1176 HSA HJR 4

1176

Name Louie Overstreet Here to TESTIFY V

Representing Nlbsilp Block Caucus

Address P.O. 3342 Here to OBSERVE ____

Phone 272-5951

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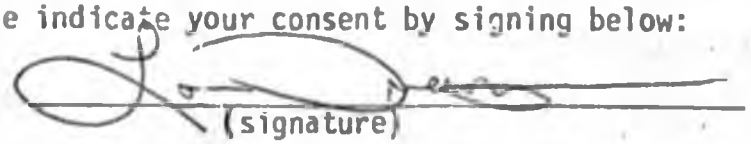

(signature)

Have you participated in other legislative teleconferences? no How many? ____

How did you learn about this hearing?

Ms. Judy Hopkins

Would you have participated in this hearing if the network were not available? Yes

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
V instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

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1/2

Name Frank Austin Here to TESTIFY V

Representing Interested Citizen

Address 3839 Apollo Dr, Anc Here to OBSERVE ____

Phone 333-1983

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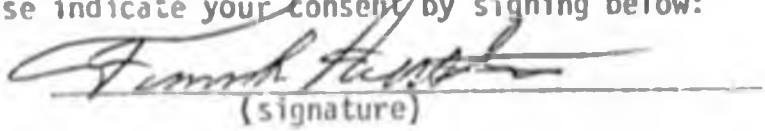

(signature)

Have you participated in other legislative teleconferences? ____ How many? ____

How did you learn about this hearing?

Would you have participated in this hearing if the network were not available? ____

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Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

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(T) (3)

Name Phillip A. Downing — Here to TESTIFY ✓

Representing Self

Address 8521 Golden #3 — Here to OBSERVE ____

Phone 243-7625

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Phillip A. Downing
(signature)

Have you participated in other legislative teleconferences? No How many? ____

How did you learn about this hearing? Friends

Would you have participated in this hearing if the network were not available? No

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

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(T) 7

Name BOB WALKER — Here to TESTIFY ✓

Representing A.B.L.C. Political Comm.

Address 2506 Fairbanks Anch. — Here to OBSERVE ____

Phone 277-9654

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Bob Walker
(signature)

Have you participated in other legislative teleconferences? No How many? ____

How did you learn about this hearing? Judy

Would you have participated in this hearing if the network were not available? yes

If yes, did you use the network:
✓ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

(1) 5

Name Sharon Richards — Here to TESTIFY ✓

Representing League of Women Voters

Address P.O. Box 1345 99510 — Here to OBSERVE ____

Phone 274-8477

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Sharon Richards
(signature)

Have you participated in other legislative teleconferences? no How many? ____

Would you have participated in this hearing if the network were not available? yes

How did you learn about this hearing? Legislative Information Office

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

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(1) 6

Name Joan Hassel — Here to TESTIFY ✓

Representing League of Women Voters Juneau

Address 911 'R' St. Anchorage 01 — Here to OBSERVE ____

Phone 277-2108

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Joan Hassel
(signature)

Have you participated in other legislative teleconferences? — How many? ____

Would you have participated in this hearing if the network were not available? yes

How did you learn about this hearing? word of mouth -

If yes, did you use the network:
X instead of travel
X instead of phone conversations
X instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

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Last to leave

Name Olive Robison — Here to TESTIFY X

Representing Self

Address 7526 E. 17th, Anchorage — Here to OBSERVE ____

Phone 333-5605

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Olive Robison
(signature)

Have you participated in other legislative teleconferences? no How many? ____

How did you learn about this hearing?

League of Women Voters phoned

Would you have participated in this hearing if the network were not available? no

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

PLEASE PRINT

Name Walter R. Furnace — Here to TESTIFY ____

Representing Alaska Business Development Center

Address 550 W 8th one — Here to OBSERVE X

Phone 274-3851 (267)

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Walter R. Furnace
(signature)

Have you participated in other legislative teleconferences? ____ How many? ____

How did you learn about this hearing?

Would you have participated in this hearing if the network were not available? ____

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

Name William E. Allen — Here to TESTIFY ____

Representing MBE Service Center

Address 2506 Fairbanks ST. — Here to OBSERVE X

Phone 277-9654

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(signature)

Have you participated in other legislative teleconferences? ____ How many? ____

How did you learn about this hearing?

Would you have participated in this hearing if the network were not available? ____

If yes, did you use the network:
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PLEASE PRINT

Name DAN COULTER — Here to TESTIFY ____

Representing KYAK

Address ____ — Here to OBSERVE ____

Phone 344-2550

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(signature)

Have you participated in other legislative teleconferences? ____ How many? ____

How did you learn about this hearing?

Would you have participated in this hearing if the network were not available? ____

If yes, did you use the network:
___ instead of travel
___ instead of phone conversations
___ instead of mailed testimony

Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage

PLEASE PRINT

Name DIANE ZEEDAR Here to TESTIFY ____

Representing FAA

Address _____ Here to OBSERVE ✓

Phone _____

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Diane Zeedar
(signature)

Have you participated in other legislative teleconferences? ___ How many? _____

How did you learn about this hearing?

_____

Would you have participated in this hearing if the network were not available? _____

If yes, did you use the network:
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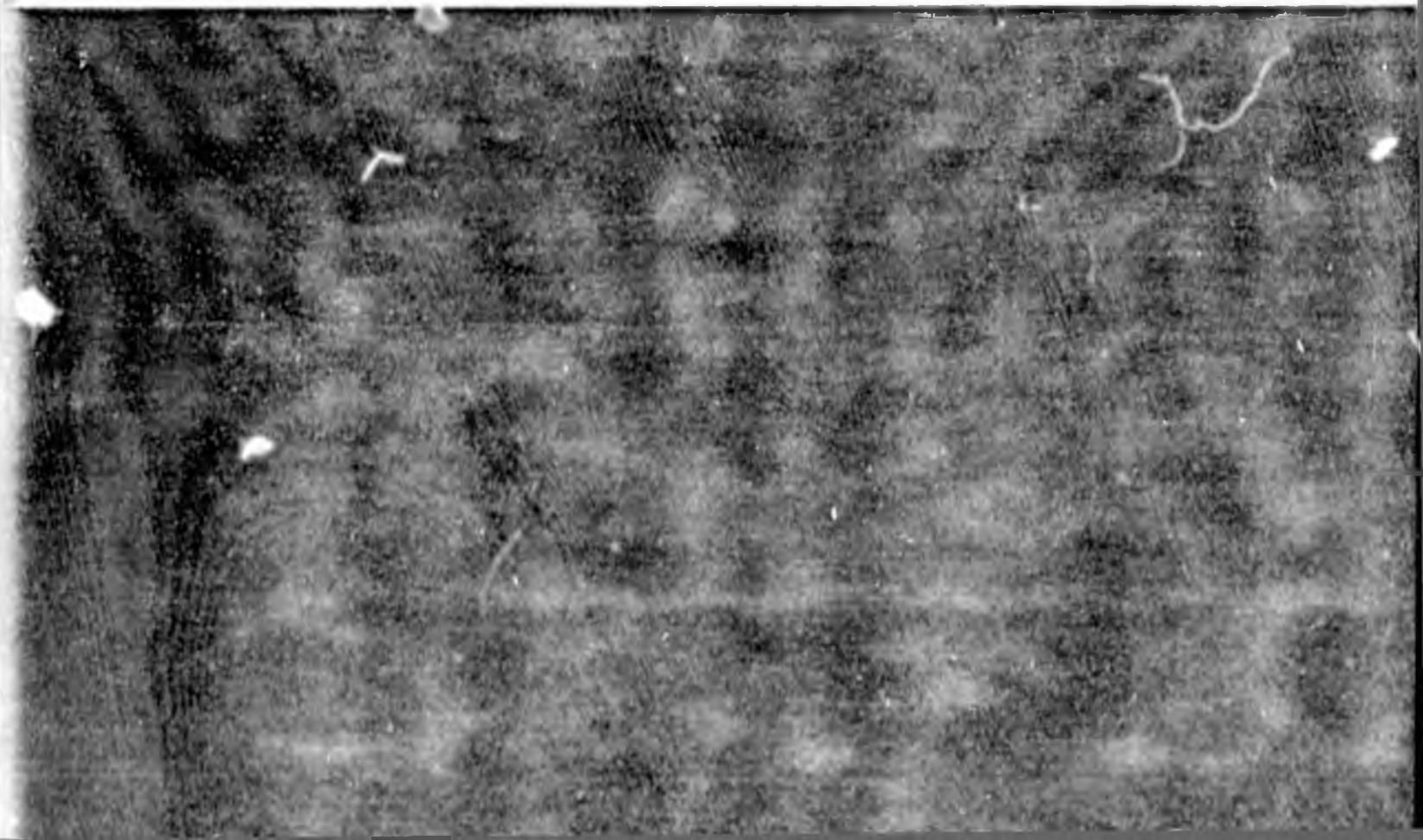
Date: 2/9/79 Subject: HJR 4, HJR 2 - D. C. representation Location: Anchorage



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NATIONAL CONFERENCE OF STATE LEGISLATURES

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Executive Director

1405 Curtis Street
Suite 2300
Denver, Colorado 80202
(303) 623-6600

TESTIMONY OF PROFESSOR STEPHEN A. SALTZBURG

UNIVERSITY OF VIRGINIA LAW SCHOOL

BEFORE THE SUBCOMMITTEE ON THE CONSTITUTION

of the

UNITED STATES SENATE

Friday, April 28, 1978

REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA; S. J. Res. 65

Thank you for inviting me to appear before the Subcommittee to provide my views on the necessity and propriety generally of providing full voting representation for citizens of the District of Columbia and more specifically on the wisdom of adopting S. J. Res. 65 as the means of providing the representation.

I. Summary of Views

On October 6, 1977, I had the opportunity to express to a House Subcommittee on Civil and Constitutional Rights my view that full voting representation in the Congress should be provided citizens of the District. At that time I also expressed my views on the best way to provide such representation. My comments today will be very similar to my previous comments in the House.

Although there has been controversy over the means to be used to accomplish the end, recently this august body in its debates over the Panama Canal treaties has expressed broad support for the proposition that even though the United States government at one time had legal control over the lives of citizens of a U.S. territory, control obtained long ago and exercised continually must be reviewed in the

light of current developments. In that light there can be no question that District citizens--who pay the same taxes as other Americans; who share the same democratic values as other Americans; who are affected by the growth of the federal government in the same way as all Americnas; and who know that the federal government exerts control over their lives that it does not exercise over the lives of other Americans--should be represented in the Congress of the United States like those who, by chance, live within the borders of one of the fifty states. And, in contrast to the difficulties of working out a treaty with another nation, there are no insurmountable problems in providing voting representation for the District.

That these are valid arguments was recognized by the House of Representatives on March 2d of this year when it approved by a vote of 287-127 H. J. Res. 554, a resolution proposing an amendment to the Constitution that would provide the District with full and effective voting representation in the Congress.

H. J. Res. 554 is, in my view, a better vehicle for providing the District with representation than is S. J. Res. 65. The basic problem with the Senate resolution is that it grasps the principle of one person, one vote at the same time that it attempts to depart from the principle. There is no need to offer District citizens anything less than a full loaf. Thus, there is some reason to favor the House's resolution.

It is important to recognize, however, that S. J. Res. easily can be amended so that it is at the least the equal of, and perhaps an even better resolution than, H. J. Res. 554. More important at this point than disputing the respective merits of the two resolutions is recognizing that fair-minded people who carefully examine the arguments

supporting full Congressional representation for the District can agree on an approach. There is no reason to allow the mechanics to stand in the way of making the principle a reality.

And it should be a reality. During all the consideration of H. J. Res. 554 by the House, not one valid argument emerged against full representation for the District. As I proceed, I hope to demonstrate the weakness of some of the opponents' positions.

There are reasons why some people may disfavor District representation that have not yet appeared, explicitly that is, in the debates. They are invalid concerns and I mention them now only to put them aside, hopefully forever. First, the suggestion has been made that with the addition of two Senators from the District, the Senate "club" will somehow be less exclusive. Whatever the merits of exclusivity, they can hardly be dealt a blow by adding two votes to a hundred. Did Americans see a decline of prestige and power in the Senate or its individual members when Alaska and Hawaii sent Senators to Washington? No, of course not. Two votes from District will make the Senate no less deliberative, no less powerful, and no less prestigious. Second, some may think that conservative Senators and those from rural areas might be disinclined to favor a resolution that well may add two urban and liberal votes to a balance that is not in their favor at the moment. If these Senators conclude, as I believe they will, that no valid argument overrides the principle of one person, one vote that underlies the resolution being considered, they hardly could justify denying the franchise to a considerable number of their fellow Americans. In the course of giving youth the right to vote, outlawing the poll tax, and even in proposing the twenty-third amendment, members of Congress have demonstrated the Constitution demands devotion to principle, not

to short-run partisan politics. Finally, there are some members of Congress, and surely some of their constituents as well, who never have felt comfortable in a District which is predominantly black. Biases against the District sometimes evince unconscious racial prejudices which have no place in American politics in 1978. Indeed, whether or not some of the opposition to voting representation for the District has its roots in racial prejudices, the paucity of other, valid reasons to support the opposition produces for those who read and hear the opposition a sense of fear--fear that race is again a behind the scenes/issue in a debate over fundamental rights.

It must be somewhat embarrassing for United States officials to chastise foreign governments over their treatment of minorities and to complain about the disenfranchisement of entire groups of voters when, at home, the citizens of the District still must seek the franchise they have too long been denied.

It should come as no surprise that American Presidents with constituencies as diverse as those of former President Richard Nixon and incumbent Jimmy carter have supported representation for the District. The idea is so firmly grounded in American concepts of equal justice under law and equal access to political change that it is difficult to oppose on principle. And when Americans debate fundamental rights, opposition without principle is no opposition at all.

Having completed this summary of my position, I turn now to consideration of more specific issues.

II. S. J. Res. 65 and Its Counterparts in the House

When I testified before the House Subcommittee, I was asked to comment on several joint resolutions that had been proposed in the House of Representatives. All provided in one form or another for an amendment to the Constitution to provide representation for the District of Columbia in the Congress of the United States. It may be useful to review them here so that you can better understand the differences between the resolution approved by the House and that set forth in S. J. Res. 65.

H. J. Res. 139 contained four short sections allocating two Senators and an appropriate number of Representatives to the District, providing for an election to fill vacancies, defining the relationship of the proposed amendment to the 23rd Amendment, and giving Congress the power to enforce the proposed amendment. It was identical to S. J. Res. 65. H. J. Res. 392 was very similar, except that it provided that Congress may allocate a power of temporary appointment to officials in the District under certain circumstances to fill vacancies in the Senate. Very different in form was H. J. Res. 554 which ultimately was adopted by the House. It now contains four sections.* They provide that the 23rd Amendment would be repealed, that the District would have voting representatives in the Congress and as much authority to elect a President and Vice-President of the United States and to ratify constitutional amendments as any State, generally that the rights and powers provided should be exercised by the people of the District in a manner to be selected by Congress, and that the amendment

*As originally proposed, H. J. Res. 554 had only three sections. The fourth was added prior to its adoption by the House, but after the Subcommittee hearings in the House.

would take effect if ratified by the requisite number of states within seven years.

In my House testimony I found myself favoring the basic approach of H. J. Res. 139, although I indicated that standing alone it was inadequate to fully accomplish the objectives of a constitutional amendment providing representation for the District. Thus, I suggested tha with several changes H. J. Res. 139 could have been improved.*

The improvements that I suggested would have produced a Resolution substantially identical to H. J. Res. 554 in its effect, but which might have been somewhat clearer than H. J. Res. 554 at certain points.** Both my proposed version of H. J. Res. 139 and H. J. Res. 554, the resolution ultimately adopted by the Houses were in accord on certain fundamentals, including the following:

A. The voting rights of District citizens should include full representation in the House and Senate and full participation in the election of a President. Hence, the Twenty-Third Amendment should be repealed.

B. Congress should be given authority to carry out the purposes of the amendment.

C. Some flexibility with respect to filling vacancies in the

---

*I will be making similar suggestions for amending S. J. Res. 65.

**One of my reservations about H. J. Res. 554 would have been removed if a proposed amendment, suggested by Assistant Attorney General Patricia M. Wald on behalf of the Administration, were adopted. See Statement of Attorney General Wald, Before the House Subcommittee on Civil and Constitutional Rights, October 6, 1977, at 15. The suggested change would have the resolution read, in part, as follows: "The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, in such manner as shall be provided by the Congress."

Congress should be retained.

The single point of departure from the goals of H. J. Res. 554 found in my version of H. J. Res. 139 was over the extent to which the District should be able to participate in the ratification of future constitutional amendments. As I shall point out in a few moments, there is a very practical reason to deny the District an opportunity to participate in the ratification process. But I believe that the argument is not overwhelming and easily could be rejected. Certainly it is not as important as the more basic question of full voting representation in the Congress. In my testimony I shall suggest a flexible, compromise position.

Whether H. J. Res. 554 or S. J. Res. 65 ultimately is the vehicle for affording voting representation in Congress to District citizens, the final resolution should embody the fundamentals that I have listed above as A, B, and C. I shall endeavor to explain why.

But, before doing so, I would like to address some basic question, the answers to which I have thus far only assumed.

III. Is There a Need for the District to be Represented in Congress?

In the Report accompanying H. J. Res. 280, which died on the floor of Congress several years ago, Representatives Butler, Kindness, Ashbrook, Danielson, Moorhead, and Hyde raise a threshold question that must be answered before any specific amendment to the constitution is considered: i.e., is representation for the District necessary? The right answer must be "yes."

In reaching this answer, one must recognize that it is impossible to derive anything useful from the study of the intention of the framers

in their treatment of the District in Article 1, Section 8 of the Constitution. It must be remembered that there was no District at the time the Constitution was drafted and ratified. We do know that a disruptive incident occurred in Philadelphia in 1783 involving soldiers who had been fighting against the British and that the response on the part of state officials gave rise to a general feeling that it would be beneficial to establish a special District run by the federal government which would not be dependent upon any State for protection. Beyond this we know little. It has been urged that because some 13 years after ratification of the Constitution a majority of the Congress took away the then recognized right of the District citizens to vote in Maryland and Virginia, the correct inference is that the framers believed that State representatives would also consider and take into account the interests of District citizens. The fallacy in this is that what happened in 1801 offers some support, but by no means conclusive support, for a reading of the intent of the framers of the Constitution. The fact that District residents voted in federal elections immediately after ratification of the Constitution might even be better evidence of the framer's intent. But more importantly, it must be recognized that even in 1801 it was impossible for those members of Congress who took away the vote from District citizens to anticipate the precise future development of the nation. When it is recalled that entire races of people, women, non-property holders and others were denied the right to vote, it is not hard to see why assumptions as to the adequacy of representation of all by a few might have been acceptable then, but not now.

The answer to the question of whether representation of the District in the Congress is necessary cannot turn on history, because history is too poor a guide to knowledge of how the framers would have intended the needs of the District to be handled throughout the life of a changing nation. Rather, the answer must be found in current attitudes about the right to vote. Since the Supreme Court has declared one person, one vote to be a fundamental part of our democracy, and since this has come to be a cherished idea to most American citizens, I find myself echoing the testimony of Representative Gilbert Gude, who said in hearings before this Committee: "I support the extension of voting representation for the District because it is right, it is fair, and it is an essential element of representative democracy." Hearings before the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary of the House of Representatives, 94th Cong., 1st Sess., 15-16 (1975) [hereinafter referred to as "Hearings"].

It is especially important that residents of the District be given the opportunity to elect voting members of Congress in view of the fact that Congress retains residual power over the government of the District. Citizens of the 50 states know that if the Congress fails to act on an important issue there is always the possibility that State or local governments will act to meet the needs of the citizens. State and local pressure might indeed be easier to mount and more sharply focused than is the national pressure on Congress. The residents of the District daily confront the fact that Congress often has acted and can continue to act to override decisions of any legislative body in the District. Thus, it is more,

not less, important that the District, an entity that is not a State, have the same vote in Congress as does a State because Congress is in many instances the equivalent of a State and local government, as well as a federal government, for District residents.

Even if Congress were to relinquish entirely the power it now retains over District lawmaking, the enormous legislative power of the federal government today would require, in my view, that District Citizens have an opportunity to participate in an effective way in federal decisionmaking. When someone like myself travels from Charlottesville, Virginia to Philadelphia, Pennsylvania to visit my family, I travel by car, train, or plane. Automobile travel takes me over the roads of Virginia, the District, Maryland, Delaware and Pennsylvania. I find no difference of significance between driving in the District and driving in any State. The roads are the same, the problems are the same, and the interrelationship between the States and the District is real and apparent. The same is true when I pass through Union Station on my way to Baltimore, Wilmington, and ultimately Philadelphia. In the rare instance that I travel by air, almost always I must change planes at National Airport. While National Airport technically is in Virginia, the proximity to and relationship with Washington, D.C. is readily apparent. Whatever differences there are between the District and the States pale before their similarities.

No matter what anyone thought in 1787, or in 1801, the District of Columbia, while not a State, faces most of the same problems as all the States. It is affected in the same way by general congressional legislation as the States. As

congressional power and congressional responsibility expand, it is ever more important that every citizen be able to directly express himself or herself on national issues. The only effective way is by representation in Congress. To the limited extent that the District is unique because it is a federal enclave heavily reliant on the Congress, the District has a greater need for voting representation in that body.

IV. Is a Constitutional Amendment Necessary?

Theoretically, the answer to this question is "no." If Congress were willing to cede the District back to Maryland, as it ceded land back to Virginia more than a century ago, and if Maryland were prepared to accept the cession, no amendment would be required. My reading of congressional and national sentiment is that practically speaking this solution is unacceptable to the people of the Nation. It might even be unacceptable to the citizens of Maryland and of the District respectively, if put to a vote. My personal view is that retrocession would be a bad idea for the same reasons that statehood would be a bad idea. These reasons will be set forth subsequently.

In the earlier Hearings and in the discussions of the joint resolutions now under consideration, a suggestion has been made that partial retrocession--i.e., retroceding jurisdiction over the District for voting purposes to Maryland--would be preferable to a constitutional amendment. It is somewhat ironic that this solution seems to be preferred by those whose opposition to a constitutional amendment is grounded in the argument that such an amendment might engender too many problems of interpretation. Article I, § 2 of the Constitution provides that the House of

Representatives shall be chosen by the "People of the several States, and the Electors in each State shall have the qualifications requisite for Electors of the most numerous Branch of the State Legislature." Assuming that Maryland were willing to accept partial retrocession and that the Congress were willing to take this approach to the problem of representation, the obvious question that would arise is whether residents of the District qualify as "People of the several States." Logically they do not. District citizens are not residents, domiciliaries, citizens or Maryland "people." They are District "people." Moreover, since a usual qualification for voting for the State legislature is residency in the State, arguably residents of the District would be barred by this Section despite partial retrocession, even if retrocession magically transformed District residents into Maryland people. Furthermore, Article I, § 2 also provides that "Representatives . . . shall be apportioned among the several States . . . according to their respective Numbers . . . ." This portion of the Article was not changed by the Fourteenth Amendment, Section 2. If partial retrocession were attempted and if District citizens were permitted to vote in Maryland, would they be counted among the number of Maryland persons to be used for apportionment purposes? If not, then District citizens would be treated unequally. If so, arguably the apportionment would be subject to challenge by citizens of other states, because the District citizens are not among the Maryland "Number" in any but the most theoretical way.

The Seventeenth Amendment presents a related problem; it provides that the Senate shall be composed of two Senators from

each State elected by the people there *. Would District citizens be considered to be among the people of Maryland? Perhaps partial retrocession could insure this, although I have doubts. But the Seventeenth Amendment also says that the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. If residence is a requirement, as it almost always is, for voting for members of the State legislature, the Seventeenth Amendment stands as a bar, it seems, to partial retrocession by statute as a way of giving a formal vote in the Senate to District citizens.*

Even assuming arguendo that partial retrocession would be constitutionally permissible, politically it is a bad idea. The reason why District residents should have their own representatives is that, although the District is similar to a State like Maryland in may respects, including the problems both face, it cannot be denied that the District is a separate place with definite boundaries of great political significance and that it would remain separate after partial retrocession. The very fact that partial retrocession would transfer to Maryland only the authority to control the federal voting rights of District citizens clearly signals that the citizens of the District would be unable to look to Maryland to represent their distinct and unique interests in the Congress. Just as various States have a special interest in solving problems for and extending a helping hand to those persons residing within their borders, the District has a special interest in solving its own problems and helping its own people. As noted above, in one respect the District has more need for individual representation than any particular

*Although District residents voted in State elections from 1790 until 1800, State law was in effect in the District in this period, and the seat of Government had not yet been moved to the District.

State. Because it is the only federal enclave outside of the States in the continental United States, it finds that many of its laws are derived from the will of a Congress comprised of representatives of the various States rather than from the will of District people. It is plain to me that those who live in the District have a stake in the District that is considerably different from members of Congress who permanently reside in separate States but who locate in the District on a part-time basis while they serve their terms in Congress. For example, those who permanently reside in the District probably have a feeling quite different from that of most members of Congress about the large amount of federally owned tax exempt property in the District. Citizens of the District should be heard on this, as on all subjects, through their own members of Congress.

Some practical difficulties with partial retrocession are immediately obvious. For example, it is disturbing to note that if a vacancy in the office of Senator were to arise, the vacancy would be temporarily filled by appointment by the Governor. But District residents would not participate in the election of the Governor.

I must admit that I view points such as this as small ones. The fundamental point is that those people who locate within the boundaries of the nation's capital need and deserve full and vigorous representation.*

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*In Raven-Hansen's, Congressional Representation for the District of Columbia: A Constitutional Analysis, 12 Harv. J. Leg. 167 (1975), the imaginative suggestion of "nominal statehood" is put forth. In light of the specific language in Articles I and IV and the language of the Supreme Court opinions cited by the author, I believe the suggestion should be rejected.

V. Is Statehood Desirable?

In my view the answer to this question is "no." Keeping the capital a federal enclave preserves something important to our government. The number of federal institutions in the District, the location of the Congress and the White House, and the very idea of a "center" for the nation suggest that it would be wrong to entrust complete power over the District to any State, whether it be Maryland by retrocession or a new State called "Columbia" or something like it by amendment. No State should have responsibility for and control over the critical parts of the federal power structure. Preserving a federal triangle or federal territories separate from, but located in, a State would pose enormous problems. See Testimony of Mayor Walter Washington in Hearings, supra, at 29; Testimony of John Hechinger, id. at 49. Rather than Statehood, the constitutional amendment to allow voting representation in the Congress seems to be a perfect compromise. It recognizes that citizens throughout the country should have a voice in what happens in the District of Columbia but that citizens of the District of Columbia should also have a voice both in federal programs that have as much impact in the District as in any State and, of course, in the ultimate decisions affecting the District only.

It must be emphasized that it would be unfair to say that the District is seeking the benefits but not the burdens of statehood. The District bears unique burdens and receives special benefits. It is different from a State, yes. But no difference justifies the denial to District citizens of the fundamental right of voting representation in Congress.

VI. Is S. J. Res. 63 an Acceptable Resolution?

With certain additions this resolution can, in my view, provide the citizens of the District with appropriate representation without causing unnecessary problems in constitutional interpretation. Alternatively, H. J. Res. 554 can serve the same end.

The principal constitutional argument against any constitutional amendment giving voting representation in the Congress to District citizens is that such an amendment would violate Article V of the Constitution which provides that in relevant part "that no State without its Consent, shall be deprived of its equal Suffrage in the Senate." As I understand the argument, it is as follows: to allow the District to be represented in the Senate deprives States of their equal Suffrage. To be candid, I find this argument to be nonsense. From reading the records of the Constitutional Convention, I can find little to explain the precise wording of the quoted portion of Article V. It appears to be an attempt by the smaller states who favored the New Jersey plan to ensure that the large states who favored the Virginia plan would not immediately amend the Constitution to do away with the provisions regarding the Senate that were so important to the smaller States. No matter how one views this provision -- e.g., under a "plain meaning" analysis, by focusing on constitutional history and the intent of the framers, or by utilizing a structural analysis -- letting the District vote in the Senate cannot be said to violate the letter, the spirit or the likely goals of the provision. Nothing in the language of this Article states that the Constitution cannot be amended to give entities other than States voting power in the Senate. All

that is required is that a State have an equal vote. If the District is given two Senators, no State is in an unequal position when compared to any other State or to the District. Those who use this language to argue against the validity of a constitutional amendment point to no hing in the background of the Constitution to support a reading that no amendments concerning the Senate would ever be permissible, which I believe must be the thrust of their argument. While it is possible that the Constitution contains parts that are unamendable, I would think that, where possible, a living document, one written for the ages, would be construed to allow amendments to meet the felt needs of the times. The need of our time is representation for the District's many citizens.

It has been argued in a philosophical vein that the Constitution should not be lightly amended. With this I agree. But I do not view affording the citizens of the District voting representation in the Congress as a great disruption of the status quo. Yes, it is the first time that voting representation would be given to some entity other than a State. Aside from this interesting historical fact, the mechanics are simply not that difficult. Compared to the disruption attributable to the Supreme Court's voting rights cases, and congressional legislation like the Voting Rights Acts, this proposed constitutional amendment is a rather simple proposition: it gives the District citizens a vote, it does it as simply as possible with as little confusion as possible, and it brings the District into our one person, one vote Twentieth Century.

It is a strange and very disturbing argument that the Constitution can be amended to affect the President, the House of Representatives, the Supreme Court, the Bill of Rights, and the balance between federal and state power, but that no amendment can touch the composition of the Senate--no matter why, how much needed or what the circumstances. If necessary, I would reject that argument. But I need not, since no reading of the Constitutional language suggests that it would be violated either by S. J. Res. 65 or H. J. Res. 554.

Is S. J. Res. 65 a simple, straight-forward proposal? I think that it is. Section 1 provides that the people of the District shall elect two Senators and the number of Representatives to which the District would be entitled if it were a State. According to the last census, the District would be likely to have two Representatives. Because Section 1 states that each Senator or Representative shall be an inhabitant of the District and shall possess the same qualifications as to age and citizenship and have the same rights, privileges and obligations as a Senator or Representative from the States, possible conflicts with Article 1, § 2 and the Seventeenth Amendment are avoided.* These two constitutional provisions generally require that electors voting for Senators or Representatives have the same qualifications as electors for the most numerous branch of the State legislature. Section 1 simply provides a different approach for elections in which District citizens vote for members of Congress. Read in conjunction with Section 4, it is evident that the proposed amendment would give to Congress the authority to define who could vote in the District's

*If H. J. Res. 554 is adopted, perhaps similar language should be included.

congressional races. No one need fear that Congress would usurp the power intended to be given to the people of the District, since the one person, one vote concept, together with the kind of legislation that is to be expected from a Congress once the proposed amendment is approved by three-quarters of the States, will ensure that the District elections are as fair and open as those held in any State.

Section 2 states that when vacancies happen in the representation of the District, in either the Senate or the House, the people of the District shall fill such vacancies by election. Once again, this Section should be read in conjunction with Section 4, and it is apparent that Congress is authorized to provide for special elections or to allocate the power to provide for special elections to local government. While this provision is simple and straight-forward, I oppose it. Although Article I, Section 2 of the Constitution provides that a vacancy in the House shall be filled by election, the Seventeenth Amendment authorizes temporary appointments of Senators until vacancies are filled by election. There are two possible reasons for distinguishing the District from the States with respect to the Senate: 1) it is not clear that Congress would trust the executive authority in the District to make appointments, and 2) it is also unclear whether the executive authority would ultimately be considered to be the Mayor or the President of the United States.

I would prefer language like the following in lieu of the current language of Section 2: "When vacancies happen in the representation of the District in either the Senate or the House of Representatives, the people of the District shall fill such vacancies by election or temporary appointment in

accordance with congressional legislation."* The advantages of this language are two: First, it avoids the need for current debate about whether election is appropriate in all circumstances as a way of filling a Senate vacancy and second, it assures the Congress that, if and when the District gets more power over its own affairs and the Congress trusts the District to run its affairs without close congressional scrutiny, it would be appropriate for Congress to allow the District's executive to fill temporary vacancies. There is no need to chisel in granite forever one approach to filling vacancies. It might be argued in response that such a proposal would represent the only place in the Constitution where Congress is given power to choose one or another method of filling a vacancy. But I think that the appropriate response is that the amount of local control allocated to the District government has changed over time, whereas the States have always had lawmaking power independent of the federal government. There is no reason why the changing nature of District government cannot be recognized by a sui generis constitutional provision.

The third Section leaves the 23rd Amendment to the Constitution untouched. I would repeal the 23rd Amendment. The thrust of S. J. Res. 65 is to give equal voting representation to District residents. I can see no good argument for doing this in the Congress and not in the Electoral College. I realize that the Congress is considering Electoral College reform. If it comes, it can come for the District as well as for the States.

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*If H. J. Res. 554 is adopted, the language could be clarified to make the same point.

Until such time, the 23rd Amendment should be viewed as a step along the way to equal voting rights for District citizens. Once the commitment to complete equal rights is made, the Amendment is an anomaly. The best argument for Section 3 is that to propose repeal of the 23rd Amendment is to add to the controversy surrounding S. J. Res. 65. Even so, one who supports an equal voice for the District in the Congress should appreciate the need for an equal voice in the selection of the leaders of a co-equal branch of government. If, for one reason or another, a judgment is made not to disturb the recently enacted 23rd Amendment, so be it. Otherwise, I would prefer that the language of Section 3 of H.J. Res. 554 be substituted for the first sentence of Section 3 of S. J. Res. 65. The second and last sentence of Section 3 of S. J. Res. 65 should be kept as it is to make clear that if the House of Representatives has to choose a President, the District would be treated in the House as if it were a State, which is important in view of the fact that the House votes by State under the 12th Amendment.

Section 4 provides that Congress shall have power to enforce the amendment by appropriate legislation. This Section should remove any difficulty posed by Article 1, § 4 of the Constitution, which provides, in part, that Congress may not alter the places of choosing Senators chosen by the States. Section 4 should make clear that Congress has authority to control the District's election of its Congressional representatives. While this gives Congress more power over the District than over the States, there is nothing in the Constitution to bar such an approach by constitutional amendment. Furthermore, this approach is consistent with the notion that at the same time that Congress

is treating the citizens of the District more equally than ever before, the Congress is recognizing that the District is in some ways unique and that Congressional oversight in the name of the United States is desirable.

If I were drafting the proposed amendment, I would probably add one more section. It would sound something like the following lines: "Congress shall have the power to provide that the District may be included in the ratification process for any future constitutional amendment." If District citizens are to be treated as equal in the halls of the Congress, it is somewhat ironic that S. J. Res. 65 would deny them an opportunity to be heard during the ratification process for future constitutional amendments. This is not to say that District citizens would have no voice. They would be able to express a view in both Houses of Congress on whether an amendment should be sent to the States for ratification. But the District would have no voice beyond this. Apparently, there is a good reason for this irony. It is not clear that the elected governing body of the District is the equivalent of a State legislature. Therefore, it is not clear that Congress should trust the elected governing body of the District to ratify in the name of the District a constitutional amendment. Over time more responsibilities may be given to the District government and confidence in its capacity to make decisions may grow. My proposed fifth Section would recognize that Congress should have the power to include the District in the ratification process in a manner that it deems desirable. There is little reason now to shut the door on the possibility that the District can effectively participate in the amendment process in the future. And there is scarcely

more reason to undertake a debate now the current state of local government in the District of Columbia. This is my compromise position between S. J. Res. 65 and H. J. Res. 554.

VII. Will the District be Over-Represented?

One final red herring needs to be disposed of before I conclude. The argument has been made that persons who would vote for members of Congress in the District have roots that do not run deep enough to warrant the same kind of representation given to citizens of the States. In this mobile society it is questionable whether most people have roots that run very deep in the community in which they vote. Assuming, however, that citizens in most States have drawn sustenance from the places in which they vote for a longer period than have District residents, the fact remains those who are in the District, even for a period of only a few years, have an interest in common with those who have been there for a longer period of time. One who resides in the District and can satisfy residency requirements has the same problems as any other District resident and the same stake in voting. What difference does it make whether someone is spending two, three or ten years in the District? Federal legislation that extends beyond the States to reach the District affects people who are in the District even for a short period. And more importantly, the legislation that Congress may enact with specific reference to the District has a particular impact on those who reside there for any length of time. The Supreme Court has made it quite clear that it is impermissible for States to attempt to differentiate people who have been present for a short period from those who have

been present for a long period when it comes to voting. The Congress paved the way for this view in its voting rights legislation. Those who have sufficient connection with the District qualify as voters and deserve a vote no matter how long or how short a period they have been present.

A carefully conducted census should assure that only those who are permanent residents of the District are counted for apportionment purposes.

VIII. Apportionment and the House of Representatives

Since the Constitution provides that Representatives shall be apportioned by population as determined by an enumeration made every ten years, and since Congress has usually authorized an apportionment after each census, reapportionment to accommodate the District is nothing out of the ordinary for the House. The Congress can provide by legislation that the number of Representatives will be increased temporarily to accommodate the District and when Congress next undertakes reapportionment it can confront the question whether to permanently expand the size of the House.

IX. Conclusion

On the basis of the testimony that I have provided, I can see no reasonable basis for any longer denying District citizens full voting representation in the Congress of the United States. I hope that the Subcommittee notices that, without identifying the members of the House of Representatives by name, I have endeavored to respond

to all of the arguments raised in opposition to the House resolution, H. J. Res. 554, in the separate statements appearing in H. R. Rep. 95-886 (February 16, 1978). At the moment, H. J. Res. 554 is superior to S. J. Res. 65, but the latter easily could be amended so that it would be equal to, and perhaps even a better resolution than, that passed by the House.

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SCHOOL OF LAW
August 16, 1978

W. Carey Parker, Esq.
Legislative Assistant to
Senator Edward Kennedy
United States Senate
Washington, D.C. 20510

Dear Mr. Parker:

After I testified before both a House Subcommittee on Civil and Constitutional Rights and a Senate Subcommittee on the Constitution in favor of a constitutional amendment giving full Congressional representation to citizens residing in the District of Columbia, several Senators raised points that previously were mentioned only obliquely, if at all. None of these points withstands more than superficial analysis, but they have received press coverage and require a response if the record before the Senate is to be complete. You have invited me to comment on the arguments. I do so now. Perhaps you would be so kind as to add this letter to my testimony.

Senator Bartlett wrote to the Washington Post on June 1, 1978 to explain a statement that he previously had made. His letter emphasized that the District gets unique benefits from the federal government and therefore is better represented than many states even without actual voting representation in the Congress. Matthew Watson, the District's auditor, responded in the Post with a "Taking exception" column published seventeen days later. He demonstrated quite convincingly that the District is worse off because of federal help than is Oklahoma, Senator Bartlett's state.

There is more that should be said in response to Senator Bartlett. The Senator argued that the District receives tourist and convention business as a result of being the Nation's capital. But the burdens of handling tourists, many of whom will pass through for a day or rent rooms in the neighboring states is real. For every "benefit" conferred upon the District because of its status as seat of the national government, there are corresponding burdens. Whether a given state of affairs is a benefit or burden is not even clear. What is clear is that in the United States citizens generally have a vote as to the way their government will be run. District citizens now have no such vote. Moreover, any "benefits" that can be identified have been imposed on District residents who may or may not have desired them, and who may have preferred another state of

affairs. In fact, there is every reason to believe that District residents, if they had exclusive control over their destiny, would make different choices than the Congress. This is the reason why people like me (and I believe the majority of the Congress and the American people) want to see the District remain a federal enclave, not a separate state. Because the District is denied ultimate control over its own destiny, it is imperative that its residents have a full voice in Congress that has the control.

Two more comments on the unique benefits the District receives from the federal government are in order. First, every state and even many cities and counties have from time to time vied for a piece of federal largess. They have sought unique forms of special help to satisfy their special needs. Never has it been suggested that receipt of federal benefits requires a diminution of a jurisdiction's voting rights. Hence, the District is no different with respect to federal benefits than any state. Second, the residents of the District do not believe that the Congress is as generous in its treatment of the District that no independent representation is necessary. The District hardly would give up a bonanza, if it existed. It does not. The District, like the states, receives some help from the federal government, and, like the states, it should have a voice in how federal assistance is allocated.

Senator Bartlett also refers to the history behind the formation of the District. As my full testimony before the Senate Subcommittee indicates, there is nothing in the background of the District that suggests that residents of today's District should not have full Congressional representation. The Constitution was drafted before a District existed. The framers apparently believed that people would not lose voting representation because the District was formed. Apparently, they viewed the District as a small unit which would remain so close in its interests to Maryland and Virginia that District residents would continue to vote there.

But the framers did not work out the details. And it is not really surprising that, [illegible] the seat of the government actually was transferred to the District, Congress enacted legislation consistent with the view that District residents were not residents of any state (i.e., Maryland or Virginia) and could not vote there. Depriving a few citizens of the franchise was not a major concern at a time when only the votes of white males counted. For a century and three quarters, the District has been separate from the surrounding states.

For the last 100 years this Nation has undergone a voting revolution. The Fifteenth Amendment, the Nineteenth Amendment, the

Twenty-Sixth Amendment, the one person, one-vote decisions of the Supreme Court have established voting as a basic right of Americans. To suggest that the framers would have opposed full voting representation for the District is to ignore the history of the District and of voting rights, not to rely on it. Moreover, it is to ignore the lessons of the Twenty-Third Amendment, giving the District participation in the electoral college, which was so quickly ratified by the people of the United States.

And to suggest, as did Senator McClure in his August 7, 1978 letter to the Washington Post, that ceding most District land back to Maryland or to opt for legislation allowing District citizens to vote in Maryland is to totally ignore the history. The District has developed on its own; its interests are not the same as those of Maryland. Since 1801, the District and Maryland have gone separate ways, developed separate identities, and separate governments. No shotgun wedding will easily bring these entities together. Even worse is the idea of giving voting rights in Maryland to District citizens. I have previously testified that such a statute would present serious constitutional problems and is a practical nightmare. I shall not repeat these arguments. It should suffice to say that the notion that District people should vote for Senators whose principal obligation will be to a state in which they do not live must be labeled as wrongheaded.

This brings me to one other argument made by Senator McClure: "[T]he Senate was designated to represent states, not cities. If Washington is singled out for this special status, what is to keep us from granting similar status to cities with populations as large or larger." The answer is clear: "What will keep you from doing this is commonsense and a regard for the Constitutional order." No city now part of a State can claim that for most of the Nation's history it has been an independent entity. Only the District presents the case of people, now disenfranchised, who have been forced to develop their identity separate from any State. By comparing the District to cities, Senator McClure should see that the history of the District is unlike that of any city and that those in the District who now have no voting representatives in Congress should have them.

Finally, there is the concern of Senator Bartlett and Senator Scott (expressed August 15, 1978, and reported by wire service in Virginia) that somehow the District would be overrepresented if it had full voting representation in Congress.

Because Congress has control over certain local activities of the District that it does not have over the states, District residents have a greater need for representation in Congress than do residents of the states. By giving the District two Senators and proportional

presentation in the House, the District would not even be equal to the states, since the elected members of Congress from the fifty states still would have control over the District's local affairs. To give the District an equal voice with any state is all that proponents of the constitutional amendment seek. To oppose that is to fight against the trend toward full and equal suffrage that has made this nation a symbol of freedom to the world.

Sincerely,

Stephen A. Saltzburg
Professor of Law

SAS/vpt

The Heritage Foundation
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DISTRICT OF COLUMBIA REPRESENTATION: "AS THOUGH IT WERE A STATE"

STATUS

On August 22, the Senate approved and sent to the states a constitutional amendment that would give the District of Columbia voting representation in the House and Senate and, in addition, would allow the District to participate, like the states, in the ratification of constitutional amendments. The vote was 67-32, one more than the required two-thirds majority. The House of Representatives had previously passed the amendment, 289-127, on March 2. As of the date of this Issue Bulletin, two state legislatures have considered the amendment, but neither has ratified. In California, the House approved the amendment, but on August 30 the Senate refused, by a 20 to 17 vote (30 votes being necessary), to suspend the rules in order to bring the measure to the floor. In Delaware, the House rejected ratification by a 21-16 vote on August 31 and, therefore, the Senate did not consider the amendment.

THE PROPOSED AMENDMENT

The text of the amendment is as follows:

> Joint Resolution proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.
>
> Section 1. For purpose of representation in the Congress, election of the President and Vice President, and Article V of this Constitution, the District constituting the seat of government of the United States shall be treated as though it were a state.

Note: Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

Section 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.

Section 3. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

Section 4. This article shall be inoperative, unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

BACKGROUND ON THE DISTRICT OF COLUMBIA

The exceptional case of the area of land known as the District of Columbia is defined in Article I, Section 8, Clause 17, of the Constitution.

The Congress shall have the power:

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings....

In Federalist No. 43, James Madison explains the above-quoted clause in this way: "The indispensable necessity of complete authority at the seat of government, carries its own evidence with it. It is a power exercised by every legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it, not only the public authority might be insulted and its proceedings interrupted with impunity; but a dependence of the members of the general government on the State comprehending the seat of the government, for protection in the exercise of their duty, might bring on the national councils an imputation of awe or influence, equally dishonorable to the government and dissatisfactory to the other members of the Confederacy."

Congress assumed authority over the District of Columbia, an area of 100 square miles created from lands ceded by Virginia and Maryland, by an act of February 27, 1801, that provided merely that the laws of Virginia and Maryland should continue in force where they had previously applied. At first there were five units of local government in the District--the county of Washington, the city of Washington, and the city of Georgetown, all in the former Maryland territory; and the county and city of Alexandria in the former Virginia territory. The last two left the District with the retrocession of the lands of Virginia back to the state in 1846. Since that date, Washington has remained the same area: 62.7 square miles.

The dramatic rise in population spurred by the events of the Civil War led to the adoption of District-wide government in 1871. Controversy preceding the establishment of the new form of government centered on the issue of suffrage and secondarily on the division of authority between Congress and local officials. A territorial form of government was agreed on as a compromise. This form provided for a governor appointed by the President for a term of four years, an upper legislative chamber composed of eleven members appointed by the President for two-year terms, and a house of delegates composed of twenty-two members elected annually from twenty-two districts. The District was entitled to elect a non-voting territorial delegate to the House of Representatives. Broad powers to make regulations and disburse money on its own warrant were vested in a five-man Board of Public Works, headed by Alexander R. Shepherd. The Board energetically set about making public improvements but spent $20 million in so doing--nearly three times what had been estimated by Congress. Having made Washington a city habitable but bankrupt, the territorial government died ignominiously. In 1874 Congress replaced the territorial form of government with a three-man Board of Commissioners appointed by the President. The office of non-voting delegate to the House of Representatives was abolished.

With the ratification of the Twenty-Third Amendment to the Constitution, which gave the city three electoral votes, in 1961, Washingtonians were given the right to vote in presidential elections for the first time. The Reorganization Plan No. 3 of 1967 instituted a mayor-council form of government with appointed offices. In 1968 Congress passed an act allowing residents of the city to elect members of their school board. In 1968 President Nixon proposed that the nation's capital be granted both "meaningful self-government" and the right to elect representatives to Congress. In 1970, Congress granted the people of the District the right to elect a non-voting delegate to Congress, a position that has been held by Walter E. Fauntroy ever since. The delegate sits on House committees where he may vote, and participates in floor debates where he may not vote. In 1973, the Council received power to legislate in local matters. Congress retains power, under Article I of the Constitution, to enact legislation and to veto or supersede the Council's acts.

Since assuming his delegate seat, Fauntroy has been diligently championing full voter representation in Congress for the District. On February 18, 1976, the House Rules Committee agreed, for the first time in more than a century, to release a constitutional amendment proposing District voting representation in the Senate and House. The bill failed to receive the necessary two-thirds affirmative votes for passage.

SECTION I -- REPRESENTATION IN THE HOUSE

A constitutional amendment is required in order to give the District voting representation in Congress. The Constitution states (Article I, Section 2) that "the House of Representatives shall be composed of members chosen every second year by the people of the several States," and (Article I, Section 3) "the Senate of the United States shall be composed of two senators from each state." Because the District of Columbia is not a state, the proposed amendment provides that "for purposes of representation in the Congress...the District...shall be treated as though it were a state." Since the ratification of the Constitution in 1789, no lands or territories have achieved voting representation in Congress without first becoming a state under Article IV, Section 3, Clause 1 of the Constitution.

Because representation in the House of Representatives is based on the apportionment of population by state, it has become a firm tradition to regard the House as "the people's house." Proponents of the D.C. amendment argue that it is unjust to deny representation to nearly 700,000 citizens. Thus, the favorable report of the House Committee on the Judiciary maintains that "It seems indeed ironic that a nation which has, over the years, continued, through congressional and judicial action, to extend the franchise still denies representation in the National Legislature to American citizens residing in the Nation's Capital."

The regular membership of the House of Representatives has remained unchanged at 435 for 66 years. When Alaska and Hawaii became states, each was assigned one seat, temporarily increasing the size of the House to 437. However, the statehood enactments for both of these states provided that the total of 435 would be restored in the apportionment based on the 1960 census. If the proposed constitutional amendment is ratified, one of the several unanswered questions confronting Congress would be whether to increase the size of the House of Representatives.

Article I, Section 2, Clause 3, of the Constitution provides that even though the number of representatives shall be apportioned according to the national population, "each state shall have at least one representative." After one representative has been assigned to each state as required by the Constitution, the apportionment by population takes place.

Proponents of the constitutional amendmsnt contend that the District of Columbia has a larger population than seven of the states. And since the populations of these states are represented by at least one United States representative, the residents of the District should be at least equally represented. Further, they argue that land area is no qualification for voting representation in the House. (Rhode Island, the smallest state, has an area of 1,214 square miles, as compared to the 62.7 square miles of the District.)

The following table compares certain important characteristics of the District and those states with the smallest representation in Congress:

	Pop. 1970	Estimated Pop. 1977	No. of Reps.	Elec. Votes	Total Votes for Pres. 1976	% of Reg. Voters Voting in 1976	% of Voting Age Pop. Voting in 1976
Alaska	302,173	407,000	1	3	122,398	59%	47%
Wyoming	332,416	406,000	1	3	155,671	82	60
Vermont	444,732	483,000	1	3	182,186	73	64
Nevada	488,738	633,000	1	3	195,271	82	49
Delaware	548,104	582,000	1	3	234,673	78	58
North Dakota	617,761	653,000	1	3	292,970	N/A	71
South Dakota	666,257	689,000	2	4	300,192	71	64
Montana	694,409	761,000	2	4	322,962	75	66
New Hampshire	737,681	849,000	2	4	338,611	71	59
Washington, D.C.	756,510	690,000	1	3	165,965	59	31

NOTES

1. Population estimates for 1977 are by the Bureau of the Census.

2. The District's representative in Congress is non-voting.

3. The number of electoral votes is the sum of a state's United States senators and representatives. The Twenty-third Amendment to the Constitution stipulates that Washington, D.C. shall have the same number of electors as the least populous state.

HIGHLIGHTS

1. Compared to the nine least populous states, the population of the District of Columbia is decreasing while the others are increasing. In fact, the District's population has been decreasing steadily since 1950, when it reached a high of 802,178.

2. If the District of Columbia had been granted congressional voter representation in 1970, it would have received two members of the House. If the proposed amendment is ratified by three-fourths of the states, the District will probably receive one member of the House after the 1981 reapportionment based on the 1980 decennial census.

3. Although the population of the District is 690,000, its registered voter turnout for the 1976 presidential elections was lower in percentage than any of the least populous states (59 percent, the same as Alaska). Its voter turnout f those eligible to vote, registered or non-registered (31 percent),* was substantially lower than the next lowest turnout (Alaska with 47 percent.) In addition, the percent of eligible voter turnout in the District for the 1976 elections was the lowest in the nation, and the percent of the registered voters voting was the lowest in the nation.

4. Since the District turned out 59 percent of the registered voters and 31 percent of the voting age population for the presidential election of 1976, then the lack of voter representation in Congress can be calculated to affect 281,355 registered voters and 535,483 persons of voting age.

By way of comparison, the residents of the following territories of the United States are United States citizens but do not vote for president or have voting representation in Congress.

	POPULATION
Puerto Rico	3,210,000
Virgin Islands	100,000
American Samoa	31,000
Guam	100,000

Most of the amendment's proponents have resurrected the great American battle cry: "No taxation without representation!" They argue that since the residents of the District of Columbia have

*The problems in determining how many citizens of the District are in fact affected by the lack of voting representation in Congress is complicated by the sizable number of citizens who reside in the District but maintain legal domiciles in other states. No records exist of the number of District residents casting absentee ballots in other states. In the court case of Carliner v. Board of Education, it was estimated that 200,000 residents of the District were eligible to vote in other jurisdictions. Whether this number is accurate cannot be determined.

no immunity from federal taxation, they should by right have voting representation in Congress. But, it must be remembered that during the first several decades of the Republic, the converse of the battle cry was also true, that is, most states allowed only tax-paying land owners to vote and thereby have a say in their representation. And, the notion of no taxation without representation (and its converse), while still very much a part of the American spirit, has been somewhat attenuated by modern American history. In the federal and state legislatures, and in court rulings, the modern trend has been to separate the issue of taxation from the issue of representation. Numerous classes of citizens, fully subject to and protected by the laws, pay no federal or state income tax whatever even though they regularly vote in federal elections in the state of their residence. These groups include, among others, retired persons living solely on social security, students attending colleges and universities, disabled Americans supported entirely by veteran's or other compensation, and individuals living entirely on welfare.

As stated before, if the proposed amendment is ratified by the required three-fourths of the states, the Congress will have to decide whether to increase the membership of the House of Representatives or keep it at 435. The population of the District of Columbia is not currently figured into the national population for purposes of apportionment. The United States is facing a decennial census in 1980 which will be the basis of reapportionment of Congressional districts in 1981. If the House decides to keep its membership at 435 and if the population trends, as estimated by the Bureau of the Census, continue until 1981, then adding the population of the District to the apportionment population would result in the loss of one seat from Illinois and the assigning of that seat to the District.* In other words, Illinois, a state whose population is increasing, will be deprived of representation in the House by a non-state whose population has been declining for 28 years. (This reapportionment is in addition to the prognosticated reapportionment resulting from the 1980 census of national population migration.)

SECTION I -- THE SENATE

The case for representation in the Senate is conceded by both proponents and opponents to be more difficult. Members of the House represent numbers of people. But senators represent their states at-large. The Senate is the body of equal representation of the states while the House is the body of proportional representation of the people. This distinction is a result of the "Great Compromise" of the Constitutional Convention of 1787 which resolved the competing interests of the large versus the small states. It is the foundation of the uniquely American ideas of governmental federalism and state "sovereignty." Thus, in Federalist No. 62, the author

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*This was calculated using the Census Bureau's "method of equal proportions" which has been the official method since 1910.

(either Hamilton or Madison) remarks: "In this spirit it may be remarked, that the equal vote allowed to each state is at once a constitutional recognition of the portion of sovereignty remaining in the individual states, and an instrument for preserving that residuary sovereignty."

STATE SOVEREIGNTY

The proposed amendment would give the District federal representation "as though it were a state." But what is a "state" and what matter of sovereignty is there in the states? Chief Justice Marshall, in Cherokee Nation v. Georgia (1831), defined a state as "a political community of free citizens, occupying a territory of defined boundaries, and organized under a government sanctioned and limited by a written Constitution, and established by the consent of the governed." James Brown Scott in Sovereign States offered this definition: "The State is an artificial person, representing and controlled by its members but not synonymous or identical with them. Created for a political purpose, it is a body politic. It is a distinct body, and artificial person; it has a will distinct from its members, although its exercise is controlled by them."

In the Constitution, all the powers and authorities enumerated in the several articles are derived from the "more perfect union" of the states. In Federalist No. 39, Madison establishes his important idea that the proposed Constitution is neither a confederacy of sovereign states nor a consolidation of the states but a combination of both: "It appears, on one hand, that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but, on the other, that this assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong." Thus, Madison does not claim the type of state sovereignty enjoyed by the states under the Articles of Confederation but he does claim that the states are "distinct and independent."

State sovereignty, or the "portion" of state sovereignty envisaged by Madison, has been much reduced by events of American history. The Civil War destroyed the notion, as championed by John C. Calhoun, that the states were almost entirely sovereign. The Fourteenth and Fifteenth Amendments to the Constitution were squarely aimed at limiting the independence of the states. The Sixteenth Amendment established a federal tax on everyone's income. But, the Seventeenth Amendment, which changed the selection of United States senators from appointment by the state legislatures to the direct election of the people, was the most crippling blow. Appointment of senators by the states, through the state legislatures, was a continuing imposition of the reality of state sovereignty on the federal government. And the Supreme Court of the twentieth century has consistently imposed federal mandates on the states, especially through its interpretation of the Fourteenth Amendment.

So what is left of state sovereignty that by definition would preclude the awarding of two Senate seats to the District of Columbia? The states are sovereign or "distinct and independent," to use Madison's definition, in that they are political beings that can tax, spend, create and execute law, punish crime and administer justice. All of these authorities are carried out by the City Council of the District of Columbia but all are subject to congressional approval. So the District cannot be said to have "independence" in its city council's deliberations as the states do in the deliberations of their legislatures. And the yearly budget, that exercise of the power of the purse, is not legislated at all by the District but is a duty of the appropriate committees of each House. And the police power in the District is not the exclusive jurisdiction of the city government since the city police exercises joint jurisdiction with several federally-chartered police forces in some areas and has no jurisdiction over certain federal properties at all.

In addition, the states may enter into interstate treaties and compacts, permissible under the Constitution subject to the approval of Congress, with other states. The states have used this right to a significant extent in the twentieth century, especially concerning matters of commerce, large public-works, and transportation. No other power of the states seems to be more definitive of the states' continuing distinctness and independence. The District of Columbia is currently party to several interstate compacts, but they have all been negotiated between the Congress and the interested states. Currently the procedures by which the District will become party to additional compacts are undergoing reexamination. Some interpret the home rule charter to mean that the District can enter into interstate compacts while others interpret it to mean the opposite. Legislation has been introduced into Congress to grant unequivocally the right for the District to enter into such compacts. But until such legislation passes, the District, unlike the states, has no such right.

THE TWO HOUSES

In his famous work, Democracy in America, Alexis de Tocqueville, after scrutinizing the make-up of the national legislature, remarked: "The principle of the independence of the States prevailed in the formation of the Senate, and that of the sovereignty of the nation predominated in the composition of the House of Representatives." That the Senate balances the House in terms of the use of political power is argued by the Federalists as one of the most fundamental underpinnings of the Constitution. A representative, facing reelection every two years and representing only a locale of a state, not an entire state, can be subject to the demands of a narrow constituency. His constituency might be the political opposite of a bordering constituency of the same state. For instance, a congressman representing a district heavily populated by members of labor unions would necessarily represent this interest in his voting record or face eviction from office at the next election. But the neighboring district of the same state might be rural and inclined to support

thn right-to-work laws, and such support would be reflected, in all likelihood, by its congressman. In the words of the Federalists, the House is "the numerous body" and "the representative ought to be acquainted with the interests and circumstances of his constituents" (No. 56) because "...it is particularly essential that the branch of it under consideration (i.e. the House) should have an immediate dependence on, and an intimate sympathy with, the people" (No. 52) and because "the House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people." (No. 57)

Because of this constitutional mandate to keep close ties to the people, it has become customary for congressmen to attend very closely to the needs and complaints of constituents. Thus, some congressmen maintain as many as four constituent offices in their congressional districts while it is unusual for a senator to maintain more than two offices in his entire state.

While competing interests may be few in a congressional district, a senator, representing all the congressional districts in his state, must necessarily face a multitude of competing interests. As a result, he must have a more general view of all political issues. By way of example, the senators from Illinois must represent a state whose House delegation is evenly split between the two parties (twelve Republicans, twelve Democrats), and likewise the senators from Arizona (two Republicans, two Democrats). Today a senator faces from within his state what Madison saw as a national characteristic in 1787, namely, a "dissimilarity in the ingredients," and a "diversity in the state of property, in the genius, manners, and habits of the people of the different parts of the union." (No. 60)

In addition, the framers of the Constitution gave certain other powers to the Senate that they regarded as non-political functions, namely the power to try impeachments, to ratify treaties, and to approve executive nominations. These tasks were assigned to the Senate because it is more likely to be free from the "demon of faction" than the House, that "numerous and changeable body." Thus, the Senate was contemplated by the Federalists to be "a select and stable body," (No. 63) an idea that Tocqueville later reemphasized by calling it "the great executive council of the nation," a body that will be "sufficiently independent" (No. 65) to wisely tend to "national concerns" (No. 64) and "the comprehensive interests of their country" (No. 62).

THE INDEPENDENCE OF THE STATES

The Constitution guarantees a "republican form of government" to each state (Article IV, Section 4). And all states have a republican constitution that closely mirrors the federal Constitution -- but not the District of Columbia whose city council takes the place of the state legislature, but every action of which is conditional on the approval of Congress, and therefore, not independent.

As Ignazio Silone said in his School for Dictators: "The first test to be applied in judging an alleged democracy is the degree of self-governing attained by its institutions." The District has self-government at the pleasure of Congress--not independent of it. Indeed, Congress could abolish the City Council or the District of Columbia at will. It retains such constitutional prerogatives. To give such a unique area equal standing with the several states in the Senate would effect a fundamental change in the Senate indeed. One must wonder if certain other cities, for instance, New York City, should make an equally justiable claim to representation in the Senate.

Proponents of the amendment have maintained that the clause of Article V: "no state, without its consent, shall be deprived of its equal suffrage in the Senate," is not at issue here because this clause merely insures that no state can receive proportionally more representation in the Senate than any other and because this clause has never been an impediment to the admission of new states under Article IV, Section 3. But a strict reading of Article IV and Article V taken together might lead to the conclusion that a state can have its proportional suffrage in the Senate reduced by the admission of a state only but cannot be denied its proportional suffrage by the admission of any other entity.

THE SPECIAL CASE OF THE DISTRICT OF COLUMBIA

Washington, D.C. is the "federal enclave" and as such can be considered a company town. It is not possible to separate the land area of the District of Columbia from its one and only activity, the daily business of the federal government. The federal government employs 18.3 percent (223,900 employees) of those working in the District while the service industry, which is closely aligned with the federal government, employs 25.5 percent (149,200 employees). Employment trends show an ever increasing domination by the federal government.

The District receives a direct grant from the federal government annually. This payment is provided in recognition of the District's role as the nation's capital and helps compensate the city for tax losses due to the large amount of non-taxable federal property in the city. It is based on Congress's jurisdiction over the city as provided in Article I, Section 8, Clause 18 of the Constitution, already referred to above. Needless to say, none of the fifty states receives such an unrestricted annual grant from the federal government. Since 1950, when the population of the District began to decline, the amount of the federal payment has steadily increased to the point that for 1978 the sum will be $300 million, or 28.04 percent of the District's budget. Total federal aid to the District was $1,010 per capita in 1975, about four times more, on the average, than federal aid to any of the states, except Alaska which received $739 of federal money per capita. Compared to the forty-eight largest cities in 1974, Washington (the eleventh largest) received more aid from the federal government than any city except New York City.

Washington would have a recession-proof economy as long as federal spending stayed constant. Since federal spending is ever increasing, the area of the District has an assured boom economy. In Washington the federal government is omnipresent and nearly omnipotent. There are no competing factions or interests. Manufacturing employment in 1976 was only 16,100.

Because of all this, it would seem that U.S. senators from the District of Columbia would be in the seemingly paradoxical, but at least unique, position of representing the interests of the federal government to the federal government. In addition, it would seem that a senator from the District would be under no compulsion to weigh the interests of any competing interests since there are not any other interests that could have a significant influence in his election. It is rather obvious to point out that the employees of the federal bureaucracy, the overwhelmingly dominant class in the District, will elect representatives to the U.S. Congress who are sympathetic to the continued growth and prosperity of the federal working class. But bigger and more federal agencies and programs, something which favors the economy of the District, has the effect on the people of the several states of greater federal taxes, and more federal regulations. While the senators from the several states must continually balance the claims of competing factions from within their own states and also balance the federalist distinction of state versus federal sovereignty, senators from the District would have no immediately practical reason for so doing.

Under the home rule charter, the City Council can be regarded as a kind of state legislature for the District of Columbia, but one of no sovereignty because of Congress' absolute veto over any of the actions of the council and absolute legislative control over the city's budget. Providing for election of senators from the District would give the District the status of a state since it would have equal representation in the Senate, almost the definition of a state. With the District regarded as a state in the Senate, it would seem that the federal government has become incarnated in a new way in that in addition to federal law, regulation, and influence, there comes into existence a physical manifestation of the federal government--the land of the state of District of Columbia, and a human manifestation--the senators from the District.

With this in mind, it would seem that, for the senators from the District, none of the state restraints on the federal government that Madison speaks of would be any longer applicable: "Thus each of the principal branches of the federal government will owe its existence more or less to the favor of the State governments, and must consequently feel a dependence, which is much more likely to beget a disposition too obsequious than too overbearing towards them. On the other side, the component parts of the State governments will in no instance be indebted for their appointment to the direct agency of the federal government, and very little, if at all, to the local influence on its members." (No. 45)

SPECIAL PRIVILEGES FOR THE DISTRICT

Another power granted to the District under Section 1 of the amendment is the participation of the District in the ratification of constitutional amendments under Article V of the Constitution. But Article V states that proposed constitutional amendments shall be ratified by the state legislatures of the several states. Since it is not a state, the District has no state legislature. Congress would have to decide whether the City Council can function in this capacity.

Several of the legislatures of the states that have not yet ratified the controversial Equal Rights Amendment have considered putting the ratification to a referendum of the people. But the state attorneys general have all rightly pointed that such a referendum would be unconstitutional since the Constitution specifically provides that constitutional amendments shall be ratified b, the state legislatures. Since there are inherent contradictions in declaring that the City Council of the District can function as a state legislature, Congress might decide that the people of the District may vote on the ratification of constitutional amendments in which case the people of the District would enjoy a constitutional privilege not enjoyed by the people of the several states.

This problem leads directly to a discussion of Section 2 of the proposed constitutional amendment, namely: "The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress." Neither a reading of the committee report of the House Committee on the Judiciary nor a reading of the record of the debates on the floor of the House or Senate gives a satisfactory explanation of either the intent or the meaning of this section. In the dissenting committee views of Congressmen Henry Hyde, Carlos Moorhead, Jack Brooks, Charles Wiggins, and John Ashbrook, this section:

> implies that the exercise of these foregoing "rights and powers" must be exercised jointly with the "people of the District" and the Congress, each holding veto power over the other. This might entail the Congress, for example, voting twice on the ratification of a constitutional amendment, first in discharging its constitutional role under Article V in proposing an amendment and a second time as a sort of legislative endorser for the "people of the District" under this proposed amendment.

Of the sixteen amendments to the Constitution ratified since the Bill of Rights, seven stipulate that Congress shall have the power "to enforce this article by appropriate legislation." The Prohibition Amendment, since repealed, gave concurrent enforcement power to Congress and the several states. The proposed District of Columbia amendment would be the first to give enforcement powers to Congress and the people of what is in this case neither a state nor a territory.

This "Congress and people" section of the amendment was probably included in order to take into account the peculiar interlocking legislative relationship between Congress and the District's city council. In debate on the floor of the Senate, Senator Edward Kennedy stated that any details about how the amendment should be implemented "can be worked out by the D.C. government and Congress."

What authority should Congress grant the City Council to determine the procedure to be employed concerning the three powers of Section 1? And even if the City Council is granted substantial authority in these matters, it must be remembered that Congress always maintains absolute veto over all actions of the City Council. And since the Congress, not the City Council, has legislative authority over the city's budget, Congress would be appropriating the funds necessary to hold elections of its own members, in addition to issuing regulations on campaign contributions, expenditures, and campaign procedures.

In addition, if the District should ever have sufficient population to be allotted two representatives in the House, then Congress would have some authority in determining the lines of the two congressional districts. In the states, the drawing of district lines based on re-apportionment is done by the state legislatures, another example of the continuing viability of state sovereignty. And, finally, it would seem that the Hatch Act, which prohibits federal employees and the employees of the D.C. government from participating in political campaigns would necessarily have to be relaxed for the special case of the District of Columbia. Otherwise, a majority of the adult residents of the District would be unable to be active in campaign politics.

Because of this unique relationship between the District's city council and the U.S. Congress, other questions arise when the three powers provided by Section 1 are contemplated in light of Section 2. It appears likely that the states are going to be unable to determine the precise nature of what they are considering ratifying. In the event of the required three-fourths ratifications of the states, it could happen that the District of Columbia, with its new constitutional position "as though it were a state" might end up with substantial constitutional privileges not enjoyed by the several states.

Thomas Ascik
Policy Analyst

self-determination for DC

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The Ripon Society
The Urban League
United Methodist Church, Board of Church and Society
United Presbyterian Church
V O I C E
Washington Bar Association
Washington Teacher's Union
Woman's National Democratic Club Political Action Committee

December 21, 1978

The Honorable Mike Miller
State Capitol
Juneau, Alaska 99811

Dear Representative Miller:

Thank you for expressing your interest in the DC Amendment at the meeting at the National Conference of State Legislators meeting in Washington last week.

We are very pleased that you will be filing a resolution for ratification. I am enclosing the form used in the Pennsylvania Assembly. I hope it is of use to you.

We prepared strategy guidelines which we are suggesting to our friends in the states. I am also enclosing a copy.

We will be sending a specially prepared guide to the amendment and to the District of Columbia early in January but, meanwhile, enclosed is some background material.

We thank you for your help in securing ratification in Alaska and wish you a very happy New Year.

Sincerely,

Elena S. Hess

Elena S. Hess
Executive Director

Enclosures (4)

Printer's No. 3609

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2678 Session of 1978

INTRODUCED BY MESSRS. IRVIS, JOHNSON, MANDERINO, OLIVER, ZITTERMAN, BARBER, MRS. WISE, MESSRS. DOMBROWSKI, RITTER, WHITE, D'CARLO, RICHARDSON, DUMAS, RHODES, MRS. HARPER, MESSRS. WILLIAMS AND WIGGINS, SEPTEMBER 11, 1978

REFERRED TO COMMITTEE ON FEDERAL-STATE RELATIONS, SEPTEMBER 11, 1978

A JOINT RESOLUTION

Ratifying the proposed amendment to the Constitution of the United States regarding representation of the District of Columbia in Congress.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. Article V of the United States Constitution provides for ratification of the United States Constitutional amendments by the legislatures of three-fourths of the several states. Congress approved House Joint Resolution 554 on August 22, 1978, proposing to amend the Constitution to provide for representation of the District of Columbia in the Congress and submitted said resolution to the states for their ratification.

Section 2. The proposed amendment to the Constitution of the United States providing as follows is hereby ratified by the General Assembly of the Commonwealth of Pennsylvania:

"Article

"Section 1. For purposes of representation in the Congress, election of the President and Vice President, and Article V of

this Constitution, the District constituting the seat of government of the United States shall be treated as though it were a State.

"Section 2. The exercise of the rights and powers conferred under this article shall be by the people of the District constituting the seat of government, and as shall be provided by the Congress.

"Section 3. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

"Section 4. This article shall be inoperative, unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission."

Section 3. A certified copy of the foregoing resolution shall be forwarded to the Administrator of General Services in accordance with 1 U.S.C. § 106(b), to the President of the United States Senate and to the Speaker of the United States House of Representatives.

self-determination for DC

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American Veterans Committee
B'nai B'rith Women
Catholic Archdiocese of Washington
Central Labor Council
CHANGE, Inc.
Common Cause
Committee for Aid and Development of Latin Americans in the Nation's Capital
Delta Sigma Theta
Democratic National Committee
Democratic State Committee
DC Citizens for Better Public Education
DC Federation of Civic Associations
DC Federation of College Democrats
DC Jaycees
DC NOW
Friends Committee on National Legislation
Friendship House
Jewish Community Council
League of Women Voters
Metropolitan Washington Board of Trade
Metropolitan Washington Housing and Planning Association
National Alliance of Postal and Federal Employees
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National Women's Political Caucus
People Organized for Progress and Equality
Republican Central Committee
SEO Center
The Newspaper Guild
The Ripon Society
The Urban League
United Methodist Church, Board of Church and Society
United Presbyterian Church
V O I C E
Washington Bar Association
Washington Teacher's Union
Woman's National Democratic Club Political Action Committee

Dear Friend:

As you know, the campaign is underway to secure ratification of the proposed Constitutional Amendment which will give the people of the District of Columbia full voting representation in Congress. Our experiences in the few states which have considered ratification to date have suggested several guidelines for a successful ratification campaign.

The first recommendation is that all national and state level activity preserve the two primary ingredients that brought victory at the Congressional level:

1) Broad, bi-partisan, multi-racial, multi-interest support should be secured and publicized.

2) Detailed research, planning and execution must typify all activities.

In addition, to ensure that the kind of broad support and detailed preparation needed to succeed is generated, we are asking all of our friends and supporters to make every effort towards establishing the following:

1) Bi-partisan co-sponsorship and support of the ratification resolution by the leaders of the legislature. At a minimum, the leaders include the President of the Senate, the Speaker of the House, the Majority and Minority leaders in the Senate and House and the Chairpersons of the Committees to which the ratification will be referred.

2) An effective education program to include at a minimum, the distribution of materials and the organization of small group education sessions for key legislators including the formal, as well as informal assembly leaders.

3. A timetable which does not require the waiver of any rules and that allows for full deliberation and consideration of the issue.

4. The identification and convening of local coalition support groups and to the extent possible, the coordination of the state house lobbying activity.

Ratification Campaign staff can be a resource for you in the development and implementation of your state plans, based on the above guidelines. For example, we can provide background information and specialized research for hearing preparation and follow-up. In addition, we may be able to call upon national offices, such as the Republican National Committee, the Democratic National Committee, Congressional Delegations and the White House, to encourage support by uncommitted legislators. We can also make persons familiar with the issue available to boost your education programs. Finally, we can supply the names from state affiliates of our National Coalition to promote local constituent support and involvement.

Ratification by 38 states is a reachable goal if the four-point plan of operation is put in place in each state. The D.C. Ratification Campaign leadership and staff look forward to working with you.

Sincerely,

Richard W. Clark
Executive Coordinator

self-determination for DC

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United Methodist Church Board of Church and Society
United Presbyterian Church
VOICE
Washington Bar Association
Washington Teacher's Union
Women's National Democratic Club
Political Action Committee

LOCKED OUT OF CONGRESS

The residents of the District of Columbia are locked out of their own government--denied voting representation in the United States Congress despite their payment of over a billion dollars a year in federal taxes.

*****The annual per capita federal tax burden for the District of Columbia is $2116--higher than 49 of the 50 states. And yet, this community of 700,000 is relegated to inferior status--granted only one "non-voting delegate" in the Congress.

*****237 young men from the District of Columbia were killed in the Vietnam War, although their mothers and fathers had absolutely no voice in whether money should be appropriated to wage that war.

****Seven states--South Dakota, North Dakota, Nevada, Delaware, Vermont, Alaska, and Wyoming--have fewer people than the District of Columbia. And yet, unlike D.C., each of these states is represented by two Senators and one or two House Members.

****Of the 115 nations in the world community with national legislatures, only the United States and the military dictatorship of Brazil share the dubious distinction of denying full representation to citizens of the federal capital.

****To put the present plight of D.C. residents in perspective, one need only consider the tax revolt sweeping across America. Taxpayers who live in Washington, D.C. are uniquely frustrated: their ability to influence the federal tax rate is blocked by a lack of voting representation. At the same time, D.C. residents who might contemplate a Proposition 13, instead, face a Catch 22: Local taxes in Washington, D.C. are obviously a function of the District's budget, which is set, incredibly enough, by a Congress lacking a single voting member from our nation's capital.

The case for D. C. voting rights is an overwhelming one, linked to essential concepts of American democracy.

THE KEY TO CHANGE

Recognizing that the continued exclusion of the 700,000 District of Columbia residents from the political process is a violation of basic human rights, the House and Senate have passed a constitutional amendment providing full voting representation for D. C.

If ratified by 38 states, this amendment will insure that the citizens of our nation's capital are treated on an equal basis with their 200 million fellow Americans. It will give the District: two Senators, the number of House Members (one or two) warranted by population, and participation in the ratification of constitutional amendments.

In short, the amendment approved by the House and Senate, with strong bi-partisan support, merely extends to the men and women of Washington, D. C. the benefits of first-class citizenship exercised and taken for granted by citizens of the fifty states.

UNDERSTANDING THE ISSUE

WHY SENATE REPRESENTATION?

1. Critics have asserted that the District's representation should be limited to the House. Yet, it is the Senate which is charged with confirming Presidential appointments and ratifying treaties. Under current law, the citizens of the District of Columbia will have as much say on the critical question of ratifying the SALT Treaty or confirming a nominated Supreme Court Justice as will the citizens of Pago-Pago. It is simply unacceptable that we disenfranchise nearly three-quarters of a million Americans on an issue so vital to war and peace and government spending priorities as arms limitation.

WHY NOT RETROCESSION?

2. Other critics contend the amendment should be rejected in favor of an allegedly more equitable solution: retrocession of the District to Maryland which in 1788 ceded to the federal government the land that now comprises the District of Columbia. Such a suggestion is impractical and unfair to the residents of the District. In the first place, Maryland would resist retrocession. Secondly, the District of Columbia has evolved as a distinct community which deserves its own representation in Congress, rather than an artificial linkage with a state with which it has no common history.

WHAT ABOUT ARTICLE V?

3. Finally, some opponents of full voting rights for D. C. have charged that the amendment now submitted for ratification violates Article V of the Constitution, which declares, "no state, without its consent, shall be deprived of its equal suffrage in the Senate." However, this argument has been invalidated by many scholars, including one of America's most learned constitutional law professors, Charles Alan Wright of the University of Texas.

"It seems to me that the clear purpose of (the Equal Suffrage Clause) was to insure that the Great Compromise [between large and small states] would not be undone and that the representation in the Senate would not be put on the basis of population," Professor Wright has said. "That purpose is not compromised by allowing the District to have two Senators any more than it is when a new state is admitted."

D E A T H A N D T A X E S

The men and women who live in the District of Columbia are not about to dump chests of tea in the Tidal Basin. Nor do they plan to storm the Internal Revenue Service building. Rather they are relying upon the good faith of state legislators from Alaska to Alabama, from New Mexico to New Hampshire, who will be called upon to correct a profound injustice which undermines our commitment to equal rights for all citizens.

The nature of that injustice was poignantly expressed in a 1971 letter from a District of Columbia Gold Star mother to Missouri Senator Thomas Eagleton.

"I have lost one son," she wrote. "I may lose another. Yet I have no voice in voting on how far this war should go, or how long it should go on, or how much expanded it should be....I am hopeless, and in that sense I am voiceless."

Senator Eagleton later said, "I think that one letter did more to shape my thinking than a million words or a 200-page memorandum. The appeal is not simplistic; it is just fair and equitable."

A hopeless, voiceless mother who feels totally estranged from her government is a far cry from the democratic process our Founding Fathers envisioned. And that's one reason organizations ranging from the Republican National Committee, United Presbyterian Church, to the League of Women Voters have given their enthusiastic support of the voting rights amendment.

It's not an issue defined by political party or ideology. It's an issue of simple justice.

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EDWARD M. KENNEDY
MASSACHUSETTS

United States Senate

WASHINGTON, D.C. 20510

March , 1979

Dear State Legislator:

As you know, an important campaign is now underway in the 50 states to secure ratification of a constitutional amendment to give representation in Congress to the District of Columbia. As a strong supporter of this amendment in the United States Senate, I am hopeful that you will give your support to the ratification effort, so that the amendment may become part of the Constitution.

For your interest, I am enclosing a lengthy statement dealing in detail with the many different issues involved in the amendment.

At bottom, however, I believe the question is really a very simple one -- whether the 700,000 citizens of the District of Columbia deserve the same basic right to representation in their government that all other Americans enjoy.

I hope that, after reading these materials, and giving careful consideration to the issue, you will agree with the goal of the amendment and give your support to its ratification.

The proposed amendment was approved by a two-thirds vote in both the United States Senate and the House of Representatives. The vote was 67-32 in the Senate and 289-127 in the House. In each body, as you will see from pages 41-42 of the enclosed statement, it had strong bipartisan support -- Senate Republicans split 19-19 for and against the amendment, and House Republicans split 61 for and 79 against the amendment.

With my best regards, and I hope you will let me know if I can provide any additional assistance or material

Sincerely,

Ted Kennedy

Edward M. Kennedy

from the office of

Senator Edward M. Kennedy

of Massachusetts

OPENING STATEMENT OF SENATOR EDWARD M. KENNEDY IN SENATE DEBATE ON FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

AUGUST 16, 1978

We begin an historic debate in the Senate today on a significant issue of civil rights and human rights -- an amendment to the Constitution to provide representation in Congress for the people of Washington, D.C.

In matters of fundamental justice and human rights involving the citizens of our nation, there is no left or right, liberal or conservative. Yet, under the Constitution and laws of the United States, there is an anachronism that defies justice and denies one of the basic and most cherished rights of representative government for the people of the nation's capital -- the right to have a voice in the decisions of the Senate and the House of Representatives.

The issue is one of simple justice for the 690,000 citizens of the nation's capital. For decades, going back to the beginning of the 19th century, ordinary District citizens, concerned local leaders, and many members of Congress have sought this basic goal. Indeed, the goal is remarkable and unusual only in the sense that it has been so flagrantly denied for so long to so many citizens. In a nation that was founded on the principle of representative government and that has prided itself for two centuries on the strength and vitality of its democracy, it is a travesty of history that the District of Columbia has no voice in Congress.

The eyes of three constituencies are upon us -- the hundreds of thousands of citizens of the District of Columbia who ask only the same basic political right that all other Americans enjoy, the Americans in states throughout the country, who have made this question a national issue of civil rights; and millions more throughout the world who will see in our action a sign of America's real commitment to human rights. No other action Congress takes can so clearly demonstrate that our nation's worldwide concern and sensitivity for human rights begin at home, on the doorstep of the Capitol, in the chambers of the House and Senate.

In recent weeks, the Senate has spoken out with a virtually unanimous voice in condemning the violations of human rights in the Soviet Union. Our noble words, however -- important as they are in giving hope to so many in other lands who are denied their basic rights -- would acquire a hollow ring if the Senate now turns its back on the rights of the people of the District of Columbia to share in our democracy.

In the view of legal scholars, there is no constitutional impediment to enactment of this measure. Enfranchisement of the District was not an issue the founding fathers faced. They could hardly foresee that the sparsely settled marshy area along the Potomac River -- the "District (not exceeding ten miles square)" about which they wrote in 1787 -- would one day be not only the seat of government of the United States, but the capital of the free world, a celebrated city of several hundred thousand residents.

The population of the District is now larger than seven states. Residents of the District pay large amounts of taxes to the Federal Government. District residents fought and died in Vietnam and in all the nation's other wars. And yet they continue to endure both taxation without representation and conscription without representation.

Last March, by an impressive two-thirds vote, the House of Representatives approved the pending constitutional amendment (H.J. Res. 554) to provide full voting representation for the District of Columbia in both the House and the Senate -- two Senators and two members of the House of Representatives on the basis of recent population estimates.

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Now, the spotlight is on the Senate. We have a realistic opportunity to achieve the goal, and we should not let the opportunity slip away. One of the most honored principles of our democracy is the concept of "one person, one vote." In the District of Columbia, however, that principle has no application. Instead, for District citizens, the rule is "690,000 persons, no votes." Nowhere in America should the principles of democracy be more firmly established than in the nation's capital. The time has come to remove the cloud of America's "Last Colony" from the District of Columbia.

The proposed amendment has strong bipartisan support. It has been endorsed by the chairmen of both the Democratic National Committee and the Republican National Committee. Both the Democratic and Republican party platforms in the 1976 election contained explicit planks supporting voting representation in the Senate and House for citizens of the District. In 1970, testifying before a Senate committee on behalf of the Nixon Administration, Assistant Attorney General William H. Rehnquist, now a Supreme Court Justice, endorsed a constitutional amendment to achieve this goal. His words emphasized the long-standing injustice perpetrated on citizens of the District:

> "The need for an amendment of that character at this late date in our history is too self-evident for further elaboration; continued denial of voting representation from the District of Columbia can no longer be justified."

But what was self-evident to Mr. Rehnquist and the platform committtees has not been obvious to Congress. In recent years, the Senate has usually been regarded as the graveyard for aspirations of District residents to participate in their national government. A breakthrough occurred in 1961, when the 23rd Amendment to the Constitution gave the District the vote in Presidential elections; that amendment was ratified by the states in nine months -- a record at the time.

But success has not come as easily for Congressional representation. Opposition so far has seemed to arise from four "toos" on the part of some members of the Senate -- the fear that Senators elected from the District of Columbia may be too liberal, too urban, too black or too Democratic. There is also the mystique of the Senate club, the reluctance to expand the membership beyond the current 100 Senators. But such arguments cannot bear the light of day. They deny basic justice. They are unworthy of the Senate and the nation, and provide no justification for denying representation in Congress to the people of the District of Columbia.

Here in the Senate, we often differ on the degree to which the Federal Government should be involved in the affairs of the citizens of this country. But we should all agree that in this age of big government, no Americans are truly free unless they have a voice in the election of those who write the nation's laws. Two hundred years and ninety-five Congresses after the nation was founded, it is time to welcome Senators and Representatives from the District of Columbia into our congressional deliberations and decisions -- and our cloakrooms.

Wherever I travel, I find people surprised to learn that the citizens of Washington cannot vote for members of Congress. This mood, and the precedent of swift approval for the 23rd Amendment, give confidence that the generous and decent instincts of the American people will produce prompt ratification of an amendment to give the District the vote in Congress, once we send the amendment to the states.

THE CASE BASED ON POPULATION

One of the strongest arguments in favor of H.J. Res. 554 is the simple fact that the District of Columbia is not just a museum collection of Federal monuments and government buildings. It is also the home of hundreds of thousands of men, women and children -- 690 000 people in all.

Under one of the most basic principles of our democracy, the citizens of each of the states are represented in the Senate and the House. Yet, the 690,000 citizens of the District are denied this fundamental right

As Table 1 indicates, the District of Columbia has a population greater than, or equal to, that of six states, based on the most recent data available from the Bureau of the Census -- the population estimates for 1978.

District of Columbia	674,000
Nevada	660,000
North Dakota	652,000
Delaware	583,000
Vermont	487,000
Wyoming	424,000
Alaska	403,000

If, instead of the 1978 estimates, the official census figures for 1970 are used, the District has a population greater than the population of 10 states -- including Idaho, Montana, and New Hampshire, in addition to the above seven states. Each of these states has its own representation in Congress -- two Senators, and either one or two Members of the House of Representatives, depending on the population of the state. Yet, the people of the Nation's Capital have no such voice.

In this era of profound involvement by Congress in so many different aspects of American life, it is a denial of basic justice and human rights for the citizens of the District to have no voice in the decisions of Congress.

THE CASE BASED ON TAXES

Since the days of the Revolutionary War, a fundamental principle of our nation has been the rejection of taxation without representation.

Yet, today, two centuries after America was founded, the citizens of the District of Columbia are forced to endure the unfair burden of such taxation. As citizens of the United States, the residents of Washington, D.C. are obliged to pay large amounts in taxes each year to the Federal Government. Yet these citizens are denied representation in Congress, which writes the nation's tax laws.

The Library of Congress has prepared data summarizing Federal tax payments from each of the 50 states and the District of Columbia. The data, based on concepts developed by the Tax Foundation, shows dramatically the degree to which the District of Columbia bears the burden of taxation without representation.

As shown by Table 1, residents of the District paid out $1.4 billion in taxes to the Federal Government in fiscal year 1977. That amount is greater than the taxes paid by 11 states:

	($ BILLION)
DISTRICT OF COLUMBIA	$1.470
Maine	1.400
New Hampshire	1.330
Alaska	1.225
Nevada	1.190
Idaho	1.155
Delaware	1.120
Montana	1.085
North Dakota	0.945
South Dakota	0.840
Wyoming	0.735
Vermont	0.630

Each of these states is represented in Congress by two Senators and by either one or two Members of the House of Representatives, depending on the population of the state. The citizens of these states, therefore, have a voice in the way they are taxed by the Federal Government. But the citizens of the District of Columbia have no such voice.

If the Federal tax burden is calculated on a per capita basis, the comparison becomes even more stark. For District of Columbia residents, the per capita tax burden is $2,116, or $491 above the national average of $1,625. Only one other state -- Alaska -- has a higher per capita tax burden; in 49 of the 50 states, the Federal tax burden is smaller than in the District of Columbia.

These figures provide a compelling argument for granting representation in Congress to the District of Columbia. H.J. Res. 554 would enable the District to elect members of both the Senate and the House of Representatives. It deserves to be enacted, so that at last we can end a serious blight on our contemporary democracy, the burden of taxation without representation that has existed so long and so unfairly for the citizens of the Nation's Capital.

THE CASE BASED ON CASUALTIES IN VIETNAM

One of the most important arguments in favor of H.J.Res. 554 is contained in the statistics of the Department of Defense on casualties in the Vietnam War. The figures reveal that 237 citizens of the District lost their lives in Vietnam. As Table 1 indicates, the casualty level for the District is higher than the levels for 10 states -- Alaska, Delaware, Idaho, Nevada, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont and Wyoming.

The people of those 10 states, and of every other state, were represented in the House and Senate throughout the period of the Vietnam War. These people -- and the people in every other state -- had a voice in the decisions of Congress on the war, decisions that affected the lives of so many thousands of their citizens who were asked and compelled to serve their country in that war. But the citizens of the District of Columbia had no such representation and no such voice.

We cannot remedy that injustice for the past. But we can do so for the future. At a time when Congress exerts such a profound and growing influence over so many different aspects of American life, the people of the District of Columbia have a right to be heard in our deliberations. H.J. Res. 554 would give them the voice they deserve.

A DISTRICT OF COLUMBIA GOLD STAR MOTHER'S CASE

At the Senate hearings in 1978 on the pending amendment, one of the most dramatic and moving moments came in the testimony by our distinguished colleague from Missouri, Senator Eagleton.

In that testimony, he told of a letter he had received from a District of Columbia Gold Star mother, whose son had been killed in the Vietnam War. Yet, as she told Senator Eagleton, she had no one in Congress to represent her views in decisions on the war. As Senator Eagleton testified:

> "This letter was from a mother who had two sons in the army. 1971, as the Chairman will recall, was still a very high point in the Vietnam War. Her elder son had been killed, and naturally that had had a traumatic impact on her, her thinking, et cetera, and she wrote me a very moving but simple letter saying, in essence, 'I have lost one son. I may well lose another. Yet

I have no voice in voting on how far this war should go, or how long it should go on, or how much expanded it should be -- into the Parrot's Beak, or how many bombs we should drop on the Ho Chi Minh Trail. I am hopeless, and in that sense I am voiceless.'

"I think that one letter did more to shape my thinking than a million words or a 200-page memorandum. The appeal is not simplistic, it is just fair and equitable."

That letter sums up very well what this issue is all about. On basic issues of vital importance to the lives of all Americans -- issues like war and peace, inflation and unemployment, and the countless other areas in which actions by Congress affect the daily lives and hopes of every citizen of this land -- the people of the District of Columbia are denied their rightful voice. That denial contradicts the most central principles on which our democracy rests. It is an anachronism of history that no American should tolerate.

THE NEXT GENERATION

Few things matter more to the long run future of the United States than the values we hand on to the next generation of the nation's leaders.

One of the most impressive witnesses at the Senate hearings in 1978 was Natasha Pearl, a 17 year old student who graduated this year from Woodrow Wilson High School in the District of Columbia.

Ms. Pearl's testimony goes directly to the heart of the issue -- the fact that the 700,000 citizens of Washington, D. C. are denied one of the basic rights that other American citizens enjoy, the right to participate in our democracy by sending their own elected representatives to Congress.

Recalling her experience as a delegate to the Senate Youth Program, Ms. Pearl testified:

"The lack of voting representation for the District was an issue I often discussed with my fellow delegates. Shock and disbelief were expressed upon learning of the grossly unfair and undemocratic situation existing in our nation's capital. Knowing that our forefathers fought and died so that taxation without representation would never again occur in this country, many delegates could not understand why my parents and other District residents pay federal taxes, bearing all the burdens of citizenship, like their parents -- yet have no representation. To the Senate Youth delegates, it was incomprehensible that in 1978, in the United States of America, nearly three quarters of a million American citizens are without the privilege that all the other Senate Youth delegates took for granted -- voting representation in the Senate and House of Representatives."

She also recalled her feelings on the day set aside for the delegates to visit the offices of their Senators:

"You may recall the one day of the Senate Youth Program that was set aside for the delegates to visit their Senators. I have never before felt inferior to fellow Americans. That day I did. All I could do was listen at dinner that evening when my friends told of how they had discussed important national issues, such as the Panama Canal Treaties, energy policy, and health care with their Senators. I, too, have opinions on these and other vital issues. That day, I could share them with no one who had a voice or a vote in the United States Senate."

Finally, she spoke of an occasion last February when she represented the District of Columbia at "Convention II," a mock Constitutional Convention held in Washington

> "It was a marvelous experience. Two hundred and seventy-five students from nine states and the District considered one hundred and fifty-five constitutional amendments. These amendments dealt with a wide variety of issues, many of which are currently being considered by Congress. Only two of the one hundred and fifty-five proposed amendments were passed. I sponsored one of them. It provided voting representation for the District of Columbia. The vote was 182 in favor and 16 opposed -- an overwhelming statement of support by youth for this issue."

Ms. Pearl's testimony makes a compelling case for approval of H.J. Res. 554. The question is really a very simple one -- is it fair for Congress to continue to deny to Ms. Pearl and the other residents of the nation's capital the same full rights that 200 million other Americans enjoy? To a large extent, the way we answer questions like this one will be a signal to the next generation of the depth of our commitment to the democratic ideals on which the nation was founded.

THE CASE BASED ON THE EXPERIENCE OF FOREIGN NATIONS

According to a study earlier this year by the Library of Congress, among 113 nations in the world with elected national legislatures, the United States and Brazil stand alone in denying representation in the legislature for citizens of their capital cities.

The analysis is an important study in comparative government and a significant source of additional support for H.J. Res. 554, which offers Congress the chance to end the serious injustice perpetrated on the citizens of Washington, D. C. They deserve a voice in the Senate and the House like any other American citizen, and like citizens in other nations the world over.

The study provides dramatic documentation of the lonely and reactionary position of the United States in the international community with respect to one of the fundamental and most widely recognized human rights in the world today -- the right to vote for elected representatives. The study makes clear that in this important respect the United States, the emperor of human rights, has no clothes. Aside from the authoritarian and repressive regime of Brazil, America stands alone among the nations of the world in imposing this flagrant restriction on the civil and political rights of the citizens of its capital city.

As Table 2 reveals, the virtually universal practice in nations with elected legislatures -- whether democracies or totalitarian systems -- is to accord representation to the capital city on a parity with other cities in the nation.

A key element of the study is its documentation that even in nations with federal systems of government like the United States, this principle of parity is followed.

The study included 16 federal nations, with the following findings:

-- Nine federal nations (Austria, Canada, West Germany, India, Nigeria, Pakistan, Switzerland, the Soviet Union and Yugoslavia) have capital cities which are not special federal districts and which receive the same represention in the legislature afforded to other cities.

-- Seven federal nations (Argentina, Australia, Brazil, Malaysia, Mexico, Venezuela, and the United States) have capital cities which are federal districts with a special status similar to that of the District of Columbia. Only Brazil and the United States, however, deny voting representation in the legislature for residents of the capital cities.

It is clear from this study that opponents of representation in Congress for the District of Columbia cannot hide behind the Federal analogy. Theoretical arguments for denying representation, based on the view that the District of Columbia is not a state, are easily out-weighed by the demand of the citizens of the capital city to participate in the basic rights of democracy. With the exception of Brazil, other federal nations modeled on our own Federal Government have resolved this issue against discrimination and in favor of representation for the capital. In this respect, the onrushing tide of world democracy and human rights has left the United States sadly in its wake.

THE BLEMISHED RECORD OF ADMISSION OF STATES TO THE UNION

The effort to end discrimination against D.C. residents is hardly a novel chapter in American history. One of the continuing currents in the nation's 200 year history has been the struggle of peoples in the various territories of the Union to achieve the full rights of citizenship. The pages of our history contain numerous examples of the frustrations, failures, and eventual successes of the citizens of various regions of the nation in becoming full partners in the Union.

In these cases, of course, the goal was statehood. But statehood is a goal not readily available to the District of Columbia, because of the unique character of the District as the nation's capital within our federal system. In a larger sense, however, the aspiration is the same and is independent of the statehood issue. That aspiration is the desire of American citizens to enjoy as nearly as possible the full benefits of American democracy.

Analysis of the issues involved in the admission of states to the Union provides a number of illuminating examples. In many cases, states were admitted without any great difficulty. In other cases, however, there were long delays and serious controversies, involving complex political, economic and social issues. The best known of these controversies was the 19th century issue over whether new states should be admitted as slave states or free states. The Missouri Compromise and the Compromise of 1850 were the landmark events of this period. Missouri, Maine, Arkansas, Florida, Texas, Michigan, Iowa, Wisconsin and California were able to join the Union as a result of these famous but fragile compromises.

In other cases, other issues were involved. Often, admission to the Union was delayed by partisan or racial factors:

-- The admission of Oregon was hindered by Republican fears that it would be a Democratic State. But Oregon was admitted in 1859 and voted for Lincoln in 1860.

-- Kansas endured severe civil violence and divided the Democratic Party before it became a state in 1861.

-- The admission of Idaho was delayed in part by religious controversies over the Mormon minority.

-- The admission of Wyoming was resisted in part because of its progressive attitude toward the political equality of women.

-- The admission of Utah was delayed more than 40 years, in large part because of the controversy over the Mormon religion.

-- The admission of Oklahoma was resisted because of the controversy over the status of the Indian territory.

-- The admission of Montana was delayed for over 20 years by Republican opponents, who feared that the State would be a Democratic stronghold, and who refused to agree to statehood unless the Dakota Territory was divided into two states likely to be Republican. In 1889, an omnibus statehood bill admitted Montana, North Dakota, South Dakota, and Washington to the Union.

-- Blatant racial discrimination against the Spanish-speaking population was a key factor in the long delay before admission of New Mexico to the Union.

-- In more recent times, before they finally gained statehood in 1959, the admission of Alaska and Hawaii became a political football, with Democrats fearing a Republican Hawaii and Republicans fearing a Democratic Alaska.

The lesson of these numerous examples is that partisan and discriminatory factors have no place in the decision to admit citizens anywhere in the nation to the blessings of full participation in our system of government. The people of the District of Columbia have already waited far longer than the citizens of any territory to obtain the basic right of representation in Congress. H.J. Res. 554 would end this long injustice.

ORIGIN OF THE DISTRICT OF COLUMBIA

The concept of a separate federal district under the exclusive control of Congress developed as the response of the founding fathers at the Constitutional Convention to the "Philadelphia Mutiny" of June 21, 1783. On that occasion, 80 to 250 disgruntled and angry Revolutionary Army soldiers demanding back pay disobeyed their officers and marched on Independence Hall in Philadelphia, where the Continental Congress was meeting. The Congress requested protection from the Pennsylvania militia, but the request was refused, and the Congress was forced to flee to Princeton, New Jersey, under cover of darkness.

The Philadelphia Mutiny was the central factor in the approval of Article I, Section 8, Clause 17 of the Constitution by the Convention in 1787, which gave Congress the power to protect itself at the site to be chosen for the nation's capital:

> "The Congress shall have Power ... To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States ...."

When the First Congress met in New York in 1789, a major question was the "residence" issue -- the selection of a site for the capital city. The primary concern of the legislators was the issue of economic advantage. As the historian Constance Green has written, the assumption underlying the debate was that

> "Wherever Congress chose to locate the federal city, there a great commercial center would arise. That conviction explains more fully than any consideration of prestige or legislators' convenience why sectional controversy had run so strong during the congressional debates on the 'residence' bill."

The debates narrowed the issue to a choice between a Southern site near the "geographic center" of the nation (a site on the Potomac River) and a Northern site near the "population center" (a site on the Susquehanna River in Pennsylvania). In a compromise achieved by Secretary of State Thomas Jefferson and Secretary of the Treasury Alexander Hamilton, the Southern site was accepted by the Northern faction in Congress, in return for Southern acceptance of a Northern proposal by which the Federal Government would assume the debts of the states from the Revolutionary War.

In anticipation of the action by Congress, territory for the site had been ceded to the Federal Government by Maryland in 1788 and by Virginia in 1789. The Residence Act of 1790 enacted by the First Congress specified in general terms a broad area on the Potomac River from which the site could be chosen. But the Act fixed the southernmost possible portion of the site at the junction between the Potomac and the Anacostia River. In addition, the Act authorized President Washington to appoint and supervise three commissioners to choose the actual site and survey and define the District. In effect, the selection of the precise site was left to President Washington.

President Washington, however, because of his desire to include the City of Alexandria in the capital area, chose a southern corner for the site a few miles farther south than the 1790 Act of Congress permitted, with the result that approximately one third of the actual area selected by the President lay outside the authorization by Congress. Subsequently, Congress enacted additional legislation approving the site.

On the first Monday in December 1800, in accord with the original legislation enacted by Congress in 1790, the national capital was officially transferred from its temporary location in Philadelphia to the new site.

The area originally included in the District of Columbia consisted of only two significant communities -- Georgetown in the Maryland portion with a population of about 3,000 and Alexandria in the Virginia portion with a population of about 5,000. In addition, there were two tiny trading post settlements in the territory -- Carrollsburgh on the present Anacostia River, and Hamburg on the site of the present Foggy Bottom.

During the period 1790-1800, the City of Washington came into being, covering the area east of Georgetown and north of the Potomac to the present Florida Avenue. The region north of the City of Washington became Washington County. According to the census of 1800, the population of the entire District of Columbia was 14,000.

Until the official transfer of the federal government to the District of Columbia in 1800, Maryland and Virginia laws continued in operation in the territory and residents of the local communities voted in federal elections as citizens of their respective states. This practice ended, however, in December 1800, when the exclusive jurisdiction of Congress over the District took effect, and the residents lost their status as citizens of a state.

THE FEDERAL PAYMENT FALLACY

So far, opposition to H.J. Res. 554 has crystallized around a series of arguments that are easily rebutted.

Some opponents argue that if the District of Columbia is to receive the status of a State with respect to representation in Congress, then the District must give up the so-called "Federal Payment" by which, it is claimed, the District receives special financial treatment from Congress not available to the States.

But the argument misconstrues the nature of the Federal Payment, which is an annual appropriation intended to offset the overall negative fiscal impact of the Federal Government on the District. In effect, the appropriation -- $276 million in FY 1978 -- represents an effort by Congress to account for the difference between the special burdens imposed on the city (such as tax-exempt Federal land and buildings) and the special benefits (such as revenues from tourism and federal construction projects) accruing to the city as a result of the Federal presence.

Obviously, there is occasional fiscal tension between Congress, in its role as legislator for the District, and the municipal government of the District, as shown by the continuing controversies over D. C. Appropriations Bills. But these controversies have little to do with the right of the citizens of the District to be represented in Congress and to have a voice in the many actions of the House and Senate on issues of foreign and domestic policy. Whatever the view of individual Senators as to the excessive or inadequate nature of the Federal Payment, I hope we can agree that the issue is separate from the question of representation in Congress and should be considered accordingly.

In fact, the Federal Payment for FY 1979 is likely to be significantly lower than the figure for 1978. Over the years, the amount of the Federal Payment has ranged from a high of 43% of total Congressional appropriations in 1921, to a low of 9% in 1953. In the 1970's, the figure has fluctuated between 27% in 1975 and 20%, where it is today.

In addition, there are a number of specific factors that help to explain the purpose and size of the current Federal Payment:

-- The Federal Government owns 25% of the land area in the District, and this land is exempt from the local tax rolls. For many states, the figure is in the range of 4%. If this low figure applied to the District, it is estimated that local property tax revenues would be increased by $60 million, and that local sales and income taxes would go up by even larger amounts.

-- The District must provide extensive fire and police protection for the federal facilities, as well as sidewalks, streets, and other services not required in States with a smaller federal presence.

-- So far, Congress has forbidden the District to enact a commuter tax, which would spread the special costs imposed by the federal presence more equitably among the federal employees who work in the District but live in the suburbs. Other states make reasonable use of such taxes in such situations. But Congress denies this source of revenue to the District -- estimated at $200 million a year in the typical versions used by various states.

-- Congress refuses to permit the District to issue tax-exempt bonds. States have this option, and use it extensively to borrow funds at interest rates significantly below the market rate for tax-free bonds. Currently, the federal tax subsidy for tax-exempt bonds in the various states totals $6 billion, or an average of $120 million per state. Yet the District is denied access to this source of revenue.

-- Congress imposes a height limit on buildings in the District. These limits restrict business development, and reduce the access of the District to property and other taxes.

-- Finally, District residents pay 11.7% of their principal income in the form of local taxes to the District. That figure exceeds the percentage for 23 states. Clearly, the Federal Payment is not a device that allows District residents to avoid their fair share of local taxes.

As the above examples indicate, there are substantial areas in which Congress restricts the revenue sources available to the District. In effect, the Federal Payment is a lump sum appropriated by Congress in lieu of these alternative revenues. It is hardly a symbol of an undeserved financial windfall for the District that impairs the case for representation of District citizens in the Senate and House of Representatives.

THE FEDERAL EMPLOYEE FALLACY

One of the major sources of misunderstanding in the States about the pending constitutional amendment to give representation in Congress to the District of Columbia is the widespread confusion over the actual nature of the District.

Opponents of the D. C. Voting Rights Amendment have seized on the confusion and misunderstanding to spread the myth that the District of Columbia is nothing more than a "Company Town" of federal bureaucrats and government employees which has essentially no independent economic life and which is therefore not entitled to representation in Congress.

But the myth is false. Less than one-third of the employees in the District are federal workers. The remaining two-thirds are engaged in a variety of non-governmental jobs that reflect the truly heterogeneous character of the District's economic life. Those who take the myopic view of the District of Columbia as a sheltered federal sanctuary are in the position of those who see a glass two-thirds full and call it one-third empty. Unfair as this myth is to federal workers, it is even more unfair to the hundreds of thousands of other citizens of the District whom the myth ignores altogether.

The myth was not a serious source of opposition in the debate on the D. C. amendment last year in either the Senate or the House of Representatives, each of which approved the amendment by an overwhelming margin. Members of Congress serve in the District and are thoroughly familiar with the reality of the modern District of Columbia. I am hopeful that, as the ratification effort proceeds, the debate will dispel the myth in the various states and enhance the prospects of ratification.

During the consideration of the amendment by Congress last year, the three most widely cited facts about the District of Columbia were that (1) the District has a population greater than in six states; (2) its citizens pay more federal taxes than in eleven states; and (3) more D. C. sons lost their lives in the Vietnam War than did those of ten states. These facts symbolized the reality of the District as an independent economic entity with a substantial private sector life of its own, and demonstrated that the District easily holds its own in various comparisons with the states.

But there are many other facts about the District of Columbia that also demonstrate the vitality of the District and the substantial degree to which its economic and political life is independent of involvement with the federal government. Publications of the Department of Commerce and available information from the D. C. local government and other sources reveal that the District of Columbia also rivals the states in the following additional ways:

-- It produces more electric power than Rhode Island.

-- It spends more on new plants and equipment than Nevada and Wyoming.

-- It has more non-governmental employees than 14 states.

-- It has more manufacturing employment than three States; more construction employment than eleven states, more non-farm employment than 17 states; and more non-farm-non-manufacturing employment than 19 states.

-- The value added by manufacturing in D. C. is greater than in four states.

-- The wages of D. C. production workers are greater than in five states.

-- Retail sales in D. C. are greater than in nine states.

-- Its construction contracts are worth more than in ten states.

-- And its commercial bank deposits total more than in fifteen states

As these facts reveal, there is a great deal more to the District of Columbia than the myth of the sheltered federal sanctuary suggests.

It is unfair to hold the citizens of the District hostage to this myth and to the prevailing anti-government mood. We must find effective ways to deal with the legitimate national concerns about the size of government, the level of government spending, and the degree of government regulation in our lives. But there are better ways to reach these goals than by discriminating against the hundreds of thousands of ordinary private American citizens who live and work and make their homes in the nation's capital. They deserve the same rights that all other citizens enjoy -- the right to representation in their government.

Members of the House and Senate elected from the District would represent the interests of business, the construction industry, banks, veterans, teachers, the elderly, the poor, and virtually all the interest groups found in the various states

It is true that a significant number of District workers are federal employees. As shown by Table 1, there are 211,000 federal jobs in the District, reflecting the following pattern according to residence:

D.C. residents:	112,000
Maryland residents:	63,000
Virginia residents:	46,000
TOTAL	221,000

If the number of federal jobs in the Maryland and Virginia suburban counties is also taken into account, the result is that each of the two suburban areas has more federal employees than the District of Columbia. In fact, the District accounts for less than one-third of all federal employees in the Washington area.

District of Columbia:	110,000
Maryland suburbs:	140,000
Virginia suburbs:	143,000
TOTAL	393,000

In addition, as Table 1 also shows, three other states -- California, Texas and Virginia -- provide more federal jobs than the District of Columbia.

Table 3 provides detailed comparisons between the District of Columbia and the states with respect to fifteen economic indicators. Table 4 provides a detailed breakdown of non-government employment in the District. The figures in these tables demonstrate the great variety of life in the modern District of Columbia and clearly refute the federal employee fallacy.

It is a gross distortion of the issue for opponents of the D. C. amendment to argue that D. C. representatives in Congress would be special pleaders only for federal employees. Members of the House and Senate elected from the District would also represent the interests of small business, the construction industry, banks, veterans, teachers, the elderly, the poor, and virtually all the other interest groups found in the various states. It would be just as unreasonable to deny representation to the District because of its federal employees' bloc, as to deny representation to a state because of its farm bloc.

The work of Congress impinges increasingly heavily on all Americans, whether they are residents of the District or the States, and the citizens of the District deserve to participate in the decisions of Congress on a parity with all other American citizens.

The challenge facing ratification of the D. C. amendment is a difficult one, and it is being made even more difficult by the distortions of those who oppose the amendment. But the challenge can be met. I am confident that, as the American people and their representatives in the State legislatures understand the true reality of the District of Columbia, they will accept the elementary justice and fairness of the D. C. Voting Rights Amendment and make it a part of our Constitution.

THE STATEHOOD FALLACY

Opposition to the proposed amendment has usually crystallized around a series of fallacious arguments that are easily rebutted.

Some opponents of full representation claim that the District is a city, not a state, and that only states are entitled to representation in the House and Senate. They argue that there is no greater reason for this city to be represented in Congress than there is for other large cities which are also denied this right.

But this argument ignores the obvious fact that other American cities are political subdivisions of states. They already have representation in both the Senate and the House, while the citizens of the District have no representation at all.

In other ways, Congress has been willing to treat the District of Columbia as a state. For example, the District has long been treated as a state in virtually every major federal grant legislation. In program after program, in statute after statute, all of us in Congress are familiar with the well-known clause in legislation, "For the purposes of this legislation, the term 'state' shall include the District of Columbia."

The statehood argument is no more than a thinly veiled excuse to perpetuate the denial of Congressional representation to the people of the District. The District is neither a city nor a state. In fact, statehood may well be an impossible alternative, given the practical and constitutional questions involved in changing the historical status of the nation's capital But such debate should not be allowed to mask the basic fact that, two hundred years after the nation was founded, the people of Washington are second class citizens, deprived of the right to participate in the making of the laws by which they are governed.

THE ARTICLE V CONSTITUTIONAL FALLACY

Another occasional objection to representation in Congress for the District of Columbia rests on the proviso in Article V of the Constitution, which declares that "no State, without its Consent, shall be deprived of its equal Suffrage in the Senate."

To state the obvious, however, what H.J. Res. 554 proposes is a constitutional amendment. Since, by definition, a constitutional amendment cannot be unconstitutional, the suggestion that H.J. Res. 554 is unconstitutional is a contradiction in terms and a fatal flaw in the logic of those who raise this curious objection

In any event, it is far too late in our history to argue that granting representation in Congress to the District of Columbia would deprive any state of its "equal Suffrage in the Senate." Since the ratification of the Constitution by the original thirteen states, 37 additional states have been admitted to the union. As a result, the suffrage of the original thirteen states in the Senate has been "diluted" nearly fourfold, from 2/26 to 2/100. Yet, no one seriously argues that any of the older states has been deprived of its equal suffrage in the Senate by the admission of new states.

The principle is clear. So long as the District of Columbia is represented in the Senate equally with every other state, representation for the District of Columbia will not offend the provisions of Article V. Each state will still have two votes in the Senate, and each state will still have the same proportionate vote as every other state.

During extensive hearings by both the Senate and House Judiciary Subcommittees on this issue, leading constitutional scholars strongly endorsed full voting representation for the District, including representation in the Senate as well as in the House. Among those testifying on H.J. Res. 554, for example, was Professor Charles Alan Wright of the University of Texas School of Law, who dealt bluntly with the Article V objection:

> "It seems to me that the clear purpose of (the 'Equal Suffrage Clause') was to insure that the Great Compromise would not be undone and that the representation in the Senate would not be put on the basis of population. That prupose is not compromised by allowing the District to have two Senators any more than it is when a new state is admitted."

THE RETROCESSION FALLACY

It is sometimes argued that voting representation for the people of the District should not be achieved by independent representation in Congress, but by alternative methods linking the District in various ways to the State of Maryland. But there are serious objections to these alternatives, which go by the names of "full retrocession" (ceding the District's territory back to Maryland) or "partial retrocession" (allowing District citizens to vote in Maryland elections).

First, as a matter of principle, it would be unwise policy and unfair to the citizens of both Maryland and the District. The geographical area comprising the original District was initially ceded to the Federal Government in the 18th century, shortly after the ratification of the Constitution and consisted of Maryland and Virginia portions. The Virginia portion of the District was retroceded to Virginia in 1846, but the Maryland portion has continued to the present time as the District of Columbia.

Thus, the District has not been a part of Maryland since 1788, when the territory that now comprises the District was ceded by Maryland to the Federal Government. Two centuries after the original Act of Cession by Maryland, there are simply no cultural, community, or similar ties that would warrant attempting to re-link the District to Maryland, and the ancient historical tie is far too slender and obsolete to justify that step today. The District has developed its own community and its own interests, separate and apart from Maryland, and it deserves representation in Congress in its own right, and not merely as an artificial adjunct to a state with which it has no common history.

We might just as well try to link the District to Virginia -- or even to Oklahoma or Idaho -- as try to fit it back into Maryland.

Those who favor retrocession draw on the fact that under the different circumstances of an earlier era, the territory ceded by the State of Virginia to the Federal Government in 1789, which formed roughly one-third of the original District, was ceded back to Virginia by Congress in 1846.

But historical analysis indicates that the circumstances surrounding the Virginia retrocession are in no way comparable to the situation that exists today. In fact, at the time of the Virginia retrocession, there was nothing "federal" to retrocede. To allay criticism of his role in selecting a site for the new federal district so close to his Mount Vernon estate, President Washington had insisted that no federal buildings should be constructed in the Virginia portion of the District.

The preamble to the retrocession Act of 1846 recites the view that the Federal Government had not used the Virginia portion of the District and would probably never need it. The preamble also refers to the fact that a few months earlier, the Virginia legislature had enacted legislation accepting the retrocession.

The historical analysis also indicates that the Virginia retrocession was directly affected by the political, social and economic factors of the time, particularly the resentment of the citizens of the town of Alexandria over their inclusion in the District. A major additional factor was the struggle between the slave-holding eastern regions of Virginia and the western portions of the state for control of the Virginia legislature. Neither retrocession nor any other measure could resolve the enormous pressures that were building in this period. As the Civil War began, the State of West Virginia was created from the western counties of Virginia and was admitted to the Union in 1863.

Seen in historical perspective, the retrocession of the Virginia portion of the District in 1846 is not a precedent for action today on the issue of voting representation in Congress for the District of Columbia.

Second, there is a much more obvious and recent precedent which argues strongly in favor of independent representation in Congress for the District of Columbia, rather than in combination with Maryland or any other state. That precedent is the 23rd amendment, which was ratified in 1961 and which gave citizens of the District an independent voice in Presidential elections through the electoral college. It does not, obviously, route District voters through Maryland elections to achieve its goal.

Recently, I asked the Library of Congress whether the concept of retrocession -- allowing District residents to vote in Maryland Presidential elections, instead of giving the District independent representation in the electoral college -- was considered as a possible alternative during the debates on the 23rd amendment. The Library of Congress has informed me:

> To our knowledge, there was no mention of retrocession to Maryland or any related alternative arrangement during discussion of the 23rd amendment in Congress -- either in the hearing records or during floor debate.

Thus, Congress overwhelmingly recognized in 1960 that there was no justification for tying the District to Maryland for purposes of voting in Presidential elections. There is no justification today for tying the District to Maryland for purposes of voting in Senate and House elections.

Our action on the 23rd amendment is, therefore, a strong precedent against any current effort by Congress to tie the District to Maryland for voting purposes. The District now has its own voice in Presidential elections, and it is entitled to its own voice in Congressional elections.

Third, as a practical matter, I know of nothing to indicate that Maryland would be at all receptive to the idea. Retrocession proposals surfaced briefly in the course of the House Subcommittee's consideration of H.J. Res. 554. But they were quickly discarded, in large part because of the obvious resistance of the Maryland Congressional delegation. The proposals were not raised again, either in the full House Judiciary Committee proceedings or as a floor amendment in the House.

Fourth, there are a number of legal, even constitutional, questions that would have to be resolved to make retrocession a serious possibility. Full retrocession would subject the Federal Government to the powers of the State of Maryland and fly in the face of the settled constitutional provision creating the District as a Federal entity. Partial retrocession -- simply turning District citizens into Maryland residents for the purpose of voting in Senate and House elections -- would raise such questions as whether District residents should then be entitled to send representatives to Annapolis to participate in drawing new Congressional District boundaries to vote for the Governor of Maryland who would have the power to fill vacancies in the Congressional delegation, and other similar issues.

For these reasons, retrocession is a blind alley we ought not to go down in seeking Congressional representation for the people of the District.

In sum, the arguments against full voting representation in Congress for the District of Columbia are shallow at best and pernicious at worst. It is a sad commentary on American democracy that such flimsy arguments have consistently been used to deny representation in Congress for the citizens of our nation's capital. At a time when the role of Congress has an increasingly profound influence on the lives of each American, it is also time to honor the promise of America for every citizen, without exception.

APPENDIX

MATERIALS ON FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

QUOTATIONS ON REPRESENTATION IN CONGRESS

FOR THE DISTRICT OF COLUMBIA

Republican Party Platform 1976:

"We ... support giving the District of Columbia voting representation in the United States Senate and House of Representatives."

Democratic Party Platform 1976:

"We support ... full voting representation in the Congress [for the District of Columbia.] "

James Madison (The Federalist No. 43):

"The extent of this federal district is sufficiently circumscribed to satisfy every jealousy of an opposite nature. And as it is to be appropriated to this use with the consent of the State ceding it; as the State will no doubt provide in the compact for the rights and the consent of the citizens inhabiting it; as the inhabitants will find sufficient inducements of interest to become willing parties to the cession; as they will have had their voice in the election of the government which is to exercise authority over them; as a municipal legislature for local purposes, derived from their own suffrages, will of course be allowed them; and as the authority of the legislature of the State, and of the inhabitants of the ceded part of it, to concur in the cession, will be derived from the whole people of the State, in their adoption of the Constitution, every imaginable objection seems to be obviated."

President Andrew Jackson 1831:

"It was doubtless wise in the framers of our Constitution to place the people of this District under the jurisdiction of the General Government. But to accomplish the objects they had in view, it is not necessary that this people should be deprived of all the privileges of self-government... I earnestly recommend the extension to them of every political right which their interests require and which may be compatible with the Constitution."

President Richard Nixon; Message to Congress; April 28, 1969:

"It should offend the democratic sense of this nation that the 850,000 citizens of its Capital, comprising a population larger than 11 of its States, have no voice in the Congress."

Assistant Attorney General William H. Rehnquist; Senate Hearings, 1970:

"The need for an amendment of that character at this late date in our history is too self-evident for further elaboration; continued denial of voting representation from the District of Columbia can no longer be justified."

Vice President Walter F. Mondale, September 1977:

"We believe there is no justification for denying citizens equal representation at the federal level because they happen to reside in the District of Columbia."

President Jimmy Carter, State of the Union Message 1978:

> We proposed last year a series of reforms, including full voting representation in Congress, designed to give the residents of the District significantly greater control over their local affairs. My administration will continue to work for the passage of those reforms this year.

Professor Charles Alan Wright; University of Texas Law School; Senate Hearings 1978:

> "It seems to me that the clear purpose of [the Equal Suffrage Clause, Article V of the Constitution] was to ensure that the Great Compromise would not be undone and that representation in the Senate would not be put on the basis of population. That purpose is not compromised by allowing the District to have two Senators any more than it is when a new state is admitted."

Senator Thomas F. Eagleton; Senate Hearings 1978:

> "This letter was from a mother who had two sons in the army. 1971, as the Chairman will recall, was still a very high point in the Vietnam War. Her elder son had been killed, and naturally that had had a traumatic impact on her, her thinking, et cetera, and she wrote me a very moving but simple letter saying, in essence, 'I have lost one son. I may well lose another. Yet I have no voice in voting on how far this war should go, or how long it should go on, or how much expanded it should be -- into the Parrot's Beak, or how many bombs we should drop on the Ho Chi Minh Trail. I am hopeless, and in that sense I am voiceless.'
>
> "I think that one letter did more to shape my thinking than a million words or a 200-page memorandum. The appeal is not simplistic, it is just fair and equitable."

Natasha Pearl; Senior, Woodrow Wilson High School, D.C.; Senate Hearings 1978:

> "You may recall the one day of the Senate Youth Program that was set aside for the delegates to visit their Senators. I have never before felt inferior to fellow Americans. That day I did. All I could do was listen at dinner that evening when my friends told of how they had discussed important national issues, such as the Panama Canal Treaties, energy policy, and health care with their Senators. I, too, have opinions on these and other vital issues. That day, I could share them with no one who had a voice or a vote in the United States Senate."

TABLE 1 -- STATISTICAL COMPARISONS BETWEEN THE DISTRICT OF COLUMBIA AND THE 50 STATES

STATE	POPULATION		TAXATION (FY 1977)			KILLED IN VIETNAM WAR 1961-1977	EMPLOYMENT		PERCENT LAND AREA HELD BY FEDERAL GOV'T.
	1970 CENSUS	1978 ESTIMATE	TOTAL FEDERAL TAXES (BILLION)	PER CAPITA FEDERAL TAXES	STATE AND LOCAL TAXES (% PERSONAL INCOME)		NO. FEDERAL JOBS	PERCENT FEDERAL JOBS	
Alabama	3,444,000	3,742,000	$4.482	$1,221	9.9	1,187	79,173	1.9	3.4
Alaska	303,000	403,000	1.225	3,011	21.8	55	36,873	.9	96.4
Arizona	1,775,000	2,354,000	3.211	1,418	13.9	604	57,756	1.4	42.8
Arkansas	1,923,000	2,186,000	2.381	1,117	9.8	580	28,050	.7	9.7
California	19,971,000	22,254,000	39.186	1,805	14.9	5,472	497,438	12.1	45.1
Colorado	2,210,000	2,670,000	4.167	1,604	12.3	609	91,720	2.2	36.1
Connecticut	3,032,000	3,099,000	6.478	2,086	11.2	590	25,469	.6	.3
Delaware	548,000	583,000	1.120	1,925	11.4	120	10,380	.2	3.2
D.C.	757,000	674,000	1.470	2,116	11.7	237	221,156	5.4	25.6
Florida	6,791,000	8,594,000	12.957	1,542	10.1	1,905	146,615	3.6	10.1
Georgia	4,588,000	5,084,000	6.513	1,298	10.9	1,550	129,237	3.1	6.0
Hawaii	770,000	897,000	1.575	1,770	14.6	274	67,414	1.6	9.9
Idaho	713,000	878,000	1.155	1,367	11.6	210	15,598	.4	63.7
Illinois	11,113,000	11,243,000	21.536	1,919	11.4	2,883	150,511	3.7	1.5
Indiana	5,195,000	5,374,000	8.334	1,566	10.4	1,513	48,229	1.2	2.1
Iowa	2,825,000	2,896,000	4.517	1,570	11.5	820	19,396	.5	.6
Kansas	2,249,000	2,348,000	3.922	1,695	11.0	614	47,705	1.2	1.3
Kentucky	3,221,000	3,498,000	4.447	1,290	11.4	1,039	82,243	.2	5.3
Louisiana	3,643,000	3,966,000	5.217	1,338	12.6	672	50,323	1.2	3.7
Maine	994,000	1,091,000	1.400	1,299	14.2	332	17,491	.4	.7
Maryland	3,924,000	4,143,000	7.669	1,856	12.7	996	168,116	4.1	3.2
Massachusetts	5,689,000	5,774,000	9.875	1,706	14.7	1,303	67,590	1.6	1.7
Michigan	8,882,000	9,189,000	15.618	1,712	12.1	2,603	66,274	1.6	9.3
Minnesota	3,806,000	4,008,000	6.198	1,563	14.3	1,053	32,231	.8	6.6
Mississippi	2,217,000	2,404,000	2.416	1,016	12.0	630	40,870	1.0	5.4