

VIOLATIONS OF EQUAL POLITICAL PARTICIPATION IN THE UNITED STATES CONGRESS

Submitted for consideration to the
UN Committee on the Elimination of Racial Discrimination
Worldrights, December 10, 2007

INTRODUCTION

During the past fifteen years the matter of the over 200 year-old disenfranchisement of the nearly 600,000 residents of Washington, DC has been the subject of numerous investigations and inquiries by distinguished international human rights monitoring bodies. In 2003, for instance, the **Organization of American States' (OAS) Inter-American Commission on Human Rights (IACHR)** issued its report in Case 11.204 regarding the status of DC residents. After eleven years of litigation, it found that the failure of the United States to guarantee the right to equal political participation of the residents of Washington constituted human rights violations under international human rights law and the OAS Charter.¹ The IACHR issued recommendations calling on the US to grant DC residents congressional representation on general terms of equality; i.e., two US Senators and one representative in the House of Representatives, consistent with states of similar populations. Similarly, from 2004-2007 the **Organization for Security and Cooperation in Europe's (OSCE) Office of Democratic Institutions and Human Rights (ODIHR)** has also investigated the political status of DC residents and concluded that the United States should confer DC residents with full representation in the US Congress.² (Earlier, in 2005, the **OSCE Parliamentary Assembly (PA)** passed a unanimous resolution in Washington, DC, calling on Congress to grant DC residents equal voting representation in the US Senate and the Houses of Representatives.³) And in 2006, the **UN Human Rights Committee** issued its own recommendations regarding the denial of political participation to DC residents.⁴

To date, however, no international human rights body has studied the racial implications of why DC residents, the majority of whom are African American, remain disenfranchised and continue to be subject to the arbitrary will of Congress which exercises plenary authority over them and chooses to exercise that power without their consent, despite the evolution of democratic standards in America during the past several centuries. We submit that the continuing disenfranchisement of the residents of Washington, DC is due in pertinent part to the wide-spread political perception that a grant of full congressional voting rights to the residents of Washington, DC would inevitably result in the election of two African Americans to the US Senate, and that those senators would have a compelling impact on the legislative and political direction of the country, especially in a closely divided Senate.⁵ According to the US Census Bureau, 2006 American Community Survey, the population of Washington, DC is 55.4% African-American, the highest percent of blacks to whites of any of the 50 states.⁶ Currently, only one African American occupies a seat in the US Senate; he is only the fifth African American in United States history to do so.⁷

¹ <http://www.cidh.oas.org/annualrep/2003eng/USA.11204.htm> (Statehood Solidarity v. United States)

² http://www.osce.org/documents/html/pdf/html/23567_en.pdf.html (OSCE/ODIHR Election Assessment)

³ <http://www.oscepa.org/index.aspx?articleid=+376> (OSCE PA Washington, DC Declaration 2005)

⁴ <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/34d0a773a44de02bc125725a0034cbdf?OpenDocument>

⁵ Residents of Brasilia, Mexico City, Buenos Aires, Caracas and Canberra enjoy equal Senate voting rights.

⁶ The Hispanic population is 8.6%. Source: <http://quickfacts.census.gov/qfd/states/11000.html>

⁷ In 1870, Hiram Revels of Mississippi became the first appointed black senator, serving one year. Five years later, Blanche K. Bruce of Mississippi served one appointed six-year term. Since then, only three other black senators have been elected to serve in the US Senate.

I. HISTORY OF DISENFRANCHISEMENT OF BLACKS IN THE DISTRICT OF COLUMBIA SINCE 1801

Known as Washington, DC, the capital city of the District of Columbia was created in 1801. It originally encompassed a 10 square mile area, located on land contributed to the federal government by two adjoining states, Maryland and Virginia. The creation of a separate federal jurisdiction comprising the seat of federal government was part of a 1790 grand compromise among the original thirteen states and made to avoid rivalries among the several states about where to place the capital city. It was also justified on grounds that no one state could be relied on to protect the federal city from Revolutionary War insurrections. Once the City of Washington, DC was incorporated, however, the local residents automatically lost their right to elect voting members to the Senate and the House of Representatives. Previously, from 1790 to 1801, DC residents had voted for Senators and Congressmen in the adjoining counties of Maryland and Virginia. But under the US Constitution, only “qualified” US citizens enjoyed the right to elect voting members to Congress. Because DC residents lived in the federal enclave of the District of Columbia—and not in a state—they were disqualified from enjoying the right to elect congressional representatives, even though as US citizens they were expected to bear all of the responsibilities of citizenship and obey federal laws they had no vote in making.

At the time of this grand compromise, the problem of having a disenfranchised people at the seat of government was fully recognized and the idea of amending the U.S. Constitution to grant D.C. citizens rights equal to other Americans living in states was debated and discussed. “The idea of passing a Constitutional amendment to grant D.C. permanent citizens voting rights in Congress was articulated by Constitutional author Alexander Hamilton during the New York ratifying convention. It was also suggested in 1800 by ‘Epaminondas’ (Augustus Brevoort Woodward), and was first mentioned on the floor of Congress in 1801 by John Dennis of Maryland's Eastern Shore (diGiacomantonio, 2000: 43-44).”⁸

History is clear that the Grand Compromise of 1790, which established the District in 1801 and resulted in the disenfranchisement of the city’s entire citizenry—black and white alike—was not motivated by Congress’s desire to disenfranchise a singular, numerically significant black population in Washington, DC.⁹ Up until 1870, there was no need to selectively discriminate against DC blacks and deprive them of the right to vote because all blacks in the United States were prohibited from voting, either in local elections or for members of Congress. Prior to 1870, only white property owners enjoyed full voting rights.¹⁰

Even with the passage of the 15th Amendment in 1870, which legally provided voting rights to all blacks for the first time—with the exception of the District’s congressionally disenfranchised blacks and whites—there remained a palpable level of concern in various parts of the country about the advancement of black voting rights, especially in the Southern states. Still reeling from Civil War defeat, many southern states instituted poll taxes, literacy tests, and various forms of voter intimidation to block or limit almost entirely blacks’ right to vote. It was not until the apex of the Civil Rights Movement in 1965, when Congress passed the Voting Rights Act—almost 100 years after the ratification of the 15th Amendment—that the amendment realized its full potential to guarantee universal suffrage for blacks in the South.

⁸ "Hope and Delusion: Struggle for Democracy in the District of Columbia," by Mark David Richards, PhD

⁹ According to the 1800 US Census, DC’s black population was 30.4%, and District blacks were ranked 7th of 24 states in terms of total population, at 208

¹⁰ Women, also disenfranchised, won the right to vote in 1920, after the passage of the 19th Amendment.

Prior to 1870, discussion about the need for a Constitutional amendment to remedy DC's disenfranchisement in Congress was associated with discussion of establishing a D.C. territorial government and legislature, the twin issues mutually reinforcing DC residents' general discontent. Because Congress exercises plenary authority over the territory of the District, District residents have been limited in their right to exercise local self-government. Over the past two centuries, Congress has at various times extended to the District the right to restricted self-governance, but has also withdrawn that right. The District has never possessed the same unencumbered right to self-government enjoyed by the residents of the states.

Dating back to the 18th century, white male property owners living in Georgetown and Alexandria¹¹, two cities that were incorporated into the District, elected mayors and council members; and Washington City, which made up the remainder of Washington, DC, "had an elected council with the mayor first elected by the council and then by popular vote..."¹² It was not until 1866 that Congress approved black suffrage for the District.

In 1868, blacks voted in Washington for the first time. Their candidate of choice for mayor was Sayles Bowen, "and because of Bowen's famous support of civil rights, he received narrow support from white voters and overwhelming support from black ones.... Once elected, however, Bowen's activism startled even the Radical Republican contingent that then dominated Congress. He agitated for complete integration of the city's public school system. When that failed, he turned instead to constructing a network of schools specifically for 'persons of color,' diverting large sums of city funds and even providing \$20,000 of his own.... Bowen's policies of activism on behalf of black civil rights outraged well-to-do white citizens of Washington, but even the Republicans who had enforced black rights and suffrage in the capital concluded that Bowen was far more interested in civil rights for blacks than in governing the city and administering public services (his actual job as mayor). He spent extravagant portions of the city budget in creating schools and employment for blacks, which, while regarded as noble by the Republicans, drained the coffers of money that was intended for maintaining the city. Bowen was even charged with reducing street service to men using penknives to cut the grass between the cobblestones on Pennsylvania Avenue."¹³

As a consequence, "local voters proposed the establishment of a territorial government, with an appointed governor and council, backed by a weak elected House of Delegates, and a non-voting delegate to Congress..."¹⁴ which would replace direct home rule, "in part because of white concerns over the enfranchisement of blacks."¹⁵ [T]he Senate approved the plan, but "House members raised objections....[because] some....feared the black franchise..."¹⁶ Three years after the final passage of the plan, "Congress voted to abolish the [District's] territorial government and replace it 'temporarily' with a three-member presidentially appointed commission.... [S]ome congressmen, echoing the statement of many District residents, including blacks, objected to the commissioner proposal because it denied self-government. Senator Morton, an outspoken opponent of the plan, complained that it took 'from the people the right of local self-government.' Senator Morton labeled it 'anti-democratic' and 'intended to get clear of the Negro vote.'"¹⁷ At the

¹¹ In 1846, Alexandria County was retroceded to Virginia. Subsequently, white male voters were fully enfranchised, and represented by Virginia congressional representatives.

¹² Sam Smith, "A Short History of Home Rule"

¹³ <http://en.wikipedia.org/wiki/1868>

¹⁴ Steven J. Diner, *Statehood and the Governance of the District of Columbia: An Historical Analysis of Policy Issues*, 395, 1991

¹⁵ Id., "A Short History of Home Rule"

¹⁶ Id., *Statehood and the Governance of the District of Columbia*, at 395

¹⁷ Id., at 396

time, the District's total population was 131,700, with a 33% black population, ranked 9th in percentage of blacks to whites of any of the 47 states and US territories and 5th highest in percentage of blacks to whites in the nine South Atlantic region states, which held the largest concentration of blacks in America—45%.¹⁸

Coincidental with Congress's decision to abolish the "Territorial" government, it also eliminated the non-voting delegate position. "[W]hen congressional enthusiasm for black rights diminished in the late 1870s, Congress readily eliminated all suffrage in the District."¹⁹ Thereafter, the presidentially-appointed commissioner system, whose all-white members were appointed by all-white presidents and overseen by a predominantly white Congress, ruled the District "with a system of absolute non-democratic control"²⁰ for 100 years under its plenary constitutional authority. In 1876, two years after stripping DC of its non-voting delegate to Congress and banishing its ability to govern itself, Congress voted Colorado into the Union as 38th state. Its total population was approximately 39,864; 98.4% were white.²¹ The District's population was 131,700; 33.0% were black.²²

Between 1870 and 1890 the Republican Party of President Abraham Lincoln, which fought to free the slaves in the American Civil War, made a good faith effort to get blacks elected to Congress elsewhere in the country,²³ but did little to support voting rights of the residents to the District. Nationwide, 21 blacks were voted to the House of Representatives, between 1870 and 1901.²⁴ 70% of them were from what the US Census describes as the South Atlantic region, which includes the District of Columbia. Only two blacks during this era were appointed by the

¹⁸ US Census: Race for the United States, Regions, Divisions, and States: 1870. [Those states included Florida, Georgia, South Carolina, North Carolina, West Virginia, Virginia, Maryland, Delaware, and the District of Columbia.]

¹⁹ *Id.*, at 397

²⁰ *Id.* "A Short History of Home Rule"

²¹ US Census: Race for the United States, Regions, Divisions, and States: 1870

²² *Id.*

²³ To many blacks, the Republicans represented the party of Abraham Lincoln and of the Emancipation Proclamation, while the Southern Democrats represented the party of slavery and secession. Until 1876, the Republicans made genuine efforts to ensure that southern blacks were able to vote...After the disputed Presidential election of 1876 between Democratic Samuel J. Tilden, governor of New York, and Republican Rutherford B. Hayes, governor of Ohio, an agreement between Democratic and Republican factions were negotiated, resulting in the Compromise of 1877. Under the Compromise, Democrats conceded the election to Hayes and promised to acknowledge the political rights of blacks; Republicans agreed to no longer intervene in southern affairs and promised to appropriate some federal money toward southern projects. With the southern states entirely "redeemed", Democrats gradually regained control of Southern legislatures and restricted the rights of blacks to vote. Source:

²⁴ Joseph H. Rainey (Republican): South Carolina, 1870-1879; Jefferson F. Long (Republican) Georgia 1870-1871; Robert C. De Large (Republican) South Carolina 1871-1873; Robert B. Elliott (Republican) South Carolina 1871-1874; Benjamin S. Turner (Republican) Alabama 1871-1873; Josiah T. Walls (Republican) Florida 1871-1873, 1873-1875, 1875-1876; Richard H. Cain (Republican) South Carolina 1873-1875, 1877-1879; John R. Lynch (Republican) Mississippi 1873-1877, 1882-1883; James T. Rapier (Republican) Alabama 1873-1875; Alonzo J. Ransier (Republican) South Carolina 1873-1875; Jeremiah Haralson (Republican) Alabama 1875-1877; John A. Hyman (Republican) North Carolina 1875-1877; Charles E. Nash (Republican) Louisiana 1875-1877; Robert Smalls (Republican) South Carolina 1875-1879, 1882-1883, 1884-1887; James E. O'Hara (Republican) North Carolina 1883-1887; Henry P. Cheatham (Republican) North Carolina 1889-1893; John Mercer Langston (Republican) Virginia 1890-1891; Thomas E. Miller (Republican) South Carolina 1890-1891; George W. Murray (Republican) South Carolina 1893-1895, 1896-1897; George Henry White (Republican) North Carolina 1897-1901.

Mississippi state legislature to the US Senate.²⁵ However, the Republican Party's enthusiasm for enfranchising blacks began to quickly fade and by 1890 southern states began to disenfranchise black voters. Literacy tests, poll taxes, and white primaries prevented many blacks from voting. Southern states and local governments gradually adopted laws that segregated blacks.

In 1890, the District had the 9th highest percentage of blacks to whites of any of the 47 states and US territories,²⁶ a growing population of 230,392, 32.8% of whom were black, and was still the political orphan of America, enduring without either equal congressional voting rights or the right to self-government. This dichotomy was no more apparent than in 1889, 1890, and 1896 when an overwhelmingly white Congress admitted five new states to the Union, and granted them full citizenship rights. Paradoxically, the population of each of those states was significantly less than the District's population.²⁷ Those states admitted to the Union were from the American West, and had an average white population of 94%; the average number of blacks among them was 0.6%. So even as Congress granted statehood rights—and full congressional representation—to those five territories, Congress ignored Alexander Hamilton's idea that once the District's population grew comparable to those of states, “[p]rovision shall be made by Congress for having District representation in that Body.”²⁸ By 1890, the District was more than qualified to enjoy congressional representation in the words of one of the Founding Fathers by virtue of its sizeable population.²⁹

Yet the District was rebuffed. “In May 1890 Republican Senator Henry W. Blair of New Hampshire offered a Resolution on passing a Constitutional amendment to grant representation to DC in the two houses of Congress and in the Electoral College [securing them a vote for US president] (Green, 1963: 26). The Senate committee to which it was referred declined to hold hearings (Green, 1963: 26). Blair recalled how Rome had fallen after violating its own principles (Lessoff, 1994: 199)... The Republican Party ignored the topic, and the Democratic Party included a Home Rule plank in its platform in 1892 that Constance Green described as ‘flimsy at best, it remained purely decorative until discarded’” (Green, 1963: 28).³⁰

Why was Congress reluctant to enfranchise the capital city? Had it done so, the result would likely have been the same as when Congress granted blacks suffrage in the District in 1866: the election of representatives sympathetic to their causes. And this time Congress itself would not have been, as quoted above, “clear of the Negro vote.”

Meanwhile, in the southern states racial violence in the form of lynchings and race riots increased in frequency. In 1897, the last black Congressman elected from the South was George Henry White of North Carolina. His term expired in 1901. Thereafter, no blacks served in the House of Representatives for another 28 years. And no black served in the Senate after the completion of Senator Blanche Kelso Bruce's term in 1871 for the next 86 years.³¹ Nor was any progress made to advance DC's twin goals of full voting rights and local self-government.

²⁵ Hiram Rhodes Revels was appointed by the Mississippi legislature and served one year in the US Senate (1870-1871); and Blanche Kelso Bruce, also from Mississippi, served one 6-year term (1875-1881).

²⁶ Id. US Census: Race for the United States, Regions, Divisions, and States: 1890

²⁷ Id. US Census: 1890 [Montana's population was 142,924, 89.3% white, 1.0% black; North Dakota's was 190,983, 95.5% white, 0.2% black; Idaho's was 88,548, 92.7% white, 0.2% black; Utah's was 210,779, 97.7% white, 0.3% black; and Wyoming's was 62,555, 94.8% white, 1.5% black.]

²⁸ Id. “Hope and Delusion” at 73.

²⁹ The constitution requires that the number of Representatives [in Congress] shall not exceed one for every thirty thousand, but each state shall have at least one Representative (Article I, Section 2, Paragraph 3).

³⁰ Id. “Hope and Delusion” at 210

³¹ http://en.wikipedia.org/wiki/African_Americans_in_the_United_States_Congress

Nevertheless, Congress, in 1907, now devoid of *any* voting black congressmen, voted in Oklahoma Territory as the 46th state. Oklahoma's population was predominantly white.³²

“After 1909, although [local] opposition to [DC self-government] remained strong for fear of a reduced federal payment, full voting representation in the House, Senate, and Electoral College received some attention (Green, 1963: 185). In 1909, Chief Justice Stafford from the District Supreme Court, speaking at a public dinner for President William H. Taft, in a reference to the fear of allowing blacks to vote, said: ‘Strip men of the ballot and you take away from society the most powerful inducement that can prompt selfish human nature to educate and elevate its helpless and its poor. Shall we say we fear the suffrages of ignorance and vice ... that could not last a generation if we did our duty by our fellow-men? ... Never until the men of wealth and education have spent their last surplus dollar and exhausted the ingenuity of their brains in the effort to make their fellow-men worthy to be sharers in the government, never until then will they have a right to hide behind an excuse like that’ (Green, 1963: 185-186).”³³

Nevertheless, the Justice's words fell on deaf ears, and in 1912 Congress proceeded to vote New Mexico Territory and Arizona Territory into the union, creating two new states in America's West. At the time, New Mexico's predominantly white population was 327,301,³⁴ and Arizona's population was 204,354, again predominantly white.³⁵ The District's disenfranchised population, on the other hand, now 331,069, with the 9th largest percentage of blacks to whites of any of the 48 states at 28.5%,³⁶ was greater than either of these two newly admitted states. So even as Congress's support for the expansion of white political power stretched towards the American West, it continued to undermine and ignore the plight of blacks' congressional disenfranchisement in the South, including the blacks located at the seat of national government, the District of Columbia.

By 1915, “it was increasingly clear that rule of the District by congressional committee was more disadvantageous than advantageous (Green, 1963: 186). But the remedy was not as clear. Local elites, leery of elected self-government, thought the best remedy would be national representation, but many in Congress opposed and called the amendment an effort at ‘virtual statehood’ (Green, 1963: 186)...³⁷ By 1916, the money and interest owed the federal government by the District was paid off, and funded debt was reduced to 4,000,000 (Green, 1963: 183). ...That year, white District residents formed the Citizens' Joint Committee on National Representation for the District of Columbia, composed of about 30 local organizations (Green, 1963: 254).³⁸ They endorsed Congressional approval of a Constitutional amendment granting the District equal voting rights in the US Senate, House of Representatives, and the right to vote for president, consistent with the full rights enjoyed by state residents.³⁹ In May and June 1917, resolutions offered in the House and Senate proposed an amendment authorizing Congress to grant District residents representation in Congress, but this took a back burner as the U.S. entered

³² Oklahoma's population was 84.8% white, 7% black, and 8.2% American Indian. US Census: Race for the United States, Regions, Divisions, and States: 1900

³³ Id. “Hope and Delusion” at 210

³⁴ 93.1% of New Mexico's population was white, 0.5% black, and 6.3% American Indian. US Census: Race for the United States, Regions, Divisions, and States: 1910

³⁵ Id. 83.9% of Arizona's population was white, 1% black, and 14.3 American Indian.

³⁶ Id. US Census: 1910

³⁷ Id. “Hope and Delusion” at 210

³⁸ Id., at 211

³⁹ Passage of a constitutional amendment requires approval by 2/3rds of both Houses of Congress and ratification by ¾ of state legislatures.

World War I in 1917, and race riots broke out in Washington and other U.S. cities (Green, 1963: 253).”⁴⁰

Thereafter, the Great Migration of blacks from the South to northern cities such as New York and Chicago in the 1920s and 1930s began to produce black-majority Congressional districts. In 1928, Oscar De Priest won the 1st Congressional District of Illinois (the South Side of Chicago) as a Republican, becoming the first black Congressman of the modern era. DePriest was also the last black Republican in the House for 56 years. “The election of President of the United States Franklin D. Roosevelt in 1932 led to a shift of black voting loyalties from Republican to Democrat as the Democrats became the party of economic advancement and (some time later) civil rights for black Americans.”⁴¹

Nevertheless, black enfranchisement in Congress was haltingly slow. Only 5 black Democratic Congressmen were elected to the House of Representatives between 1935 and 1958.⁴² In 1935, blacks held one of 435 seats in the House of Representatives; in 1958 they held four of the 437 seats. None of these elected representatives came from southern or western states. Meanwhile, during the 1920s, 1930s, and 1940s, there was scant progress toward achieving equal congressional voting rights for DC residents.

“In the November 1928 [presidential] election, the [Citizens' Joint Committee on National Representation for the District of Columbia] ran an ad in *The Evening Star* [newspaper] saying election day was Washington's ‘Day of Humiliation,’ and printed a copy of the Constitutional amendment pending before Congress ‘to admit the residents of the District of Columbia to the status of citizens of a State for the purpose of representation in Congress and the Electoral College.’”⁴³ The amendment failed to move.

“In 1939, Rep. Haton W. Summers of Texas introduced a resolution (H.J. Res. 257) that gave Congress the power to provide national representation for the District ‘no greater than that of the people of the States’ (Thompson, 1965:13). The House Judiciary Committee favorably reported the resolution after it was amended to give D.C. representation in the House only, and both majority and minority leaders of both houses supported it (Thompson, 1965:13). The bill died in the Rules Committee related to provisions that would have enabled Congress to delegate much control of local affairs to D.C. residents, Home Rule (Thompson, 1965:13).”⁴⁴

“In 1943, Rep. Summers authored and Senator Arthur Capper co-sponsored the following compromise amendment thought to address Congressional concerns:

‘The Congress shall have the power to provide that there shall be in the Congress and among the electors of President and Vice President members elected by the people of the District constituting the seat of Government of the United States, in such numbers and with such powers as the Congress shall determine. All legislation hereunder shall be subject to amendment and repeal. (Thompson, 1965:14).’”⁴⁵

⁴⁰ Id., at 211

⁴¹ http://en.wikipedia.org/wiki/African_Americans_in_the_United_States_Congress

⁴² Arthur W. Mitchell, Democrat (Illinois) 1935-1943; William L. Dawson, Democrat (Illinois) 1943-1970; Adam Clayton Powell, Jr., Democrat (New York) 1945-1967, 1967-1971; Charles Diggs, Democrat (Michigan) 1955-1980; Robert N.C. Nix, Sr., Democrat (Pennsylvania) 1958-1979

⁴³ Id. “Hope and Delusion” at 212

⁴⁴ Extended excerpt from “Hope and Delusion” at 10

⁴⁵ Id., at 11

Even this limited congressional voting rights amendment failed to move.

By 1950, the District's total population had grown to 802,178, 35% of whom were black, the 3rd largest percentage of blacks to whites in any state in the country,⁴⁶ as a whole new era in the struggle for blacks to achieve voting equal rights began to emerge, with the Supreme Court's 1954 landmark decision in *Brown v. Board of Education of Topeka, Kansas*. The Court said that segregation in public schools was unconstitutional, ruling that "separate educational facilities are inherently unequal," and cracked the door open to desegregation in the South.

"Early in 1955, Rep. Joel T. Broyhill of Virginia, a [white] southerner, proposed another amendment idea. He proposed to split the previous amendment idea apart, one for representation in the Electoral College, one for representation in Congress (Thompson, 1965:15). Broyhill had noticed that there was little opposition to D.C. representation in the Electoral College, and thought his approach would be the 'obvious and simple way' to get an amendment passed (Thompson, 1965:15). The *Evening Star* [newspaper] opposed the proposal on grounds that 'a straight line is the shortest distance between two points' (Thompson, 1965:15)."⁴⁷

Even this limited congressional voting rights amendment failed to move.

In August 1955, black 14-year-old Chicagoan Emmett Till was murdered while visiting his family in Mississippi, allegedly for whistling at a white woman. Two whites were later acquitted but boasted of their crime in an interview in *Look* magazine. Till's case became a rallying cry for the civil rights movement. And in December, a member of the National Association of Colored People (NAACP), Rosa Parks was arrested for refusing to give up her seat to a white person in Montgomery, Alabama, which triggered the Montgomery bus boycott, led by Reverend Martin Luther King, Jr. One year later, the Alabama buses were desegregated. The civil rights movement was launched; and the issue of segregation and the impediments to equal voting rights for blacks in the South finally began to capture the media's attention and prick the conscience of the nation.

By the end of the decade, DC's population was 763,956, with a 53.9% majority black population and the highest percentage of blacks to whites of any of the 50 states.⁴⁸ But in 1959, despite the District's population at three times Alaska's population of 226,167, and Hawaii's considerably lower population of 632,772, Alaska and Hawaii were admitted as the 49th and 50th states, with their respective residents gaining full congressional voting and self-government rights.⁴⁹ Importantly, the two states were brought into the Union in tandem as a professed political compromise. Hawaii was said to be partial to Republicans; Alaska was said to be partial to Democrats. (It later turned out to be the reverse.) But it also appears, given the racial awakening in the country and Congress, to have been an effort to achieve a racially balanced political bargain between a mainly white population living in Alaska and a predominantly Asian/Pacific Islander population living in Hawaii.⁵⁰

⁴⁶ US Census: Race and Hispanic Origin, for the United States, Regions, Divisions, and States: 1950

⁴⁷ Id. Extended excerpt from "Hope and Delusion" at 11

⁴⁸ US Census: Race for the United States, Regions, Divisions, and States: 1960

⁴⁹ Id. US Census: 1960

⁵⁰ Alaska had 77.2% whites, 3% black, and 18.8% American Indian, Eskimo and Aleut population. Hawaii had 65.3% Asian and Pacific Islander population, 32.0% whites, and 0.8% blacks.

DC PRESIDENTIAL VOTING RIGHTS AMENDMENT

“In 1959, D.C. residents were actively pressing Congress for Home Rule. On July 16th, Senator Francis Case of South Dakota introduced a resolution for D.C. voting rights in the Senate, but only fifteen Senators supported it, in part because it had not gone through a committee (Thompson, 1965:23). Home Rule supporters called his proposal ‘a tactic to divert attention from the fight over how the city government should be run’ (Thompson, 1965:23)... [Then] Senator Spessard Holland of Florida and a group of Southern Senators proposed a Constitutional amendment to abolish the poll tax, Benjamin McKelway, an Evening Star editor, wrote an editorial (August 10) entitled "Amend the Amendment" (Thompson, 1965:24). He suggested that Congress modify the amendment to add voting rights for D.C. (Derthick, 1962: 74). McKelway recognized that the poll tax bill could be a ‘vehicle’ to move a D.C. voting rights bill out of Congress. Senator Jennings Randolph of West Virginia entered the editorial into the Congressional Record (Thompson, 1965:25). Senator Kenneth Keating of New York announced that he was considering offering an amendment to Senator Holland's resolution during hearings, and he received immediate support from Senator Estes Kefauver from Tennessee whose Subcommittee on Constitutional Amendments of the Judiciary would hold hearings on the poll tax bill (Thompson, 1965:25). Members of the House District Committee expressed their support during their hearings on D.C. Home Rule (Thompson, 1965:25).”⁵¹

“Congress was deadlocked over Civil Rights legislation, and Senate Majority Leader Lyndon Johnson said such legislation had to be passed in that session (Thompson, 1965:28). Informed sources said there was support ‘across the aisle’ for giving Washingtonians the right to vote as part of Civil Rights legislation, perhaps as a non-controversial compromise on Civil Rights and as a way to reduce the pressure for Home Rule (Thompson, 1965:28). Hearings opened on S.J. Res. 138 on September 9, 1959 and the bill proceeded through Congress. On February 2, 1960, the Senate passed by 63 to 25 an anti-poll tax bill that included D.C. voting rights, taking local groups by surprise (Thompson, 1965:30). For the first time, a D.C. voting rights bill would reach the floor of Congress.”⁵²

On Capitol Hill in Washington, “the House killed the anti-poll tax amendment and kept the D.C. voting rights bill. Subcommittee No. 5 of the Committee on the Judiciary of the House of Representatives (8th Congress, 2nd Session) heard testimony on House Joint Resolution 529, ‘proposing an amendment to the Constitution of the United States granting representation in the House of Representatives and in the Electoral College to the District of Columbia,’ on April 6th and 7th, 1960.... Supporters of a voting rights amendment for D.C., including The Evening Star, were at odds with Home Rule supporters, including The Washington Post, the League of Women Voters, and the Democratic Central Committee (Thompson, 1965:17). Home Rule supporters were suspicious that the push for an amendment was a tactic to detract from Home Rule efforts. There was a clear and explicit understanding that resistance to Home Rule was related to D.C.'s African American majority... The Star surveyed the Judiciary Committee and found that [there was] likely support for a bill that included House representation (Thompson, 1965:34). It also surveyed the full House and found it would come up short of the necessary two-thirds vote if the bill included House Representation (Thompson, 1965:34). The House representation portion was deleted from the final bill... There was little opposition to Presidential voting rights for D.C., but there was not enough support for voting rights in Congress. So the bill was reduced in the House to the lowest common denominator to assure passage through Congress and ratification. Some in Congress wanted nothing that could imply statehood, so Chairman Celler modified D.C.'s

⁵¹ Id. Extended excerpt from “Hope and Delusion” at 13

⁵² Id., at 13

electoral votes to be limited to the number held by the least populated state rather than equal to states.”⁵³

On June 15, 1960 the US House of Representatives passed the resolution for the 23rd Amendment granting DC residents the right to vote for president only. The next day, the US senate passed the same resolution. Nine months later, on March 29, 1961, 39 states—one more than required—ratified the amendment, and for the first time in nearly a century DC residents were permitted to vote, not for local representatives—and not for members of Congress—but for the president of the United States only, and even this vote was limited compared with the residents of the states.⁵⁴

“The 23rd Amendment was only approved by one Southern state - Tennessee. Ten southern states took no action at all. Arkansas rejected the proposal. Steven J. Diner reported in ‘Democracy, Federalism, and the Governance of the Nation's Capital: 1790-1974,’ that Southern opposition stemmed from a belief that passage would advance Civil Rights for African Americans, an explicitly racist fear (Diner, 1987: 50).”⁵⁵ “One official of the North Carolina Defenders of States Rights denounced the amendment as ‘another effort to strengthen the National Association for the Advancement of Colored People [NAACP].’”⁵⁶

“Anthony Thompson reported in ‘The Story of the 23rd Amendment’ that between the time when an amendment [for Senate and House congressional voting rights] was first introduced in Congress 160 years earlier, in 1890, until the passage of the 23rd Amendment [for the right to vote for president only], 65 comparable amendments were introduced, of which subcommittees of Congress held hearings on ten. Ten were reported, three favorably (Thompson, 1965:38). The rest were locked in the Judiciary Committees (Derthick, 1962:73).”⁵⁷

“Ironically, Southerners were trying to pass an Amendment to end all poll taxes as a way to avoid a more serious national voting rights bill. The 23rd Amendment was a compromise accepted by Civil Rights opponents because it could stave off other Civil Rights legislation.”⁵⁸ Yet DC residents remained disenfranchised in Congress. A constitutional amendment that had originated with the intent of granting DC residents representation in the both Houses of Congress and the right to vote for president had been watered down to the lowest common denominator—presidential voting rights—the least politically threatening empowerment of DC residents possible, and the one that continued to keep DC black representatives out of the Senate and House of Representatives.

In 1961, “[a]s civil rights became the dominant issue of domestic politics nationally, the question of home rule for the District became thoroughly intertwined with the larger issue of civil rights. This at once gave supporters of home rule and representation new liberal political support, but it generated fiercer opposition from segregationists, who dominated the House District Committee. In the 87th Congress, eleven of the fifteen Democrats on the committee came from southern or

⁵³ Id., at 14 and 15

⁵⁴ Should a presidential candidate fail to win a popular majority or the vote is tied in the Electoral College, under the 12th Amendment, the House of Representatives is empowered to choose the President. Since the District has no representation in the House, it would have no vote in the choice. The 23rd Amendment also limits the number of Electors from the District to the number of the “least populous state”. Therefore, should the population of the District increase, entitling it to additional electors, the 23rd Amendment would prohibit that increase.

⁵⁵ Id. Extended excerpt from “Hope and Delusion” at 20

⁵⁶ Id., 405

⁵⁷ Id. at 21

⁵⁸ Id. at 21

border states. These included the chairman, John L. McMillan of South Carolina, and the next four ranking members."⁵⁹

Opposition to home rule became intense and racial in its motivations. "Between 1949 and 1960 the Senate approved home-rule bills five times, but the House District Committee consistently refused to report out a home-rule bill.... One home rule advocate testified that 'most of the blame' for the failure of home rule 'belongs to a small group of willful Congressmen, most of them from the South, who, regardless of their lofty verbal sentiments, are determined that the large Negro population of this city shall not have the ballot.' It was, he said, 'a denial of the franchise equal to anything which goes on in the Deep South.'"⁶⁰

Opponents, acknowledging the unreasonableness of their position to deny District residents democratic government at a time when the federal government was heralding the virtues of democracy to the world, devised diversionary tactics. "As part of their strategy to deny home rule and black voting rights in the District, southern congressmen.... insisted that retrocession [to the state of Maryland] was the only constitutional way to grant voting rights to the District. Throughout the 1950s they cynically introduced retrocession bills in order to deflect the demands for home rule and representation."⁶¹

"In 1961 John F. Kennedy, who as a congressman had endorsed home rule, became president, but the House District Committee under John McMillan of South Carolina...steadfastly refused to report out a home-rule bill...."⁶² After Kennedy's death, "[President Lyndon] Johnson endorsed home rule, telling Congress that 'for too long this Nation had tolerated in the District of Columbia conditions that our ancestors fought a revolution to eliminate....The Congress has been aroused to redress denials of the right to vote in every part of the country except the District....We affront its citizens and leave a significant part of our work unfinished by this unnecessary and invidious discrimination.'"⁶³ But Congressional opponents to District home rule were steadfast. "Again, in 1965, the Senate passed a home-rule bill.... [but] McMillan refused to schedule hearings.... [H]e did report out of his committee a bill for retrocession [to the state of Maryland] in the hope of derailing the home-rule bill...." ⁶⁴

"Despite efforts by President Johnson to modestly advance the autonomy of the District government by 'reorganizing' it, Congressional opponents continued to attempt to block any kind of progress. One home-rule leader testified before the House District Committee that [Johnson's] reorganization plan 'is here for one reason and one reason only... and that reason is that there cannot be gotten out of this committee a bill establishing the right to vote.'"⁶⁵

"In a speech before Congress in 1969 President Nixon urged a recalcitrant Congress to draft a plan for home rule. He said 'the District's citizens should not be expected to pay taxes for a government which they have no part in choosing or to bear the full burdens of citizenship without the full rights of citizenship.' The Senate agreed to draft a plan, but under the resistant leadership of McMillan, the House would only approve a bill establishing a commission 'without authority to propose a home-rule charter.'"⁶⁶

⁵⁹ Id. "Statehood and the Governance of the District of Columbia" at 404

⁶⁰ Id., at 404

⁶¹ Id., at 404

⁶² Id. at 405.

⁶³ Id. at 405.

⁶⁴ Id. at 405.

⁶⁵ Id. at 407.

⁶⁶ Id. at 408.

Nixon advanced the cause by establishing a ‘state level’ court system (since 1801 it had been combined with federal), providing for a Delegate to Congress, and establishing the Nelson Commission to study local governance (Diner, 1987: 56). The Senate had passed a bill in 1969, but the House narrowed it to studying the organization and efficiency of the District government and the election of a non-voting delegate to Congress, which the Senate accepted (Diner, 1987: 58). The District of Columbia Election Act of 1970 granted D.C. the same rights in Congress as American Samoa, Guam, Puerto Rico, and the Virgin Islands (an officially recognized representative without voting rights). Walter Fauntroy was elected as non-voting delegate and became an advocate for Home Rule and voting rights on Capital Hill (Diner, 1987: 58). The Delegate could not vote on the floor of the House, but could serve in committee in writing laws and accumulate committee seniority (Diner, 1987: 58).⁶⁷

By the early 1970s, the waves of the US civil rights movement had crested, culminating in the Civil Rights Act of 1964⁶⁸ and the Voting Rights Act of 1965, which outlawed poll taxes, literacy tests, and other measures used by whites to deter black voting in the South, and tragically, with the assassination of Martin Luther King, Jr. in Memphis, Tennessee on April 4, 1968. After race riots broke out in many American cities, including Washington, DC, following Dr. King’s murder, greater attention was paid to the concerns of the District of Columbia. Finally, after the defeat of McMillan in a Congressional election in 1972, Congress passed limited home rule legislation for the District of Columbia in 1973—the first home rule experienced by the people of the District in nearly 100 years.

During this period, the District’s population was 756,492, the vast majority of whom—71%—were black, representing the highest percentage of blacks to whites in any of the 50 states—and the highest ratio of blacks to whites ever in DC.⁶⁹ Again the District’s eyes turned toward the issue of winning equal representation in both Houses of Congress. However, notwithstanding the earlier triumph of the civil rights movement, in early 1970s there were still only 13 black Congressmen representing black constituencies in the 435-seat US House of Representatives, or just 2.9% of representatives in Congress, while blacks were 11.1% of the country’s total population.⁷⁰ These few had been elected in primarily northern states.⁷¹ Only one black senator had been elected to the 100-seat Senate, from the northern, liberal state of Massachusetts.⁷²

FULL CONGRESSIONAL VOTING RIGHTS AMENDMENT

“In 1977, President Carter announced his support for full voting rights for D.C. in Congress. Vice President Walter Mondale said, ‘We believe there is no justification for denying citizens equal representation at the federal level because they happen to reside in the District of Columbia’ (The Evening Star, September 21, 1977).”⁷³

President Carter had made human rights the centerpiece of his foreign policy.

⁶⁷ Id. “Hope and Delusion” at 218

⁶⁸ In 1964, 92% of white southern members⁶⁸ of the House of Representatives from 11 of the so-called “Dixie” states voted against the Civil Rights Act of 1964, which effectively ended segregation. Source: Statehood Solidarity Committee report, 1993

⁶⁹ US Census: Race and Hispanic Origin, for the United States, Regions, Divisions, and States: 1970

⁷⁰ Id.

⁷¹ Those states were Illinois, New York, Michigan, Pennsylvania, Missouri, Maryland, and California.

⁷² In 1967, Edward William Brooke was elected to the US Senate as a Republican, the first elected black Senator in US history, and only the third black senator ever to serve.

⁷³ Id. “Hope and Delusion” at 218

“In 1978, Congress approved-with a bipartisan two-thirds majority in each house- the Twenty-seventh Amendment to grant D.C. two Senators, voting rights in the House based on population, the number of presidential electors commensurate with population, and the right to participate in the ratification of Constitutional amendments (Diner, 1987: 62). The D.C. Voting Representation Amendment passed the Senate by 67 to 32 in August, one vote more than required for a two-thirds majority. Robert Dole, Barry Goldwater, and Strom Thurmond supported it as a simple matter of American democracy (Diner, 1987: 62). The bill stipulated that the amendment had to be ratified by 38 states within seven years.”⁷⁴

According to a Washington Post poll published on September 26, 1978 about America’s support for the amendment, the southern states of Virginia, Alabama, Louisiana, Mississippi, and the western states of Montana, Nevada, New Mexico, Oklahoma, Arizona, South Dakota, Utah, and Wyoming; and the mid-western state of Illinois were polled as unlikely to support the amendment.

Four of these western states, Wyoming, South Dakota, Montana, and Nevada, had populations comparable to or lower than the District of Columbia.⁷⁵

“Senator Edward Kennedy had commented during the Senate debate that the opposition to the bill would stem from D.C.’s ‘four toos- too black, too liberal, too urban, and too Democratic,’ and the later discussions proved him mostly right.”⁷⁶

“The deadline for getting the Voting Rights Amendment ratified by enough states was August 22, 1985. Sixteen states approved the amendment: Oregon, Minnesota, Wisconsin, Iowa, Michigan, Ohio, West Virginia, Maryland, New Jersey, Connecticut, Rhode Island, Massachusetts, Maine, Louisiana, Hawaii, and Delaware. D.C. was 22 states short.”⁷⁷

Of the thirteen pro-slavery, Confederacy states of the South, including Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Arkansas, Mississippi, Arkansas, Louisiana, Texas, and the rumps states of Missouri and Kentucky,⁷⁸ only one, Louisiana, ratified the amendment. Of the 25 anti-slavery, pro-Union states of the North, including California, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky*, Maine, Maryland*, Massachusetts, Michigan, Minnesota, Missouri*, Nevada, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, West Virginia*, and Wisconsin, 14 ratified the amendment.⁷⁹

⁷⁴ Id., at 218

⁷⁵ US Census: Race and Hispanic Origin, for the United States, Regions, Divisions, and States: 1980

⁷⁶ Id., at 219

⁷⁷ Extended excerpt from “Hope and Delusion” at 33

⁷⁸ * Missouri did not secede but a rump group proclaimed secession (October 31, 1861).

* Kentucky did not secede but a rump, unelected group proclaimed secession (November 20, 1861).

Source: http://en.wikipedia.org/wiki/Confederate_States_of_America

⁷⁹ *Denotes a border state. In Kentucky and Missouri pro-secession factions declared for the South and those states were claimed by the Confederacy, but Unionist state governments remained in power. Kansas joined the Union on January 29, 1861, after the secession crisis had begun but before the outbreak of fighting. West Virginia separated from Virginia and became part of the Union during the war, on June 20, 1863. Nevada also joined the Union during the war, on October 31, 1864.

Source: http://en.wikipedia.org/wiki/Union_%28American_Civil_War%29

In the eight “Mountains” states—non-Civil War states—including Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona,⁸⁰ Utah, and Nevada, which has an overall average white population rate of 90% and an overall black population rate of 2%, none of the state legislatures ratified the amendment.⁸¹

In the seven “West North Central” states, including Kansas, Nebraska, South Dakota, North Dakota, Missouri, Iowa, and Minnesota, which have an overall average white population rate of 94% and an overall black population rate of 3%, only two states—Minnesota and Iowa—voted for the amendment.⁸²

“Opposition arose even among other minority groups. Ruben Bonilla, director of United Latin American Citizens, the largest Mexican-American civil rights group in Texas, said ‘It may be selfish, but giving the District of Columbia two U.S. senators would give blacks a disproportionate advantage in lobbying for federal jobs and programs over Hispanics.’⁸³ Patrick Buchanan, former Nixon speechwriter and ‘3rd generation Washingtonian,’ said fellow residents have ‘a legitimate grievance,’ but he said the District is little more than ‘a company town’ of the federal bureaucracy. He called the amendment ‘a constitutional and political disaster,’ opening the door to ‘carpetbaggers’ such as Julian Bond, a black Georgia legislator, to take two Senate seats. Buchanan said he would support giving D.C. a vote in the House, but not the Senate.⁸⁴ A Texas legislator attending [an anti-amendment seminar] said if D.C. gets two Senators, Texas may exercise a provision from when they joined the Union specifying they could divide into five states at anytime. ‘We might go ahead and divide up and have 10 Senators. And maybe two of them would be Chicanos,’ he told the audience.... D.C.’s African American, non-voting Delegate, Eleanor Holmes Norton, said, ‘Congress assumed the states wouldn’t ratify it. That’s why they passed it in the first place’ (Meyers, 1996: 181).”⁸⁵

DC residents lobbied state legislatures nationwide over seven years, arguing against opponents’ erroneous claims. One such claim was that a single voting member of the House of Representatives would be sufficient to right an historical wrong. In pamphlets and in person they answered it this way: “The Senate is a unique body. It alone is charge with confirming Presidential appointments, including those to the Supreme Court, and ratifying treaties. Why should three-quarters of a million Americans have no say in these vital areas of domestic and international concern?”⁸⁶ The Senate is the only congressional body that participates in presidential impeachments as well. Perhaps most importantly, it requires both House of Congress—the Senate and the House—to pass national legislation. With only representation in one House of Congress, under American democracy it amounts to only one-third of a vote, and a third of a vote does not constitute equal representation in the national legislature.⁸⁷

⁸⁰ Additionally, portions of modern-day New Mexico, Arizona and Oklahoma were considered Confederate territories. Source: http://en.wikipedia.org/wiki/Confederate_States_of_America

⁸¹ US Census: Race and Hispanic Origin, for the United States, Regions, Divisions, and States: 1980

⁸² Id.

⁸³ Id. “Hope and Delusion” at 221

⁸⁴ Id., at 222

⁸⁵ Id., at 227

⁸⁶ Id., at 225

⁸⁷ OAS’s IACHR recommendations in *Statehood Solidarity v. United States*: The US shall “[p]rovide the Petitioners with an effective remedy, which includes adopting the legislative or other measures necessary to guarantee to the Petitioners the effective right to participate directly or through freely chosen representatives and in general conditions of equality, in their national legislature.”

"But by the late 1970s the momentum toward full political rights for the District dissipated.... As the national mood increasingly turned against government, and as advocates of a conservative social agenda gained national influence, congressional sympathy for the liberal and heavily black population of the District, which has voted overwhelmingly for Democratic presidential candidates since 1964, began to wane..... [T]he close division between Democrats and Republicans after 1980 in the U.S. Senate has given Republicans still another compelling political reason to oppose District statehood. The District would almost certainly elect to the Senate two liberal black Democrats."⁸⁸

DC STATEHOOD LEGISLATION

In 1993, the District had the highest population percentage of blacks to whites—65.8%—of any of the 50 states,⁸⁹ and its population stood at 606,900.⁹⁰ Seven states—Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont, and Wyoming—all had populations nearly equal to, equal to, or less than the District.⁹¹ Yet the US House of Representatives voted down legislation that would have granted the residents of the District of Columbia full statehood—two US Senators and one Representative in the House of Representatives and full self-government—making it the 51st state. As 39 members of the Congressional Black Caucus looked on, the final floor vote was 156 in favor and 277 against. 60% of Democrats voted for DC statehood; all but one Republican voted against it. In 1964, 92% of so-called white "Dixie"⁹² members of the House of Representatives voted against the Civil Rights Act of 1964, which effectively ended racial segregation in the United States.⁹³ 30 years later, a similar negative voting pattern among so-called "Dixie" state congresspersons against black empowerment was reflected in the DC statehood vote. The outcome however was somewhat improved, due in part from the political and legal gains won in the South by the civil rights movement and the support of 13 newly elected black congresspersons from the so-called "Dixie" states, who were swept into the House of Representatives in 1992 as a result of newly favorable congressional re-districting plans.⁹⁴ In 1993, 80%—not 92%—of "Dixie" Congressional members voted against D.C. statehood.⁹⁵

The following statements typify the tone and content of the House floor debate between Democrats and Republicans.

⁸⁸ "Statehood and the Governance of the District of Columbia", at 410-412.

⁸⁹ Id. Alaska: 550,043; Delaware: 666,168; Montana: 799,065; North Dakota: 638,800; South Dakota: 696,004; Vermont: 562,758; and Wyoming: 453,588

⁹⁰ Black or African American Population for the United States, Regions, and States, and for Puerto Rico: 1990 and 2000 Source: US Census Bureau, Census 2000 Redistricting Data

⁹¹ Id.

⁹² The so-called "Dixie" states were Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Arkansas, Mississippi, Arkansas, Louisiana, and Texas.

⁹³ Source: Statistics compiled by the Statehood Solidarity Committee, July 1992

⁹⁴ Eva Clayton (Democrat) North Carolina 1992; Sanford Bishop (Democrat) Georgia 1993; Corrine Brown (Democrat) Florida 1993; Jim Clyburn (Democrat) South Carolina 1993; Cleo Fields (Democrat) Louisiana 1993; Alcee Hastings (Democrat) Florida 1993; Earl Hilliard (Democrat) Alabama 1993; Eddie Bernice Johnson (Democrat) Texas 1993; Cynthia McKinney (Democrat) Georgia 1993; Carrie Meeks (Democrat) Florida 1993; Robert C. Scott (Democrat) Virginia 1993; Mel Watt (Democrat) North Carolina 1993; and Bennie Thompson (Democrat) Mississippi 1993

⁹⁵ Source: Statistics compiled by the Statehood Solidarity Committee, November 1993

African-American Democrat Rep. Major Owens from the 11th District of New York stated:

School children in modern times know that the United Nations and the United States offer as a solution to most of the international problems in the world a referendum, a vote. They demand that people have free elections. They demanded it in Cambodia, they demanded it in Haiti, in El Salvador, free elections, enfranchisement of people. Even in countries where people were not literate, and had to vote for a symbol rather than for a word, we demanded it, and we got elections in India and a number of other places, free elections, enfranchisement. Thomas Jefferson certainly did not mean to disenfranchise 600,000 people, and certainly John Adams and the other framers of the Constitution did not foresee the disenfranchisement of 600,000 people, 600,000 people who deserve the right to vote. We must abide by the spirit of the Constitution, and we all know what the spirit of the framers stated. That is that everybody, every American citizen should have the right to vote.⁹⁶

White Republican Rep. Tom DeLay from the 22nd District of Texas stated:

Mr. Chairman, I rise in strong opposition to statehood for the District of Columbia. We ought to be debating on this floor whether we ought to be taking home rule away from the District and take over the city.... The District's hug-a-thug attitude on violent crime and the continued misuse of the city's police department is one example that clearly demonstrates the fact that the District is not a State and should not be considered for statehood... Mike Hubbard, a detective who spent 5 years training recruits states, 'I saw people who were practically illiterate. I have seen people diagnosed as border-line-retarded graduate from the police academy.' This is absurd. Is this an indication that the District is ready for statehood?.... Folks, let us get one thing straight. The District, a liberal bastion of corruption and crime has yet to come even close, in this Member's eyes, to deserving the awesome privilege and responsibility of statehood. This House would be better off considering a provision I and many of my colleagues support, the repeal of home rule.⁹⁷

African-American Democrat Rep. John Lewis from the 5th District of Georgia stated:

Almost 30 years ago on a Sunday afternoon just like today, in a little town called Selma in the heart of the Black Belt of Alabama, some of us were beaten with billy clubs and bullwhips, bloodied and trampled upon by horses. We wanted to march across the Edmund Pettus Bridge, the Alabama River, on our way to Montgomery. We wanted to dramatize to the Nation that people of color could not register and vote. We had one simple message: one man, one vote. It is not right that there are still Americans for whom one-man, one-vote is still a dream. It is not right that there are still Americans for whom democracy is not a reality. It is not right that there are still Americans who face taxation without representation. Many of us have risen on this floor to speak in support of these principles—in Russia, Haiti, China, Somalia, and South Africa. We have cast dozens of votes supporting democracy in other countries. The time is long overdue to extend these same principles to the people of the District of Columbia.⁹⁸

White Democrat Rep. Neil Abercrombie from the 1st District of Alaska said:

⁹⁶Id. at 33-34.

⁹⁷Congressional Record, 54, November 21, 1993

⁹⁸Congressional Record, 53-54, November 21, 1993

Mr. Chairman, as a Representative from the last State to be admitted into the Union, in 1959, I want to point out what happened with some other States. Alaska: the arguments against were the population was too small for statehood, resources of revenue uncertain, 99 percent of the land federally owned. Arizona; violence, territory lacks resources to sustain a State government. Colorado: State had a disproportionate share of influence in the Congress and the population of the territory was not stable. Florida; population too small. We get to Hawaii, we get to South Dakota, the territories had a disproportionate share of influence in the Congress and the populations were not large enough. These are the kinds of arguments that are being brought up today. This is the kind of prejudice that was held. Violence and racism was at the root of trying to stop almost every bid for statehood from every State that has existed.⁹⁹

The Washington Post editorialized prior to the vote, endorsing DC statehood and referring to the veiled issue of racism regarding the lack of progress toward equal rights for DC residents:

It is time to right a great historic wrong... We believe now is the time to being defining and then putting in place an arrangement that puts District residents on an equal footing with all Americans. As a step toward that end, Congress passed a proposed Constitutional amendment 15 years ago that would have given the city full congressional representation. Only 16 of the 38 States ratified the proposal, mostly for partisan reasons. Republican lawmakers wanted no more Democrats in the Congress, and as some suspect, many legislators wanted no more blacks there as well...

15 years later, it appeared history repeated itself.

COMMITTEE OF THE WHOLE RULE CHANGE

In 2006, Democrats won majority control of the House of Representatives and the US Senate. In January 2007, the House of Representatives voted to change its rules again to permit the DC delegate and the representatives of American Samoa, Guam, the Virgin Islands and Puerto Rico to vote in the Committee of the Whole. That vote was declared “meaningless” by a US District Court because any legislation passed by the House of Representatives was subject to a re-vote without Committee of the Whole votes should they prove to be decisive in the passage of any final legislation.

SINGLE US HOUSE OF REPRESENTATIVES VOTE LEGISLATION

In 2007, a controversial bill that was designed to grant DC residents a single vote in the US House of Representatives, with the right to elect two Senators, was passed in the US House of Representatives, where Democrats had a majority. It moved to the US Senate, where the bill was put up for a cloture vote to determine whether there were 60 votes to bring the legislation to the floor of the Senate for debate and a final vote. The bill failed by three votes. However, President Bush had stated publicly that should the bill pass he had been advised to veto the bill on the grounds that a grant of voting rights in Congress through simple legislation, as opposed to a constitutional amendment, was unconstitutional.

African-American DC non-voting Delegate Eleanor Holmes Norton wrote in a September 5, 2007 article in the Washington Informer, prior to yet another failed vote on limited DC voting rights in

⁹⁹Congressional Record, 54, November 21, 1993

one-half of Congress, “For 175 years, filibusters and other opposition denied the District home rule and any congressional representation. Race was the explicit reason. As one senator said, “The Negroes...flocked in...and there was only one way out...to deny...suffrage entirely to every human being in the District.”.... Race, not the Constitution, was the undisputed reason District residents were denied their rights for 175 years.”

II. APPLICABLE CONVENTION PROVISIONS

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) provides that “[i]n compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its form and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(c) Political rights, in particular the *rights to participate in elections-- to vote and to stand for election-- on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.*” (Emphasis added.)

Article 1 of the Convention stipulates that “the term ‘racial discrimination’ shall mean any distinction, restriction or preference based on race, colour, descent, or national or ethnic origin which has *the purpose or effect of nullifying or impairing* the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” (Emphasis added.)

Article 2 of the Convention provides that “[s]tate Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms....” and article 2(a) stipulates that “[e]ach State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation.”

The United States Senate took no reservations regarding Articles 5, 1 and 2 of the Convention in its ratifying resolution of November 1994.

III. CONCLUSION:

In light of the sweep of historical evidence, both factual and circumstantial described herein, we maintain that African Americans living in the District of Columbia over the course of the city’s more than 200 year history have been subjected to racial discrimination which has had the purpose and effect of impairing the recognition, enjoyment and exercise on an equal footing with all other Americans, of the human rights and fundamental freedoms in the political life of their country. Specifically, we claim that their rights under Article 5(c) to participate in elections—to vote and to stand for election—on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level, including at all levels of the United States Congress, including the US Senate and the House of Representatives, and to have equal access to public service have been violated by the United States.

We therefore respectfully request that the UN Committee on the Elimination of Racial Discrimination issue recommendations to the United States that it pass such legislation as may be

necessary to remedy the violations under the International Convention on the Elimination of All Forms of Racial Discrimination and grant the residents of the District of Columbia, the majority of whom are African American, the right to full representation in their national legislature, on general terms of equality.

Washington, DC
December 10, 2007

Written by Timothy Cooper
Executive Director
Worldrights