VOTING REPRESENTATION IN CONGRESS

HEARING

BEFORE THE

SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA

OF THE

COMMITTEE ON
GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

JULY 19, 2002

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VOTING REPRESENTATION IN CONGRESS

FRIDAY, JULY 19, 2002

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 12:13 p.m., in room 2154 Rayburn House Office Building, Hon. Constance A. Morella (chairwoman of the subcommittee) presiding.

Present: Representatives Morella, Norton, and Watson.

Staff present: Russell Smith, staff director; Heea Vazirani-Fales, counsel; Robert White, communications director; Matthew Batt, legislative assistant/clerk; Shalley Kim, staff assistant; Jean Gosa, assistant minority clerk; and Cheryl Williams, legislative assistant.

Mrs. MORELLA. Good afternoon. The Subcommittee on the District of Columbia is called to order for the purpose of conducting our hearing on voting representation in Congress.

I want to welcome all of you, the witnesses and interested parties, and Ms. Norton who is the representative for the District of Columbia, and our ranking member. And I think Representative Watson from California has planned to be here.

Since we don't have votes this morning, this is what happens with this subcommittee. When there are no votes, then the ranking member and I carry on in absentia, and they get all of the information from the hearing.

I certainly want to encourage opening statements and testimony to be presented within a 5-minute period, maybe even less. And, of course, people can summarize their testimony, and we include it all verbatim in the hearing record.

And, without objection, we're going to hold the record open for 5 legislative days to receive any pertinent material or written testimony regarding the topic that we hear from interested parties. And so ordered.

We have had testimony from the District of Columbia Shadow Senator, Paul Strauss, and, without objection, it will be included in the record.

[The information referred to follows:]

STATEMENT OF SENATOR PAUL STRAUSS

SHADOW UNITED STATES SENATOR ELECTED BY VOTERS

OF THE DISTRICT OF COLUMBIA

BEFORE

THE UNITED STATES HOUSE

COMMITTEE ON GOVERNMENT REFORM,

DISTRICT OF COLUMBIA SUBCOMMITTEE

REGARDING VOTING REPRESENTATION IN CONGRESS FOR

CITIZENS OF THE DISTRICT OF COLUMBIA

July 12, 2002

Introduction

Good morning Chairwoman Morella, Congresswoman Norton, and Sub-Committee Members, thank you for the opportunity to present this testimony for the record. As an elected representative, it is my responsibility and duty to voice the concerns of my constituents in the District of Columbia. I am pleased to have the opportunity to voice my stance on this issue. In addition to the fine work Congressional Delegate Eleanor Holmes Norton -- distinguished Ranking Member of this Sub-Committee -- does on a daily basis to best represent the citizens of the District, the D.C. residents also elect a 3 member Shadow Congressional Delegation that includes one U.S. Representative and two U.S. Senators.

Voting representation for D.C. involves issues of fairness; equality; democracy and civil rights. All of which have been guaranteed under the Constitution to citizens of this nation. However, at this time the citizens of D.C. are denied the same basic rights that citizens of all other states in the U.S. enjoy. I find it ironic that the citizens of our nation's Capital are deprived of their basic constitutional rights of representation while the U.S. touts itself as the most democratic nation in the world.

My office receives correspondence daily from the residents of the District asking for assistance on a range of issues concerning them and the District in which I have limited power and authority to resolve. Compared to America's 50 other recognized states I can only listen and empathize with their frustrations because their voices will not be heard in the Senate. The restrictions placed on my position in office tie my hands in offering the assistance my constituents need, deserve, and are unconstitutionally denied. I encourage my citizens to empower themselves to campaign for this cause and find

alternate methods to express their thoughts and concerns in the public arena. For example, D.C. citizens and political activists expressed their concerns by lobbying all 100 senators on D.C. Lobby Day on May 15, 2002. Although certainly not the first time D.C. residents lobbied the Senate, this lobbying opportunity was joined by organizations such as D.C. Vote, Stand Up for Democracy, Leadership Conference on Civil Rights, and People for the American Way, (which are also organizations that we work closely with to meet our goal of D.C. representation in Congress). This successful lobbying effort resulted in 12 co-sponsors of the bill S.603. As you know, there is a companion bill to S.603 in the House, H.R. 1193. H.R. 1193 has 117 co-sponsors.

A more recent event that illustrated D.C. citizen and activist support for voting representation was demonstrated by D.C. citizens, activists, and members of various aforementioned organizations, and myself, at the Declaration of Reunification to Queen Elizabeth II on July 3, 2002. Citizens of the District gathered as a community outside of the British Embassy for this historic event. This public outcry and symbolic gesture for representation, however, was not of course a serious proposal to reunify with Great Britain but instead, a proposal to fully join the United States. The District of Columbia requires the United States government to recognize and affirm our nation's capital as the 51st state with the same rights and representation that citizens in all 50 states enjoy.

Throughout our fight to receive voting representation for D.C. citizens, many options have been discussed to meet this goal. I am pleased to know that in this hearing many of these options will be discussed. In my testimony, I want to discuss many of the different options further, to better access and address the most efficient way to meet the voting needs of D.C. citizens. In addition, I am also pleased that this hearing will include

a genuine bipartisan flavor, for if we are truly going to get full representation in Congress for the proud citizens of D.C. we need to work together, Democrats and Republicans.

Viable Options

Some of these viable options include: Statehood, passing a constitutional amendment; passing a voting rights statute; and even retrocession -- the State of Maryland or another state has been deliberated as options to allow for voting representation for the citizens of the District of Columbia.

Statehood

The questions of Statehood are the only options that have been expressly endorsed by D.C. residents. It remains the preferred means to grant D.C. full federal voting rights. Although there are other options to grant D.C. voting rights, Statehood is the only method that grants the District of Columbia full self-determination and the other services that every other American citizen should enjoy. Without Statehood, even if Congress grants full federal representation problems would still exist. D.C.'s elected officials still would not have plenary power over all aspects of local governance such as: control of the budget, control of the prosecution and the court system, the improvement for crimes, the power to deny the city a commuter tax, and to be able to pass laws in contravention of the will of D.C. citizens. Congress should not ignore these major differences. Full Statehood is more than just voting representation for D.C. citizens and elected officials and should become more of a question of democracy, fairness, and economic survival. The Founding Generation implicitly stated that these are basic, fundamental rights that should be deemed to every citizen. To have an issue that is the denial of basic voting rights is utterly demeaning. It undermines the constitutional rights granted to every U.S. citizen,

and as a result it insults the democratic American way and the integrity of the American people.

Retrocession

The issue of the retrocession of the District of Columbia with the state of Maryland has been proposed to permit voting rights for D.C. citizens. The District of Columbia is unique in many ways, especially in its role as the nation's capital and these distinctions should not be overlooked by integrating this area into another state's jurisdictions in an effort to solve the problem of insufficient representation superficially. The border between Maryland and the District dates back to the creation of the District as the nation's capital during the Adams Administration. Therefore, retrocession is a bad idea for the citizen of the District of Columbia and the state of Maryland.

The Question of a Constitutional Voting Rights Amendment or a Federal Statute

Other options that have been discussed, in order to permit voting representation for the citizens of D.C., are passing an amendment or statue. I believe that Jamin Raskin, Professor at Washington College of Law, has effectively rebutted arguments for a Constitutional Amendment when he stated, in a Senate Hearing last month, that passing a statute is a more viable answer to the D.C. voting rights issue. Mr. Raskin proclaimed in his testimony that an amendment is not the required path to achieve D.C. voting rights, rather, having the congress pass a statute to rectify this injustice is the more appealing way to go. For example, Professor Raskin's analysis of the District Clause contained in Article I, Section 8, Clause 17, makes clear there is ample authority permitting a statute for D.C. voting rights. In this specific clause, Congress is granted power to "exercise

exclusive legislation in all cases whatsoever, over such district as may, be cession of particular states, and the acceptance of Congress, become the seat of the government of the United States."[1] This in short, grants Congress power to give citizens in the District of Columbia voting rights among other things, if it wishes to do so. Although D.C. is not yet a state, Congress treats the District explicitly as though it were a recognized American state for just about every purpose but continues to exclude the most democratically important issues confronting the District. For example, these injustices regarding the Districts exclusion of voting rights quandary is embodied in the fact that the residents of the District of Columbia are treated like any other citizen residing in their respective state -- they pay the second highest per capita income tax in the nation. In addition, D.C. citizens pay more total income taxes than do the residents of 7 other states, as well as more per person than the residents of 46 other states. Moreover, the District comprises a larger population than other admitted states, such as Wyoming, which as the result of the incumbent Vice President, actually has 3 members in the U.S. Senate. Furthermore, D.C. citizens have consistently served in the U.S. military and have fought in America's most important wars. Rather like every other state D.C. sacrificed.many lives in fighting for the very freedoms and liberties that they have been deprived. Throughout the world, our nation has been the supreme champion of democracy. While we conduct diplomacy with the mission to spread global democracy we still deny the fundamental liberties of democracy to the citizens in the seat of our nation's capital.

There are many key reasons why passing an amendment is not an imperative option for Congress when dealing with D.C. voting rights. Even though it may be more

[1] U.S. Const. Art. I, sec.8, cl. 17

stable, since it is harder to repeal an amendment than a statute, it still can be altered to fit the needs of the states. The fact that it would need to be ratified by three-fourths of states, and two-thirds vote by both houses of Congress, may cause many unnecessary obstacles in the battle to grant D.C. citizens their legitimate voting rights. We need to realize if the D.C. Voting Rights bill became a statute, a justifiable alternative to becoming an amendment, it would swiftly and deservedly grant D.C. citizens their constitutional voting rights.

Economic Survival/Structural Imbalance

Despite the obstacles of governing a city with such unique characteristics and stipulations, the leaders of the District have surmounted their challenges and proved that they are worthy of full budget autonomy. We have to function with 56% of their land being non-taxable and we are expected to provide services, such as, transportation and emergency rescue to those who merely commuted to the District (whose income is not taxable). Denying statehood to D.C. residents deprives them of revenues and development that other states benefit in having. The revenue losses are estimated at some two billion a year. This "lost" money should have been re-invested in the District, in order to secure its social and economic future and more importantly it will provide D.C. with access to accumulated Federal interest by giving D.C. the economic base to pay for the State functions that the Federal government must now pay for.

When Congress has discretion over issues not concerning their own districts, such as, how local tax dollars are spent and how the children in the District are educated, Congress is removed from the important issues that confront the D.C. constituents. Even such mundane matters as street names, trash collecting schedules, and taxi cab fares, D.C.

elected officials must still resort to the discretion of those in Congress to get approval. As U.S. Representative David Bonior once professed, " If they want to pass a new law, they have to come to us. If they want to set new hours for garbage collection, they have to check with us first... Just because we pay rent -- and a very skimpy rent -- for the land, it does not give us the right to act like the feudal overlord..."

The District's elected officials are capable and have exemplified their outstanding discretion and ability to prevail when confronted with a depletion of resources and deprived circumstances. It is not only just, but it is necessary, that D.C. citizens be represented by officials who understand the intrinsic nature of the conditions and the people that exist within their respective society. It seems only fair that the people whom reside within the nation's capital are given not only full-representation but also other resources that come along with the functioning's of a state.

Fairness

Many leaders have proclaimed of the profound injustice of this issue, yet a resolution has still not been achieved. For example, President Bill Clinton has stated that "It is fundamentally unfair that the residents of the District are denied full representation and participation in our national life. It is equally unfair that they are denied the self-government enjoyed by the 50 states and 4 territories." The District of Columbia, as the nation's capital does not embrace nor portray the great freedoms and liberties that our country has to offer and the residents of our nation's capital are deprived of the most protected freedoms and liberties written under the constitution. We are the only nation -- of 115 nations with elected legislative officials -- which denies the people in our capital basic voting rights. Even Australia and Mexico, who also treat their capitals as separate

entities, still acknowledge that their citizens deserve voting representation. Most states allow convicted felons greater voting rights that the law-abiding citizens of the District. For example, in Texas, convicted felons are allowed to vote for Congressional Representatives after they have completed their incarceration. Furthermore, in the past we have pressured other countries to grant full voting rights representation to the citizens of their respective capital cities. In 1945, for example, the U.S. government pressured President Getulio Vargas to give full representation to the citizens residing in the capital of Brazil, Rio de Janeiro. How can we have pressured other governments to grant voting representation to their capital cities, but the U.S. Congress continues to deny representation to citizens of its own nation?

"Taxation without Representation"

I thank you Congresswoman Norton, and the other co-sponsors, for your support on this imperative issue. Although this hearing was on the broad topic of D.C. Voting representation and not on a specific bill, let me take a moment to briefly discuss the House Bill H.R. 1193, "Taxation without Representation." This bill discusses the "either or" notion that either D.C. citizens should be granted voting rights, or they should be exempted from federal taxes. We hoped this provision would steer the Congress to the heart of this core issue: that there are tax-paying citizens in the United States who are being denied their Constitutional rights. The citizens do not have a problem with paying taxes; they have a problem with the denial of voting representation.

Having achieved its symbolic purpose, and secure in the knowledge that our point has been now made, the time may be here to simply eliminate this alternative aspect "no taxation" position and allow the bill to move forward on the exclusive issue on voting

representation. Initially, I was supportive of the "no taxation" clause in H.R. 1193, but ultimately I became concerned with this language was becoming a distraction that might impede our success in attaining D.C. voting representation. Even though most members have recognized that this no taxation proposal is mere rhetoric, too many other members have expressed their confusion and skepticism for co-sponsoring this bill because of the declarative statement "residents of the District of Columbia shall be exempt from Federal income taxation, until such full voting representation takes effect.

The taxation clause in H.R. 1193 must be reviewed in entirety to access its influence on granting representation for D.C. citizens. Since the goal of this is that the bill is to help grant D.C. citizens representation, it is a fair question as to why this "taxation" clause is such an imperative addition to this bill? In reality, it has no real bearing on the D.C. voting rights issue, then why not just take it out? Moreover, if presented as a civil rights issue instead of a financial one, more congressional members would be willing to co-sponsor. Perhaps, that is the reason why the Chairwoman of this Sub-Committee has not chosen to co-sponsor it.

In the past, the issue of D.C. Voting Rights has been viewed as bipartisan (the 1978 attempt to grant D.C. Voting both Republicans and Democrats vehemently supported Rights). For instance, in 1978, Senator Robert Dole (R-Kansas) stated "The Republican Party supported D.C. voting representation, because it was just, and in justice we could do nothing else." As I recall, the State of Maryland was one of the states that ratified a Constitutional Amendment during that same time that, if ratified by enough states, would have granted voting rights for D.C. The distinguished chairwoman of this committee, then a Maryland State Legislator, voted for the amendment.

So why not repeat history and remove this bill from its dissuasive element, the taxation clause, and give the fair chance and bipartisan support it deserves?

Conclusion

I would once again like to thank Chairwoman Morella and Ranking Member Norton for bringing attention to this pertinent issue. I would like to further state that permitting D.C. voting rights is imperative and needs to be accessed in order to give full representation for D.C. citizens. We can not tolerate injustice to go on, D.C. citizens deserve a voice in Congress, and should not be denied the liberties that this country has been founded on. So, please, I implore you to direct your attention to this matter, and immediately rectify these injustices, and grant D.C. citizens their constitutional rights. In closing let me thank two members of my legislative staff Matt Helfant and Kelly Frame, for their valuable assistance in preparing this testimony. I would be happy to respond to any questions that the Committee would like to submit.

Mrs. MORELLA. Now for just some opening comments. It goes without saying that the United States is the world's premier representative democracy. The U.S. Constitution, forged 215 years ago by some of the sharpest political minds who ever lived, remains today a model for the rest of the world in establishing a government of the people, by the people, and for the people.

One of our framer's innovations was the creation of an entirely new entity, a Federal district to house the Nation's Capital and to give Congress exclusive control over that district.

This was done for various reasons, chiefly to protect the new Capital from unfriendly domestic forces and to insulate it against the pressures of local political officials. In the late 18th century, when less than 4 million people lived in the entire country and less than 30,000 souls lived in present-day Washington, DC, and there was a legitimate fear of violent opposition to a strong central government, these protections were certainly prudent. Now much has changed since 1787, however. America now stretches from coast to coast, with a population approximating 300 million.

The post-World War II building boom completed Washington, DC's transformation from a sleepy village to a budding metropolis. That evolution continues as we now recognize Washington as a prosperous urban center with 570,000 residents, dozens of vibrant and distinct neighborhoods, and many schools, hospitals, museums, theaters, and historic attractions and, of course, still no voting representation in either house of Congress.

The original reasons behind the Nation's Capital not having a vote in Congress are no longer valid. This lack of voting representation runs counter to everything America stands for: freedom, democracy, and a government that exists only through the consent of the governed. It is a historic injustice that I believe has to be corrected.

To me it seems inevitable, inevitable that the citizens of the District of Columbia will some day, 1 day, have voting representation in Congress. Others may and do disagree. They believe the District already is represented in Congress by the 535 Representatives and Senators who retain final authority over all aspects of District government. And having lived in this area for more than 40 years, having started out in the District of Columbia and having served several years on this subcommittee, I would submit that it is not nearly good enough for the people of Washington, DC. Congressional oversight is no substitute for voting rights.

I want to pause here to commend the woman on my right, Congresswoman Eleanor Holmes Norton, and one of the gentleman sitting before us, Shadow Representative Ray Browne, as well as many, many others who have worked so diligently on this issue.

I believe that you're taking the exact right path in this process, raising public awareness and educating the American people about the District's lack of voting representation, a lengthy but necessary first step.

And if it is to be successful, the push for D.C. voting rights cannot come from inside the city alone. The District needs as many partners in this effort as possible, and that is why Mr. Browne has criss-crossed the country to press the District's case to various local officials, and that is why Congresswoman Norton's taxation-with-

out-representation proposal was such a creative way to raise the profile of this issue.

This hearing I hope will assist us in determining where do we go from here. The District of Columbia Subcommittee does not have jurisdiction over voting rights bills. That task falls to the House Judiciary Committee, but we as a subcommittee and myself personally have an acute interest in voting rights for the District of Columbia, as we do in all matters that shape the Federal-local relationship.

I will remind the audience that this subcommittee has passed a bill, introduced by Congresswoman Norton and myself, to return local budget autonomy to the District of Columbia, which would give the city power over its own purse strings. Budget control, it seems clear to me, is another fundamental right.

In 1978, both houses of Congress passed a proposed constitutional amendment to treat the District of Columbia as a State for the purposes of voting representation in both the House and the Senate. I had the privilege of serving in the Maryland General Assembly when the measure was considered there, and I'm proud to say that I voted in favor of the amendment which got through the Maryland assembly by just one vote in each house in 1980.

Maryland, however, was one of just 16 States to approve the amendment before the 1985 deadline. Then as today, there was a serious question of whether D.C. voting representation required a constitutional amendment or whether it could be done through simple Federal legislation. In recent years, provocative legal arguments have been made in support of the legislative option. To simplify these arguments, use the language in Article I, section 8 of the Constitution, which gives Congress the power to, "exercise exclusive legislation," over the Capital, as well as the fact that Congress can grant the District statehood, to conclude that Congress can exercise its legislative authority to give the District voting rights in Congress.

However, elsewhere in Article I, the Constitution is explicit. "The House of Representatives shall be composed of Members chosen," ellipsis, from the several States," And, "The Senate of the United States shall be composed of two Senators from each State."

It seems obvious that the District of Columbia is not a State, and thus Congress's legislative power would have no bearing on the District's voting representation in Congress. But I know that there are those who are here today who will argue, and argue forcefully, that this interpretation is incorrect or at least incomplete.

We have a distinguished panel before us. I look forward to hearing their perspectives on this important matter.

And I now would like to recognize the distinguished ranking member of this subcommittee, Congresswoman Eleanor Holmes Norton.

[The prepared statement of Hon. Constance A. Morella follows:]

CONSTANCE A. MORELLA
8TH DISTRICT, MARYLAND

COMMITTEE ON GOVERNMENT REFORM
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SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
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OPENING STATEMENT OF
CHAIRWOMAN CONNIE MORELLA

GOVERNMENT REFORM SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
"VOTING REPRESENTATION IN CONGRESS"
JULY 19, 2002

It goes without saying that the United States is the world's premier representative democracy. The United States Constitution, forged 215 years ago by some of the sharpest political minds who ever lived, remains today a model for the rest of the world in establishing a government "of the people, by the people and for the people."

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Much has changed since 1787, however. America now stretches from coast-to-coast, with a population approaching 300 million. The post-World War II building boom completed Washington, D.C.'s transformation from a sleepy village to budding metropolis. That evolution continues, as we now recognize Washington as a prosperous urban center with 570,000 residents, dozens of vibrant and distinct neighborhoods, and many schools, hospitals, museums, theaters and historic attractions.

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Others may, and do, disagree. They believe the District already is represented in Congress, by the 535 Representatives and Senators who retain final authority over all aspects of the District government.

Having lived in this area for more than 40 years, and having served several years on this Subcommittee, I would submit that is not nearly good enough for the people of Washington, D.C.

Congressional oversight is no substitute for voting rights.

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In 1978, both houses of Congress passed a proposed Constitutional Amendment to treat the District of Columbia as a state for the purposes of voting representation in the House and Senate. I had the privilege of serving in the Maryland General Assembly when the measure was considered there, and I am proud to say that I voted in favor of the Amendment, which got through the Maryland Assembly by just one vote in each house in 1980. Maryland, however, was one of just 16 states to approve the Amendment before the 1985 deadline.

Then, as today, there was a serious question of whether D.C. voting representation required a Constitutional Amendment or whether it could be done through simple federal legislation. In recent years, provocative legal arguments have been made in support of the legislative option.

To simplify, these arguments use the language in Article I, Section 8 of the Constitution, which gives Congress the power to "exercise exclusive legislation" over the Capital, as well as the fact that Congress can grant the District statehood, to conclude that Congress can exercise its legislative authority to give the District voting rights in Congress.

However, elsewhere in Article I the Constitution is explicit: "The House of Representatives shall be composed of Members chosen … [from] the several States"[1] and "The Senate of the United States shall be composed of two Senators from each State."[2]

It seems obvious that the District of Columbia is not a state, and thus Congress's legislative power would have no bearing on the District's voting representation in Congress. But I know there are those here today who will argue, and argue forcefully, that this interpretation is incorrect, or at least incomplete. We have a distinguished panel before us, and I look forward to hearing their perspectives on this important matter. Thank you.

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[1] The Constitution of the United States: Article I, Section 2
[2] The Constitution of the United States: Article I, Section 3

Ms. NORTON. Thank you, Madam Chair. I thank our Chair, Representative Connie Morella, for graciously agreeing to today's important hearing on H.R. 1193, the No Taxation Without Representation Act, to secure voting rights for the citizens of the District of Columbia.

The District's efforts to secure full voting representation have gained important new momentum this year. This momentum is manifest in recent progress. This hearing follows on the heels of a Senate hearing marking the first voting rights hearing in both houses in a quarter of a century.

The Senate hearings were led by the Chair of the Government Affairs Committee and chief Senate sponsor of the bill, Senator Joe Lieberman. Before the Senate hearing, Senate Majority Leader Tom Daschle, a cosponsor of the No Taxation Without Representation Act, met with D.C. elected officials and business leaders. Of particular significance, a new national D.C. Voting Rights Coalition, consisting of national and local organizations, has been formed and held the first citywide Voting Rights Lobby Day in the Senate in May.

The Coalition is the first union of local and national organizations for D.C. voting rights. Among its member organizations are the almost 200-member Leadership Conference on Civil Rights, People for the American Way, Common Cause, D.C. Vote, and Stand Up for Democracy.

The Lobby Day Coalition has been very effective, taking the issue to the national level, as well as stirring increasing enthusiasm for voting rights locally. Together these events in a single year mark more activism on D.C. voting rights than there has been since the statehood hearings in a vote almost a decade ago.

In the House even before this hearing, there has been progress on H.R. 1193. Following its introduction, I was able, easily, to get 111 Democrats, more than half of the Democrats in the House, signed on as cosponsors as an incentive to residents to get the rest of the Democrats during Lobby Day.

However, the Lobby Day Coalition preferred to concentrate lobbying and activity in the Senate this year because of Democratic support for the bill there. Today's witnesses, some of whom the public has not heard before, are in a unique position to describe the damage to the city, to city residents, and to city businesses when deprived of the representation in Congress that other American citizens have found indispensable.

The District's elected officials live every day with truncated representation that makes it more difficult and more costly for them to handle local affairs and to resolve the many local problems that have Federal content. Their counterparts in every city and State have, minimally, two Senators and a Representative, comprising a congressional delegation that in and of itself significantly enhances their chances for relief and resources over the District, which lacks the vote in both Houses.

The absence of D.C. voting representation is particularly reprehensible considering the unique intrusion compelled by the District of Columbia in insisting that the city's balanced budget and all its laws come to the Congress before becoming effective. The District's representative must then stand aside while every Mem-

ber of the House and the Senate, except the District, gets to vote on the District's local budget and laws.

Today, however, we will not only hear testimony concerning the direct effect of these disabilities on residents, among those also testifying will be witnesses who are not elected officials but are harmed as much as those for whom the public has heard most often in the past.

We especially welcome Betsy Warrenton of the D.C. Republican Party who speaks for thousands of Republicans who live in the city and who no more appreciate the denial of representation than their fellow citizens who are Democrats.

In addition, there may be some who aren't aware that our business community supports voting rights and is uniquely disabled by its denial. The Greater Washington Board of Trade has long supported voting rights. Its position has become outspoken under the leadership of the new President, Bob Peck. Mr. Peck was part of the delegation that recently visited Majority Leader Tom Daschle before the Senate hearing. John Derrick, the CEO of Pepco, one of the District's major employers, was also part of the delegation pressing for voting rights.

Shadow Representative Ray Browne has a unique story that brings great honor to his diligence and his role as an elected D.C. official. The Council authorized the Shadow delegation when the District strategy was full statehood in order to mirror the actions of some States in sending a Shadow congressional delegation to Washington to lobby for statehood.

I sponsored the new Columbia Admission Act, and in 1993 persuaded the House leadership to allow me to take the matter to the floor, where we had a 2-day statehood debate followed by a vote which received a large majority of the Democrats and one Republican.

However, a few months later, the District became insolvent. To recover its financial standing, city officials turned over the financial responsibility for its most costly State functions to the Federal Government. Although there is still strong support for statehood among many residents, the city cannot qualify to become a State under the Constitution until its revenues allow the District to again take fiscal responsibility for the same State functions other States carry.

Today, most D.C. residents support voting rights, including many statehood advocates who see voting rights as an obtainable achievement on the way to statehood.

In the face of obstacles that undermine the function of the statehood delegation, statehood Representative Ray Browne deserves enormous credit for making lemonade out of lemons and giving meaning to an office that was robbed of its function when statehood became impossible. Representative Browne has preferred not to profile himself, but to amass a record of achievement.

Although his work is mostly unknown and therefore underappreciated by the public, I look forward to Representative Browne's testimony considering the unique effectiveness of his efforts that I hope others will follow.

All of today's witnesses are important to the District's democracy goals. These and other new and diverse voices are essential if the

city is to attain its full and equal rights. We are unlikely to achieve our rights unless the labor, business, local government, and nonprofit sectors join residents in vigorously and systematically pressing for the same cause.

This unity of purpose is what the city is clearly achieving not only in this hearing but also in the many energetic strategies to achieve our rights now being used across the District.

Today's witnesses are an important indication that voting rights for our citizens has united the people of the District of Columbia like no other cause or issue.

I welcome today's witnesses for the contribution each of them is making to the achievement of our rights. Thank you, Madam Chair.

Mrs. MORELLA. Thank you, Congresswoman Norton.

[The prepared statement of Hon. Eleanor Holmes Norton follows:]

ELEANOR HOLMES NORTON
DISTRICT OF COLUMBIA

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEES

AVIATION

ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

COMMITTEE ON GOVERNMENT REFORM

SUBCOMMITTEES

RANKING MINORITY MEMBER, DISTRICT OF COLUMBIA

CIVIL SERVICE AND AGENCY ORGANIZATION

Congress of the United States
House of Representatives
Washington, D.C. 20515

Opening Statement of Congresswoman Eleanor Holmes Norton
D.C. Subcommittee Hearing on the No Taxation Without Representation Act of 2001

July 19, 2002

I thank our Chair, Representative Connie Morella, for agreeing to today's important hearing on H.R. 1193, the No Taxation Without Representation Act to secure voting rights for the citizens of the District of Columbia. The District's efforts to secure full voting representation have gained important new momentum this year. This momentum is manifest in recent progress. This hearing follows on the heels of a Senate hearing, marking the first voting rights hearing in both houses, in a quarter of a century. The Senate hearings were led by the chair of the Government Affairs Committee and chief Senate sponsor of the bill, Senator Joe Lieberman. Before the Senate hearing, Senate Majority Leader Tom Daschle, a cosponsor of the No Taxation Without Representation Act, met with D.C. elected officials and business leaders. Of particular significance, a new national D.C. voting rights coalition, consisting of national and local organizations, has been formed and held the first Citywide Voting Rights Lobby Day in the Senate in May. The Coalition is the first union of local and national organizations for D.C. voting rights. Among its member organizations are the almost 200-member Leadership Conference on Civil Rights, People For the American Way, Common Cause, D.C. Vote, and Stand Up for Democracy. The Lobby Day coalition has been very effective, taking the issue to the national level as well as stirring increasing enthusiasm for voting rights locally. Together these events in a single year mark more activism on D.C. voting rights than there has been since the statehood hearings and vote almost a decade ago.

In the House, even before this hearing, there has been progress on H.R. 1193. Following its introduction, I was able easily to get 111 Democrats, more than half of the Democrats in the House, signed on as cosponsors as an incentive to residents to get the rest of the Democrats during Lobby Day. However, the Lobby Day Coalition preferred to concentrate lobbying and activity in the Senate this year because of Democratic support of the bill there.

Today's witnesses, some of whom the public has not heard before, are in a unique position to describe the damage to the city, to city residents and to city businesses when deprived of the representation in Congress that other American citizens have found indispensable. The District's elected officials live everyday with truncated representation that makes it more difficult and more costly for them to handle local affairs and to resolve the many local problems that have

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federal content. Their counterparts in every city and state have minimally two senators and a representative, comprising a congressional delegation that in and of itself significantly enhances their chances for relief and resources over the District, which lacks the vote in both Houses. The absence of D.C. voting representation is particularly reprehensible considering the unique intrusion compelled by the Congress in insisting that the city's balanced budget and all its laws come to Congress before becoming effective. The District's representative must then stand aside while every Member of the House and Senate except the District gets to vote on the District's local budget and laws.

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We especially welcome Besty Werronen of the D.C. Republican Party who speaks for thousands of Republicans who live in this city and who no more appreciate the denial of representation than their fellow citizens who are Democrats. In addition, there may be some who are unaware that our business community supports voting rights and is uniquely disabled by its denial. The Greater Washington Board of Trade has long supported voting rights. Its position has become outspoken under the leadership of the new president, Bob Peck. Mr. Peck was part of the delegation that recently visited Majority Leader Tom Daschle before the Senate hearing. John Derrick, the CEO of PEPCO, one of the District's major employers, was also part of that delegation pressing for voting rights.

Shadow Representative Ray Browne has a unique story that brings great honor to his diligence and his role as an elected D.C. official. The Council authorized the shadow delegation when the District's strategy was full statehood, in order to mirror the actions of some states in sending a shadow congressional delegation to Washington to lobby for statehood. I sponsored the New Columbia Admission Act, and in 1993, persuaded the House leadership to allow me to take the matter to the floor, where we had a two-day statehood debate followed by a vote, which received a large majority of the Democrats and one Republican. However, a few months later, the District became insolvent. To recover its financial standing city officials turned over the financial responsibility for its most costly state functions to the federal government. Although there is still strong support for statehood among many residents, the city cannot qualify to become a state under the constitution until its revenues allow the District to again take fiscal responsibility for the same state functions other states carry. Today, most D.C. residents support voting rights, including many statehood advocates who see voting rights as an obtainable achievement on the way to statehood.

In the face of obstacles that undermined the function of the statehood delegation, Shadow Representative Ray Browne deserves enormous credit for making lemonade out of lemons and giving meaning to an office that was robbed of its function when statehood became impossible. Because Rep. Browne has preferred not to profile himself but to amass a record of achievement, his work is mostly unknown and therefore underappreciated by the public. I look forward to Rep. Browne's testimony, particularly considering the unique effectiveness of his efforts that I hope others will follow.

All of today's witnesses are important to the District's democracy goals. These and other new and diverse voices are essential if the city is to attain its full and equal rights. We are unlikely to obtain our rights unless the labor, business, local government, and non-profit sectors join residents in vigorously and systematically pressing for the same cause. This unity of purpose is what the city is clearly achieving not only in this hearing, but also in the many energetic strategies to achieve our rights now being used in the District. Today's witnesses are an important indication that voting rights for our citizens has united the people of the District of Columbia like no other cause or issue. I welcome today's witnesses for the contribution each of them is making to the achievement of our rights.

Mrs. MORELLA. I'm going to ask our panel to come forward: Mayor Anthony Williams, Mayor of the District of Columbia; the Honorable Linda Cropp, chairwoman of the Council of the District of Columbia; Honorable Ray Browne, Shadow Representative of the District of Columbia; Betsy Werronen, Chair of the District of Columbia Republican Party; Robert Peck, president of the Greater Washington Board of Trade; Walter Smith, executive director of the D.C. Appleseed Center; and Eugene Boyd, Analyst, the American National Government, Congressional Research Service.

I also want to point out that in our audience is Adrian Fenty, who is the ward 4 council member. Welcome.

I'm going to ask you if you could stand so I could administer the oath, which is the tradition of the full committee and all its subcommittees.

If you will raise your right hands.

[Witnesses sworn.]

Mrs. MORELLA. Thank you. The record will indicate an affirmative response. And we'll start off with the mayor, who in another guise at another time just before this hearing was at the International Spy Museum and made a dramatic jump from a rooftop. If you'll believe that, you'll believe anything, but it really did look like it was the mayor and not an impersonator. The International Spy Museaum is an intriguing attraction in the District of Columbia that I think is going to lure a lot of tourists to the area.

So we'll start off with you, Mayor Williams. Thank you.

STATEMENTS OF MAYOR ANTHONY WILLIAMS, DISTRICT OF COLUMBIA GOVERNMENT; LINDA CROPP, CHAIRWOMAN, COUNCIL OF THE DISTRICT OF COLUMBIA; RAY BROWNE, SHADOW REPRESENTATIVE, DISTRICT OF COLUMBIA; BETSY WERRONEN, CHAIR, DISTRICT OF COLUMBIA REPUBLICAN PARTY; ROBERT PECK, PRESIDENT, GREATER WASHINGTON BOARD OF TRADE; WALTER SMITH, EXECUTIVE DIRECTOR, APPLESEED CENTER; AND EUGENE BOYD, ANALYST, AMERICAN NATIONAL GOVERNMENT, CONGRESSIONAL RESEARCH SERVICE

Mayor WILLIAMS. Madam Chair, thank you for your leadership in holding this hearing, and I also want to recognize the ranking member, our own Congresswoman and our own Representative here in Congress, Eleanor Holmes Norton, both of you for conducting this important hearing on voting rights in our city.

As mayor of our city, I'm as pleased as both of you are in the diversity of the representation here. Not only are Council Chair—not only our Shadow Representative Ray Browne but our Republican Party Chair are here, our business leader Bob Peck is here, and others, all with a united consensus voice for voting representation for our city; because in fact full voting representation in Congress is a fundamental right held by District citizens, and the need for this right flies in the face of myths that I often hear and many of us often hear as we travel the country: You know, the myth that the Federal Government completely funds the D.C. government, so what is the problem? The myth that there are no real people living in Washington. I mean, that we're just some movie set or something where everyone is some Presidential appointee or Member of

Congress, so what is the problem? The myth that Washington residents already have full voting rights and complete self-government. The myth that Washington residents all have a second address, and so what is the problem?

All these are myths. They need to be rebutted because in fact, as you well know, we're a city of real, living, breathing, people. We're Americans as everyone else. We pay taxes as everyone else. We fight in wars as everyone else, and we are entitled to that most fundamental of American rights that we fought a Revolution for: voting rights.

The lack of voting rights is an economic issue in our city. While Congress has the power to impose restrictions on the city and limit our ability to tax, we will never have a level economic playing field with the status quo. More than 50 percent of our land cannot be taxed. Income earned in the city commutes and is exported to Maryland and Virginia every day. State functions such as road construction, Motor Vehicle Administration and special education must be funded not on a State's but on a city's constrained tax base.

How can we continue to grow and be fiscally responsible when the city leaders have no authority over their own finances and no representation to negotiate with congressional Members? If the District had full voting rights, our Representatives could work toward greater parity for District residents on these and other issues, and it would be good for the region, for the District, to be functioning more effectively and efficiently on an even playing field.

The lack of voting rights is a matter of justice in our city. The inability of residents to vote for voting Representatives and Senators in Congress violates their rights to equal protection and to a Republican form of government.

And in the court case of the full voting rights, *Alexander* v. *Dailey,* the Court did not determine that District citizens should not have voting rights. It determined that the Court's lack of power under the U.S. Constitution to require Congress to grant such rights.

Congress has the opportunity and the power to correct this injustice by acting now to guarantee justice by granting the citizens of the District this fundamental right.

And, last and most importantly, the lack of voting rights is a civil rights violation here in our Nation's Capital. African Americans and women and others have fought for and died for the right to vote. Yet here in the Capital of the world, the Capital of democracy, while democracy reigns supreme across the world and free markets thrive, here in our Nation's Capital, it's one of the largest blocks of disenfranchised voters in the world.

District residents are fighting for freedom right now, and we right now pay more than $2 billion a year in Federal taxes. As the world's leading and paramount democracy, it is unacceptable for our country not to grant voting rights to the residents of our Capital.

Now, in May, we had the privilege of testifying before the U.S. Senate Committee on Governmental Affairs on our voting rights issue. The time has come to recognize the contribution our residents make as a society, and to acknowledge a democracy for all as a concept that includes the District of Columbia. We've been

disenfranchised for almost a few hundred years. I don't believe the framers of our democracy intended for this to happen. This country was founded on principles, not on legalistic forms. It was founded on principles of fair and equitable treatment for all people.

Our citizens, including District citizens, fight in wars to protect these freedoms. The District shares this responsibility, and sometimes burden, because it is a privilege in our free society.

The District residents should have a voice in the laws that we live by, and that can only be done with full voting representation.

The members of this committee as well as other Members of Congress have the unique opportunity to see that the District is an attractive place to live, an historic place to visit, and an international center. How can you live, work, and enjoy this city without wondering why the District residents are not represented as the constituents Members serve at home?

I implore this committee to lead the charge in ensuring that residents of the District are no longer disenfranchised and that full voting representation in both the House and the Senate is provided. I ask you to pass the No Taxation Without Representation Act now.

And I thank you for this opportunity to be heard, and I remain here to answer any questions you may have, and this testimony in its full length has been submitted for the record. Thank you, Madam Chair.

Mrs. MORELLA. Thank you, Mayor Williams and it will be included in its entirety in the record. Thank you for being here.

[The prepared statement of Mayor Williams follows:]

GOVERNMENT OF THE DISTRICT OF COLUMBIA

EXECUTIVE OFFICE OF THE MAYOR

House Committee on Government Reform
Subcommittee on the District of Columbia

"Voting Representation in Congress"

Statement of
Anthony A. Williams
Mayor
District of Columbia

Friday, July 19, 2002
2154 Rayburn House Office Building
Noon

Good afternoon Chairman Morella, Congresswoman Norton, members of the Committee. On behalf of the more than 570,000 residents of the District, I thank you for the opportunity to speak before this Committee.

More than 200 years ago, the founders of this country fought a revolution to end the tyranny of taxation without representation. I have no doubt that the authors of the Constitution did not intend to force almost 600,000 Americans to live under that same tyranny in the 21st century. In fact, this body was established to create and amend laws as the needs of the people required. We are here today because the need has arisen and because you are vested with the power and responsibility to make sure that all Americans can exercise their rights. **Full voting representation in Congress is a fundamental right held by every citizen of the District of Columbia.** You have acted on behalf of disenfranchised women; you have acted on behalf of disenfranchised African Americans, Latinos, Native Americans, and other groups and we now ask that you act on behalf of the disenfranchised citizens of our nation's capital and pass the "No Taxation Without Representation Act."

Myths about the District of Columbia

As Mayor of the Nation's Capital, I have had the privilege of representing our city across this country and abroad. From school children visiting the monuments to athletes participating in the Olympics; from diplomatic delegations working here in the District to state and local elected officials meeting in Washington, I have been amazed at the myths and misperceptions that are held about the power and status of the District of Columbia. I would like to share just a few:

The federal government completely funds the DC Government;

There are no "real people" living in Washington;

Washington residents already have full voting rights and complete self-government;

Washington residents all have a second address and therefore have representation in another state.

To be clear about many of these and other myths, you should know that:

The budget for the District of Columbia is funded primarily by the people who live and do business in the city. Yes, the District receives some federal funding – virtually the same amount as other cities our size receive from the federal government, but not nearly at the same level required to ensure the consistent delivery of essential services and certainly not commensurate with that provided by other nations to their capital city. Almost three-fourths of our operating budget comes from local tax revenue – property tax, income tax, and business taxes. In fact, our residents are some of the most heavily taxed people in the country.

There are 572,000 "real people" living within the 10 square miles known as the District of Columbia. These are people who attend school, work, raise families, pay taxes (both federal and local), serve in the armed forces, and in many parts of the District live on fixed incomes. And while a few of our residents come here to serve in the federal government and maintain a permanent address elsewhere, the vast majority do not. These are people who love their country and in the wake of September 11 are keenly aware of what can be demanded of them during a national crisis.

Washington residents were granted the right to vote for president in 1961, but we do not have full representation in the House or Senate. When legislation that directly affects our lives is drafted, debated, and adopted, we have virtually no voice in the process. Our residents elect a mayor and 13 members to the Council of the District of Columbia, but every local law and every local budgetary decision made by this elected body **must be approved by Congress.** No other jurisdiction in the country must submit its local budget to an outside authority elected by people from other states. No other jurisdiction must wait to invest funds in new programs while members of Congress decide what is appropriate for the District.

A Living City

Over the years, the District of Columbia evolved to a living breathing city; a city where streets needed to be paved, homes built, children educated, trash and snow removed, trees trimmed, people protected from crime and homes protected from fire. It

became a city that needed to provide services to all of its residents and businesses, including those who live at 1600 Pennsylvania Avenue and work on Capitol Hill.

I am proud of the progress the District has demonstrated in the last several years. The Labor Department reported that the District has seen job growth in the last few months while our surrounding jurisdictions have experienced a growth in unemployment. Over the past five years, we have balanced the budget, maintained a cash surplus, improved our credit rating, and met every goal set out by Congress to demonstrate the ability to self govern. The District is on the verge of achieving its full potential as the heart of this vibrant region. But to do so, we must be put on a level playing field.

Democracy in the District

Democracy is defined in *Webster's Collegiate Dictionary* as "...**a government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usually involving periodically held free elections**." I say to the committee, why are the people of the Nation's Capital excluded from this system of representation?

The lack of voting rights is an economic issue in the District of Columbia. While Congress has the power to impose restrictions on our city and limit our ability to tax, we will never have a level playing field. More than 50 percent of our land cannot be taxed. Income earned in the city commutes to Maryland and Virginia every day. State functions such as road construction, motor vehicle administration, and special education must be funded on a city's tax base. How can we continue to grow and be fiscally responsible when the city leaders have no authority over their own finances, and no representation to negotiate with congressional members? If the District had full voting rights, our representatives could work towards greater parity for District residents on these and other issues.

The lack of voting rights is a matter of justice in the District of Columbia. The inability of District residents to vote for voting representatives and senators in Congress violates their rights to equal protection and to a republican form of government. In the court case for full voting rights, *Alexander v. Daley*, the court did not determine

that District citizens **should not** have voting rights, it determined that the courts lacked the power under the U.S. Constitution to require Congress to grant such rights. Congress has the opportunity and the power to correct this injustice by acting now to guarantee justice by granting the citizens of the District their voting rights.

But most importantly, the lack of voting rights is a civil rights violation in the District of Columbia. African-Americans and women have fought for and died for the right to vote. Yet here, in the capital of democracy, lives one of the largest blocs of disenfranchised voters in the world. District residents fight for freedom abroad and pay more than $2 billion a year in federal taxes at home. As the world's leading democracy, it is unacceptable that the United States does not grant voting rights to the residents of its capital city.

The issue of District Voting Rights has resonated across the country resulting in a number of local and national organizations taking actions in support of full voting rights for District of Columbia. Such organizations include the National League of Cities, the National Conference of Black Mayors, and the U.S. Conference of Mayors which have all passed resolutions or adopted policy positions in support of the District. In addition, resolutions from cities across the country supporting voting rights have been adopted by the cities of Atlanta, Chicago, Cleveland, Baltimore, Los Angeles, New Orleans, Philadelphia, and San Francisco and national polls indicate that 72 percent of people across the country support full voting representation for District residents. I ask that these resolutions be entered into the record.

On May 23, 2002, I had the privilege of testifying before the United States Senate Committee on Governmental Affairs on our voting rights issue. The time has come to recognize the contribution our residents make to society and acknowledge "Democracy for All" includes the District of Columbia.

The people of the District have been disenfranchised for almost 200 years. I do not believe the framers of our democracy intended for this to happen. This country was founded on the principles of fair and equitable treatment for all people. Our citizens (including District residents) fight in wars to protect our freedom and fundamental rights. The District of Columbia shares this responsibility, and sometimes burden, because it is a privilege to represent this free society. The District residents should have a voice in the

laws we live by, and that can only be done with full voting representation. The members of this committee as well as other members of Congress have the unique opportunity to see the District of Columbia as an attractive place to live, a historic place to visit, and an international center. How can you live, work, and enjoy this city without wondering why the District residents are not represented as the constituents you serve at home? I ask this committee to lead the charge in ensuring that the residents of the District of Columbia are no longer disenfranchised and that full voting representation in the House and Senate is provided in 2002. I ask you to pass the "No Taxation Without Representation Act." **Now**.

Thank you for giving me the opportunity to testify. I would now be happy to address any questions.

DISTRICT of COLUMBIA VOTING RIGHTS HISTORICAL TIMELINE

July 13, 1787: The Office of the Delegate to Congress is created when Congress of the Confederation enacts the Northwest Ordinance of 1787.

June 21, 1788: U.S. Constitution is ratified by the states. Article I, Section 8, Clause 17 gives Congress authority 'to exercise exclusive legislation in all cases whatsover, over such District (not exceeding 10 miles square) as may be cession of particular Sates, and the acceptance of Congress, become the seat of the government of the United States..."

1789: Upon ratification of the U.S. Constitution, Congress gives full statutory effect to the Northwest Ordinance.

January 22, 1791: George Washington appoints Thomas Johnson, David Carroll, and Dr. David Stuart as "Commissioners for surveying the District Territory accepted by the said Act for the permanent seat of the Government of the United States."

January 24, 1791: President George Washington selects a site that includes portions of Maryland and Virginia.

March 30, 1791: President Washington issues a proclamation fixing the boundaries of "the territory, of ten miles square, for the permanent seat of Government of the United States."

December 1, 1800: Federal capital is transferred from Philadelphia to site on Potomac River now called City of Washington, in the territory of Columbia.

May 3, 1802: Congress grants the City of Washington its first municipal charter. Voters, defined as white males who pay taxes and have lived in the city for at least a year, receive the right to elect a 12-member council. The mayor is appointed by the President.

March 15, 1820: Congress amends the Charter of the City of Washington for the direct election of the mayor by resident voters.

July 9, 1846: Congress and the President approve the retrocession, to Virginia, of the portion of the District that Virginia had initially ceded to the United States.

January 8, 1867: Congress grants black males the right to vote in local elections.

June 1, 1871: The elected mayor and council are abolished by Congress and replaced by a governor and council appointed by the president. An elected House of Delegates and a non-voting Delegate to Congress are created. In this act, the jurisdiction and territorial government came to be called the District of Columbia.

June 20, 1874: Congress revokes territorial government and the position of the non-voting Delegate is abolished. Congress creates presidentially-appointed Board of Commissioners on a temporary basis.

June 11, 1878: Congress makes the Board of Commissioners permanent.

DISTRICT of COLUMBIA VOTING RIGHTS HISTORICAL TIMELINE

July 4, 1906: The District Building on 14th and Pennsylvania Avenue becomes the official City Hall.

March 29, 1961: The 23rd Amendment is ratified, granting District residents the right to vote in presidential elections for the first time. The District is entitled to the same number of electors as though it were a state.

September 22, 1970: The *District of Columbia Delegate Act of 1970* restores the position of Delegate to the District of Columbia.

March 23, 1971: The Rev. Dr. Walter E. Fauntroy is elected Delegate to the District of Columbia.

July 25, 1977: Representative Don Edwards introduces H.J.Res. 554 to amend the Constitution to provide for representation of the District of Columbia in the Congress.

March 2, 1978: U.S. House of Representatives passes H.J.Res. 554 by two-thirds majority.

August 22, 1978: Senate also approves the District of Columbia Voting Rights Amendment by two-thirds and sends to the States for ratification.

1985: DC Voting Rights Amendment expires without receiving the required number of states needed for ratification (38). Only sixteen states support the amendment.

November 6, 1990: Eleanor Holmes Norton succeeds Delegate Fauntroy as the second elected delegate.

June 3, 1992: Representative James Moran introduces H.J.Res. 105 to amend the Constitution to provide for representation of the District of Columbia in the Congress.

1993: The U.S. House of Representatives votes to allow the delegates from the District of Columbia, American Samoa, U.S. Virgin Islands, Guam and Resident Commissioner of Puerto Rico to vote in the Committee of the Whole and on the floor of the House.

1995: The DC delegate is terminated from the official House roster and no longer has voting privileges.

March 20, 2000: By a vote of 2-1, in the case of *Alexander v. Daley*, a 3-judge Federal District Court rejects a case brought by District residents and the D.C. government to gain full voting representation in Congress stating that the court lacks authority to grant voting representation. U.S. Supreme Court summarily affirmed the 3-judge decision without opinion.

November 4, 2000: The District adopts the new license plate, "Taxation Without Representation."

March 22, 2001: H.R. 1193, the *"No Taxation Without Representation Act of 2001"* is introduced in the U.S. House of Representatives by Delegate Norton.

DISTRICT of COLUMBIA VOTING RIGHTS HISTORICAL TIMELINE

March 23, 2001: Senator Joseph I. Lieberman introduces S. 603, the Senate companion bill to H.R. 1193.

2001: Election Reform Bill is introduced in the House and Senate.

May 15, 2002: District elected officials, Delegate Norton, civic organizations and residents go to Capitol Hill to lobby for voting rights for the District of Columbia.

May 23, 2003: Senate Governmental Affairs Committee convenes *"Voting Representation in Congress for Citizens of the District of Columbia"* hearing.

Mrs. MORELLA. I'm pleased to recognize Chairwoman Linda Cropp.

Ms. CROPP. Thank you very much, Madam Chair, and to our ranking member, Congresswoman Norton, and other Members who may come in, good afternoon.

Let me begin by thanking you, Madam Chair, for holding this public hearing on the denial of voting representation in Congress for the 600,000 American citizens who live in the District of Columbia. This is the first hearing by this subcommittee on the District's voting rights in a long time, so we very much appreciate this opportunity to urge you and your colleagues to use the power that you have to bring democracy to the Nation's Capital.

Attached to my testimony is a resolution and a report adopted unanimously by the D.C. Council this past May supporting the No Taxation Without Representation Act that has been introduced by Congresswoman Norton in the House, and by Senators Lieberman and Feingold in the Senate. I'm joined today by Council Member Adrian Fenty, who represents ward 4.

The Council's findings in this resolution essentially mirror the findings contained in the No Taxation Without Representation Act which I would like to highlight here.

Madam Chair, for far too long, the residents of the District of Columbia have been invited to the dinner table, but have not been allowed to eat. District residents are hungry for congressional voting rights and District residents are starving for democracy.

As you know, the U.S. citizens residing in Washington, DC, have no voting representation in the House and no elected voice in the Senate. This was not always the case. For approximately 10 years after ratification of the U.S. Constitution and the selection of the Federal district, residents of the District of Columbia were allowed to vote for Members of Congress. In 1800 Congress voted to end this practice, and thereby disenfranchised District residents. Throughout the past two centuries, there have been various efforts to restore the franchise.

There are many reasons for voting rights and why it should be restored, but each evolves from a single principle: The right to vote is a fundamental principle of our democracy. Americans throughout the Nation agree, or would agree if they knew. A survey conducted in October 1999 found that 72 percent of the respondents supported full voting rights in the House and the Senate for District residents. The same poll showed high levels of support across party lines. Polling conducted a month later found that 55 percent of college graduates who were registered to vote were unaware that District citizens do not have congressional voting representation.

You have heard these facts before, but until there is a remedy to the fundamental injustice of our subordinate status, they must be reiterated. The residents of the District of Columbia are the only Americans who pay Federal income tax but are denied voting representation in the House and the Senate.

The District of Columbia is second per capita in income taxes paid to the Federal Government. The District is a source to over $2 billion in Federal taxes each year, an amount per capita greater—greater than 49 other States. Yet we have no say in Congress in how these tax dollars are to be spent.

More District citizens have died in wars protecting the Nation than have the citizens of 20 other States. Congress has the exclusive right to declare war, and, again, we have no say in the decision when our citizens are going to fight in these wars.

The impeachment proceedings in Congress a few years ago again highlighted the glaring anomaly of our lack of vote on the issue of removing from office the President of the United States whom we had a vote to elect.

The United States is the only democracy in the world in which the residents of the Capital city are denied representation in the national legislature equal to that enjoyed by their fellow citizens.

The denial of voting representation in Congress locks District residents not only out of our national legislature but also out of what is in a structural sense our State legislature, a legislature that has extraordinary approval over all of the District's local legislation and all of the districts locally raise dollars.

The denial of District citizens to the right of congressional voting representation is the last unbreached frontier of civil and human rights in America. As the United States rightly tries to be a model and defender of democracy around the world, we implore you to find a remedy to remove this inexcusable hypocrisy of democracy denied in our Nation's Capital. We have tried in the past, and without success thus far, to obtain congressional voting rights through a constitutional amendment, through a statehood bill, and through litigation. The Supreme Court, while sympathetic, has essentially stated that it is the Congress where the remedy to this problem must be resolved.

We ask this subcommittee to take action this year to remedy our lack of voting representation in Congress. We also request that you take favorable action immediately on legislative and budget autonomy for the District of Columbia and on Congresswoman Norton's Fair Federal Compensation Act of 2002.

Thank you again, Madam Chair, for this opportunity to testify before the subcommittee today. We Americans who live in the seat of democracy want to be served a plate at the national dinner table and, finally, be able to join our fellow citizens in enjoying the full fruits of this democracy. As always, I look forward to working with you and your colleagues to ensure a brighter tomorrow for the Nation's Capital and for all who live, work, and visit here. Thank you.

Mrs. MORELLA. Thank you, Chairwoman Cropp.

[The prepared statement of Ms. Cropp follows:]

TESTIMONY OF
CHAIRMAN LINDA W. CROPP
COUNCIL OF THE DISTRICT OF COLUMBIA

BEFORE THE
UNITED STATES HOUSE
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA

FRIDAY, JULY 19, 2002
12:00 NOON
RAYBURN HOUSE OFFICE BUILDING
ROOM 2154

Chairwoman Morella, Congresswoman Norton, and members of the Subcommittee on the District of Columbia, good afternoon! Let me begin by thanking you, Madame Chair, for holding this public hearing on the denial of voting representation in Congress for the 600,000 American citizens who live in the District of Columbia. This is the first hearing by this subcommittee on the District's voting rights in a long time, so we very much appreciate this opportunity to urge you and your colleagues to use the power that you have to bring democracy to the nation's capital.

Attached to my testimony is a resolution and report, adopted unanimously by the D.C. Council this past May, supporting the "No Taxation Without Representation Act" that has been introduced by Congresswoman Norton in the House and by Senators Lieberman and Feingold in the Senate. The Council's findings in its resolution essentially mirror the findings contained in the "No Taxation Without Representation Act," which I would like to highlight here.

Madame Chair, for far too long the residents of the District of Columbia have been invited to the dinner table but have not been not allowed to eat. District residents are hungry for Congressional voting rights, and District residents are starving for democracy!

As you know, United States citizens residing in Washington, D.C. have no voting representation in the House, and no elected voice at all in the Senate. This was not always the case. For approximately 10 years after ratification of the U.S. Constitution and selection of the federal district, residents of the District of Columbia were allowed to vote for members of Congress. In 1800 Congress voted to end this practice, and thereby disenfranchised District residents. Throughout the past two centuries there have been various efforts to restore the franchise.

There are many reasons full voting rights should be restored, but each evolves from a single principle: the right to vote is a fundamental principle of our democracy. Americans throughout the nation agree, or would agree if they knew. A survey conducted in October 1999 found that 72% of respondents support full voting rights in the House and Senate for District residents. That same poll showed high levels of support across party lines. Polling conducted a month later found that 55% of college graduates who were registered to vote were unaware that District citizens do not have Congressional voting representation.

You have heard these facts before, but until there is a remedy to the fundamental injustice of our subordinate status, they must be reiterated:

/ The residents of the District of Columbia are the only Americans who pay federal income taxes but are denied voting representation in the House and

Senate.

/ The District of Columbia is second per capita in income taxes paid to the federal government. The District is a source of over $2 billion dollars in federal taxes each year -- an amount per capita greater than 49 other states. Yet we have no say in Congress in how these tax dollars are spent.

/ More District citizens have died in wars protecting the nation than have the citizens of 20 other states. Congress has the exclusive right to declare war, and again we have no say in this decision.

/ The impeachment proceedings in the Congress a few years ago again highlighted the glaring anomaly of our lack of vote on the issue of removing from office the President of the United States whom we had a vote to elect.

/ The United States is the *only* democracy in the world in which residents of the capital city are denied representation in the national legislature equal to that enjoyed by their fellow citizens.

/ The denial of voting representation in Congress locks District residents not only out of our national legislature but also out of what is in a structural sense our state legislature -- a legislature that has extraordinary approval authority over all of the District's local legislation and all of the District's locally raised dollars.

We who are the elected representatives of District citizens are reminded daily, sometimes painfully, of the "exclusive jurisdiction" that Congress exercises over the District of Columbia pursuant to Article I, Section 8 of the United States Constitution. However, we believe that this same broad jurisdiction provides Congress with the constitutional authority to enact a bill by simple majority to restore Congressional voting rights to District citizens. The Congress and the Constitution treat the District as a state for hundreds of purposes, whether they are federal benefits, burdens or rights -- why not the most precious and fundamental right in a free and democratic society: the right to vote?

The denial of District citizens' right to Congressional voting representation is the last unbreached frontier of civil and human rights in America. As the United States rightly tries to be a model and defender of democracy around the world, we implore you to find a remedy to remove the inexcusable hypocrisy of democracy denied in our nation's capital.

We have tried in the past -- and without success thus far -- to obtain Congressional voting rights through a constitutional amendment, through a statehood bill, and through litigation. The Supreme Court, while sympathetic, has essentially stated that it is the Congress where the remedy to this problem must be resolved. As we ask this subcommittee to take action this year to remedy our lack

of voting representation in the Congress, we also request that you take favorable action immediately on legislative and budget autonomy for the District of Columbia, and on Congresswoman Norton's "Fair Federal Compensation Act of 2002."

Thank you again, Madame Chair, for this opportunity to testify before the subcommittee today. We Americans who live in the seat of democracy want to be served a plate at the national dinner table and finally be able to join our fellow citizens in enjoying the full fruits of this democracy. As always, I look forward to working with you and your colleagues to ensure a brighter tomorrow for the nation's capital and for all who live, work and visit here.

Mrs. MORELLA. And I'm now pleased to recognize the Honorable Ray Browne.

Mr. BROWNE. Good afternoon, Madam Chair.

Ms. Norton, I'm here today to voice my support for the No Taxation Without Representation Act of 2001.

Let me start by being very candid. There are those who are cynical about the process we engage in today. Indeed, there are those in my own city that are skeptical about the will and the ability of Congress to remedy the injustice we suffer. I'm not among them. I believe that there are politicians who genuinely care about this issue. I believe that members of this committee are genuinely interested in the future of the District of Columbia.

However, I believe that our view of voting rights for this city is distorted because we are so close to the problem and we've looked at it for so long.

My message today is to peel off the arguments, layers of arguments that have covered over the heart of the question of voting representation for the District. I want to revisit the issue with you so that we can think about it as a fresh problem to solve, not as one more battle in an age-old war.

We need fresh eyes today. And so today I bring you a perspective of a neglected participant in this debate, your constituents, the American people. As an advocate for voting rights for my city, I've had the opportunity to travel the country seeking support for us from citizens, faith leaders, labor groups, media representatives, and elected officials.

To date, I've visited with elected officials in Philadelphia, Boston, Chicago, Cleveland, Atlanta, Baltimore, Los Angeles, Illinois, New Orleans, Detroit, San Francisco, and Alaska. These officials offered lucid, cogent, and persuasive testimony in favor of full representation for the District. They were consistent in their belief that those who willingly bear all of the responsibilities of citizenship deserve to enjoy democracy's great privileges.

Allow me to share with you just a few of the views as expressed in formal resolutions, proclamations, and letters of support I am submitting for the record.

By proclamation, the City Council in Philadelphia voiced their support for the citizens of the District of Columbia and for the principle that all American citizens shall elect and be represented by voting representatives in the national legislature. That resolution was introduced and supported by the Republican minority Chair of the City Council, Brian O'Neil.

In Chicago, the City Council stated that one half million citizens of the District of Columbia are disenfranchised and unique, in that they lack voting representation in the U.S. Congress, while proudly and willingly shouldering the full responsibilities of U.S. citizenship.

The San Francisco Board of Supervisors noted that the District of Columbia is treated as a State in nearly 500 Federal laws, and urged the U.S. Congress to recognize the District of Columbia's constitutional right to basic democracy.

The mayor of New Orleans said this disenfranchisement of the citizens in the Nation's Capital is contrary to the spirit of liberty,

and indisputably in violation of the values on which the United States was founded.

Governor Tony Knowles of Alaska writes: In the years before 1959, many Alaskans held views that undoubtedly parallel those of the current residents of the District of Columbia concerning the obligations of citizenship and proper representation in Congress. Like District of Columbia residents, Alaskans paid taxes, served their country in time of war, and longed for a voice in national government.

We long for a voice in national government.

These are the voices of the American people, clear and firm, voices absent of partisan political considerations, free of small technical disputes as to the intentions of the framers of the Constitution. They are the voices of the people you represent, and they ring true.

The American people who do not devote their time to this question have much to teach those of us who do. The old arguments that burden us are no less powerful because of their age. It is a question of principle as well as practicality. It is injustice of the highest order when a Nation born in the battle cry of "No taxation without representation" should 200 years later still be taxing but not representing the citizens of its own Capital.

Violations of principle have practical fallout. As our Mayor noted, this city will never achieve all it can without self-government. We can't solve our problems without the power to do so ourselves. We won't send our children to the public schools of our dreams until we truly control our public schools. We won't feel safe on our streets until those who know them best determine the strategies for our protection.

We won't see affordable housing until the District is represented by folks from Cleveland Park, not Cleveland, Ohio; by folks from east of the river, not west of the Mississippi.

With all due respect, I urge the committee to consider this matter as the Americans I have visited with did, without partisan political considerations. Step away from this small hill and see America. Be men and women of vision, unbound by ancient history. I urge you to follow the people of America. There exists no better guide. Thank you.

Mrs. MORELLA. Thank you, Shadow Representative Browne.

[The prepared statement of Mr. Browne follows:]

TESTIMONY OF RAY BROWNE,

SHADOW REPRESENTIVE, DISTRICT OF COLUMBIA

HOUSE OF REPRESENTATIVES COMMITTEE ON GOVERNMENT REFORM

JULY 19, 2002

I am Ray Browne, the Shadow Representative for the District of Columbia. I am here today to voice my support for the "No Taxation Without Representation Act of 2001".

It has become fashionable lately to enter Washington by denigrating Washington. In presidential and congressional contests, candidates run as outsiders against the factious, corrupt, closed-door, partisan squabbling that prevents legislative accomplishment. The argument is that the Capitol Hill set does not focus on the issues, because they have themselves to worry about – donations, elections, committee seats. And that may all be true. But I think there is a less cynical explanation for what happens to good ideas in Washington. There are politicians who genuinely care about the issues, as the members of this committee are genuinely interested in the future of the District of Columbia. But sometimes an intricate involvement in an issue blinds one to it, and transforms the issue into a contest where there should be no contest. In physics this is called the Heisenberg principle: an observer to a system always changes the system. In politics, it's business as usual. We spend so much time thinking about the same ten or twelve things that we get lost in our own reasonings and numb ourselves to basic truths.

My message today is to peel off the layers of argument that have covered over the heart of the question of voting representation for the District of Columbia. I want to revisit the issue with you so we can think about it as a fresh problem to solve not as one more battle in an age-old war. We need fresh eyes and so today I bring you the prospective of a neglected participant in this debate: your constituents, the American people.

As an advocate for voting rights for my city I have had the opportunity to travel the country seeking support for full representation in the congress for the citizens of the District. I have visited with faith leaders, labor groups, media representatives, and elected officials.

To date, I have visited with elected officials in Philadelphia, Boston, Chicago, Cleveland, Atlanta, Baltimore, Los Angeles, Illinois, New Orleans, Detroit, San Francisco, and Alaska. These officials offered lucid, cogent, and persuasive testimony in favor of full representation for the District. They were consistent in their belief that those who willingly bear all of the responsibilities of citizenship deserve to enjoy democracy's great privileges.

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These are the voices of America clear and firm. Voices absent partisan political considerations, free of small technical disputes as to the intentions of the framers of the constitution. Voices not burdened by small nuances of policy. These are the voices of those you represent and they ring true. The American people, who do not devote their time to this question, have something to teach those of us who do.

The old arguments that burden us are no less powerful because of their age. It is a question of principle as well as practicality. It is injustice of the highest order when a nation born from the battle-cry of "No Taxation Without Representation" is 200 years later still taking but not representing the citizens of its own capitol. Violations of principle have practical fallout. This city never will achieve all it can without self-government. We can't solve our problems without the power to do so ourselves. We won't send our children to the public schools of our dreams until we truly control our public schools. We won't feel safe on our streets until those who know them best determine the policies for our protection. We won't see affordable housing until the District is represented by folks from Cleveland Park not Cleveland, by folks from east of the river not west of the Mississippi.

With respect I urge the Committee to consider this matter as the American's I visited with did without partisan political considerations. Step away from this small hill and see America. Be men and women of vision unbound by ancient history. I urge you follow the people of America, their exists no better guide. Do so and time will be your friend.

Mrs. MORELLA. I'm pleased to recognize Betsy Werronen who chairs the District of Columbia Republican Party. Ms. Werronen, I wanted to mention also that the suggestion to invite you came from the ranking member, Congresswoman Norton.

Ms. WERRONEN. Thank you, Madam Chair. I congratulate you, Madam Chair, and our Representative from the District for holding this historic hearing, and I'm honored to be a part of it.

I thank our Representative from the District, especially for the strong leadership that she has shown and the strong voice that she has exhibited on this issue; and, Madam Chairwoman, we thank you for your brilliant leadership of this committee and for the fairness that you have shown on all issues of importance to residents of the District of Columbia.

Today I'd like to focus on the principle of having some form of voting representation in Congress and not all of the details of achieving that representation. I'd like to make three points:

First, residents of the District of Columbia are citizens of the United States. We are entitled under the Constitution to the same rights and responsibilities as all other U.S. citizens. We accept our responsibilities, including the obligation to serve in the defense of our country and the obligation to pay taxes, just like all other citizens. We must have voting representation in Congress, just like all other citizens. There is simply no defense for not granting this right. What precise form voting representation should take and by what means should it be achieved are questions that we believe can be answered by the Congress.

Second, we recognize that there are several options for granting citizens of the District the voting representation in Congress that they are entitled to. These options range from a voting Member in the House, voting Members in the Senate, to full statehood. Because the District of Columbia is unique, set up by our Founding Fathers as a Federal city, Congress must show creativity and practicality in implementing voting representation for the District of Columbia. As an important first step, we support fully the option of full voting rights for our representative in the House of Representatives. This is the most practical and achievable way to grant our citizens their rights and to honor the principles and spirit of the Constitution, and this is something that could be done now.

Third, we believe that the argument that there should be no taxation of the citizens of the District without representation has merit. However, we believe that the arguments for voting rights are compelling enough on their own. We urge this committee to aggressively pursue voting representation for the District of Columbia. We offer our full support to achieve this important goal.

I'd like to submit to you my full statement for the record, and I'd also like to submit in addition to my testimony a history of Republican involvement in D.C. voting rights. It is a progressive record which embraces the best principles of the party and has been compiled by D.C. resident Nelson Rimmensnyder, who is presently a cadet at West Point. Thank you.

Mrs. MORELLA. Without objection, so ordered, that will be included in the record. And I thank you, Ms. Werronen.

[The prepared statement of Ms. Werronen follows:]

HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA
HEARING

JULY 19, 2002

VOTING REPRESENTATION IN CONGRESS

TESTIMONY BY

BETSY W. WERRONEN, CHAIRMAN
DC REPUBLICAN COMMITTEE

I am Betsy Werronen, Chairman of the DC Republican Committee. Thank you very much for the opportunity to testify. What I would like to focus on today is the principle of having some form of representation in Congress and not the details of achieving such representation. I would like to make three important points.

First, the residents of the District of Columbia are citizens of the United States. We are entitled under the Constitution to the same rights and responsibilities as all other United States citizens. We accept our responsibilities, including the obligation to serve in the defense of our country and the obligation to pay taxes just like all other citizens. We must have the right to voting representation in Congress just like all other citizens. It is the right thing to do. There is simply no defense for not granting this right. What precise form voting representation should take and by what means should it be achieved are questions to be answered by Congress.

Second, we recognize that there are several options for granting citizens of the District of Columbia the voting representation in Congress that they are entitled to. These options range from a voting member in the House, to voting members in the Senate, to full Statehood. Because the District of Columbia is a unique entity, set up by our founding fathers as a federal city, Congress must show creativity and practicality in implementing voting representation for the District of Columbia. As an important first step, we support the option of full voting rights for our representative in the

House of Representatives. This is the most achievable way to grant our citizens their rights and honor the principles and spirit of the Constitution.

Third, we believe the argument that there should be no taxation of the citizens of the District of Columbia without representation has merit. However, the issue of taxation introduces a number of related issues that blur consideration of the right to voting representation in Congress. We believe the arguments for voting rights are compelling enough on their own.

We urge this Committee to aggressively pursue voting representation for the District of Columbia and we offer our support to achieve this important goal.

Mrs. MORELLA. And now I'm pleased to recognize the president of the Greater Washington Board of Trade, Bob Peck.

Mr. PECK. Thank you, Madam Chairwoman. Good afternoon, also to Delegate—or as I prefer to say—Representative Norton, and to the Subcommittee on the District of Columbia as a whole. I am, as you said, Robert Peck, President of the Greater Washington Board of Trade.

The Board of Trade was founded in 1889 as the Washington Board of Trade, and in part those business leaders who came together at the Ebbitt Grill were talking about the fact that the District couldn't get its fair share of Federal funding to get the streets paved or other Federal public works appropriated in the District of Columbia. And it's partly that issue that the Greater Washington Board of Trade, now representing the region as a whole, still brings forward to you as a reason, in part, for the need for the District to have a vote in the Congress.

I'd like to thank you for asking me to speak with you today. I couldn't go back and figure out how many times the Board of Trade in its history has testified before Congress in favor of a vote for the District, but I can tell you that the Board of Trade's support for full voting rights in the Congress for the District goes back to 1917. So we have a long history. In 1955, the Board of Trade endorsed what became the 23rd amendment to the Constitution that allowed D.C. residents to vote in Presidential elections.

In 1972, the Board of Trade endorsed the adoption of the Home Rule Charter. And here I have to stop to say, in the interest of full disclosure, that I think when people are surprised that the Board of Trade supports voting rights for the District, it's because there is an unfortunately accurate memory that the Board of Trade initially opposed home rule for the District in the late 1960's. But the board then changed its opinion to become a very strong advocate for home rule. And since home rule—since its endorsement of home rule in 1972, the Board of Trade has consistently supported expansions of home rule, supported the D.C. voting rights amendment in 1978, and in 1992, in fact, supported the efforts to get Congresswoman Norton the vote, at least in the House's Committee of the Whole.

The Board of Trade continues to support full voting representation for D.C. residents, and our policy position is partly based not only on fundamental fairness but on the pragmatic consideration that Members of Congress from other areas of the country have other and more complex and more parochial, in their own interest, things to think about on any given day than governing the District of Columbia or getting the District of Columbia its fair due.

I have to say I think there is an inside baseball reason for our support for this, too. As an organization that looks at the region as a whole, we discover that having strong Representatives and Senators from Maryland and Virginia gives our region considerable clout in the Congress. I have to say, having a few more Members with votes from the District of Columbia would stand the entire region in good stead.

We recognize that there needs to be a special relationship between the District of Columbia and the Federal Government. We need to accommodate in the District the needs of the Federal Gov-

ernment as the seat of our national government and a beacon for the world, and there is a reciprocal need for the Federal Government to recognize its obligation to help the District of Columbia pay for those obligations it takes on as the Nation's Capital.

Citizens of the District have no opportunity to elect or dismiss those who ultimately make a number of critical decisions for them, including ratification of every piece of legislation in the Council of the District and the District's budget. And I emphasize, because so many people seem not to know and it violates a fundamental principle of business management, that the District, which raises almost all of its own revenues, has to go to the Congress for the permission to spend them. In business, you try to keep those who are managing the budgets in a singular accounting relationship. I think we've learned that recently again.

Our members come from throughout the region, I want to emphasize—Maryland and Virginia as well as the District—and as a matter of fairness, believe that the citizens of the District of Columbia deserve the right to vote.

Can I say just one personal note? I am a District resident, have been for almost 30 years. But I grew up in Montgomery County where my first political experiences as a kid were handing out flyers in congressional and Senate races. And I remember seeing in high school our voting Representative in Congress and at least one of our Senators address our civics class and our commencement.

Unfortunately, students in the District of Columbia don't get to see that. They do see a Representative in Congress whose accomplishments without a vote are awfully impressive, but they ought to be able to hear from and work for a voting Representative and voting Senators as well.

Thank you for this opportunity, and I'll be happy to answer questions.

Mrs. MORELLA. Thank you, Mr. Peck. I won't ask you who those Representatives were. It will probably make me feel very old.

[The prepared statement of Mr. Peck follows:]

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA

THE HONORABLE CONSTANCE A. MORELLA, CHAIR

Testimony of Robert Peck
President of the Greater Washington Board of Trade

Hearing on DC Voting Rights

Room 2154 Rayburn House Office Building
Friday July 19 2002
Time 1200 Noon

Good morning Chairman Morella, Delegate Norton, and members of the Subcommittee on the District of Columbia. I am Robert A. Peck, President of the Greater Washington Board of Trade. The Board of Trade is the regional chamber of commerce serving business and non-profit members in the District of Columbia, Maryland and Virginia. I would like to thank you for asking me to speak with you today about voting rights for the District of Columbia.

By voting rights, I assume that you mean votes for the District in the United States Senate and House of Representatives. The Board of Trade has supported a vote for the District since 1917. In 1955, we endorsed what became the 23rd Amendment to the Constitution that allowed DC residents a vote in Presidential elections in 1955. In 1972, the Board of Trade endorsed the adoption of the Home Rule Charter providing for the current form of self-government in the District. In 1978, the Board of Trade endorsed the DC Voting Rights Amendment. In 1992, the Board of Trade joined in support of DC Delegate Eleanor Holmes Norton's effort to win a vote in House "Committee of the Whole" proceedings, consistent with its previous support for Home Rule and voting rights.

The current Board of Trade policy continues to support full voting representation in the US Senate and House of Representatives for DC residents, among other expansions of the Home Rule Charter. Our policy position in this respect has been based upon the concept of fundamental fairness, but also on more pragmatic considerations. The fact is that members of the United States Senate and House of Representatives have many more and ever more complex matters to deal with on any given day, *and* that our system of government envisioned that those representing and making the actual decisions on behalf of citizens should be elected by those citizens whose concerns and wishes they know and feel.

Citizens of the District have no opportunity to elect or dismiss those who ultimately make a number of critical decisions for them, including ratification of every piece of work that is done by the Council of the District of Columbia, as well as the District's budget. Our members come from throughout the region – from Maryland and Virginia as well as DC – and, as a matter of fairness, they have expressed a wish that the Board of Trade explicitly support and promote voting rights in Congress for the District of Columbia.

Thank you for this opportunity to voice the Board of Trade's solidarity with DC. I would be happy to answer any questions you might have.

History of Board of Trade Actions

1917: Endorsement of Full Voting Rights in Congress

1955: Board of Trade endorses 23rd Amendment to the Constitution to allow DC residents a vote in Presidential Elections

1961: Achievement of 23rd Amendment

1972: Endorsement of Home Rule Charter, adopted Charter provides current form of government [first Home Rule Government took office in 1974]

1978: Endorsement of DC Voting Rights Amendment to Constitution to achieve Full Voting Rights. This work built on 1955 endorsement. Amendment expired in 1985 with action taken by 16 states (38 states needed for approval.)

1982: Board of Trade Ad Hoc Task Force on the Constitution of New Columbia: BOARD OF TRADE opposed the Constitution

1983: Board of Trade District of Columbia Statehood Study Committee: reviewed pros and cons of statehood.

1986: Board of Trade Home Rule Task Force: A full examination of home rule issues. Report accepted by Executive Committee of BOARD OF TRADE. Co-chairs were Father John Whalen and Togo West.

1987: Current Board of Trade Policy adopted: Policy "neither favors nor opposes statehood for the District of Columbia" and calls for expanded authority under Home Rule Charter. Ad hoc committee developing the policy was chaired by Delano Lewis.*

1. DC residents should have full voting representation in the US Senate and House of Representatives

2. Federal payment should be predictable, reflect the restrictions on taxation imposed by Home Rule Charter, and include costs to the District of housing the Federal government.

3. Federal government must assume some responsibility for the District's unfunded pension liability.

4. Support streamlined budget process through the ellimination of the Federal line item review

5. Support elimination of Federal review process for local bills

6. Support DC's power to organize the judiciary, including local selection of judges, establishment of local District Attorneys and Marshalls' office, responsibility for its own prisoners and Mayor's power to extradite and extend clemency

7. Support creation of intergovernmental task force to define Federal Interest and to resolve particularly any problems related to planning and zoning, with the goal to increase local control over land use, planning and zoning.

1990: Created Federal Affairs committee to represent the interest of greater Washington region business community before Federal government.

1992: Joined in support of DC Del. Norton's effort to win a vote in the House Committee of the Whole, consistent with Board of Trade's support of full voting rights since 1917 and with 1955 and 1978 actions to support Constitutional Amendments.

Beginning **1993** BOARD OF TRADE attention was diverted toward advocating for budget restraint and fiscal stability, addressing DC fiscal crisis, and individual business issues presented by proposed legislation. Board of Trade testified in **1997** in support of the White House Plan to restructure the Federal - DC relationship.

Mrs. MORELLA. Mr. Smith, I'm pleased to recognize you, sir, as executive director of the D.C. Appleseed Center.

Mr. SMITH. Thank you very much. Thank you, Madam Chair. Thank you for inviting me and for holding this hearing. And I too would like to thank Congresswoman Norton, especially to thank her for the leadership she has shown on this issue and for the role that she has played in doing one of the things she referred to a minute ago, and that is helping to bring together all of the segments of the District of Columbia community that need to be part of this effort in order to achieve the goal we all support.

I come from one of the parts of the community she mentioned. That is the nonprofit community. D.C. Appleseed is a nonprofit. It's an independent nonpartisan group that cares only about improving the conditions in the District of Columbia for all of its citizens and protecting the public interest.

Earlier, though, I wore a different hat. I was with the Office of the Corporation Council and was one of the counsels on the lawsuit that the Mayor mentioned a minute ago, *Alexander* v. *Dailey*. So although D.C. Appleseed is new to this issue, I've been personally part of the issue for some time, and care passionately about it, which is why I want to say again how much I welcome the leadership the Congresswoman has shown on this issue and to thank you for bringing these people to the table today to talk about the issue.

I don't want to repeat the points others have made, so I just want to make three points to you.

First of all it seems to me, as is illustrated by the things that have been said here already today, there is no principled basis, none, for continuing to deny the citizens of our Nation's Capital the most basic and precious right of this democracy. And it also seems to me there is no better time for the Congress to recognize that fact than today, when we are fighting for democracy abroad. We should at the same time be protecting democracy here at home. That's the first and most important point.

The second point is that Appleseed fully supports the vehicle that Congresswoman Norton has developed for advancing that cause. You have before you a bill that she referred to a moment ago that recognizes that the citizens of the District are entitled to full voting representation in the Congress, and because there is no principled response to that contention, it seems to me there should be no question but that bill should be passed and passed now.

My third point leaves for me the only remaining question that seems to me that legitimately can be asked about this issue, and that is whether or not Congress has the authority, as you mentioned a moment ago, Congresswoman—does Congress have the authority to pass this bill through simple legislation, or is a constitutional amendment required? We believe, as Congresswoman Norton believes, that it can be passed by simple legislation. And as you know, we've attached to my testimony a memorandum setting out the reasons for that, but it's easy to state what that reason is.

The Congress has the authority under the District clause, which you referred to a moment ago, to treat the citizens of the District of Columbia as if they were citizens of States, and all of the key precedents that have been decided by the courts, including Alexander against Dailey, which the Mayor referred to, confirm that prop-

osition. And as Article V of our Constitution says, you shouldn't be passing constitutional amendments unless it is necessary to do so, and if it is not necessary to change the Constitution to deliver this most basic right to D.C. citizens, you should do it by simple legislation.

So for me, in summary, it's all an easy proposition we're talking about today. It's the right thing to do. You have the right bill before you to do it, and you have the authority to do it. And we would therefore urge you to do it promptly. Thank you very much.

Mrs. MORELLA. Thank you, Mr. Smith. You speak with great commitment and passion.

[The prepared statement of Mr. Smith follows:]

TESTIMONY OF WALTER SMITH,
EXECUTIVE DIRECTOR, DC APPLESEED CENTER
BEFORE THE SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA,
COMMITTEE ON GOVERNMENT REFORM,
UNITED STATES HOUSE OF REPRESENTATIVES

JULY 19, 2002

733 Fifteenth Street, NW, Suite 300
Washington, DC 20005

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Good morning, Congresswoman Morella. My
Smith. I am the Executive Director of DC Appleseed.
independent, nonpartisan, nonprofit public interest org
to improving living and working conditions for citizen
Some of Appleseed's current projects include: (1)leadi
various groups concerned with the proposed conversio
largest health insurance company – CareFirst – from a
for-profit company; (2)addressing the problems facing
special education in the District; and (3) proposing sol
District's inability to raise the revenues it needs to deli
governmental services to citizens who work and live in
Capital.

Today, though, I am happy to be here to talk ab
Appleseed has recently begun to work on, one that I ha
involved with for several years – DC's lack of voting r
Congress.

Just so you'll know of my history with that issu
Corporation Counsel for the District of Columbia at th
Corporation Counsel John Ferren and I determined tha
to be brought on behalf of the District and its citizens c
lack of voting representation is unconstitutional. As yo
that suit narrowly, by a 2-1 ruling. I thereafter represen
pro bono basis in appealing that ruling to the US Supre
Supreme Court affirmed the 2-1 ruling, many of us wh
our denial of voting rights have been working under C
Norton's leadership to urge the Congress to rectify this
significantly, we have brought our case to the Congres
precisely what the 2-1 ruling from the court directed u

This is a key point many people are not aware
that DC citizens are not entitled to voting rights, the co
ruled almost the opposite: that it is unjust that we do n
rights, but that this is an issue that Congress, not the co
address.

It is to your great credit that you and your Subcommittee are addressing the issue now and that you are holding this public hearing. Here are the three points I would like to make to you about the issue.

First, there is no principled basis — none — for continuing to deny citizens of the Nation's Capital the most basic and most precious right of our democracy. And there is no better time than now – when we are fighting for democracy abroad — to be sure that we protecting democracy here at home. We are the greatest democracy on earth; and yet we are the only democracy on earth that actually denies democracy to the people who live in its Capital. The Congress can and should address this inequity — now.

Second, I strongly support the approach Congresswoman Norton has proposed for Congress to address the inequity — to begin by declaring, simply, that the citizens of the District are entitled to the same basic right as other U.S. citizens — the right to full voting representation in the Congress. That is what the bill before you provides. Once that is declared and agreed on — and as I said I do not see any principled basis for disagreeing — the next step can be taken — formulating and then passing a bill specifying the details by which representation will be conferred on District citizens.

My third and last point is this: Congress has the authority by simple legislation to confer voting rights on District citizens. At the request of the District and Congresswoman Norton, we prepared a legal memorandum on that issue and submitted it to Senator Lieberman and his Committee for the Senate hearings that were held recently. That memorandum is attached to my testimony.

The basic point of the memorandum is this: the relevant legal precedents, including the lawsuit we brought concerning DC voting rights (Alexander v. Daley), all confirm that even though the Constitution often confers certain responsibilities or rights on citizens of States, Congress has authority under its very broad District Clause powers (Article I, Section 8, Clause 17) to ensure that citizens of the District have the same responsibilities and same rights as other US citizens. And this is particularly so where, as here, there is no good reason to deny DC citizens basic rights enjoyed by other US citizens.

So, in summary, you have before you a bill that does the right thing at the right time to set right an injustice that has plagued the citizens of our Capital and our democracy as a whole for over 200 years. You should pass the bill.

MEMORANDUM

TO:	Hon. Eleanor Holmes Norton, District of Columbia Delegate to Congress Hon. Anthony Williams, Mayor of the District of Columbia Hon. Linda Cropp, Chairman, District of Columbia City Council Hon. Robert Rigsby, District of Columbia Corporation Counsel
FROM:	Walter Smith, Executive Director, DC Appleseed Center L. Elise Dieterich, Esq., Swidler Berlin Shereff Friedman, LLP
DATE:	May 22, 2002
RE:	**Congress' Authority to Pass Legislation Giving District of Columbia Citizens Voting Representation in Congress**

We have been asked by the District of Columbia and by the District of Columbia's Delegate to Congress, the Honorable Eleanor Holmes Norton, to address the question of Congress' authority to provide, by legislation, that citizens of the District of Columbia shall have voting representation in the Congress.[1] The legal precedents relevant to this question are familiar to us, because we represented the District (on a *pro bono* basis) in litigation designed to determine whether the Constitution already requires that District citizens be given voting representation. That litigation, known as *Alexander v. Daley*,[2] was ultimately decided in the United States Supreme Court; it determined that the Constitution does not categorically require that D.C. citizens be given voting representation and, therefore, that the Court lacks authority to provide it.

However, as we will explain, the key court opinion in that litigation made clear that Congress does have authority to grant D.C. citizens voting representation and that there are compelling reasons for Congress to do so. As we will also explain, the *Alexander* decision is consistent with the other relevant legal precedents on the question of Congress' authority over this issue. *Alexander* is furthermore consistent with actions that Congress itself has taken in treating citizens of the District as if they were citizens of a State for other limited purposes under the Constitution. For all these reasons, discussed below, we conclude that Congress has the requisite authority under the Constitution to give D.C. citizens what the Supreme Court has called the most precious right of American citizens. In the Court's words:

[1] The District of Columbia has a non-voting delegate in the House of Representatives, but has never had full voting representation in the House or Senate.
[2] 90 F. Supp. 2d 35 (D.D.C. 2000).

> No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.[3]

The half million citizens of the District of Columbia, like citizens of the fifty states, bear all of the obligations of American citizenship: they are required to obey the laws passed by Congress; they pay federal taxes; they serve in the military; and, they fight and die in our wars. Yet, they lack the most basic right that should accompany American citizenship – the right to full voting representation in the Congress. The time is now ripe for Congress to exercise its authority to remedy this longstanding inequity.

I. CONGRESS' BROAD AUTHORITY TO LEGISLATE FOR THE DISTRICT OF COLUMBIA

The District of Columbia, the seat of the federal government, was established pursuant to Article I, Section 8, Clause 17 (the so-called "District Clause") of the United States Constitution. That Clause provides:

> The Congress shall have power . . . To exercise exclusive legislation in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States[.]

The courts have repeatedly emphasized the magnitude of Congress' power under this Clause. It has been held, for example, that Congress may "provide for the general welfare of citizens within the District of Columbia by any and every act of legislation which it may deem conducive to that end."[4] Given the breadth of Congress' power under the District Clause, it would appear that Congress has the authority to provide for the "general welfare" of D.C. citizens by providing them the most important right they as citizens should possess – the right to vote. And in fact, the *Alexander v. Daley* decision confirms that is so.

II. THE *ALEXANDER V. DALEY* DECISION

In 1998, a group of District citizens and the District of Columbia brought suit seeking a declaratory judgment that the Constitution commands that District citizens be afforded voting representation in Congress. On March 20, 2000, a three-judge federal court in the District of Columbia decided that case, *Alexander v. Daley*. The court held, by a 2-1 vote, that the Constitution does not require that citizens of the District be given

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[3] *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964).
[4] *Neild v. District of Columbia*, 110 F.2d 246, 250 (D.C. Cir. 1940).

voting representation in Congress. The court based its decision on the fact that Article I of the Constitution gives representation only to "people of the several States" and the District is not a State. On October 16, 2000, the U.S. Supreme Court affirmed this decision. *Alexander* is therefore the governing legal authority on the question whether District residents are constitutionally entitled to voting representation in the Congress; under *Alexander* they are not.

But *Alexander* also constitutes the best, most current legal authority on the question whether Congress has legislative power to grant D.C. citizens voting representation; under *Alexander*, Congress does have that power.

The *Alexander* court did not hold that the Constitution precludes District residents from having voting representation. Instead, the Court held only that "this court lacks authority to grant" voting representation.[5] The court furthermore made clear that even though it lacked authority to grant relief, that did not mean plaintiffs were without recourse. The court stated that plaintiffs could seek relief "in other venues," including "through the political process."[6] Indeed, the court specifically noted that counsel for the defendant House of Representatives asserted in the litigation that "only congressional legislation or constitutional amendment can remedy plaintiffs' exclusion from the franchise."[7]

The *Alexander* court's interpretation and application of the relevant judicial precedents is consistent with House counsel's position. Two key precedents relied on by the court were Chief Justice John Marshall's 1805 decision in *Hepburn v. Ellzey*,[8] and Justice Robert Jackson's 1949 plurality opinion in *National Mutual Insurance Co. of District of Columbia v. Tidewater Transfer Company*.[9] It is important to describe those two precedents before explaining how the *Alexander* court applied them.

Hepburn was the first Supreme Court decision addressing whether the District of Columbia may be treated as a "State" within the meaning of the Constitution. The case concerned the fact that Article III of the Constitution authorizes the federal courts to hear cases "between citizens of different States." The question in *Hepburn* was whether District of Columbia residents are eligible under this Article III provision to bring suit in federal court. Chief Justice Marshall said they are not, relying primarily on the fact that the District is not a State within the meaning of the clauses of Article I of the Constitution granting congressional representation only to States. He believed that just as the District is not a State under Article I, it also is not a State under Article III.

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[5] 90 F. Supp. 2d 35, 72 (emphasis supplied).
[6] *Id.*, at 72, 37.
[7] *Id.*, at 40 (emphasis supplied).
[8] 6 U.S. 445 (1805).
[9] 337 U.S. 582 (1949).

Nevertheless, Chief Justice Marshall closed his *Hepburn* opinion by noting that: (1) citizens of the District are "citizens of the United States"; (2) they are "subject to the jurisdiction of congress"; (3) it is "extraordinary" that they should be denied rights to which "citizens of every state in the union" are entitled; and (4) this inequity is "a subject for legislative, not for judicial consideration."[10]

Nearly 150 years later Congress addressed the inequity by passing a law, under its District Clause power, treating D.C. citizens as if they were citizens of a State for purposes of federal court jurisdiction. In the *Tidewater* case, the Supreme Court was asked to decide whether this law was valid. The Court held that it was, although the Justices had different reasons for reaching that conclusion. The important opinion from *Tidewater* is the plurality decision issued by Justice Jackson, because it is the decision relied on by the *Alexander* court.

Justice Jackson said that the clear implication of Chief Justice Marshall's opinion in *Hepburn* was that Congress had the power under the District Clause to treat the District as if it were a State for purposes of federal diversity jurisdiction. As noted, Chief Justice Marshall said in his opinion that it was "extraordinary" that citizens of the District, which is "subject to the jurisdiction of Congress," do not have the same rights as "citizens of every state in the union," but that this is "a subject for legislative, not for judicial consideration." Justice Jackson interpreted this to mean that "Congress had the requisite power under Art. I [the District Clause]" to address the inequity facing District citizens.[11]

It is true, said Justice Jackson, that Chief Justice Marshall's reference to this being a subject for "legislative" consideration is "somewhat ambiguous, because constitutional amendment as well as statutory revision is for legislative, not judicial, consideration."[12] Even so, Justice Jackson concluded, the better reading of Chief Justice Marshall's opinion is that Congress has power under the District Clause to treat the District as if it were a State. And, in any case, Justice Jackson said, "it would be in the teeth of his language to say that it is a denial of such power."[13] Finally, Justice Jackson said, "congress had acted on the belief that it possesses that power" and Congress' determination is entitled to great deference.[14] This is particularly true given that "congressional power over the District, flowing from Art. I, is plenary in every respect."[15] Thus, the Court in *Tidewater* approved Congress' legislative expansion of federal diversity jurisdiction to embrace the District, notwithstanding the use of the word "State" in Article III.

Based in part on *Tidewater* and *Hepburn*, plaintiffs in the *Alexander* case argued that the court should treat the District as if it were a State under the provisions of Article I

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[10] 6 U.S. 445, 453.
[11] 337 U.S. 582, 589.
[12] *Id.*, at 587.
[13] *Id.*, at 589.
[14] *Id.*, at 603.
[15] *Id.*, at 592.

giving voting representation to States. The dissenting judge in *Alexander* agreed with this argument.[16] The two-judge majority disagreed, but it disagreed in a way that clearly validated Congress' power to treat the District as if it were a State under Article I.

First, the majority said that *Tidewater* "reconfirmed Marshall's conclusion that the District was not a state within the meaning Article III's grant of jurisdiction to the federal courts, holding instead that Congress had lawfully expanded federal jurisdiction beyond the bounds of Article III by using its Article I power to legislate for the District."[17] Then, and more importantly, the *Alexander* majority declared in the closing section of its opinion that "many courts have found a contradiction between the democratic ideals upon which this country was founded and the exclusion of District residents from congressional representation."[18] Yet "it is the Constitution and judicial precedent that create the contradiction" and "that precedent is of particularly strong pedigree."[19] That "pedigree," the *Alexander* majority said, was primarily *Hepburn* and *Tidewater*; to support that view, the *Alexander* majority quoted this passage from *Tidewater*:

> Among his contemporaries at least, Chief Justice Marshall was not generally censured for undue literalness in interpreting the language of the Constitution to deny federal power and he wrote from close personal knowledge of the Founders and the foundation of our constitutional structure. Nor did he underestimate the equitable claim which his decision denied to residents of the District . . ..[20]

The *Alexander* majority then closed by stating:

> Like our predecessors, we are not blind to the inequity of the situation plaintiffs seek to change. But longstanding judicial precedent, as well as the Constitution's text and history, persuade us that this court lacks authority to grant plaintiffs the relief they seek. If they are to obtain it, they must plead their cause in other venues.[21]

Taken together, these statements by the *Alexander* court constitute persuasive legal support affirming the legislative authority of Congress to address the voting inequity described by the court, for the reasons that follow.

In *Hepburn*, Chief Justice Marshall concluded that the District is not a State under Article III, but he strongly implied that this inequity (denial of federal court jurisdiction to District citizens) could be remedied by Congress under the District Clause. *Tidewater* later made express what Chief Justice Marshall had implied – that Congress does have

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[16] 90 F. Supp. 2d 35, 94-96.
[17] *Id.*, at 54-55 (emphasis supplied).
[18] *Id.*, at 72.
[19] *Id.*
[20] *Id.*, at 72 (emphasis supplied) (citing *Tidewater*, 337 U.S. at 586-87).
[21] *Id.*

the power under the District clause to give D.C. citizens the same rights that citizens of States have under Article III. Indeed, the Judiciary Committee of the House of Representatives recommended the Act of April 20, 1940, which defined the word "States" as used in the diversity jurisdiction statute to include the District of Columbia, as a "reasonable exercise of the constitutional power of Congress to legislate for the District of Columbia."[22]

Alexander now makes clear that Congress may use this same District Clause power to remedy the other inequity identified by Chief Justice Marshall – denial of voting representation to District residents. The *Alexander* court gave its guidance on this issue in essentially the same way as had Chief Justice Marshall; *i.e.,* once the court found that the District was not a State for purposes of Article I, it offered a closing statement regarding the best manner to address that inequity – just as Chief Justice Marshall had done.

Thus, in *Hepburn*, Chief Justice Marshall expressed his view that it is "extraordinary" that District citizens should be denied rights available to citizens of every state in the union; the *Alexander* court similarly stated that it was inequitable and contrary to our "democratic ideals" that District citizens are denied the voting representation enjoyed by other U.S. citizens. Likewise, Chief Justice Marshall specifically referenced the fact that citizens of the District are subject to the jurisdiction of Congress, referring to Congress' power under the District Clause; the *Alexander* court, in turn, quoted the passage from *Tidewater* noting that Chief Justice Marshall was reluctant to "deny federal power" regarding District residents, given the "equitable claim" they presented. The "federal power" available to address the "equitable claim," as *Tidewater* explained, is plainly Congress' District Clause authority.

Perhaps most important of all, just as Chief Justice Marshall had noted that the inequity presented in *Hepburn* presented a "subject for legislative" consideration, so too the *Alexander* court noted that District citizens could take their claim to "other venues," including the "political process."[23] Indeed, the *Alexander* opinion is even stronger on this point than was Chief Justice Marshall's opinion because the *Alexander* court specifically referenced Congress' own position that the inequity at issue could be addressed through "congressional legislation *or* constitutional amendment."[24]

For all these reasons, the recent *Alexander* decision, affirmed by the United States Supreme Court in October 2000, has made clear the authority of Congress under the District Clause to pass legislation treating citizens of the District of Columbia as though they are citizens of a State for purposes of voting representation. Furthermore, although *Alexander* only recently made that authority clear, past actions by Congress and other relevant legal precedents confirm that authority.

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[22] H.R. Rep. No. 1756, 76th Cong., 3d Sess., p. 3.
[23] 90 F. Supp. 2d 35, 37.
[24] *Id.,* at 40 (emphasis supplied).

III. OTHER AUTHORITY CONFIRMING CONGRESS' DISTRICT CLAUSE POWER

Beyond *Tidewater* and *Alexander*, there are other examples in which the courts have approved the extension by Congress to District residents of a constitutional protection otherwise applicable only to residents of the states. The most important example is found in the cases construing 42 U.S.C. § 1983, the federal statute implementing the protections of the 14th Amendment. In *District of Columbia v. Carter*,[25] the Supreme Court held that, because the 14th Amendment does not apply to the District of Columbia, Section 1983 did not apply to District residents. "[T]he commands of the 14th Amendment are addressed only to the State or to those acting under color of its authority. . . . [S]ince the District of Columbia is not a 'State' within the meaning of the 14th Amendment . . . neither the District nor its officers are subject to its restrictions."[26] For this reason, the Court held, "[I]nclusion of the District of Columbia in § 1983 cannot be subsumed under Congress' power to enforce the 14th Amendment but, rather, would necessitate a wholly separate exercise of Congress' power to legislate for the District under [the District Clause]."[27] In response, Congress subsequently enacted legislation, pursuant to its power under the District Clause, making Section 1983 expressly applicable to the District. The validity of that legislation has never been challenged, and the courts have since assumed its applicability in many cases brought under its auspices.[28]

The Supreme Court also has upheld instances where Congress has used its power under the District Clause to extend to District citizens certain burdens of citizenship that, under the Constitution, apply to citizens of "states." The most important example is *Loughborough v. Blake*.[29] In that case, the Supreme Court held that Congress, under the District Clause and in conjunction with its Article I, Section 8 power "to lay and collect taxes," could impose a direct tax on the people of the District, notwithstanding that Article I, Section 2 states that "direct taxes shall be apportioned among the several States." Taken together, these cases confirm that Congress has authority under the District Clause to extend the benefits and burdens of U.S. citizenship to District residents, even where the Constitution applies those benefits and burdens only to citizens of the States.

A final confirmation that Congress has power under the District Clause to give D.C. citizens the vote is the fact that Article IV, Section 3 of the Constitution gives Congress the power to grant all the privileges of statehood – including the vote – by simple legislation. Accordingly, there should be no doubt that Congress also has the lesser power to grant a single attribute of statehood – the right to voting representation in Congress – if it deems that appropriate. As Justice Jackson said in *Tidewater*, when

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[25] 409 U.S. 418 (1973).
[26] *Id.*, at 423-24.
[27] *Id.*, at 424 n.9.
[28] *See, e.g. Inmates of D.C. Jail v. Jackson*, 158 F.3d 1357 (D.C. Cir. 1998).
[29] 18 U.S. 317 (1820).

Congress treated the District as a State for purposes of Article III of the Constitution, it was "reaching permissible ends by a choice of means which certainly are not expressly forbidden by the Constitution."[30] And Congress did so in circumstances where "no good reason is advanced" for denying Congress that power.[31] All of this applies equally to Congress' power to treat citizens of the District as if they were citizens of a state under Article I solely for voting purposes.

IV. THE 1978 PROPOSED CONSTITUTIONAL AMENDMENT

The only remaining question is whether Congress' power under the District Clause is somehow undermined by the proposed constitutional amendment adopted by Congress in 1978. We do not think it is.

As you know, in 1978, a bi-partisan, two-thirds majority in Congress approved a proposed constitutional amendment, which provided: "For purposes of representation in the Congress . . . the District constituting the seat of government of the United States shall be treated as though it were a State." At that time, there appears to have been consensus that an amendment to the Constitution would be the simplest and most durable remedy to the District's disenfranchisement. Several experts consulted by Congress in connection with the 1978 Amendment argued that Congress could, by simple legislation, enfranchise citizens of the District of Columbia, but took the position that a constitutional amendment would be preferable.[32] Others, including the spokeswoman for the administration of then-President Carter and a task force convened to examine the problem, apparently assumed that, to effectuate a legislative solution to the problem, Congress would exercise its authority pursuant to Article IV, Section 3 of the Constitution to confer full statehood on the District, a step perceived by many as problematic.[33]

The House Judiciary Committee in its report ultimately said: "The committee is of the opinion that the District should not be transformed into a State . . . ."[34] Indeed, it seems clear from the record that Congress in 1978 was seeking a solution that would permanently enfranchise District citizens without the possibility of a later legislative reversal, while still maintaining the unique status of the District as the national capital, under federal control. Thus, the Committee concluded, that: "If the citizens of the

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[30] 337 U.S. 582, 603.

[31] *Id.*

[32] *See, e.g., Proposed Constitutional Amendments (H.J. Res. 139, 142, 392, 554, and 565) to Provide for Full Congressional Representation for the District of Columbia: Hearings Before the House Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary*, 95th Cong. 86-100 (1977) (testimony of Peter Raven-Hansen, Attorney at Law, and Herbert O. Reid, Professor of Law, Howard University School of Law).

[33] *See, e.g., Proposed Constitutional Amendments (H.J. Res. 139, 142, 392, 554, and 565) to Provide for Full Congressional Representation for the District of Columbia: Hearings Before the House Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary*, 95th Cong. 125-126 (1977) (testimony of Patricia Wald, Assistant Attorney General, Office of Legislative Affairs).

[34] H.R. Rep. No. 95-886, at 4 (1978).

District are to have voting representation in the Congress, a constitutional amendment is essential; statutory action alone will not suffice. This is the case because provisions for elections of Senators and Representatives in the Constitution are stated in terms of the States, and the District of Columbia is not a State."[35]

Despite this definitive-sounding statement, the Committee was not unanimous in believing that a constitutional amendment was necessary. Representatives Thornton, Hungate, Butler, Hyde, and Kindness filed separate views with the House Judiciary Committee Report on an early version of the proposed constitutional amendment, stating: "[I]t would be desirable for the residents of the District of Columbia to have voting representation in Congress . . . [but] we are not convinced that a constitutional amendment is either wise or necessary. More careful consideration should be given to the possibility that statutory provisions could be used to achieve this goal."[36] Representative Holtzman of the Committee also filed supplemental views, stating that: "the Committee [should] explore the possibility, suggested by Rep. Ray Thornton, of providing the District of Columbia with representation through the normal legislative process."[37]

Taking the record as a whole, we conclude that Congress, confronted with conflicting views on whether legislation would suffice, having heard the recommendation of several experts favoring the permanency of a constitutional amendment, and wishing to avoid debate on whether Congress should confer statehood on the District, determined that the proposed constitutional amendment afforded the most straightforward means to the desired end. It also appears from the record that Congress was confident that the proposed amendment would soon be ratified. The Committee on the Judiciary, in the 1975 report on an early version of the constitutional amendment, stated that:

> On June 16, 1960, Congress proposed the 23rd amendment to the Constitution. On April 3, 1961 – less than 1 year later – that amendment was ratified. It represented a national consensus that the District of Columbia was entitled on a permanent basis to participate in the election of the President and Vice President of the United States. Based upon the testimony received by the committee we conclude that there is an equally broad consensus that the denial of representation in the Congress for District citizens is wrong and that correction of this injustice is long overdue.[38]

In 1978, the Committee on the Judiciary, considering the final resolution proposing the constitutional amendment, said: "The committee is of the opinion that the District should not be transformed into a State, and it is confident that this proposed

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[35] *Id.*; H.R. Rep. No. 94-714, at 4 (1975).
[36] H.R. Rep. No. 94-714, at 15 (1975).
[37] *Id.*, at 9.
[38] *Id.*, at 3.

constitutional amendment when submitted to the States will be quickly ratified."[39] As it turned out, however, the proposed constitutional amendment failed to gain the approval of three-fourths of the states within the allotted seven year time period, as required, and was not ratified, leaving District citizens disenfranchised, as they still are today.

We believe there are two points from the 1978 Amendment's legislative history that are relevant to Congress' power now. The first is that there were strong differences of opinion in 1978 whether a constitutional amendment was required, and it is clear that many who supported a constitutional amendment did so because they thought one would be quickly passed and would render a permanent solution to the problem. It is also clear that many believed even in 1978 that Congress had the power to address the problem by simple legislation. The *Alexander* decision has now provided persuasive judicial support for that power. Subsequent experience has also shown that those who believed quick ratification would be forthcoming were mistaken; the fact is that even where a proposed constitutional amendment is supported by an overwhelming majority of the people (which polls show is the case with regard to giving D.C. citizens the vote),[40] obtaining ratification by three fourths of the states is very difficult.

The other important lesson to be drawn from the 1978 Amendment is that the majority view in Congress was then, and presumably still remains, that some means should be found to address the inequity facing D.C. citizens. As Senator Strom Thurmond stated in defense of the passage of the proposed amendment:

> I think it is a fair thing to do. We are advocating one man, one vote. We are advocating democratic processes in this country. We have more than 700,000 people in the District of Columbia who do not have voting representation. I think it is nothing but right that we allow these people that representation. We are advocating democratic processes all over the world. We are holding ourselves up as the exemplary Nation that others may emulate in ideas of democracy. How can we do that when three-quarters of a million people are not allowed to have voting representation in the capital city of this Nation?[41]

As Senator Dole similarly stated:

> The absence of voting representation for the District in Congress is an anomaly which the Senate can no longer sanction. It is an unjustifiable gap in our scheme of representative government – a gap we can fill this afternoon by passing this resolution.
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> ***

[39] H.R. Rep. No. 95-886, at 4 (1978).
[40] *Metro in Brief*, WASH. POST, April 13, 2000, at B3.
[41] 124 Cong. Rec. 27,253 (1978).

It seems clear that the framers of the Constitution did not intend to disenfranchise a significant number of Americans by establishing a Federal District. I believe that the framers would have found the current situation offensive to their notions of fairness and participatory government.[42]

The *Alexander* decision has confirmed the correctness of these statements by Senators Thurmond and Dole. As noted, that decision declared that there is "a contradiction between the democratic ideals upon which this country was founded and the exclusion of District residents from Congressional representation."[43] And, most importantly, the *Alexander* decision demonstrates that Congress has authority to correct this contradiction and include District residents in our democracy.

CONCLUSION

The *Alexander* decision, affirmed by the United States Supreme Court, has made clear that Congress has legislative authority to give voting representation to the citizens of the Nation's capital. That court has also confirmed Congress' own stated view that denial of that voting representation is a serious inequity that should be corrected. Now that Congress' authority has been established, it seems appropriate that Congress should act expeditiously to correct the inequity.

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[42] 124 Cong. Rec. 27,254-55 (1978).
[43] 90 F. Supp. 2d 35, 72.

Mrs. MORELLA. Mr. Eugene Boyd, who is an Analyst with regard to American National Government at CRS.

Mr. BOYD. Thank you, Madam Chair, Ms. Norton. My testimony will draw from research undertaken pursuant to the conference report accompanying the District of Columbia Appropriations Act of 2002 which directed the Congressional Research Service to prepare a comparative report on the District of Columbia and 10 other national capitals. In accordance with CRS's statutory mandate to provide objective and nonpartisan research and analysis of issues before Congress, my testimony will focus on the factual findings presented in the report, a copy of which I would like to submit for the record as well as this testimony.

The report, which focused upon the rights of citizens, management and oversight of the National Capital by the national government and financial support of the National Capital by the national government, presents information on Washington, DC, and the following national capitals: Berlin, Bern, Ottawa, Brasilia, Canberra, Caracas, Paris, Rome, London and Mexico City.

Of the 11 cities included in the report, 3 are capitals of unitary systems of government, essential governments; 8 are capitals of countries with Federal systems of government; 5 of the 8 capitals that are Federal capitals are located in Federal districts or territories; and 3 Federal capitals function both as a city and State, or a city within a province.

My testimony today will focus on the rights of citizens specifically. I will address three questions relating to the election of local lawmakers, home rule, and voting representation in the national Legislatures.

The first of the three questions, do the citizens of the national capital elect their local executive and legislative leadership? Almost all of the capitals in the study elected their local political leadership. Among the five capitals that are Federal districts, the rights of citizens of the National Capital to elect their own local political leadership is a fairly new development, dating back to 1974 when the Congress of the United States granted the citizens of the District of Columbia the right to elect the Mayor and the City Council, and most recently, in 1996, when constitutional reform in Mexico granted the citizens of Mexico City the right to elect the mayor of the Federal direct. Before 1996, the mayor—there was a federally appointed chancellor or regent.

The second question: Does the local government of the National Capital have autonomy in managing its affairs or may it be overruled by a higher level of government? Eight National Capitals have constitutionally or legislate—I'm sorry—eight national governments have constitutionally or legislatively mandated oversight of the National Capital. Only Switzerland, Germany, and Canada's national governments do not. And in these capital cities, which are city-States or cities within States, the primary source of physical assistance in legislative authority is the State and not the Federal Government. In four countries, decisions made by the local governments of Canberra, Caracas, the District of Columbia, and Mexico City can be overruled or vetoed. Only in the District of Columbia and Mexico City must the budgets of the local governments be ap-

proved by the national government. And in Mexico City, the mayor may be impeached, removed, and replaced by the national Senate.

The third question on voting representation in the national legislature, the report notes that only in Washington, DC, do citizens not have voting representation in the national legislature. In general, representation of the National Capital in the national legislature is based on population in the lower house, with a fixed number of Members in the Upper Chamber, or Senate, who may be appointed or elected. There are, however, numerous variations. For instance, Canberra residents elect two Senators to the national legislature, who serve 3 years instead of the customary 6-year term served by Senators from Australian States, and they elect two Members to the House, while States elect 12 Senators to the Senate, and no State has fewer than five House Members.

Another example is Caracas. Citizens elect members to a unicameral national assembly. Members are elected by popular vote to serve 5-year terms, and 3 of the 165 seats are set aside for representatives of the indigenous people of Venezuela.

This concludes my remarks and I'll be happy to respond to any questions that you may have.

Mrs. MORELLA. I want to thank you very much for your testimony.

[The prepared statement of Mr. Boyd follows:]

Testimony of Eugene Boyd,
Congressional Research Service
before the
Committee on Government Reform, Subcommittee on the District of Columbia,
United States House of Representatives
July 12, 2002

Voting Representation for Citizens of Selected National Capitals: Some Observations

Good morning, Chairwoman Morella, Delegate Norton, and other members of the Subcommittee. My name is Eugene Boyd, and I am an analyst with the Congressional Research Service. I thank you for your invitation to testify today on voting representation for the District of Columbia.

As discussed with members of the subcommittee staff, my testimony will draw from the results of research undertaken pursuant to the conference report accompanying the District of Columbia Appropriations for FY2002, which directed CRS to prepare a comparative report on, among other things, the rights of citizens of the District of Columbia and 10 other national capital cities.[1] CRS prepared the report with the assistance of the Law Library of Congress and embassies of the countries of the selected capital cities, and used information from both official and unofficial publications, documents, and Internet Web sites.

In accordance with CRS's statutory mandate to provide objective and nonpartisan research and analysis of issues before the Congress, my testimony will focus on the factual findings presented in the report, a copy of which I would like to submit for the record, along with this testimony.

The report presents information on Washington, D.C., and the following national capitals:

Berlin, Germany	Caracas, Venezuela
Bern, Switzerland	Paris, France
Ottawa, Canada	Rome, Italy
Brasilia, Brazil	London, England
Canberra, Australia	Mexico City, Mexico

Of the 11 cities included in the report, seven are capitals of countries with federal systems—Berlin, Brasilia, Canberra, Caracas, Mexico City, Ottawa, and Washington, D.C. Three are capitals of nations with unitary systems of government—Rome, Paris, and London. Like Washington, four of the capitals are located in federal districts or territories that exist outside state or provincial governments—Brasilia, Canberra, Caracas, and Mexico City. One of the seven—Ottawa—is a city within a province. Another federal capital functions both as a city and state—Berlin. One is the capital of a confederation of cantons or states—Bern.

The report profiles selected structural arrangements between the national government and the national capital including the rights of citizens, management and oversight of the national capital by the national government, and financial support of the national capital by the national government.

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[1] *Washington, D.C. and 10 Other National Capitals: Selected Aspects of Governmental Structure*, by Eugene Boyd and Michael Fauntroy (Washington: Congressional Research Service, March 2002).

Three caveats about the report from which today's testimony is drawn are important to keep in mind: First, information on the capitals of some countries is more detailed than others because of differences in the availability of data. Second, the variety of sources and time periods to which the information applies results in limitations to comparability. Third, the report does not address cultural, economic, or political dynamics of the selected nations and their national capitals.

My testimony today will focus on the rights of citizens. Specifically, I will address three questions relating to home rule, the election of local lawmakers, and voting representation in the national legislatures described in the CRS report.

1. Do the citizens of the national capital elect their local executive and legislative leadership?

Among the national capitals that are federal districts or territories—this includes Washington, D.C., Mexico City, Canberra, Caracas, and Brasilia—citizens in all five elect their mayor and legislative leadership. A word of clarification about the Caracas Metropolitan Area: the area has a two-layered system of local government comprising five municipalities. Three of the five municipalities are termed ordinary municipalities. The remaining two are termed special municipalities because of their status as a federal district. Citizens in the Caracas Metropolitan Area also fall under the purview of a governor appointed by the president.

Among the three federal capitals that are city-states or a city within a state—Bern, Berlin, and Ottawa—citizens elect both the city's legislature and chief executive. Citizens of cities that serve as capitals of unitary governments—Paris, Rome, and London—also elect their chief executive and local legislative body.

The rights of citizens of national capitals to elect their own local legislative and executive officers is a fairly new development in five capitals.

- In 1996, constitutional reform in Mexico, granted citizens of Mexico City the right to elect the mayor of the federal district; prior to the constitutional change a federally appointed chancellor was the chief executive of the federal district.

- In 1988, changes in the Brazilian Constitution gave citizens of Brasilia the right to elect a governor and vice governor of the federal district.

- Also in 1988, the Australian Parliament passed the Australian Capital Territory Act, which established a home rule government in Canberra with powers and responsibilities similar to states.

- In 1986, Venezuela granted expanded rights to the citizens of the national capital.

- In 1974, the Congress of the United States granted the citizens of Washington, D.C., the right to elect its chief executive and local legislature.

2. Does the local government of the national capital have autonomy in managing its affairs or may it be overruled by a higher level of government?

Among five national capitals that are federal districts, three—Washington, D.C., Mexico City and Caracas—have significant oversight by the national government. In each of them, the local government budget must be approved by the national government. In Mexico City, the mayor may be impeached, removed, and replaced by the national senate. In the other national capitals included in the report, the national government has limited or no authority to override local decisions. In the case of Canberra, the national government has input only in instances where local government policy decisions are related to federal grants-in-aid.

Eight national governments have constitutionally or legislatively mandated oversight of the national capital. Only Switzerland, Germany, and Canada's national governments do not have oversight authority. In these capital cities, which are city-states or cities within states, the primary source of fiscal assistance is the state, not the federal government.

Seven national governments have no veto power over local decisions. In four countries decisions made by the local governments of Canberra, Caracas, the District of Columbia, and Mexico City can be overturned. Only in the District of Columbia and Mexico City must local budgets have the approval of the national government.

3. Do citizens of the national capital have voting representation in the national legislature?

On the question of voting representation in the national legislature, the report notes that 10 of the 11 capitals surveyed provided some degree of voting representation in the national legislature for citizens of the national capital. Only in Washington, D.C., do citizens not have voting representation in the national legislature.

The degree of representation varies slightly among the national capitals surveyed. Most national capitals have full voting representation in both houses of the national legislature. In general, representation of the national capital in the national legislature is based on population in the lower house with a fixed number of members in its upper chamber or senate. There are, however, a couple of variations:

> *Canberra* residents elect two senators to the national legislature who serve three year terms rather than the customary six-year terms served by senators from Australian states, and two members of the house.
>
> *Caracas* elects members to a unicameral National Assembly. Members are elected by popular vote to serve five-year terms. Three of the 165 seats are reserved for the indigenous people of Venezuela. .

This concludes my remarks. I would please to respond to any questions you may have.

Mrs. MORELLA. I'll now start the questioning and try to keep each round to 5 minutes for each of us. I'll start off, then, with Mayor Williams and Council Chair Cropp; and to if anyone else wants to comment on it.

When the citizens of the District of Columbia do get voting rights do you think there should still be a role for congressional oversight, particularly given the provisions of Article I, section 8, and how should that oversight be exercised? Article I, section 8.

Mayor WILLIAMS. The Council Chair can speak, but for my part, I think I would distinguish—two things I would distinguish. And the last testifier spoke to the relationship of the national legislatures to national cabals, and Walter as well spoke to the relationship of National Capitals of Federal centers. All that is to say that I would distinguish between the Congress's oversight of the Federal center from oversight of the city. And I think as the no taxation without representation bill works its way through Congress, I think we should be mindful of that distinction, because it is an important distinction.

There clearly should be a high degree of congressional oversight over the Federal center as opposed to the city of Washington, DC. As far as the city of Washington, DC, is concerned, I think that there clearly should be some oversight, but I think it ought to be on a post-audit basis. And I would use as an example the kind of oversight that we want to see in the future. An initial step toward that autonomy is the Budget Fiscal Integrity Act which would give the city budget autonomy and would provide Congress with a post-audit review of District budgets. I think that is the road down which we want to go.

Mrs. MORELLA. So you think the concept in that piece of legislation which we've introduced gives the adequate oversight in autonomy.

Mayor WILLIAMS. Right. I think it is a good precedent for the kind of oversight Congress should have, yes.

Mrs. MORELLA. Thank you. Chairwoman Cropp.

Ms. CROPP. Let me say I concur with most of what the Mayor said. I think it's very easy for us to establish a Federal enclave, and that Federal enclave would be the part in which the Federal Government would have jurisdiction. And then the other part of it should be done by the locally elected leadership. We raise our revenue. Most people are truly shocked with the fact that we raise our revenue, and that when you look at the dollars that the Federal Government even pays out to others' jurisdictions, many others get much more than we do in the District of Columbia.

So that there's an opportunity to do that, and even without us having the—possibly our voting rights immediately, what we can have is that fiscal autonomy where it would be our hope and our desire that you move as quickly as possible on getting us voting rights. And it certainly can start with at least our Representative Eleanor Holmes Norton having the vote back that she did have at one point, and then move on to total voting rights; but, immediately, fiscal autonomy too for the city.

Mrs. MORELLA. Mr. Peck, I think in your testimony, you indicated support for that measure. And I just wondered if you wanted

to elaborate on that or indicate what expansions of the Home Rule Charter that the Board of Trade supports.

Mr. PECK. I think as I said, but to make clear, the right of the District of Columbia to pass its own—to have a budget that is not subject to congressional review and to pass legislation which is also not subject to congressional review.

And I want to make clear what I was trying to say before. The principle in business is that those who—if you're going to spend the money, you have to have been in the seat of the people who raised the money, so you don't just get to spend and direct other people's money. And I think it's one of the fundamental economic aspects of self rule, of democratic rule, that the people tax themselves and then get to direct how the money is spent. And here we have local citizens raising money, agreeing to tax themselves, and then being directed by—potentially being directed by others how to spend it. It's not what we do in other local governments. I hope that clearly answers the question.

Mrs. MORELLA. We look at you as a resource as we move along, too.

Mr. Smith, do you believe that Congress could have granted District residents the right to elect electors to elect the President without going through the constitutional amendment process? Could Congress have granted the Presidential vote under its authority in that Article I, section 8 that I alluded to of the Constitution?

Mr. SMITH. Madam Chairwoman, we have not looked directly at that issue, and I'd like to think I'm a good enough lawyer not to give an off-the-cuff response to the question. But let me say this. The issue of the Presidential electors under the terms of the Constitution is different from the one we're talking about today because of the peculiar role of the electoral college. We don't have that when we're talking about merely establishing Congress's right to treat District citizens as if they were citizens of a State.

Many people argued that at the time of the amendment that gave us the right to vote in the Presidential election, because of the peculiarity of the language in the Constitution regarding the role of the electoral college, it was important that be done. And in fact to use Article V's word, it was necessary that be done by constitutional amendment, but that the same argument is not available with regard to voting representation in the Congress.

Mrs. MORELLA. You know, I'm curious if the right to vote could be given by legislation enacted in this Congress, would it not have the risk that subsequent Congresses could change it? I mean, is that something that should be considered?

Mr. SMITH. Others might want to speak to that. I think the answer to that is yes. As we tried to explain a bit in the memorandum that I mentioned a minute ago, at the time of the 1978 constitutional amendment which, as you know, passed by two-thirds majorities in both houses, some people argued that the reason to pass a constitutional amendment was not because that was the only way to do it, but because that was the way to give it permanence. That was why some people supported it at that time.

So theoretically, I suppose, if you were to pass simple legislation recognizing the rights of D.C. citizens to voting representation in the Congress, some later Congress might differ. But I would not ex-

pect that to happen. I would expect once voting representation is given, the Congress would not be in the business of later declaring, no, the citizens of the Nation's Capital are not entitled to the vote.

Mrs. MORELLA. And if anyone wants to respond to that kind of question, I'm wondering also if you did it legislatively, there's always then the possibility that somebody will question it and bring it to court. Can you see that route occurring and then it might be considered not constitutional? If any of you would like to comment on it.

Ms. CROPP. Just briefly, it seems as if one of the things that happened in the last trial, the Court said that it was up to Congress to make the decisions. So if that were the case, then the Court would be going back on what it had said itself.

Mayor WILLIAMS. I would agree with that. I think the Court, in the parlance of lawyers, said it doesn't have standing because it's a political question. Well, if it's a political question, it implies that it's within the power of Congress to solve.

Mr. SMITH. Could I just add one other thought to that? I agree obviously with what the Mayor and Chairman Cropp has said. Another key point, though, I believe is if in fact a lawsuit were brought, at that time we wouldn't be plaintiffs in this suit as we were in Alexander against Dailey; and as Justice Jackson pointed out in the Tidewater case which is in our memorandum, the courts are directed to give great deference to Congress's own view of the scope of its authority under the District clause.

And if Congress were to agree with the argument we're advancing here, which is you do have the authority to pass this legislation under the District clause, the courts will be directed to defer to your view about that.

Mrs. MORELLA. I'm going to now have Congresswoman Norton ask her questions. But my concern also was, would it be a piece of legislation in the House and then a piece of legislation in the Senate separately, each dealing with its own body? Would it be one piece of legislation for both, that goes obviously through both houses, or does it matter? Well, think about it as we proceed.

Congresswoman Norton, for your questioning.

Ms. NORTON. Well, I appreciate the Chair's thoughtful line of questioning. I should say that Mr. Smith deserves the commendation of the city for the extraordinary service that he rendered in the case of *Alexander* v. *Dailey* and, of course, this legislation comes directly out of the suggestion of the Court. Even though I think the issues raised about permanence are worthy issues, the coalition, the national and local coalition that has been working on voting rights, is going to meet in a summit of its own to decide how to proceed next year.

The fact is, the Congress leaves the District in the position of deciding how to pursue its rights each year by virtue of the circumstances that the city sees before it, and of course the city saw before it this year a Republican House and a Republican Senate that did not support voting rights, and so our No Taxation Without Representation Act seemed appropriate for the time, especially since the Court had indicated that we might repair to the Congress for our rights.

I should also mention that if the argument is that you could take back a voting right if you gave it, it should also be stated that it is the Congress that gives statehood, and that therefore Congress could repeal statehood as well. But you have to ask yourself if the Congress goes so far as to grant such a fundamental right, whether under any circumstances it would grant it back. And again, statehood, you have to do the same thing you're trying to do here. You've got to get the House and the Senate and the President to sign it.

What I'd like to ask you, as simply a followup, do you know of any circumstance or an analogy where Congress has repealed the fundamental right once Congress itself gave that right?

Mr. SMITH. You're asking me?

Ms. NORTON. I'm asking you. I just wanted to establish that.

Mr. SMITH. I don't, Congresswoman.

Ms. NORTON. That is a worthy point that the coalition will be considering.

Mr. Mayor, when you say post-audit with respect to District affairs, are you aware that's what the Congress does now? The Congress does—audits your bills after you pass them. The Congress audits your budget after you pass them. So I'm not sure I know what post-audit would mean.

Mayor WILLIAMS. Doesn't the Fiscal Integrity Act call for the District to meet certain tests for budget autonomy in the Fiscal Integrity Act?

Ms. NORTON. Yeah, in the Fiscal Integrity Act.

Mayor WILLIAMS. That is what I mean by post-audit. I'm just maybe being sloppy in my phrasing.

Ms. NORTON. You don't mean there should be special committees of the House and the Senate set up?

Mayor WILLIAMS. No. I'm saying we meet certain tests, we should have autonomy that are in the Fiscal Integrity Act. If I could just state, that is really beyond my competence. It seems to me that if Congress granted the District the equivalent of statehood, I think that we have decided in this country that this union is insoluble, and I can't see how once you're granted those rights, you can then be seen as having those rights revoked. That's just my 2 cents.

Ms. NORTON. Thank you. Indeed, if we get a Congress that will fully respect home rule, I intend to seek the abolition of the District Committee where, if there were a Democratic House I would be Chair, and to seek the abolition of the D.C. Appropriations Committee, and to do so in the House as well as the Senate. It seems to me that 25 years after home rule, setting up a whole apparatus of staff to essentially look at what you've already done is a waste, not only for you but for the Congress of the United States as well.

I'd like to ask Mr. Browne a question. What you have done, Mr. Browne, in going from State to State and city to city, is quite extraordinary, because it was more than, of course, the case of just sitting down and saying, you know, sign here on the dotted line. You had to convince the leaders of those legislatures that they should do so.

In looking to build on what you have done, first let me ask whether you think—let me ask whether you think what you have

done by visits so well could be done without individual visits, or would followup with two visits, so that these 11 States and cities that you manage to get—I don't think he's going to hear me, though, if——

Ms. CROPP. No. He has an allergy, so I'm trying to make sure he hears you.

Ms. NORTON. Well, maybe I should speak a little louder. Is it easier to hear me now, Mr. Browne?

Mr. BROWNE. Better.

Ms. NORTON. I'm sorry. Just ask me to speak up. I'm sorry. I didn't realize.

Mr. Browne, you have painstakingly visited 11 cities and States. That is a lot of hard grunt work, particularly since what you had to do was not simply sit down and say, sign on the dotted line. You had to convince the leaders of these legislatures that there was an issue here that they should support; and, of course, what you have done is quite extraordinary.

I would like your advice on how to build on what you have done. Is it necessary for visits to be made, personal visits to be made? Is there another way without visits or is there a way to get action from legislatures building on other contacts or even on visits? How can we multiply the work you have so effectively done on a one-on-one, case-by-case basis?

Mr. BROWNE. I think that some of that is already under way, and certainly it needs to be done. While the support that we gathered is certainly broad and diverse, both in terms of its political nature and its geographic distribution, we would like, as you would, to have a larger body of support. I think that the work that the Mayor has done, both through the Conference of Mayors and through the legalities, is a good example of a way of broadening our outreach and our request for support that can come back from the country.

Additionally, there are certainly opportunities in the faith community. I can tell you that we have had that discussed with people all the way from the Quakers to the Baptists. We're eager to talk to our new bishop in Washington. The faith community, in many instances, believes that the violation of voting rights for the citizens of the District of Columbia is, in fact, a violation of human rights and crosses some lines into other areas. There are a lot of opportunities for us to reach out through a national microphone to get this out.

The last thing I would say is, as you know, because of your support and the mayors and in conjunction with that program, we have been visiting with the Governors and the staffs of the Governors. I am pleased to tell you that the very first proclamation in support of voting rights for the District of Columbia by a Governor was issued this week by the Governor of Hawaii. We don't have that for the record for you today, but we will submit it later.

[The information referred to follows:]

Proclamation

WHEREAS, the right to self-governance through the election of representatives to the national legislature is a fundamental characteristic of a free people and the founding principle of the United States; and

WHEREAS, the citizens of the District of Columbia willingly accept the burdens of United States citizenship, paying higher taxes per capita than the citizens of all but one state, serving in every American war and being among the first to be called to serve in the war against terrorism; and

WHEREAS, the District of Columbia contains over 500,000 citizens who pay approximately five billion dollars annually in local tax revenues, plus 2.5 billion dollars in federal taxes; and

WHEREAS, Washington D.C.'s local budget is paid for by its taxpayers despite the fact that 41 percent of its land is used by the federal government and cannot be taxed, and services provided to the federal government are not reimbursed except under extraordinary circumstances; and

WHEREAS, the United States Congress can override any local ordinance or resolution passed by the District of Columbia City Council; and

WHEREAS, the citizens of the District of Columbia are denied their rights to full and effective representation in the United States Congress, where they are represented by a single, non-voting delegate in the House of Representatives and have no delegate in the Senate; and

WHEREAS, the people of Hawaii urge the United States Congress to recognize and guarantee to the District of Columbia's citizens their fundamental right to voting representation;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby proclaim August, 2002, to be

DISTRICT OF COLUMBIA VOTING RIGHTS MONTH

in Hawaii, and join citizens across the nation in supporting this important issue.

DONE at the State Capitol, in the Executive Chambers, Honolulu, State of Hawaii, this sixteenth day of July, 2002.

Benjamin J. Cayetano

Ms. NORTON. I wonder, Ms. Cropp and Mayor Williams—Ms. Cropp, there's a relevant committee that could help Representative Browne carry out his work, multiply his work; and I am wondering from the Mayor whether there is a relevant staff member on the Mayor's staff that could help him carry out this work and multiply this work more quickly. I mean, these cities each have Senators and Representatives, and it would be very useful to us here in the House and the Senate, but I am not sure that making this a one-man operation, as Mr. Browne has been intent upon doing, if nobody else will do it—he has been there to do it. I am not sure that will get it done as fast as all of us would like to have it done, so could I ask you that?

Ms. CROPP. Certainly. There is a committee on the Council chaired by Phil Mendelson who deals with voting rights and certainly that committee can interact with the work of Ray Browne.

Ms. NORTON. I would ask you to speak to Mr. Mendelson about setting up a meeting with Mr. Browne so that a strategy could be developed by the Council that would help Mr. Browne to do the work he is doing more quickly—that he is doing so effectively more quickly.

Ms. CROPP. In addition to that, actually, I have since sent a letter of opening to Mr. Browne. I've given it to him as Jack Evans, the Chair Pro Tem of the Council, somewhat as an introductory letter as he has made his travels throughout the country in support——

Ms. NORTON. Yes, I am aware of that. In fact, I think he uses a letter from all three of us saying we hope you will cooperate on this matter. So that is very important, helping him to get in, to see that he is somebody who represents us all.

Ms. CROPP. He represents us, that's correct.

Mayor WILLIAMS. We—on my staff—Fonda Richardson on my staff handles intergovernmental relations, and in that—she comes from the National League of Cities with a strong background, and in that regard I've worked as a member of the board of directors of the National League of Cities. I'm a very strong member of that organization, and I'm now seeking a leadership role in that organization.

I might add, it's a strongly bipartisan, nonpartisan organization. The National League of Cities amended the national municipal policy to include support for District representation. It passed a resolution for budget autonomy. This is a result of our efforts.

Ray mentioned what the U.S. Conference of Mayors has just recently done as a result of our efforts. So what I see what we're doing is complementing and supporting Ray's efforts on a national front, and we want to expand and broaden that.

I've had discussions with Governor Glendening about the District having—I should say United States—the District having observer status in the National Governors Association. Because, again, we paid millions of dollars in income taxes. We're exposed to all the State functions of other States, and we would want to see our voice heard there as well.

Ms. NORTON. That's very helpful. Yes.

Ms. CROPP. If I may add, I will also be joining the speakers—conference of speakers of houses of each State around the country, and

it's a plan that I plan on making a part of that conference as I become an active member.

Ms. NORTON. Madam Chair, I have other questions, but my time is up for this round.

Mrs. MORELLA. I want to pick up on that whole concept in terms of what is being done nationally to promote the concept of the legislature enacting by statute the opportunity to vote in the House and the Senate. What is being done to promote the idea that if there were a constitutional amendment there could be ratification from a sufficient number of States. You mentioned the National Council of Mayors, and it might be that you need a coordinator who deals with this who could make sure that resolution could be sent to Members of Congress just as a start.

Also, I am wondering about someone who used to belong to the National Conference of State Legislatures, it seems to me this could be a pretty good vehicle also to obtain support, to explain the situation. Many people just aren't—they aren't interested because they don't—it's not on their radar screen because they have too many issues. But if you could bring it to their attention, there could be some effort to spread the word. I understand the Council is a member of the National Conference of State legislatures, too. So you've got the mayors, the counties, the States. You could be doing a great—and you've got also Mr. Browne. You could be—you really could be spreading the word with a concerted effort that is focused on that.

I'd like to ask all of you who would like to comment on the feasibility of doing that what your opinions are on what more could be done for coordination and awareness to muster up support.

Ms. CROPP. I think you're on target. I think we should use every opportunity that is available for us to do that, particularly in educating people from across the country.

The statistics that I gave in my testimony shows that many citizens throughout the United States are totally unaware that the citizens in the District of Columbia are disenfranchised. When you ask those same citizens whether or not they should have voting rights they very clearly say yes. To the extent that we can get that type of support and that level of support from around the country, I think it then brings bearing right back here at this level where the citizens can talk to their elected representatives about supporting the issue.

We are in the District in the process of coming together and looking at a way and an approach for us to deal with it through different committees, whether it's D.C. Vote, whether or not it is our Congresswoman, the Mayor, Walter Smith. Some of us who have been meeting and looking at ways in which we can try to spread the word, and I think we should take every opportunity, whether it's the League of Cities, the Conference of Mayors or the national State legislature or the speaker—Conference on Speakers, that we ought to use all of these opportunities to gather support for voting rights in the District of Columbia.

Mrs. MORELLA. But, again, you may want to have a point person or somebody who was involved in doing some of that coordinating to report back.

Let me just go through the rest of the panel and see what comments you would like to make.

Mr. Browne, would you like to comment on what more can be done for awareness?

Listen. You keep hopping around like that, and you will be able to get the support of three quarters of the States for a constitutional amendment.

Is there something more that you think should be done, sir?

Mr. BROWNE. No. No, thank you.

Mrs. MORELLA. Ms. Werronen, I'm curious—and I probably should know this, too—does the National Republican Committee—do they have any view on this?

Ms. WERRONEN. No. No, they don't. But, actually, Representative Browne and I were meeting recently to see ways that we could be helpful, and he has agreed to come before our committee and explain all of—what he has been doing. And we're hopeful, because there are some members that have a deep interest in this, that they may be able to provide some support to him and nationally and may be able to again either accompany him on some of his trips or send letters of support. But we'd like to be part of it.

Mrs. MORELLA. That's great. That's very good. So it's going——

Ms. CROPP. Madam Chair.

Mrs. MORELLA. Yes.

Ms. CROPP. You know, I believe that we are forbidden to spend locally raised tax dollars.

Mrs. MORELLA. You are.

Ms. CROPP. That's a good place to start; and if we could spend some of our tax dollars on educating citizens from across the country, that would be very helpful.

Mrs. MORELLA. And it may be you demonstrate on your own time the kind of leadership that's necessary and you've got it picked up by other groups that you see here, Ms. Werronen; and I know Mr. Peck is going to comment on what the business community is doing.

Mr. PECK. I was going to say one opportunity that we have is that the Board of Trade markets the Washington region across the country, and one of the things—I don't want to go crabbing to anybody that 575,000 or whatever of our citizens are disenfranchised in the Congress, but there is an opportunity to talk to people in other Chambers of Commerce, in other business markets about the District.

One of the things we've not said so far is that the change in the way the country perceives the District of Columbia and the Washington region is because the government is better managed, because the fiscal situation is cleared up, makes a difference. It's hard even though, as some of the polls have asked, if your city were mismanaged, as many other cities have been over the years, do you think the Federal Government should come in and wipe—take over your functions? You know, people always say, well, no; and of course we've seen that it can happen here.

By the same token, neither should any mismanagement of the District change the way people think about voting rights. In our country we believe that self-government means you try to do the best you can. Sometimes you slip up, but that doesn't mean we

take your voting rights away. But I do think we should acknowledge that the change in the way people think about the District, the way it looks, have made a difference and give us a new opportunity to go around and ask for full enfranchisement of the District's citizens; and I think we can help do that.

Mrs. MORELLA. Your membership has within it people who represent groups that have affiliates throughout the country. I mean, it's a very high-powered group there, so they could be great conduits at various meetings if that subject were to be brought up.

Mr. PECK. And we, too, are nonpartisan—or bipartisan, I should say. We do have political action committees, and we support candidates from both parties.

Mrs. MORELLA. Mr. Smith, you've done a great job; and I appreciate your testimony plus all the work you've done. Would you like to comment?

Mr. SMITH. I do. I want to add just one other thought that's related to what you're talking about.

As we've said in the meetings that Congresswoman Norton has begun to call as groups have come together, national groups and local groups, the effort to coordinate what we're doing, which was the word you used, I think is key.

The other area that I think may be key to our effort, to pick up a on a point that Linda Cropp made, is a public education campaign. We have to do more about that. The country is at the moment unaware of the fact that we don't have voting representation; and when they learn that we don't have voting representation, they strongly support our having it.

I think we need to be thinking more creatively about what I would call a media PR kind of campaign to get stories out there through newspapers, magazines, broadcasts, to get the word out there in certain targeted markets as well as nationally. Because I do believe, once more people understand this issue, we're going to have a much better chance of ultimately achieving the result that everyone here today is saying we're entitled to achieve.

Mrs. MORELLA. I agree with you; and I agree with what Mr. Peck said, too, is that people are going to look at the way the District of Columbia is operating as they say, yes, of course they should have voting representation. I now defer to Ms. Norton.

Ms. NORTON. Thank you very much, Madam Chair. Ms. Werronen, first let me thank you, simply thank you, for your visibility on voting rights and your hard work on voting rights. We had a lobby day. A huge number of people showed up, and I didn't know who you were. But somebody said to me, guess who's there, the Chair of the Republican Party of the District of Columbia, Ms. Werronen.

I didn't make a big deal of the fact that she had decided to come. She came to the lobby day overflowing with people where it was very easy to get lost in the crowd and simply sat there, waiting for the coalition to tell people where to go and how to lobby; and I just think it's very important to take note of your important work. You yourself testified quite justifiably to the long-time commitment of our local Republicans and even national Republicans, until recently, to voting rights for the District of Columbia. I am aware of

the work that was done at the last convention to try to encourage people in the party to understand our particular situation.

We were disappointed that voting rights was taken out of the platform of the Republican Party after having been in there for a very long time. We didn't know whether it had to do with the state of the District of Columbia, because the District of Columbia went into a state of disrepair at one point. It seemed to us unusual that, having supported voting rights, the party would simply take it out. We know that there were at least some attempts to get it back in.

Could I ask you if you think that it is possible once again to get the national party to take the position that—at least the position that you have taken in your testimony and if you would be willing to try to do that at some appropriate time, including your next convention?

Ms. WERRONEN. Right. Absolutely. I am not really clear exactly myself what happened at our convention in 2000. I do know that there had been some, I guess, early drafts around that had something in it, and somehow or other it wasn't in the final draft. I was not a member of the platform committee and so have no firsthand knowledge of exactly what that was all about. But certainly, as chairman of this committee, I will play an important role in our next convention as a delegate, I hope, and certainly would look forward to at least putting forth my best effort to get this in.

Ms. NORTON. Thank you very much.

You say in your testimony, as an important first step we support the option of floor voting rights for the House of Representatives; and I can understand that position. There are a number of other Washingtonians who have that position. In a real sense the District has often gone in one step to the next step, although I think the position is—of most citizens is that we should have full representation.

What I'd like to know—I hear different versions of what the position of the D.C. Republican Party is. Does the D.C. Republican Party support full and equal voting rights with ultimately the same representation in the Senate and the House and this position represents a step moving in that direction, or would you limit it only to the House of Representatives?

Ms. WERRONEN. No. My statement is where I feel strongly that where our committee is today we're where the full committee is today, and so I am very comfortable in making a very strong stand as I have on full voting rights for our representative in the House. I look at the next step as a first step to the Congress because, as I've said, it's a unique situation and we have found—within our committee we have found just within personal discussion that when you go beyond that then immediately there are constitutional questions, there are the legal questions, there are the issues of full statehood or not full statehood; and it seems that things get lost and individuals that have one view go that way and individuals go another way.

I think that I guess as a practical person you take the first step that's achievable, let's do that, OK, then let's move on and see how we—we take that second step, and maybe it is that the Congress, whether they would pull together—there's never been really a congressional—special congressional committee on this issue.

You know, they could perhaps review from the constitutional scholars, from the Library of Congress, from citizens in the District and from the proper, I guess, legal authorities of what the next step should be. Indeed, if—there are just so many different ways of doing it, and it seems that when we've tried as a leader of an organization to do it, you get so far. Then there are so many different views that you don't have that final consensus on the exact way to proceed, and that's why I asked the Congress to—we are a unique Federal city—to look at us, knowing that we should have full voting rights and how exactly that can be achieved.

I believe the Congress can do it, but whether or not after the Congress does it you need to have some sort of constitutional amendment, I think these are questions that others may have better answers. But I think that we need to take the first step and solidify it and then move on.

Ms. NORTON. Then are you suggesting that if there were a—if we could put aside the constitutional question with a constitutional amendment of the kind the Republican Party nationally and locally supported before with a constitutional amendment for voting rights in the House and voting rights in the Senate, that would solve that question for you because there would no longer be a constitutional issue?

Ms. WERRONEN. Well, you get into the voting rights in the Senate. Then does that mean we're going to take the step of wanting to be a State and——

Ms. NORTON. What we would——

Ms. WERRONEN [continuing]. That's another question.

Ms. NORTON. I want to confine this question to the 1978 voting rights amendment which was supported by two-thirds of the House and the Senate, including many Republican Senators. Of course, we never could have gotten to the two-thirds in either House otherwise, where, by constitutional amendment at least, it looks like there was fairly much of a consensus in the House and the Senate that the District should have two Senators and a Representative. Would you support a constitutional amendment to that effect?

Ms. WERRONEN. Speaking on behalf of my committee, I'd have to bring it to the committee for a vote before I can put forth a position from them.

Ms. NORTON. We certainly appreciate the position you have put forward and the efforts you have made and urge you to continue to press that at least where you are and to press it further to bring you where I think most residents are. I think if you were to take a poll of local Republicans, you would probably find they'd want to have equal representation in the House and the Senate.

I'd like to move on to ask Mr. Peck a question, because he has had experience not only as a business person but in the Senate. I think there may be some sense that we want to have Senators just because everybody else does and, you know, it's kind of nice to have Senators.

If the truth be told, the House, which was always a people's body, has long given delegates virtually every right anybody else had. I mean, I sat on a committee that reorganized the whole House, and I am not even a Member of the House, when the Democrats were in power. I can do virtually anything here, you know,

except that final vote. That's a terrible insult to the people of the District of Columbia. I can't with a straight face say I can't operate in here without a vote. I obviously could operate better with a vote.

On the other hand, when the same matter comes up in the Senate, I have to do somersaults and worse than that. I go over to the Senate often to get things done in the Senate that I don't even initiate or couldn't initiate in the House.

I wonder if Mr. Peck would lay out how a Senator can short-circuit the process to get things done for her constituents that cannot—that nobody in the House could possibly do? You can tell the secret's in there because Senator Moynihan is gone——

Mr. PECK. You know, you make a couple of good points. Just by way of laying background, there are, of course, as you know, no nonvoting delegates in the Senate, so it's a tradition that the Senate doesn't have.

Second, I think it's intriguing. I did work for Senator Moynihan for 6½ years; and he would, as would happen with other New York Senators, too, would kind of unofficially be regarded as the Senator from Puerto Rico at a time when there was and still is a very large Puerto Rican population which has a delegate over here but otherwise no representation in the Senate.

I'd have to say it's not unrelated to the fact that there were certain tax breaks for pharmaceutical manufacturing in Puerto Rico which were important to certain interests in New York, but those kind of things happened. I think it is clearly——

Ms. NORTON. That's a very good example. That is a very good example. Puerto Rico, they had a delegate here. There was no way in which that delegate could get through the Ways and Means to have gotten that and retained that by himself. Go ahead.

Mr. PECK. But in the Senate, you know, I think we ought to recognize the location of the District itself came out of something that had to do with disputes between the States about assumption of the debt in the Revolutionary War, and so the southern States agreed to have—agreed to assume the debts which had largely been incurred by the northern States and then said, OK, but the capital is not going to be there in New York or Philadelphia either. It's going to be down more our way. And I think that the District came out as a result.

I think that in the Senate clearly what can happen, because it represents States and not so much people, and you can be a small State like Rhode Island or Montana by population and still have two Senators, Senators have certain rights to make sure things don't happen.

As we all know, the Senate being the saucer that cools off the hot coffee that comes from the House, as somebody said in those Federalist debates, Senators can do things like put a hold on legislation. We found that you can find that things that would go through otherwise could suddenly be stopped by a hold which may or may not ever be made public. Senators can stand on the floor and if they don't get something for their State simply stop it by objecting to proceedings, and it's very difficult to overwhelm that as you can more in the House by votes.

So those procedural things do make a difference, and I think you find some—it would be somewhat difficult for a representative to—

even with a voting right in the House to get their things through the Senate because you wouldn't have that opportunity to influence things over there.

So I think—you know, it's another reason why it's important to have the vote on both sides. But I will say it is also a problem that people in the Senate have not gotten used to seeing representatives from those parts of the dominion of the United States that don't—that aren't formerly States, and it does—but it does raise the issue that Ms. Werronen cites that, as soon as you get Senators, people say, does that mean you're a State?

But it's a—you know, I have to just say again on the part of the Board of Trade we think the District should have representation on both sides.

Ms. NORTON. Well, the notion of whether people think you're a State or not would be cleared up by the fact that the charter would have remained in place until we got rid of the charter. Nobody would mistake us for a State as long as that charter gives the Congress of the United States the power to have our budget come here and the rest. That's what this charter does; and voting rights amendment would not change that, unfortunately, and doesn't seek to do so.

Indeed, you've raised a very important point, because we would, in fact—which is why I have supported statehood, this anomaly would remain in place. You'd have Senators already, all right, you would have a voting representative, all right, but here our House and—I am sorry—our own legislature would have to send over its budget.

I must say, however, that the fact that you had two Senators would mean when your budget came to the Senate of the United States it would be nothing but a pass through. Because the Senator from the District of Columbia would get up and say, all in favor? And you would find that people on both sides of the aisle as a matter of what is called senatorial courtesy would not touch your budget. So even without the rights that we would still continue to work for, having Senators would do for us what House Members cannot do in that regard.

Mr. Peck, your notion about holds and objections to proceedings have been so important to the District of Columbia, if we did not have allies there who would help us in this regard, and of course we can't do that nearly as often as we could if we had Senators.

Finally, let me say that you talked about the extraordinary tax breaks that the citizens of Puerto Rico enjoy. The tax breaks that I've been able to get from the District of Columbia, the $5,000 homebuyer tax break, the D.C.-only business tax breaks not only didn't start here—I worked exclusively with Senators, many of them Republican Senators, by the way. It was bipartisan, but the Senate was controlled by Republicans, and I worked especially with Senator Lott who has been wonderfully helpful on all of our tax breaks. Senator Lieberman was helpful as well.

But the point is, those would not go through some committee process in which they say all for or against D.C. having tax breaks that are available only in the District of Columbia raise your hand. They were put in there after the Senators and I decided which tax breaks would be most helpful to the District of Columbia. Then

with them already in the Senate bill, we negotiated them into the House bill.

The irony is that having a House Member meant nothing for what has turned out to be one of the most important bills passed in recent history in the District of Columbia. And working only with the Senate—if working with the Senate could have that effect, obviously having Senators could have an even greater effect.

Thank you very much. I have no more questions.

Mrs. MORELLA. I am now pleased to recognize the gentlewoman from California, Ms. Watson, who has joined us for any questions or comments you would like to make.

Ms. WATSON. Thank you, Madam Chair. It's just a pleasure to be here and to hear the discussion about the voting representation in Congress.

I have followed this over the decades, and I am one of the ones that supports statehood for the District of Columbia. But I think first things first. If we could give the voting right to the representative, then they could be a full participant. There is something missing in this new millennium when we have the Nation's seat of power not having the kind of voting representation—and it brings that home to me even stronger after September 11th and the kinds of policies that needed to be made.

To not have a voice, a voting voice here is not full democracy. So I am hoping that there's a tremendous chance to get this legislation passed. I do hope that the gentlewoman who was speaking will go back and see that we get the power behind this movement; and I hope eventually, Representative Norton, that we can see statehood for the District. I think that will complete our infrastructure of democracy.

So I am just very pleased to be part of this committee and part of the discussion. Thank you.

Mrs. MORELLA. Thank you very much for your support and commitment.

Mr. Boyd, I am not going to let you off the hook totally. We haven't asked you any questions yet, but I am curious about how many Federal capitals are there and why did you choose the 10 that you have used in your study?

Mr. BOYD. I can't respond to how many total Federal capitals there are. We chose the 10 because——

Mrs. MORELLA. Can you move over the mic closer?

Mr. BOYD. Sure.

Mrs. MORELLA. That's great.

Mr. BOYD. The 10 we chose, we want—the language in the conference report talked about comparable cities, so we looked at global cities or cities that are international in statute; and that's why we selected London, Paris and Rome. We also worked with the subcommittee's staff on the House side of the District of Columbia's appropriations and working with them we came up with a global cities. We also looked at cities that were Federal systems and so we selected eight of those.

Finally, we looked at—we found a little bit more, and we looked at capitals that were Federal districts or territories. And, again, that was a collaboration with the subcommittee's staff on the House side, on Appropriations.

Mrs. MORELLA. So you're not sure how many other capitals there are in Federal districts?

Mr. BOYD. I don't have it off the top of my head, but I'd be happy——

Mrs. MORELLA. I am just curious about whether or not those citizens in those capitals vote in the national legislatures. I see a list here that was just handed to me by Mr. Smith. D.C. Vote, on their Website, Coalition for Representation in Congress Education Group, have listed nations in which residents of the capital city have representation in the national legislature equal to what is enjoyed by their fellow citizens. I don't know that it's been authenticated, but there are four lists of single-spaced countries where they do have residents of the capital city who have voting representation.

It's kind of interesting. Have the residents of the national capitals that you've looked at always had representation in the national legislature or has the right been recently given? Is this a new phenomenon generating momentum or support?

Mr. BOYD. By and large, most of them that we looked at were constitutionally given, and they are longstanding. There are a couple—most notably one comes to mind, and that was Canberra where there was a Federal district created or a Federal territory created, and the rights of the citizens to vote in the national legislature was given at that time.

Mrs. MORELLA. It's interesting because in the case of Canberra, two citizens served 3 years instead of the customary 6 years. What's the rationale for that lesser period of time?

Mr. BOYD. It principally has to do with the fear of political concentration in the capital by a particular party, and what they do is—it's a stagnated 3-year term. They are elected—a group of Senators are elected at the same time as other Senators from Australian States, and so it's stagnated.

Mrs. MORELLA. Sounds very much like the problem we would have on the House side trying to get 4-year terms for Members of the House where there are 6-year terms for Members of the Senate in terms of that time period. But that's another issue.

I am going to switch now to Chairwoman Cropp and Mayor Williams. I am just curious about what the fiscal and economic impact to the District of Columbia would be if residents were exempted from Federal income tax. Would that not mean that District residents would no longer have the credit for the Federal tax that is paid if they're not paying Federal income tax?

Ms. CROPP. If I understand your question, we pay over $2 billion annually in Federal taxes. So the District would not have to—the citizens would not have to pay that. But it would not be unlike what is occurring now in Puerto Rico, Guam, American Samoa. They have a nonvoting delegate as we, but they do not have to pay Federal taxes. So it seems that until such time as the District gets full voting rights that we should not have to pay taxes.

Some have raised the issue, would that then say that the District is not prepared to get voting rights? And I would just like to submit to you that the last two States who entered the Union, Alaska and Hawaii, did not pay Federal taxes prior to coming into the

Union, even as a full State. So I don't think that would negate it at all.

Mrs. MORELLA. Mayor Williams.

Mayor WILLIAMS. For my part, if the District were relieved of Federal income tax burden, I would use that relief to, one, move the District—and we could then be able to do that—move the District squarely toward full competitiveness with Maryland and Virginia and the rest of the States to be able to compete on a level playing field in terms of overall taxes. In other words, I wouldn't take that tax relief and turn it into a District tax burden and say, ah-ha, here's $2 billion we can now start taxing. I think no one would do that.

The second thing we would do—and this relates to our push for Federal contribution—is some part of that looked to see that we're meeting our longstanding, enduring responsibilities that we have as a State for national infrastructure, for education and the like and to see that we meet them in some way. But I think that, you know, what it would do, it would do in an economic sense what we're trying to do in a political sense, and that is create a level playing field.

But, again, I think the best way to do this is through full political representation. Because if we had full political representation we'd be able to create that level playing field in terms of taxation, regulation, and create the kind of infrastructure and climate for investment that people expect in terms of transportation needs, education needs and the like.

Mrs. MORELLA. Do you have any comment on that, Mr. Peck, before I defer to Ms. Norton, on what the impact would be?

Mr. PECK. I don't know how to answer that. As a representative of the business community, if you can find a way to lower our taxes, we'll probably take it and run. But, to be serious, I do think that there's a fundamental fairness issue here; and I think that's what—that's the thing that we are most concerned about. I think that the District has shown a lot of fiscal responsibility in the last couple of years, and I think this would only encourage it.

To state it a different way, we in America go on the assumption that if you give the people the right to vote they will tax themselves fairly, they will spend the money fairly. But that those who don't vote shouldn't have to put up either, and I think that's fundamentally what we are saying.

I will say the one thing I'd like to echo, mostly from the Mayor's point of view, is that we, too, have been very concerned about the level tax playing field within our region. I know that Maryland and Virginia and the District all closely watch each others' tax rates so that they don't drive businesses or residents in and out based on those tax rates, and I think that's always something for us to look at here.

Ms. CROPP. Madam Chair, I think the other issue that we really have to look at when we pay the more than $2 billion in taxes is the District of Columbia, by nature of how it was created, we have some very serious structural imbalances in the District. We pay the taxes. However, we cannot tax our income at its source.

More than 50 percent of the folks who work for the District of Columbia government—I am not talking about Federal Govern-

ment, not talking about the private sector, but more than 50 percent of the people who work for the District of Columbia government alone lives outside the city.

The District is very unique in that we use our police force quite a bit, probably to a greater extent than many other places, for Federal purposes. Our Fire Department helps to support the Federal purposes. So that, while we pay the taxes, we have some very serious structural imbalances that sort of handicap us as a city.

We have a majority of our land that is not taxable either through Federal presence or through nonprofits or a university town, for many reasons. So if we did not have to deal with the $2 billion, I think that there would be a very positive way in which the District would be able to utilize those dollars——

Mrs. MORELLA. We have a GAO report that will be coming to us looking at the relationship between the District of Columbia and other States, too, to look at what that kind of structural balance may be.

I am now going to recognize the ranking member. Thank you.

Ms. NORTON. Before people get further into this fairy tale about tax refunds from the Federal Government, I think I ought to put on the record what I think all of you and most residents are aware of. At the time that the 107th Congress began, there was a Republican House and a Republican Senate, with no chance of moving a voting rights bill forward in the House or the Senate. The primary issue at the beginning of the 107th Congress, and I must say as the 107th Congress closes, remains the primary issue for Republicans is tax cuts.

In light of the fact that I could only introduce a bill but not move a bill, it seems that because the House was not controlled by a party that would allow the movement of a bill, it seems that we ought to take advantage of the fact that the Republicans who control the House and the Senate regarded tax cuts as the primary issue facing the American people. In that regard it seemed an important opportunity to educate the American people and, as it turned out, Members of the House and Senate who tell me they did not know that we were the only Americans who pay taxes without representation in the House. So it served a purpose in the House and, of course, in the country. We find wholesalely people know. So it has helped—the bill has helped to get that message out.

Then, of course, we have had a change of party by Senator Jeffords and for the first time it became possible to move the bill in the Senate. We've had the hearing and Senator Jeffords is prepared to move the bill forward before the end of this session.

Let me just make clear, since we're talking about what you would do if you got your taxes back, is it clear—I would ask the Mayor and the Council Chair, is it clear to you that what the people of the District of Columbia seek is their voting rights rather than their taxes back?

Mayor WILLIAMS. Absolutely clear. I was just answering the question——

Ms. NORTON. No. I just want the record to show where you think the residents of the District of Columbia stand.

Mayor WILLIAMS. As I was pointing out, I think if we had the representation we could achieve the same purpose and have the self-determination and representation so——

Ms. CROPP. There doesn't seem to be any doubt that if the citizens of the District of Columbia had a choice they would like to be able to have a say at how their taxes are spent.

Ms. NORTON. Thank you very much; and thank you very much, Madam Chair. I thank you as well that, despite the fact that there are some of your party in the House who perhaps do not support our voting rights, you have been very gracious in granting this hearing to me and to the elected officials and the residents of the District of Columbia. We greatly appreciate your great fairness in doing so.

Mrs. MORELLA. I want to thank you very much, Congresswoman Norton.

Ms. Watson, I think I've finish my questioning——

Ms. WATSON. I just have one fundamental question to raise, and if anyone's out there in the opposition maybe they can respond. But what is the today argument against allowing representation by voting in the House of Representatives and in the Senate, in Congress? Is there a modern-day argument that's compelling?

Mrs. MORELLA. Not with this group.

Ms. WATSON. Very good. I think that we can make the argument in support, and I hope that we will continue, Madam Chair, and for the sponsor of the bill to have these discussions. I don't know if there's going to be another hearing, because I'd like to add to the list of support statements, statements from people like yourself, Congresswoman Morella, and the lady that was speaking when I came in—I guess, Ms. Werronen?

Ms. WERRONEN. Werronen.

Ms. WATSON. Werronen. What I heard sounded very good to me, and I think the best argument is that in today's world in the United States we need to have representation when our tax dollars are spent; and, believe me, the way we're spending them now we need to hear from those who represent all Americans. So if we can gather up these statements and some way get them put out publicly and keep this battle going I think there's a light at the end of the tunnel even if it is a search party with a lantern, but let's keep trying.

Thank you very much, and I am going to have to leave, Madam Chairwoman.

Mrs. MORELLA. Thank you, Ms. Watson.

I think what we have to determine with this hearing, and I think you have all done a great job of being here responding to questions—not only responding to questions but the experience that you brought to the table is one that we deeply appreciate the commitment that you've all shown.

I think it's ironic that a representative of the District of Columbia in Congress has only once from 1993 to 1995, a 2-year period, had the opportunity even to vote in the Committee of the Whole. So I think we need to point out that this is the time, the momentum is now there more than I have seen before, genuine momentum, and perhaps with some coordination we can get the word out.

Again, my thanks to all of you. I said that there would be a period of 5 days where others can get testimony into the written record. And my thanks to Congresswoman Norton for inspiring me to have this hearing on the House side. We'll move from there.

I want to recognize the minority staff, Jean Gosa, Cheryl Williams; majority staff, Russell Smith, Matthew Batt, Shalley Kim, Robert White and Heea Vazirani-Fales.

The subcommittee hearing is now adjourned. Thank you.

[Whereupon, at 2:20 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

July 25, 2002

The Honorable Constance Morella, Chair
Subcommittee on the District of Columbia
House Committee on Government Reform
U.S. House of Representatives
2157 Rayburn Office Building
Washington, DC 20515-6143

Dear Representative Morella:

The League of Women Voters of the United States believes that citizens of the District of Columbia should be afforded the same rights of full voting representation in Congress as are other citizens of the United States. From shortly after its founding in 1920 the League has sought redress for the disenfranchised citizens of the District of Columbia.

In September 2000, the LWVUS filed an amicus curiae brief to the appeal filed in the United States Supreme Court in the law suit *Alexander v. Daley* after the three judge panel in that case had decreed that it was "not blind to the inequity of the situation plaintiffs seek to change. But longstanding judicial precedent, as well as the Constitution's text and history, persuade us that this court lacks authority to grant plaintiffs the relief they seek. If they are to obtain it, they must plead their cause in other venues." We call upon Congress to be that "other venue."

The right of every citizen to vote has been a basic League principle since its origin, and that principle is the basis of our nation's system of representative democracy. Now, we ask you and other members of Congress to work to achieve full voting representation and to fulfill the promise of our democratic system.

The League of Women Voters can support a variety of remedies to achieve voting rights, and we would welcome the opportunity to work with you and other congressional leaders to craft effective legislation. But most of all, we support congressional action to remedy the situation. Two hundred years has already been too long for the citizens of the District to wait.

Sincerely,

Kay J. Maxwell

Kay J. Maxwell
President

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