Simple Justice

Ratification of the DC Full Voting Rights Amendment

League of Women Voters
Since 1801, the people of the District of Columbia (DC), which ranks in population ahead of seven states,* have been denied voting representation in Congress. Although government derived from the consent of the governed is a cherished American tradition, 690,000 American citizens do not have a voice in the government that taxes and makes decisions for them.

In August 1978, the U.S. Congress, two-thirds of each house concurring, sent to the state legislatures for ratification, an amendment giving DC full voting representation in Congress. The amendment should be ratified. The continued denial of representation to DC citizens defies simple justice.

This fact sheet responds to the questions that people ask about the proposed amendment and about the District.

Q: What does the amendment say?

A: This is the text of H.J. Res. 554 sent to the state legislatures for ratification:

Section 1: For the purposes of representation in Congress, election of the President and Vice-President, and article V of the Constitution, the District constituting the seat of government of the United States shall be treated as though it were a State.

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

Section 3: The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

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

* Provisional estimates, U.S. Bureau of the Census, 7/1/77.

What is the relation between DC and the federal government?

Q: Isn't the District already represented in Congress?

A: DC has only an elected nonvoting delegate in the House of Representatives, who may participate in floor debates and vote in committees but is not allowed to vote on the House floor. The District has no representation in the Senate.

Q: What is the relationship between the DC city government and Congress?

A: Under authority granted by the Home Rule Act of 1973, DC has an elected mayor and city council. However, unlike other Home Rule cities, all DC legislation (except emergency acts, which can only be effective for a maximum of 90 days) must be submitted to the House and Senate for 30-day review. The legislation may take effect only if a concurrent resolution of disapproval is not adopted. Congress also has authority for a line-item review of the DC budget. Additionally, in emergency situations, the President, with the approval of the House and Senate, can direct the DC police for an unlimited time.

Q: How will the full voting rights amendment change DC's representation in and relation to Congress?

A: It would give DC two senators and a number of representatives proportional to its population;
  • all elected members of Congress for the District would have full voting rights in the House or Senate;
  • DC would have the right to ratify constitutional amendments;
  • no change will be made in the Home Rule Act.

The amendment also gives DC representation in the electoral college; therefore it would repeal the 23rd amendment, enacted in 1961, which initially gave DC citizens that right.
Is it constitutional?

Q When the framers of the Constitution set the District aside as a federal enclave, didn't they specifically intend that its residents not be allowed representation in Congress?

A No. The purpose of Article I, Section 8, Clause 17 of the Constitution, which gave Congress the authority for “exclusive legislation” over the federal district, was not to disenfranchise DC residents but to avoid the necessity of the national government's relying on a state government for protection. James Madison, in The Federalist Papers #43 described their intent this way:

The inhabitants of the District will find sufficient inducements of interest to becoming willing parties to the cession; as they will have had their voice in the election of the government which is to exercise authority over them; as a municipal legislature for local purposes, derived from their suffrages, will, of course, be allowed them ... every imaginable objection seems to be obviated.

The framers obviously assumed that the residents of the national capital would enjoy full political rights.

Q The Constitution says “The Senate of the United States shall be composed of two Senators from each state.” So how can an area that is not a state be represented in the Senate?

A The framers did not use the word “state” in Article I, Section 3, Clause 1 of the Constitution for the specific purpose of excluding representation from areas that were not states. Rather, it was just the simplest way to explain the basis of representation in the upper house.

Since the District did not exist at the time the Constitution was written, it is not surprising that delegates to the Constitutional Convention did not foresee the possibility that DC would eventually be the home of 690,000 Americans, many thousands of whom would be barred from full exercise of their political rights.

Congress and the courts treat DC as a state in many other matters. For example:

- A Supreme Court decision in 1820 (Loughborough v. Blake) gave the federal government the right to collect taxes from DC residents, even though the Constitution (Article I, Section 2) says direct taxes may be apportioned among the states.

- In 1889, the Supreme Court ruled that Congress could regulate business that crossed District boundaries despite constitutional language that permitted Congress to regulate “Commerce ... among the several states.” (Stoutenburgh v. Hennick.)

- In another decision, the Supreme Court affirmed DC residents’ civil rights by guaranteeing them the right to a jury trial, although the Sixth Amendment speaks only of “An impartial jury of the State and [judicial] district wherein the crime shall have been committed.” (Callan v. Wilson, 1887.)

- Although the Constitution specifies that electors for the President and Vice-President are to be appointed by the states, the 23rd Amendment gave these privileges to DC.

- DC is treated as a state in almost every federal statute, most of which include the phrase, “For the purpose of this legislation, the term ‘state’ shall include the District of Columbia.”

The proposed amendment is consistent with the idea of a living, growing Constitution. Article I grants the people the right to elect representatives. The Seventeenth Amendment, ratified in 1913, gave the people of each state (rather than the state legislatures) the right to elect senators. The proposed amendment, would give the people of DC a full voice in Congress.

Q Article V of the Constitution prohibits amendments that would deprive states of their equal votes in the Senate. If the DC amendment is adopted, will states no longer be equal in the Senate?

A Since the Constitution was adopted, 37 states have been added to the original 13, yet no one seriously argues that the older states
What are the alternatives?

Q If there is some question about letting a nonstate be represented in the Senate, wouldn't an amendment giving DC voting representation only in the House of Representatives be preferable?

A No. Such an amendment would not fully enfranchise DC voters. It would only perpetuate second-class citizenship for residents of the District. Certain rights, privileges, and responsibilities are unique to each house. Furthermore, since both houses review legislation enacted by the DC city council and have the final say on the DC city budget, DC citizens have an even greater interest than do citizens of the 50 states in being represented in both houses.

Q Why not retrocede DC entirely to Maryland? The return of the city of Alexandria to Virginia in 1846 set a precedent for such a retrocession.

A This alternative is a less equitable and realistic alternative than the full voting rights amendment for several reasons.
- According to Article IV of the Constitution, DC could not be retroceded without the consent of the Maryland state legislature. It is highly unlikely that Maryland would be willing to accept the retrocession.
- Full retrocession defeats the idea of a separate federal enclave.
- DC has been politically separate from Maryland for over 175 years. It is a distinct entity whose residents have their own identity and need for representation.

Q What about partial retrocession? Couldn't DC residents be treated as citizens of Maryland for the purpose of voting in congressional elections?

A This is an alternative that creates more tangled problems than it solves. Even if the obstacles of congressional approval and Maryland acceptance could be overcome, these questions remain:
- If Maryland congressional districts are redrawn to include DC, how will the absence of
DC representatives in the Maryland legislature affect other considerations of fair representation?
- Would it be constitutional to treat DC citizens as people of a state in which they do not reside?
- Would Maryland’s members of Congress reflect the separate interests of DC residents?

Q

Why not just admit DC to the Union as the 51st state?

A

Although Congress has the power to make all or part of DC a state, the proposed amendment does not seek to do so. It recognizes the unique history of the District and its special status as the seat of the national government. Because the amendment will not upset the relationship between Congress and the DC government, the national government will not have to be reliant on a state for services and protection.

Q

Why don’t DC residents vote in their home states or in other states of their choosing? This would avoid the need to amend the Constitution.

A

There were 249,524 registered voters in DC on November 7, 1978. The DC Board of Elections and Ethics estimates that another 100,000 to 150,000 persons of voting age consider DC their permanent residence. Whether these people can be treated as citizens of states in which they do not reside in order to vote is a constitutional question. Also, a majority of these residents were either born in DC or have been residents long enough to have more of a commonality of interest with other DC residents than with residents of states from which they or their parents emigrated. Further, the separate interests of DC cannot be voiced by a representative or a senator from another state.

What are DC and its people like?

Q

Senators and representatives from states represent a range of interests, but wouldn’t members of Congress elected from DC merely represent the interests of federal workers?

A

There is a buried assumption in this question. It implies that federal government employees should not be allowed full representation in Congress. But the most reliable figures available (April 1970) show that only about 4 percent (109,615 of 2,875,000) of all federal civilian employees were DC residents. The other 96 percent of federal employees are fully represented in Congress.

DC residents who do not work for the federal government have a wide diversity of interests and work at all sorts of jobs. To deny DC residents their full civil rights because some work for the federal government is abhorrent to American political traditions.

Q

Why should DC be given the privileges of a state when it does not pay all its own bills?

A

Some people argue that DC does not pull its own weight because it receives a federal payment from Congress. This argument ignores the nature of the payment: it is intended to cover the difference between the costs and benefits of being the site of the nation’s capital. Congress, in making the appropriation, takes into account three facts:
- 38 percent of DC’s land is tax exempt because it is owned by the federal government and by foreign embassies;
- DC incurs the costs of providing services required by the federal government (policing demonstrations is one example);
- Congress limits many options that could produce municipal revenue. For example, Congress has banned the enactment of a commuter tax and it has limited building height.

Balanced against these costs are the benefits DC gains from tourism and federal construction. The payment is the net difference and it accounted for only 18 percent of DC’s budget in fiscal year 1979.

DC residents assume their share of the federal tax burden. The 1977 federal tax for each DC resident was $2,116—$491 above the national average of $1,625. Only one state—Alaska—had a higher per-capita tax burden. That same year
DC residents paid $1.4 billion in federal taxes, a total greater than that paid by 11 states. 

DC residents share all the other burdens of American citizenship. Two hundred thirty-seven of them—again, a total greater than those of 11 states—were killed in Viet Nam.

Q Doesn't DC have a high crime rate and a large number of persons on welfare? Why should the Constitution be amended to provide these people the privilege of full voting representation?

A Like other center cities, DC suffers from many problems. However, its welfare population and its crime rate are not significantly different than those for cities of similar size. For example, in 1975, when 13.8 percent of Boston's population (100,039 of 722,794) received payments from the Aid to Families with Dependent Children (AFDC) program, DC's proportion was only half a percent higher. As for crime, contrary to popular impression, the following tables show that DC's crime rate is lower than other cities of comparable size.

Cities Ranked By Population (1975)

<table>
<thead>
<tr>
<th>City</th>
<th>Population (in thousands)</th>
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<tbody>
<tr>
<td>Dallas</td>
<td>813</td>
</tr>
<tr>
<td>San Diego</td>
<td>774</td>
</tr>
<tr>
<td>San Antonio</td>
<td>773</td>
</tr>
<tr>
<td>Indianapolis</td>
<td>715</td>
</tr>
<tr>
<td>DC</td>
<td>712</td>
</tr>
<tr>
<td>Milwaukee</td>
<td>666</td>
</tr>
<tr>
<td>San Fran.</td>
<td>665</td>
</tr>
<tr>
<td>Cleveland</td>
<td>639</td>
</tr>
<tr>
<td>Boston</td>
<td>637</td>
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</tbody>
</table>

Cities Ranked By Crime Rate Per 100,000 Population

<table>
<thead>
<tr>
<th>City</th>
<th>Crime Rate (per 100,000)</th>
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<tbody>
<tr>
<td>Boston</td>
<td>12.648</td>
</tr>
<tr>
<td>Dallas</td>
<td>11.616</td>
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<tr>
<td>San Fran.</td>
<td>9.864</td>
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<tr>
<td>Cleveland</td>
<td>9.049</td>
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<tr>
<td>Indianapolis</td>
<td>7.835</td>
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<tr>
<td>San Diego</td>
<td>7.755</td>
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<tr>
<td>DC</td>
<td>7.752</td>
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<tr>
<td>Milwaukee</td>
<td>5.785</td>
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Cities Ranked By Total Number Of Serious Crimes

<table>
<thead>
<tr>
<th>City</th>
<th>Crimes (in thousands)</th>
</tr>
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<tbody>
<tr>
<td>Dallas</td>
<td>94.411</td>
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<tr>
<td>Boston</td>
<td>80.530</td>
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<tr>
<td>San Fran.</td>
<td>65.861</td>
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<tr>
<td>Indianapolis</td>
<td>61.280</td>
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<tr>
<td>San Diego</td>
<td>60.022</td>
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<tr>
<td>San Antonio</td>
<td>58.993</td>
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<tr>
<td>Cleveland</td>
<td>57.806</td>
</tr>
<tr>
<td>DC</td>
<td>55.512</td>
</tr>
<tr>
<td>Milwaukee</td>
<td>38.518</td>
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Source: City County Data Book, 1977

Even if these statistics could not be cited, it would go against two hundred years of American political tradition to argue that DC residents do not deserve basic American civil rights because some of them are on welfare or because a minority have committed a crime. The whole trend of our nation has been to expand representation to those whom the Constitution originally left out—those who didn't own property, whole races of people, women. Granting full voting rights to DC residents continues this tradition.

Q Why should western states ratify this amendment? Wouldn't representatives and senators from DC increase the eastern, urban and liberal forces represented in Congress?

A Ratification should be considered a matter of simple justice. Congress understood this when it passed the resolution in the House by a 289 to 127 margin and in the Senate by a 67 to 32 majority. The amendment received bipartisan support in both houses. The Democratic and the Republican parties included planks for full representation in their 1976 platforms.

At a time when Americans are calling for a worldwide assertion of the sanctity of human rights, it is only fitting that we begin at home by remedying an anachronism that defies justice and denies one of the most basic and cherished rights of representative government. The people in the federal city capitals of every other country except Brazil have the right to elect representatives to their national legislatures. The citizens of the District of Columbia have a right to a voice in the decisions made on their behalf in the House and the Senate.

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