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MISCELLANEOUS INFORMATION CONCERNING THE
ADMISSION OF CERTAIN STATES

A report prepared for the use of the
Honorable Russell Long, Senator
from Louisiana

by

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January 8, 1956

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1. Why did Iowa lack senatorial representation for nearly two full years after its admission to statehood?

Answer:

The day after Iowa was signed into the Union by President Polk on December 28, 1846, Representatives Hastings and Leffler were sworn in as members of the House. Iowa did not have Senators on hand to do their duty by the State and the Union, because the First General Assembly failed to elect them; the Assembly was deadlocked. United States Senators were selected by a joint meeting which on paper gave the Democrats a majority of thirty-one [Democrats] to twenty-seven [Whigs], but three nominal Democrats had been elected on an independent ticket and these three Independents refused to vote with their party. [Thirty votes were required to elect. 1/] No manner of persuasion sufficed to break the deadlock and it was not until December 7, 1848, that the Second General Assembly named George W. Jones and Augustus C. Dodge, two stalwart Iowa Democrats, ... as the United States Senators from Iowa. 2/

2. What were the circumstances attending the election of Minnesota's congressional delegation before the Territory was admitted to statehood?

Answer:

The Enabling Act for Minnesota (authorizing the people of the Territory to frame a constitution preparatory to Minnesota's admission as a State) was approved February 26, 1857. 3/ On June 1, 1857, delegates to a constitutional convention were elected; and on July 13, 1857, the convention opened.

Almost immediately, the Republicans and Democrats

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- 1/ Harlan, Edgar R. A narrative history of the people of Iowa. Chicago, The American Historical Society, 1931. v. 1, p. 235.
 - 2/ Petersen, William J. The story of Iowa: the progress of an American State. New York, Lewis Historical Publishing Co. [1952]. p. 348-349.
 - 3/ 11 Stat. 166.

found it impossible to work in concert, as a result, the delegates divided themselves into two rival conventions. The Democratic delegates regarded their Republican counterparts as impractical idealists, at best, and suspected that many of them were dangerous radicals. They were disturbed especially over Republican proposals to provide for popular referenda and to extend the right of suffrage to negroes.

For weeks the two groups labored apart (even though housed in the same capitol building), each attempting to fashion a constitution of its own; intercourse between the two wings was strictly unofficial. Eventually the delegates in each convention realized the absurdity of the situation, and a compromise was reached whereby a conference committee consisting of five Republican and five Democratic delegates was formed to harmonize the proposals of each convention. Finally, on August 28, 1857, each convention adopted the committee's synthesis of the proposals advanced by the rival groups.

The fight, however, was not quite over. The president of the Democratic wing refused to sign any document containing the signature of the president of the Republican convention. Thus two copies of the constitution had to be written and signed, one by members of the Democratic convention and the other by the Republican group. As a consequence of the labor of copying being divided among a number of draftsmen, some of whom had little knowledge of spelling or punctuation, more than 300 minor differences between the two documents were later revealed. In substantive matters,

however, the two copies were the same.

Both original documents are still of equal validity; the courts have failed to specify which of them shall be referred to as the constitution; neither have they raised any question as to the existence of an original State constitution. The courts, perhaps, have been mindful that the people in ratifying the constitution thought that they were voting on just one document; and that Congress admitted Minnesota to statehood on the assumption that the two versions of the constitution were identical in meaning.^{4/}

As provided for in the constitution (either copy), an election for three Representatives was held on October 13, 1857, with William W. Phelps, James M. Cavanaugh, and George L. Becker emerging as the winning candidates. Only two, however, were permitted eventually to take their seats: Congress was to adjudge Minnesota's population as insufficient to entitle the new State to more than two Representatives. As a matter of fact, Congress was probably over generous in not restricting the representation to one Member. Senator Stephen A. Douglas, indeed, favored the seating of all three Representatives-elect, despite the fact that the statehood bill then before Congress stipulated that Minnesota be allotted only one representative until after the completion of a census of Minnesota's population; the number of Representatives would then be determined in accordance with the census findings. The issue was

^{4/} Anderson, William. A history of the constitution of Minnesota. Minneapolis, University of Minnesota, March 1921. Studies in the Social Sciences, No. 15. p. 87-110.

finally compromised in Congress by allowing Minnesota two Representatives until the next reapportionment. Inasmuch as the average congressional district in 1857 contained about 95,000 inhabitants, and it was generally acknowledged that Minnesota's population was not in excess of 150,000, it is obvious that in all equity Minnesota was entitled to only one Representative.^{5/}

Meanwhile, on December 19, 1857, the "State" legislature, even though Minnesota had not yet been admitted to statehood, elected two United States Senators: Henry M. Rice and James Shields.^{6/}

After it was determined that Minnesota's representation in the House was to be limited to two Members, the three Representatives-elect drew lots as to which of them would be eliminated. Mr. George L. Becker got the short end.^{7/} The other two gentlemen, however, were still not assured of their seats. Back in January 1858 the question of Minnesota's admission to statehood had been submitted to the two congressional Committees on Territories. Senator Douglas, chairman of the Senate committee, recommended that the admission bill be acted upon without delay in justice to the Senators-elect who, along with the Representatives-elect, had been waiting in the lobbies and anterooms of the national Capitol since the opening of the session for permission to take their seats.^{8/}

^{5/} Hubbard, Lucius F. and Return I. Holcombe, Minnesota in three centuries. [Mankato, Minn.], The Publishing Society of Minnesota, 1908. Semicentennial ed. v. 3, p. 55-59, 67-69.

^{6/} Ibid., p. 64.

^{7/} Christianson, Theodore. Minnesota, the land of shy-tinted waters. Chicago, The American Historical Society, Inc., 1935. v. 1, p. 293, 300.

^{8/} Anderson, William. Op. cit., p. 136; Hubbard, Lucius. Op. cit., p. 67; Folwell, William Watts. A history of Minnesota. St. Paul, The Minnesota Historical Society, 1924. v. 2, p. 12.

Immediate action, however, was not forthcoming. Proslavery Senators wanted Kansas to come in as a slave State before Minnesota, which was predominantly antislavery, would even be considered for admission. Senator Albert G. Brown, of Mississippi, asked: "'Do Republican Senators hope to have two more Senators on this floor to aid them in the exclusion of Kansas? If you admit Minnesota and exclude Kansas . . . the spirit of our revolutionary fathers is utterly extinct if the Government can last for one short twelve-month.'"^{9/}

Supplementary points in opposition were presented by the Democrats in general, who constituted the majority party. The Enabling Act had provided for only one Minnesota Representative in the national House, whereas in the election called under authority of the proposed constitution, three Representatives had been chosen. Any election of Representatives or other Federal officials, moreover, was invalid, since Minnesota, in their view, could hold no legitimate election until after her admission. Two other objections were that aliens had been permitted to vote in the general election, and that civilized Indians had also been accorded the right of suffrage.

Comprising the minority party, the Republicans also objected to immediate statehood, ostensibly on the ground that the proceedings of the convention had been irregular and therefore the constitution was void. The real reason was that they hoped a new election under a new constitution would return a Republican delegation to Washington. Minnesota, though antislavery, was largely Democratic in its political allegiance.

^{9/} Felwell, William Watts. Op. cit., p. 11.

Despite their own misgivings, the Democrats decided to vote for admission--they wanted additional votes in both Houses. Accordingly, the statehood bill passed the Senate on April 7, 1858; it was approved by the House on May 11, and signed by the President that same day.^{10/}

The next day, May 12, 1858, Senators Rice and Shields were sworn into office, over the objections of certain Southern Senators. Among the latter was Albert G. Brown of Mississippi, who said:

I object to the swearing in of new Senators from Minnesota . . . upon the ground that, under the written Constitution of the United States, States may elect Senators; and in that instrument there is nothing which authorizes a Territory to exercise that high prerogative of sovereignty. Until within the last hour, Minnesota was a Territory, and not a State. Congress, at its last session, authorized Minnesota to form a State constitution; but that did not constitute her a State . . .

. . . .

I have no expectation that these gentlemen will be excluded; and, since others have been admitted on the same terms, I cannot say that I am particularly anxious that they shall be excluded.^{11/}

Senator William H. Seward, of New York, replied, in part, as follows:

Mr. President, I think the objection which is taken by the honorable Senator from Mississippi is metaphysical rather than practical . . . Now the question is, how to arrive at a practical conclusion, consistent with justice, consistent with the rights and interests of the people of the States, and with the dignity and rights of the Union. Minnesota, whatever she may have been yesterday, is a State to-day, and is entitled to representation in the Senate of the United States. Two gentlemen present themselves here, and claim to be Senators from that State. . . . Is there any reasonable objection on the part of the Senate of the United States to receive Senators from Minnesota? Certainly not, for the Senate is desirous

^{10/} Ibid., p. 9-17.

^{11/} Congressional globe, 35th Congress, 1st session, vol. 27, part 3. May 12, 1858, p. 2076. Washington, John C. Rives, 1858.

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that every State shall be represented immediately on its title being established.^{12/}

The Representatives-elect had to wait a little longer. It was not until May 20, 1858, that the House Committee on Elections, to which group the Minnesotans' demands for seating had been referred, submitted a favorable report. The sanction read, in part, as follows:

An objection is urged to the right of the claimants to their seats on the ground that their election was prior to the admission of the State into the Union. In the opinion of the committee, if it be admitted that there is no force in numerous precedents scattered through the journals of Congress, and extending back to the earliest times of the republic, sanctioning this course, it should be considered that Congress, by the enabling act authorizing the formation of a constitution and State government, thereby fully empowered the people of Minnesota to prepare themselves to assume, upon their admission, all the rights, powers and attributes of a sovereign State in the Union. One of these rights is that of being represented in Congress; and were elections held prior to admission for members of the House of Representatives held void, States must remain unrepresented after their admission, and until elections can be subsequently held, presenting the anomalous spectacle of States in the Union, without representation or voice in the national councils. The act of admission into the Union, upon being consummated, relates back and legalizes every act of the territorial authorities, exercised in pursuance of the original authority conferred. As the election of members to this House looks directly to the end in view contemplated by the enabling act of Congress, the committee think it entirely within the scope of action conferred upon the people of the Territory, and should be represented by Congress.^{13/}

Two days later, on May 22, 1858, the two men from Minnesota were given their seats.^{14/}

^{12/} Ibid., p. 2076.

^{13/} U. S. Congress. House of Representatives. 35th Congress, 1st session. Minnesota election case. Report No. 408. Majority report [submitted by Thomas L. Harris], Committee on Elections. p. 2.

^{14/} Congressional Globe, v. 27, pt. 3, p. 2315.

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PARTIAL LIST OF STATES FILED OR NOT FILED FOR ADMISSION
OF STATES ENTERING THE UNION AFTER THE ORIGINAL THIRTEEN

State	Date of admission	Date specified in Constitution for the admission of the people	Date specified in Constitution for the admission of State officers and legislators	Date specified in Constitution for the admission of Representatives to Congress	Date specified in Constitution for the admission of Senators to Congress	Date of admission to the Union
Alabama	1845, 1863	Not specified in Constitution	Not specified	Not specified	Not specified	March 4, 1845
California	1850, 1850	Not specified	Let electors in May 1850, for members of State House of Representatives; State senators and Governor were to be chosen by electors, who were themselves to be elected on 1st Tuesday in May 1850; but the electors were to elect the Governor and State Senators on the 1st Tuesday of May, 1850, or on an early day thereafter as provided.	Not specified	Not specified	June 1, 1850
Florida	1845, 1865	Not specified	Not specified	Not specified	Not specified	June 1, 1845

Florida, Florida Provision, Const. of the United States Constitution, colonial charters, and other organic laws of the states, territories, and colonies now or heretofore forming the United States of America.
 Washington, Dist. Col., 1860 (St. Doc., 2nd Sess. House, Doc. No. 37), p. 72-177.
 1845, p. 177, 178, 179.
 1865, p. 319.

State	Year	Qualification	State election	Election of Representatives (a)	Election of Senators	Admission
Ohio	November 20, 1803	Not specified	2nd Tuesday of January 1804	Not specified	Not specified	March 1, 1803
Michigan	January 24, 1820	Not specified	1st Monday following the day of the date of the President's Proclamation of admission to statehood.	Not specified	Not specified	April 30, 1820
Indiana	June 20, 1816	Not specified	1st Monday in August, 1816	1st Monday in August, 1816	Not specified	December 11, 1816
Mississippi	August 1, 1817	Not specified	1st Monday, and day following, in September, 1817	1st Monday, and day following, in September, 1817	Not specified	December 10, 1817
Illinois	August 1, 1818	Not specified	3rd Thursday and the 2 succeeding days in September, 1818	3rd Thursday and the 2 succeeding days in September, 1818	Not specified	December 3, 1818
Alabama	August 2, 1819	Not specified	3rd Monday and succeeding day in September, 1819	3rd Monday and succeeding day in September, 1819	Not specified	December 14, 1819

1) Ibid., V. 3, p. 2931, 2932, 2933.
 2) Ibid., V. 3, p. 1391, 1392.
 3) Ibid., V. 2, p. 1072.
 4) Ibid., V. 4, p. 227, 203.

5) Ibid., V. 2, p. 972, 973.
 6) Ibid., V. 1, p. 96, 113, 114.

State	Agreement	Ratification	State election	Election of Representatives	Election of Senators	Admission
10] Maine	Oct. 29, 1819	Not specified	1st Monday in April, 1820	Not specified	Not specified	March 15, 1820
11] Missouri	July 19, 1820	Not specified	1st Monday in August, 1820	4th Monday in August, 1820	Not specified	August 10, 1821
12] Arkansas	January 30, 1836	Not specified	1st Monday in August, 1836	1st Monday in August, 1836	Not specified	June 20, 1836
13] Michigan	June 2, 1836	1st Monday and succeeding day in October, 1836	1st Monday and succeeding day in October, 1836	1st Monday and succeeding day in October, 1836	Not specified	January 26, 1837
14] Florida	January 21, 1845	1st Monday in May, 1845	Continued upon congressional approval of admission, election to be held on the 1st Monday after the lapse of 30 days following the President's proclamation of admission	Same as for State election	Not specified	March 3, 1845

10] *Ibid.*, V. 7, p. 4172, 427

11] *Ibid.*, V. 7, p. 2130, 2131

12] *Ibid.*, V. 1, p. 260

13] *Ibid.*, V. 4, p. 1942; Dorr Harold H., ed. *The Michigan Constitutional Conventions of 1835-1836*. Ann Arbor, University of Michigan Press, 1940. p. 27.

14] *Thorpe, Francis Newton. Op. cit.*, V. 2, p. 404, 402-402.

State	Constitution	Constitution	State election	Election of Representatives	Election of Senators	Admission
Missouri	August 27, 1845	2nd Monday of October, 1845	Same in art. upon ratification, 2nd Monday in December, 1845	"as early as practicable" after its organization, the Legislature was "to provide for the election of Representatives"	"as early as practicable" after its organization, the Legislature was "to provide for the election of Representatives"	December 29, 1845 "to proceed to elect [U.S.] Senators."
Iowa	July 18, 1845	Not specified	Not specified	Not specified	Not specified	December 22, 1846
Michigan	September 1, 1846	2nd Monday in March, 1846	2nd Monday in May, 1846	2nd Monday in May, 1846	Not specified	May 29, 1847
California	October 13, 1849	November 13, 1849	November 13, 1849	November 13, 1849	Within 4 days after organization of State Legislature, which was to convene for the first time on December 15, 1849, providing constitution was ratified.	September 9, 1850

183 Idem., v. 1, p. 374-387
 184 Idem., v. 2, p. 1123-1130
 185 Idem., v. 7, p. 4074, 4094-4097
 186 Idem., v. 1, p. 371, 405-407.

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State	Adjournment	Ratification	State election	Election of Representatives	Election of Senators	Admission
20] Minnesota	August 29, 1857	2nd Tuesday in October (the 13th), 1857	October 13, 1857	October 13, 1857	Not specified	May 11, 1858
20] Oregon	September 23, 1857	2nd Monday in November, 1857	Continued upon ratification of constitution, 1st Monday in June, 1858	Same as for State election	Legislature was to convene the first Monday in July, 1858, "and proceed to elect two Senators in Congress"	February 14, 1859
21] Kansas	July 27, 1859	1st Tuesday in October, 1859	Continued upon ratification of constitution, first Tuesday in December, 1859	Same as for State election	Not specified	January 27, 1861
19] 20] 21]	<u>Ibid.</u> , v. 4, p. 1900, 2022. <u>Ibid.</u> , v. 5, p. 3013, 3014. <u>Ibid.</u> , v. 2, p. 1241, 1259.					

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State	Adjoins	Ratification	State election	Election of Representatives	Election of Senators	Admission
West Virginia 23	February 19, 1863	Not specified	Not specified	Not specified	Not specified	June 19, 1863
Nebraska 25	July 25, 1864	Not specified in the constitution itself, but an election ordinance approved by the constitutional convention and reported to the constitution on July 25, 1864, provided that the constitution be submitted to the people on the 1st Wednesday of September, 1864. This date was later postponed by an act of Congress of July 21	Not specified in constitution itself; election ordinance of July 25, 1864, however, specified the day after the first Monday in November, 1864	Same as for State election	Not specified	October 31, 1864
Nebraska 24	June 9, 1866	June 2, 1866	June 2, 1866	June 2, 1866	Not specified	March 1, 1867

23 1863, p. 7, p. 312-313.

24 1864, p. 23; see also Official report of the debates and proceedings in the constitutional convention of the State of Nebraska. San Francisco, Frank Beckman, printer, 1864, p. 35, 352-353

25 Same, Francis Sawyer. Op. cit., p. 4, p. 2350-2353.

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State	Adjournment	Ratification	State election	Election of Representative (r)	Election of Senators	Admission
Colorado 251	March 11, 1876	Not specified	1st Tuesday in October, 1876	"... at the first election under this constitution 1st Tuesday in October, 1876"	Not specified	August 1, 1876
North Dakota 252	August 17, 1889	1st Tuesday in October, 1889	Same as for ratification	Same as for ratification	"Legislative assembly after organizing shall proceed to elect two senators of the United States..."	November 2, 1889
South Dakota 272	August 1, 1889	October 1 (Tuesday), 1889	Same as for ratification	Same as for ratification	"Immediately after the organization of the Legislature and taking the oath of office by the State officers, the Legislature shall then and there proceed to the election of two Senators of the United States."	November 2, 1889
Montana 280	August 17, 1889	1st Tuesday of October, 1889. (Not in constitution proper, but date was specified in separate ordinance adopted by the constitutional convention.)	1st Tuesday of October, 1889 (in ordinance rather than in constitution.)	1st Tuesday in October, 1889 (date specified in ordinance and constitution)	Not specified	November 2, 1889

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25] Ibid., v. 1, p. 451, 456, 492, 511.

26] Ibid., v. 1, p. 2092, 2092, 2094.

27] Journal of the constitutional convention of South Dakota. Sioux Falls, C.D. Brown and Seeger, Printers and Binders, 1889. p. 212, 217.

28] Harpe, Francis Newton. Op cit. v. 4, p. 2310, 2359--2340.

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State	Appointment	Ref. location	State election	Election of Representatives (a)	Election of Senators	Admission
Washington	August 22, 1889	1st Tuesday of October, 1889	Same as for ratification	Same as for ratification	Not specified	November 11, 1889
Idaho	August 22, 1890	Tuesday next after the 1st Monday in November, 1890	Not specified (an election was to be called by the territorial governor (or the next qualified person) after Idaho's admission as a State)	Not specified	Not specified	July 3, 1890
Utah	September 30, 1890	1st Tuesday in November, 1890	Not specified (an election was to be called by the territorial governor (or the next qualified person) after Utah's admission as a State)	Not specified	Not specified	July 20, 1890
Montana	May 8, 1889	Thursday next after the 1st Monday in December, 1889	Same as for ratification	Same as for ratification	Not specified	January 8, 1889

- 293 Enc., v. 7, p. 297, 298, 299.
 294 Enc., v. 3, p. 247, 250.
 295 Enc., v. 7, p. 211, 212.
 296 Enc., v. 3, p. 271, 272-273.

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State	Act Summary	Admission	Date of Election	Number of Representative (r)	Number of Senators	Admission
Alabama	July 1, 1868	Sept. 17, 1867 (provisional, not in constitution prior to 1868, but in a separate election a. d. 1868. The constitution of Alabama on Sept. 17, 1867 was amended by state convention on Sept. 17, 1867.	None	None	None	November 1, 1867
Arizona	February 21, 1912	March 21, 1912	Not specified; the constitution was approved by Congress, or if the territory was not approved, the territory is a error, which is the result of the President's action of Sept. 1, 1912, when he issued a proclamation calling a general election.	None	None	January 1, 1912

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State	Adjournment	Ref. Section	Date Election	Election of Representative (s)	Order of Succession	Admission
Arizona	December 9, 1910	Not specified in constitution; the convention delegates, however, fixed upon February 9, 1911, as the date for ratification or rejection.	Not specified, but constitution states that election date would be in accordance with provisions of the Enabling Act of June 20, 1907, which limited the date to a date not earlier than 90 days nor later than 93 days after territorial governor's proclamation announcing Federal approval of constitution and calling for election of State officers and congressional representation.	Date set for State election	Not specified	February 14, 1912

35] Constitution of the State of Arizona adopted by the constitutional convention held at Phoenix, Arizona, from October 17th to December 9, 1910, and amendments subsequently adopted. Compiled by Gen. P. Cronin, State Law Legislative Reference Division in collaboration with C.O. Case, Superintendent of Public Instruction, Phoenix, Arizona, May 1, 1921. p. 43; 36 Stat. 371-372; Van Patten, Howard Robinson. The Constitution and Government of Arizona. Phoenix, John-Lester Printing and Publishing Co., 1921 p. 29.

William H. Tanhill
 Government Division
 December 20, 1955

ELECTION DATES SPECIFIED IN CERTAIN STATE CONSTITUTIONS

State	Date constitutional convention adjourned	Date specified in constitution for its ratification or rejection	Date specified in constitution for initial election of state officers and Legislature	Date specified in constitution for initial election of Representative (s) to Congress	Date specified in constitution for initial election of U.S. Senators	Date of admission to statehood
California ^{1]}	Oct. 13, 1849	Nov. 13, 1849	Nov. 13, 1849	Nov. 13, 1849	Within 4 days after organization of State legislature, which was to convene for the first time on Dec. 15, 1849, providing constitution was ratified.	Sept. 9, 1850
Michigan ^{2]}	June 24, 1835	First Monday, and succeeding day, in October, 1835	First Monday, and succeeding day, in October, 1835	First Monday, and succeeding day, in October, 1835	No date specified	Jan. 26, 1837
Tennessee	February 6, 1796	Not submitted for ratification	Second Thursday, ^{3]} and succeeding day in March, 1796	No date specified	No date specified	June 1, 1796
Iowa ^{4]}	May 18, 1846	No date specified	No date specified	No date specified	No date specified	Dec. 28, 1846

1] Thorpe, Francis Newton, comp. The Federal and State Constitutions, colonial charters, and other organic laws of the States, territories, and colonies now or heretofore forming the United States of America. Washington, Govt. Print. Off., 1909 (59th Cong., 2nd sess. House. Doc. No. 357), V.1, p. 391, 405-406.

2] Ibid., V. 4, p. 1942; Porr, Harold M., ed. The Michigan Constitutional conventions of 1835-36. Ann Arbor, The University of Michigan Press, 1940. p. 26.

3] Thorpe, Francis Newton, Op. cit., V. 6, p. 3415.

4] Ibid., V. 2, 1123-1136.

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State	Adjournment	Ratification	State election	Election of Representatives	Election of Senators	Admission
Oregon 5]	Sept. 18, 1857	Second Monday of November, 1857	Contingent upon ratification of constitution, first Monday in June, 1858	Contingent upon ratification of constitution, first Monday in June, 1858	Legislature was to convene the first Monday of July, 1858, "and proceed to elect two Senators in Congress"	Feb. 14, 1859
Kansas 6]	July 29, 1859	First Tuesday in October, 1859	Contingent upon ratification of constitution, first Tuesday in December, 1859	Contingent upon ratification of constitution, first Tuesday in December, 1859	No date specified	Jan. 29, 1861

5] Ibid. V. 5, p. 3016, 3018.

6] Ibid. V. 2, p. 1241, 1259.

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11/28/55