting on the topic has been consistently, though narrowly, unsuccessful. Slightly more than others support the status-quo, with only a smaller number wanting independence.
 - ↪ Support for statehood has risen with each successive political referendum (vote)
- ↪ Washington DC
 - ↪ It was the founders’ intention that the nations’ capital be a neutral site, not giving favor to any existing state.
 - ↪ The districts left-leaning politics make the idea of its admission unpalatable to Republicans in Congress.
 - ↪ Moreover, questions persist about the districts ability to successfully manage its finances
 - ↪ Most residents support statehood in some form
 - ↪ Proposal: leave the federal district unattached to any state, but encompass the residential areas in a state.
 - ↪ Prospects for statehood appear dim.
- ↪ US jurisdictions in the South Pacific (US Virgin Islands, Guam, Commonwealth of the Northern Marina Islands and American Samoa)
 - ↪ Prospects for statehood appear remote.
 - ↪ All have relatively small populations
 - ↪ Guam, with the most inhabitants, has a population less than 35% of that of Wyoming, the least populous state.
 - ↪ All have governments which are heavily reliant on federal funding
 - ↪ If given admission, the small population means they would be over represented in Congress (even by 1 House Representative!)

On the issue of Succession and the US Constitution

- ↪ The permanence of the United States changed significantly when the Articles of Confederation were replaced by the adoption of the Constitution.
 - ↪ This action “signaled its decisive break with the Articles’ regime of state sovereignty.” (Akshil Amar, Constitutional scholar)
 - ↪ By creating a Constitution instead of some other type of written document it made clear that the US was:
 - ↪ not a “league”, however firm
 - ↪ not a “confederacy” or a “confederation”
 - ↪ not a compact among “sovereign’ states”
 - ↪ All these above high profile and legally freighted words from the Articles were conspicuously absent from the Preamble and every other operative part of the Constitution. The new text proposed a fundamentally different legal framework.
- ↪ The Constitution makes no provision for succession of a state from the Union.
- ↪ Texas v. White, 1869
 - ↪ The Supreme Court ruled that a state can not secede from the United States
- ↪ Williams v.Bruffy, 1877
 - ↪ In a decision regarding civil war debts, the Court wrote regarding acts establishing an independent government that "The validity of its acts, both against the parent state and the citizens or subjects thereof, depends entirely upon its ultimate success; if it fail to establish itself permanently, all such acts perish with it; if it succeed and become recognized, its acts from the commencement of its existence are upheld as those of an independent nation."