

Sec. 2—Interstate Comity

Cl. 3—Fugitives From Labor

master or the slave; by it the state simply prescribed a rule of conduct for its own citizens in the exercise of its police power.²⁵⁷

SECTION 3. Clause 1. New States may be admitted by the Congress into this Union; but no new State 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.

DOCTRINE OF THE EQUALITY OF STATES

"Equality of constitutional right and power is the condition of all the States of the Union, old and new."²⁵⁸ This doctrine, now a truism of constitutional law, did not find favor in the Constitutional Convention. That body struck out from this section, as reported by the Committee on Detail, two sections to the effect that "new States shall be admitted on the same terms with the original States. But the Legislature may make conditions with the new States concerning the public debt which shall be subsisting."²⁵⁹ Opposing this action, Madison insisted that "the Western States neither would nor ought to submit to a union which degraded them from an equal rank with the other States."²⁶⁰ Nonetheless, after further expressions of opinion pro and con, the Convention voted nine states to two to delete the requirement of equality.²⁶¹

Prior to this time, however, Georgia and Virginia had ceded to the United States large territories held by them, upon condition that new states should be formed therefrom and admitted to the Union on an equal footing with the original states.²⁶² Since the admission of Tennessee in 1796, Congress has included in each state's act of

²⁵⁷ *Moore v. Illinois*, 55 U.S. (14 How.) 13, 17 (1853).

²⁵⁸ *Escanaba Co. v. City of Chicago*, 107 U.S. 678, 689 (1883).

²⁵⁹ 2 M. FARRAND, *THE RECORDS OF THE FEDERAL CONVENTION OF 1787* 454 (rev. ed. 1937).

²⁶⁰ *Id.*

²⁶¹ *Id.* The present provision was then adopted as a substitute. *Id.* at 455.

²⁶² *Pollard v. Hagan*, 44 U.S. (3 How.) 212, 221 (1845). The Continental Congress in responding in the Northwest Ordinance, on July 13, 1787, provided that when each of the designated states in the territorial area achieved a population of 60,000 free inhabitants it was to be admitted "on an equal footing with the original States, in all respects whatever." *An Ordinance for the Government of the Territory of the United States Northwest of the River Ohio*, Art. V, 5 JOURNALS OF CONGRESS 752-754 (1823 ed.), reprinted in C. Tansill ed., *Documents Illustrative of the Formation of the Union of the American States*, H. Doc. No. 398, 69th Cong., 1st Sess. (1927), 47, 54.