

Excerpt on Constitutional Amendments from Hope and Delusion - Struggle for Democracy in Washington, D.C.

A History of Efforts to Remedy Political Inequality in Washington, District of Columbia via Constitutional Amendment

The text of this document is drawn from a chapter of "Hope and Delusion: Struggle for Democracy in the District of Columbia," by Mark David Richards, PhD, who revised the following section in June 2002.

The idea of amending the U.S. Constitution to grant D.C. citizens the same citizenship rights as other Americans living in states was discussed from the time the District of Columbia was formed and the problem of having a disenfranchised people at the seat of government was recognized. Discussion about passage of a Constitutional amendment was associated with discussion of establishing a D.C. territorial government and legislature. Congress established a limited home rule government early in Washington City's history—a home rule government that has never been a true local self-government with judicial, legislative, and budgetary autonomy. Some locals call the D.C. home rule government a "home fool" government, and describe it as colonial in form.

At the same time Congress granted D.C. a limited home rule government, it stripped D.C. citizens of their national voting rights by not providing a mechanism by which to exercise those rights.

From the beginning, D.C.'s self-government goal has appeared to conflict with its goal to have equal federal representation because some appear willing to accept one without the other.

Residents often used the term "equal " to describe how they wanted to be treated, compared to other Americans. D.C. residents have made other proposals to remedy the problem, including retrocession of D.C. land outside of the main federal areas to the ceding state and the creation of a new state—New Columbia. The southwestern

portion of D.C. retroceded to Virginia in 1846. The statehood movement formed in the late 1960s and efforts to make D.C. a state continue today. In this paper, I focus specifically on efforts to pass various forms of Constitutional amendments. 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).

To pass a Constitutional amendment is very difficult: two thirds of both houses of Congress and it must be approved by three-fourths of the States (38 of 50). The Constitution has been amended only 17 times (counting the "Bill of Rights" amendments as one instance).

A D.C. citizen took a case for "no taxation without representation" to the Supreme Court, and in 1820 the Supreme Court ruled (*Loughborough v. Blake*) that District residents were liable to taxation even though they were not represented in Congress (Wheaton, 1820: 317). The confrontation, nevertheless, caused Congress to increase the power of the Washington City's elected government (Diner, 1987: 11).

In 1831, President Andrew Jackson urged Congress to allow District residents to elect a delegate to that body "with the same privileges that are allowed to other territories of the United States:"

"I deem it my duty again to call your attention to the condition of the District of Columbia. It was doubtless wise in the framers of our Constitution to place the people of this District under the jurisdiction of the general government, but to accomplish the objects they had in view it is not necessary that this people should be deprived of all the privileges of self-government. Independently of the difficulty of inducing the representatives of distant states to turn their attention to projects of laws which are not of the

highest interest to their constituents, they are not individually, nor in Congress collectively, well qualified to legislate over the local concerns of this District. Consequently its interests are much neglected and the people are almost afraid to present their grievances, lest a body in which they are not represented and which feels little sympathy in their local relations should in its attempt to make laws for them do more harm than good. ... Is it not just to allow them at least a delegate to Congress, if not a local legislature, to make laws for the District, subject to the approval or rejection of Congress? I earnestly recommend the extension to them of every political right which their interests require and which may be compatible with the Constitution." (Noyes, 1917: 71-72)

Most of the early Presidents reminded Congress that the District was not represented in that body and encouraged attention to local interests for that reason. For example, James Knox Polk of North Carolina, inaugurated president on March 4, 1845, again reminded Congress that the District had neither a state legislature nor representation in the national legislature, and encouraged treating District citizens with a "liberal and generous spirit:"

"The people of this District have no legislative body of their own and must confide their local as well as their general interests to representatives in whose election they have no voice and over whose official conduct they have no control. Each member of the national legislature should consider himself as their immediate representative and should be the more ready to give attention to their interests and wants because he is not responsible to them. I recommend that a liberal and generous spirit may characterize your measures in relation to them. I shall be ever disposed to show a proper regard for their wishes and within constitutional limits shall at all times cheerfully cooperate with you for the advancement of their welfare (Noyes, 1917: 74).

When Congress consolidated Georgetown and Washington City and county into a "territorial" government in

February 21, 1871, it created the position of non-voting delegate for the District who would be a member of the House District committee (Green, 1962: 335-336). When it abolished the "Territorial" government in 1874 and established a three-member appointed commissioner government for the District, the non-voting delegate position was abolished. In 1888, Theodore Noyes, the son of the editor of the Star, published a series on Congressional neglect of D.C. in which he argued for a Constitutional amendment to give D.C. citizens representation to Congress and members in the presidential Electoral College (Green, 1963: 26). Noyes proposed this amendment, he wrote in a Star editorial on March 30, 1961, "as a compromise between strictly limited local suffrage, whose frustrations and futilities the Star had observed for 22 years, and actual self-government, which would involve surrender of the Nation's control of its Capital" (Derthick, 1962: 73).

The Citizens' Committee of One Hundred discussed the issue and a notary gathered letters of local notables and did a comparative analysis of D.C. to six other states. He sent a memorandum to Capitol Hill saying, "They are unable to see why they should be excluded from participation in the General Government any more than the people of State capitals should be excluded from participation in state governments" (Green, 1963: 26).

In May 1890, Republican Senator Henry W. Blair of New Hampshire offered a Resolution on passing a Constitutional amendment to give representation to D.C. in the two houses of Congress and in the Electoral College (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 Senate committee to which it was referred rejected it without holding hearings (Green, 1963: 26). Blair talked about the negative effects on young Washingtonians, where "combinations and rings and syndicates which derive their strength from unholy or indifferent relations to and with the representatives

of national power" (Green, 1963: 26). 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).

After 1909, although opposition to Home Rule remained strong for fear of a reduced federal payment, full voting representation in the House, Senate, and Electoral College received increasingly widespread attention (Green, 1963: 185). In 1909, Chief Justice Stafford from the District Supreme Court, in 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).

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). [Implicit statehood]

Historically, the most controversial aspect of a D.C. voting rights amendment was the right to vote in the Senate. Opposition related to the fact that only States had Senators; they were not popularly elected until 1913 when the Seventeenth Amendment provided for the popular vote of Senators.

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). Undervalued real estate was reassessed, resulting in more revenues and pleasing members of Congress (Green, 1963: 184). Tourism became the third largest revenue-generating business in the District, after government and real estate (Green, 1963: 175). 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), including:

- * The Chamber of Commerce
- * The Board of Trade
- * The Merchants' and Manufacturers' Association
- * The Central Labor Union
- * The D.C. Bar Association
- * The Federation of Women's Clubs
- * The Department of the D.C. Veterans of Foreign Wars
- * The Federation of Citizens' Associations (composed of 54 sectional citizens' associations)
- * The Oldest Inhabitants Association
- * The Monday Evening Club, the Real Estate Brokers Association
- * The 20th Century Club

According to literature published by the Committee, about 30 national organizations also endorsed the organization's objectives to secure approval of a Constitutional amendment to grant D.C. citizens the right to vote in the Senate, House, and Electoral College, with the same rights before the Federal Courts as enjoyed by the residents of the States. National groups included the U.S. Chamber of Commerce, the American Federation of Labor, the League of Women Voters, Veterans of Foreign Wars of the U.S., and a number of state organizations.

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 back burner as the U.S. entered World War I in 1917, and race riots broke out in Washington and other U.S. cities (Green, 1963: 253).

In 1922, Theodore Noyes, Chairman of the Citizens' Joint Committee on National Representation for the District of Columbia, testified before the Committee of the District of Columbia in the Senate, arguing for the amendment. He argued that the "three political subdivisions of the United States under the Constitution are (1) States, (2) Territories-that is, incipient States-and (3) the District constituting the seat of government of the United States. Now, the Constitution as it stands either gives or empowers Congress to give national representation to the first two of these parts," and "When our amendment is ratified this section will be rounded out and perfected, and the power of Congress to grant national representation will be equitably extended to all three of the parts into which the United States was in the beginning thus in effect divided."

In November 1928 election, the Committee ran an ad in The Evening Star 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." Here is the proposed Amendment:

"The Congress shall have power to admit to the status of citizens of a State the residents of the District constituting the seat of Government of the United States, created by Article I, section 8, for the purpose of representation in the Congress and among the electors of President and Vice President for the purpose of suing and being sued in the courts of the United States, under provisions of Article III, section 2.

"When the Congress shall exercise this power, the residents of such District shall be entitled to elect one or two Senators as determined by the Congress,

Representative in the House according to their numbers as determined by the decennial enumeration, and presidential electors equal in number to their aggregate representation in the House and Senate.

"The Congress shall provide by law the qualifications of voters and the time and manner of choosing the Senator or Senators, the Representative or Representatives and the electors herein authorized.

"The Congress shall have the power to make all laws which shall be necessary and proper for carrying into execution the foregoing power."

On March 2, 1929, Theodore W. Noyes gave a WMAL nationwide radio address and asked, "Will not every red-blooded American who hears me tonight respond hopefully and vigorously to the District's appeal for political equality? How long, O Americans, must we of Washington be compelled to say and to sing: 'My county, 'tis of thee Not land of liberty, For District folks; Where rights for which the fathers died Are now denied and crucified, Mock'd at as jokes'?" (Melder, 1997: 423). In March 1929, Historian Wilhelmus Bryan wrote:

"The principle of taxation without representation that stirred the fathers of our Colonial and Federal governments, still is potent in the present day with many District residents, because they are under the government of Congress and have no representation in that body. To cure that defect or injustice or outrage of human rights-the rule of tyranny, as some phrase it-an amendment to the Federal Constitution is necessary, giving the District representation in the Senate and in the House and in the Electoral College. Such an amendment is now being actively advocated. Because the District is not a state, as the constitution now reads, it cannot have representation in Congress or have a part in presidential elections, nor can a District resident sue or be sued in a Federal court. There is a further restriction in the political life of the District resident which the proposed Constitutional amendment will not remove. He has no part in the choice of the local government. No one, as far as I know, has

pointed out how he can. Aside from the Supreme Court verdict that Federal supremacy cannot be alienated, how can there be a real local government in the District which gives an adequate and workable place to Federal interests arising from the District being the seat of the national government" (Bryan, 1932: 58).

The drive for Congressional voting rights and Home Rule led to many articles and political comics. The Citizens' Joint Committee on National Representation for the District of Columbia prepared "A Souvenir of the Inauguration of a President of the United States from Whose Election Half-a-Million American Citizens Were Barred by Constitutional Disenfranchisement" for Capital City guests to President Roosevelt's Inauguration on March 4, 1933. Proponents argued that District citizens were "fully fit for national representation," and pointed out that D.C. citizens had "risked life and shed their blood in every national war." They pointed out that the amendment did not reduce the power of Congress in respect to the Capital, but added a new power—the power to grant representation in the House, Senate, and Electoral College to resident of D.C., like the power they had to grant statehood. They said the amendment did not propose the admission of D.C. into the Union as a sovereign State, and did not propose ending the "10 miles square" provision. They pointed out that, as a suitor in U.S. courts, D.C. had a lower standing than an alien. Some citizens worked against the amendment. The Ten Miles Square Club and the Dupont Circle Citizens' Association ran a newspaper advertisement with the headline "City-State Opposed." The ad advised:

"The weakest point in the system of government in this country is generally admitted to be in the rule of large cities. We are here free from the corruption of machine government, which is so objectionable in large cities. The proposed amendment provides the foundation for the establishment of a machine in the local government in the District—that is to say, power without visible and recognized responsibility. Moreover, the proposed amendment (to create a city-state) would undoubtedly be a first step on the way to

an extension of local self-government which proved so unsatisfactory (in Washington) in the past. We should not repeat that error. We are far better off now which the commissioners answerable to no one but the President of the United States for the faithful performance of their duties, than if the District Senators and Representative were able to claim that they should be listened to. The commissioners cannot well serve two masters. A representative local government was installed here in 1871. The city soon got in the hands of a ring and the government was so bad that Congress took away the suffrage for the good of the people and resumed control. Each succeeding Congress and all Presidents have vigorously opposed change from the existing form of government since the date of its establishment."

The Ten Miles Square Club also produced brochures, claiming that "there is no urgent demand for the amendment by the citizens of the District," and said "This proposed amendment is the most dangerous and revolutionary amendment ever offered for the serious consideration of Congress... it might, if enacted into law, ultimately destroy the Nation... the precedent of a City-State once established would change our historical concept of what may constitute a State." They advised that to pass the amendment would "inevitably arouse the ambitions of other cities to be created into City-States." The Club said, "The President of the United States is the Mayor of Washington City and Congress its Common Council." They argued that they are the representatives of Washington citizens, and when they move to Washington they quickly identify with the local life. They pointed out that D.C. is only 60 square miles, or 798,000 acres-compared to the smallest state that is 1,248 square miles, or 150,000,000 acres, and called those proposing the amendment "a group of political idealists."

In 1934, pieces of the President Roosevelt's "Organization Report" to reorganize the District government began to surface in the local press (Green, 1963: 428). Among other things, it proposed to allow the District to elect a non-voting Delegate to the

House, but Congress would retain a veto over all legislative acts (Green, 1963: 428). About a dozen local government reorganization plans emerged between 1934 and 1940 (Green, 1963: 431). The District Suffrage League felt the many proposals gave the impression that District citizens didn't know what they wanted. In April 1938, a Citizens' Conference of 271 local organizations financed a plebiscite with two questions- "[D]o you want to vote for President and for members of Congress from the District of Columbia?, and Do you want to vote for officials of your own city government in the District?" (Green, 1963: 432). The District Suffrage League set up voting places in thirty-eight public schools, and on April 29th dressed up like Paul Revere and paraded in the streets to publicize the event (Green, 1963: 432). Ninety-five thousand, five hundred and thirty-eight people voted on April 30th, most of whom had never voted before (Green, 1963: 433). Overwhelming majorities voted in support of both congressional voting rights and Home Rule (Melder, 1997: 425).

Senator Arthur Capper of Kansas, chairman of the House District Committee, agreed with many local citizens that residents should have voting rights (Green, 1963: 429). In 1938, he told the Columbia Historical Society that:

"It is apparent that Congress intended to change the political status of the District in some degree from the beginning... In waging this commendable war against a form of autocracy peculiarly repugnant to patriotic Americans you will find that our greatest enemy is indifference. Therefore, I charge you, never cease to agitate your cause; spread the fire of your zeal throughout the city and kindle the dormant sentiment of the Nation. If anything ever was worth fighting for it is national representation for the District of Columbia. And I am confident that finally your campaign will be victorious, as it well deserves to be. In my State, if its 2,000,000 inhabitants were told that they could have no voice in the Government which they are taxed to support, I know what would quickly happen. An army would be organized, and it would march across the

plains to the Capital of the country and enforce its rights. Of course, I do not recommend for you an appeal to arms. But you must all be aggressive to secure for yourselves that which is rightfully yours."

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).

Most opposition related to making the District too much like a State, which would threaten federal security and might encourage other cities and Territories to demand similar rights (Thompson, 1965:14). 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).

In 1955, Congress passed a D.C. election law (P.L. 376, 84th Congress) that established a three-member bipartisan board to administer elections; established procedures for registration, nominations, and voting; provided for the election of national committee men and women, delegates to presidential nominating conventions, and local party officials as determined by the parties (Derthick, 1962:75). The main effect was to

allow public funding of party elections (Derthick, 1962:75).

Early in 1955, Rep. Joel T. Broyhill of Virginia 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 opposed the proposal on grounds that "a straight line is the shortest distance between two points" (Thompson, 1965:15).

Supporters of an 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 Board of Trade, the most vocal opponent of Home Rule, had adopted a policy in favor of an amendment for national representation for D.C. in 1916. The Republican State Committee held an opinion between the two blocs-it had supported Home Rule, but associated with Board of Trade members and conservative interests, which called its commitment into question with Home Rule supporters (Thompson, 1965:17).

A Washington Post reporter summarized the Home Rule bloc's opinion about an passing an amendment without granting D.C. Home Rule: We favor "the whole package of voting rights," because "you either believe in democracy or you don't" (Thompson, 1965:18). They felt Home Rule should come first because it only required the passage of legislation, a task that would be easier than passing an amendment. Mr. Sturgis Warner, an attorney, was a leader of the Home Rule movement, which

had been an active movement since 1946 (Thompson, 1965:16).

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). They were taken by surprise at the events that were to follow.

In 1959, when 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).

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.

D.C. officials officially reactivated The Citizens Joint Committee on National Representation on February 18th, 1960 to prepare to support the bill in House hearings (Thompson, 1965:31).

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. D.C. groups testified unanimous support for the proposal, and encourage the Congress to expand the bill further (Thompson, 1965:32). Commissioner Robert E. McLaughlin, President of the Board of Commissioners (D.C.'s municipal chief executive) sent Rep. Celler a letter (April 6, 1960) asking whether the language of the bill calling for D.C. delegates to the House of Representatives was intended to mean voting members. McLaughlin offered language spelling out that D.C. would have two Senators and one or more members of the House based on its population. McLaughlin wrote "the Commissioners cannot endorse it [the amendment] in the present form." The bill moved to the full Judiciary Committee, chaired by Rep. Emanuel Celler of New York.

The Young Democratic Club of D.C. passed the following resolution calling for citizens of D.C. to be treated equal to citizens of States:

"The Young Democratic Club of The District of Columbia commends the efforts of the House Judiciary Committee and other members of Congress for their efforts in

fighting for voting rights for the citizens of the District of Columbia. We believe that all rights and privileges granted the citizens of the District of Columbia should be on the same basis as the corresponding rights granted to all American citizens, although we do not believe it wise to make the District of Columbia a sovereign state.

In accordance with this principle we call for immediate passage by Congress of a Constitutional Amendment granting us presidential electors on the identical population basis used for all other American citizens, and passage in the next Congress of a Constitutional Amendment granting us voting members in both Houses of Congress."

The Star surveyed the Judiciary Committee and found that 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, as it was though a non-voting delegate position could be created by simple statute (Thompson, 1965:34). Rep. Celler said, "This committee sought to achieve plateaus one at a time on the way to the summit," and suggested another amendment could be passed in the future for Congressional voting rights (Thompson, 1965:35). As support for the bill was so great, parliamentary procedure was used to avoid sending the bill into the Rules Committee and directly to the Senate for a floor vote (Thompson, 1965:35).

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 electoral votes to be limited to the number held by the least populated state rather than equal to states. Here is the Amendment:

Twenty-Third Amendment to the U.S. Constitution

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

In the Report of the Committee on the Judiciary (June 9, 1960), Mr. Celler recommended passage of the bill. The report said:

"The purpose of this proposed constitutional amendment is to provide the citizens of the District of Columbia with appropriate rights of voting in national elections for President and Vice President of the United States. It would permit District citizens to elect Presidential electors who would be in addition to the electors from the States and who would participate in electing the President and Vice President.

The District of Columbia with more than 800,000 people, has a greater number of persons than the population of each of 13 of our States. District citizens have all the obligations of citizenship, including the payment of Federal taxes, of local taxes, and service in our Armed Forces. They have fought and died in every U.S. war since the District was founded. Yet, they cannot now vote in national elections because the Constitution has restricted that privilege to citizens who reside in States. The resultant constitutional anomaly of

imposing all the obligations of citizenship without the most fundamental of its privileges, will be removed by this proposed constitutional amendment."

The Report discussed retrocession and statehood, but argued that both proposals posed serious constitutional questions. It argued that the proposed amendment would have "minimum impact," thereby preserving the original concept of the Constitution. It said the amendment was not related to Home Rule, which was a completely separate issue. It said the amendment, would, in fact, "perpetuate recognition of the unique status of the District as the seat of Federal Government under the exclusive legislative control of Congress."

"It would not make the District of Columbia a State. It would not give the District of Columbia any other attributes of a State or change the constitutional powers of the Congress to legislate with respect to the District of Columbia and to prescribe its forms of government. It would not authorize the District to have representation in the Senate or the House of Representatives. It would not alter the total number of presidential electors from the States, the total number of Representatives in the House of Representatives, or the apportionment of electors or Representatives among the States. It would, however, perpetuate recognition of the unique status of the District as the seat of Federal Government under the exclusive legislative control of Congress."

The House passed the resolution for the 23rd Amendment on June 15, 1960. The Senate agreed to the bill on June 16, 1960.

Most D.C. residents united in favor of the Amendment, including The Washington Post. The national campaign was largely bi-partisan and political differences were largely put aside. Republican National Chairman Thurston Morton and Chairman Shipley of the District Republican Central Committee supported the amendment (Derthick, 1962:74), as did Democratic National Chairman, Senator Henry Jackson (Thompson, 1965:55).

D.C.'s commissioners passed a resolution in support of the measure, which they sent to every State capital (Thompson, 1965:55).

D.C. officials led the drive for the amendment. In December, they formed a task force to coordinate the national ratification drive, called the Citizens Committee for the Presidential Vote. The Citizens Committee was an activity of the Citizens Joint Committee (Thompson, 1965:50). It was led by Attorney F. Elwood Davis (Derthick, 1962:74). Herbert Gill, a retired Washington Gas Light executive, was executive director (Thompson, 1965:51).

The effort was in part financed by a \$25,000 trust left by the late Star editor and lifelong proponent of an amendment, Theodore W. Noyes. The Washington Post supported the effort, but the Star was the primary proponent of the amendment proposal (Derthick, 1962:74).

The Citizens Committee set up headquarters at 1218 Connecticut Avenue NW. It identified three issues they needed to address to achieve ratification (Thompson, 1965:50):

- * National education-People in the nation did not know D.C. residents could not vote for President. An information campaign would be needed.

- * Planning information-Each state has its own procedure for ratification and timetables. Intelligence would be needed to develop a strategic plan.

- * Strategic plan-Each legislature is motivated by different issues and moved by different opinion leaders. A plan to arouse and maintain interest, with careful follow-up to avoid technical errors, was needed.

The Citizens Committee formed a field organization that was formed of a political activities section and a non-political activities section to develop and encourage local efforts (Thompson, 1965:51). The non-political

activities section was led by Timothy J. May, a local lawyer who coordinated with groups like the Jaycees, the Board of Trade, and the League of Women's Voters (Thompson, 1965:51). The League activated chapters across the nation (Derthick, 1962:74). The local Jaycees set up a committee of six, each responsible for about five States (Thompson, 1965:53). They asked each state Jaycee State president to establish a liaison in each State capital, a contact person who could act as a problem-solver (Thompson, 1965:53).

The political activities section, led by Mr. Sturgis Warner, coordinated activities of D.C.'s political parties with national party organizations (Thompson, 1965:51). Warner's role was to decide on strategy, timing, and contact problems related to influencing state legislatures; he led a volunteer 'task force' of eight people, each of which monitored progress in four to eight states (Thompson, 1965:51). Warner worked to gain support from State political leaders. He made in-person telephone calls to the most important leaders, followed by a polite letter requesting assistance, with a "respectful" informative brochure (Thompson, 1965:53). "Always follow up" was the rule (Thompson, 1965:53).

The Citizens Committee conducted an extensive study of every State, with a list "showing the opening date of the session of every State legislature, and whether or not the session was annual or biennial" (Thompson, 1965:52). Some states will automatically consider amendments, while others require the Governor or a legislative leader to make a request. The Committee developed a fact sheet about every State, including the date the bill had to be introduced by; who would introduce the bill and that person's political association, the Governor's position, the committee where the bill had been referred and its leadership, action taken by committees and the legislature, and press clips (Thompson, 1965:53).

The Committee was aware of research showing that most amendments pass rapidly or do not pass at all, therefore the moved rapidly to take advantage of what

they perceived to be a supportive political environment for the amendment (Thompson, 1965:53). The Committee developed a "model State resolution" which it shared with state leaders (Thompson, 1965:53).

The main argument used in support of the amendment was that the cause was just. Some argued defeat would become cold war propaganda for the Soviet Union (Diner, 1987: 49). Findlaw

<http://caselaw.findlaw.com/data/Constitution/amendment23/#annotations> explains that:

"The purpose of this. . . constitutional amendment is to provide the citizens of the District of Columbia with appropriate rights of voting in national elections for President and Vice President of the United States. It would permit District citizens to elect Presidential electors who would be in addition to the electors from the States and who would participate in electing the President and Vice President.

"The District of Columbia, with more than 800,000 people, has a greater number of persons than the population of each of 13 of our States. District citizens have all the obligations of citizenship, including the payment of Federal taxes, of local taxes, and service in our Armed Forces. They have fought and died in every U.S. war since the District was founded. Yet, they cannot now vote in national elections because the Constitution has restricted that privilege to citizens who reside in States. The resultant constitutional anomaly of imposing all the obligations of citizenship without the most fundamental of its privileges will be removed by the proposed constitutional amendment...

"[This] . . . amendment would change the Constitution only to the minimum extent necessary to give the District appropriate participation in national elections. It would not make the District of Columbia a State. It would not give the District of Columbia any other attributes of a State or change the constitutional powers of the Congress to legislate with respect to the District of Columbia and to prescribe

its form of government... It would, however, perpetuate recognition of the unique status of the District as the seat of Federal Government under the exclusive legislative control of Congress.'" (H.R. Rep. No. 1698, 86th Cong., 2d Sess. 1, 2 (1960)).

Congress had only passed the 23rd Amendment on June 16, 1960, and it was ratified by 39 states—one more than necessary—by March 29, 1961 (Diner, 1987: 50). Hawaii (which had become a state in August 1959) was the first state to ratify the amendment on June 23, 1960. The Star commented (June 20, 1960), "Apparently the only issue was whether the Democratic House or the Republican Senate would vote first to ratify" (Thompson, 1965:57). Representative Inouye sent the House side the necessary information before Republican Governor Quinn received official notice of the amendment's passage from the General Services Administration (GSA), so they won the contest (Thompson, 1965:57).

Martha Derthick reports a comment by Grace Bassett in The Evening Star that the 286 days in which the amendment was ratified was "two days less than the time taken to repeal prohibition" (Derthick, 1962:73). The only amendment that was ratified in less time (204 days) was the 12th Amendment, passed in 1804 (Thompson, 1965:69).

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 was stemmed from a belief that passage would advance Civil Rights for African Americans, an explicitly racist fear (Diner, 1987: 50).

Attorney George LaRoche argues that this amendment was the first to explicitly make certain citizens unequal to others in the Constitution:

"When the Constitution was first ratified, it framed a government for (basically) three identified groups of

people: 'the people of the states,' Indians, and slaves. Of these, the constitution did not distinguish any difference between the people of the states and Indians, but simply named them as classes in relation to the government. Slaves, however, were defined in the Constitution as 3/5ths of free persons (mostly, 'people of the states'). With the 13th Amendment, this distinction was eliminated. That doesn't mean there were no 'classes' and inferior classes in America, but that the Constitution didn't define any. This changed with the 23rd Amendment, which defined the residents of the District as having no more say in picking the President than the people of the smallest state, which is to say, irrespective of the absolute numbers, D.C. citizens are pegged to the smallest group of 'others,' who are necessarily superior for they are counted by sheer numbers. The definition is in the Constitution; part of it, and it's used as an argument now that D.C. citizens cannot be 'better.'"

With the ratification, District citizens were granted a limited right to vote for president - the first time they could vote in nearly a century. In the event that no candidate for President has a majority or there is a tie vote, the Twelfth Amendment provides that the House shall choose the President. Because D.C. does not have voting members in Congress, D.C. would not be included in that decision. Samuel H. Still, Legislative Attorney of the Legislative Reference Service of The Library of Congress wrote an opinion to the House Committee on the Judiciary on June 14, 1960 saying that because of the language "they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State" D.C. would be able "to participate in this choice should the District at some further date be granted Representation in the House."

Anthony Thompson reported in "The Story of the 23rd Amendment" that between the time when an amendment was first introduced in Congress 160 years earlier, in 1890, until the passage of the 23rd Amendment, 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).

Thompson attributed the successful passage of the amendment most of all to the unity of local supporters; to excellent organization and issue management, and to the compromises that had scaled the amendment down to be a limited one for which political support existed and could be leveraged (Thompson, 1965:69).

Ironically, the success of the amendment also related to the national climate and national Civil Rights pressures. 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.

Richard M. Nixon was elected president in 1969, and like Truman, Eisenhower, Kennedy, and Johnson, he supported D.C. Home Rule and voting rights (Diner, 1987: 56). Nixon 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 citizens." 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).

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).

In 1978, Congress approved-with a bipartisan two-thirds majority in each house-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.

Proposed 27th Amendment to the Constitution

Joint Resolution Proposing an Amendment to the Constitution to Provide for Representation of the District of Columbia to Congress

"Article--

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

The amendment cleared the Senate and went to the states on August 22nd. Although New Jersey and Ohio ratified in the first year, reception in the states was nowhere like the women's Equal Rights Amendment of 1972, which passed 30 states in its first year.

Republican Senator Robert Dole said, "The Republican Party supported D.C. voting rights because it was just, and in justice we could do nothing else" (Drawn from flier produced by D.C. Republican Councilmember Carol Schwartz.) Republican Senator Howard Baker said, "We simply cannot continue to deny American citizens their right to equal representation in the national government... this basic right is a bedrock of our Republic that cannot be overturned" (Drawn from flier produced by D.C. Republican Councilmember Carol Schwartz.)

But 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.

The Washington Post polled Americans about the amendment, and reported (September 26, 1978) that Alabama, Arizona, Illinois, Louisiana, Mississippi, Montana, Nevada, New Mexico, Oklahoma, South Dakota, Utah, Virginia, and Wyoming were unlikely to ratify. Nine of these states were among those who did not ratify the Equal Rights Amendment for women. Three had populations smaller than D.C. Larry Williams, the Republican candidate for U.S. Senate in Montana, said, "All we need in the federal government is more liberal Eastern urban senators and congressmen to tell

Montanans how we ought to live and think." He said ratification would result in D.C. representatives who would vote against increased farm prices and for more wildernesses. "The next thing we'll have is gun control if it keeps going," he said. Conservative commentator, George F. Will, wasted no time in pointing out what he considered the deficiencies of the amendment. In "The D.C. Vote Stampede," he chastised legislatures for acting too hastily and not recognizing that the issue was a Constitutional issue, not a racial one. He pointed out that a California representative had argued this was "a black issue."

Will argued, based on the notion that the Constitution provides for three kinds of entities: states, territories, and the District of Columbia, that it would be proper for the District to have the full weight of their vote in the Electoral College and a vote in the House, but not in the Senate, because Senators must come from states, which represent geographical regions with diverse interests. D.C., he said, was a city of moderate size, and D.C. Senators would be the only two representing no rural interests whatever. "So state legislatures with strong rural representation will be reluctant to ratify the proposed amendment, which would dilute their Senate power even more seriously than it would dilute the power of other states. That is not the most elevated reason for doing the right thing, but rejecting the proposed amendment's approach to District representation is the right thing to do."

Constitutional lawyer, Professor Stephen A. Saltzburg of the University of Virginia Law School, said "To be candid, I find this argument to be nonsense... Nothing in the language of this article states that the Constitution cannot be amended to give entities other than states voting power in the Senate. All that is required is that a state have an equal vote. If the District is given two senators, no state is in an unequal position when compared with any other state or with the District" (The Washington Post, September 18, 1978). Charles Alan Wright of the University of Texas said, "It seems to me that the clear purpose of that

clause was to ensure that the Great Compromise would not be undone and that representation in the Senate would not be put on the basis of population. That purpose is not compromised by allowing the District to have two senators any more than it is when a new state is admitted."

Will pointed out what this author considers the most important flaw of the amendment:

"As regards the amending process, note that under the law granting the District 'Home Rule,' the city council remains an agent of Congress, subject to Congress's veto. That is, the law is consistent with the Constitution's provision that Congress shall 'exercise exclusive legislation, in all cases whatsoever' over the District. But what this means is that were the city council to function as the equivalent of a state legislature in the amendment process, Congress would submit amendments for the approval of its own agent."

Will concluded, "Because the Constitution stipulates that Congress must have final responsibility for the District, residents of the District have a special interest in congressional representation. But that fact about final responsibility is one reason why it would violate the essence of the American federalism to grant to the District representation in the Senate, a body that expresses the principle of a union of sovereign states." Professor Saltzburg said,

"It is impossible to derive anything useful from the study of the intention of the framers in their treatment of the District in Article 1, Section 8 of the Constitution. It must be remembered that there was no District at the time the Constitution was drafted and ratified. ...It must be recognized that even in 1801 it was impossible for those members of Congress who took away the vote from District citizens to anticipate the precise future development of the nation. When it is recalled that entire races of people, women, non-property holders and others were denied the right to vote, it is not hard to see why assumptions as to the adequacy of representation of all

by a few might have been acceptable the, but not now" (The Washington Post, September 19, 1978).

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."

Conservatives, led by the American Legislative Exchange Council (ALEC), launched an attack to defeat the voting rights amendment. Formal opposition to the amendment was voted by the American Conservative Union, the Conservative Caucus, the Citizens Committee for the Right to Keep and Bear Arms, Young Americans for Freedom, as well as ALEC-an organization with 700 conservative state legislators (The Washington Post, December 3, 1978). Opponents of the D.C. voting rights amendment were determined not to make the mistake they had with ERA-letting it get ratified by 30 states before getting organized.

ALEC organized seminars for legislators on how to stop ratification of the amendment. The money they spent on their first seminar was more than the grand total raised at that point by amendment supporters. Professor Jules B. Gerard of Washington University School of Law in St. Louis urged opponents to "avoid debating the merits of the issue," because "debating is a no-win proposition." He said, "Be sure you don't debate the problem, debate the amendment," because he said it was possible for supporters to argue that D.C. residents deserved some representation in Congress. 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. He also opposed allowing D.C. residents to

vote for Maryland Senators and Representatives and opposed retrocession. "The District [would be] a small carbuncle on the otherwise smooth backside of the state of Maryland," he said.

A former minority counsel to the House Ways and Means Committee member, David West, warned that if the amendment passed, D.C. would "join the eastern power structure that wants the west to remain the frontier." He said he doubted D.C. would support land development in the west, but would probably support land claims by Indian tribes for territory and water rights.

A Texas legislator attending the 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. The Palo Alto Times (August 30, 1978) attacked the amendment wording as sloppy:

"The wording is clumsy, clumsy, clumsy! The chefs who cooked up that syntactical hash never heard of the rules of parallelism. ..James Madison, roll over in thy grave! ...Under this proposed amendment, the District of Columbia becomes nothing but a nothing; it is not a thing at all. It becomes a political centaur, horned but impotent. It is not to be a state in terms of interstate compacts. Its judicial proceedings are not to enjoy full faith and credit. It gets no guarantee against domestic violence. It has no reserved powers under the 10th Amendment. It does not qualify under the 14th Amendment. ...The amendment simply is out of tune. It is a stylistic abomination. And to talk politics for a moment, as distinguished from constitutional exegesis, the effect would be to send two liberal, urban Democrats to the Senate in perpetuity, with all the foreseeable consequences in terms of treaties, filibusters, committee membership, and the like. ...The clamor for voting rights for the district's residents is the amplified bullhorn clamor of a few activists. The people of Washington have had the power to vote for president, vice president, congressional delegate,

mayor, council and School Board, and their voting turnouts have been abysmal. But if equal representation is the be-all and end-all, the answer is to cede the whole 62.7 square miles back to Maryland and be done with it."

In response to comments by Kansas Republican Senator Robert Dole's support for the amendment, Governor Meldrim Thomson of New Hampshire suspected D.C. citizens really wanted to increase their power to take more federal money: "The people of the District of Columbia draw far more in welfare dollars than we in New Hampshire. How much more would they be able to siphon out of the federal treasury if they have their own congressional delegation?" he asked (The Washington Star, August 28, 1978).

James J. Kilpatrick argued against the amendment in The Washington Star because he opposed giving D.C. the vote in the Senate (December 9, 1978). He wrote:

"If the amendment served only to give the District voting representation in the House, little opposition might have arisen. But when the proponents insisted upon the whole hog, they invited the very trouble they now are encountering. Conservatives are understandably appalled at the prospect of adding two ultra-liberal Democrats to a Senate of 100 members. Perhaps this is putting politics above principle, but so be it. This would not be the first time politics and statehood got entangled. Proponents have injected elements of racism into their campaign for ratification: Pro-amendment equal pro-black, and vice versa. But race has nothing to do with it. The certain prospect, if the amendment is ratified, is for two senators who will faithfully represent the one industry we have in our town, which is government, which is to say, the bureaucracy and the welfare state. There are other objections. This half-baked scheme would treat the city 'as though it were a state' for certain purposes, but Congress would retain power 'to exercise exclusive legislation in all cases whatsoever' involving the District. If Washington should get two senators, would they have the same privileges of other senators? Presumably so. Well,

then, would Sens. Jane Fonda and Julian Bond be able to name U.S. district judges of their own choosing? Let those who know anything at all of the lackluster federal judges of Washington think that one over for a while. The rational answer is retrocession. A small area of downtown Washington could be carved out, containing the principal government buildings. The remaining 55 square miles, more or less, could be given back to Maryland, whence they came. This would satisfy every valid demand of the proponents without violence to our federal structure. My hope is that most of the state legislatures will see it that way."

Conservatives called the amendment "nominal statehood," and argued that D.C. was already represented in the government-"they are the government," Michael Novak argued in *The Washington Star* (October 15, 1978). He wrote:

"As sinecures for wealthy candidates, the granting of two Senate seats to the District would be a disaster. Carpetbaggers the country over will descend on Washington like vultures for single-issue, single-interest pickings. In the future, any candidate who can organize-or buy-35,000 votes could win a Senate seat. The District will become the happy hunting ground for wealthy would-be Senators, a plaything for the ambitious. ... The District is not typical of America; it does not have the variety of a state. The District is a one-industry town. The interests of nearly everyone who works here are tied to a bigger, richer and more powerful government. The District belongs to statist. The interests of the District of Columbia are in this sense directly antagonistic to those of the 50 states. The District benefits by every shift of power away from the states toward Washington.

The District "is already the only inflation-proof city in the nation. It is, in fact, wealthier per capita than any state in the Union except Alaska, far ahead of California, New York, and Connecticut. In sum, the 50 states should vote against a Constitutional amendment for the District of Columbia for four 'too's.' The District is too wealthy, too factional, too statist and

too powerful in the government already. The first senators from D.C. are likely to be white millionaires."

Meanwhile, in 1978, proponents attended the Democratic Party's midterm convention in Memphis to press their case. But proponents suffered from behind-the-scenes rivalry between Delegate Walter Fauntroy and the Coalition for Self-Determination for D.C., a Common Cause-backed group. One observer commented that proponents were "over-leadered and under-financed" (The Washington Star, December 6, 1978). The Coalition, which wanted to show that the drive was by a broad-based group, felt that a black elected Democrat with self-interest in running for a voting seat in the Senate did not convey the proper image for the ratification drive, while Fauntroy felt he should lead the fight after leading the successful ratification fight in Congress.

Fauntroy criticized friends of the amendment for moving out in front without having done the necessary groundwork. He said proponents in the states didn't understand that it took months of preparation and training. He said the reason the amendment went through Congress was that there was broad support that transcended race, party, and sectionalism, and proponents had a carefully researched plan for moving it through the House and Senate-elements that didn't exist in the states in 1978. William Raspberry (The Washington Post, November 29, 1979), quoted Fauntroy:

"A lot of people-all of them local-have criticized me for being too visible in the fight, for attracting too much attention to the fact that Washington is a black, mostly Democratic city. They tell me that we ought to be sending someone like a white oil man from Texas instead of someone who might conceivably be interested in running for a Senate seat. That misses the point. The point is that there are four basic interests antithetical to our being represented in Congress. They are rural interests, who assume we will elect people with an urban commitment; conservatives, who assume we will elect progressive-minded people; Republicans, who

assume we will elect Democrats; and racists, who assume we will elect blacks. We have to figure out how to neutralize as many of these as possible. We can't do that from Washington, or by sending Washingtonians-including me-to testify directly before the legislatures. We have to do the kind of research that show us which are the principle elements of opposition, then select the people who have relevance to the local situation."

The Baltimore Sun strongly opposed to the amendment, to which The Washington Post responded with a point-by-point rebuttal (February 8, 1979).

Amendment proponents saw 1979 as a critical date, because some states are on two-year cycles for legislative sessions. Also, 1980 was a Presidential election year.

A pamphlet produced by Self Determination for D.C. argued that opponents of the D.C. Voting Representation Amendment made misleading claims:

* "Providing a voting member of the House is sufficient: Untrue. 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? [Note from author: the brochure did not mention the Senate's role in a Presidential impeachment.]

* "The District should be reabsorbed by Maryland: In 1788, Maryland ceded the land that is now the District to the federal government. Since then, the two political entities have evolved in separate ways. An artificial bond reuniting the two is opposed by both Maryland and the District.

* "Article V of the Constitution grants states alone the right to Congressional representation: Eminent constitutional scholars deny that Article V was intended to limit democratic representation. University

of Texas law professor Charles Alan Wright holds that Article V assured that the compromise between large and small states that led to formation of both houses 'would not be undone and that the representation in the Senate would not be put on the basis of population. That purpose is not compromised by allowing the District to have two Senators any more than it is when a new state is admitted."

Professor Judith Best argued that the amendment violated the principles of federalism, that it did not accomplish the goal it set out to address because it would not provide full and equal representation for District citizens, that it raised serious constitutional questions, and that it would make a fundamental change in the structure of the U.S. government (Best, 1984: 63).

Best argued that there is today no "indispensable necessity for a federal district," that the desire to keep one is "a sentimental attachment to an old and familiar form," and that if the District were to become part of the federal system rather than being a federal district the national government would still retain full authority over its own lands, buildings, and facilities (Best, 1984: 66). But, Best insisted Congress would need Maryland's approval to grant the District statehood, and since the 1961 Amendment granting District citizens the right to vote for President, the federal district has constitutional status, and "[d]irect conflict of a legislative act with a provision of the Constitution is unconstitutional, and a congressional act that attempts to finesse a constitutional provision is surely also unconstitutional," constituting a dangerous precedent (Best, 1984: 71). Best argued that both statehood and retrocession would have to be granted via Constitutional amendment (Best, 1984: 71).

Best said that leading proponents in Congress passed the "nominal statehood" amendment because leading proponents did not want the District to become an independent and autonomous state because they felt D.C. belonged to the whole nation (Best, 1984: 8). She

noted, "The overwhelming majority in both Houses of Congress favored national representation for the District of Columbia. The congressional debates reveal that there was near unanimity on the principle. The disagreement arose over the nature of the remedy with a division into two camps: one camp for nominal statehood and the other for retrocession. Although nominal statehood won the day in Congress, it has floundered with states" (Best, 1984: 9).

Some statehood supporters viewed the Voting Rights Amendment as an attempt to derail the statehood movement. At the same time as D.C.'s non-voting Delegate Walter Fauntroy and the D.C. League of Women Voters sought ratification of the amendment, the D.C. statehood movement argued that the only way for D.C. to achieve self-determination was either statehood or retrocession. They said a Voting Rights Amendment addressed only some of the issues, and could be reversed.

Indeed, by 1980, the Voting Representation Amendment stood in doubt with only nine of 38 states needed having ratified the bill. Very few resources were put into the effort. Mary Jane DeFrank, working this issue for the League of Women Voters, commented on the difficulty of lobbying fifty state legislatures who knew little-and many seemed not to care-about the issue. She said that when she would tell them D.C. didn't have voting representatives in Congress, they would say 'what are you talking about?' and ask what that had to do with them. D.C.'s 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).

The mood of the nation had moved in a conservative direction as Ronald Reagan was elected President. A new conservatism and anti-government feeling swept the nation, and Washington, D.C.-the federal government that is rarely distinguished from local D.C.-was targeted as the enemy of the people. Increasingly, Congressional conservatives, such as Orrin Hatch of Utah (who wrote the Forward to Judith Best's book)

framed the District as a parasite of the federal government, an area that produces no wealth but that takes it from working people from the states (Diner, 1987: 65). They argued that to grant D.C. voting representation was to support big government (Diner, 1987: 65).

According to the Northwest Current (March 1-14, 1984), Community Connections Corporation conducted a telephone survey of 307 District residents in February 1984. The D.C. Coalition for Self-Determination composed of over 60 local and national groups, released the poll showing 77% said they supported "an amendment to the Constitution that would give the District of Columbia voting rights in the U.S. Senate and House of Representatives." Seventy-one percent said they felt "strongly" that the District should have congressional representation. Six percent felt strongly opposed, and 23% didn't have a strong feeling on the issue.

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.

In 1993, the House Democratic majority granted D.C. and the non-voting delegates from the four U.S. territories a symbolic vote, the right to vote in the Committee of the Whole of the House of Representatives, unless the vote changed the outcome. In that case, the vote would be recounted without the delegates. D.C. Delegate, Congresswoman Eleanor Holmes Norton, submitted a legal memorandum that prompted the change. The U.S. District Court and the U.S. Court of Appeals both upheld this vote after House Republicans filed a lawsuit. This vote allowed the District to vote on most of the business that comes to the floor of the House of Representatives.

Republicans took away the delegate's votes when they won the House of Representatives in 1994, because they

said it added five Democratic votes. Norton has lobbied since to revive the D.C. delegate's limited vote. In 2000, Thomas M. Davis III (Republican) of Virginia, chairman of the House Government Reform subcommittee on the District, and Constance A. Morella (Republican) of Maryland, vice chairman of the House Rules Committee, joined Norton in support of the return of D.C.'s symbolic vote.

Because hopes for statehood appear to be severely diminished after the 1997 Congressional takeover of the District's judicial functions, Timothy Cooper, President of Democracy First, advocated an Equal Rights Amendment (not a more limited Voting Rights Amendment) in Legal Times (May 26, 1997). Professor Charles Wesley Harris had also discussed this approach in his book, "Congress and the Governance of the Nation's Capital: The Conflict of Federal and Local Interests" (1995). For discussion purposes, Cooper, Harris, and I drafted language for a DC Equality Amendment.

D.C. Equality Amendment Proposal

An Amendment for Equal Constitutional Rights for U.S. Citizens Residing in the District of Columbia

Draft Text 06/04/2002

For purposes of discussion only, the language of an equal constitutional rights amendment for D.C. residents is set forth as follows:

Section 1. All US citizens who are permanent residents of the District of Columbia shall be treated as residents of a state for all constitutional intents and purposes, enjoying those same rights, powers and privileges as the people of the several states, including:

The right to equal representation in the House of Representatives [under Article 1.]

The right to equal representation in the U.S. Senate [under the Seventeenth Amendment.]

The right to a republican form of government [under Article 4.]

The right to all Constitutional powers and privileges [under the Tenth Amendment.]

The right to equal protection [under the Fourteenth Amendment.]

The right to elect equal electors for President and Vice President [under Article 2.]

Section 2. Congress shall limit its power to exercise its "exclusive legislation" over the District of Columbia under Article 1, Section 8, paragraph 17 of the constitution to the following geographical areas, except in the case of a compelling national interest:

The National Capital Service Area (NCSA) (defined).

All foreign embassies and missions.

Section 3. The Federal Height Act of 1910 shall remain in full force and effect, unless amended, modified, or repealed by Congress.

Section 4. General services may be provided to the federal government by the District of Columbia government on an as needed basis on such terms as are mutually satisfactory to the parties. Nothing shall prevent the federal government from compensating the District of Columbia in the form of a payment in lieu of taxes for revenues foregone as the seat of national government.

Section 5. The federal government shall continue to hold jurisdiction over and provide for the District of Columbia's courts and correctional facilities, until such time as the District by mutual agreement with Congress shall pay for and administer these facilities. At such time, they shall come under the exclusive authority of the District of Columbia government.

Section 6. The twenty-third article of amendment to the Constitution of the United States is hereby repealed.

Section 7. Congress shall have the power to enforce this article by appropriate legislation.

This amendment would give D.C. citizens rights equal to those living in states without making the District into a state, include full voting representation under Article 2 of the Constitution and the 17th Amendment, the right to a republican form of government under Article 4, the right to 9th and 10th Amendment powers and privileges, and the right to equal protection under the 14th Amendment.

Considering the history of amendments related to D.C., it is clear that Congress has not demonstrated interest in reducing its exclusive legislative control, despite the fact that Congress does not need to disenfranchise D.C. residents to have a safe and secure Capital District. In addition, Republicans in Congress see little value in adding D.C. votes in Congress, because D.C. Congressional votes would likely favor the Democratic Party.

Some in local D.C. oppose an amendment because it would be less than equal to the rights enjoyed by citizens living in a state ("not a whole loaf"), and it could be reversed. Attorney George LaRoche believes it will be problematic to become a state if another amendment is passed.

Former Mayor Marion Barry argued that a Constitutional amendment would be doomed. He pointed out that the Constitution has rarely been amended and felt getting two-thirds vote from both houses of Congress and three-fourths of all states (38 of 50) to ratify it would be insurmountable (Meyers, 1996: 190). Congressman Tom Davis (Republican) of Virginia said that "half the states did not even want to hold a hearing on it" (Meyers, 1996: 190). Nevertheless, after the courts ruled against D.C. in the two lawsuits, Congressman Tom Davis again proposed a Constitutional amendment to

grant D.C. a voting member of the House of Representatives, but not in the Senate. The proposal has generated limited interest. An amendment limited to voting rights in the House only would leave too many other problems unsolved and could make further gains more difficult.

Nationally representative opinion polls that I conducted in 1999 show widespread support for equal rights-in both the Senate and the House. My research also showed there is widespread support for allowing residents of D.C. to elect their own local officials, like in other areas. I would support an Equal Constitutional Rights Amendment, because there is no compelling reason why permanent American citizens who live in D.C. should have fewer Constitutional rights than American citizens who live in states. D.C. needs an Equality Amendment.

Such an amendment would be tremendously hard to pass and would require a significant amount of resources. Nevertheless, my research suggests that an Equality Amendment could be more politically persuasive to the U.S. public than statehood or retrocession.

The risk of an amendment is that, regardless of how well intentioned it begins, members of Congress will work to dilute its language to the lowest common denominator for expedient passage. And, if there is not local unity, the amendment would likely fall flat during the ratification process. Therefore, D.C. must have unity of purpose before pressing for any amendment proposal. And, D.C. will need to spend years laying the groundwork in educating the American public about the need and benefits of such an amendment. Perhaps in the process, it would be determined that D.C. should indeed become an independent state. But D.C. residents should draw the line on how much compromise they would accept in an amendment. There are no compelling reasons to retain third class citizens in the nation's Capital District.