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## A Review of the D.C. League of Women Voters Project to Educate Sister Leagues Around the Country

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# **A REVIEW OF THE D.C. LEAGUE OF WOMEN VOTERS PROJECT TO EDUCATE SISTER LEAGUES AROUND THE COUNTRY**

**Anne Anderson and Linda Beebe\***

## **ABSTRACT**

The League of Women Voters of the District of Columbia (“LWVDC”), a chapter of the League of Women Voters of the United States (“LWVUS” or the “League”), has long been a staunch supporter of equality for the District of Columbia (“D.C.” or the “District”) by advocating for voting rights in Congress, promoting local control of local affairs, and supporting a Constitutional amendment when it was proposed. Statehood for the People of D.C., as it is currently constructed, is a newer idea that has been shrouded in much confusion and misunderstanding for people in other parts of the country. In 2015, LWVDC launched a project entitled “Full Rights for D.C. Citizens,” which was designed to provide clear and unbiased information to members of LWVUS chapters and their communities throughout the country. Nationwide, there are currently more than 750 local and state LWVUS chapters. In our article, the step-by-step process of developing this project will be described from its inception to the results ultimately achieved with the support of the LWVUS who received a grant to promote voting rights and statehood from the D.C. government in 2017 and partnered with LWVDC. Under the grant, LWVDC sought to educate members across the country about the facts surrounding D.C.’s lack of statehood. LWVDC members developed a series of background papers, quizzes in PowerPoint, a PowerPoint presentation, and a webinar. Members of the LWVDC went to five different states—Virginia, Ohio, Illinois, Minnesota, and New York—to meet with League members whom all noted they had learned from the presentation and were supportive of statehood efforts. The materials are now on the LWVDC website. Neighbors United for D.C. Statehood has described the project as a model that can be used with other similar national organizations. This article will conclude with a look at our follow-up plans, the lessons we have learned from our experiences, and suggestions for further outreach.

## **INTRODUCTION**

D.C. residents have struggled with their lack of rights since the Maryland and Virginia areas were ceded to the new federal seat, causing Maryland and Virginia residents now living in D.C. to lose their right to representation in 1801. Representative John Bacon of Massachusetts made one of the earlier attempts to address disenfranchisement in February 1803. Bacon opposed federal control for several reasons. His rationales were the following: 1) it provided no benefit to the United States; 2) legislating for D.C. would cause extra trouble; 3) Congress would not be a competent legislature for D.C.; and 4) D.C. residents would not share the rights of other Americans. In 1803, Bacon introduced a retrocession bill that failed.<sup>1</sup>

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In Sections I, II, III, and IV of this article, we will describe many other efforts D.C. residents have taken to regain their rights. D.C. residents have fought two separate battles: 1) the right to self-government; and 2) the right to full representation. Although the two battles are linked in some ways, such as the requirement that Congress approve any adjustment to either, they have been met with different foes and objections. Some decision makers have opposed both rights while others have opposed only one. For example, in 1919, the Board of Trade and the Chamber of Commerce went on record supporting Congressional representation but opposing home rule.<sup>2</sup>

Organized support for full rights among D.C. residents has varied over time. Citizens created several groups between 1933 and 1959 to push for self-government. We will describe these efforts in Section II. In Sections III and IV, we will describe the efforts following the passage of Home Rule in 1973. These efforts have focused primarily on the ways in which D.C. residents could acquire representation in Congress.

In the rest of this article, we will focus on the work the LWVUS and the LWVDC chapter have done on behalf of D.C. residents. The LWVUS and LWVDC were formed in 1920 as an outgrowth of the Women's Suffrage Movement. At the national and D.C. levels, the League has always supported full rights for D.C. residents. In Section V, we will examine the work of the LWVDC. In Section VI, we will discuss the development and dissemination of the *Statehood: Fixing the Hole in Our Democracy Toolkit*. Section VII will discuss the 2017 follow-on grant LWVUS received from the District. Finally, in Section VIII we will review lessons learned and offer recommendations for future outreach in Section IX.

## I. THE FOUNDING OF THE FEDERAL DISTRICT

It is not surprising the riverbanks of the Potomac River did not immediately surface as the chosen location for the seat of government for the new country. Congress met in nine different cities following the inception of the Continental Congress in Philadelphia at Independence Hall in 1774.<sup>3</sup> Congress adopted the Declaration of Independence in Philadelphia on July 4, 1776. However, by December 1776, the British were closing in on the city. As a result, Congress convened in Baltimore in the Henry Fite House, outside the range of British naval artillery, on December 20, 1776.<sup>4</sup>

On March 4, 1777, following Washington's crossing of the Delaware River and his victories at Trenton and Princeton, Congress moved back to Independence Hall in Philadelphia.<sup>5</sup> Congress stayed at Independence Hall until the British threatened the city once again in late summer. Following Washington's September 11, 1777 defeat at Brandywine, Congress moved to Lancaster,

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<sup>1</sup> 7 *Annals of Cong.* 481 (1803), <https://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=012/llac012.db&recNum=237>.

<sup>2</sup> 58 CONG. REC. 496 (1919).

<sup>3</sup> Christopher Klein, 8 *Forgotten Capitals of the United States*, HISTORY CHANNEL (July 16, 2015), <http://www.history.com/news/8-forgotten-capitals-of-the-united-states>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

Pennsylvania for one day on September 27.<sup>6</sup> Congress then moved further west to York, near the Susquehanna River, where it would remain for the next nine months.<sup>7</sup> After this period, the young Congress approved the Articles of Confederation that would take effect after state ratification in 1781.

In June 1778, when the British evacuated Philadelphia, Congress returned to Independence Hall once more, where they would stay for the remainder of the war. However, two years after the victory at Yorktown, Congress fled Philadelphia once again. This time the threat did not come from the British, but from angry Continental Army soldiers who had been promised back pay and had not received it.<sup>8</sup> Congress moved forty miles northeast to the College of New Jersey, in what is now Princeton University.<sup>9</sup> Four months later, Congress moved again on November 26, 1783, to the unfinished Maryland Statehouse in Annapolis, Maryland.<sup>10</sup> Then, in August 1784, Congress moved back to New Jersey finally settling in Trenton to reconvene on November 1, 1784.<sup>11</sup> At Christmas, Congress adjourned and decided to move to New York City, where it would stay until 1790.<sup>12</sup>

#### *A. The New Government 1781-1787*

Under the Articles of Confederation (“The Articles”), ratified in 1781, the new nation was to be named “The United States of America.”<sup>13</sup> Each of the thirteen states retained sovereignty, freedom, and independence.<sup>14</sup> The states vowed a “league of friendship with each other” and bound themselves to support each other from all attacks.<sup>15</sup> The Articles guaranteed free ingress and egress among the states.<sup>16</sup>

Each state legislature would determine the appointment of delegates to the U.S. Congress that would convene the first Monday in November. States would be represented by a minimum of two delegates and a maximum of seven depending on the population.<sup>17</sup> The Articles guaranteed freedom of speech.<sup>18</sup> Under the Articles, all powers related to war were assigned to Congress and states were forbidden to enter into any treaty, to accept an embassy to their state, or to establish a state embassy in another country.<sup>19</sup>

Almost immediately the weaknesses of the Articles and Congress emerged. Absences amongst delegates were common as delegates tended to spend more time in their states. As a result, it took

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> ARTICLES OF CONFEDERATION OF 1781, art. I.

<sup>14</sup> *Id.* at art. II.

<sup>15</sup> *Id.* at art. III.

<sup>16</sup> *Id.* at art. IV.

<sup>17</sup> *Id.* at art. V.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at art. VI.

weeks to pull together the nine votes needed to ratify the Treaty of Paris.<sup>20</sup> While Congress had the power to wage war, it did not have the power to conscript soldiers; therefore, the army was small. Because the Articles did not grant the central ability to tax, the economic situation was chaotic. Having just fought a war against what they considered a tyrannical central government, the writers of the Articles deliberately devised a weak Congress by not establishing a head of government.<sup>21</sup> The result was not the utopia the drafters of the Articles had anticipated.<sup>22</sup>

### B. *The Constitutional Convention and Ratification*

Before the Constitutional Convention met in Philadelphia on May 25, 1787, James Madison had written extensively about the weaknesses of the Articles and his ideas on creating a constitution. Madison's *Vices of the Political System of the United States*, published in April 1787, was a treatise primarily on the shortcomings of the states—although Madison did note that people aspiring to represent the government were motivated by ambition, personal interest, and public good.<sup>23</sup> “Unhappily,” he wrote, “the first two are proved by experience to be most prevalent.”<sup>24</sup> Madison was the most prepared for the task of writing a robust Constitution, but he joined fifty-four other delegates who, like Madison, were white, male, and wealthy property owners. The delegates' first task was to elect George Washington president of the Convention.<sup>25</sup>

During the 100 days, the delegates met in Philadelphia, struggles between northern, southern, and western states were evident. There were also struggles between small and large states. Larger states considered the “Virginia Plan” that incorporated Madison's idea of a bicameral legislature with representation in both houses based on population; whereas, small states favored the “New Jersey” plan, which called for a single vote per state.<sup>26</sup> Eventually, they settled on an upper house with equal representation for each state and a lower house with representation based on population.<sup>27</sup> The framers of the Constitution originally envisioned a weak presidency and a strong legislature. However, after the failure of the Articles, they devised a three-part government system with legislative, executive, and judicial branches that would each provide checks on each other.<sup>28</sup> Thirty-nine delegates signed the new Constitution on September 17, 1787 and it was sent to the states for ratification.<sup>29</sup>

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<sup>20</sup> Museum Online, *Proclaiming Peace, January 14, 1784: Ratification of the Treaty of Paris*, MARYLAND STATE ARCHIVES (2013), <http://msa.maryland.gov/msa/educ/exhibits/treaty/treaty.html>.

<sup>21</sup> Library, *Identifying Defects in the Constitution*, LIBRARY OF CONGRESS, <https://www.loc.gov/collections/continental-congress-and-constitutional-convention-from-1774-to-1789/articles-and-essays/to-form-a-more-perfect-union/identifying-defects-in-the-constitution/>.

<sup>22</sup> JAMES MADISON, *VICES OF THE POLITICAL SYSTEM OF THE U. STATES*, in Galliard Hunt, *THE WRITINGS OF JAMES MADISON* (1900-1910).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *The Constitutional Convention of 1787*, EXPLORING CONSTITUTIONAL LAW, <http://law2.umkc.edu/faculty/projects/ftrials/conlaw/convention1787.html> (last visited July 13, 2017).

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *The Constitution*, JUDICIAL LEARNING CENTER <https://judiciallearningcenter.org/the-constitution/> (last visited Apr. 13, 2019).

<sup>29</sup> *The Constitutional Convention of 1787*, *supra* note 25.

Ratification was not a sure thing. A bitter battle between the federalists who favored ratification and the anti-federalists who opposed it ensued. Anti-federalists felt that the new constitution gave too much power to the central government, that it served the special interests of the propertied class, and that it lacked a bill of rights, among other problems. It took ten months for the first nine states to ratify the document.<sup>30</sup> Following the proposal of a bill of rights, ratification began to go more smoothly, and Rhode Island became the last state to ratify it in May 1790.<sup>31</sup>

### C. *Locating the Seat of Government*

Well before the Constitution was ratified, competition to be the seat of the new government was underway. Arguments raged over whether the national capital would be located on the Delaware, Susquehanna, Patuxent, or Potomac River.<sup>32</sup> Many people thought Philadelphia would be the capital almost as a matter of course because Philadelphia was the long-time cultural and commercial center of the colonial era. However, Congress entertained other options. Even as late as July 9, 1790, the House of Representatives heard motions to set the capital on the Delaware River, in Germantown, between the Potomac and the Susquehanna Rivers, and in Baltimore.<sup>33</sup>

Given modern derision of Washington, D.C. as nothing but a federal city, it is interesting to read the account of the ten men whom Alexandria and Georgetown employed in late 1789 to study the feasibility of locating the capital on the banks of the Potomac. In their December 7, 1789, communication to Congress, this committee of ten extolled the virtue of the region as a superb area for commerce, citing the safe and easy navigability of the river, the fine harbors, and the extensive shipping trade. Committee members also noted the extensive roadways, and the vast quantities of marble, stone, and iron ore to be found nearby.<sup>34</sup>

Eventually, Thomas Jefferson brokered the Compromise of 1790 with James Madison and Alexander Hamilton.<sup>35</sup> Under the agreement, Hamilton won the argument that the national government should take over the states' debts, while Madison and Jefferson obtained the Potomac riverbank as the site for the new national capital.<sup>36</sup>

The compromise represented a symbolic politics of the very highest order. While Hamilton's policies encouraged the consolidation of economic power in the hands of bankers, financiers, and merchants who

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<sup>30</sup> *Observing Constitution Day*, NATIONAL ARCHIVES (2016), <https://www.archives.gov/education/lessons/constitution-day/ratification.html>.

<sup>31</sup> *Id.*

<sup>32</sup> See generally Hillary S. Kativa, *Capital of the United States*, THE ENCYCLOPEDIA OF GREATER PHILADELPHIA (2015), <https://philadelphiaencyclopedia.org/archive/capital-of-the-us-selection/>.

<sup>33</sup> History Mystery Man, *Let's Make a Deal... Welcome to Jefferson's Dinner Table Bargain of 1790*, HISTORYMYSTERYMAN.COM (Feb. 3, 2018), <http://historymysteryman.com/jefferson-hosts-dinner-table-bargain-in-1790/>.

<sup>34</sup> Letter from Committee Representing Alexandria Citizens to Congress (Dec. 7, 1789), <https://www.loc.gov/item/rbpe.17901500/>.

<sup>35</sup> Jessie Kratz, *The Compromise of 1790*, THE NAT'L ARCHIVES PIECES OF HISTORY (May 31, 2015), <https://prologue.blogs.archives.gov/2015/05/31/the-compromise-of-1790/>.

<sup>36</sup> *A New National Capital: Washington, D.C.*, U.S. HISTORY, <http://www.ushistory.org/us/20d.asp> (last visited July 17, 2017).

predominated in the urban northeast, the political capital was to be in a more southerly and agricultural region apart from those economic elites.<sup>37</sup>

In July 1790, Congress debated what was called the Residence Act, but was officially “An act for establishing the temporary and permanent seat of the government of the United States.” On July 9, after defeating the motions noted above, the House of Representatives passed the Act with a vote of 32-29. As a result of the compromise brokered by Jefferson, the bill called for the seat to be located temporarily in Philadelphia until 1800.<sup>38</sup> President Washington signed the Residence Act into law on July 16, 1790.

The law stipulated that the seat be located within an eighty-mile stretch of the Potomac River and that President Washington should select the exact site.<sup>39</sup> It became clear that President Washington’s choice was centered on Georgetown, which was then in Maryland. On January 24, 1791, President Washington announced that the new capital would occupy ten square miles with Virginia and Maryland contributing equal portions.<sup>40</sup>

On September 9, 1791, the three commissioners Washington appointed to design the city announced that the federal territory would be called The Territory of Columbia, and the federal city would be the City of Washington.<sup>41</sup> When the capital was incorporated in 1871, the territory was re-designated the District of Columbia.<sup>42</sup>

During the years between 1791 and 1800, Philadelphians lobbied hard to retain the capital.<sup>43</sup> They even promised elaborate buildings to entice the decision makers.<sup>44</sup> However, the decision was not reconsidered, and plans were already underway to build the U.S. Capitol and the White House. On November 1, 1800, President John Adams and his wife Abigail moved into the White House.<sup>45</sup> The second Session of the sixth Congress assembled in Washington, D.C., on November 17, 1800.<sup>46</sup>

## II. GOVERNANCE OF THE DISTRICT AND THE PUSH FOR SELF-GOVERNMENT

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<sup>37</sup> *Id.*

<sup>38</sup> *An act for establishing the temporary and permanent seat of the government of the United States*, (1790), <https://www.loc.gov/item/rbpe.21500600/>.

<sup>39</sup> *Id.*

<sup>40</sup> George Washington, George Washington Papers, Series 2, Letterbooks 1754 to 1799: Letterbook 28, June 8, 1789 - March 19, 1791, <https://www.loc.gov/item/mgw2.028/>.

<sup>41</sup> *History FAQ*, HISTORICAL SOCIETY OF WASHINGTON, DC., <http://www.dchistory.org/publications/dc-history-faq/> (last visited Feb. 4, 2018).

<sup>42</sup> *Id.*

<sup>43</sup> *How Philadelphia Lost the Nation’s Capital to Washington*, CONSTITUTION DAILY (July 16, 2018), <https://constitutioncenter.org/blog/how-philadelphia-lost-the-nations-capital-to-washington/>.

<sup>44</sup> *Id.*

<sup>45</sup> JOHN ADAMS MOVES INTO WHITE HOUSE, <http://www.history.com/this-day-in-history/john-adams-moves-into-white-house> (last visited Feb. 4, 2018).

<sup>46</sup> UNITED STATES HOUSE OF REPRESENTATIVES, HISTORY, ART, & ARCHIVES: FIRST MEETINGS, <http://history.house.gov/Institution/First-Milestones/First-Meetings/> (last visited Aug. 12, 2017).

Washington, D.C., was founded on July 16, 1790, after President George Washington chose it to be the new capital of the new United States of America. Maryland and Virginia each ceded land to create a 100-square mile federal city that was to be distinct and different from the states.<sup>47</sup> At George Washington's direction, surveyors placed the southern tip at Jones Point and drew straight lines ten miles northwest and northeast, then angled back to form a square.<sup>48</sup> Virginia contributed Alexandria City and Alexandria County for one-third of the territory, and Maryland contributed Georgetown, Washington City, and Washington County for the remaining two-thirds.<sup>49</sup> Washington chose Pierre L'Enfant to design the federal city with the Capitol to be the center of a grid.<sup>50</sup> For the next ten years, depending on what part of the city they resided in, residents of Washington voted in either the Maryland or Virginia elections.<sup>51</sup>

Only one of the Federalist Papers, written by the constitutional framers to show their vision for how the Constitution would be implemented, discussed the Federal District. In Federalist Papers #43,<sup>52</sup> Madison outlined a seat of government that would be elected and run by the citizens of the District and ultimately checked by Congress. Madison wrote "the extent of this federal district is sufficiently circumscribed to satisfy every jealousy of an opposite nature" and noted that "a municipal legislature for local purposes, derived from their own suffrages, will of course be allowed them."<sup>53</sup> However, Madison did not succeed in convincing Congress.

#### A. The District's Early Years

In 1800, Washington was officially declared the capital of the United States. On February 27, 1801, Congress passed the Organic Act of 1801,<sup>54</sup> which divided the federal district into two counties: Washington and Alexandria. Washington would constitute all of the land east of the Potomac River designated for the federal district, as well as the islands, and Alexandria would include the land west and south of the Potomac.<sup>55</sup> The river was decreed to belong to both counties.<sup>56</sup> Further, the Act specified that the Alexandria portion, ceded from Virginia, would be governed by Virginia laws and the Washington portion, ceded from Maryland, would be governed by Maryland laws.<sup>57</sup>

However, citizens living in the District were declared not to be residents of either state and thus lost their right to vote for Congressional representatives.<sup>58</sup> The charters of the cities of

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<sup>47</sup> Richard Brownell, *The Alexandria Retrocession of 1846*, BOUNDARY STONES, <https://blogs.weta.org/boundarystones/2016/07/08/alexandria-retrocession-1846>.

<sup>48</sup> *Boundary Stones of the District of Columbia*, BOUNDARY STONES, <http://www.boundarystones.org/>.

<sup>49</sup> *Id.*; See also Andrew Ellicot, *Territory of Columbia: Map* (1794), <https://www.loc.gov/item/89690420/>.

<sup>50</sup> Kenneth R. Fletcher, *A Brief History of Pierre L'Enfant and Washington, D.C.*, SMITHSONIAN (Apr. 30, 2008), <https://www.smithsonianmag.com/arts-culture/a-brief-history-of-pierre-lenfant-and-washington-dc-39487784/>.

<sup>51</sup> *D.C. Home Rule*, COUNCIL OF THE DISTRICT OF COLUMBIA, <https://dccouncil.us/dc-home-rule/>.

<sup>52</sup> THE FEDERALIST NO. 43 (James Madison).

<sup>53</sup> *Id.*

<sup>54</sup> Organic Act of 1801, Pub. L. No. 6-15, 2 Stat. 103 (1801).

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> See generally Lesson Plan – D.C. Voting Historical Timeline, DC VOTE, <https://www.dcvote.org/lesson-plan-teachers/lesson-plan-dc-voting-rights-historical-timeline-two-pages> (last visited Apr. 14, 2019).



Georgetown and Alexandria were left in place with their local governments. On May 3, 1802, Congress passed “An act to incorporate the inhabitants of the city of Washington in the District of Columbia.”<sup>59</sup> The Act established a city council of twelve men above the age of twenty-five, who were to be elected annually by the free white males in the city.<sup>60</sup> It also established an office of the Mayor who would be appointed by the President.<sup>61</sup> This incorporation increased the number of municipalities in the District to five: 1) county of Alexandria; 2) town of Alexandria; 3) county of Washington; 4) town of Georgetown; 5) city of Washington.<sup>62</sup> In 1812, Congress changed the law so that the corporation consisted of a mayor, a board of eight aldermen, and the common council of twelve members.<sup>63</sup> A joint board of the aldermen and council elected the mayor. The charter was amended again on May 15, 1820, to provide for white male citizens to elect the mayor.<sup>64</sup>

Early on policy makers realized that there was an inherent inequity in the treatment of Washington residents. Veterans of the War for Independence, who had fought for democracy and against “taxation without representation,” were now being taxed but had no representation in Congress because they lived in the District. As early as 1801, residents of what was then the Territory of Columbia expressed concern about a lack of representation in the national Congress. Augustus Woodward, reportedly a protégé of Thomas Jefferson, noted this in a pamphlet:

This body of people is as much entitled to the enjoyment of the rights of citizenship as any other part of the people of the United States. There can exist no necessity for their disenfranchisement, no necessity for them to repose on the mere generosity of their countrymen to be protected from tyranny, to mere spontaneous attention for the regulation of their interests. They are entitled to participation in the general councils on the principles of equity and reciprocity.<sup>65</sup>

### *B. Retrocession Discussions and Return of Land Ceded by Virginia*

The federal government never fully occupied the ten square miles set aside for the seat of government. In January 1803, Representative John Bacon (R-MA) introduced a bill to retrocede parts of D.C. that the federal government was not using to Maryland and Virginia pending their consent.<sup>66</sup> Some Congressmen argued that D.C. residents would be disenfranchised only temporarily and that surely as they grew wealthier and more numerous they would have their own legislature.<sup>67</sup>

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<sup>59</sup> 7 ANNALS OF CONG. 1377, (1801), <http://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=011/llac011.db&recNum=685>.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> Walter Fairleigh Dodd, *The Government of the District of Columbia: A Study in Federal and Municipal Administration* 25 (1909).

<sup>63</sup> *Id.* at 36.

<sup>64</sup> Mark David Richards, *History of Local Government in Washington, DC*, DC VOTE (2002), <https://www.dcvote.org/inside-dc/history-local-government-washington-dc>.

<sup>65</sup> Augustus Brevoort Woodward, *Considerations on the Government of the Territory of Columbia* [Paper No. I of 1801], quoted in Theodore Noyes, OUR NATIONAL CAPITAL AND ITS UN-AMERICANIZED AMERICANS 60 (1951).

<sup>66</sup> Mark David Richards, *The Debates Over the Retrocession of the District of Columbia, 1801-2004*, WASH. HISTORY: 54-82, <https://www.dcvote.org/sites/default/files/documents/articles/mdrretrocession.pdf>.

<sup>67</sup> *Id.* at 58.

Arguments for and against retrocession continued for several decades. Among the issues for debate were whether Congress had the right to make a retrocession decision and whether District residents should have any say in the discussion.<sup>68</sup> One interesting argument was that because District residents were ceded to Congress without their consent, they should also have no say in being retroceded.<sup>69</sup> Another question was whether the District could be changed without a change in the Constitution.<sup>70</sup> D.C. residents grew increasingly discontented with their plight. Adding to this discontent was the fact that Congress had never created a unified code for the District.<sup>71</sup> Because of this, the residents were still operating under the laws of Maryland and Virginia, depending on their location.<sup>72</sup>

Those citizens who had been ceded from Virginia were particularly unhappy as the commercial successes anticipated when President Washington chose the site for the center of government had not materialized.<sup>73</sup> Per the terms of the Residence Act of 1790, the federal government did not construct any buildings in the Virginia portion of the District until 1826 when it constructed the Alexandria city jail.<sup>74</sup> The government also did not contribute to any transportation means in Alexandria, whereas the Virginia General Assembly was funding transportation projects in the rest of Virginia. Economics was a big issue because Alexandria suffered from Congress's failure to re-charter the Bank of Alexandria in 1834.<sup>75</sup> Alexandria lacked a railroad and watched with despair as Baltimore siphoned off trade.<sup>76</sup>

Slavery was an issue in the discussion as well. Anti-slavery proponents wanted to push slave trading out of the District in the hopes of abolishing slavery.<sup>77</sup> Pro-slavery advocates argued for retrocession because they would then have two more pro-slavery delegates in Richmond.<sup>78</sup> However, Richards noted,

The actual vote in 1846 indicates that the issue was not sharply divided along free versus slave lines. A majority of both free and slave states supported retrocession in both the Senate and the House. There were no free states in which all members voted against retrocession; in only three slave states did all members approve: Arkansas, Florida, and Louisiana. Jefferson Davis voted against retrocession and Andrew Johnson voted for it.<sup>79</sup>

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<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 59.

<sup>70</sup> *Id.* at 76.

<sup>71</sup> *Id.* at 59.

<sup>72</sup> *Id.*

<sup>73</sup> City of Alexandria, *Retrocession*, DISCOVERING THE DECADES: 1840S, (May 24, 2017), <https://www.alexandriava.gov/historic/info/default.aspx?id=28402#Retrocession>.

<sup>74</sup> Charlie Grymes, *Cession and Retrocession of the District of Columbia*, VIRGINIA PLACES, <http://www.virginiaplaces.org/boundaries/retrocession.html>.

<sup>75</sup> City of Alexandria, *supra* note 73.

<sup>76</sup> *Id.*

<sup>77</sup> Brownell, *supra* note 47.

<sup>78</sup> *Id.*

<sup>79</sup> Richards, *supra* note 66 at 70.

That vote took place on July 9, 1846, and the process for retrocession was underway. Alexandria residents voted at the Alexandria Courthouse on September 1-2, and the approval passed 763-222. On September 7, 1846, President James K. Polk announced the results and declared the retrocession in full force. Virginia formally accepted the territory on March 13, 1847, and residents celebrated with a huge parade on March 19, 1847.<sup>80</sup>

### *C. Further Changes in the District Pre-1871*

Congress once again reorganized D.C.'s government in 1848 to add a Board of Assessors, the Register of Wills, the Collector, and the Surveyor.<sup>81</sup> The Act to continue, alter, and amend the Charter of the City of Washington, 1848, included a provision for the Board of Aldermen to elect a mayor to fill out the term if the mayor should be unable to fulfill his duties.<sup>82</sup>

The end of the slave trade in D.C. came about as a result of a considerable compromise stimulated by California's desire to enter the nation as a free state. The possibility of California's becoming a state caused a furor with southern states as a new free state would upset the balance.<sup>83</sup> In January 1850, Senator Henry Clay introduced The Compromise of 1850. Throughout that summer Congress debated the Compromise, which John Calhoun opposed, and Daniel Webster supported.<sup>84</sup> Its September passage assured that California became the sixteenth free state and the slave trade was abolished in D.C.<sup>85</sup> In return, the Compromise guaranteed the south that the federal government would place no restrictions on slavery in Utah or New Mexico.<sup>86</sup> The most controversial component was the Fugitive Slave Law, which required that northerners return escaped slaves to their owners.<sup>87</sup> Slavery did not end in D.C. until President Lincoln signed the D.C. Compensated Emancipation Act on April 16, 1862, freeing nearly 3,000 slaves.<sup>88</sup>

### *D. First Semi-Democratically Elected Government*

In 1871, nearly one-hundred years after the Declaration of Independence, D.C. had its first democratically elected government, or at least part of it. Congress approved the "Organic Act of 1871, an Act to provide a government for the District of Columbia" (the "Organic Act") on February 21, 1871.<sup>89</sup> The new entity, organized like a territorial government, had a governor

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<sup>80</sup> City of Alexandria, *supra* note 73.

<sup>81</sup> Richards, *supra* note 66.

<sup>82</sup> An Act to continue, alter, and amend the Charter of the City of Washington of 1848, Pub. L. No. 30-42, 9 Stat. 223.

<sup>83</sup> PRIMARY DOCUMENTS IN AMERICAN HISTORY: COMPROMISE OF 1850, <https://www.loc.gov/rr/program/bib/ourdocs/Compromise1850.html> (last visited Aug. 25, 2017).

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> PRE-COLUMBIAN TO THE MILLENNIUM AN UNEASY PEACE: THE COMPROMISE OF 1850, <http://www.ushistory.org/us/30d.asp> (last visited Aug. 25, 2017).

<sup>88</sup> EMANCIPATION: ENDING SLAVERY IN THE DISTRICT OF COLUMBIA, <https://emancipation.dc.gov/page/ending-slavery-district-columbia> (last visited Aug. 25, 2017).

<sup>89</sup> 16 *Annals of Cong.* 419 (1871), <http://memory.loc.gov/cgi-bin/ampage?collId=llsl&fileName=016/llsl016.db&recNum=0454>.

appointed by the President and a bicameral legislature with an appointed eleven-member upper house, an elected twenty-two-member lower house, plus one elected delegate to Congress.<sup>90</sup> The Organic Act also established a Board of Public Works that was comprised of a president, who was the governor, and four members, one of whom was to be a civil engineer.<sup>91</sup> The Board of Public Works had total control of all public works in the city.<sup>92</sup>

The District had an enormous three-day carnival to celebrate its new government with parades down the newly paved Pennsylvania Avenue, and a brilliant ball at the new Corcoran Museum, as well as masquerades and more balls.<sup>93</sup> However, the city was in reasonably sad shape in 1871. The Potomac River came almost to the steps of the White House, and L'Enfant's wide avenues remained unpaved.<sup>94</sup> There were few buildings of any consequence, and the water supply was inadequate for the population.<sup>95</sup> The city's finances were in such precarious shape that the mayor's furniture was seized in January 1870 for debts.<sup>96</sup> At the time, other American cities had instituted Boards of Public Works, and Haussmann had completely revamped Paris into a modern metropolis. In June 1871, three weeks after the territorial government was inaugurated, the Board of Public Works announced a comprehensive plan to improve the city.<sup>97</sup> Alexander Shepherd, a member of the Board, was the moving force.<sup>98</sup>

The Board of Public Works estimated the cost of the plan amounted to six million dollars, one-third of which was to be paid by property owners and two-thirds to be raised by a bond issue.<sup>99</sup> The plan was immediately controversial and required a special election to implement. The next few months were tumultuous, and the work to improve the city greatly affected the citizens.<sup>100</sup> By fall 1872, "Shepherd was in absolute power; the recent elections had again brought a Republican landslide, and Chipman was re-elected Delegate. The governor was a mild man who never questioned his intentions and the Commissioner of Public Buildings and Grounds, General Babcock, was an intimate friend."<sup>101</sup> Shepherd was soon appointed governor.<sup>102</sup>

Despite generous federal appropriations, the territorial government was pinched as the costs of improvements were much greater than the Board had anticipated. Eventually, the costs exceeded plans by threefold. In 1874, a Congressional investigation produced three volumes of more than 1,000 pages each.<sup>103</sup> The report concluded that the awarding of contracts was questionable, many

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<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> Benjamin Shaw, *D.C.'s Half-Accidental National Mardi Gras*, BOUNDARY STONES (Feb. 9, 2016), <https://blogs.weta.org/boundarystones/2016/02/09/dcs-half-accidental-national-mardi-gras>.

<sup>94</sup> James H. Whyte, *District of Columbia Territorial Government 1871-1874*, HISTORICAL SOCIETY OF WASHINGTON, D.C. 88 (1951), [http://www.jstor.org/stable/40067299?loggedin=true&seq=8#page\\_scan\\_tab\\_contents](http://www.jstor.org/stable/40067299?loggedin=true&seq=8#page_scan_tab_contents).

<sup>95</sup> *Id.*

<sup>96</sup> *Id.* at 91.

<sup>97</sup> *Id.* at 94.

<sup>98</sup> *Id.* at 93.

<sup>99</sup> *Id.* at 95.

<sup>100</sup> *Id.* at 95-96.

<sup>101</sup> *Id.* at 97-98.

<sup>102</sup> *Id.* at 99.

<sup>103</sup> *Id.*

of the business deals had been faulty, and the auditor had no book to check the validity of the indebtedness.<sup>104</sup> The report censured the Board of Public Works for not providing better control of Shepherd.<sup>105</sup> In the end, they concluded that the territorial form of government had been too cumbersome and expensive.<sup>106</sup>

#### *E. Reversal to Total Congressional Control*

In June 1874, Congress passed H.R. 3680 (18-STAT-L.116) “A bill for the government of the District of Columbia, and for other purposes” which provided for the appointment of three persons to the commission to exercise all the power and authority now vested in the Governor or the Board of Public Works, and designated one of the appointees as the Governor.<sup>107</sup> President Grant signed the bill on June 21, 1874, and appointed the first three commissioners. Initially, President Grant appointed Shepherd as one of the commissioners but then reversed his decision to appoint Shepherd. The legislature and Office of Delegate to Congress were thereby eliminated. Congress passed the Organic Act of 1878 on June 11 of that year. Commonly referred to as the “Constitution” of D.C., the Organic Act of 1878 was intended to dispose of the whole question of government for D.C. The Organic Act of 1878 made the Board permanent with two civilians and one army officer detailed from the Corps of Engineers.<sup>108</sup> Congress served as the city council and legislature. This structure was to last nearly a hundred years, during which District residents had no say in their governance.

#### *F. Passage of the Twenty-Third Amendment*

In 1959, Congress began considering legislation that would eventually become the twenty-third Amendment to the Constitution. The next year the House Judiciary Committee proposed a resolution solely devoted to D.C.’s rights in presidential elections. The resolution passed the House on June 14, 1960, and the Senate two days later.<sup>109</sup> All candidates in the 1960 presidential election endorsed the amendment. Ohio became state number thirty-eight to ratify on March 29, 1961, and President John F. Kennedy signed the bill into law that day.<sup>110</sup> He noted,

It is equally important that residents of the District of Columbia have the right to select the officials who govern the District. I am hopeful that the Congress, spurred by the adoption of the 23rd amendment, will act favorably on legislative

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<sup>104</sup> *Id.* at 100.

<sup>105</sup> *Id.*

<sup>106</sup> HARD-WON BATTLES: TERRITORIAL GOVERNMENT AND HOME RULE, <http://xroads.virginia.edu/~cap/anacostia/dcgovt.html> (last visited Sept. 26, 2017).

<sup>107</sup> An act for the Government of the District of Columbia, and for other purposes, Pub. L. No. 43-337, 18 Stat. 116, <https://www.loc.gov/law/help/statutes-at-large/43rd-congress/session-1/c43s1ch336.pdf>.

<sup>108</sup> WILLIAM TRINDALL, STANDARD HISTORY OF THE CITY OF WASHINGTON FROM A STUDY OF ORIGINAL SOURCES (1914).

<sup>109</sup> Frank Gulino, *Twenty-Third Amendment*, in ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES 85-86 (David S. Tanenhaus, ed., 2008).

<sup>110</sup> *An Overview of the 23<sup>rd</sup> Amendment*, LAWS.COM, <https://constitution.laws.com/23rd-amendment> (last visited Apr. 14, 2019).

proposals to be recommended by the Administration providing the District of Columbia the right of home rule.<sup>111</sup>

In 1964, for the first time, D.C. residents voted in a presidential election.<sup>112</sup>

### *G. Home Rule Efforts*

In 1933, D.C. residents began organizing for Home Rule (getting permission from Congress to elect local officials to manage local affairs) with the Burroughs Citizen's Association. Then in 1937, the District Suffrage Association began a push for Home Rule. In 1947 another group, the Central Suffrage Conference was formed to continue the fight. It was followed by the Washington Home Rule Committee in 1953.<sup>113</sup> The Senate passed some form of a Home Rule act six different times between 1948 and 1966. However, Southerners who opposed Home Rule dominated the House District Committee. Despite Kennedy's statement in 1961, the passage of Limited Home Rule was destined to take another twelve years. In 1965, with backing from President Johnson, the House bypassed the District Committee and passed a bill. However, when the Senate and House bills were ready for conference, the Chair of the House District Committee John McMillan, who opposed Home Rule, noted he did not see how they could agree. Home Rule died in the 89th Congress.<sup>114</sup> In the late 1960s, President Lyndon Johnson reduced the number of commissioners to one, whom he began addressing as "Mr. Mayor." In 1967, President Johnson reorganized the D.C. government with an appointed mayor and a nine-member Council. In 1968 the District could vote for an elected school board. A Home Rule act (S2651) was debated in 1971 but failed to pass.<sup>115</sup>

After years of efforts, a District of Columbia Home Rule Act ("Home Rule") emerged. Senator Thomas Eagleton (D-MO) introduced the bill before the ninety-third Congress on April 23, 1973. The Senate approved it on July 10, 1973, and the House of Representatives passed the bill three months later. President Richard Nixon signed P.L. 93-198 into law on December 24, 1973.<sup>116</sup> Upon signing the bill, Nixon noted, "The District of Columbia is a unique combination of Federal and local concerns, each of which must be satisfied. All in all, I believe this legislation skillfully balances the local interest and the national interest in the way the District of Columbia is governed."<sup>117</sup> District residents approved Home Rule in a special referendum the next year. In fall 1974, District citizens elected a Mayor and Council and approved the election of the first Advisory

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<sup>111</sup> John F. Kennedy, "Statement by the President Following Ratification of the 23d Amendment to the Constitution" (Mar. 29, 1961), <https://www.presidency.ucsb.edu/documents/statement-the-president-following-ratification-the-23d-amendment-the-constitution>.

<sup>112</sup> *D.C. Residents Cast First Presidential Votes*, HISTORY.COM (Aug. 21, 2018), <https://www.history.com/this-day-in-history/d-c-residents-cast-first-presidential-votes>.

<sup>113</sup> Robert C. Byrd, *District of Columbia Home Rule*. 16 AM. U. L. REV. 262 (1967).

<sup>114</sup> DC Home Rule, CQ ALMANAC (1966), <https://library.cqpress.com/cqalmanac/document.php?id=cqal66-1302096>.

<sup>115</sup> DC Home Rule, CQ ALMANAC (1971), <http://library.cqpress.com/cqalmanac/cqal71-1253090>.

<sup>116</sup> District of Columbia Self- Government and Governmental Reorganization Act, Pub. L. No. 93-198, 87 Stat. 770 (1973).

<sup>117</sup> Richard Nixon, *Statement on Signing the District of Columbia Self-Government and Governmental Reorganization Act* (Dec. 24, 1973), <https://www.presidency.ucsb.edu/documents/statement-signing-the-district-columbia-self-government-and-governmental-reorganization>.

Neighborhood Commissioners who represent every 2,000 residents of the city to advise the Council on neighborhood concerns.<sup>118</sup>

#### *H. Limited Autonomy*

The powers and duties of the Council are comparable to those held by state, county, and city legislatures. These powers include the authority to adopt laws and to approve the District's annual budget submitted by the Mayor. The Council is a co-equal branch of government, part of a system of checks and balances similar to any other state governments. When the Office of Mayor is vacant, the Chairman of the Council becomes the Acting Mayor. Under the Home Rule government, however, Congress reviews all legislation passed by the Council before it can become law and retains authority over the District's budget. Congress has the power to disband the District government at any point. Also, the President appoints the District's judges.

When the District was mired in financial difficulties in 1995, Mayor Marion Barry petitioned Congress for fiscal relief. The Republican-held Congress instead passed the District of Columbia Financial Responsibility and Management Assistance Act of 1995, Pub. L. No. 104-8, which created what was known as the Financial Control Board.<sup>119</sup> The Board comprised five presidential appointees, whom Congress primarily intended to revamp all agencies in the District. However, they were not empowered to act unilaterally. They instead were to work in collaboration with the Mayor and the District Council.<sup>120</sup> Although residents chafed under the controls, the parties worked together, and by 2001, D.C. was in such good condition that the group disbanded.<sup>121</sup>

Congress has used its power of veto quite rarely. One example was overturning the Council's major reform of D.C.'s criminal laws defining and punishing sex crimes.<sup>122</sup> More frequently, they attach "riders" to impose political beliefs on the residents of D.C. when they perhaps could not get them passed for the rest of the country. The most visible ones have been the attempts to overturn D.C.'s Budget Autonomy Law since D.C. citizens approved it overwhelmingly in 2013<sup>123</sup> and the opposition to D.C.'s legalization of marijuana.<sup>124</sup>

Since the presidential inauguration in January 2017, Congress has threatened several D.C. laws. Jason Chaffetz (R-UT), chair of the House Committee on Oversight and Government Reform threatened the 2015 Death with Dignity Law and has called for a sweeping review of D.C. laws and spending decisions to ensure that they are "in line with Congressional mandates and federal

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<sup>118</sup> DC HOME RULE, <http://dccouncil.us/pages/dc-home-rule> (last visited Sept. 2, 2017).

<sup>119</sup> See Shook v. D.C. Fin. Responsibility & Mgmt. Assistance Auth., 132 F.3d 775 (D.C. Cir. 1998).

<sup>120</sup> Stephen R. Cook, Comment, *Tough Love in the District: Management Reform under the District of Columbia Financial Responsibility and Management Assistance Act*, 47 AM. U. L. REV. 993, 1009 (1998).

<sup>121</sup> Rebecca Sheir, *The Relationship Between Congress and DC: It's Complicated*, WAMU (Jan. 9, 2015), [http://wamu.org/story/15/01/09/how\\_congressional\\_politics\\_affects\\_dc\\_even\\_after\\_home\\_rule/](http://wamu.org/story/15/01/09/how_congressional_politics_affects_dc_even_after_home_rule/).

<sup>122</sup> Philip G. Schrag, *The Future of District of Columbia Home Rule*, 39 CATH. U. L. REV. 311, 313 (1990).

<sup>123</sup> Smith, Walter Smith. *Redoubling Efforts for DC Democracy*, DC APPLESEED (May 16, 2016), <http://www.dcappleseed.com/2016/05/16/redoubling-efforts-for-d-c-democracy/>.

<sup>124</sup> Maddie Garcia, *D.C. Marijuana Market: Stuck in a Gray Zone*, WAMU (July 30, 2017), <http://www.npr.org/2017/07/30/537324044/d-c-marijuana-market-stuck-in-a-gray-zone>.

law.”<sup>125</sup> Senator Marco Rubio (R-FL) and Representative Jim Jordan (R-OH4) introduced the “Second Amendment Enforcement Act” that would trample on D.C.’s strong gun safety laws and remove D.C. authority over gun legislation in the District.<sup>126</sup> Without the protection of statehood, D.C. continues to be in danger from Congress using D.C. as a petri dish.

### III. THE FIGHT IN THE COURT FOR FULL RIGHTS

The Supreme Court issued its earliest decision on D.C. in 1805, when the Court ruled that D.C. residents could not be considered residents of states for diversity jurisdiction purposes.<sup>127</sup> In 1820, the Supreme Court found in *Loughborough v. Blake* that Congress had the authority to impose direct taxes on the District because it was within the United States and therefore subject to Congressional power. *Loughborough* held that the power of Congress has the power to tax the District of Columbia due to the power to exercise exclusive jurisdiction in all cases whatsoever within the District.<sup>128</sup>

The Supreme Court of the District of Columbia in *Roach v. Van Riswick*<sup>129</sup> ruled that an act of the Assembly was general legislation and hence the sole province of Congress.

We cannot doubt, however, that Congress intended to confer on the District government the fullest legislative power with certain express restrictions. Their power is declared to extend to all rightful subjects of legislation consistent with the Constitution and the provisions of the organic act and subject to the restrictions and limitations imposed upon the States by the tenth section of the first article of the Constitution.<sup>130</sup>

In 1888, the Supreme Court held in *Callan v. Wilson* that the right to trial by jury extended to residents of the District.<sup>131</sup>

In 1940, Congress passed a law that extended diversity jurisdiction to cases involving D.C. residents, and with that action treated the District as if it were a state for the purposes of that provision of the Constitution. In part, the law states that “(e) The word “States,” as used in this section, includes the Territories, the District of Columbia, and the Commonwealth of Puerto Rico.”<sup>132</sup>

The law was tested in *National Mutual Insurance Co. v. Tidewater Transfer Co.*, which considered the constitutional provision on diversity jurisdiction. In a plurality opinion, the

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<sup>125</sup> Aaron C. Davis & Peter Jamison, *Congress once ran the local D.C. government. GOP signals that it may do so again*, WASH. POST (Jan. 30, 2017).

<sup>126</sup> James Wright, *Alarm over GOP Meddling in D.C.’s Gun Laws*, AFRO (Feb. 9, 2017), <http://www.afro.com/alarm-gop-meddling-d-c-s-gun-laws/>.

<sup>127</sup> DIVERSITY JURISDICTION, [https://www.law.cornell.edu/wex/diversity\\_jurisdiction](https://www.law.cornell.edu/wex/diversity_jurisdiction) (last visited Sept. 28, 2017).

<sup>128</sup> *Loughborough v. Blake*, 18 U.S. 317 (1820).

<sup>129</sup> *Roach v. Van Riswick*, 1 MacArth. & M. 171 (1879).

<sup>130</sup> *Id.* at 173.

<sup>131</sup> *Callan v. Wilson*, 127 U.S. 540 (1888).

<sup>132</sup> 28 U.S.C. § 1332 (2011).



*Tidewater* Court upheld the statute. The Court described the power as a “full and unlimited jurisdiction to provide for the general welfare” of D.C. They reversed a lower court decision to the contrary.<sup>133</sup>

In April 1999, the Corporation Counsel of the District of Columbia and pro bono counsel Covington and Burling argued in *Alexander v. Daley* seeking a declaratory judgment that D.C. citizens have a constitutional right to participate in Congressional elections. A three-judge district court heard the case. In August 1999, the American Bar Association (ABA) passed a resolution to “support the principle that citizens of the District of Columbia shall no longer be denied the fundamental right belonging to other American citizens to vote for voting members of the Congress which governs them.” The resolution enabled ABA to file an amicus brief before the Supreme Court.<sup>134</sup> The Court elected to hear *Alexander v. Daley* in conjunction with *Adams v. Clinton*, which also challenged the lack of voting rights as unconstitutional. According to the Memorandum Opinion, none of the parties contested the justice of the plaintiffs’ causes. However, they found that “the dictates of the Constitution and the decisions of the Supreme Court bar us from providing the relief plaintiffs seek.”<sup>135</sup>

In 2005, the United States Court of Appeals, District of Columbia Circuit, found against appellants who challenged the restriction preventing the District from levying a commuter tax. The Court held that the Constitution gives Congress exclusive legislative authority in all matters pertaining to the District of Columbia, including its finances.<sup>136</sup>

At least to this point, the courts have not proved to be a good avenue to obtaining democracy for the people of the District of Columbia.

#### IV. RELATIONS WITH CONGRESS AND THE QUEST FOR FULL REPRESENTATION

Throughout their history, D.C. residents have sought full representation in Congress. To residents, it appears to be a travesty that so many citizens in a democracy do not have a say in their government. As Barnes noted, “Every human being on this planet residing in a nation with representative government, enjoys political standing [which he defined as equal participation or voting representation], and most enjoy sovereignty [which he described as independence], except those residing in Washington, DC.”<sup>137</sup> At the time Justice Marshall indicated that the matter was one for “legislative, not judicial consideration.”<sup>138</sup>

What does a lack of representation in Congress mean for the residents of the District of Columbia? In a 2009 report for the Trellis Fund, Young outlined the major impacts of this hole in

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<sup>133</sup> Nat’l Mut. Ins. Co. v. Tidewater Transfer Co., Inc., 337 U.S. 582, 601 (1949).

<sup>134</sup> American Bar Association, The District of Columbia Bar (Report No. 115), (Aug. 9-10, 1999), [https://www.americanbar.org/content/dam/aba/directories/policy/1999\\_am\\_115.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/directories/policy/1999_am_115.authcheckdam.pdf) (retrieved Sept. 28, 2017).

<sup>135</sup> *Adams v. Clinton*, 90 F. Supp. 2d 35, 37 (D.D.C. 2000).

<sup>136</sup> *Banner v. United States*, 428 F.3d 303, 305 (D.C. 2005).

<sup>137</sup> Johnny Barnes, *Toward Equal Footing: Responding to the Perceived Constitutional, Legal and Practical Impediments to Statehood for the District of Columbia*, 13 D.C. L. REV. 1, 2 (2010).

<sup>138</sup> *Hepburn & Dundas v. Ellzey*, 6 U.S. 445, 453 (1805).

the U.S. democracy.<sup>139</sup> D.C. has one non-voting delegate to the House of Representatives. The current Representative Eleanor Holmes Norton can introduce legislation, and she can vote in committee. However, no D.C. delegate has ever served on any of the most coveted committees, which are Ways & Means, Appropriations, Energy and Commerce, and Rules in addition to Budget.<sup>140</sup> Further, the D.C. representative cannot participate in elections for Speaker, serve as a presiding officer, participate in a motion to reconsider a vote, or sign a petition to discharge a measure held up in committee.<sup>141</sup>

The lack of representation is even starker in the Senate. Whereas the District has some limited influence in the House, it has none in the Senate. Therefore, District residents have no say in important decisions, such as confirmations of appointments and treaties.<sup>142</sup> Perhaps the most significant impact is on judicial confirmations. One example of the effects of federal court decisions on the District is *Banner v. United States* in which the U.S. District Court of Appeals for the District of Columbia found that the District could not tax non-residents who work in the District without congressional permission. The decision held when the Supreme Court declined to hear the case.<sup>143</sup>

Individuals can wield more power in the Senate than in the House of Representatives, and Senators from small states have more clout than those from large states by virtue of the two-per-state rule. Thus, D.C.'s lack of representation in the Senate is more of a problem than in the House where there is a potential for some impact.

In the more than 200 years since D.C. became the federal seat of government, residents and their supporters have proposed several options for curing the problem. The most common arguments set forth are 1) retrocession to Maryland; 2) making the D.C. representative a full voting member of the House of Representatives; and 3) giving D.C. full representation in Congress either by amendment, an act of Congress, or through statehood legislation.

#### *A. Curing the Lack of Representation—Retrocession*

Retrocession was a common theme during the first half of the nineteenth century. The push toward retrocession in Virginia was centered on the failure to support that side of the District economically. However, that was not the case in the land ceded by Maryland.<sup>144</sup> Residents of Washington City benefited far more from their proximity to the center of power.

In the late twentieth century and early twenty-first century, as DC residents pushed more for full representation, retrocession discussions arose again. Jeffrey Thomas Dodd noted:

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<sup>139</sup> GARRY YOUNG, THE DISTRICT OF COLUMBIA AND ITS LACK OF REPRESENTATION IN CONGRESS: WHAT DIFFERENCE DOES IT MAKE?, CENTER FOR WASHINGTON AREA STUDIES (July 2009), <https://gwipp.gwu.edu/files/downloads/DC%20Representation%20Main%20Report%20Final.pdf>.

<sup>140</sup> *Id.* at 8.

<sup>141</sup> *Id.* at 6.

<sup>142</sup> *Id.* at 15.

<sup>143</sup> *Id.* at 18.

<sup>144</sup> Richards, *supra* note 66, at 60.

Since the 101<sup>st</sup> Congress, there have been a total of eight bills introduced that would retrocede the District to the state of Maryland. All of these pieces of legislation have been proposed by Representative Ralph Regula, who introduced the last piece of the District of Columbia retrocession legislation in the 108<sup>th</sup> Congress. This bill, known as the ‘District of Columbia-Maryland Reunion Act’, was submitted to the Subcommittee on the Constitution in March of 2004 where it remains. In fact, none of Representative Regula’s retrocession bills have ever made it out of committee. In addition, no state has ever been forced to accept retrocession (the West Potomac retrocession had a consensus); the question is judicially and politically untested. Accordingly, it is not known if the state of Maryland can be forced to take on its former territory.<sup>145</sup>

In general, Maryland citizens have made it clear that retrocession is not desirable. In 2014, the *New York Times* offered this quote: “‘I do not support retrocession,’ said Representative Steny H. Hoyer, Democrat of Maryland and the minority whip, in an email. He added: ‘I will continue to work to give D.C. residents the full voice in government they deserve.’”<sup>146</sup>

Between April 15, 2016 and April 17, 2016, Public Polling conducted a survey of 879 registered Maryland voters asking if they would support or oppose Maryland annexing Washington, D.C. In issuing the results of the poll, Public Polling reported that 28% would support annexation, 44% would oppose, and 28% were not sure.<sup>147</sup>

There has been ambivalence among D.C. citizens as well. Some, like Josh Burch, founder of Neighbors United for D.C. Statehood, say unequivocally no. In April 2013, when Maryland Senators Mikulski and Cardin signed onto the D.C. Statehood bill, Burch had this to say:

We owe Senators Mikulski and Cardin a big ‘thank you’ for standing up for what’s right (and yes, they both have supported statehood in the past too), for standing up for their neighbors, and for saying that statehood is really the only viable constitutional option remaining for citizens of the District to become full and equal citizens. This issue is simple as we don’t want them and they don’t want us, we love them and they love us, and with that, let’s end the silly talk about retrocession.<sup>148</sup>

Others see it as a possible avenue for achieving equal status with the rest of the United States than statehood. Yet, adding a city of 700,000 people to Maryland would upset the current balance of power with Baltimore and Annapolis, especially if the number of representatives remains

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<sup>145</sup> Jeffrey Thomas Dodd, *Curing Disenfranchisement in the District of Columbia: What Hasn’t Worked and Why*, 3 L. AND SOC’Y REV. 11, 17 (2004), [http://www.dcvote.org/sites/default/files/documents/articles/curing\\_disenfranchisement\\_in\\_dc\\_dodd.pdf](http://www.dcvote.org/sites/default/files/documents/articles/curing_disenfranchisement_in_dc_dodd.pdf).

<sup>146</sup> Jennifer Steinhauer, *The State of the Non-State, Washington, D.C.*, N.Y. TIMES (Oct. 6, 2014), [https://www.nytimes.com/2014/10/07/us/washington-dc-statehood.html?mcubz=3&\\_r=0](https://www.nytimes.com/2014/10/07/us/washington-dc-statehood.html?mcubz=3&_r=0).

<sup>147</sup> Andrew Giambrone, *Poll: Marylanders Don’t Want to Annex D.C.*, WASH. CITY PAPER, (Apr. 25, 2016), <http://www.washingtoncitypaper.com/news/city-desk/blog/13070772/poll-marylanders-dont-want-to-annex-d-c>.

<sup>148</sup> Josh Burch, *The End of Retrocession Talk*, NEIGHBORS UNITED FOR D.C. STATEHOOD (Apr. 18, 2013), <https://the51st.org/2013/04/18/the-end-of-retrocession-talk/>.

capped at 435. Retrocession is fraught with all kinds of political complexity and appears unlikely to happen.

### *B. Giving the Delegate the Vote*

The idea of providing for a delegate, sometimes called a non-voting delegate, to Congress dates to the Northwest Ordinance of 1787 passed by the Continental Congress. “As soon as a legislature shall be formed in the district, the council and house, assembled in one room, shall have authority by joint ballot to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting, during this temporary government.”<sup>149</sup> After the Constitution was ratified, Congress reenacted the Northwest Ordinance in 1789 to reflect the changes in the U.S. government.<sup>150</sup> Placing all territorial delegates in the House was written into the law in 1817. The Fourteenth Congress in March 1817 “passed a law stating that Delegates were to be seated exclusively in the House and elected to two-year terms to coincide with Representatives.”<sup>151</sup>

Those delegates, however, did not include one from the District of Columbia. In 1818, President James Monroe addressed Congress and suggested that the body might consider changing the situation. Then, in 1828, President Andrew Jackson urged Congress to allow D.C. residents to elect a non-voting Delegate “with the same privileges that are allowed to other territories of the United States.” Jackson returned to the subject in 1831 saying “I earnestly recommend the extension to them [District residents] of every political right which their interests required and which may be compatible with the Constitution.” President William Henry Harrison was even more direct in 1841 stating, “The people of the District of Columbia are not the subjects of the people of the states, but free American citizens. Being in the latter condition when the Constitution was formed, no words used in that instrument could have been intended to deprive them of that character.”<sup>152</sup> However, D.C. would have no delegate until 1970.

For many years non-voting representation by delegates was confined to territories that might be on their way to becoming states. Then, in the peace treaty that marked the conclusion of the Spanish-American War in 1898, Spain gave up their claims on Cuba and ceded control of Guam, the Philippines, and Puerto Rico to the United States.<sup>153</sup>

The U.S. granted representation to the Philippines and Puerto Rico in the form of “resident commissioners.” Initially, unlike other non-voting territorial representatives, they were not allowed on the floor of the House. However, in 1902 and 1908 they were granted access to the

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<sup>149</sup> *An Ordinance for the Government of the Territory of the United States, North-West of the River Ohio*, LIBRARY OF CONGRESS, <https://www.loc.gov/item/90898154> (last visited Apr. 14, 2019).

<sup>150</sup> *Implementation of the Northwest Ordinance*, REPUBLIC FOR THE UNITED STATES (Dec. 18, 2016), <http://www.republicoftheunitedstates.org/dev/wp-content/uploads/2017/01/Implementation%20of%20Northwest%20Ordinance-final.pdf>.

<sup>151</sup> *Statutory Representation*, HISTORY, ART & ARCHIVES, UNITED STATES HOUSE OF REPRESENTATIVES, <http://history.house.gov/Exhibitions-and-Publications/HAIC/Historical-Essays/Continental-Expansion/Statutory-Representation/> (last visited Apr. 14, 2019).

<sup>152</sup> Mark David Richards, *The Role of Presidents in Local DC History: The District Needs a Champion in the White House*, DC WATCH (Feb. 16, 2009), <http://www.dccwatch.com/richards/090216.htm>.

<sup>153</sup> *The Spanish American War, 1898*, DEPARTMENT OF STATE, OFFICE OF THE HISTORIAN, <https://history.state.gov/milestones/1866-1898/spanish-american-war> (last visited Apr. 14, 2019).

floor but were still not empowered to speak. In 1904, the Puerto Rican commissioner was given access to committee membership.<sup>154</sup> However, the commissioner from the Philippines was never provided committee access. The Philippines became independent in 1946.<sup>155</sup>

Except for a brief period from 1871-1874, the District lacked any representation in Congress until Congress passed the District of Columbia Act of 1970. That Act specified that the Delegate should have a seat in the House of Representatives, with the right of debate, but not of voting, shall have all the privileges granted a Representative by section six of Article I of the Constitution, and shall be subject to the same restrictions and regulations as are imposed by law or rules on Representatives. The Delegate shall be elected to serve during each Congress.<sup>156</sup>

Except for two brief periods when Democrats were in the majority, the D.C. Delegate, as is the case with the territorial representatives and the resident commissioner for Puerto Rico, has had no vote in the Committee of the Whole. In the 103rd Congress (1993-1994) and the 110th Congress (2007-2008), they were granted limited floor voting rights. That grant was somewhat deceptive in that the rules in the 110th Congress required a second vote without the Delegates if the first vote were decisive.<sup>157</sup>

During the 109th, 110th, and 111th Congresses, significant effort was put into achieving a vote for the District representative. In 2005, Tom Davis (R-VA11) introduced H.R. 2043, the D.C. Fairness in Representation Act of 2005.<sup>158</sup> Then in 2006 he and Congresswoman Eleanor Holmes Norton, the non-voting delegate for D.C., introduced H.R. 5388, The District of Columbia Fair and Equal House Voting Rights Act of 2006. This bill was a reintroduction of the 2005 bill and of an earlier bill first submitted in 2004.<sup>159</sup> In 2007, D.C. Congresswoman Eleanor Holmes Norton introduced the District of Columbia Voting Rights Act. The Act would have given D.C. one voting representative. Also, the Act would have added one representative to Utah and gave Utah one additional representative to the Electoral College.<sup>160</sup> Although the bill passed the House, it failed after a filibuster in Senate by 57-42.<sup>161</sup>

Again on January 6, 2009, Congresswoman Norton introduced H.R. 157, The District of Columbia House Voting Rights Act of 2009.<sup>162</sup> The same day Senator Joseph Lieberman (I-CT)

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<sup>154</sup> CHRISTOPHER M. DAVIS, CONG. RES. SERV., R40555, DELEGATES TO THE U.S. CONGRESS: HISTORY AND CURRENT STATUS, available at <https://fas.org/sgp/crs/misc/R40555.pdf>.

<sup>155</sup> *Philippine Independence Declared*, HISTORY (Aug. 21, 2018), <http://www.history.com/this-day-in-history/philippine-independence-declared>.

<sup>156</sup> Act of Sept. 22, 1970, Pub. L. No. 91-405, 84 Stat. 845 (1970), <http://uscode.house.gov/statutes/pl/91/405.pdf>.

<sup>157</sup> DAVIS, *supra* note 154, at 6.

<sup>158</sup> *Representative Tom Davis Re-introduces DC FAIR Act*, DC VOTE VOICE (Summer 2005), <http://docshare01.docshare.tips/files/20988/209880920.pdf>.

<sup>159</sup> District of Columbia Fair and Equal House Voting Rights Act of 2006, H.R. 5388, 109th Cong. § 2(d) (2006), available at <https://www.congress.gov/109/crpt/hrpt593/CRPT-109hrpt593-pt1.pdf>.

<sup>160</sup> District of Columbia Voting Rights Act of 2007, H.R. 1433, 110th Cong. § 1 (2007), available at <https://www.congress.gov/110/crpt/hrpt52/CRPT-110hrpt52-pt2.pdf>.

<sup>161</sup> District of Columbia House Voting Rights Act of 2007, S. 1257 110<sup>th</sup> Cong. (2007), GOV TRACK, <https://www.govtrack.us/congress/bills/110/s1257>.

<sup>162</sup> District of Columbia House Voting Rights Act of 2009, H.R. 157, 111th Cong. § 1 (2009), available at <https://www.congress.gov/bill/111th-congress/house-bill/157>.

introduced S. 160 with the same title.<sup>163</sup> When it came to the floor of the Senate, Senator John Ensign (R-NV) introduced Amendment 575, the Second Amendment Enforcement Act that struck down the District's strong gun safety laws.<sup>164</sup> Although the Amended Act passed the Senate 62-36, the leaders of the District would not agree to it. Therefore, the District of Columbia House Voting Rights Act of 2009 was never voted into law.

### *C. Constitutional Amendments to Treat D.C. as a State*

Earlier Congress had tried another path to enfranchisement for D.C. residents. In 1888, Henry Blair (R-NH) proposed a constitutional amendment that would have given the District one Senator, a number of Representatives based on its population, and participation in the Electoral College based on its population.<sup>165</sup> However, this proposal did not move forward.

In the 95th Congress Representative William ("Don") Edwards (D-CA) introduced H.J. 554, a joint resolution to amend the Constitution to provide for representation for D.C. in Congress. It passed the House on March 2, 1978, and the Senate on August 28, 1978.<sup>166</sup> The amendment would have given D.C. the same rights as states, rights that included full representation (two voting senators and one voting representative) in Congress, full participation in the Electoral College based on population, and the right to participate in ratifying future amendments. It would have also repealed the Twenty-third Amendment so that the District could participate in the Electoral College to the extent of its own population, instead of getting the same number of electors as the least populous state. However, only sixteen states had ratified the amendment when the time limit ran out in 1985.<sup>167</sup> It should be noted that only this amendment and the Equal Rights Amendment were held to firm deadlines; both failed.<sup>168</sup>

### *D. Statehood Proposals*

Although the idea of statehood for D.C. was raised very early in the city's history, it did not get serious attention until late in the twentieth century. In 1902, Senator Jacob Gallinger (R-NH), chair of the District Committee, introduced a resolution to amend the Constitution and make the District of Columbia a state, "so far, and only so far, as shall give it representation as such in the Senate, the House, and the Electoral College."<sup>169</sup>

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<sup>163</sup> 111 CONG. REC. S2390 (daily ed. Feb. 24, 2009), <https://www.congress.gov/crc/2009/02/24/CREC-2009-02-24-pt1-PgS2390-5.pdf>.

<sup>164</sup> 111 CONG. REC. S2525 (daily ed. Feb. 26, 2009), <https://www.congress.gov/crc/2009/02/26/CREC-2009-02-26-pt1-PgS2507-9.pdf>.

<sup>165</sup> Johnny Barnes, *Towards Equal Footing: Responding to the Perceived Constitutional, Legal, and Practical Impediments to Statehood For the District of Columbia*, 13 D.C. L. REV. 1, 61 (2010).

<sup>166</sup> Joint Resolution to Amend the Constitution to Provide for Representation of the District of Columbia in the Congress, H.J. Res. 554 95<sup>th</sup> Cong. (1977), GOV TRACK, <https://www.govtrack.us/congress/bills/95/hjres554>.

<sup>167</sup> *The Constitution Failed Amendments*, LEXISNEXIS, [https://www.lexisnexis.com/constitution/amendments\\_failed.asp](https://www.lexisnexis.com/constitution/amendments_failed.asp).

<sup>168</sup> *Id.*

<sup>169</sup> *To Make a State of District of Columbia*, N.Y. TIMES (Dec. 14, 1902), <http://query.nytimes.com/gst/abstract.html?res=980DE5D71E3DEE32A25757C1A9649D946397D6CF&legacy=truce>.

One way to look at the lack of attention to statehood is to consider the platforms of the two major political parties. Every four years when the political parties convene to nominate candidates for president and vice president, they vote on a party platform of the issues and positions the candidates will use in their campaigns. Each platform constitutes a set of principles, goals, and strategies that address pressing political issues.<sup>170</sup> The D.C. government has tracked the platforms of the two major political parties since 1972. In 1972 and 1976 both parties supported voting representation and self-government. In 1980, the Democratic platform included support for voting rights but did not mention budgetary and legislative autonomy. The 1980 Republican platform did not mention D.C., and there was no statement in either platform in 1984. Statehood specifically was not mentioned until 1988. Since then, the Democrats have included a proviso on statehood in 1988, 1992, 1996, 2000, and 2016. There was no mention of statehood in the 2004 Democratic platform. In 2008 and 2012, the platform included phrases such as support for full citizenship or full and equal rights. In contrast, the Republican platform took the opposite approach in that they specifically opposed statehood in 1992, 1996, 2000, 2004, 2008, 2012, and 2016. The Republican platform did not mention statehood in 1988.<sup>171</sup>

The most recent efforts to achieve statehood for the District of Columbia began in 1970 when Sam Smith published “A Case for Statehood” in the *DC Gazette*. He argued:

Statehood is a clear, just and attainable goal to which District residents can aspire. Unlike the ambiguities of “home rule” — whose home rule? Lyndon Johnson’s, Richard Nixon’s? Channing Phillips’? David Carliner’s? Joseph Tydings’? The Washington Post’s? — statehood is a concept whose prerogatives and privileges are easily understood. Statehood means nothing more nor less than what Wyoming, Rhode Island, Delaware, or any of the states smaller and larger than the District enjoy. When Alaska became a state, Congress declared that it was “admitted into the Union on an equal footing with the other States in all respects whatever.” That’s what we should demand: equal footing, not some more benevolent form of colonialism foisted off as “home rule.” In the old days, when Congress admitted new states, it put it even more gracefully and accurately. The states were declared a “new and entire member of the United States of America.” The District has never been an entire member of the United States of America. It is the indentured servant of the nation. Our goal must be simple and clear: the US must let us in.<sup>172</sup>

Smith’s article was the first to outline in print the steps that might be taken to create a fifty-first state. The first step Smith saw was to redefine the District, perhaps as a “narrow strip running from the White House to the Capitol.” Smith noted the need for residents to hold a constitutional convention and define a constitution for the new state; then Congress could admit the city as a

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<sup>170</sup> *Political Parties, Platforms, and Planks*, CONSTITUTIONAL RIGHTS FOUNDATION, <http://www.crf-usa.org/election-central/political-parties-platforms.html> (last visited Apr. 14, 2019).

<sup>171</sup> *Historical Overview of Party Platforms and Statehood*, DC STATEHOOD, [https://statehood.dc.gov/sites/default/files/dc/sites/statehood/page\\_content/attachments/Historical-Overview-of-Party-Platforms-and-Statehood.pdf](https://statehood.dc.gov/sites/default/files/dc/sites/statehood/page_content/attachments/Historical-Overview-of-Party-Platforms-and-Statehood.pdf) (last visited Apr. 14, 2019).

<sup>172</sup> Sam Smith, *The Case for Statehood*, DC GAZETTE, (May 3, 1970), <https://samsmitharchives.wordpress.com/1970/05/03/dc-statehood-the-first-article-advocating-it/>.

state.<sup>173</sup>

In 1971, Smith supported Julius Hobson, who was running as a Statehood Party candidate for non-voting delegate. Hobson, who had led the regional chapter of the Congress on Racial Equality (CORE) for many years, had co-founded the Statehood Party with Josephine Butler in 1969.<sup>174</sup> In 1971, two freshly elected Congressmen, Fred Schwengel (R-IA) and Ron Dellums (D-CA), both introduced D.C. Statehood bills (Schwengel: H.R. 9197, Dellums: H.R. 9599). Dellums was a member of the House District of Columbia Committee, with Congressman Charlie Diggs chairing that committee. D.C. Congressman Walter Fauntroy and Diggs were focused on Home Rule and the D.C. Voting Rights Amendment as were most of the individuals and organizations promoting full rights for D.C. so the bills did not get any traction. In fact, it was not until after the D.C. Voting Rights Amendment died for lack of enough support from state legislatures that major attention shifted to statehood as a remedy.<sup>175</sup>

On January 3, 1985, D.C. Congressman Walter Fauntroy introduced H.R. 325, the New Columbia Admission Act, which the House District of Columbia Committee referred to the Subcommittee on Government and Metropolitan Affairs on April 5 that year. The next month the bill was referred to the House District of Columbia Subcommittee on Fiscal Affairs and Health and the Subcommittee on Judiciary and Education. Subsequently, hearings were heard in the Subcommittee on Fiscal Affairs and Health on May 13 and June 11, 1986. House members took no further action.<sup>176</sup>

Senator Edward Kennedy (D-MA) subsequently introduced S. 293, the companion bill, on January 24, 1985. The bill was read twice and referred to the Committee on Governmental Affairs, where it stopped. There were no co-sponsors for either bill introduced in the 99th Congress.<sup>177</sup>

On January 6, 1987, D.C. Congressman Fauntroy introduced H.R. 51, the New Columbia Admission Act with sixty-eight original co-sponsors including four Republicans. Eventually those numbers rose to 101 members who included six Republicans, although two early co-sponsors withdrew very quickly. The House District of Columbia Subcommittee on Fiscal Affairs and Health held three hearings on March 17 and 26 and on April 7. After two markup sessions, the bill was forwarded to the full House District of Columbia Committee on May 5. After six markup sessions between May 19 and June 2, it was reported to the House with Report No. 100-305 on September 17, 1987. It was placed on Union Calendar No. 188, where it remained. An identical bill S. 863 was referred to the Subcommittee on Government Efficiency, Federalism on May 19,

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<sup>173</sup> *Id.*

<sup>174</sup> *D.C. Statehood Party Headquarters/Julius Hobson/Francine Butler, African American Heritage Trail*, CULTURAL TOURISM DC, <https://www.culturaltourismdc.org/portal/d.c.-statehood-party-headquarters/julius-hobson/josephine-butler-african-american-heritage-trail> (last visited Apr. 14, 2019).

<sup>175</sup> Personal communication 4/19/19. Johnny Barnes became a Congressional Staff Member in 1977, in dual roles as Counsel to the House District of Columbia Committee and on the Staff of Congressman Fauntroy. Prior to that he was at Georgetown University Law Center and worked on the D.C. Home Rule Act and the D.C. Voting Rights Amendment.

<sup>176</sup> New Columbia Admission Act, H.R. 325, 99th Cong. (1985-86), <https://www.congress.gov/bill/99th-congress/house-bill/325/amendments?q=%7B%22search%22%3A%5B%22hr325%22%5D%7D&r=17>.

<sup>177</sup> New Columbia Admission Act, S. 293, 99th Cong. (1985-86), available at <https://www.congress.gov/bill/99th-congress/senate-bill/293/text?r=13>.



1987.<sup>178</sup> D.C. Congresswoman Eleanor Holmes Norton introduced H.R. 2482, the New Columbia Admission Act on May 29, 1991. On June 10, the House District of Columbia Committee referred the bill to the Subcommittee on Fiscal Affairs and Health. Then on November 11, 1991, the Subcommittee on the Judiciary and Education held hearings without referral; subsequently, on November 19, the subcommittee referred the bill to the full House District of Columbia Committee. However, the next action took place in the Subcommittee on Judiciary and Education, which held hearings on March 24, 1992, and a markup session on March 26 before referring H.R. 2482 to the full Committee. After a markup session on April 2, the full Committee reported a Clean bill H.R. 4718 with Report No.102-909. That revised bill was placed on the Union Calendar as No. 520 on September 25, 1992.<sup>179</sup>

Senator Edward Kennedy reintroduced the admission act as S. 2023 on November 22, 1991, with seventeen co-sponsors, and it was referred to the Committee on Governmental Affairs. No further action was taken.<sup>180</sup>

On January 5, 1993, Norton reintroduced the H.R. 51. No action took place until July 26 when the House District of Columbia Committee referred the bill to the Subcommittee on the Judiciary and Education, which held a hearing that day. After a markup session on August 5, the amended bill was forwarded to the full House District of Columbia Committee. Following Norton's introductory marks on the measure to the full House of Representatives on September 29 and October 13, the bill had eighty-one co-sponsors (eighty Democrats and one Independent). The House District of Columbia Committee reported the amended bill out of committee on November 3 with a 7-4 vote in Report No. 103-171. H.R. 51 was placed on the Union Calendar as No. 206. Between November 19 and 21, the full House adopted the rules for debate, considered amendments, and debated the bill. However, at 5:25 p.m. on November 21, the bill failed 153-277. This vote was the first ever in the House and, as of 2017, there has not been another.<sup>181</sup>

Senator Kennedy introduced a companion bill S. 898 with seventeen co-sponsors (all Democrats), but no action was taken after it was referred to the Committee on Governmental Affairs.<sup>182</sup>

In 1995 Norton reintroduced H.R. 51 with one cosponsor, a Democrat from California. After its introduction on January 4, 1995, it was referred to the House District of Columbia Committee Subcommittee on Government Reform on January 15, but no action was taken. There was no related bill in the Senate.<sup>183</sup>

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<sup>178</sup> New Columbia Admission Act, H.R. 51, 100th Cong. (1987-88), *available at* <https://www.congress.gov/bill/100th-congress/house-bill/51/all-actions?overview=closed#tabs>.

<sup>179</sup> New Columbia Admission Act, H.R. 4718, 102nd Congress § 2(d) (1991-1992), *available at* <https://www.congress.gov/bill/102nd-congress/house-bill/4718>.

<sup>180</sup> New Columbia Admission Act, S. 2023, 102nd Cong. § 1 (1991-1992), *available at* <https://www.congress.gov/bill/102nd-congress/senate-bill/2023/actions>.

<sup>181</sup> New Columbia Admission Act, H.R. 51, 103rd Cong. § 1 (1993-1994), *available at* <https://www.congress.gov/bill/103rd-congress/house-bill/51/all-actions?overview=closed#tabs>.

<sup>182</sup> New Columbia Admission Act, S. 898, 103rd Cong. § 1 (1993-1994), *available at* <https://www.congress.gov/bill/103rd-congress/senate-bill/898/related-bills>.

<sup>183</sup> New Columbia Admission Act, H.R. 51, 104th Cong. § 1 (1995-1996), *available at* <https://www.congress.gov/bill/104th-congress/house-bill/51>.

On January 12, 2011, Congresswoman Norton introduced three bills including H.R. 265, the New Columbia Admission Act. H.R. 265 was immediately referred to the House Committee on Oversight and Government Reform as well as the House Committee on Rules. On February 8, it was also referred to the Subcommittee on Health Care, District of Columbia, Census, and the National Archives. By July 23, 2012, the bill had twenty-eight co-sponsors. However, no further action took place.<sup>184</sup> On December 19, 2012, Senator Joseph Lieberman (I-CT) introduced S. 3696, a companion bill, with three co-sponsors, all Democrats. S. 3696 was read twice and referred to the Committee on Homeland Security and Governmental Affairs, but there was no further action.<sup>185</sup>

The other two bills Norton introduced on January 12, 2011, offered alternative approaches to providing representation for the people of the District of Columbia. H.R. 267, the District of Columbia Voting Rights Act of 2011, would have increased the number of Representatives in the House to 436 to include a D.C. representative with full voting rights. The bill was referred to the Committee on the Judiciary and the Committee on Oversight and Government Reform. Subsequently, on February 7, it was referred to the Subcommittee on the Constitution and the next day to the Subcommittee on Health Care, the District, the Census, and the National Archives. It went no further, even though it had twenty-four co-sponsors. There was no companion Senate bill.<sup>186</sup>

On January 12, 2011, Norton also introduced H.R. 266, District of Columbia Equal Representation Act, which would have provided two Senators and equal representation in the House for D.C. residents. It was referred to the same committees as H.R. 267, and they shared the same co-sponsors, as well as the same fate. Both bills died in committee.<sup>187</sup>

On January 15, 2013, Congresswoman Norton introduced H.R. 292, the New Columbia Admission Act in the 113<sup>th</sup> Congress. As had been the case with other bills, it was immediately referred to the House Committee on Oversight and Government Affairs and the House Committee on Rules. Initially, Norton had fifteen cosponsors, but by the end of the session, there were 112 co-sponsors, all Democrats.<sup>188</sup> On January 24, 2013, Senator Thomas Carper (D-DE), Chair of the Senate Homeland Security and Governmental Affairs Committee that has jurisdiction over the District, introduced S. 132. S. 132 was referred to the Senate Committee on Homeland Security and Governmental Affairs, which held a hearing on September 15, 2014, printed as S. HSG. 113-713. Although the bill had twenty-one co-sponsors, no further action took place.<sup>189</sup>

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<sup>184</sup> New Columbia Admission Act, H.R. 265, 112th Cong. § 1 (2011-2012), *available at* <https://www.congress.gov/bill/112th-congress/house-bill/265/titles>.

<sup>185</sup> New Columbia Admission Act, S. 3696, 112th Cong. § 2(d) (2011-2012), *available at* <https://www.congress.gov/bill/112th-congress/senate-bill/3696/cosponsors>.

<sup>186</sup> District of Columbia Voting Rights Act of 2011, H.R. 267, 112th Cong. § 1 (2011-2012), *available at* <https://www.congress.gov/bill/112th-congress/house-bill/267/cosponsors>.

<sup>187</sup> District of Columbia Equal Representation Act of 2011, H.R. 266, 112th Cong. § 1 (2011-2012), *available at* <https://www.congress.gov/bill/112th-congress/house-bill/266/cosponsors>.

<sup>188</sup> New Columbia Admission Act, H.R. 292, 113th Cong. § 1 (2013-2014), *available at* <https://www.congress.gov/bill/113th-congress/house-bill/292>.

<sup>189</sup> New Columbia Admission Act, S. 132, 113th Cong. § 1 (2013-2014), *available at* <https://www.congress.gov/bill/113th-congress/senate-bill/132/all-actions?overview=closed#tabs>.

In the 114th Congress, Congresswoman Norton introduced H.R. 317 on January 13, 2015. As with previous bills, it was referred immediately to the House Committee on Oversight and Government Affairs and the Committee on Rules. The ninety-three original co-sponsors rose to 133 by June 2016; however, the bill died in committee.<sup>190</sup> On June 25, 2015, Senator Thomas Carper (D-DE) introduced a companion bill S. 1688. Before the end of the Session the bill had 20 co-sponsors, but it did not move beyond the Senate Committee on Homeland Security and Governmental Affairs.<sup>191</sup>

Congresswoman Norton introduced H.R. 1291 on March 1, 2017, as the Washington, D.C. Admission Act, and it was immediately referred to the usual committees: House Committee on Oversight and Governmental Affairs and the Committee on Rules. Since she spoke to the House on the measure on March 2, no action has taken place. The 118 original co-sponsors had grown to 138 by September 1, 2017. As has been the case with all House co-sponsors in the 21<sup>st</sup> century, all are Democrats.<sup>192</sup> On May 25, 2017 Senator Carper (D-DE) introduced S. 1278 with eighteen original co-sponsors with one added the following week. All the co-sponsors are Democrats, except for Senator Bernie Sanders (I-VT). As of September 17, 2017, the bill sits in the Senate Committee on Homeland Security and Governmental Affairs with no further action taken.<sup>193</sup>

#### *E. Seeking Statehood and Drafting Constitutions*

For about ten years after the idea of statehood emerged as a serious consideration in 1970, it appears that little advocacy went into accomplishing the deed. Sam Smith, writing in 1980, noted that when Alaska sought statehood, it sent lobbyists to Washington, called a constitutional convention, and elected provisional representatives. Likewise, Hawaii established a statehood commission, a constitutional convention, and a lobbying office in Washington. However, in Washington, no major politician worked for it, and media paid no attention.<sup>194</sup>

Having seen proposals for statehood for D.C. fail in Congress, D.C. residents decided to try what had become known as the Tennessee Plan for achieving statehood. The Plan was called into play in both 1980 and 2016. This plan dates from the late eighteenth century. What later became Tennessee was originally part of North Carolina; however, that state found governing the far western reaches difficult. Consequently, when North Carolina ratified the Constitution in 1789, they ceded the western lands to the federal government. Within a few years, the frontier warfare had subsided, and citizens began to think about becoming a state. In 1795 a census revealed a sufficient number of residents, and the residents approved a statehood referendum by a 3-1 margin. In a constitutional convention, residents elected state leadership before petitioning Congress. In a close vote on June 1, 1796, Congress approved the admission of Tennessee as the sixteenth state

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<sup>190</sup> New Columbia Admission Act, H.R. 317, 114th Cong. § 1 (2015-2016), *available at* <https://www.congress.gov/bill/114th-congress/house-bill/317/cosponsors>.

<sup>191</sup> New Columbia Admission Act, S. 1688, 114th Cong. § 1 (2015-2016), *available at* <https://www.congress.gov/bill/114th-congress/senate-bill/1688/cosponsors>.

<sup>192</sup> Washington, D.C. Admission Act, H.R. 1291, 115th Cong. § 1 (2017-2018), *available at* <https://www.congress.gov/bill/115th-congress/house-bill/1291/all-actions>.

<sup>193</sup> Washington, D.C. Admission Act, S. 1278, 115th Cong. § 1 (2017-2018), *available at* <https://www.congress.gov/bill/115th-congress/senate-bill/1278>.

<sup>194</sup> Sam Smith, 1980: *Ten Years Later*, DC GAZETTE (Mar. 1980), <http://prorev.com/dcstd10year.htm>.

in the Union. Since then, the process of seeking statehood (dubbed the Tennessee Plan) is Tennessee's 4-step process that included: 1) approval in a referendum; 2) the development of a constitution; 3) election of officials; and 4) petition to Congress.<sup>195</sup> In the 19th century, five other territories adopted the Tennessee Plan: 1) Michigan admitted January 26, 1837; 2) Iowa admitted December 28, 1846; 3) California admitted September 9, 1850; 4) Oregon admitted February 14, 1859; and 5) Kansas admitted January 29, 1861.<sup>196</sup> Subsequently, after statehood bills dating to 1916 failed, Alaska took the same steps and was admitted to the Union on January 3, 1959.<sup>197</sup> Over time the Tennessee Plan has proved a good option for territories that tired of waiting for Congress to pass a bill that would make them a state.

## 1. Development of 1982 Constitution

The summer of 1979, Ed Guinan organized a statehood committee that collected more than 21,000 signatures to have a statehood question on the ballot. Committee workers included people across the District and diverse groups including the Gray Panthers, University of the District of Columbia students, citywide commissioners, and longtime activists.<sup>198</sup> On July 10, 1979, the D.C. Board of Elections placed the District of Columbia Statehood Constitutional Convention Initiative (Initiative #3) on the 1980 Presidential Ballot.<sup>199</sup> The initiative, which called for a constitutional convention, was approved on November 4, 1980; it was the first public referendum in the city.<sup>200</sup>

After sixty percent of D.C. voters approved the initiative, it became D.C. Law 3-71. A D.C. Statehood Commission was established in 1981, and forty-five delegates were elected to serve two- and three-year terms to a Constitutional Convention. On January 31, 1982, the Convention convened to write a constitution for the future state of New Columbia. Delegates chose the name of New Columbia on May 27, 1982, and they adopted a new constitution on May 29. Voters ratified the constitution on November 2 that year.<sup>201</sup> Pursuant to the Tennessee Plan, D.C. sent the ratified constitution to President Reagan and Congress. There appears to be no record of any response to the submission.<sup>202</sup>

D.C. citizens had ratified the constitution, despite serious flaws in the document. Ward 3 Delegate to the Constitutional Convention Courts Oulahan and Joel Garner noted that "the proposed constitution would guarantee every person a job at the taxpayers' expense, erode the

<sup>195</sup> *From Territory to State*, TENN. SECRETARY OF STATE (2017), <https://sos.tn.gov/products/territory-state>.

<sup>196</sup> *Statehood Considered by Congress since 1947*, CQ ALMANAC 1957 (13th ed.), <https://library.cqpress.com/cqalmanac/document.php?id=cqal57-1345606>.

<sup>197</sup> *Alaska admitted into Union*, HISTORY (Mar. 1, 2019), <http://www.history.com/this-day-in-history/alaska-admitted-into-union>.

<sup>198</sup> Smith, *supra* note 194.

<sup>199</sup> *Master Initiative and Initiative Measure List*, DC Board of Elections, [https://www.dcboe.org/getattachment/About-Us/About-Us/Initiative-Measures/MASTER-INITIATIVE-AND-INITIATIVE-MEASURE-LIST-with-hyperlinks-\(2-27-19\).pdf.aspx?lang=en-US](https://www.dcboe.org/getattachment/About-Us/About-Us/Initiative-Measures/MASTER-INITIATIVE-AND-INITIATIVE-MEASURE-LIST-with-hyperlinks-(2-27-19).pdf.aspx?lang=en-US) (last visited Apr. 14, 2019).

<sup>200</sup> *Records of the Statehood Commission, 1788-1994*, DC LIBRARY, Coll. No. 48, <https://www.dclibrary.org/node/44815>.

<sup>201</sup> *Washington, DC Statehood Constitutional Convention Records*, GEO. WASH. U. LIBR. (1982), <https://library.gwu.edu/ead/ms2094.xml>.

<sup>202</sup> *Const. Commission Rpt.*, NEW COLUMBIA STATEHOOD COMMISSION (July 8, 2016), <https://statehood.dc.gov/sites/default/files/dc/sites/statehood/publication/attachments/New-Columbia-Statehood-Commission-Constitution-Commission-Report.pdf>.

independence of the judiciary, triple the size and cost of our legislature, subject all public employees to personal damage suits, favor criminals over their victims, penalize religious school students and their parents and make the overthrow of the new state a legally protected right.”<sup>203</sup> In 1987 the Council of the District of Columbia passed Law 7-8, which slightly modified the 1982 Constitution. The introduction noted that it would not take effect until approved by the Congress of the United States and ratified by a majority of voters. Neither action took place.<sup>204</sup>

## 2. Development of New Constitution in 2016

Neither activists nor political leaders worked on a constitution for the District for many years. With no action in Congress, the constitution was somewhat of a moot point. In 2014, the District established the New Columbia Statehood Commission (the “Commission”) that was intended to coordinate the District’s statehood initiatives. Members include Mayor Muriel Bowser and Council Chairman Phil Mendelson as co-chairs and members Shadow Senators Paul Strauss and Michael D. Brown as well as Shadow Representative Franklin Garcia.<sup>205</sup>

In 2016, political leaders in the District were hopeful the election would change the makeup of Congress to bring in more Democrats who might be more favorable to statehood, the District turned once again to the Tennessee Plan.

Following the release of a draft constitution on May 6, 2016, the Commission held a series of town halls and public meetings, in addition to what the Commission called a Constitutional Convention. The comments were summarized in a 500-item log. The most frequently addressed issues were the name of the state, the Bill of Rights, the composition of the legislature, and the process for amending the constitution.

Many residents objected to the name of New Columbia noting that it seemed inappropriate to name the state after Christopher Columbus; however, the Commission voted unanimously to retain the name as New Columbia. Although there were a variety of suggestions for changes to the Bill of Rights, in the end, the Commission voted not to change the Bill of Rights.

The size of the legislature was another concern with many people noting that the current size of thirteen as too small. After much debate, the Commission voted to accept Mayor Bowser’s recommendation of twenty-one members. Perhaps the greatest concern from citizens came in response to the process for amending the constitution. As it was written, only the legislature could amend the constitution. Suggestions included allowing a citizen’s initiative process within three to five years after statehood was achieved. Mayor Bowser recommended the House of Delegates could call for a convention on the fifth anniversary of statehood.<sup>206</sup> On June 15, 2016, LWVDC president Linda Beebe wrote Mayor Bowser and Chairman Mendelson noting the LWVDC

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<sup>203</sup> *Questions*, WASH. POST (Oct.27,1982), [https://www.washingtonpost.com/archive/1982/10/27/questions/223ee3a4-67e6-4d1a-9683-119116f81d89/?utm\\_term=.b085a2ec54e2](https://www.washingtonpost.com/archive/1982/10/27/questions/223ee3a4-67e6-4d1a-9683-119116f81d89/?utm_term=.b085a2ec54e2).

<sup>204</sup> Approval and Ratification of Constitution, D.C. Code § 1-132 (June 24, 1987), <https://beta.code.dccouncil.us/dc/council/code/sections/1-132.html>.

<sup>205</sup> NEW COLUMBIA STATEHOOD COMMISSION, *supra* note 202 at 1.

<sup>206</sup> *Id.* at 4-6.

objected to the closed process outlined for amending the constitution and called for transparency.<sup>207</sup>

On July 11, 2016, Chairman Mendelson introduced B21-0826, Constitution for the State of New Columbia Approval Amendment Act of 2016. The D.C. Council held hearings on September 27, 2016, and October 6, 2016.<sup>208</sup> On October 6, 2016, the LWVDC joined many other statehood advocates in calling for changes in the Constitution of New Columbia. Among the changes requested were a transparent amendment process and an initiative to call a constitutional convention comprising D.C. citizens duly elected for the purpose of writing a new state constitution.<sup>209</sup>

The weeks leading up to the November 8, 2016 election were tumultuous. Many long-time statehood advocates remained silent regarding passage of the ballot initiative. On October 18, 2016, the D.C. Council voted 8-5 to require a constitutional amendment with elected delegates to be held two years after statehood is approved. The Council also voted to name the proposed state “State of Washington, D.C.” with the D.C. standing for Douglass Commonwealth.<sup>210</sup>

The ballot summary for November 8, 2016 asked voters whether they would approve a four-part referendum: 1) agree the District should be admitted to the Union as the State of New Columbia; 2) approve a Constitution of the State of New Columbia to be adopted by the Council; 3) approve the State of New Columbia’s boundaries, as adopted by the New Columbia Statehood Commission on June 28, 2016; and 4) agree that the State of New Columbia shall guarantee an elected representative form of government.<sup>211</sup> When voters went to the polls on November 8, 2016, 244,134 voters or 78.5% of those voted to approve, whereas 40,779 or 13.1% voted to reject.<sup>212</sup>

In 2017, there has been a lack of action on statehood bills in Congress. Advocates such as Josh Burch, founder of Neighbors United for D.C. Statehood, are calling on residents to contact members of Congress to ask them to co-sponsor the statehood bills or to write opinion editorials (“op-eds”) for newspapers around the country.<sup>213</sup> Members of the D.C. Statehood Coalition have made constructive efforts to improve the coordination of advocacy among the several organizations in the District and elsewhere who support statehood for D.C. For instance, many local advocates are members of the LWVDC’s Committee for Full Rights for D.C. Citizens and

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<sup>207</sup> Letter from Linda Beebe, President, LWVDC to Mayor Muriel Bowser and Council Chair Phil Mendelson (June 15, 2016), <http://www.lwvdc.org/news/2016/6/15/league-testifies-on-the-draft-constitution-for-statehood>.

<sup>208</sup> *Constitution for the State of New Columbia Approval Amendment Act of 2016: Legislative Summary*, COUNCIL OF THE DISTRICT OF COLUMBIA, <http://lims.dccouncil.us/Legislation/B21-0826> (last visited Apr. 14, 2019).

<sup>209</sup> Linda Beebe, *Testimony on B21-0826—Proposed DC Constitution*, LEAGUE OF WOMEN VOTERS OF THE DISTRICT OF COLUMBIA (Oct. 6, 2016), <http://www.lwvdc.org/news/2016/10/19/league-testifies-on-constitution-for-the-state-of-new-columbia>.

<sup>210</sup> Fenit Nirappil & Aaron C. Davis, *D.C. Council Cedes More Power of Statehood Constitution to Residents*, WASH. POST, Oct. 18, 2016.

<sup>211</sup> *Washington D.C., Statehood Referendum (November 2016)*, BALLOTEDIA, [https://ballotpedia.org/Washington D.C., Statehood Referendum \(November 2016\)](https://ballotpedia.org/Washington_D.C.,_Statehood_Referendum_(November_2016)).

<sup>212</sup> *General Election 2016—Certified Results*, DISTRICT OF COLUMBIA BOARD OF ELECTIONS (Nov. 8, 2016), [https://electionresults.dcboe.org/election\\_results/2016-General-Election](https://electionresults.dcboe.org/election_results/2016-General-Election).

<sup>213</sup> See e.g., Senator Diane Feinstein, NEIGHBORS UNITED FOR DC STATEHOOD, <https://the51st.org/contact-congress/>.

are active participants in the Statehood Toolkit<sup>214</sup> project described below. Some history of the League's work will be useful in understanding the current activities of the League and its partners.

## V. THE WORK OF THE D.C. LEAGUE OF WOMEN VOTERS

The LWVDC was established the same year as the national organization—1920—and from the very beginning members were concerned about their unequal voting status. They called themselves “the voteless” League of Women Voters (“LWV”). The 90th Anniversary Souvenir Program includes a page titled *Highlights in the Quest for Suffrage and Home Rule by Decades*, which describes the status of women and D.C. as follows: “In August 1920, all women in the United States were enfranchised—except the District of Columbia. The District's League's demand ‘for a voice and a vote’ started immediately with a campaign to get D.C. suffrage to give the District representation to Congress and the Electoral College.”<sup>215</sup>

In the 1930's, the LWVUS continued to push for federal suffrage, adding home rule. During the 1940's, Harry Truman recommended some form of locally elected government for D.C. to Congress. In the 1950's, the LWVUS “called on President Eisenhower in the White House in the interest of votes for the District; worked on discharge petitions for the Home Rule bill.”<sup>216</sup>

The LWVUS has had D.C.'s lack of a voice and a vote at the forefront of their agenda for almost a hundred years now, but this article is focused on the LWVUS and LWVDC's activities during what could be called the modern era, which began with the passage of the Twenty-third Amendment that gave citizens of the District the right to vote for President for the first time since the establishment of the District in 1801.

A review of the LWVDC Annual Programs from 1961 to the present documented the ongoing support for self-government and representation in Congress the LWVDC has emphasized. Each year at the Annual Meeting, the board of LWVDC reports on the activities of the past year and presents the proposed program for the coming year, whether the focus is on carrying out the national biennial program or approving the local biennial program on alternate years. Those reports, while necessarily brief, provide good evidence of the various activities LWVDC members were engaged in for those periods. The activities are made more understandable if seen in historical context for what was happening in D.C.

### A. The 1960's—Increased Focus on Voting and Voter Registration

With the passage of the Twenty-third Amendment, there was much preparation for the 1964 election, since it was the first time D.C. citizens could vote for President. Since 1956, with the establishment of the Board of Elections in 1955, D.C. citizens were able to vote for party officials and delegates to the Democratic and Republican parties.<sup>217</sup> The LWVDC, with its mission of

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<sup>214</sup> The DC Statehood Toolkit, LEAGUE OF WOMEN VOTERS' OF THE DISTRICT OF COLUMBIA (2019), [www.lwvdc.org/dcstatehoodtoolkit](http://www.lwvdc.org/dcstatehoodtoolkit).

<sup>215</sup> Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C. ARCHIVES, Box 3 (2010).

<sup>216</sup> *Id.*

<sup>217</sup> *Mission and Goals*, D.C. BOARD OF ELECTIONS, <https://dcboe.org/About-Us/About-Us/Board> (last visited Apr. 14, 2019).

registering people to vote, and educating voters on both the process and issues involved in elections, would have been very busy. Getting the right to vote for President would also have stimulated further hopeful action towards self-government. For instance, the 1961 LWVDC report to the membership mentions that the Speaker's Bureau provided speakers to the community on a variety of subjects, including Home Rule.<sup>218</sup> In the report to the membership for 1962-1963,<sup>219</sup> the LWVDC Board recommended a local program with a focus on supporting Home Rule and getting Congress to approve a non-voting delegate for D.C.

During the 1960's, there was increased political activity. There was a reorganization of the D.C. government, in which the LWVDC was briefly and intensively involved.<sup>220</sup> D.C. citizens were allowed to vote for school board in the 1968 elections,<sup>221</sup> which was seen as a step towards self-government. The increased possibilities for moving forward are reflected in the LWVUS program of 1968-1970<sup>222</sup> which included support for self-government and representation in Congress for D.C. citizens.

The LWVUS prepared a statement on the plight of the D.C. residents, which Representative Andrew Jacobs, Democrat of Indiana, read into the Congressional record on May 5, 1969, stating,

Self-government and Congressional representation should be given to the District of Columbia in order that democracy and normal community life might be restored to the Nation's Capital. I believe this matter is of vital concern to all my colleagues and would therefore like to bring to their attention the following statement prepared by the League of Women Voters.<sup>223</sup>

The League's statement in part stated that "Presidents Nixon, Johnson, Kennedy, Eisenhower, and others have all advocated local self-government and Congressional representation for the District. Both party platforms have endorsed it."<sup>224</sup>

### *B. The 1970's—Expanded Options for Full Representation and Self-Government*

In 1970, Congress allowed D.C. to elect a non-voting delegate to the House of Representatives, and the election took place the following year.<sup>225</sup> In 1970, the LWVDC Annual Meeting Program contained notes about distributing bumper stickers in support of representation in Congress that

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<sup>218</sup> Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C. ARCHIVES, Box 3, (1961-1962).

<sup>219</sup> Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C. ARCHIVES, Box 3 (1962-1963).

<sup>220</sup> Annual Meeting Program (Local Program), LEAGUE OF WOMEN VOTERS D.C. ARCHIVES, Box 3 (2010).

<sup>221</sup> *History of Voting in DC*, DC BOARD OF ELECTIONS [https://www.dcooe.org/voter\\_info/gen\\_info/voting\\_history.asp](https://www.dcooe.org/voter_info/gen_info/voting_history.asp) (last visited Sept. 20, 2017).

<sup>222</sup> Annual Meeting Program (National Program), LEAGUE OF WOMEN VOTERS D.C. ARCHIVES, Box 3 (1968-70).

<sup>223</sup> Andrew Jacobs, Jr., District of Columbia Self-Government Congressional Record Proceedings and Debates of the 91st Congress, First Session, Vol. 115, No. 72, (May 5, 1969) (Reprint, on file with League of Women Voters D.C.).

<sup>224</sup> 115 CONG. REC., No. 9, 11446 (May 5, 1969), <https://www.gpo.gov/fdsys/pkg/GPO-CRECB-1969-pt9/pdf/GPO-CRECB-1969-pt9.pdf>.

<sup>225</sup> D.C. BOARD OF ELECTIONS, *supra* note 221.



said, “D.C. Last Colony.”<sup>226</sup> Furthermore, the 1970-1971 LWVDC Local Program<sup>227</sup> indicated activities would be pursued to follow-up on the National Petition Drive to Gain Full Representation in Congress, showing an ongoing partnership with the LWVUS Program<sup>228</sup> that included an agenda item of full representation in Congress for D.C. The petition drive gathered 1.3 million signatures.<sup>229</sup> In addition, the Local Program language now included the phrase, “treating D.C. as if it were a state.”<sup>230</sup>

These changes in the language and focus of LWVDC activity indicate an intense level of scrutiny, discussion, and concern about the various pathways to achieving full rights for D.C. citizens. People were very interested in being able to participate in political activity, but also understood how limited their reach was. In *Captive Capital*, Smith describes the experience this way:

The minimal contact with democracy permitted to Washingtonians, while failing to give the city control over its destiny, at least has granted it the first opportunity in nearly a century to discover itself politically. To those who live in communities that take elections for granted, it is difficult to appreciate the value of this. But for Washingtonians, accustomed to never being asked how they felt about anything, the chance to speak was exhilarating even if largely without effect.<sup>231</sup>

It was during this period the concept of reducing the size of the federal city and allowing the commercial and residential sections of the District to become the 51<sup>st</sup> state came into being. While the first announcement of the establishment of a D.C. Statehood Committee was in March 1969, the candidacy of Julius Hobson, representing the new D.C. Statehood Party in 1970 increased the idea’s profile.<sup>232</sup> The LWVDC would certainly have taken notice of such a new idea entering into the arena of self-government and full representation for D.C. Indeed, comments in the 1973 Annual Meeting Program indicated that the League was aware of the concept. The report to the membership mentioned LWVDC was involved in the development of the Coalition for Democracy for D.C.<sup>233</sup> Furthermore, while the LWVUS position did not change—they still highlighted active support for self-government and representation in Congress—the explanation following the statement of position in the LWVDC Local Program stated: “[T]hat if consensus meetings in

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<sup>226</sup> Local Program, Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C. Box 3 (1970) (on file with League of Women Voters D.C.).

<sup>227</sup> Local Program, Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C., Box 3 (1970-71) (on file with League of Women Voters D.C.).

<sup>228</sup> National Program, Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C., Box 3 (1970-71) (on file with League of Women Voters D.C.).

<sup>229</sup> Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C., Box 3 (2010) (on file with League of Women Voters D.C.).

<sup>230</sup> *Local Program*, *supra* note 220.

<sup>231</sup> SAM SMITH, *CAPTIVE CAPITAL: COLONIAL LIFE IN MODERN WASHINGTON*, 20 (1974).

<sup>232</sup> *Id.* at 271.

<sup>233</sup> Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C., Box 3 (1973) (on file with League of Women Voters D.C.).

March indicate support for statehood it will not change the position, just provide another way to achieve it.”<sup>234</sup>

During the 1970s the LWVDC had neighborhood-based groups, called units, which were the basis of all LWVDC discussions of issues. Once an issue was studied, there were meetings where members came together to understand whether members agreed on the issue. The LWVDC had taken a look at statehood at that time, along with a number of other options for achieving more self-government and representation, and as the history shows, it was years before there was any kind of consensus on which path would be more promising to pursue.

In the meantime, LWVUS members continued to push for expanded self-government, and “rejoiced in the Home Rule Act of 1973 and its provision for a limited self-government.”<sup>235</sup> The District of Columbia Voting Rights Amendment to the U.S. Constitution was passed by Congress on August 22, 1978 and sent to the states for ratification by state legislatures. This amendment would have treated D.C. as if it were a state,<sup>236</sup> with full representation in Congress, full participation in the Electoral College, but D.C. would still have been subject to the will of Congress. League members across the country worked hard to get this amendment ratified, and the LWVDC was at the forefront of the activity. Between 1979 and 1981, the Annual Meeting Program noted in the LWVDC Local Program that they were deeply involved in efforts to ratify the Constitutional amendment to provide D.C. full representation in Congress. They provided “Ratification Round-ups”<sup>237</sup> for state Leagues working to get the amendment ratified in their states. They also organized phone campaigns to states considering ratification. LWVDC’s efforts proved so effective that LWVUS asked LWVDC to lead the entire national campaign for ratification, which was a priority item on LWVUS agenda.<sup>238</sup> Despite all these efforts, the amendment was not ratified by enough states within the time limit of seven years, and the proposed amendment died on August 22, 1985.

### C. The 1980’s—Push for Statehood

With live statehood bills in Congress and the failure of the D.C. Voting Rights Amendment ratification, the LWVDC turned its attention to the issue of statehood. One of the basic tools that the League has to address issues, is a thorough study of an issue. As a non-partisan organization, League members who volunteer to study an issue commit to exploring many positions taken by various factions focused on that issue and presenting them to the League membership in a balanced manner. The LWVDC completed a two-year study on statehood during the 1985-87 Local Program years, which is an excellent example of such a study. It included publishing a *Self-Determination Series*, #s 1-6.<sup>239</sup> Their titles are instructive: #1, *The Long Road to Self-Determination: Introduction and Chronology*; #2, *The Statehood Option*; #3, *The Statehood Option: Statehood*

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<sup>234</sup> *Id.*

<sup>235</sup> Annual Meeting Program, *supra* note 233.

<sup>236</sup> Self-Determination Series #1, Self-Determination Series, LEAGUE OF WOMEN VOTERS D.C., Box 2 (1987) (on file with League of Women Voters D.C.).

<sup>237</sup> Annual Meeting Program, League of Women Voters D.C. Box 3 (1979-81) (on file with League of Women Voters D.C.).

<sup>238</sup> *Id.*

<sup>239</sup> Self-Determination Series, League of Women Voters D.C. Box 2 (1987) (on file with League of Women Voters D.C.).

*Constitution: the Question of Amendment*; #4, *Where We Are: The District of Columbia Under Home Rule*; #5, *Options for Advancing D.C. Representation in Congress*; #6, *The Constitutionality of Statehood: What are the Issues?* Each policy issue was thoroughly researched to provide the best information available at the time, considering the complexity of the issue, the number of different ideas about how to achieve full representation in Congress, effective local self-government, and how D.C. citizens would be affected. Furthermore, the LWVDC Representative Government Committee, which was the title of the committee assigned to complete the study, also provided a four-page worksheet for unit discussions on these interlocking issues which is reproduced in the Appendix.<sup>240</sup> However, following a full discussion by the members in November 1986, the LWVDC did not come to consensus. Without consensus, the League could not take a position on statehood, either pro or con, so the issue was tabled for future consideration.

#### D. The 1990's—Focus on Self-Government/Good Government

Throughout the 1980's, D.C.'s non-voting delegate submitted statehood bills to Congress. LWVDC members had been unable to come to consensus after their 1985-87 study on statehood and so had worked on other issues of good government. Indeed, the 1988-90 Annual Meeting Program reported on such studies as D.C. Council Oversight and Affordable Housing, as well as new studies on D.C. finances and D.C. debt, foreshadowing the looming financial crises of 1995 that brought in the financial control board.<sup>241</sup> The Education Fund held a *Colloquy on Home Rule in the District of Columbia*<sup>242</sup> that reviewed the past fifteen years of Home Rule, with three major panel topics: political realities, human services, and financial status. The panelists were all well-known and credible voices representing various aspects of D.C.'s communities.

In April 1992, Congresswoman Eleanor Holmes Norton was invited to speak to the LWVDC on statehood for the District.<sup>243</sup> She acknowledged the work of the League in the following manner:

I'm particularly pleased to have the opportunity to speak to the League of Women Voters about Statehood. I have often, before I came to Congress, read your papers on the subject, noting your absence from a position on the subject, and I know that that has to be because of weighty reasons. I mean, in the fashion of my profession as a lawyer, to try to demonstrate to you that, indeed, if one is for democracy, and all other remedies have been exhausted, that this remedy is worth pursuing, and the League of Women Voters should not be on the sidelines of this historic battle.<sup>244</sup>

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<sup>240</sup> *Id.*

<sup>241</sup> Michael Janofsky, *Congress Creates Board to Oversee Washington, D.C.*, NY TIMES (Apr. 8, 1995), <http://www.nytimes.com/1995/04/08/us/congress-creates-board-to-oversee-washington-dc.html>.

<sup>242</sup> Minutes, *Colloquy on Home Rule in the District of Columbia*, Education Fund of the League of Women Voters of the District of Columbia, Statehood Resource Committee, LEAGUE OF WOMEN VOTERS D.C., Box 2 (1991) (on file with League of Women Voters D.C.).

<sup>243</sup> Minutes, Statehood Resource Committee, LEAGUE OF WOMEN VOTERS D.C., Box 2 (1992) (on file with League of Women Voters D.C.).

<sup>244</sup> Minutes, Statehood for the District of Columbia, Statehood Resource Committee, LEAGUE OF WOMEN VOTERS D.C., Box 2 (1992) (on file with League of Women Voters D.C.).

Norton went on to explain the constitutionality of statehood for the commercial and residential portions of the District. She also spent some time explaining how a bill she was working on would simply “eliminate congressional oversight only of that portion of our budget we raise.... Even with my bill, Congress would retain ultimate authority to re-do our budget, passing its own legislation if it desires to do so.”<sup>245</sup> She noted that only statehood would solve that problem and discussed the problems with the Voting Rights Amendment, saying:

Even though the Voting Rights Amendment would give me the vote, it would leave District residents virtually where they are today. A vote in the House and the Senate would be important to have, and I do not underestimate its importance. But what kind of democracy is it that would let me vote, but require my Mayor and my City Council to change their vote and budget on the whims of Members of Congress? That is not a democracy that I’m proud of, or that I believe in.<sup>246</sup>

Following the 1992 Annual Meeting, when Congresswoman Norton spoke, the Statehood Resource Committee was tasked with revisiting the issue of statehood for D.C. On March 27, 1993, the LWVDC Education Fund presented a public forum on *DC Statehood—What Are the Issues?*<sup>247</sup> Speakers included Florence Pendleton, D.C. “Shadow Senator”, Ron Willis, (D.C. Committee Staff, U.S. House of Representatives), Mark Gripenrog, historian, Josephine Butler (D.C. Statehood Commission), Stephen S. Fuller (George Washington University), Vanessa Ruiz, D. C. Deputy Corporation Counsel, Paul Whipple, political scientist, Sam Jordan (Statehood Party), and Alvin Rosenbaum (Chesapeake & Potomac Regional Alliance). The *Facts & Issues* publication with the same title came out in April 1993. *The DC Voter* for May, 1993<sup>248</sup> announced the topic for the May unit meetings:

#### D.C. Statehood Consensus Meeting

Question: Should the League of Women Voters support D. C. Statehood as a means of achieving self-government and full voting representation in both Houses of Congress?

Since 1920, the League of Women Voters has supported and sought to secure for the citizens of the District of Columbia the rights of self-government and full voting representation in both Houses of Congress. This position does not define methods for achieving these rights. In 1986 and 1987, our League studied the proposed statehood bill, but did not come to consensus or take a position on D. C. statehood. We have been asked by the National League and the League of Women Voters of the National Capital Area if we would now support statehood as an approach to achieving the goal of self-government and representation in Congress....

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<sup>245</sup> *Id.* at 3.

<sup>246</sup> *Id.*

<sup>247</sup> Minutes, Facts & Issues: D.C. Statehood—What are the Issues?, Education Fund of the League of Women Voters of the District of Columbia, Statehood Resource Committee, LEAGUE OF WOMEN VOTERS D.C., 4 Box 2 (1993) (on file with League of Women Voters D.C.).

<sup>248</sup> Minutes, The DC Voter, Statehood Resource Committee, LEAGUE OF WOMEN VOTERS OF THE D.C., Vol 67, No. 8 at 1, Box 2 (May 1993) (on file with League of Women Voters D.C.).

As a result, consensus was reached on the following position:

The League of Women Voters of the District of Columbia supports self-government and full voting representation in Congress for the District of Columbia, and accepts statehood as a means of achieving this goal. This position acknowledges that many serious concerns need to be resolved in order to make this a viable concept, including the economic and fiscal resources of the proposed state and the federal enclave.

Of interest is that the LWVUS Board issued a Concurrence Statement on June 4, 1993: “The National Board agrees the national position on D.C. self-government and full voting representation includes support for statehood for the District of Columbia.”<sup>249</sup>

The LWVDC spent the next several years dealing with the financial crisis and monitoring the actions of the Control Board. The 1996 Annual Meeting program notes publication of *The ABC’s of the District of Columbia and Financial Responsibility and Management Assistance Authority* (“DCFRMAA” or the “Control Board”)<sup>250</sup> and the distribution in April 1996 to other Leagues of a letter describing the reasons for the District’s financial crisis. It opened with the following greeting:

Dear League Members and Other Friends Who Enjoy the Full Rights of U.S. Citizenship:

We, the members of the League of Women Voters of the District of Columbia, on behalf of all residents of our city ask you to understand the District’s struggle with an impossible financial burden. Your understanding and support are critical because the District’s unique, and, we think, unjust political status prevents our local government from taking the action required to resolve the crisis.<sup>251</sup>

The letter then listed the following items: “Limited Sources of Revenue, Unique Financial Burden, Inadequacy of the Federal Payment,”<sup>252</sup> and listed these options as frequently proposed for resolving D.C.’s financial crisis “...a larger federal payment, taxing the incomes of commuters, payments for public services made by tax-exempt organizations in lieu of taxes, and exemptions for D.C. residents and business from federal income taxes.”<sup>253</sup> Finally, they noted that Congressional action could create any of these options, and having the District represented in Congress would be the most effective way to resolve this crisis.<sup>254</sup> Even in the midst of the financial

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<sup>249</sup> Minutes, Consensus on Statehood, Statehood Resource Committee, LEAGUE OF WOMEN VOTERS D.C., Box 2 (1993) (on file with League of Women Voters D.C.).

<sup>250</sup> Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C., Box 3 (1996) (on file with League of Women Voters D.C.).

<sup>251</sup> *Id.*

<sup>252</sup> *Id.*

<sup>253</sup> *Id.*

<sup>254</sup> *Id.*

crisis and reorganization of the D.C. government under the Control Board, LWVDC was making the case for self-government and full representation in Congress.

The other important action the LWVDC took during the 1990's was to support organizing DCVote.org. "The Coalition for D.C. Representation in Congress was organized to continue to seek redress for the citizens of the District of Columbia."<sup>255</sup> Indeed, the list of fifteen Steering Committee members of the Coalition for D.C. Representation in Congress Education Fund listed in 1998 included three members of the LWVDC and one member of LWVUS, but it should be noted the organizations were listed for identification purposes only.<sup>256</sup> The Coalition, which became DCVote, stated its mission:

The mission of the Coalition for DC Representation in Congress Education Fund is to educate the public and the Congress of the United States about the need for citizens of the District of Columbia to enjoy full voting representation in the U.S. House of Representatives and U.S. Senate. The Coalition brings together any and all organizations, citizens, and other supporters of the principles enumerated in the Constitution that guarantee democratic representation of all citizens and assert the principle of "one person one vote." The Coalition is open to all who wish to pursue those goals through non-violent means and with respect for all other members of the Coalition.<sup>257</sup>

Many of the subsequent activities of LWVDC regarding voting rights and support of incremental advances in self-government were carried out through the activities of DCVote. In its *Annual Report Highlights: April 1, 1999-March 31, 2000*,<sup>258</sup> they reported that "The Coalition web site has attracted hits from all over the country and is becoming a more useful educational tool as the Coalition moves into the 'political' sphere."<sup>259</sup>

LWVDC also reported:

[The] DC League produced special education information on the issue in the form of a *Fact Sheet: "Twenty Questions & Answers"* and a chronology on DC Governance. These were included in the *Grassroots Action Kit* developed [by] the League of Women Voters of the United States (LWVUS) in October 1999 and distributed to all leagues nationwide. It also is included in the LWVUS web site ([www.lwv.org](http://www.lwv.org)).<sup>260</sup>

#### *E. The 2000's—Working in Coalitions*

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<sup>255</sup> Annual Meeting Program, *supra* note 233.

<sup>256</sup> Committee for D.C. Representation in Congress (1998) (on file with author).

<sup>257</sup> *Id.*

<sup>258</sup> Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C. 11, Box 3 (2000) (on file with League of Women Voters D.C.).

<sup>259</sup> *Id.*

<sup>260</sup> *Id.*

The last decade covered by the ninetieth Anniversary program was the 2000's, during which the LWVDC organized an internet-based voter education program, focused on registering high school seniors and new citizens at naturalization ceremonies. The third edition of *Know the District of Columbia*, a book about the District government and how it operates, included a section on *The Campaign for Home Rule and Suffrage*.<sup>261</sup> Aside from these highlights, attempts to find ways to provide voting representation for D.C., at least in the House, continued, and the LWVDC's support for full voting representation did not wane. Activists discussed many avenues to gain voting representation for D.C., both within the League, in the community, in Congress, and in the courts. The situation in the nation's capital was covered in *The National Voter*, with a three-page article reviewing D.C.'s status and comparing it to ways that other capitals are treated. The article also mentions the "two pending lawsuits that raise issues of equal representation and the principle of one-person-one vote...*Alexander v. Daley*<sup>262</sup> and *Adams et al. v. President Clinton et al.*"<sup>263</sup>

The 2001 Annual Meeting Program confirms the focus of work on Congressional representation was carried out through the activities of the Coalition. Kathy Schmidt, Liaison, reported on Coalition-sponsored house parties, the production of a video produced by DCVote, and welcoming in the new 107<sup>th</sup> Congress with information about DCVote. They also held a workshop at the LWVUS convention.<sup>264</sup> *The Annual Report Highlights: April 1, 2000-March 31, 2001* also noted the following on full voting representation in Congress:

Last spring the U.S. Supreme Court (without oral argument) affirmed the decision of the three-judge panel from the U.S. District Court for the District of Columbia on the suits for full voting representation in Congress. Although the Supreme Court indicated the lack of D.C. voting rights was deplorable, the Court indicated that remedy would have to be sought through the political process, namely Congress....<sup>265</sup>

The LWVDC continued to be active in bringing the issue to the attention of the Leagues in the fifty states. The *President's Report* for 2002 opens with the following:

The League brought recognition and support for full voting representation for the District of Columbia to the LWVUS National Conference and gained their support to send a letter to President Bush from the LWVUS President and me, [E. Patricia Hallman, LWVDC President] and also to the National Capital Area Leagues, where we won support for full Budget autonomy for the District.... We sent letters of introduction to our LWV Presidents for Shadow Senator Ray Brown who is traveling throughout the U.S. to lobby for full voting representation....<sup>266</sup>

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<sup>261</sup> Annual Meeting Program, *supra* note 289.

<sup>262</sup> *Adams*, 90 F. Supp. 2d at 35 (*Alexander v. Daley* is incorporated into *Adams v. Clinton*).

<sup>263</sup> Marie Robey Wood, *A Capital Offense*, THE NATIONAL VOTER 5 (Mar./Apr. 2000).

<sup>264</sup> Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C. 9, Box 3 (2001) (on file with League of Women Voters D.C.).

<sup>265</sup> *Id.*

<sup>266</sup> Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C. 13, Box 3 (2002) (on file with League of Women Voters D.C.).

The 2002 Annual Meeting program report on congressional representation also focused on the work of DCVote, highlighting the distribution of the “Taxation Without Representation” license plates, the voting rights petition drive on the Mall, and the *Income Tax Day* event to protest D.C. citizens paying taxes without representation.<sup>267</sup>

At the Annual Meeting in 2005, the D.C. Voting Rights Committee was able to report the following:

July 23 [2004] Congress held a hearing on 5 separate bills that would give Washington, D.C. some form of Congressional voting representation. Three of the bills were introduced by Republicans and two bills were introduced by Democrats. The hearing was conducted by Congressman Tom Davis, Chair of the House of Representative’s Government Reform Committee. The committee agreed that Congress has the authority to grant Congressional voting rights to D.C. citizens by legislation rather than through Constitutional amendment. (In December Viet Dinh, a conservative lawyer associated with the Bush Administration, agreed in a 23-page opinion.)<sup>268</sup>

That same year the LWVDC President reported on the LWVDC process regarding this Congressional activity:

Congressional Voting Rights for DC was the subject of an all-member meeting on Tuesday May 11, 2004. The purpose of the meeting was to discern member agreement as to which bills would be preferred, if any, by members of the DC League.... Members reached the following agreement as to priorities:

The League of Women Voters of the District of Columbia strongly supports our goals of full voting representation in both houses of Congress and full government rights, and we support incremental steps to achieve these goals, with the following criteria: the integrity of the District of Columbia shall be maintained.... Incremental steps should address representation in the Senate, and final determination of the status of the District shall involve a voice of the citizens of the District of Columbia in that determination.<sup>269</sup>

The years 2005 and 2006 saw the LWVDC participate in a rally outside the meeting of the Organization for Security and Cooperation in Europe because they had passed a resolution in support of full Congressional voting rights for D.C. They also continued to support the District of Columbia Fairness in Representation Act that Tom Davis (R. VA) had introduced.<sup>270</sup>

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<sup>267</sup> *Id.*

<sup>268</sup> Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C. 13, Box 3 (2005) (on file with League of Women Voters D.C.).

<sup>269</sup> *Id.* at 11.

<sup>270</sup> Annual Meeting Program, LEAGUE OF WOMEN VOTERS D.C., Box 3 (2006) (on file with League of Women Voters D.C.).



In the 2010 Annual Meeting Program, the *DC Voter* report indicates the move from voting rights to statehood in the following manner:

Health care consumed Congress's time and attention this year, pushing issues of democracy and civil rights for DC residents to the sidelines. Early in 2009, the Senate passed the DC Voting Rights Act, which would have provided the District of Columbia with a voting representative, together with an amendment that would have invalidated most of the District's gun control laws. The House was unable to pass legislation without a similar amendment, and community leaders felt the price of losing the right to regulate gun laws was too high to pay for the bill's benefits. So the bill was returned to committee and will expire at the end of the Congressional session.

Advocates then turned their attention to pursuing statehood through incremental steps and greater autonomy for the DC City Council. Two bills currently in committee would provide greater control over the District of Columbia's budget process and eliminate the 30- and 60-day Congressional review periods for DC's civil and criminal laws. It is not known when these bills will move forward.<sup>271</sup>

Aside from continuing to support the work of DCVote, the LWVDC was not particularly active over the next few years. It did not have a working committee that focused on full Congressional representation, nor was it particularly outspoken on such issues. It was not until the fall of 2014 that a focused effort for statehood and voting rights, aside from continuing support for DCVote, was set in place.

## **VI. DEVELOPMENT AND DISSEMINATION OF THE STATEHOOD TOOLKIT 2016**

Given the long history and many different ways of attempting to rectify D.C.'s situation that have been discussed in the previous section, it was clear that the next phase of the LWVDC's work needed to be pursued in several steps. This section describes the series of actions taken within the League structure at the local, regional and national levels.

### *A. Updating the LWVDC Official Position on D.C. Statehood*

All League actions must be based on positions that have been established by consensus of the League members. So, the first step was to review the LWVDC position on D.C. Statehood to see if it needed to be updated. Elinor Hart and Anne Anderson reviewed the position that was adopted in 1993 and found it no longer reflected the contemporary state of affairs in D.C. Because a Planning Meeting for Local Programming was coming up in February 2015, they published a proposal in the January-February 2015, newsletter, *The DC Voter*, calling for an update. They suggested that the following language be adopted: "The League of Women Voters of the District of Columbia advocates for self-government without Congressional interference and full voting

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<sup>271</sup> Annual Meeting Program, *supra* note 270.

representation in Congress and recognizes statehood as a means of achieving these goals.”<sup>272</sup> At the Planning Meeting for Local Programming the new language was adopted and statehood for the people of D.C. was included as a priority for the 2015-16 local program plans.<sup>273</sup>

### *B. Committee Established and Agenda Defined*

A Committee for Full Congressional Representation for D.C. was formed, with Anne Anderson as Chair. The LWVDC Board quickly improved on the name so after the first airing<sup>274</sup> it became the Committee for Full Rights for D.C. Citizens. The Committee decided that a survey of the many actors in D.C. on this issue would be helpful in determining the next steps. They interviewed nine organizations, eighteen elected officials, and the four political parties with ballot status about their efforts to advocate for full rights for D.C. citizens. The report was developed over the fall of 2015 and published in February 2016. All interviewees received a copy of the report and were invited to a reception to celebrate the publication of the *Report on Advocacy for Full Rights for DC Citizens* on March 12, 2016.<sup>275</sup>

In the *Executive Summary* of the report, the committee identified the following themes that appeared in most of the interviews collected:

All responders are in favor of D.C. citizens gaining their full rights, and most of the answers focused on gaining statehood as the most complete solution to the problems created by lack of a vote in Congress, no voice in the Senate, and total control over local matters held by Congress. Several responses mentioned interim steps such as budget autonomy that they advocate for on the way to statehood. Others noted the importance of good government under any circumstances.<sup>276</sup>

Furthermore, when interviewees were asked about future plans, educational efforts were most frequently noted as being the most effective strategies, with broad acknowledgement of how little Americans understand about D.C.’s colonial status. Some mentioned the effectiveness of Stephen Colbert’s and John Oliver’s programs on D.C. statehood in educating the American public.<sup>277</sup> The Committee recommended further efforts on education about D.C.’s situation be developed and implemented by the League based on the identified themes.

### *C. Approach to LWVUS with updated LWVDC Position*

With the updated LWVDC position on statehood, it was also clear that the national body of the LWV needed to know about the update and should also express their position on the issue. The

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<sup>272</sup> A PROPOSAL FOR LOCAL PROGRAM 2015-2017, THE DC VOTER 4 (Jan.-Feb. 2015), <http://www.lwvdc.org/the-dc-voter/>.

<sup>273</sup> PROPOSED LOCAL PROGRAM FOR 2015-2017, THE DC VOTER 3 (Mar.-Apr. 2015), <http://www.lwvdc.org/the-dc-voter/>.

<sup>274</sup> COMMITTEE FOR FULL CONGRESSIONAL REPRESENTATION FOR DC UPDATE & CALL FOR MEMBERS, THE DC VOTER 5 (July-Aug. 2015), <http://www.lwvdc.org/the-dc-voter/>.

<sup>275</sup> REPORT ON ADVOCACY FOR FULL RIGHTS FOR D.C. CITIZENS, LEAGUE OF WOMEN VOTERS OF THE DISTRICT OF COLUMBIA (Feb. 26, 2016), <http://bit.ly/2F5Et5O>.

<sup>276</sup> *Id.*, at 3.

<sup>277</sup> *Id.*

LWVUS has mechanisms for discussion of issues and formal recognition of their inclusion in the national agenda through various methods, including presentation of issues at the Biennial Convention. Delegates, who are empowered to represent their home Leagues and vote on measures brought before the Delegate Assembly in the business meeting, from various Leagues attended the convention. With the Biennial Convention scheduled for June 2016, the LWVDC Committee for Full Rights for D.C. Citizens decided to develop a formal Resolution to submit to the delegates on the floor of the Convention for their consideration, discussion, and vote. The passage of such a Resolution would inform the LWVUS Board of the level of support for D.C. statehood present in the general membership. Elinor Hart took the lead in drafting the Resolution, which was thoroughly reviewed and edited by both the members of the Committee for Full Rights for D.C. Citizens and the LWVDC Board.

#### *D. Requesting Support from League of Women Voters of the National Capital Area*

Once the new agenda was approved by the LWVDC Board, on December 5, 2015, Linda Beebe and Elinor Hart presented the draft resolution to the Board of the League of Women Voters of the National Capital Area (“LWVNCA”), a regional body with representatives from Leagues in D.C., Maryland and Virginia, and asked for their support in presenting it at the LWVUS Biennial Convention. Beebe and Hart reported that the LWVNCA Board enthusiastically supported the Resolution.<sup>278</sup> The Resolution was then ready to be submitted to the LWVUS at the Biennial Convention.

#### *E. Campaign to Educate Delegates about the Resolution*

Once the Resolution was officially submitted, the LWVDC Committee for Full Rights for D.C. Citizens planned a campaign to ensure the delegates attending the Biennial Convention were aware of the Resolution and its importance to the citizens of the D.C. The Committee printed copies of the Resolution, produced flyers, and gathered informational materials on D.C. statehood from the D.C. Statehood Coalition to distribute at the meeting. Members of the Committee and others from the LWVDC volunteered to attend the convention in support of the Resolution. During the convention, League members passed out information, held impromptu lunch discussion groups, and participated in the caucus meeting that was held on June 19, 2016. The Committee advertised the meeting as a caucus in support of the proposed Resolution to make D.C. statehood a priority advocacy issue at the national level of the League.

#### *F. Resolution Presented and Approved*

The Resolution was presented on the floor of the Delegate Assembly on June 19, 2016 with the following text: “[T]herefore, be it resolved that the League of Women Voters of the United States strongly supports legislation that will establish statehood for the people of the District of

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<sup>278</sup> A MESSAGE FROM PRESIDENT LINDA BEEBE, THE DC VOTER 2 (Jan.-Feb. 2016), <http://www.lwvdc.org/the-dc-voter/>.

Columbia.”<sup>279</sup> It was approved with an overwhelming majority of Delegates voting for it.<sup>280</sup> The implications of such a vote are several:

1. The general membership of the League, represented by the delegates to the Biennial Convention, is in favor of the LWVUS attending to the unequal situation that D.C. experiences. This does not mean that the LWVUS Board will take up this issue as a legislative priority, because legislative priorities are often chosen based on strategic factors related to current events each year.
2. Opportunities to support the will of the Delegates regarding the issue of D.C.’s status vis-à-vis the Congress ought to be pursued. So, if the D.C. League is able to identify such opportunities in the future, it will be easier for the LWVUS staff to help implement any programs that develop.
3. It is worth noting the text of the LWVUS position on D.C.:

D.C. Self-government and Full Voting Representation: Secure for the citizens of the District of Columbia the rights of self-government and full voting representation in both houses of Congress.<sup>281</sup>

In addition to the position statement, there is a historical note in the introduction to the position statement: “In 1993, at the request of the LWV of the District of Columbia, the LWVUS Board agreed D.C. statehood would ‘afford the same rights of self-government and full voting representation’ for D.C. citizens as for other U.S. citizens. Accordingly, the LWVUS endorsed statehood as one way of implementing the national League position.”<sup>282</sup> The two statements together with the strong vote of the Delegates at the Biennial Convention make the LWVUS’s support of D.C.’s quest for statehood stronger than ever.

### *G. Grant from D.C. Government*

With this strong showing of support from the delegates to the LWVUS Biennial Convention, it was clear this organization of community leaders would be an excellent group to provide further education and resources that would expand the knowledge base about D.C.’s lack of full representation in Congress and lack of self-government. Accordingly, when a request for proposals came from the Office of the Secretary of the District in summer 2016, LWVDC requested the LWVUS submit a proposal to provide an educational program on D.C. Statehood and Voting Rights. The submitted proposal provided for the development of web-based educational materials, including power points, quizzes, background papers, and a webinar. In addition, there would be at

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<sup>279</sup> LWVDC Resolution supporting statehood for the people of D.C., June 16, 2016, LWVDC Archives, Box 3 (on file with LWVDC); See Appendix for full text of the June 2016 Resolution.

<sup>280</sup> LWVUS 52ND CONVENTION DELEGATES STRONGLY SUPPORT STATEHOOD FOR DC CITIZENS, THE DC VOTER 1 (July-Aug. 2016), <http://www.lwvdc.org/the-dc-voter/>.

<sup>281</sup> DC Self-Government and Full Voting Representation, LEAGUE OF WOMEN VOTERS OF THE US, <http://forum.lwv.org/member-resources/book/summary-public-policy-positions> (last visited Feb. 25, 2018).

<sup>282</sup> *Id.*

least five visits made to Leagues in five of the fifty states to present the materials in person to an assembled audience of League members.

Several League members were able to travel to Illinois, Ohio, Minnesota, New York, and Virginia to educate Leagues about statehood for the people of D.C. The Statehood Toolkit provided the basis for the presentations. The Toolkit includes a PowerPoint, *Fixing the Hole in Our Democracy* a webinar in which statehood issues are discussed, a second PowerPoint to show to community groups, two interesting quizzes, tabletop displays, background papers, handouts and social media suggestions. The Committee had to make some important decisions about what to include. They reached out to the organizations listed in the *Report on Advocacy* to get their perspectives on the best ways to introduce the issues surrounding D.C.'s lack of representation in Congress and why statehood would be an appropriate remedy. The support and collaboration from a number of organizations and individuals made it possible to learn the many possible ways to approach this task. People offered their previous work on the issues as resources and committee members worked hard to distill mountains of information into the brief background papers that resulted.

The PowerPoint presentation, *Fixing the Hole in Our Democracy*, is based on the information in the background papers that cover the following topics: *Frequently Asked Questions; We Are DC; How Does the World View Violations of Equal Political Participation for DC Citizens?; The Changing Face of DC Governance Over Time; How District of Columbia is Governed in 2016; Congressional Intervention in DC Local Affairs; League of Women Voters Efforts to Achieve Full Voting Rights for DC Citizens; Map of the Proposed State and the Federal District; and The Rights of DC Citizens are in Your Hands*. This PowerPoint, and another one, *Statehood for the People of DC: History, Facts, and Path Toward Statehood*, are designed as resources for people around the country who are interested in knowing more about the history of D.C. attempting to gain statehood. The PowerPoints can be used at community events, social justice committees, etc. The Toolkit also has two quizzes to facilitate a discussion, and a webinar that covers the materials in *Fixing the Hole in Our Democracy*.<sup>283</sup>

To set up the site visits, the committee emailed and called about half the state Leagues in the country, searching for those who would be able to host a speaker during the weeks between the election and the middle of December—a firm ending date because, according to the provisions of the grant, all work had to be done and a final report turned in by December 31, 2016. Five feasible locations were identified, with offers to have a speaker Skype in, or be on a conference call. Utah also invited a speaker, but logistics did not work.

Josh Burch, founder of Neighbors United for DC Statehood and a member of the Full Rights Committee, led off with a trip to Illinois where he met with the Glenview/Glencoe, Illinois League and then with the Illinois State League Board the following day. He reported great interest and willingness to help in the future. Linda Beebe and Caroline Petti, another active Full Rights Committee member, met with leaders of several Virginia Leagues over lunch, during which there was a lively discussion with several good suggestions for how to use the materials on statehood.

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<sup>283</sup> All of these materials can be found on the LWVDC's website: [www.lwvdc.org](http://www.lwvdc.org); see The DC Statehood Toolkit, *supra* note 214.

Caroline Petti traveled to Minnesota and presented *Fixing the Hole in Our Democracy* that was livestreamed and went up on YouTube. She reported that one participant said, “I came in skeptical but you have convinced me, and I want to help!” She then traveled to Albany, New York, where she met with the New York State Board. Anne Anderson also presented the PowerPoint to an audience of about forty people to the Delaware, Ohio League, with similar interest and concern expressed for D.C.’s situation. The Ohio organizer commented that she thought the presentation was “eye-opening” for a number of her members. And, finally, Linda Beebe and Anne Anderson facilitated a webinar on December 8, 2016 that was taped.

In thinking about future work, the committee designed banners, yard signs and buttons, all with the slogan, *Equality for DC: Make Democracy Work for All*. The banners and buttons were printed, used at community events and distributed, while the yard signs are ready for printing at an appropriate time.

Furthermore, the committee also established a Google group, LWV-DC-Full-Rights-Alert, for the purpose of keeping abreast of significant events related to statehood for the people of D.C. The group is set up to announce items, so there will not be discussion online, although there will always be a way to respond by email to the LWVDC Full Rights Committee.

## **VII. FOLLOW-ON GRANT IN 2017**

As this article is being written, the LWVUS has once again received funding from the D.C. government to support an educational campaign to reach out to sister Leagues around the country. The LWVDC, with its Committee for Full Rights for D.C. Citizens, plans to train more speakers in using the Toolkit materials. There are local gatherings taking place in front of friendly audiences to give speakers an opportunity to practice with the Toolkit. Examples include a non-profit organization that organized a pizza lunch during which the LWVDC speaker presented information on statehood and an LWVDC member who reached out to her colleagues in a group of members of the American Association of University Women. There have also been neighborhood groups held in members’ homes, and a special training session for younger people who are new to the issue of lack of representation and local control of local laws.

Additionally, the LWVDC arranged for breakout sessions during the Council meeting to discuss the issue and possibilities for visiting some states. Representatives from nineteen states signed the list indicating they would be willing to work with LWVDC to arrange a presentation in their area. Once the funding was secured, emails went out to the states on that list, and visits are being arranged. There is a potential of visiting at least ten states, depending on scheduling and funding available for travel to those areas.

This next phase will provide an opportunity for more people to become familiar with the LWVDC materials and to become comfortable with speaking in front of various audiences so that they will be ready to reach out to other organizations outside the League of Women Voters structure. There is every reason to continue to expand the outreach to other audiences who are concerned with voting rights, voter protection, social justice, and fairness. By the end of this phase of the project, we should have about fifteen speakers trained to be part of the LWVDC Speakers Bureau for D.C. Statehood and Voting Rights.

There are some challenges in completing the grant within the time allowed. The grant was awarded in August, and the work must be completed so the final report can be submitted to the D.C. Secretary of State by December 31, 2017. That period of time not only includes two major holidays, additionally, November is election month. Many state Leagues are engaged in voter registration, candidate guides, and get-out the vote efforts for both state and local elections. The leaders have been enthusiastic about LWVDC visits; however, the timing is delicate.

## VIII. LESSONS LEARNED

### *A. Know Your History*

The LWVDC is working from long experience in addressing the complexities involved in unraveling the unequal status of the citizens of the District. Since the LWVUS is a grassroots organization, working from the individual members up to the national level, it has been very important to learn the history of past efforts. Current efforts build upon previous endeavors, and it is with pride that current members of the League can point to how long, and in how many ways, the League has steadfastly worked to achieve equality for D.C. citizens.

However, many people experiencing this issue for the first time—coming to live in D.C. and discovering their own disenfranchisement—are apt to leap to conclusions, latch on to the latest idea, and try to move forward with passion. They can quickly get discouraged and frustrated and either become more adamant and passionate, sometimes reducing their effectiveness, or decide it is hopeless and drop out. So, it is important to welcome newcomers and provide a historical perspective of the efforts along with education, so they are not working in a vacuum of knowing only about current events.

We have also found there is much confusion about the issues regarding the District's status. The confusion is cleared up when some of the history is explained. This is why the background papers on the founding of the District and what has happened over time are included in the Toolkit.

### *B. Personal Interaction Makes a Difference*

When media outlets are covering the activities of the President of the United States or actions that members of Congress are taking, they often use "Washington, D.C." as the subject in their story, rather than specifically naming the actors. So, the 700,000+ people who actually live in the District must contend with the stereotypes fostered by such media treatment. When commentators use phrases such as "DC was in an uproar today..." when they are reporting about a dispute in Congress or a scandal involving the White House, they create images in their audiences minds that make it difficult for Americans who live in the fifty states to understand what it is like to live in Washington, D.C. The stereotypes—positive or negative—of our national government obscure the actual experiences of people who live with no vote in the House, no voice in the Senate. Furthermore, the 535 members of Congress have total control over the laws and budget of the District, but that fact gets lost in the stereotypes that focus on events and activity on Capitol Hill.

When members of the D.C. League travel to other parts of the country to talk about D.C. statehood, they are often asked if they actually live in the District—not in surrounding suburbs—which again highlights the many stereotypes that people in the fifty states hold about who lives in D.C. and how it functions. So, in order to combat these many stereotypes, it has been important to send out members of the D.C. League to talk in person to sister League members. With personal contact, over coffee, in small groups, or even in large group settings, having a real person who actually lives in the District and can report on her experience is very effective.

The power to change the relationship between the District and the Congress lies solely with the Congress, but D.C. has no vote in either house of Congress. The reality of the lack of power of D.C. citizens to remedy their situation is also made more real when our speakers can talk about the frustrations of not being able to take part in discussing issues with their Congressman or Senators—because they don't have any. It becomes easier for the person who does have legislators to contact to imagine letting them know their opinion on D.C.'s colonial status.

### *C. No Such Thing as a Stupid Question*

As LWVDC members have fanned out to use the Toolkit, there has been an emphasis on understanding that many people have no notion of the problems D.C. faces from day to day. The District's status is so different from what people learn about in their civics courses, or from working with their municipal and state governments that it takes some time and effort to actually understand how things work for D.C. Encouraging the audience members to go ahead and ask any and all questions has been a valuable tool for the League to understand what elements are hard to truly understand emotionally as well as intellectually. It has been useful to have our speakers share their personal experience of D.C.'s lack of representation in our national legislature and lack of local self-determination. Telling stories about actual events our presenters have experienced helps anchor more theoretical understanding of issues in real-life situations.

### *D. Respond Calmly to Negative Comments*

It is important to have talking points ready for responding to all the initial responses to first hearing about statehood. When speakers have thought through their responses to initial negative comments they can respond with equanimity and information that will help continue a conversation. Also, it is more possible to break through the initial bias so people can become interested in the issues. The PowerPoints and quizzes are designed to be informative and non-polemical so audiences can relax into learning about the actual situations created by D.C.'s status as a federal district totally controlled by Congress with no vote in the Senate or the House of Representatives.

## **IX. RECOMMENDATIONS FOR FURTHER OUTREACH**

### *A. Develop Coalitions Both Locally and Across State Lines*

Individuals and organizations in D.C. have made good connections over the years with many organizations around the country that are concerned with voter protection and civil and human rights. Coalition work is time consuming and hard to keep vibrant and alive with activity. The



more connections that are made so that networks become both widespread and dense, the easier it will be to mobilize citizens to advocate for full rights for D.C. citizens.

### *B. Keep the Conversation Human and Down to Earth*

There have been so many twists and turns in the struggle for full representation in Congress and full self-government that it is easy to get bogged down in citing lawsuits and Acts of Congress to explain the history. What really can make a difference to the citizens of the fifty states is to be able to tell personal stories about the effect that lack of a voice and vote have on daily civic life. Set up scenarios for people about issues they care about and then show how dealing with such an issue would work in D.C. under the current governmental structure. Such examples can help put people in D.C. citizens' shoes and encourage them to reach out to their legislators about statehood for D.C.

### *C. Invite Citizens Who Live in D.C. to Participate in Events in the Fifty States*

The LWVDC is only one of several organizations of D.C. citizens who are able to talk about what it is like to live in the District and be subject to the whims of Congress. When planning a conference or regional or national meeting, include a session that highlights D.C. citizens who can present the LWVDC's information and/or other perspectives on D.C.'s status. Many organizations have their national meetings in D.C., so those would be really good times to include people who live in D.C. in the program.

### *D. Use as Many Different Types of Media as Possible*

The types of media that are available to address the need to make the commercial and residential areas of D.C. a state are only going to keep expanding. Tried and true avenues like writing opinion pieces for local news outlets, letters to the editor, flyers, and handouts, are all still valuable, but social media of all kinds are now perhaps more effective and require new ways of presenting information. Videos are being developed to document the voices of regular people who live in D.C. Public service announcements with celebrities are appearing on TV. Memes suitable for posting to such sites as Facebook, Instagram, and Twitter are being tested. So, it will be very important to spend time, energy, and funds to keep up to date on the latest possibilities.

### *E. Keep Pressure on Congress to Fix this Hole in Our Democracy*

Finally, in the long run, as the Supreme Court noted in its decision on the consolidated cases of *Adams v. Clinton* and *Alexander v. Daley*,<sup>284</sup> the lack of full rights for D.C. citizens will need a political remedy, and the remedy lies with Congress. Members of Congress are generally interested in getting re-elected. Constituents need to know enough about D.C.'s plight and be concerned enough about the D.C. statehood issue, to insist to their Congressional delegations they want this hole in our democracy fixed—now. It has been 216 years since the disenfranchisement of the citizens of the District took place. How much longer must we wait?

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<sup>284</sup> *Adams*, 90 F. Supp. 2d at 35.



## APPENDIX

This is an example of the results of a League of Women Voters study that precedes the organization establishing any position on any issue. As a grassroots organization, the membership must come to consensus on a position from the ground up in order for LWVUS to take a position on an issue like statehood for the citizens of D.C. Members of LWVDC met in their neighborhood groups, called “units,” in 1986 to discuss the issues the study committee had identified. The following pages contain the 1986 LWVDC Study on Statehood Worksheets for Unit Meetings.

*Luc*

LMV-DC Representative Government Committee

OPTIONS FOR SELF-DETERMINATION FOR D.C.

Discussion Outline  
Unit Meetings November 1986

Study Item LMV-DC 1985 annual meeting adopted "Study options for achieving full voting rights for residents of the District of Columbia."

Objectives of the Units To give background and review previously published Facts & Issues (Self-Determination Series Issues 1-6).  
To update with recent developments.  
To look ahead to evaluation of options in June 1987.

A. Background and Review

1. LMV supports full voting rights in Congress & complete Home Rule.  
The League supported the proposed amendment to the Constitution to give D.C. full representation in Congress.  
D.C. represented now by non-voting delegate to House of Representatives (Walter Fauntroy).  
Seven-year period for ratification of DC-VRA by the states expired 8-22-85.

2. "The Long Road to Self-Determination" outlined in first Facts & Issues in the Self-Determination Series, Sept. 1985.
  - a. Constitution gives Congress exclusive jurisdiction.
  - b. 23rd Amendment 1961 allows D.C. voters to vote for President and Vice President.
  - c. 1973 Congress passed Home Rule Act (present D.C. gov't).  
D.C. under Home Rule described in Issue No. 4.
  - d. 1978 Congress authorized DC-VRA (proposed amendment).
  - e. 1980 Statehood Initiative (adopted by D.C. voters).

3. Other options. Before discussing statehood, look briefly at other options for advancing representation in Congress (discussed in Issue No. 5).
  - a. Statehood or the Amendment would give D.C. full representation in Congress.
  - b. There is a statehood bill before Congress now.
  - c. The Amendment could be reintroduced (with a new name?).  
Under it Congress would still have exclusive legislative control over the District.
  - d. Option: Seek less. (Would still need amendment.)
    1. Voting member of the House only.
    2. One Senator only (and 2 Representatives).
  - e. Push for Senate delegate.
  - f. Push for 2 House delegates.
  - g. Become part of Maryland (Retrocession).
  - h. D.C. represented by Maryland in Congress.
  - i. Congress admit D.C. voting representatives.
  - j. Go to the courts for redress of D.C. citizens' rights to representation.

A. Background and Review (continued)

4. Statehood. (See Issues #2 and #3.)
  - a. Statehood would give D.C. residents
    - (1) representation in Congress;
    - (2) complete "home rule" and freedom from congressional oversight;
    - (3) permanent sovereignty as other states.
  - b. Problems raised by statehood
    - (1) effect on the federal interest in the seat of gov't;
    - (2) constitutional objections; (see Issue #6)
    - (3) economic impact;
    - (4) Do D.C. residents want statehood?
  - c. Status
    - (1) Statehood Party founded 1970
    - (2) Statehood initiative passed 1980
    - (3) Statehood Convention elected 1981
    - (4) Statehood Constitution for "New Columbia" voted 1982
    - (5) First statehood bill introduced by Fauntroy 1983
    - (6) Statehood Commission to elect 2 Senators and a Representative in fall of 1987 to lobby for statehood.
    - (7) Amendments to statehood constitution proposed by Fauntroy's task force were recently published in Washington Post (Sept. 25, 1986) for consideration.
    - (8) Fauntroy's committee held hearings on constitutionality of statehood (summer 1986) and economic impact (Sept. 1986).\*

B. Statehood Constitutional questions raised (Issue 6, Nov. 1986 VOTER)

1. Can Congress admit D.C. as a state?
  - a. Congress has power under Constitution to admit states by majority passage in both Houses and signature of the President.
  - b. Congress can't admit present D.C. which is the seat of government.
  - c. Statehood bill proposes to separate a new state and leave a new small district for the seat of government--the Mall and federal buildings. What size should our seat of government be?
  - d. Does statehood require Maryland's consent? Maryland conveyed the land originally for a "permanent seat of government." Could Maryland claim it be returned?
  - e. Must 23rd Amendment be repealed? It gives D.C. presidential electors.
  - f. Does statehood require a constitutional amendment? (We couldn't get the DC-VRA amendment.)
  - g. Who decides? The Supreme Court. How and when? After the fact: Congress has to pass a statehood bill first and then see if someone sues.

\*Fauntroy says he may seek a House floor vote early in 1987. Democratic Party chairman testified in Summer 1986 on behalf of statehood. Democratic party platform supports statehood, home rule, and full representation. So, if Democrats win control of Senate in November 1986 elections may affect prospects. The Coalition for Self-Determination (of which LUV a member) probably supports it.

C. Statehood: Economic Impact1. Present situation.

- a. D.C. more populous than 4 states. Pop'n 626,000.
- b. Two major industries: tourism and government
- c. D.C. residents pay more federal taxes than 11 states.
- d. D.C. per capita federal income tax 2nd only to Alaska.
- e. D.C. is taxed without representation.
- f. Congressional oversight is costly: Congress' time; costly delays for District economy, such as bond issues.
- g. Home Rule Act bars D.C. income tax on commuters.
- h. U.S. Dep't of Justice initiated suit that D.C. Council lacks authority to convey title and close streets (to delay Techworld).

2. Fauntroy committee hearing Sept. 30 addressed 4 questions:
  - . What effect, if any, will statehood have on the Federal payment?
  - . How will the District's taxing authority be affected by statehood?
  - . Will the District as a state be treated any differently for purposes of federal grants and loans?
  - . What are the expected transition costs of statehood?

What effect, if any, will statehood have on the Federal payment?

1. Federal payment this year \$412,388,000; budget \$2.5 billion.
2. Certain amount of federal payment relates to loss of real property tax which would still exist (embassies, national parks). Certain amount relates to services provided by D.C., e.g., sewage, police; this would have to continue.
3. Now Federal payment may be held hostage--D.C. has to do something unrelated to get it "made available."
4. Federal government makes Payments in Lieu of Taxes (PILOT) now to states where federal installations. D.C. would be entitled.
5. Conclusion: no significant change.

How will the District's taxing authority be affected by statehood?

1. D.C. could tax nonresident earnings as other states do (sometimes balanced by reciprocal tax credits for, e.g., D.C. residents who work in Md/Va, Md/Va residents who work in D.C.). Brimmer estimates \$500 million; Financial Research Assoc. estimate \$700 million.
2. If D.C. could tax nonresidents only on earnings in the private sector (i.e. could not tax nonresident federal employees)--
  - a. Because "federal enclave" not within the new state.
  - b. Estimate revenue: \$290 million only.
3. Worst case scenario: no federal payment & no commuter tax=hi taxes.

Will the District as a state be treated any differently for purposes of federal grants and loans?

1. No. D.C. is "treated as a state" now.
2. New state should qualify for state grants and local grants.

What are the expected transition costs of statehood?

1. D.C. take over U.S. marshalls and Superior Court prosecutors and prosecutions. Estimate \$10-15 million per year.
2. D.C. employees would be dropped from federal retirement system. D.C. annual cost: \$50-100 million.

Other items gleaned from hearings:

- a. District tax-exempt bonds. Now interest paid is exempt from taxation by the states. Under statehood, would be taxable by other states (still federally tax-exempt).
- b. New state tax base would depend upon "federal interest" like present building height restrictions curtailing development.
- c. If D.C. taxes go up, residents will flee to the suburbs.
- d. D.C. has all the problems of cities--crime, deteriorating housing stock, flight of employment to suburbs--and no state government to help. D.C. houses metro area's poor.

D. To Look Ahead in Our Study and Evaluation

1. How do you want to approach evaluation of options at June 1987 meeting? What factors do you want to consider?

- a. Chance of early success\_\_\_ b. Early vs. long-range gains\_\_\_
- c. Degree of known local support/opposition\_\_\_
- d. Degree of known national support/opposition\_\_\_
- e. Conformity with historical precedent vs. change\_\_\_
- f. Need for constitutional amendment vs. Congressional statute\_\_\_
- g. Workability of a federal enclave vs. present system\_\_\_
- h. Protection of federal interest in a nation's capital\_\_\_
- i. Effect on concept of a nation's capital or seat of government\_\_\_
- j. Effect on economy of D.C.\_\_\_ k. Effect on D.C. place in region\_\_\_
- l. Effect on local pride\_\_\_ m. Develop single-front\_\_\_ or multi-front strategy\_\_\_ n. Other\_\_\_

2. On statehood: a. Is there more research to do?

- b. "Federal enclave" and "nation's capital" under statehood... ask Fauntroy to hold another hearing?

- c. Do you want to study the proposed D.C. Constitution?

Do you want to study or consider a different one?

Prof. Shrag, Georgetown law professor and member of the Statehood Constitution Convention, suggests

- . parliamentary form rather than executive-legislature;
- . lay judiciary;
- . legislature selected by proportional representation;
- . requiring newspapers to discuss both sides (fairness doctrine)

3. Do you want to mount an educational program for D.C. representation in Congress?\_\_\_ Capitalize on the 200th anniversary of the Constitution?\_\_\_ Directed at D.C. residents\_\_\_; Members of Congress\_\_\_; students\_\_\_; visitors to D.C.\_\_\_; nationally\_\_\_ through LWV-US\_\_\_ and/or through state Leagues\_\_\_.

## Text of Resolution presented by LWVDC to LWVUS Biennial Convention

### Resolution Supporting Statehood for the People of DC (6-16-16)

Whereas, since its founding, the League of Women Voters of the United States has defended the rights of all American citizens to vote; and

Whereas, the League's advocacy made a difference in passing the District of Columbia Home Rule Act of 1973 which gave DC citizens the right to vote for their local officials for the first time in 100 years; and

Whereas, the support of Leaguers across the country was critical in securing Congressional approval in 1978 of the proposed Constitutional Amendment that would have given the people of DC the right to vote for members of Congress; and

Whereas, in spite of the National League's past efforts and current strong positions, the people of DC still do not have the right to vote for members of Congress and are subject to Congressional interference in their state and local government; and

Whereas, legislation such as an admission act, which is now before Congress, would create the 51<sup>st</sup> state of New Columbia out of the residential and commercial areas of DC, while keeping the core of federal buildings, monuments, museums and the mall in the smaller federal District of Columbia. This would at last make it possible for the people of DC to have the right to vote for members of Congress and to be free of Congressional interference; and

Whereas, this new state will become the 51st state of the United States of America when legislation is passed by both houses of Congress and signed by the President; and

Whereas, statehood for the people of DC is consistent with the LWVUS position on DC Self Government and Full Voting Representation; and

Whereas, passage of legislation that would provide statehood for the people of DC requires sustained advocacy during several Congresses; and

Whereas, support for statehood for the people of DC has been gaining momentum during the last three Congresses and now has record numbers of cosponsors in both the House and the Senate; and

Whereas, mobilizing sufficient support to pass legislation that would provide statehood for the people of DC will require the advocacy of voters who do have Congressional representation; and

Whereas, support from the League of Women Voters of the United States will make it possible to significantly increase Congressional support for statehood for the people of DC:



**Therefore, be it resolved that the League of Women Voters of the United States strongly supports legislation that will establish statehood for the people of the District of Columbia.**

Only statehood will bring full rights for the people of the District of Columbia.