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Admission of states without prior enabling acts, election of Representatives and appointing Senators before admission and similiar information as recorded in the Library of Congress.

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ELECTION OF CONGRESSIONAL DELEGATIONS PRIOR
TO THE ACCORDING OF STATEHOOD

I. Introduction

Fifteen geographical units of the United States entered the Union without the prior authority of enabling acts. Nine were organized Territories: Arkansas, Florida, Idaho, Iowa, Kansas, Michigan, Oregon Tennessee, and Wyoming. Four had been parts of other States, and were admitted as separate entities; these were Kentucky (fashioned from territory formerly within the jurisdiction of Virginia); Maine (from Massachusetts); Vermont (from New York); and West Virginia (from Virginia). Another political entity--Texas--was an independent republic prior to its annexation by the United States; and its "enabling act" was incorporated in the joint resolution of annexation, part of which states: "...First, said State to be formed...; and the constitution thereof, with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the first day of January, one thousand eight hundred and forty-six..."^{1/}

Still another geographical unit, California, was an unorganized area subject to the hegemony of a United States Army general who served as de facto governor.

^{1/} Act of March 1, 1845 (5 Stat. 797 Sec.2).

It appears that in six of these areas--Michigan, California, Oregon, Tennessee, Kansas, and Iowa--Representatives and Senators were elected to the national Congress before such areas were formally admitted to statehood. In a seventh area--the Territory of Minnesota--Senators and Representatives were elected after the passage of an enabling act and the framing of a constitution, but before the Territory was allowed to become a State.

One of the most curious phenomena associated with the history of these areas and Territories prior to their acquisition of statehood was the relative indifference with which Congress and the people--within the interested areas and throughout the Nation--reacted to the election of congressional delegations prior to admission to statehood of the areas which they were to represent. At no time was such action considered revolutionary or even excessively "audacious". In some quarters it was regarded as clever or unseemly or not quite "cricket", but no one apparently became unduly exercised. One hundred and nineteen volumes of local history (very few contemporary newspapers are housed in the Library of Congress) were examined in an effort to ascertain popular attitudes; and to capture congressional viewpoints, local histories, political biographies and memoirs, and the Annals of Congress, the Register of Debates, the Congressional Globe, and numerous congressional Journals and Reports were perused. From such studies the present reviewer has concluded that partisan political considerations, the terrible division engendered by the slavery controversy, and the question of adequate population were immeasurably more important than "premature" elections as issues in the debates on statehood.

II. Admission of the Bold

A. Tennessee

Tennessee originally constituted the "western territory" of North Carolina. In 1789 North Carolina ceded the area to the Federal Government; in April of the next year Congress accepted the cession,^{2/} and in the following month passed an act for the government of the "Territory south of the River Ohio."^{3/} Until its entry into the union, the area was to be known popularly as the "Southwest Territory".

Sentiment for statehood, widely manifested from the beginning of territorial status, forced an initially reluctant governor to call for the election of delegates to a convention for the purpose of drafting a state constitution. On January 11, 1796, the delegates convened; on February 6, 1796, their work was finished. Before adjourning, on the latter day, they unanimously approved their handiwork. "They did not submit it (the constitution) to the people for approval, but themselves decreed it to be in effect."^{4/}

Three days after the convention closed, Territorial Governor William Blount dispatched a letter to Timothy Pickering, U.S. Secretary of State, in which he advised the Secretary that Tennessee anticipated early admission to the family of States.

'As Governor, it is my duty, and as President of the Convention, I am instructed, by a resolution of that body, to forward to you, express, a copy of the constitution formed for the permanent government of

^{2/} 1 Stat. 106.

^{3/} 1 Stat. 123.

^{4/} Hamer, Philip M., ed. Tennessee: A history, 1673-1932. New York, American Historical Society, Inc., 1933. V. 1. p. 170-172.

the State of Tennessee, which you will herewith receive by the hands of Major Joseph McMinn...

'The sixth section of the first article will inform you that the first General Assembly to be held under this constitution is to commence on the last Monday in March next. The object of the Convention, in determining on this early day, is a representation in the Congress of the United States before the termination of the present session....'5/

The new legislative assembly convened under the authority of the constitution on March 28, 1796. It chose William Blount and William Coker as United States Senators and provided for the election of two Members of the national House.^{6/} Less than two weeks later President Washington submitted the new Tennessee constitution to Congress, without recommendation but with implied approval:

'By an Act of Congress passed on the 26th of May, 1790, it was declared that the inhabitants of the Territory of the United States south of the River Ohio, should enjoy all the privileges, benefits and advantages set forth in the ordinance of Congress for the government of the Territory of the United States northwest of the River Ohio, and that the Government of the said Territory south of the Ohio, should be similar to that which was then exercised in the Territory northwest of the Ohio, except so far as was otherwise provided in the conditions expressed in an Act of Congress, passed the 2d of April, 1790, entitled "An Act to accept a cession of the claim of the State of North-Carolina to a certain district of Western Territory.

'Among the privileges, benefits and advantages thus secured to the inhabitants of the Territory south of the River Ohio, appear to be the right of forming a permanent Constitution and State Government, and of admission, as a State, by its delegates

5/ Ramsey, J.G.M. The annals of Tennessee. (Kingsport, Tenn., Kingsport Press, 1926). p. 669-670

6/ Abernethy, Thomas Perkins. From frontier to plantation in Tennessee a study in frontier democracy. Chapel Hill, The University of North Carolina Press, 1932. p. 138.

(Senators and Representatives), in the Congress of the United States, on an equal footing with the original States, in all respects whatever, when it should have therein sixty-thousand free inhabitants; provided, the Constitution and Government so to be formed, should be republican, and in conformity to the principles contained in the articles of the said Ordinance.^{7/}

....

On May 6, 1796 the House of Representatives adopted a resolution to admit Tennessee. The favorable vote was not unexpected: the House predominantly Jeffersonian, expected, and correctly so, that Tennessee would support the Jefferson ticket in the election of 1796. The Federalist Senate, however, employed delaying tactics and Tennessee was forced to wait nearly a month before acquiring statehood.^{8/}

In the meantime, Mr. Cocke, Senator from Tennessee, had put in an appearance in the Nation's capital. His arrival, it appears, inspired some degree of hostility and ridicule, but hardly indignation. One of the few manifestations of ill-will is to be found in a letter from Chauncey Goodrich to Oliver Wolcott, penned May 13, 1796:

One of their spurious senators has arrived, and a few days since went into the Senate and claimed his seat, by virtue of the credentials from our new sister Tennessee, as she is called, and the rights of man. As the former was a new kind of coin, and the latter has been often declared, and even counterfeited by rogues and rascals, a majority of the up stair folks determined to take time to inspect both, and with some difficulty persuaded the bearer to leave them. Mr. Burr and his associates are quite zealous for a declarative resolution of their present right. ... No doubt this is one twig of the electioneering cabal for Mr. Jefferson.

^{7/} Ramsey, J.C.M., *Op. cit.*, p. 670

^{8/} Hamer, Philip H., *Op. cit.*, p. 180; Williams, Samuel C. The admission of Tennessee into the Union. Nashville, The Tennessee Historical Commission, 1945. p. 15-21.

It probably originated from the quarter where much mischief is brewed. It threatens disquiet to that country, and vexation to the government.^{9/}

On May 6, 1796 the House adopted a resolution to admit Tennessee; eight days later, however, the Senate refused to concur. On May 23 the Senate received communications from Blount and Cocke to the effect that they were legally entitled to seats as Senators.^{10/} Their arguments proved unavailing; the Senate refused to recognize them as Senators, and instead, ordered that they "be received as spectators, and that chairs be provided for that purpose until the final decision of the Senate shall be given on the bill proposing to admit the Southwestern Territory into the Union." The motion carried, by a vote of 12 to 11.^{11/}

The Senate, predominantly Federalist and fearful of Republican influence in Tennessee, happily adopted on May 26 a committee report which declared that "Congress must have enacted in advance that the whole of the North Carolina cession be one State before the inhabitants thereof could claim admission into the Union, and that, had the formation of the whole of the territory into one State been authorized by Congress, the census ought to have been taken under the authority of Congress."^{12/} (A census had been taken earlier, but under the authority of the Territory).

But the Senate, under the wily politicking of Aaron Burr, friend of Thomas Jefferson, finally agreed to a compromise proposed by the statehood proponents in the House to the effect that Tennessee be admitted,

^{9/} Gibbs, George, ed. *Memoirs of the Administrations of Washington and John Adams*, edited from the papers of Oliver W. Olcott. New York, printed for the subscribers (by William van Norden, Printer, 1846). p.338-339. Goodrich was a Connecticut Representative; Wolcott was Lt. Governor of Connecticut.

^{10/} Hamer, Philip M., *Op. Cit.*, p. 180-181.

^{11/} *Annals of Congress*, U.S. 4th Congress, 1st Session. p. 103.

^{12/} Hamer, Philip M., *Op. cit.*, p. 180-181.

but that her representation in the House be reduced to one Member instead of two.^{13/} On June 1, 1796 the statehood bill was approved by the President, and Tennessee became the sixteenth State.^{14/}

Immediately before the session closed (on June 1, 1796), and on the very day that Tennessee entered the Union, Senator Alexander Martin of North Carolina moved that Blount and Cocke, who had produced credentials, be seated as Senators. The motion was defeated by a vote of 10 yeas to 11 nays.^{15/} The two Houses earlier had agreed that the election of members to either branch of the national legislature was not valid until such election has been definitely sanctioned by the Federal Government. Governor Sevier, therefore, had to call a special session of the legislature to stage another senatorial election and to provide for the election of one congressman. Blount and Cocke were again elected Senators, while Andrew Jackson won in the popular contest for United States Representative.^{16/}

B. Michigan

Pursuant to an act of the Michigan territorial legislature, an election of the delegation to a constitutional convention was held on April 4, 1835. The delegates assembled in May and concluded their labors on June 24, 1835. In the ratifying election conducted in October of the same year, 6,299 votes out of a total of 7,658 were cast in favor of

^{13/} Williams, Samuel C., Op. cit., p. 22-25.

^{14/} 1 Stat. 491.

^{15/} Annals of Congress, v. 5, 4th Congress, 1st Session. p. 120-121.

^{16/} Abernethy, Thomas Perkins, Op. cit., p. 138-140

adopting the constitution. At the same time, a governor and a State legislature were elected; and Isaac E. Crary was elected as Michigan's first Representative in the national Congress. ^{17/}

On November 2, 1835, the date set by the constitution, the State legislature convened, and proceeded to elect two United States Senators: Lucius Lyon and John Norvell. Each, however, was to wait more than a year--until January 26, 1837, the day Michigan was finally admitted to statehood--before being accorded a seat.

Two factors were especially responsible for delaying statehood. The congressional delegation from Ohio deeply resented Michigan's refusal to be conciliatory in a boundary dispute over the Toledo area (later awarded to Ohio) and reacted by opposing Michigan's admission to statehood. The second major cause for delay stemmed from the slavery issue forcing a "pairing" of Michigan and Arkansas as potential States. ^{18/}

"Not only did the opponents of admission delay action on Michigan's case, but they seized upon every opportunity to air their grievances, to incite prejudices, and to alienate support. Such an opportunity presented itself in the opening days of the session (the first session of the 24th Congress began December 7, 1835) when Michigan's representative and senators appeared with requests for recognition. As had been anticipated, these requests were denied, and the state found itself at a critical period without an official representative in Congress. But hardly less important were

^{17/} Michigan Constitutional Convention, 1835. The Michigan Constitutional Conventions of 1835-36; debates and proceedings. Edited by Harold M. Dorr. Ann Arbor, The University of Michigan Press, 1940. p. 14-32.

^{18/} Ibid., p. 33-35

the consequences of their appearances before the houses. The very fact that they represented themselves as duly elected members of Congress afforded her enemies an opportunity to question Michigan's status and openly criticize her course of action. The opposition maintained that to accord special privileges to Lyon, Norvell, and Crary would be equivalent to an act of admission and an acceptance sub silento of Michigan's boundary claims and the 'right-to-admission' arguments. ..."^{19/}

On December 10, 1835 Senator Thomas H. Benton of Missouri moved that the courtesy of the Senate be extended to the "new" Senators by assigning seats to them. After several objections were presented, essentially on the ground that admission to seats might signify the right of the gentlemen to such seats, the motion, on December 15, 1835, was tabled.^{20/}

In the House, Representative Samuel Beardsley of New York introduced a motion, late in December of 1835, that the Representative-elect from Michigan be permitted to take a seat on the floor of the House during the proceedings of that body. A few days later, on December 30, he amended the motion to the effect that Mr. Crary be permitted merely to enter the hall "in the character of a spectator." Mr. Beardsley reminded his colleagues of the precedent established in the case of Tennessee. After objection to the motion was made, the rules of the House were suspended, by a vote of 133 to 47; and his motion was then tabled.^{21/}

^{19/} Ibid., p. 35-36.

^{20/} Register of Debates, v. 12, 24th Congress, 1st Session. p. 8-11.

^{21/} Register of Debates, v. 12, 24th Congress, 1st Session. p. 2102-2103.

On June 15, 1836 an act of Congress admitting Michigan was approved,^{22/} provided that a redefining of her boundaries (to Ohio's advantage) be accepted by a Michigan convention established to pass upon this question. A convention was duly formed, but it refused to comply with the demands of Congress. A second convention was then elected, and it finally agreed to the boundary settlement. Its message of assent was forwarded to the President, who transmitted it to Congress. Both Houses thereupon approved^{23/} the new statehood bill, and on January 26, 1837 the President signed it.

C. Iowa

The movement in Iowa for statehood began in 1839. The people at that time were opposed to admission; they were satisfied with the amount of liberty they enjoyed under territorial status, and they believed they were not ready for the increase in taxes which statehood would entail. In 1844 Iowa had grown in population and wealth to such an extent that popular opinion changed in favor of statehood. In October of that year a state constitution was drafted and immediately forwarded to Washington, before the people had an opportunity to ratify it. In Congress, consideration of statehood for Iowa was coupled with the question of admitting Florida. The same bill provided for the admission of both Territories. It was the established custom for Congress to admit new States in pairs; and the free Territory of Iowa was paired with the above Territory of Florida to maintain the balance. But when the Iowa portion came up for debate, free state advocates demanded that the Territory of Iowa be carved into

^{22/} 5 Stat. 49.

^{23/} 5 Stat. 144.

at least three States. The boundaries of Iowa consequently were reduced, making the Territory about two-thirds its present size. Congress thereupon approved the bill and the President signed it on March 3, 1845.

When news reached the people that Congress had voted for statehood but had trimmed Iowa's boundaries, many of those who had supported statehood turned against the movement. The constitution, as a result, was rejected. In May 1846 another constitutional convention was called. Meanwhile, the Territorial Delegate succeeded in having Congress agree to compromise on the boundary question. The boundaries accepted by Congress were the same as those insisted upon by the new convention and thus the last hurdle to statehood was cleared. ^{24/}

On August 3, 1846 the new Iowa state constitution was ratified by the slim margin of 456 votes out of a total of 18,528 cast. The general state election was held October 26, 1846. "That the election might be declared void because the United States had not yet officially admitted Iowa as a State does not seem to have occurred to anyone and the election was duly held." ^{25/}

In this election, the Governor and two Representatives to Congress (as well as other officials) were chosen. The representatives-elect were S. Clinton Hastings and Shepherd Leffler. They were in Washington the day Iowa was admitted (December 28, 1846), ^{26/} they took their seats the next day.

^{24/} Petersen, William J. The story of Iowa; the progress of an American State. New York, Lewis Historical Publishing Co., Inc., 1952. V. 1, p. 336-346.

^{25/} Ibid., p. 346-348. Underlining supplied.

^{26/} 9 Stat. 117.

Iowa was denied representation in the United States for nearly two full years--until December 7, 1848--simply because the state legislators insisted upon playing politics to a rather fanatical extreme. ^{27/}

D. California

Mexico ceded California to the United States in 1848 under the terms of the Treaty of Guadalupe Hidalgo. California thereupon was subjected simultaneously to military law, Spanish law, and American law. Much of the time, nevertheless, there was no law at all. The gold rush brought in its wake so many undesirables that vigilante groups became much in evidence. The great influx of population, with its attendant problems, quickly inspired a demand for stable, civilian government. ^{28/}

On June 3, 1849 General Bennet Riley, Governor of California, issued a proclamation calling for a constitutional convention. Election of delegates was held August 1, 1849; the convention assembled at Monterey on September 1, 1849.

According to the Riley proclamation, California's government at that time was not a military one inasmuch as the only military officer connected with the government was the Governor himself; and his acts stemmed from his capacity as civil governor, not as a brigadier general.

The convention closed on October 13, 1849; on November 13 of the same year a general election was held to ratify or reject the newly drafted constitution, and to elect a governor, lieutenant governor, two congressmen, and the members of the state legislature.

^{27/} Petersen, William J. Op. cit., p. 348-349; Cole, Cyrenus. Iowa--through the years. Iowa City, The State Historical Society of Iowa, 1940. p. 187-188.

^{28/} Caughey, John Walton. California. New York, Prentice-Hall. 1940, p. 329-332; Hicks, John D. The Federal Union. Boston, Houghton-Mifflin, 1937. p. 532-541; Federal Writers' Project. California: a guide to the Golden State. New York, Hastings House (1949). p. 52-53.

Edward Gilbert and George W. Wright were elected as California's first Representatives, even though the area still had not attained statehood. A month later, the new legislature elected John C. Fremont and William M. Gwin as United States Senators.^{29/}

In January 1850 the California delegation left for Washington to urge that the new "state" be granted immediate admission. The presence in Washington of the Californians was "regarded by some of both sections, but especially by the south, as unwarranted, even impertinent."^{30/}

And

in February [1850], and before [Henry] Clay presented his resolutions, the senators and representatives elected from the new state of California . . . presented a carefully prepared memorial, apparently written by [Representative-elect Edward] Gilbert, in which they reviewed the history of the new state. . . . A state government, and such a system of measures as a state legislature alone could enact, was imperatively necessary. The neglect of Congress had forced California to form such a government. Its people had in no way been urged to it by General Riley; but on the contrary, had themselves taken the initiative, accepting his suggestion only as a matter of convenience and to save time. . . . They did not present themselves as supplicants, nor with arrogance or presumption. They came as free American citizens -- citizens by treaty, by adoption, and by birth -- and asked for a common share in the common benefits and common ills, and for opportunity to promote the general welfare as one of the United States.^{31/}

When California's bid for Federal recognition was received by Congress, an eight-months' debate was touched off. Proslavery congressmen bitterly fought the admission of a new free State. Statehood opponents charged,

^{29/} Eldredge, Zoeth Skinner, ed. History of California. New York, Century History Co. [1915?], p. 278-374.

^{30/} Bancroft, Hubert Howe. The works of Hubert Howe Bancroft, v. 23. History of California, v. 6. San Francisco, The History Co., Publishers, 1888. p. 342.

^{31/} Eldredge, Zoeth Skinner, op. cit., p. 395-396.

among other complaints, that the new "state" and its constitution had been "concocted" by President Taylor through Governor Riley, and that Californians as a group comprised ill-mannered adventurers and ruffians who had not bothered to wait for an enabling act. The South was so strong in its denunciation of the proposed admission that talk of secession was heard in more than one Southern State. Before hotheads could precipitate the Civil War, Henry Clay offered his famous "deal," and the Union was saved for another decade. As a result of this Compromise of 1850, California, on September 9, 1850(9 Stat. 452), was admitted as a free State while New Mexico and Utah were created Territories without mention of slavery.^{32/}

E. Oregon

When Oregon came up for admission in 1858, a number of Republicans in Congress opposed the move. They pointed out that the proposed state constitution barred free negroes from immigrating into the prospective state; that the population was insufficient; and that an enabling act had not been passed. A far more sincere objection stemmed from political considerations. The Democrats in Congress wanted Oregon to come in, despite the probability that it would do so as a free state, simply because the new state would bring two more Democrats into the Senate and add one in the House. The Republicans did not enjoy the prospect, especially on the eve of a Presidential election. Many Republicans, moreover, were distressed by the behavior of the Delegate from Oregon, Joseph Lane. Lane was a Democrat, but Oregon Democrats were not

^{32/} Caughey, John Walton. Op. cit., p. 330-332; Hicks, John D. Op.cit., p. 535-541; Federal Writers' Project, Op.cit., p. 52-53.

expected to be sympathetic to the slavery interests. Lane, however, sided, and not too secretly, with the ultra-Southern leaders, even going so far as to support the infamous Lecompton Constitution of Kansas. Some Republicans in the House therefore insisted that Oregon, which might return a proSouthern delegation as a result of Lane's influence, wait until Kansas could shed itself of its corrupt proslavery elements and enter the Union with a Republican delegation.^{33/}

The Oregon constitutional convention assembled on August 17, 1857; it adjourned September 18, 1857. The resultant constitution was voted upon in a special election held November 9, 1857. The vote revealed 7,195 persons favorably disposed, with 3,215 in opposition. The constitution itself provided that, once the instrument had been ratified, another special election was to be held in June 1858 for election of members of the legislative assembly, of state and county officers, a Representative in Congress, etc. It also called for a special session of the new legislative assembly to be convened in July 1858 for the purpose of electing two Senators to the national Congress.

Lafayette Grover was elected as a Representative in the June 1858 election; and the next month the state legislature chose Joseph Lane and Delazon Smith as United States Senators. Smith and Grover left immediately for Washington, in anticipation of early admission of Oregon to statehood; Lane, Territorial Delegate, was already at the Nation's capital.^{34/}

^{33/} Bancroft, Hubert Howe. History of Oregon. San Francisco, The History Co., Publishers, 1890. V.2, p. 423-441.

^{34/} The Oregon constitution and proceedings and debates of the constitutional convention of 1857. Edited by Charles Henry Carey. [Salem, Oregon, State Printing Department, 1926]. P. 27-41.

In May 1858 the Senate passed the Oregon statehood bill. Very few Republicans voted for it. The Democrats assented because they wanted to increase their voting strength in Congress and in the Electoral college. Before the House could reach a vote, the session adjourned -- in June. ^{35/}

While awaiting the reconvening of Congress, the Oregon hopefuls "diligently sought out and interviewed the members of both houses, and were eager to get their seats and to begin drawing their pay." ^{36/} In a letter he wrote in November 1858 to a friend back in Oregon, Delazon Smith revealed his own activities on behalf of statehood and the reaction in Washington to such efforts:

'You may bet high on the admission of Oregon early in the session. I have seen every member now in the city, and you better believe I have "labored" with them! Everybody is for us. The sergeant-at-arms of the Senate has had desks, chairs, etc., made for the Oregon senators, and they will occupy them before the close of the tenth day of the session. . . . I must say, in all candor, that I derive but very little satisfaction from the perusal of our Oregon papers. It requires more labor here in Washington to counteract the influence of the Oregon press than it does to meet and vanquish all its other enemies! If we talk about the admission of Oregon, the payment of our war debt, etc., we are told to look at the declarations contained in the Oregon newspapers! ^{37/} [A number of Oregon newspapers, including the influential Salem Statesman, held that the Territory's population was too small to merit statehood. ^{38/}

Back in May 1858, Senator Alfred Iverson of Georgia indicated that he detected nothing reprehensible in a Territory electing Senators and Representatives prior to the attainment of statehood, provided the Territory could boast a "representative" population:

^{35/} Ibid., p. 41-46; Bancroft, Hubert Howe. Oregon. Op. cit., p. 439-441.

^{36/} Oregon constitution. Op. cit., p. 46.

^{37/} Ibid., p. 47. Underlining supplied.

^{38/} Ibid., p. 46-47.

[Oregon] can order a census, and between now and then it can be ascertained whether she has the representative population or not, and then we can admit her. In the meantime the State may, if she has the requisite number of people, go on and elect her Senators and Representatives to Congress in advance of her admission, as Minnesota did, and has been done heretofore by other States, and we could finally admit the State at the next session, having the requisite population, and we could permit her Senators and Representatives to take their seats. ^{39/}

The House finally approved the statehood bill on February 12, 1859, but only after a group of fifteen Republicans decided that admission was preferable to keeping Oregon subject to the possibility that proslavery interests would triumph in the Territory. ^{40/} Two days later, President Buchanan signed it into law. ^{41/}

F. Kansas

Kansas and Nebraska both became Territories by the Act of May 30, 1854. It was understood in many quarters that Kansas would develop into a slave state and that Nebraska would remain free: the balance of power between the free and slave factions would thus be preserved. The hope was short-lived. A virtual civil war erupted between the "Free-Soilers" and proslavery elements. Each faction elected its own legislature. Gradually the proslavery party lost its influence, and by 1859 the Free State group secured the upper hand. In these turbulent years three constitutions, including the notorious and fraudulent

^{39/} Congressional Globe, 35th Congress, 1st Session, May 5, 1858, p. 1967.

^{40/} Bancroft, Hubert Howe. Oregon. Op cit., p. 439-441.

^{41/} 11 Stat. 383.

Lecompton Constitution proposed in 1857 by proslavery interests, had been framed but not ratified by the electorate. A fourth constitution was finally drafted by a fourth convention (the "Wyandotte"), and on October 4, 1859 was accepted by the people in a popular referendum; affirmative ballots constituted a majority of 4,891 votes out of a total cast of 15,951.^{42/}

On November 8, 1859 a Territorial election was held to choose again a Delegate in Congress (Kansas had been represented for some years by a Delegate) as well as a new Territorial legislature. Then, on December 6, 1859, an election was held for State officers, a State legislature, and a Representative in Congress. "Thus was made ready a State Government for Kansas."^{43/}

There was no "premature" election of Senators by the legislature; the Territorial legislature continued to function until statehood became a reality; the State legislature, which was scheduled to perform the task of selecting the Senators, was purposely held in suspension until after the Territory's admission to statehood.

In the election of December 6, 1859, Martin F. Conway was elected to the national House of Representatives. Apparently, he did not leave Kansas for Washington in December 1859; it is likely that he did not appear in the capital city until shortly before Kansas was admitted to statehood.^{44/}

^{42/} Federal Writers' Project. A Guide to the Sunflower State. New York, Hastings House [1949]. P. 47-53; Spring, Leverett Wilson. Kansas: the prelude to the war for the Union. Boston, Houghton-Mifflin [1907]. P. 264

^{43/} Connelly, William E. History of Kansas: State and people. Chicago, The American Historical Society, Inc., 1928. V. 2, p. 597.

^{44/} Spring, Leverett Wilson. Op. cit., p. 264.

In January 1861 Congress passed the bill providing for the admission of Kansas as a free State, and on January 29 of the same year the President signed it.^{45/} The passage of the bill was made possible by the withdrawal of the proslavery Southerners from the Congress on the eve of the war between the States.^{46/}

^{45/} 12 Stat. 126.
^{46/} Federal Writers' Project. Kansas. Op. cit., p. 52-53

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