

Sec. 3—New States

Cl. 1—Admission of New States to Union

state law.²⁷⁹ When the enabling act contains no exclusion of jurisdiction as to crimes committed on Indian reservations by persons other than Indians, state courts are vested with jurisdiction.²⁸⁰ But the constitutional authority of Congress to regulate commerce with Indian tribes is not inconsistent with the equality of new states,²⁸¹ and conditions inserted in the New Mexico Enabling Act forbidding the introduction of liquor into Indian territory were therefore valid.²⁸² Similarly, Indian treaty rights to hunt, fish, and gather on lands ceded to the Federal Government were not extinguished by statehood. These “usufructuary” rights were subject to reasonable state regulation, and hence were not irreconcilable with state sovereignty over natural resources.²⁸³

Admission of a state on an equal footing with the original states involves the adoption as citizens of the United States of those whom Congress makes members of the political community and who are recognized as such in the formation of the new state.²⁸⁴

Judicial Proceedings Pending on Admission of New States

Whenever a territory is admitted into the Union, the cases pending in the territorial court that are of exclusive federal cognizance are transferred to the federal court having jurisdiction over the area; cases not cognizable in the federal courts are transferred to the tribunals of the new state, and those over which federal and state courts have concurrent jurisdiction may be transferred either to the state or federal courts by the party possessing the option under existing law.²⁸⁵ Where Congress neglected to make provision for disposition of certain pending cases in an enabling act for the admission of a state to the Union, a subsequent act supplying the omission was held valid.²⁸⁶ After a case, begun in a United States court of a territory, is transferred to a state court under the operation of the en-

²⁷⁹ *Permoli v. First Municipality*, 44 U.S. (3 How.) 589, 609 (1845); *Sands v. Manistee River Imp. Co.*, 123 U.S. 288, 296 (1887); *see also Withers v. Buckley*, 61 U.S. (20 How.) 84, 92 (1858); *Huse v. Glover*, 119 U.S. 543 (1886); *Willamette Iron Bridge Co. v. Hatch*, 125 U.S. 1, 9 (1888); *Cincinnati v. Louisville & Nashville R.R.*, 223 U.S. 390 (1912).

²⁸⁰ *Draper v. United States*, 164 U.S. 240 (1896), following *United States v. McBratney*, 104 U.S. 621 (1882).

²⁸¹ *Dick v. United States*, 208 U.S. 340 (1908); *Ex parte Webb*, 225 U.S. 663 (1912).

²⁸² *United States v. Sandoval*, 231 U.S. 28 (1913).

²⁸³ *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172, 204 (1999) (overruling *Ward v. Race Horse*, 163 U.S. 504 (1896)).

²⁸⁴ *Boyd v. Nebraska ex rel. Thayer*, 143 U.S. 135, 170 (1892).

²⁸⁵ *Baker v. Morton*, 79 U.S. (12 Wall.) 150, 153 (1871).

²⁸⁶ *Freeborn v. Smith*, 69 U.S. (2 Wall.) 160 (1865).