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HEARINGS

BEFORE THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

FIRST SESSION

ON

H. J. Res. 396

AND SIMILAR PROPOSALS TO AMEND THE CONSTITUTION
TO PROVIDE FOR REPRESENTATION OF THE DISTRICT OF
COLUMBIA IN THE CONGRESS

JULY 19, 20, 26, AND AUGUST 2, 1967

SERIAL NO. 6



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PROPOSED CONSTITUTIONAL AMENDMENTS FOR CONGRESSIONAL REPRESENTATION OF THE DISTRICT OF COLUMBIA

WEDNESDAY, JULY 19, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met at 10 a.m., pursuant to call, in room 2141, Rayburn House Office Building, Hon. Emanuel Celler (chairman of the committee) presiding.

Present: Representatives Celler, Feighan, Rogers, Donohue, Ashmore, Kastenmeier, Corman, Tenzer, Conyers, Jacobs, Eilberg, McCulloch, Poff, Mathias, Hutchinson, McClory, Smith, Roth, Sandman, Railsback, Biester, and Wiggins.

Present also: Benjamin L. Zelenko, counsel, and John W. Dean III, associate counsel.

The CHAIRMAN. The committee will come to order.

We have before us several resolutions amendatory to the Constitution granting representation in Congress to the people of the District of Columbia.

The Chair would like to read a statement.

I had the privilege of introducing H.J. Res. 396 on March 7, 1967, in response to President Johnson's message to the Congress of February 27, 1967.

In that message the President recommended that the Constitution be amended to provide one Representative for the District of Columbia in the House, and to authorize such additional representation in the House and Senate as the Congress may from time to time add by legislation.

H.J. Res. 396 has been drafted on the basis of this recommendation. It is a simple and straightforward piece of legislation.

Section 1 of the proposed amendment would assure the District of one voting Representative, and would grant to the Congress the authority to provide by legislation for additional representation in the House of Representatives, and in the Senate as well, up to the representation which the District would be entitled to if it were a State.

Section 2 would enable the Congress to enforce this amendment by appropriate legislation. This would refer in particular to the question whether the number of Members of the House of Representatives should be permanently increased by the number of Representatives elected from the District, or whether the House should revert to the statutory total of 435 after the next decennial census.

As you know, the latter alternative was adopted in the Alaska and Hawaii Statehood Acts.

Section 3 would provide that the proposed amendment should not modify the provision of the 23d amendment pursuant to which the representation of the District of Columbia in the electoral college is limited to that of the least populous State.

It has been felt that any modification of that provision should be considered in connection with other aspects of electoral college reform.

H.J. Res. 396, and the similar proposals by other Members which we shall consider in these hearings, is a long overdue step in the process of broadening the elective franchise.

When the Constitution was adopted, the right of the people to participate in the Federal Government was far more limited than the participation most of the American people now take for granted.

The first half century of the Republic saw the gradual abolition by State legislation of property requirements limiting the right to vote.

After the Civil War, the 15th amendment outlawed denials of the right to vote on the grounds of race, color, or previous condition of servitude.

The 17th amendment, in this century, provided for the popular election of Senators. The 19th amendment proscribed sex as a ground for the denial of voting rights.

Within the last few years, the 23d amendment gave the inhabitants of the District of Columbia the right to participate in presidential elections, and the 24th abolished poll taxes as a prerequisite for the vote in Federal elections.

In this steady march toward a true universal franchise in the United States, there is only one significant omission left: The inhabitants of the District of Columbia have been found worthy to vote for President and Vice President, but not for Representatives in the National Legislature.

There is no justification for this distinction. To the contrary, our devotion to the ideal of representative government requires that this last flaw be abolished as speedily as possible, and that our concept of representative government be extended to the people of our Nation's Capital.

Mr. McCulloch?

STATEMENT OF HON. WILLIAM M. McCULLOCH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. McCULLOCH. Mr. Chairman, I shall be brief, for I only wish to make a few comments by way of a preface to these important proceedings.

As we begin these hearings today, we place into operation the first formal steps of changing our Constitution regarding the subject at hand.

Article V of that great document has made provision for such change by amendment. The process of changing the Constitution by amendment is a cumbersome process. It requires favorable action by our committee and our counterpart in the other body, it requires a three-fourths vote of approval by both Houses of Congress, and it requires the ratification of 38 States.

The people who adopted the Constitution in 1787 realized that they could not foresee all the questions which might arise in the future,

all the circumstances which might call for change in the structure and the particulars of our Government. Accordingly, they made provision for changing the Constitution by amendment, but at the same time they wisely approved a process that does not lend itself to the easy and frequent change.

Rather, they chose a process that demands deliberation and caution in making a change, and a process that requires that we follow experience rather than speculation and theory.

Over 6,000 proposals—and I repeat, over 6,000 proposals—to amend the Constitution have been introduced in the Congress. Thus, some 6,000 efforts have been made to employ this amending process. But the process of article V has permitted only 25 amendments to be adopted.

I believe that article V has served well to protect the stability of Government, and as Judge Joseph Story once wrote with reference to this aspect of article V, and I quote:

A government which is always changing and changeable is in a perpetual state of internal agitation and incapable of steady and permanent operations. It has a constant tendency to confusion and anarchy.

And if I were not careful, I might mention one or more of the important nations of the world who fit into this category of concern of Judge Story's.

I make these remarks because I believe that they will bring into full focus the task at hand.

As we have done in the past, in considering amendments to the Constitution, I am sure we all seek to develop a record for not only the use of this committee, but for the use of the other body, and for the use of the Nation.

I am particularly pleased, Mr. Chairman, that this matter is being heard by the entire Committee on the Judiciary, and as it has been my purpose ever since I have been on this committee, sitting at least partially in the posture of a judge, I have not prejudged any of the many proposals now pending before this committee, and I am anxious to receive the testimony on this important matter.

The CHAIRMAN. Thank you, Mr. McCulloch. Mr. Kastenmeier.

STATEMENT OF HON. ROBERT W. KASTENMEIER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. KASTENMEIER. Mr. Chairman, I ask your consent that I may offer my full statement for the record, and summarize it.

(The statement referred to follows:)

STATEMENT OF HON. ROBERT W. KASTENMEIER, A U.S. REPRESENTATIVE FROM THE STATE OF WISCONSIN

Mr. Chairman, this Nation was founded on the declaration that governments derive their just powers from the consent of the governed. "No taxation without representation," was the rallying cry of our fighting forefathers. Participation and control by the people of their government is clearly the basic premise of our Nation.

Yet, the citizens of the District of Columbia do not elect and do not have, by any process, any representative, or any voice whatever, in the Congress—neither a Member of the House, nor of the Senate. This omission was never voted or decided upon in any formal action. Apparently it was an historical accident.

The U.S. Constitution adopted in 1787 provided that House Members should be chosen by people of the several States and should be inhabitants of the States choosing them, and that the Senate should be composed of two Senators from each State. At that date, these provisions included all citizens resident in the United States. Three years later, however, when Congress accepted the cession of 10 square miles from Maryland and Virginia for the seat of the Federal Government, that area ceased being part of any State and its inhabitants, as an almost casual incident thereto, lost their right to vote for U.S. Representatives and Senators.

At that time there were few people in the District and this loss did not seem very important. Georgetown had been incorporated previously and had its own city government. The city of Washington was incorporated by Congress in 1802 with its own city council and with increasing authority to elect the council and city officials being granted in 1812, 1820, 1848 and 1867. The District, through Congressional action, was given the right to elect a non-voting Delegate to the House of Representatives in 1871. This provision, however, was short-lived, for it was revoked in 1875.

Since 1790, however, times have changed. The Nation has grown from 15 to 50 States. The size of our population, our national business and the complexity of our affairs have increased immeasurably. And the District of Columbia has grown likewise. The 1960 Census gives the population of the District as 763,976 persons. It has more people than 11 of our States. These are the statistics:

<i>State</i>	<i>1960 population</i>
Alaska -----	226, 167
Delaware -----	446, 292
Hawaii -----	632, 772
Idaho -----	667, 191
Montana -----	674, 767
Nevada -----	285, 278
New Hampshire -----	606, 921
North Dakota -----	632, 446
South Dakota -----	680, 514
Vermont -----	389, 881
Wyoming -----	330, 066
District -----	763, 976

Each of the above-mentioned States has, of course, two Senators and one or two Members in the House of Representatives. Six of those States, Hawaii, Idaho, Montana, New Hampshire, North Dakota and South Dakota, have two Representatives in the House, while Washington, with a greater population than any of the States listed, is not allowed to have any congressional representation.

It would be a mistake to assume that the District's residents are "nobodys" and thus not deserving the vote, or unable to cast an intelligent vote. In the first place, such an assumption runs contrary to our national philosophy favoring one vote per person. In the second place, such an assumption is decidedly inaccurate in the economic sense, for the people living in the District of Columbia have the highest per capita income of any State in the Nation. Including all kinds of personal income—wages, proprietorial profits, dividends, interest, rents, and so forth—the District of Columbia residents average \$3,708 per year. Connecticut is next with \$3,401 and Delaware follows with \$3,392 per year. This gives a total individual income for District residents of \$2,832,823,008 per year.

It is clear from such figures that District of Columbia residents pay substantial amounts in Federal income taxes, social security taxes, and all forms of revenue for the Federal Government. Last year, residents of the District paid approximately \$730 million in all kinds of Federal taxes. Estimates of the allocation of the total Federal tax burden for fiscal 1967 show that the tax payments made by District residents to the Federal government are greater than that paid by residents of each of the following 17 States:

Alaska	New Hampshire
Arkansas	New Mexico
Delaware	North Dakota
Hawaii	Rhode Island
Idaho	South Dakota
Maine	Utah
Mississippi	Vermont
Montana	Wyoming
Nevada	

District citizens are as much concerned with the welfare and progress of this country as are the citizens of any State. They are as concerned as we with the foreign policy of our Nation. Their sons as well as ours are called to serve in the Armed Forces. They, too, are interested in the Nation's social security policies, in the promotion of interstate commerce, the soundness of the economy, the conservation of natural resources, the problems of crime and juvenile delinquency and the challenge of urban areas, school development, and the inner city. The Congress has recently established a new Department on Housing and Urban Development. Ironically, the ninth largest city in the Nation was barred from participating through a representative in the debate and vote on that issue.

The Twenty-third Amendment to the Constitution grants citizens of the District the right to vote for Presidential electors every four years. But, District citizens are not allowed to have any congressional elections, a process which we consider essential to democracy. The time has come for the Nation to act to correct the accident of history which denies these citizens representation in the House of Representatives.

Both of the political parties of the District have informed the Members of the House that they support a proposal to amend the U.S. Constitution to provide that the citizens of the District may elect every 2 years a regular Member of the House of Representatives and may also elect such additional Representatives and/or Senators as the Congress may subsequently provide, up to the number the District would have if it were a State. The President of the United States has recommended such a proposal and I have introduced a House joint resolution incorporating the above provisions. I believe it is incumbent upon us to hear the petitions of all District citizens and organizations who support such a proposal and give them an affirmative answer.

Mr. KASTENMEIER. I would like to speak in behalf of my resolution, H.J. Res. 606, and any similar resolution affecting representation for the District of Columbia in Congress.

This Nation was founded on the declaration that governments derive their just powers from the consent of the governed.

"No taxation without representation" was the rallying cry of our fighting forefathers. Participation and control by the people of their government is clearly the premise of our Nation.

Yet, the citizens of the District of Columbia do not elect, and do not have, by any process, any representation or voice whatever in the Congress—neither a Member of the House nor of the Senate.

The omission was never voted or decided upon by any formal action. Apparently it was an historical accident.

Since 1790, however, times have changed. The 1960 census says that the population of the District is 763,976 persons. It has more people than 11 of our States.

In each of the States, those 11 have, of course, two Senators and one or two Members of the House. Six of those States have two Members in the House of Representatives.

It is clear from other figures that the District of Columbia residents pay substantial amounts in Federal income tax, social security taxes, and provide other forms of revenue for the Federal Government.

Last year, residents of the District paid approximately \$730 million in all kinds of Federal taxes. Estimates of the allocation of the total Federal tax burden for fiscal 1967 show that the tax payments made by District residents to the Federal Government are greater than that paid by the residents of each of 17 States.

District citizens are as much concerned with the welfare and progress of this country as are the citizens of any State. They are as concerned as we with the foreign policy of our Nation. Their sons as well as ours are called to serve in the Armed Forces.

They are interested in the Nation's social security policies, in the proceedings of interstate commerce, in the soundness of the economy, in the conservation of natural resources, and the problems of crime and juvenile delinquency that challenge urban areas, school development, and the inner city. Indeed, they are concerned with the proceedings of this committee.

Mr. Chairman, I do hope that our committee will favorably act upon a resolution regarding the question of representation.

The CHAIRMAN. Thank you, Mr. Kastenmeier. Mr. Corman.

STATEMENT OF HON. JAMES C. CORMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CORMAN. Mr. Chairman, I speak in behalf of H.J. Res. 396 and my own identical resolution, H.J. Res. 548, and I ask permission to extend my remarks at this point in the record.

The CHAIRMAN. Very well.

(Statement follows:)

STATEMENT OF THE HONORABLE JAMES C. CORMAN, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. Chairman, I appear today in behalf of H.J. Res. 548, which I introduced on May 2, this year, to amend the Constitution to provide for representation of the District of Columbia in the Congress.

Participation by the people in their government is absolutely basic to the precepts on which the Republic was founded. Yet, the citizens of the District of Columbia have neither any representation nor any voice in the Congress.

Whatever the reason for the omission from the Constitution of providing for representation in the Congress for the people of the District, those reasons are not valid today. Students of the issue have for many years felt that lack of representation by the District had its foundation in a historical accident. I agree with this, and believe it is clearly an accident that should be corrected immediately.

District residents pay substantial federal income taxes and contribute to other forms of federal revenue. Yet, they have no voice in the decisions of the Congress as to how much they should be taxed nor how the government should spend its money. District citizens are as interested as any other citizen in the social ills and gains of our nation; in our foreign policy; in our achievements and accomplishments—none of which they are permitted to participate in when decisions are made. Their sons serve—and often die—in the armed services of their country, but they have no voice in attendant decisions. I can cite this analogy in every function of our government.

The authors of the Constitution wanted the federal capital to be set apart from the states. The adoption of this Constitutional amendment would not alter the District's unique position in this respect. It would merely allow some 850,000 people a voice equal to that of every other individual citizen in the United States.

The Supreme Court's "one-man, one-vote" decision insures the right of every citizen of the United States to equal representation in the Congress of the United States. Surely, we can no longer delay the application of this principle to 850,000 disenfranchised citizens.

I thank the Committee for the opportunity to support my Resolution.

The CHAIRMAN. Mr. Mathias.

STATEMENT OF HON. CHARLES McC. MATHIAS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. MATHIAS. Thank you very much, Mr. Chairman.

The prime purpose for establishing the District of Columbia was to insure that no State sovereignty would be interposed between the Federal city and the Federal Government.

That purpose was attained when Maryland and Virginia ceded 10 square miles to the Nation for the Capital.

Since that constitutional plan has been fully executed, there is no reason and no justification for allowing or continuing any other or further differences between the civil status of the people of the District of Columbia and those of the people of the States, and it is for that reason that I have introduced House Joint Resolution 723, which would provide precisely the same measure of representation to the District as that enjoyed by any State of the Union.

The convening of these hearings may well mark the beginning of the correction of an oversight which is now 170 years old.

Today, 99.6 percent of the American people enjoy the right of representation in the Nation's legislature, but the 800,000 people of the District of Columbia can make no such claim.

The Bureau of the Census informs us that, in 1970, 11 States will have smaller populations than the District of Columbia.

As our colleague from Wisconsin has pointed out, these States are now represented by 60 Representatives and 22 Senators, yet the people of the District are utterly without representation in the Congress.

Mr. Chairman, you yourself made the observation, with which I certainly agree, when you opened the hearings on the 23d amendment to the Constitution, and I quote our distinguished chairman, that "it was not the intention of our Founding Fathers to deny the District such rights [as national representation and electoral voting]. The denial stems, apparently, from an oversight or omission on their part. * * *"

The resolution that I have introduced, and others have introduced, seeks to eliminate this inequitable oversight. They guarantee that the District shall enjoy congressional representation fully commensurate with that enjoyed by the citizens of a State: two Senators, and as many Representatives as the District would receive if it were a State.

It places such representation beyond the power of Congress to restrict or retract. It guarantees that the rights and privileges of the District's congressional representatives shall be the same as those of the congressional representatives of the States.

The question of congressional representation for the District has been before every Congress since 1915. This Congress, Mr. Chairman, is the Congress which should take final and affirmative action.

Thank you very much.

The CHAIRMAN. Thank you, Mr. Railsback.

STATEMENT OF HON. TOM RAILSBACK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. RAILSBACK. Thank you.

Mr. Chairman and members of the committee, I am not going to make any kind of prepared statement.

Our distinguished colleague from Maryland, Mr. Gude, is here today, and I, along with a number of other freshmen Republicans, have joined with him in sponsoring his resolution. I think, Mr. Chairman, that it is only fitting, really, that he make the statement, and the chances are that we will want to join with him in his statement in respect to the legislation that he is introducing.

The CHAIRMAN. Thank you.

The CHAIRMAN. Thank you. Mr. Biester.

STATEMENT OF HON. EDWARD G. BIESTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. BIESTER. I joined with my colleague, Mr. Gude, in H.J. Res. 687.

I know that his statement will echo my sentiments, and I support what has been said previously by other members of this committee.

I think it is high time that that was accomplished. It is long overdue, and this is an opportunity for us to provide representation for an area of this country which obviously needs it.

The CHAIRMAN. Thank you. At this point I should like to place in the record the resolutions offered which are now pending before the committee.

They will be offered for the record.

(Documents referred to follow:)

[H.J. Res. 176, 90th Cong., first sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States providing for representation in the Congress for the District constituting the seat of government of the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The District constituting the seat of government of the United States shall be given voting representation in Congress in such measure as the Congress may direct."

[H.J. Res. 235, 90th Cong., first sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States granting representation in the Congress to the District of Columbia

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution only if ratified by the legislatures of three-fourths of

the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The residents of the said District shall be entitled to elect Representatives in the House of Representatives of the United States, the number thereof to be determined on the basis of the decennial enumeration in the same manner as the number of the Representatives of each of the several States is determined. The residents of the said District shall be entitled to elect one or two Senators as the Congress shall by law provide. Each Representative and Senator so elected shall be a resident of the said District and shall possess the same qualifications as to age and citizenship and shall be entitled to the same rights and privileges as a Representative or Senator of a State."

[H.J. Res. 396, 90th Cong., first sess.]

JOINT RESOLUTION To amend the Constitution to provide for representation of the District of Columbia in the Congress

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The people of the District constituting the seat of Government of the United States shall elect at least one Representative in Congress and, as may be provided by law, one or more additional Representatives or Senators, or both, up to the number to which the District would be entitled if it were a State.

"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District."

[H.J. Res. 494, 90th Cong., first sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States providing for representation in the Congress for the District constituting the seat of government of the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The District constituting the seat of government of the United States shall be given one voting representative in Congress."

[H.J. Res. 546, 90th Cong., first sess.]

JOINT RESOLUTION To amend the Constitution to provide for representation of the District of Columbia in the Congress

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The people of the District constituting the seat of Government of the United States shall elect at least one Representative in Congress and, as may be provided by law, one or more additional Representatives or Senators, or both, up to the number to which the District would be entitled if it were a State.

"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District."

[H.J. Res. 548, 90th Cong., first sess.]

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[H.J. Res. 566, 90th Cong., first sess.]

JOINT RESOLUTION To amend the Constitution to provide for representation of the District of Columbia in the Congress

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

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"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District."

[H.J. Res. 588, 90th Cong., first sess.]

JOINT RESOLUTION To amend the Constitution to provide for representation of the District of Columbia in the Congress

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the

Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

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“SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

“SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District.”

[H.J. Res. 590, 90th Cong., first sess.]

JOINT RESOLUTION To amend the Constitution to provide for representation of the District of Columbia in the Congress

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

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“SECTION 1. The people of the District constituting the seat of government of the United States shall elect at least one Representative in Congress and, as may be provided by law, one or more additional Representatives or Senators, or both, up to the number to which the District would be entitled if it were a State.

“SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

“SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District.”

[H.J. Res. 597, 90th Cong., first sess.]

JOINT RESOLUTION To amend the Constitution to provide for representation of the District of Columbia in the Congress

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

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“SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

“SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District.”

[H.J. Res. 606, 90th Cong., first sess.]

JOINT RESOLUTION To amend the Constitution to provide for representation of the District of Columbia in the Congress

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein),

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress :

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“SECTION 1. The people of the District constituting the seat of government of the United States shall elect at least one Representative in Congress and, as may be provided by law, one or more additional Representatives or Senators, or both, up to the number to which the District would be entitled if it were a State.

“SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

“SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District.”

[H.J. Res. 610, 90th Cong., first sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States providing for representation in the Congress for the District constituting the seat of government of the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress :

“ARTICLE —

“SECTION 1. The District constituting the seat of government of the United States shall be given voting representation in Congress in such measure as the Congress may direct.”

[H.J. Res. 683, 90th Cong., first sess.]

JOINT RESOLUTION To amend the Constitution to provide for representation of the District of Columbia in the Congress

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress :

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“SECTION 1. The people of the District constituting the seat of government of the United States shall elect at least one Representative in Congress and one or more additional Representatives up to the number to which the District would be entitled if it were a State.

“SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

“SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District.”

[H.J. Res. 685, 90th Cong., first sess.]

JOINT RESOLUTION To amend the Constitution to provide for representation of the District of Columbia in the Congress

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress :

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"SECTION 1. The people of the District constituting the seat of government of the United States shall elect at least one Representative in Congress and, as may be provided by law, one or more additional Representatives or Senators, or both, up to the number to which the District would be entitled if it were a State.

"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District."

[H.J. Res. 687, 90th Cong., first sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States providing for representation in the Congress for the District constituting the seat of government of the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The District, constituting the seat of government of the United States, shall be given voting representation in Congress in such measure as the Congress may direct."

[H.J. Res. 689, 90th Cong., first sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States granting representation in the House of Representatives to the District of Columbia

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The residents of the District constituting the seat of government of the United States shall be entitled to elect Representatives in the House of Representatives of the United States, the number thereof to be determined on the basis of the decennial enumeration in the same manner as the number of the Representatives of each of the several States is determined. Each Representative so elected shall be a resident of the District and shall possess the same qualifications as to age and citizenship and shall be entitled to the same rights and privileges as a Representative of a State.

"SEC. 2. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District."

[H.J. Res. 703, 90th Cong., first sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States providing for representation in the Congress for the District constituting the seat of government of the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The District, constituting the seat of government of the United States, shall be given voting representation in Congress in such measure as the Congress may direct."

[H.J. Res. 704, 90th Cong., first sess.]

JOINT RESOLUTION To amend the Constitution to provide for representation of the District of Columbia in the Congress

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

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"SECTION 1. The people of the District constituting the seat of government of the United States shall elect at least one Representative in Congress and, as may be provided by law, one or more additional Representatives or Senators, or both, up to the number to which the District would be entitled if it were a State.

"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District."

[H.J. Res. 723, 90th Cong., first sess.]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States granting representation in the Congress to the District of Columbia

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The people of the District of Columbia shall choose such Member or Members of the House of Representatives and shall be apportioned to them in the same manner as Representatives are apportioned among the several States. The people of the said District shall be entitled to elect two Senators. Each Representative and Senator so elected shall be a resident of the said District and shall possess the same qualifications as to age and citizenship and shall be entitled to the same rights and privileges as a Representative or Senator of a State.

"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation."

[H.J. Res. 724, 90th Cong., first sess.]

JOINT RESOLUTION To amend the Constitution to provide for representation of the District of Columbia in the Congress

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by Congress:

"ARTICLE —

"SECTION 1. The people of the District, constituting the seat of government of the United States, shall elect at least one Representative in Congress and, as may be provided by law, one or more additional Representatives or Senators, or

both, up to the number to which the District would be entitled if it were a State.

"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District."

[H.J. Res. 778, 90th Cong., first sess.]

JOINT RESOLUTION To amend the Constitution to provide for representation of the District of Columbia in the Congress

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

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"SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 3. This article shall have no effect on the provision made in the twenty-third article of amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District."

The CHAIRMAN. We will now hear the distinguished Representative from Virginia, the Honorable Joel T. Broyhill.

STATEMENT OF HON. JOEL T. BROYHILL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. BROYHILL. Thank you, Mr. Chairman.

First of all, I should like to associate myself with the remarks that have been made by the chairman and all the members of the committee in support of this legislation.

I have been a sponsor of several proposed constitutional amendments to provide congressional representation for the District for the past 15 years, ever since I have been a Member of the House of Representatives.

As the chairman will recall, during consideration of the 23d amendment to the Constitution which gave District residents a vote in presidential elections, we had somewhat of a problem because it was felt that we had first to approve a constitutional amendment providing the District of Columbia with voting representatives in the House and in the Senate in order to provide votes in the electoral college, so that they could vote for President and Vice President.

Then we split those two proposals and, in 1955, resolutions were first introduced that would provide for the same vote for President and Vice President that the District of Columbia would have if it were a State of the same population, and separate resolutions similar to those we have before us today, dealing merely with voting representatives in the Congress.

As we know, the 23d amendment as it was approved by the Congress was ratified by the States in record time, indicating that the States

and the people are strongly in support of the principle that the citizens of the District of Columbia should have a greater voice in their National Government.

So we are left now with the job of providing voting representation in the House and the Senate.

Mr. Chairman, I know of no objection whatsoever to these proposals from any organization or any individual.

I think that we have probably stronger support for these measures than for any proposals which are now pending before the Congress.

I don't think there is any question that the basic desire of all of us is to allow the people of the District of Columbia a maximum voice in their government, and in the management of their own affairs.

We have a problem insofar as local government is concerned, and we know that. This has been a highly controversial matter over a period of years, because the District is a Federal city, and the question always arises as to how we can give them this maximum voice in the management of their local affairs and still protect the Federal interest and maintain the Federal responsibility.

But certainly when it comes to a vote in the Congress, and a vote for the President and Vice President, there is no conflict with the Federal interest or Federal jurisdiction.

So, Mr. Chairman, I am hopeful that this legislation will be approved promptly by this committee and the House, and I am confident if it is approved by the Congress it will be ratified by the State legislatures.

I think the only question involved here is the number of seats that we will provide for the people of the District of Columbia in the Congress.

I certainly have no pride of authorship, insofar as my own proposal is concerned.

I think the best type of resolution would provide the District with the same number of votes in the House and the Senate it would have if it were a State of the same population, but leave it up to Congress to make the final determination from time to time what that number of Representatives shall be.

And so, Mr. Chairman, I would support the chairman's bill or any other bill under consideration by this committee, and I hope, as I said before, that this matter will be promptly approved by this committee.

Thank you very much.

Mr. ROGERS of Colorado. I take it, Mr. Broyhill, that you are willing to have the representation in the District of Columbia based on the census that would be taken as this became effective after 1970, and that we would still retain the membership of the House at 435.

Is that what you have in mind? Or do you anticipate that the House should increase its membership beyond the 435 total?

Mr. BROYHILL. Mr. Rogers, my amendment does not deal with that subject, nor does the proposal introduced by the chairman.

I should think, unless some action was taken by the Congress, the membership would remain at 435. I think we would have to have separate legislation to increase the number of Members of the House of Representatives.

Mr. ROGERS of Colorado. Yes, but your proposal says:

The residents of the District of Columbia shall be entitled to elect Representatives in the House on the basis of the decennial enumeration in the same manner

as the number of Representatives in each of the several States is determined.

Now, that determination at the present time, is based on population—you count the people from the District of Columbia, and then divide it among the various States, disregarding the District of Columbia, because they do not have any membership.

Now, do you anticipate that we should change the total any beyond the 435? Or should we increase the membership in the House?

Mr. BROYHILL. I think that under my resolution it becomes automatic that they be provided with representation.

The resolution introduced by the chairman would require action by the Congress, I believe.

But, in any event, legislation could be enacted to increase it from 435 to whatever number would be the additional amount, but the intent of my resolution is not to deal with the numerical membership in the House of Representatives, but to make all the States absorb the additional representation in the House of Representatives, the same as was done when Hawaii and Alaska achieved statehood.

We have had problems, you recall. We had additional numbers up until the next decennial census after Hawaii and Alaska became States and then we reduced it back to 435.

Mr. ROGERS of Colorado. Now, the next sentence of your resolution provides that the residents of said District shall be entitled to elect one or two Senators, as the Congress shall by law provide.

Do you anticipate that after ratification of your resolution Congress is obliged to authorize either one Senator or two Senators?

Mr. BROYHILL. That is the thrust of most of the resolutions pending before this committee, that the Congress shall act afterward, to determine the number up to the number to which the District would be entitled if it were a State.

I might say, Mr. Rogers, that I am not too pleased with this figure of one or two in my own resolution. I strongly believe, personally, that if we are going to treat the District of Columbia as a State in that respect, it should have two voting Members of the U.S. Senate.

I don't think we should be concentrating all of our effort on giving the citizens of the District of Columbia a voice in the House of Representatives, and not saying too much about the other body.

Mr. ROGERS of Colorado. Would you object to your resolution being amended to say that residents of the District shall be entitled to elect two Senators?

Mr. BROYHILL. Of course not.

As I said earlier, Mr. Rogers, I think the most important thing to do now is to get the constitutional amendment approved by the Congress and ratified by the States to grant this representation.

I think to try to spell out exact numbers in the constitutional amendment itself might cause some problems in getting it through the other body, and possibly ratified by the States.

Mr. ROGERS of Colorado. Now, House Joint Resolution 687, which was introduced by Mr. Gude and a number of others, provides that the District shall be given voting representation in Congress in such measure as the Congress may direct.

Would you take it from that that the Congress should authorize two Senators?

Mr. BROYHILL. Correct. I do.

Mr. ROGERS of Colorado. You would approve that proposal, as well?

Mr. BROYHILL. Absolutely. I have no quarrel with any language under consideration here.

Let's get the objective obtained by a constitutional amendment.

Mr. ROGERS of Colorado. Thank you.

Mr. FEIGHAN. Mr. Broyhill, I was just wondering. I suppose that your plea is for proper representation of the citizens of the United States.

Is that one of the premises upon which you based the introduction of the amendment?

Mr. BROYHILL. That is right.

Mr. FEIGHAN. We have residents and citizens of the United States who are in territories and possessions. Should we not include them in the same category as residents of the District of Columbia, since they are citizens and enjoy the same privileges of citizenship?

Mr. BROYHILL. I am certainly not an expert insofar as the representation of the territories is concerned, Mr. Feighan.

We have taken care of Hawaii and we have left Puerto Rico, the Virgin Islands, and Guam.

I think we have a problem insofar as the population is concerned in the Virgin Islands and Guam.

As to Puerto Rico, I think they are going to be voting on that question themselves pretty soon, as to whether they would like to remain a Commonwealth, become a State, or become independent. This question is in the process of being decided by the people of Puerto Rico.

But Puerto Rico is the only territory we have left without representation of any consequence insofar as population is concerned.

The CHAIRMAN. Mr. Poff.

Mr. POFF. Mr. Chairman, I have no specific question, but I do want to welcome my distinguished colleague from Virginia, and say that we are grateful for the contribution that he makes in this field.

He is extremely knowledgeable about District affairs and indeed all the matters with which the Congress deals, and I for one find his testimony very helpful.

Mr. BROYHILL. Thank you.

Mr. MATHIAS. Mr. Chairman, I would just like to point out that the distinguished gentleman from Virginia who is our witness here is a pioneer in this matter of representation in the Congress for the District of Columbia.

I don't believe that there is any Member of the House who started working sooner, or has worked longer, for this purpose than the gentleman from Virginia, and I agree with our colleague, Mr. Poff, that this gives his testimony particular weight.

I am glad to have him here.

Mr. BROYHILL. I am glad I came here this morning, Mr. Chairman. You have a very courteous committee.

The CHAIRMAN. Mr. Hutchinson?

Mr. HUTCHINSON. Mr. Chairman.

Mr. Broyhill, directing your attention to a statement you made about treating the District more or less as a State for this purpose, and with regard to its representation in the Senate of the United States, would you agree that historically the Senate of the United States has been considered an assembly of States?

Mr. BROYHILL. That is correct.

Mr. HUTCHINSON. And is that still true today? Although the people of each State choose by popular election their Senators, the Senate of the United States is an assembly of States, where all States are equal.

That is true today, is it not?

Mr. BROYHILL. That is absolutely correct.

Mr. HUTCHINSON. And if you were going to provide representation for the District of Columbia in the Senate of the United States, then, should not that representation be equal with the representation from any other State?

Mr. BROYHILL. Absolutely.

Mr. HUTCHINSON. Do you believe the proposed amendment should provide for two Senators from the District of Columbia?

Mr. BROYHILL. I have introduced several amendments, or proposals, over the period of years. This year, in this Congress, for the first time, I modified the language to read one or two Senators; and that was as a result of persuasion on the part of people living in the District of Columbia who felt that we would enhance the chances of the resolution getting through by doing so.

This does not lessen my support or desire to have full representation in the Senate, and in the House, and that is the reason I say I would support the language of any proposal before this committee that would obtain the maximum objective.

Mr. HUTCHINSON. My own reaction about the phraseology "one or two Senators" does violence to my concept of what the Senate is, and if you would permit me to make this observation, it seems to me very important that we preserve the Senate for what it is: a representative body of units of equal sovereignty.

Now, then, that brings us to this question.

The District of Columbia will not be created a sovereignty by this amendment, and it is not one now. How can you philosophically justify any representation in the Senate of the United States by the District, so long as it is not a sovereign State?

Let me put it this way. If you provide representation in the Senate of the United States for the District, do you not, to all intents and purposes, thereby deem it a State? Should we not consider a constitutional amendment to create it a State?

Mr. BROYHILL. Well, we could consider one; but I think we have all acknowledged the existing constitutional provision that the District of Columbia is a Federal territory, a Federal city, created for the purpose of housing the Nation's Capital.

Over the period of years as the population of the District has increased, we have come to recognize that the citizens in the District of Columbia, although they are living in a Federal territory, should have the same rights in the National Legislature as all other American citizens. Providing such representation need not interfere with the rights of other citizens or conflict with the Federal interest in the Nation's Capital.

We have pretty much answered the gentleman's question, in the 23d amendment, by recognizing the District of Columbia, insofar as a vote for President and Vice President, as a State, because we state in the amendment, "A State of the same population."

We did hedge a little bit in that case by saying that it should have no more electoral votes than the least populous State, but we did recog-

nize the fact that it would have two Senators and one Representative, and therefore have three votes in the electoral college.

In response to your first question, I am not necessarily proud of the language of my amendment, when I give the option of one or two Senators, but I am afraid we might have some trouble getting a resolution through unless we leave it up to the Congress to determine the number of votes that the District would have in the Congress.

Mr. HUTCHINSON. Now I direct one last question to you.

We are both aware of the fact that there are some people who believe that the Maryland part of the District of Columbia should be retroceded to the State of Maryland, just as the Virginia part of the District of Columbia was long ago retroceded to Virginia.

The adoption of the amendment now being considered would destroy any real possibility of any such retrocession, would it not?

Mr. BROYHILL. I am afraid it would close the door, unless we later adopted another constitutional amendment; because the District of Columbia would then be too small to have voting representation in the Congress.

But it is apparent, Mr. Hutchinson, that the people of Maryland are not quite as liberal as the people of Virginia, and are not willing to take back their portion of the District of Columbia.

Mr. HUTCHINSON. Does the gentleman from Maryland wish me to yield?

Mr. MATHIAS. I would just point out to the gentleman from Virginia that actions speak louder than words. The record is clear that we were not Indian givers. We gave our section to the Nation, and the Nation still has it. We did not take it back.

Mr. HUTCHINSON. Thank you, Mr. Chairman.

That is all I have.

Mr. KASTENMEIER. Mr. Chairman, I would like to compliment the gentleman from Virginia on his statement.

I would like to only ask one question.

Has it not been custom, or tradition, for the Members of Congress adjacent to the District of Columbia to more or less pick up the slack, and represent the District of Columbia in Congress?

And I ask this of you, as I might have asked it of the gentleman from Maryland, Mr. Mathias, and possibly the gentleman from Maryland, Mr. Gude, who is still in the audience.

Has it not been the fact in the past that the Representatives of the adjacent area tend to represent the District of Columbia, in terms of Federal cases in the Congress?

Mr. BROYHILL. I don't think that there is any question about that, Mr. Kastenmeier, because we are neighbors. We are part of a metropolitan area, and we do have a very special interest in the Nation's Capital.

We help them with their problems with the Federal Government as their own Congressman would. We represent our own districts in our votes in the Congress.

The citizens in the Nation's Capital should have a voice, as American citizens, in selecting their President, and they should have a voice on other national matters in the House and the Senate.

We have two areas to consider: one, our legislative jurisdiction over the District of Columbia, and the other the right of all citizens to be represented on national issues.

Mr. KASTENMEIER. Yes. I could not agree with you more. But I was trying to reach back historically, and to put in proper context, that such legislative or congressional services as the District does receive largely come gratuitously from neighboring Congressmen. This is, I think, unfair to those Congressmen, and perhaps to their constituents. They have to absorb some of the burden of representing the District of Columbia.

Mr. MATHIAS. Would the gentleman yield at that point?

Certainly I agree with the gentleman from Wisconsin that the gentleman from Virginia has been outstanding in personal services that he has rendered to the people of the District of Columbia, and I know it is true with my colleague from Maryland, Mr. Gude, but let me just give you one personal example that occurred yesterday to me, which illustrates, I think, the point which you want to make.

We had hearings here in the Judiciary Committee yesterday. We had an executive session. We also were having hearings in the House District Committee, on the reorganization plan of the District government, a very important legislative problem, but obviously, when you have to choose between two committees—and I plead guilty to this—I put the work on national legislation ahead of the purely local legislation. I came to the Judiciary Committee yesterday.

And I think this is a typical problem that many Members who serve on the District Committee have, and I think that is why we need some people whose primary loyalty is to the people who elect them from the District of Columbia.

Mr. KASTENMEIER. I appreciate the gentleman's comments.

Indeed, it was my objective in part to commend the Congressmen from the neighboring areas for picking up this burden in years past.

I think the Congress owes some debt to them, as well as do the people of the District of Columbia.

But in the long pull, this is really not the solution. Rather, it is the adoption of the constitutional amendment among the resolutions before us.

I thank the gentleman.

Mr. BROYHILL. I might say to the gentleman that I hesitated somewhat to bring up that question, myself, because this voice in the management of the affairs of the people of the District of Columbia is a subject of controversy.

There is a problem of Federal responsibility and interest, as well, and we have not been able to resolve it successfully.

I support a greater voice in the government for the people of the District of Columbia, but those resolutions deal with their national interests, rather than with local government.

The CHAIRMAN. Mr. McClory?

Mr. MCCLORY. I want to commend the gentleman for his leadership in this proposed constitutional amendment to seek representation for the residents of the District of Columbia in the Congress of the United States.

I would like to say in my own behalf that I am not only interested in representation in the Congress of the United States, but I am interested in representative municipal government for the District of Columbia, as well.

I would think that it would be preferable if the gentleman would indicate his preference as to this, on the subject of representation in the Senate, because I feel that a constitutional amendment particularly providing for representation in the Senate should be established and fixed by the constitutional provision, and I don't think this part of the resolution should be left up to future congressional action.

I am thinking that in this instance the population of the District of Columbia is substantially larger than that of the State of Alaska, and several other States, and I don't see any reason why the District of Columbia should not be entitled to two Members of the Senate as well as the States that are represented there.

Would the gentleman prefer to have two elected Members of the Senate, if it is possible to get that through the House and Senate?

Mr. BROYHILL. I most certainly do.

Mr. Chairman, if it were at all possible for me to withdraw this bill and amend it to two Senators, I would do it right now.

I thought that we had a little better opportunity of getting a resolution through the Congress, leaving it up to the Congress, but I certainly think it is fair for the District to have two Senators in the U.S. Senate.

Absolutely.

Mr. McCLORY. I thank the gentleman.

Mr. DONOHUE. Mr. Chairman?

I was wondering, Mr. Broyhill: When you are amending your proposal, which would grant two Senators for the District, don't you think you should amend your proposal further and have it read "proposing an amendment to the Constitution granting statehood to the District of Columbia"?

Mr. BROYHILL. No, I don't, Mr. Donohue.

I think, frankly, this would be a great deal more controversial than this matter here before us.

We have a Federal problem, a Federal responsibility, to consider.

Mr. DONOHUE. The objective is give all the rights to the District of Columbia that are granted to a State. Is that not so?

Mr. BROYHILL. Insofar as it can be done without interference with the Federal interest and Federal responsibility to the Nation's Capital.

Now, I think that we have—and I say interest and responsibility—we have a financial responsibility, as well as an interest from a legislative standpoint, and I think that as we move further in the direction of giving the District more of a voice in local matters, we are going to have to bear in mind the Federal interest and responsibility. I don't think we could do that easily through a constitutional amendment.

Congressional representation, I think, is strictly noncontroversial. It should be.

Mr. DONOHUE. In other words, you feel that insofar as the District of Columbia is concerned it should not follow the pattern historically that the territories have followed, in first having delegates prior to the grant of statehood, so that they would have a voice in the affairs of our Government?

Mr. BROYHILL. I think the District of Columbia is different than any other area, any other State, any other city, any other territory, in this Nation.

The only thing I am attempting to do by my support of a proposed amendment to the Constitution is to give them all the same national rights as any citizen, and as many local rights as possible. But granting local rights is a tremendously controversial matter, and it is just one that we have not been able to resolve as yet.

I might say here that I think the differences in the controversy over so-called home rule proposals are a matter of degree, in dotting the i's and crossing the t's, and not over a desire or lack of it to let the people of the District of Columbia manage their own affairs insofar as they possibly can.

I think we do that by election of a school board, and in many other ways, we can give the people of the District of Columbia a greater voice in managing their own affairs.

Mr. DONOHUE. The purport of your proposal is to grant the District of Columbia as many Members in the House as are granted to a State, based upon its population, is it not?

Mr. BROYHILL. That is correct.

Mr. DONOHUE. And it is your thought, also, that they should have two Senators, just like every other State?

Mr. BROYHILL. I should hope so.

Mr. DONOHUE. So that you are seeking to grant the District of Columbia all the rights and privileges that are granted to a State. Is that not right?

Mr. BROYHILL. Insofar as representation in the House and the Senate and the vote for President and Vice President, yes, indeed.

Mr. DONOHUE. All the rights that a State now has?

Mr. BROYHILL. Insofar as representation in the National Government is concerned.

Mr. DONOHUE. So why should you not ask that the District of Columbia be granted statehood?

Mr. BROYHILL. I tried to explain that, in that we have Federal interests and responsibilities here in the Nation's Capital that differ from those in a State.

I don't think we want to let the Federal Government waive or ignore its responsibility, or its interest in the Nation's Capital.

I think that you as a Member of the House of Representatives would be concerned about the operation of the police force, public works, and maintenance of the streets and highways in the District.

I don't think you could say that you are not interested in it, insofar as the Nation's Capital is concerned.

To what degree you want to delegate your interest and responsibility to others is up to the gentleman.

Mr. MATHIAS. Would the gentleman yield on that point? Because I think this is a very important point, and I agree completely with the gentleman from Virginia.

As I said in my opening statement, the whole purpose of having the District of Columbia established as a Federal enclave was to prevent the interposition of a State government between the Federal city and the Federal Government, and this, of course, grew out of the very bitter experience of the Congress when it was quartered in Philadelphia. It felt that it was not given sufficient protection by the State of Pennsylvania.

And so it provided in the Constitution that Congress shall have the ultimate authority, that the Federal authority shall be the ultimate authority.

And I think that system is perfectly right and as sound today as it was in 1787.

I don't think that there is anything inconsistent with that in full civil status for the people who live here.

The CHAIRMAN. It is not a State with State sovereignty.

Mr. Tenzer?

Mr. TENZER. Thank you, Mr. Chairman.

Mr. Broyhill, I want to join with those who complimented you for your work in this field, but I wonder if you have examined House Joint Resolution 396, introduced by Mr. Celler and nine other Members of the House, and whether that in effect does not give meaning to the discussion that took place on your bill at this point.

Mr. BROYHILL. I support the language of the bill to which you referred; yes.

Mr. TENZER. And it is consistent with the 23d amendment which was adopted?

Mr. BROYHILL. Yes, because it leaves it up to the Congress to provide the additional representation.

Mr. TENZER. And the other point concerned population: The population of the District of Columbia today I understand is greater than that of 10 or 11 States of the Union.

Mr. BROYHILL. It is approximately 800,000.

Mr. TENZER. And the point that you made is that deprivation of representation in the legislative bodies of the Federal Government is a denial of certain fundamental rights of the people who reside here.

And one other point, in answer to a question by some of our colleagues: You raised the objection to granting sovereignty, since the District of Columbia is the seat of the Government. It is different than the other territories which had delegates to the national Federal legislative bodies. Moreover, granting sovereignty to the District of Columbia would also grant the right of taxation in an area where most of the land is owned by the Federal Government itself, and would create a very serious problem of financial management of the affairs of that sovereign State, if one were established.

Mr. BROYHILL. I think this might be oversimplification, but the District of Columbia can be likened to Federal reservations or to military forts and reservations throughout the United States, where you may have personnel, civilian or military, living on the Federal reservation who certainly are American citizens, and have all rights of American citizens, a vote for President, and Senators, and Congressmen, and yet have no control over the management of that particular military reservation.

Mr. TENZER. And none of the other territories which were alluded to here are in the position to have as many extraterritorial properties of the representatives of the 120-odd other nations of the world, who have their seats, their representatives located here in the District of Columbia.

Mr. BROYHILL. That is correct.

Mr. TENZER. Thank you very much.

The CHAIRMAN. Mr. Smith?

Mr. SMITH. Mr. Chairman, I, too, want to join in complimenting the gentleman from Virginia for his leadership in this field, and to thank him for his comments in this regard, and the colloquy.

The colloquy which has ensued, I think we have all felt has been very helpful.

The CHAIRMAN. Mr. Conyers?

Mr. CONYERS. Mr. Chairman, the question that has come up in my mind is the issue of local self-government, and the issue of national representation. I would like to ask our distinguished colleague, who has the experience in both of these areas over a long number of years, whether there is any collision course—whether he gives any priority to these two very important considerations.

Mr. BROYHILL. You mean between this proposal for national representation and home rule?

Mr. CONYERS. That is right.

Mr. BROYHILL. No, indeed. I think they are two separate matters, although both deal in the field of voice in government.

This proposal, while it requires a constitutional amendment, would not in any way interfere with the Federal responsibility or jurisdiction here in the Nation's Capital under article I, section 8, of the Constitution.

We could amend the Constitution to give the people of the District of Columbia exclusive jurisdiction over the Nation's Capital, or we could create another State, as Mr. Donohue suggested.

The problem of home rule is one of management of the local government, local legislative matters.

This amendment deals with a vote in the Congress.

There are proposals before the House Committee on the District of Columbia, many proposals, that would give a varied degree of voice to District residents in the management of the local affairs. We are considering election of the School Board, the election of a Commissioner, and many other proposals.

Mr. CONYERS. Does our colleague have any priorities? Is it more important that the rights of representation begin at a local level? Would this make it a smoother way of beginning, than self-representation here in the Nation's Capital? Or is it more vital that there be Senators and Congressmen representing nationally the District of Columbia?

I am wondering if you have some ideas on that subject.

I have a notion that it is probably more important, given the nature of the makeup of this city, and the problems that are arising throughout America, in terms of nonrepresentation, real or otherwise, that before we move so quickly into this area of national representation, that we in no way impinge on the struggle for local self-government. That to me is very, very important.

And I am trying to determine, through yourself and other distinguished Members and experts that are going to testify, whether there is any possibility that we are going to impinge upon the consideration of local home rule, which I think is equally important. It is for that reason that I raise this question.

The CHAIRMAN. Will the gentleman yield?

I want to assure the gentleman from Michigan that these resolutions, particularly the resolution I offered, are no substitute for home rule. There is no intention to have it as a substitute for home rule, or a substitute for any reorganization of local government.

Mr. CONYERS. I am glad to hear the chairman say that.

Mr. BROYHILL. I don't think you have to choose between the two, Mr. Conyers. I think they are two separate matters entirely, and I think it would be indeed unfortunate if those who are sincerely interested in home rule, or a greater voice in local government for the people of the District of Columbia, fail to support this resolution enthusiastically.

Choosing between the two, I think this gives the people of the District of Columbia a far greater voice. I don't think you have to choose between the two. I think this could be supported by everyone.

Mr. CONYERS. In my limited experience here, we have been rather dramatically unsuccessful in any meaningful home rule attempt. Now I find there is apparently a great enthusiasm for congressional representation that has been going on since 1915. I am being educated here this morning, that all of a sudden we should now have a couple of Senators and Representatives in the House. I am just wondering why this kind of enthusiasm is apparently nontransferrable, when we talk about what is, in my opinion, more important for people in this District of Columbia—to have some meaningful form of representation locally.

And if there is no conflict, why can we not move forward on both?

And further than that, I am just wondering, if this amendment happens to go through, whether we will be faced with the old political bromide, that: "What are you yelling about now? We just gave you two U.S. Senators and a couple of Representatives, and now you still want to represent yourself locally."

And that, I think, exposes the hesitation that I have in embracing this proposal as enthusiastically as some others.

Would you care to comment on that, sir?

Mr. BROYHILL. The gentleman says he is surprised to learn of the enthusiasm for this resolution, and I stated in my opening remarks that I have been sponsoring similar legislation to this for the 15 years I have been in Congress, and before that they were sponsored by others.

Some of us have been trying for years to get those people who are yelling the loudest for a greater voice in the Government for the people of the District of Columbia to get enthusiastically behind these resolutions.

I think if they had done so we would have had this resolution as an amendment to the Constitution long before today.

But for years most of the efforts have been directed toward local government, and I think a lot of the people who have been directing their efforts in that direction have just failed to see the greater advantage in having a full voice in the national legislature.

If the gentleman wants to withhold his support for this resolution for fear that it might delay home rule somewhat, I think he is being unfair to the people of the District of Columbia, because I don't think he is going to get home rule, anyway. I don't think he is, because the Congress cannot agree on any particular formula to give the people a greater voice in the Government.

Why delay this objective when controversy is going to prevent the obtainment of the other objective, regardless of how desirable the other objective may be?

Mr. CONYERS. Finally, Mr. Broyhill, don't you think that it is quite natural that a citizen without representation would be more concerned with the local day-to-day operations of government as it affects his life, rather than perhaps some of the loftier national questions that may or may not be as directly related to his existence?

Mr. BROYHILL. I believe that history will show that we fought for our freedom from England in order to get control of our national affairs. We did not have too much of a problem then as far as local government was concerned because we were pretty much given the right to handle our local neighborhood affairs.

So I don't agree with the gentleman in that regard, but regardless of that, it is not a question of agreeing.

We are confronted with a problem, here, a factual situation, that this is the Nation's Capital, and we cannot ignore that there are some Federal interests and responsibilities here.

We may disagree as to the extent of those interests, but they are here, and whatever we do, we have to bear that in mind.

Mr. CONYERS. I have an open mind on this proposal. I think as Mr. McCulloch stated his position that it is very closely related to mine.

I am certainly anxious that the District of Columbia be fully represented in every way, but I am just trying to make certain that we are not running into an either/or proposition, either now or later on, and I thank the gentleman very much for his statements.

The CHAIRMAN. Mr. Roth?

Mr. ROTH. No questions.

The CHAIRMAN. Mr. Railsback?

Mr. RAILSBACK. No questions.

The CHAIRMAN. Mr. Biester?

Mr. BIESTER. I have just one set of questions, Mr. Broyhill.

I have difficulty finding the appropriate conceptual basis for this proposal. Ought we to treat the District as a sovereign State, as though it were a sovereign State? And if so, then certain consequences obviously flow, to the two Senators and the representation in the House.

Or should it be treated as a city, which lies in one State or another, or in two States? And in that context receive only representation in the House?

I am wondering, conceptually, which way you look at this. Is it a city which like other cities all over the country sets in a State that has some House representation, or is it to be treated as a sovereign State, as though it were a sovereign State, and receive full senatorial representation on that basis?

Mr. BROYHILL. It is neither. It is different than any other area in the United States, because our legislative jurisdiction here in the District of Columbia is similar to that of a State legislature, plus a local city council.

The District of Columbia has the responsibilities and the problems of a State and a city combined. I don't think we will find any area in the United States at all like the District of Columbia.

We only mention it as a State insofar as the number of people is concerned, to give that number of people a voice in the National Government.

And this is done on an original concept. We adopted that concept in the 23d amendment to the Constitution, when we departed from the provisions that we had used in procedures heretofore in determining the number of votes in the electoral college for President.

We stated clearly that the District of Columbia would have the same votes in the electoral college that it would have if it were a State of the same population, and then, as I said earlier, we said it would have no more votes than the least populous State.

So we are doing the same thing here again. We are saying that the District of Columbia should have the same representation in the Congress that it would have if it were a State of the same population.

But it is not a State, and it is not similar to a State in any way.

Mr. BIESTER. That is my problem. Is it nearer a city than it is a State? Does it have more the attributes of a State, or more the attributes of a city in a State?

Mr. BROYHILL. Well, it is urban. It is compact. So you might say it is similar to a city in that regard.

But it has the income tax, the highway programs, the school programs, the welfare programs, and all programs that a State has, insofar as its financial responsibilities are concerned.

It is similar to both.

Mr. BIESTER. One other question. You have been talking about the matter of the rights of citizenship which are implicit in this, and is there not also a matter of need on the part of the city and its citizens for representation, solid representation, in the Congress?

Is it not also a matter of need for the people in the city to have representation, apart from a matter of right?

Mr. BROYHILL. Oh, yes. Yes, indeed.

Mr. EILBERG. Mr. Chairman, I certainly support the principle of H.J. Res. 396 and the other resolutions, but I would be less than honest if I did not state: Maybe this question is out of order, but I wonder if the gentleman could tell me something about the party registrations in the District; the party registrations, Republican and Democratic?

Mr. BROYHILL. Party registration?

Mr. EILBERG. Yes.

Mr. BROYHILL. In one of the hearings we had here on the reorganization plan, I think Mr. Donohue, a former Commissioner, stated that in the 1964 election President Johnson got 85 percent of the vote in the District of Columbia.

I don't think that the division, partisanwise, is that great. I think it is somewhere around 2 or 3 to 1 Democratic, at least.

Mr. EILBERG. And what are the normal voting patterns, aside from the last Democratic election?

Mr. BROYHILL. Throughout the country?

Mr. EILBERG. In the District.

Mr. BROYHILL. They have only had one vote, and that was in the 1964 election.

Mr. EILBERG. I thank the gentleman.

The CHAIRMAN. Mr. Wiggins?

Mr. WIGGINS. Mr. Broyhill, I wanted to ask a couple of questions, to develop a bit further some ideas expressed by Mr. Biester.

I would like to know conceptually what is wrong, what evils you foresee, if the District of Columbia, solely for the purpose of representation in Congress, we were to simply treat it as a part, let's say, of Maryland?

Mr. BROYHILL. Well, now, I see Mr. Mathias has left.

This was proposed, Mr. Wiggins, in the last Congress. In fact, the Committee on the District of Columbia approved legislation that would reduce the size of the District of Columbia to its original boundaries, made up by L'Enfant back in 1790, roughly including the area between Florida Avenue and the Potomac River, and to retrocede the rest of it to Maryland. This would give at least three-fourths of the District of Columbia the right to vote for Congressman and Senator and Governor and local government, as well.

The major opposition to this came from Maryland. There was other opposition in that the small population in this Federal enclave would be remaining without some form of home rule.

I see no objection to it, frankly.

Mr. WIGGINS. The answer to the question is that conceptually you see nothing wrong with it.

That was the answer?

Mr. BROYHILL. I see nothing wrong. It would provide the home rule Mr. Conyers wants simultaneously with the vote for Congress and the Senate and the President.

This is generally considered as a joke by some people when you propose it, but I don't think Mr. Mathias considers it a joke.

Mr. MATHIAS. If the gentleman will yield, I think any proposals for relief in the situation as it exists are anything but a joke, and I am willing to consider them all very seriously.

But may I say, however, on the lighter side, that if you talk about bringing the District for representation purposes into part of Maryland, you would eliminate the possibility of two new Members of the U.S. Senate, and certainly the eloquence with which the gentleman has entertained the committee this morning would qualify him for one of those seats.

I don't know about the residence question.

Mr. BROYHILL. While the gentleman was out of the room, Mr. Eilberg asked a question as to the partisan alinement of the District of Columbia. We may lose some Republican votes for the constitutional amendment, but I think it will be a few years before you elect a Republican Senator in the District of Columbia.

Mr. MATHIAS. Well, I think we will take our chances on that.

After all, the gentleman from Virginia, and the gentleman from Maryland, Mr. Gude, and myself are all examples of what can happen.

Mr. BROYHILL. Well, I am not going to be one of the guinea pigs.

Mr. WIGGINS. Just a few additional questions, Mr. Broyhill.

Would not such a scheme give recognition to these essential differences between the District of Columbia and a sovereign State, and

avoid all of the difficulty which is sure to arise about the assignment of one or more U.S. Senators solely to the District of Columbia?

Mr. BROYHILL. Well, the resolution could read that way, insofar as representation is concerned, but I think it would impose some problems and some additional controversies, because we have some Federal interest and responsibility.

Pardon me for repetition, but I repeat it for emphasis: We have a Federal interest and jurisdiction here that we have to weigh carefully as we begin to delegate it to others.

Mr. WIGGINS. Would you oppose a plan, properly worded, of course, that had the effect of assigning the District of Columbia to a State?

It does not have to be Maryland. It could be Virginia.

Assigned to a State only for purposes of representation in the Congress?

Mr. BROYHILL. I would support it for Maryland, merely because that was the land area Maryland had ceded to the District of Columbia in the beginning.

We took back to Virginia the portion that had been ceded by Virginia at the beginning, the portion which is now Arlington County.

This would be an approach, but I think that since there is opposition to it, the chances of its being approved are somewhat limited.

Mr. WIGGINS. Do you think the chances are better with that approach than the one that you envision in your resolution, which includes treatment of the District of Columbia as literally a separate political entity?

Mr. BROYHILL. I think the approaches contained in these resolutions—

Mr. WIGGINS. Have a much better chance?

Mr. BROYHILL. A much better chance. I think they do.

The CHAIRMAN. Thank you very much, Mr. Broyhill.

We appreciate your coming and giving us this very valuable testimony.

Our next witness is a member of our committee, the distinguished gentleman from Indiana, the Honorable Andrew Jacobs, Jr.

The Chair wishes to caution that we have to leave promptly before 12, because we have the antiriot bill on the floor at 12 o'clock.

STATEMENT OF HON. ANDREW JACOBS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. JACOBS. My testimony will require a few seconds, Mr. Chairman.

Mr. Chairman, my colleagues on the committee, 191 years ago this country fought a Revolutionary War because of taxation by, and no representation in, a central government legislature.

Today, and for thousands of yesterdays, the American citizens of the District of Columbia are, and have been, denied representation in our Central Government Legislature which taxes them.

At this time, thanks to the amendment process of the U.S. Constitution, the injustice can be cured without firing a shot. All we have to do is pass the Celler amendment on this subject.

And, Mr. Chairman, I have introduced, and I support your resolution.

Mr. POFF. Mr. Chairman, as the distinguished gentleman has just

said, his resolution I believe is identical with that introduced by the chairman.

Mr. JACOBS. Merely a form of endorsement of the gentleman's resolution.

Mr. POFF. Am I correct in assuming that this resolution anticipates that the size of the House of Representatives would be increased from 435 to 437?

Mr. JACOBS. That is my understanding.

Well, it would be 436; because it provides for one by its own language.

Mr. POFF. And thereafter, if Congress, by legislation, further increases District of Columbia representation, the size of the House would be again increased?

Mr. JACOBS. I am not so sure about that.

I would defer to the chairman's opinion about that. I am not so sure that it would.

The CHAIRMAN. It would depend upon what the Congress does.

Mr. JACOBS. Congress has the power by legislation, as I understand it, to set the membership of Congress, so I presume that, as the chairman indicated, it would depend upon the terms of the legislation passed under this enabling amendment to the Constitution.

The CHAIRMAN. As in the case of Alaska and Hawaii.

Mr. POFF. In the case of Alaska and Hawaii, I believe temporarily the size of the House was increased to 437 and thereafter returned to 435.

Mr. JACOBS. The point is, Mr. Poff, I believe that is a matter of congressional power, without further amendment to the Constitution, to adjust the size of the membership.

Mr. POFF. If the size of the House is changed, it would involve in addition to the constitutional amendment a statutory enactment amending title 2, section 2, of the United States Code?

Mr. JACOBS. I am sure that is correct.

Mr. POFF. Now, then, aside from what the language itself does, what do you think is wise? Do you think the size of the House should be increased, in order to accommodate any additional representation granted?

Or should all of the 50 States be required to accommodate that increase by surrendering one or two seats in the House?

Mr. JACOBS. I think the method of your question is quite good, in that you used the word "wise."

And as a practical matter, the horizons indicate that this would not create the kind of precedent that would bring down upon the institution of Congress great new numbers of Representatives up to the thousand or half a thousand mark. It just is not in the cards, as the previous witness indicated.

There are very few territories of the United States that will be in question in the future, so I don't think it becomes a terribly difficult question so far as practicality and making the House unwieldy.

Mr. ASHMORE. Mr. Chairman, will the gentleman yield for a question?

Mr. POFF. Yes, I will yield to my colleague.

Mr. ASHMORE. The gentleman from Virginia brought up an important question, and hit the nail on the head, I think, when he asked

our colleague, Mr. Jacobs, just what effect this would have on the representation in Congress from the various States.

Would it not, Mr. Jacobs, simply mean that unless Congress increased the total number of membership of the House, some States would lose their Representatives, at least one?

MR. JACOBS. Mr. Ashmore, not only that, but it would also mean, I believe, mathematically, that the size of congressional districts in the country would necessarily rise, and I believe that the average size of the congressional districts in the country is certainly large enough, consistent with having a workable national legislature in terms of the size of the House.

So that I don't see any great objection to these slight additions to the total membership of the House.

MR. ASHMORE. Would the gentleman yield for one other question?

Listening to Mr. Broyhill and the gentleman from Indiana, the question occurs to me: How are you going to determine the voting rights of these numerous people—and they are numerous—who are in the District of Columbia, who are numbered among the 800,000 people claimed in the population of the District, when a great proportion, probably the majority, of these 800,000 people, are here temporarily, working for the Federal Government, whose actual residence and citizenship—if not residence, certainly citizenship—remains in their home States, and many of them vote by absentee ballot, or return to their homes to vote for clerk of the court, or sheriff, or whatever it might be?

In other words, they are actually citizens of their native States, from the State from which they came to the District.

Now, would their right to vote in the District of Columbia preclude them from voting back home in their actual State of citizenship?

MR. JACOBS. It certainly should.

I know, for example, in my own district, which is Indianapolis, Ind., there are a number of residents there for employment only, and vote in other States of the Union, and dual representation for the purposes of voting has never been countenanced under any law that I know of in the United States.

MR. ASHMORE. But the people here in the District of Columbia are in a different category. Are they going to vote with the District of Columbia, or are they going to have to vote in the State where they have a citizenship? They cannot vote in both.

MR. JACOBS. I think, Mr. Ashmore, that the body of law on citizenship for voting purposes is quite adequate, in answer to that point, throughout the several States.

In various States, by law—for example, in my State of Indiana, residence for a certain length of time is required.

You could accomplish your citizenship in the State of Indiana and vote in a given election, and move out the day after the election and begin building your citizenship in Mr. McCulloch's State of Ohio.

I don't think you can determine citizenship or residency for citizenship in any jurisdiction prospectively alone, where somebody intends to move day after tomorrow. It is also the amount of residence that has occurred before a person is declared eligible to vote in that jurisdiction, and once he has established his citizenship there, I take it no State in the Union would recognize his citizenship within a given jurisdiction outside the District of Columbia.

Mr. ASHMORE. How would you prevent the people in the District from voting in their State, and also in the District?

Mr. JACOBS. That is the same old problem.

In every community I suppose there have been cases where people have attempted to do that, and naturally the person is either eligible or not eligible in another State of the Union.

He does not become eligible unless he has the proper residence requirements, and he cannot begin to build up that residence requirement so long as he is a resident of another State, or a citizen of another State or jurisdiction.

Mr. ASHMORE. To get back to the original problem, so many of the people here are citizens of a State.

Mr. JACOBS. They would not be able to vote if they were not citizens of the District of Columbia.

If they were citizens of another State, I assume that would be conclusive evidence at the time an election was held in another State, that on that day they were not residents of the District of Columbia, and did not have the accouterments of citizenship which entitle them to vote in the District of Columbia, and they could only begin building up that residence requirement the day after they vote in another State.

Mr. McCULLOCH. Mr. Chairman, I would like to ask a question, if the gentleman will yield.

Mr. POFF. I yield to my colleague.

Mr. McCULLOCH. I think that the questions our colleague has raised are very important questions.

I agree with my colleague from Indiana that residence and domicile are a matter of intention, and domicile for voting purposes begins to run from the day there is a determined intention of a person to be a resident of a certain political subdivision.

And I think it is worthwhile to repeat what you said, Mr. Jacobs, that when the intention is determined, and the voting place is fixed, there would be a prohibition against multivoting by law of the District of Columbia or Indiana or Ohio. This would prohibit dual voting residences.

I don't think that is going to present any great problem.

Mr. POFF. Mr. Chairman, if we can return to the question of the size of the House, I would like to pursue that, if I may.

It is quite important, and I illustrate its importance by reminding the witness and my colleagues that in the second session of the 87th Congress this committee reported to the floor of the House a bill to increase the size of the House from 435 to 438, and that bill was recommended to this committee on motion to recommit.

So it is a matter of some substantial moment, and I think, as we proceed in these hearings, we had better make some effort to establish the intent of the committee in connection with this bill.

Now, turning to a somewhat different line of interrogation, does the gentleman feel that it is wiser to write into the body of the Constitution the District of Columbia representation in the House and in the Senate, or to write into the Constitution the power for the Congress to provide representation by statute?

Mr. JACOBS. My own judgment is that the Celler resolution is adequate.

As to preferability, I suspect that there again it is a question of wisdom, and I think that it is preferable, because it does write into the body of the Constitution the right of representation in the House of Representatives for all of the Representatives that any State the size of the District of Columbia would be entitled to.

Let me clarify my answer.

By that I mean, if I am not mistaken, a State would need a little more than 800,000 residents to qualify for two Congressmen. That is my understanding of the situation right now.

Therefore, I am saying that the resolution does accord to the residents of the District of Columbia the maximum representation that a State would be entitled to at the present time.

Mr. POFF. I don't want to quarrel with the witness, because it is simply a matter of misunderstanding, perhaps, on the part of both of us, but the resolution offered by the distinguished chairman would write into the body of the Constitution authority for one Member of the House, and into the body of the Constitution authority for the Congress to provide by statute for additional representation in the House and in the Senate.

Now, my question is: Do you think it is preferable to write into the body of the Constitution, or simply to write into the Constitution power of Congress to fix it by statute?

Mr. JACOBS. I don't know that I would necessarily quarrel with the automatic formula that does apply to all States.

Mr. POFF. Yes; but my friend is making a mistake which I think is not fully appreciated, and in order to put it in focus, let me say that what the Congress does, the Congress can undo. I am suggesting that representation given the District under authority permitting the Congress to provide by statute such representation could, by some future Congress, deny the District of Columbia such representation.

Mr. JACOBS. That was my point.

Mr. POFF. However, if the representation is written into the body of the Constitution, then such an eventuality is impossible, except in the event of a new constitutional amendment.

Mr. JACOBS. That, Mr. Poff, is the matter to which I referred when I spoke of an automatic formula, which applies to all States, for equal representation among the peoples of all States in the House of Representatives.

My testimony was that I think that that should be given serious consideration as a possible modification of the resolution.

Without considerable study on my part, I think the gentleman raises a valid point that should be studied very carefully by the members of our committee.

Mr. POFF. As I read the language of the Celler resolution—let me read it at this point:

The people of the District constituting the seat of Government of the United States shall elect at least one Representative in Congress and, as may be provided by law, one or more additional Representatives or Senators, or both, up to the number to which the District would be entitled if it were a State.

Mr. JACOBS. The gentleman is quite correct, I think, in the statement concerning the resolution.

I simply point out that obviously the rationale for that language is that at the present time I believe mathematically a State of 800,000 people would be entitled to only one Representative in the House.

Mr. POFF. And my point is that the Congress might later decide by law that they should have more than one, maybe two, and then at some future time, by law, decide that they will have only one, even though they might still have a population entitling them to two.

Mr. JACOBS. And then the next portion of my testimony tends to agree with the gentleman's point, that an automatic formula about equal representation across the United States, among all citizens, might well be a matter for the committee to seriously consider.

Mr. POFF. Then it would appear from the gentleman's answer that his sentiments more nearly support the Broyhill resolution than the Celler resolution.

Mr. JACOBS. Well, without designating names—I am only speaking of the idea, and I did not say that I endorse necessarily the body of the Constitution approach to the formula.

I simply said that I believe it raises a serious enough question, and it is the purpose of this committee to consider serious questions, and we should proceed to consider it.

Mr. POFF. I hope the gentleman does not think I was trying to trap him. I did not have that in mind.

Mr. JACOBS. Outside of the gymnasium, I think the gentleman would never try to trap anybody.

Mr. POFF. This question was raised inferentially earlier by the gentleman from Ohio, Mr. Feighan: How does the gentleman feel about representation for U.S. citizens in the territories?

Mr. JACOBS. I enjoyed very much Mr. Broyhill's response to that, and I think I could endorse all four corners of it.

Mr. POFF. I thank the gentleman.

And now I have concluded, except for this observation, which I think needs to be made: That is, that no one, and not the witness, certainly, should assume, from the structure of our questions, that they reflect any predisposition or predetermined viewpoint.

It is our purpose, as members of the committee, to explore all of the alternatives, and to inquire into the consequences. That is the only manner in which we can discharge our obligation to the House of Representatives.

I hope the gentleman in the witness chair will agree.

Mr. JACOBS. May I say, Mr. Chairman, that since the very first days of my enjoyable service on your committee, I have admired the scholarly approach of the gentleman from Virginia.

The gentleman proceeds in a very scholarly and deliberative manner and I compliment him for it, and don't misinterpret it.

Mr. POFF. You are very kind, and I reciprocate all that you have said, except that I will not repeat the compliment you made about the gymnasium.

The CHAIRMAN. Any other questions?

Thank you very much.

Mr. ROTH. Mr. Chairman?

The CHAIRMAN. Mr. Roth.

Mr. ROTH. Mr. Jacobs, a question has been raised in connection with the individuals who reside in the District of Columbia, but maintain voting residence in other States.

Now, I am not concerned about the possibility of their voting both places, but I wonder what your idea is: Would an individual residing

in the District of Columbia, who votes in other States, count toward the number of Representatives to which the District of Columbia is entitled?

Mr. JACOBS. No, indeed. I think the only valid count for number of citizens in a jurisdiction is to count the citizens.

Mr. ROTH. Are those statistics available? Do we know how many of the 800,000, for example, maintain voting residence elsewhere?

Mr. JACOBS. I assume that is a matter of U.S. Census data.

Mr. ROTH. No further questions.

The CHAIRMAN. Thank you very much.

In view of the fact that the committee has a bill before the House, and the committee has to be on the floor at 12 o'clock, I fear that we will not be able to hear the rest of the witnesses this morning.

I am very sorry.

The Honorable Gilbert Gude, the Representative from Maryland, and the Honorable Ancher Nelsen, Representative from Minnesota, I am afraid will have to come back tomorrow morning.

Mr. NELSEN. Mr. Chairman, I would be happy to file my statement. I have handed it to the press.

If that would be satisfactory with the chairman.

The CHAIRMAN. Yes.

(Prepared statement of Hon. Ancher Nelsen, a Representative in Congress from the State of Minnesota, follows:)

STATEMENT OF HON. ANCHER NELSEN, U.S. REPRESENTATIVE FROM THE STATE OF MINNESOTA

Mr. Chairman and members of the subcommittee, I am delighted to appear before you to present my views in favor of a Constitutional amendment providing for Congressional representation in Congress for the District of Columbia.

I am mindful of the fact that the Subcommittee played a critical role in the movement which led to ratification in March of 1961 of the 23rd amendment to the Constitution of the United States which enfranchised the citizens of the District in Presidential elections. This was, I think, a major and significant event.

During my 8 years in Congress I have served as a friend of the District on the House District Committee, but there has always been a disturbing question in my mind as to why the District of Columbia did not have elected representation in the Congress especially in such fundamental matters as taxation. It was all the more strange when one considers that the District did have a Delegate in the House in the middle 1870's.

An elected representative in Congress, I think, would be a giant step forward in providing to the citizens of the District a strong voice in the vital legislative matters that have such a direct impact on their daily lives. There is nothing that I can conceive of that should prevent the election of such a representative in the Congress. It is a question of right! I feel that the election of a representative is many years overdue and I, for one, would welcome this new member with great enthusiasm not only because he rightfully belongs in the Congress, but because I believe he would be of tremendous assistance to the Congress when it deliberates on District affairs. He would provide for the citizens of the District a strong voice in the House. He would be intimately aware of the many problems affecting the 800,000 citizens of the District of Columbia. He would provide close, regular and continuing liaison between the Congress and the local community. He would have a knowledgeable voice in presenting to the Congress the District's position on such vital areas as taxation and school needs. Most of all he would have a vote.

I am fully aware that the Constitutional status of the District is unlike that of the 50 States and the territories in a number of respects. The most fundamental difference is that it is established by the Constitution as the permanent seat of the Federal Government and subject to continuing Congressional control. The Constitution delegated to the Congress "exclusive" legislative power over the District in order that the District would be unqualifiedly the home of the Federal Government and to insure that there should not be a clash between local and Federal interests as occurred in the years antedating the establishment of

the District of Columbia. The Federal interest must be paramount and inviolable.

Nonetheless, there is no justifiable reason in my view why the District taxpayers should not have direct Congressional representation in the Congress over such vital issues that affect their daily lives.

I am aware that the hearings today are the beginning of a tedious Constitutional process which could conceivably run for 7 years. In order that the District might have an interim voice while awaiting the ratification of the States of permanent Congressional representation, I have also introduced H.R. 8301 which would provide the District with a non-voting Delegate in the House. Therefore, the District would have a non-voting Delegate to fill the void while awaiting the long amending process necessary to provide a Congressional representative in the House.

The provision for a non-voting Delegate, would, of course, require only a law. I have every reason to hope that the District Committee which has jurisdiction over the Delegate legislation will conduct hearings on the matter in the not-too-distant future.

Mr. Chairman and Members of the Subcommittee, I urge the Subcommittee to move forward rapidly in order that the citizens of the District of Columbia may obtain their voice in Congress at the earliest possible date.

Thank you.

The CHAIRMAN. The committee will now adjourn and reassemble at 10 tomorrow morning.

The Chair wishes to announce that on Wednesday next, July 26, the committee will hear the Attorney General of the United States on this subject.

The meeting will now adjourn until tomorrow morning, when we will hear from Mr. Gude and public witnesses.

(Whereupon, at 11:42 a.m., the committee adjourned, to reconvene at 10 a.m. Thursday, July 20, 1967.)

PROPOSED CONSTITUTIONAL AMENDMENTS FOR CONGRESSIONAL REPRESENTATION OF THE DISTRICT OF COLUMBIA

THURSDAY, JULY 20, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met at 10 a.m., pursuant to call, in room 2141, Rayburn House Office Building, Hon. Byron G. Rogers presiding.

Present: Representatives Feighan, Rogers of Colorado, Donohue, Corman, Tenzer, Jacobs, Eilberg, McCulloch, Poff, Cahill, MacGregor, Mathias, McClory, Smith, Roth, Biester, and Wiggins.

Present also: Benjamin L. Zelenko, counsel, and John W. Dean III, associate counsel.

Mr. ROGERS of Colorado (presiding). The committee will come to order and we will continue hearings on House Joint Resolution 396 and similar proposals.

Our first witness this morning is Mr. F. Elwood Davis, chairman, Joint Committee on National Representation.

Will you come forward, Mr. Davis?

You are not a stranger to this committee.

Will you proceed in your own manner?

STATEMENT OF F. ELWOOD DAVIS, CHAIRMAN, CITIZENS' JOINT COMMITTEE ON NATIONAL REPRESENTATION

Mr. DAVIS. Thank you, Mr. Chairman.

I am Elwood Davis, and I am appearing here as the chairman of the Citizens' Joint Committee on National Representation for the District of Columbia, which was organized half a century ago in 1917.

Since that time virtually every civic, business, labor, and patriotic organization in the District of Columbia and numerous national organizations have joined to support the joint committee in its efforts to secure for District residents a vote for President and Vice President and representation in Congress.

On your copy this might be missing, but I would like to have the record show that the Washington Home Rule Committee is also an active member of this joint committee. In fact, Mr. Chairman, we know of no group in Washington which opposes the objective of this legislation.

We believe that the committee will want for themselves and for the record historical and background material bearing on this issue.

I will devote the first part of my statement to this subject.

The District of Columbia owes its origin to section 8 of article I of the Constitution, which enumerates the powers of Congress. Among those powers is the following:

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 District of Columbia was established under the authority and direction of acts of Congress approved July 16, 1790, and March 3, 1791.

Maryland in 1788 and Virginia in 1789 had made cessions from which the 10-mile-square area lying on either side of the Potomac River at the head of navigation was selected.

This 10-mile-square area contained two municipalities—Georgetown and Alexandria. Georgetown had been laid out in 1752 and incorporated in 1789, and had a population of 2,993 in 1800. Alexandria had been founded in 1749, incorporated in 1790, and had a population of 4,971 in 1800.

Boundaries of the original city of Washington, while never fixed by statute or proclamation, are to be found in the trust deeds from the original proprietors and on the maps made by the Commissioners. They may be described in the following terms in the present city:

The east bank of Rock Creek to approximately P Street, Northwest, thence along Florida Avenue to Ninth Street, Northwest, and continuing to 15th Street, Northeast, along 15th Street, Northeast, from Florida Avenue to C Street, Northeast, up C Street, Northeast to the Anacostia River, and then the Anacostia River and the Potomac River back to Rock Creek.

That was the original city of Washington.

The first of the Government offices moved to the District was the Post Office Department, which moved to the city on June 11, 1800. The second session of the Sixth Congress convened here on November 17, 1800.

Up to 1801, no government had been provided in the District, and the laws of Maryland and Virginia continued in force under the provisions of the act of July 16, 1790, which provided that—

The operation of the laws of the State within such district shall not be affected by this acceptance, until the time fixed for the removal of the government thereto and until Congress shall otherwise by law provide.

In an act of February 27, 1801—2 Stat. L. 103—Congress made the first provisions for the District's government.

The laws of Maryland and Virginia were continued in the sections ceded by those States. The portion ceded by Maryland was designated Washington County, and the area south of the Potomac was named Alexandria County.

A circuit court was created, provision was made for a marshal, a district attorney, justices of the peace, a register of wills, and a judge of the orphan's court.

A supplementary act passed 4 days later—2 Stat. L. 115—provided that the justices of the peace, who were appointed by the President, were made a Board of Commissioners for their respective counties, and given the same powers as the levy courts or county commissioners in the State of Maryland.

On May 3, 1802—3 Stat. L. 195—the people of the city of Washington, the boundaries of which I have already described, were constituted a body politic by the naming of the mayor and council of the city of Washington.

The mayor was appointed by the President, and a council of 12 was elected by the qualified voters. The 12 councilors chose from among themselves five members to form a second chamber.

The law was materially altered in 1812 by providing for a board of aldermen consisting of eight members and a board of common council composed of 12 members, both elected by the qualified voters.

The mayor was annually elected by joint ballot of the common council and the board of aldermen.

A new charter was enacted in 1820, under which the mayor was elected biennially by the qualified voters.

In 1846, at the request of the people of Alexandria, Congress retroceded to the State of Virginia all the portion which had been ceded to the Federal Government by that State—9 Stat. L. 35.

The unsettled conditions and great growth of the city at the outbreak of the Civil War probably caused the first attempt at unification of governmental functions in the District of Columbia in the act of August 6, 1861—12 Stat. L. 320—which established the Metropolitan Police Department of the District of Columbia, consisting of the "Corporations of Washington and Georgetown and the County of Washington, outside the limits of said corporations."

The first really major change in the government of the District was effective June 1, 1871, when a government essentially the same as that used for the organized territories was created pursuant to the act of February 21, 1871—16 Stat. L. 419.

At that time the charters of the cities of Washington and Georgetown were repealed. The levy court was abolished, and all the territory in the limits of the District of Columbia was included in the government by the name of the District of Columbia, which was constituted a body corporate for municipal purposes, and the successor of the two cities and the county which were eliminated.

This same act provided that the executive power in the new government was vested in a Governor appointed by the President by and with the advice and consent of the Senate.

The legislative power was vested in an assembly consisting of a council and a house of delegates. The council consisted of 11 members appointed by the President by and with the advice and consent of the Senate, and the house of delegates consisted of 22 members elected by popular vote.

Nevertheless, the legislative assembly was limited in its authority, since Congress prescribed a long list of important matters which were beyond the authority of the local agency.

Between 1871 and 1874, while the territorial government was in force, there was a delegate to the House of Representatives from the District of Columbia, who was popularly elected, and had the same rights and privileges as the delegates from the territories.

The act of June 20, 1874—18 Stat. L. 116—terminated the territorial form of government, eliminated all elective offices, and since there was no occasion to exercise the right of suffrage, in effect terminated suffrage in the District.

The same act repealing the territorial form of government empowered the President to appoint a commission of three persons to administer the affairs of the District.

This act also provided for the creation of a joint select committee to prepare a suitable form of government for the District, and to report to Congress drafts of statutes to carry its recommendations into effect.

During the second session of the 45th Congress, in 1878, the House Committee on the District of Columbia reported a bill making a three-Commissioner form of government permanent.

After some changes by the Senate, Congress adopted the act of June 11, 1878, which provided for the organic law of the District of Columbia, and inaugurated the present Commission form of government for the District of Columbia, which contained no provision for the franchise for any purpose.

Between 1800 and the November 1964 election, citizens of the District of Columbia did not participate in national elections, nor had voting representation in the Congress.

This situation was changed when the 23d amendment to the Constitution was adopted in March of 1961 giving District residents a vote for President, which was first exercised in 1964.

May I, at this time, on behalf of the members of the Joint Committee on National Representation—and I am sure on behalf of all residents of the District of Columbia—express to this committee and its distinguished chairman our heartfelt appreciation for the judgments it made, and the support it gave us in the adoption of the 23d amendment.

As chairman of the joint committee, it was my privilege to appear at hearings, and to cooperate with this committee in presenting the proposal to the House of Representatives.

Granting the presidential vote was accomplished in a relatively short time after the joint committee decided to seek its objectives in two steps.

Originally our committee sought an amendment to the Constitution which would empower Congress to grant voting representation both in the House of Representatives and the Senate, and among the electors of President and Vice President, to the citizens of the District of Columbia, in the same manner and degree as if it were a State.

A distinguished former chairman of this committee, and I see his portrait here this morning, Judge Hatton Sumners, of Texas, took the view that such an all-inclusive national representation amendment specifically detailing that congressional representation be given the District could not be enacted.

He strongly recommended that our proposal be changed, so that the Constitution would be amended so that Congress should have the power to provide that there shall be, in the Congress, members elected by the people of the District in such numbers and with such powers as the Congress shall determine.

For approximately two decades, the joint committee followed Judge Sumners' advice.

Then, in the mid-1950's, a Member of Congress suggested that we seek first to secure an amendment to the Constitution which would give us participation in the election of President and Vice President, and

then later an amendment which would give the Congress the power as outlined by Judge Sumners.

Quite clearly this was a productive procedure, since the presidential vote has now been gained.

We strongly support now House Joint Resolution 396, which would give the residents of the District a voting member of the House of Representatives immediately upon its adoption.

It would still leave to the residents of the District the job of convincing the Congress that it should have additional representation in the House, and also representation in the Senate.

It seems appropriate to review the intent of our Founding Fathers concerning the voting rights and privileges of the area to be selected for the National Capital, even though the Congress and the people of the United States have tacitly recognized the point I will make through adoption of the 23d amendment.

The seat of the Federal Government was not established until after the Constitution was written by the Convention which met in Philadelphia from May to September, 1787.

Following the Constitutional Convention, between October 1787, and August 1788, a series of essays was published in the New York press, with a view to influencing votes to favor ratification of the proposed Constitution.

These Federalist papers were written by three authors: Alexander Hamilton and John Jay, of New York, and James Madison, of Virginia.

Because Madison more than anyone else had been responsible for the content of the Constitution, his contributions to the Federalist were regarded as most authoritative commentaries on the proposed document.

Thomas Jefferson described the Federalist in 1824 as—

*** an authority to which appeal is habitually made by all, and rarely declined or denied by any as evidence of the general opinion of those who framed and of whose who accepted the Constitution of the United States, on questions of genuine meaning.

Among the 85 essays making up the Federalist, No. 43, written by Madison, deals with miscellaneous powers which the Constitution proposed to grant to Congress.

One such power was authority over the seat of government, found in article I, section 8, clause 17, of the Constitution.

In interpreting and seeking to justify "the indispensable necessity of complete authority at the seat of government," James Madison stated that the prospective inhabitants of the Federal City "will have their voice in the election of the Government which is to exercise authority over them."

This statement means exactly what it says—that they would have their voice in the election of the Government.

The Government to which he referred in this clause must have been the Congress of the United States, for the section of the proposed Constitution which he was then explaining was that which gave Congress exclusive authority at the seat of national Government.

Thus, the chief architect of the Constitution, who, it must be assumed, was familiar with the intentions of the Founding Fathers, evidently understood its pertinent provisions to mean that the citizens

of the Federal District would enjoy national suffrage, even though that was not spelled out in the Constitution itself.

The Constitution of the United States makes specific statements concerning suffrage rights of citizens pertinent to this discussion.

The 14th amendment states, in part:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

The 15th amendment to the Constitution provides:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude.

The 19th amendment provides:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of sex.

There is nothing in the Constitution declaring that the right of citizens of the United States to vote shall be denied or abridged on account of residence in the National Capital.

The citizens of the District have an absolute and constitutional right to exercise suffrage, but no machinery was set up, and District residents are without legal residence in a State.

We find ourselves in this position because the Constitution failed to give any political status to us, and failed to empower the Congress to correct this shortcoming.

It is hard to believe that those who had rebelled and waged a successful war against "taxation without representation" would intentionally create at the seat of the new Government a condition duplicating that to which they so strenuously objected.

I will comment briefly now concerning the terms of House Joint Resolution 396, which is the matter before the committee.

This resolution does not make the District a State, or anything like a State. It does not modify the unique relationship between the Congress and the District of Columbia provided for by article I, section 8, clause 17 of the Constitution, which is commonly referred to as the "congressional jurisdiction" clause.

The issues involved in home rule for the District are entirely separate and distinct from the issues involved in this proposed constitutional amendment.

It does not lessen in the smallest degree the control by the National Government through Congress over the Federal City.

It does not disturb in any way the financial relations of the United States and the District of Columbia.

It does not complicate with changes in the municipal government of the District.

It does nothing, really, except give to the more than 800,000 residents of the District a full-fledged voting Member of the House of Representatives of the United States, though it does afford the people of the District the opportunity of convincing the Congress that they are entitled to additional representation in the House, and also in the Senate.

The Congress has already provided the laws for the election machinery in the District of Columbia to implement the 23d amendment. This machinery will also cover fully the biennial elections which will

be necessary to select the Congressman provided for in this resolution.

In short, House Joint Resolution 396 can be very simply and easily implemented.

We firmly believe that giving the people of the District representation in Congress will truly give them a large measure of self-government, in addition to giving them an effective measure of participation in the enactment of local laws affecting the District.

It will also give the people here a share in the making of the laws governing the Nation.

The essence of self-government is, we believe, sending representatives to the body which can send us to war, levy our major taxes, provide for major controls over our businesses and jobs, and, in short, do all those things that a government does.

We believe that Congress itself would obtain important advantages from the presence of one or more duly elected Representatives of the District of Columbia.

Such men would be able to give their colleagues accurate and valuable information on all District questions.

We believe that the interests of the Nation would also be served by recognizing the principle of representative government here in the most conspicuous jurisdiction in the country, which has heretofore not enjoyed it.

Mr. Chairman and members of the committee, we know of no good reason why House Joint Resolution 396 should not now be adopted.

Our study of the recommendations of the hearings in both Houses of Congress for many years discloses no compelling basis of objection.

There is no valid objection to the representation of the District as provided in this resolution. Its terms are as simple and as uncontroversial as they possibly can be.

So we urge this committee to take the next logical step beyond giving us the presidential vote, by giving us this representation in the House, and terminating the shameful and undemocratic practice in effect since 1800, which contradicts all that this Nation stands for at home and abroad.

More than 800,000 Americans in the District of Columbia are unable to participate or have a voice in our Government because they are not represented in Congress.

That is a larger population than in each of 11 States who together send 22 Senators and 17 Representatives to Congress.

The residents of the District of Columbia in 1957 paid more toward support of the U.S. Government in Federal individual income taxes than the residents in each of 19 States of this Union.

The District of Columbia furnished more men to the Armed Forces in World War II than were furnished by each of 14 States. The 103,376 men and women from the District was made up of 68,361 in the Army, 29,729 in the Navy, 3,966 in the Marine Corps, and 1,320 in the Coast Guard.

A total of 3,029 residents of the District who served in the Armed Forces lost their lives in the defense of their country during World War II.

This situation has continued through the Korean conflict, and is going on today with respect to Vietnam activities, of which we are reminded by frequent reports of deaths of members of the Armed Forces from this District.

The Citizens' Joint Committee on National Representation for the District of Columbia expresses its sincere appreciation to this committee for calling this hearing, for considering the proposed constitutional amendment, and for giving us an opportunity to express our views concerning it.

We earnestly hope that this resolution will be favorably reported by the committee, and adopted by the House before adjournment.

Mr. ROGERS of Colorado. You have supplied us with a list of the organizations supporting or endorsing national representation for the District of Columbia, and we will include that in the record, without the necessity of your reading it.

(Document referred to follows:)

ORGANIZATIONS SUPPORTING OR ENDORSING NATIONAL REPRESENTATION FOR THE
DISTRICT OF COLUMBIA

LOCAL

Metropolitan Washington Board of Trade
Federation of Citizens' Associations
Voteless District of Columbia League of Women Voters
Central Labor Union (American Federation of Labor)
Merchants and Manufacturers' Association
Monday Evening Club
Bar Association
Association of Oldest Inhabitants
Washington Real Estate Board
Advertising Club of Washington
Women's Bar Association
Federation of Business Men's Association
Twentieth Century Club
Women's City Club
District of Columbia Federation of Women's Clubs
Northeast Citizens' Association
Society of Natives of the District of Columbia
The Washingtonians
Motion Picture Theater Owners' and Operators' Association
Associated Retail Credit Men of Washington
Washington Florists' Club
District of Columbia Division Young Democrats
Hotel Greeters of America, Chapter 31
Newcomers Club
Soroptimist Club
Department of the District of Columbia, Veterans of Foreign Wars
Department of the District of Columbia, American Legion
Local Union of Federal Employees
District of Columbia Bankers' Association
District of Columbia Building and Loan League
Washington Section, National Council of Jewish Women
District of Columbia Chapter, Rainbow Division, Veterans
Washington Junior Chamber of Commerce (formerly Junior Board of Commerce)
Political Study Club of Washington
District of Columbia Suffrage Association
Washington Branch, American Association of University Women
District of Columbia Congress of Parent-Teacher Associations
National Democratic League of Washington

NATIONAL

Chamber of Commerce of the United States
American Federation of Labor and Congress of Industrial Organizations
National League of Women Voters
American Federation of Teachers
National Federation of Federal Employees

Veterans of Foreign Wars of the United States
 National Camp, Patriotic Order of Americans
 National Retail Coal Merchants' Association
 National Council of Jewish Women
 American Medical Women's Association
 American Federation of Soroptomist Clubs
 International Typographical Union
 United Typothetae of America
 National Women's Trade Union League
 Women's National Homeopathic Medical Society
 National Service Star Legion
 Fleet Reserve Association
 National Association of Victory Jobbers
 National Straw Hat Manufacturers' Association
 Knights and Ladies of the Maccabees
 National League of Young Democrats of America

STATE AND REGIONAL

California State Federation of Butchers
 Connecticut State Federation of Labor
 Scandinavian Grand Lodge of Connecticut, International Order of Good Templars
 Georgia Real Estate Association
 Junior Order United American Mechanics, Massachusetts State Council
 Fall River (Massachusetts) Doffers and Spinners' Credit Union
 Minnesota State Florists' Association
 Patriotic Order Sons of America, New Jersey State Camp
 Lily Dale Assembly, Lily Dale, New York
 Independent Order of Americans, State Council of Pennsylvania
 Wyoming Women's Christian Temperance Union
 Michigan Department, Sons of Union Veterans
 New York State Council, International Society of Master Painters and Decorators
 Illinois State Council, International Society of Master Painters and Decorators
 Kentucky Society of Florists
 Maryland State and District of Columbia Federation of Labor
 Colorado Association of Commercial Organizations
 New York State Retail Coal Merchants' Association
 Montgomery County Civic Federation of Maryland
 Arlington County Civic Federation of Virginia
 Inter-Federation Council of District of Columbia, Maryland, and Virginia
 Montana Library Association
 Maryland and District of Columbia Industrial Union Council (Congress of Industrial Organizations)
 Wyoming State Teachers' Association

(The above listing contains some now defunct organizations, who have in the past supported national representation for the District of Columbia.)

Mr. ROGERS of Colorado. On page 10 of your statement you say, "The Congress has already provided the laws for the election machinery in the District of Columbia to implement the 23d amendment," and you point out that this machinery will also cover fully the biennial elections which will be necessary to select Congressmen provided for in the pending resolution.

Do you feel this is ample, and would give an opportunity to all political parties, Democrats, Republicans, and Independents?

Mr. DAVIS. I certainly do, Mr. Chairman.

I was interested in the hearing yesterday, and I heard Democratic and Republican Congressmen stating their views on how the elections might turn out, but in spite of that feeling, there is the overall desire of the Republicans and the Democrats and the Independents to have a voting Representative in the Congress of the United States.

Mr. FEIGHAN. I compliment the very able and distinguished citizen of the District for his presentation, and also for his very active participation in the affairs of the District.

I was wondering if you had given consideration to the question of representation in Congress for our territories and possessions.

Of Course, we have the Commonwealth of Puerto Rico and Guam and Samoa and the Virgin Islands. Has any thought been given to representation for those citizens of the United States?

Mr. DAVIS. Congressman Feighan, I am a native Washingtonian, and I live in the city of Washington, and this joint committee has only concerned itself with rights for the citizens of the District of Columbia.

I remember when we were having the hearings on the 23d amendment. I believe this issue was brought up, and we had a representative from Puerto Rico present, and he made his statement very strongly that they thought that they should be represented, but he did not think that the right for the residents of the District to have a vote for President and Vice President should be delayed until they had that representation.

I am sure Congressman McCulloch remembers those comments made by the representative of Puerto Rico.

But we have only concerned ourselves, Mr. Congressman, with the rights for the citizens of the District.

Mr. ROGERS of Colorado. Mr. McCulloch.

Mr. McCULLOCH. Mr. Davis, I have listened with interest to your statement this morning, and I have a question.

On page 9, about the eighth or ninth sentence, is part of a sentence which reads: "* * * and District residents are without legal residence in a State."

In another part of your statement I note that the population of the District is estimated at about 800,000.

How many of those 800,000 people would you estimate are legal residents domiciled in any one of the 50 States of the Union?

Mr. DAVIS. I think I can answer that best, Mr. Congressman, by saying that in the last election, in 1964, when the residents had the right to vote for President and Vice President for the first time, there were about 200,000 votes cast by residents of the District, and, of course, those persons voting here had to represent that they did not vote elsewhere in a presidential election.

So I would feel that there would be approximately 200,000 at a minimum.

Mr. McCULLOCH. Do you, or do any of your committees, have the accurate figures of temporary residents in the District who voted absentee ballots from any one of the 50 States?

Mr. DAVIS. Those figures are available, and I can provide the committee with that, yes, sir.

Mr. McCULLOCH. Then, as a matter of fact, people who are physically present in the District of Columbia might well be domiciled and be legal residents of any one of the 50 States, and exercise the franchise, the elective franchise, in accordance with the laws of that State.

Is that a correct statement?

Mr. DAVIS. That is a correct statement, but they would be voting in their own State, and not here in the District of Columbia.

Mr. McCULLOCH. Yes, but they would be legal residents domiciled in the States, and voting as the States direct, which has been a custom followed for decades in the United States.

Mr. DAVIS. That is correct, sir.

Mr. McCULLOCH. And as a matter of fact, a Member of the House of Representatives is a United States Representative.

Mr. DAVIS. That is correct.

Mr. McCULLOCH. He or she not only represents the district and the State from which he or she comes, but he or she represents the entire United States, and the same is true for a Senator.

I think one of our colleagues started to inquire about how population was determined for various purposes, and I hope he will continue in that most interesting area of inquiry while these hearings are in process, because it presents a problem which is not entirely solved, and representation may be based upon physical presence of a body, which does not encompass all the meanings of legal domicile and residence in the 50 States.

We have increasing problems in that field each time we are at war, or when our armed services are greatly increased. It is very possible that the Census Bureau has no way to determine these factors when they are making the head count, and it might be difficult to determine by a head count whether the person they counted was legally domiciled in the District or one of the 50 States.

Unless there is careful preparation to solve this problem, we well may have one man with one and a half votes, or one man with two votes. But I presume as we go along, we will get information in these very difficult fields.

Mr. DAVIS. Yes, sir. It is a difficult field, and that is part of our crime problem.

People move, and they are in one city one day and in another city the next.

But here in the District, our election laws provide that there will be no duplication of voting, and, of course, once we had this right to vote for a voting Representative in the Congress, whoever voted for that Representative could not vote for a Representative back in his State of Ohio, for example.

Mr. McCULLOCH. I think the question is of greater magnitude and importance, than making sure that a person who is legally qualified to vote can vote.

I think the basic question is: How do we determine residence for representation? And what method will we devise to get the accurate count, particularly in the District of Columbia?

Mr. ROGERS of Colorado. For the record, I am sure you would accept this statistic because the source is the Republican National Committee.

In the 1964 election, this says, the District of Columbia had a potential vote of 517,000. There was a total registration of 219,000, and not registered, 297,313.

And the actual presidential vote was 198,597.

The source is the Republican National Committee, and I hope—I am sure, it is accurate.

Mr. McCULLOCH. So am I.

I suggest that it go in the record, Mr. Chairman.

Mr. ROGERS of Colorado. I would be most happy to put it in the record.

(Document referred to follows:)

APPENDIX TABLE B.—REGISTRATION AND TURNOUT, 1964

State	Potential vote	Total registration	Not registered	Actual presidential vote	Registered; not voting	Total potential voters not voting	Percent of potential not voting	1964 presidential plurality
Alabama 1	1,915,000	---	---	689,817	---	1,225,183	64.0	479,085
Alaska 1	138,000	---	---	67,259	---	70,741	51.3	21,399
Arizona	879,000	---	---	480,770	---	398,230	45.3	4,782
Arkansas 1	1,124,000	587,773	291,227	7,057,586	107,003	563,574	50.1	70,933
California	10,916,000	8,184,143	2,731,857	560,426	---	3,858,414	35.3	1,292,769
Colorado	1,142,000	933,312	208,688	776,986	156,326	365,014	32.0	179,257
Connecticut	1,698,000	1,373,443	324,557	1,218,578	154,865	479,422	28.2	435,273
Delaware	283,000	245,494	37,506	201,320	44,174	81,680	28.9	44,626
District of Columbia	517,000	219,687	297,313	198,597	21,090	318,403	61.6	140,995
Florida	3,516,000	2,500,466	1,015,534	1,854,481	645,985	1,661,519	47.3	42,599
Georgia	2,636,000	1,666,718	969,282	1,139,352	527,366	1,496,648	56.8	94,043
Hawaii	395,000	214,694	180,306	207,271	7,423	187,729	47.5	119,227
Idaho	386,000	364,231	21,769	292,477	71,754	93,523	31.3	5,363
Illinois	6,338,000	5,534,676	823,324	4,702,841	831,835	1,655,159	26.0	890,887
Indiana	2,826,000	2,628,627	197,373	2,091,606	537,021	734,394	26.0	259,730
Iowa 1	1,638,000	---	---	1,184,421	---	453,579	28.3	283,882
Kansas 1	1,323,000	---	---	857,901	---	465,099	35.2	77,449
Kentucky	1,976,000	1,567,629	408,371	1,046,105	521,524	929,895	47.1	296,682
Louisiana	1,893,000	1,201,785	691,215	896,293	305,492	996,707	52.7	122,157
Maine	581,000	522,236	58,764	380,965	141,271	200,035	34.4	143,563
Maryland	1,995,000	1,410,281	584,719	1,116,457	293,824	878,543	44.0	345,417
Massachusetts	3,290,000	2,688,699	601,301	2,344,798	343,901	945,202	28.7	1,226,695
Michigan	4,647,000	3,850,000	797,000	3,203,102	646,898	1,443,898	31.1	1,076,463
Minnesota 1	2,024,000	---	---	1,554,462	---	469,538	23.2	431,493
Mississippi 1	1,243,000	---	---	409,146	---	833,854	67.1	303,910

Missouri ¹	2,696,000	327,477	71,523	1,817,879	48,849	878,121	32.6	510,809
Montana.....	399,000	163,475	80,525	278,628	584,154	120,372	30.2	51,214
Nebraska.....	877,000	365,224	30,776	135,433	292,846	108,567	33.4	30,460
Nevada.....	244,000	3,253,603	893,397	286,202	79,022	109,798	44.5	23,245
New Hampshire.....	396,000	413,696	100,304	2,846,770	406,833	1,300,230	27.7	78,036
New Jersey.....	4,147,000	8,443,430	2,886,570	328,645	85,051	185,355	31.4	903,828
New Mexico.....	514,000	11,330,000	2,886,570	7,166,015	1,277,415	4,163,985	36.1	61,177
New York.....	11,330,000	2,753,000	358,000	1,424,983	1,277,415	1,328,017	36.8	2,669,597
North Carolina ¹	2,753,000	5,960,000	1,493,000	258,389	399,611	99,611	48.2	175,295
North Dakota ¹	358,000	1,493,000	181,136	3,969,196	379,365	1,990,804	27.8	41,577
Ohio ¹	5,960,000	1,130,000	197,539	932,499	146,156	560,501	33.4	1,027,466
Oklahoma.....	1,130,000	7,080,000	1,351,641	786,305	905,869	343,695	37.5	107,169
Oregon.....	7,080,000	772,572	95,341	4,822,490	82,581	2,257,510	30.4	218,238
Pennsylvania.....	1,380,000	369,782	607,428	390,078	247,816	177,922	31.9	1,457,097
Rhode Island.....	1,404,000	1,628,825	34,218	524,756	76,664	855,244	31.3	240,848
South Carolina.....	2,239,000	3,338,718	610,175	293,118	484,779	101,882	62.0	93,348
South Dakota.....	5,922,000	448,463	73,537	1,144,046	711,907	1,094,954	27.4	32,902
Tennessee.....	5,922,000	209,225	30,775	2,626,811	47,050	3,295,189	48.9	126,082
Texas ³	240,000	1,305,383	1,235,617	401,413	46,136	120,587	55.6	704,619
Utah.....	2,541,000	1,582,046	176,954	1,042,267	263,116	1,498,733	23.1	37,843
Vermont.....	1,759,000	1,055,429	4+2,429	1,258,374	323,672	500,626	32.0	53,185
Virginia.....	1,053,000	1,055,429	4+2,429	792,040	263,389	699,185	59.0	76,704
West Virginia.....	2,391,000	195,000	113,930,000	1,691,815	52,284	52,284	28.5	309,333
Wisconsin ¹	195,000	113,930,000	70,641,128	142,716	43,288,872	43,288,872	24.8	284,134
Wyoming.....	195,000	113,930,000	70,641,128	142,716	43,288,872	43,288,872	29.2	411,929
Total.....	113,930,000	70,641,128	43,288,872	142,716	43,288,872	43,288,872	26.8	18,720
Total.....	113,930,000	70,641,128	43,288,872	142,716	43,288,872	43,288,872	38.0	15,948,884

¹ Indicates States which do not have statewide registration or equivalent, or do not publish state-wide registration data.

² Official estimate.

³ Poll tax receipts sold plus exemption certificates issued.

⁴ Excess of registered voters over potential voters. This may be due to the presence on the registration books of names of persons no longer eligible to vote.

Mr. McCULLOCH. I cannot refrain from saying at this time, inasmuch as we have talked so much about the elective franchise and the right of all qualified people to vote, that in the Capitol City, where there were more than 517,000 people eligible to vote, yet less than 200,000 voted in the last election.

Our record is a sorry one here and throughout the United States, in comparison with many of the countries of Europe and even South America.

Mr. ROTH. Will the gentleman yield?

Mr. CORMAN. I would want to point out the gentleman has just given us a very sound argument for adding Congressmen to the kinds of people that the District may vote for.

It is my experience that Congressmen have the opportunity to campaign more vigorously in a small area than do presidential candidates, and thus may help us increase the number of people in the District who turn out to vote.

Mr. Rogers of Colorado?

Mr. Donohue?

Mr. DONOHUE. I note that you are the chairman of the Citizens' Joint Committee on National Representation. Is that the only purpose of your organization?

Mr. DAVIS. That is the only purpose, Mr. Congressman.

Mr. DONOHUE. Who were the organizers of this committee?

Mr. DAVIS. This was originally organized over a half century ago, in 1917.

Mr. DONOHUE. By whom?

Mr. DAVIS. It was organized by Mr. Noyes, who was then the editor of the Evening Star, and he devoted much of his life to working for voting representation for the residents of the District.

In fact, when he died, he felt so strongly about this, Mr. Congressman, that he left a \$25,000 trust fund, the income of which was to be used for carrying on this program of getting the representation in Congress for the citizens of the District.

Mr. DONOHUE. And what would you say the overall membership is, of your joint committee?

Mr. DAVIS. In this list that we have attached to my statement is a list of active members that participated in the 23d amendment campaign, and at that time there were over 60, approximately 60 to 80, organizations represented.

Mr. DONOHUE. Consisting of how many members, overall?

Mr. DAVIS. We only have the representatives of the organizations on this committee.

Mr. DONOHUE. Did you have a meeting?

Mr. DAVIS. We had a meeting; yes, sir.

Mr. DONOHUE. How many attended?

Mr. DAVIS. We had approximately 25 at a meeting in the District Building of the representatives of various organizations.

Mr. DONOHUE. Now, Congressman Feighan asked you a question as to the feeling, your feeling, personally, as representative of this great committee of yours, on granting the right to all citizens to have representation, particularly with reference to Puerto Rico and some of our territories.

I don't think you answered that question—having in mind that there are over 2 million people in Puerto Rico, 2 million American citizens.

Mr. DAVIS. Well, Mr. Congressman, as I stated, our committee has limited the scope of its program, and we have not engaged ourselves in that.

This is a matter that this Judiciary Committee will have to debate and decide upon.

Mr. DONOHUE. Well, what is your personal feeling about the rights of those people down in Puerto Rico?

Mr. MATHIAS. Would the gentleman yield at that point?

Mr. DONOHUE. I would be very pleased to yield to the gentleman.

Mr. MATHIAS. I have a strong sympathy, as the gentleman from Massachusetts and the gentleman from Ohio do, with the civil status of the people of Puerto Rico and our trust territories. I think that certainly their rights as human beings, and their political rights, are a very deep responsibility of the Congress.

But I would just simply observe that the people in Puerto Rico have something already which the people of Washington do not, which is an active, vigorous legislature.

In San Juan, I have been impressed with the civil government which is in effect in Puerto Rico, which is totally absent here in the District.

Mr. DONOHUE. In responding to the gentleman, don't you think that we should endeavor to establish some sort of a legislative body for the District of Columbia, such as is incorporated in the home rule bill?

Mr. MATHIAS. Yes, I do, indeed.

Mr. DONOHUE. Should that not come first?

Mr. MATHIAS. I don't think it necessarily should come first, but I am wholly in favor of it, and I have worked very hard for home rule, and for a local legislative body.

I don't care by what title you call it, whether we call it a city council or a board of aldermen, or a District assembly, or any other name. I think the District ought to have it.

But I do think that national representation is an additional fundamental right that needs to be granted.

Mr. DONOHUE. Has this issue, the issue incorporated in these different bills for representation in our national legislative body, ever been submitted to the people of the District by way of a referendum?

Mr. DAVIS. The political parties have conducted their own referendum, and I believe the Democratic Party conducted a referendum on issues involving home rule and national representation, a vote for President and Vice President, but as far as the Commissioners having a referendum, the answer is "No."

Mr. DONOHUE. Thank you very much.

Mr. ROGERS of Colorado. Just one observation.

As I understand from your statement, at the bottom of page 6, you are in favor of House Joint Resolution 396, which would guarantee one Congressman, or one Member of the House of Representatives.

Mr. DAVIS. Yes, sir.

Mr. ROGERS of Colorado. And you feel that the people of the District of Columbia then should come to Congress and convince the Congress whether or not they should have an additional Representative or two Senators?

Mr. DAVIS. My point there, Mr. Chairman, was pointing out what this bill did or did not do.

I stated the only thing it did do was give one voting Representative, but it gives them the right in the future, if this one Representative works out, to have additional voting Representatives, and possibly representatives in the Senate.

Mr. ROGERS of Colorado. In other words, you support something additional, which would authorize two Senators.

You would not object to that, would you?

Mr. DAVIS. Well, that is going to be the decision of this august body.

Mr. McCULLOCH. Mr. Chairman, I would like to ask the witness a personal question, if he cares to answer.

Is your position now that you would seek as many Members of the House as population would justify, and two Members of the U.S. Senate, as soon as this constitutional amendment is adopted, if it were adopted?

Mr. DAVIS. I would be delighted to answer that.

My personal opinion is that I am for this resolution that we are now considering, and Judge Sumners' former resolution just gave the Congress the authority to give us such representation in the House and the Senate as the Congress may determine to be appropriate.

This one before the committee today goes further. It at least gives us one voting Representative in the House, and that is the one that I am very much in favor of.

Mr. McCULLOCH. But you are also looking to the future, and you will have representation in accordance with any one of the 50 States of the Union?

Mr. DAVIS. I will be looking to the future for Congress to give such voting representation as they think we should have in the Senate and in the House, yes, sir.

Mr. McCULLOCH. One further question, Mr. Chairman.

Have you or your group considered the procedure under article XII of the Constitution if there were to be an election for the President thrown into the House of Representatives? Have you considered that?

Mr. DAVIS. We have academically discussed that, yes, sir.

Mr. McCULLOCH. What is your tentative conclusion?

Mr. DAVIS. Well, the voting Representative would have the same standing as the Representative from any State.

Mr. McCULLOCH. Is that basically what the Constitution says?

And I ask for information. That is not a critical question. I read from article XII of the Constitution. It is as follows:

But in choosing the President, the votes shall be taken by States; the representation of each State having one vote.

Is it your belief that the resolution which you endorse this morning in effect creates a State?

Mr. DAVIS. No, sir.

Mr. McCULLOCH. You say——

Mr. DAVIS. Very emphatically it does not make us a State, and in my statement I say that.

Mr. McCULLOCH. And again, this is a very difficult technical question: If that be the case, how do you justify your statement that the

District would cast one vote in the choice of a President, if there was a contested election?

And if you would rather reserve the right to study and answer that question, that would be agreeable, because it is most difficult.

Mr. DAVIS. Where the Constitution refers to representatives of the States, my offhand opinion would be that we would be excluded, because we are not representative of a State.

Mr. McCULLOCH. Thank you, sir.

Mr. POFF. Mr. Chairman, first may I say I respect witnesses who deal with facts. I think the witness has dealt with the facts.

This is much more productive in helping us reach any conclusion than all of the emotionalism which one might manufacture.

You mentioned during the course of your testimony a Mr. Noyes. You had reference to Mr. Theodore Noyes?

Mr. DAVIS. Mr. Theodore Noyes.

Mr. POFF. I think it is appropriate to refer in somewhat more detail to that distinguished gentleman. I think it should be said that Mr. Noyes spent some 67 years, I believe, in the employ of the Washington Evening Star, and part of that time as president, promoting this cause, and even prior to that time was interested in it, and as the witness had said, upon his death he made a bequest that the work might continue.

Mr. Chairman, if you do not think it would be inappropriate, I would like at this time to read into the record the wording of the bequest, because it seems to me a most eloquent testimony of the work which was first in his heart.

Mr. ROGERS of Colorado. Go right ahead.

Mr. POFF. The language reads in part as follows:

I make this bequest and this trust in order to be able to participate in a small way even after my death in the campaign for District representation, because I am convinced that no other representation is so essential to the welfare of the men and women of my home community * * *.

This goal that he expressed in his bequest has not been achieved.

It is our function first to decide if that goal is worthy, and secondly, if it is, how best to achieve it.

H.J. Res. 396, which you endorse, is one of the methods by which that goal might be achieved.

As the distinguished gentleman, Mr. McCulloch, has so well pointed out, however, House Joint Resolution 396 may be deficient in some particulars.

If the gentleman does feel that the District should have a vote in the House of Representatives as a State has a vote in the House of Representatives, when the presidential election is not decided by a majority of the Electoral College, then House Joint Resolution 396 would have to be amended, would it not?

Mr. DAVIS. It would have to be amended, at least to clarify that point.

Mr. POFF. And I assume that you feel—and I don't want to put words in your mouth—that for such a purpose the District could justify a vote in the House of Representatives only if it had full representation in both the House and the Senate; is this correct?

Mr. DAVIS. That is correct.

Mr. POFF. And this is true, also, of the voting for the Vice President in the Senate?

Mr. DAVIS. That is right.

Mr. POFF. The gentleman said that the vote in 1964 was 200,000. That is approximately correct, but I don't believe the gentleman took full advantage of that figure.

Some have said that that figure is low, and perhaps it is lower than some might desire, and yet, compared with other States, it is rather high, because the 200,000 who voted obviously were people over the age of 21, and the total population of 800,000 includes not only those who voted in other States of the Union, not only those who are domiciled in another State of the Union, but children, those who possess some political disability under the election laws, and others. Thus, your figure of 200,000 against the 800,000 total is rather respectable, is it not?

Mr. DAVIS. Yes; we were very pleasantly surprised with the large turnout. In fact, we estimated there would be maybe 120,000 voting, and everyone was very surprised and pleased to see the large turnout, especially when it was the first time they had ever had a chance to vote since 1800.

Mr. POFF. As a matter of fact, I might say parenthetically I was rather surprised to learn from the Republican National Committee that there were 500,000-odd eligible to register.

I wonder if this includes an accurate census. Do you have an opinion about the total number that might be eligible to register?

Mr. DAVIS. No; I would not, and I accepted that report.

Mr. ROGERS of Colorado. May I interrupt to say that according to the Republican National Committee, the total of potential voters not voting was 318,000, and according to the figures that we have, there were 21,000 that were registered who did not vote.

Mr. POFF. Well, I suppose this is merely academic, and maybe not material, but I think it might be helpful if we knew something about the ages of people in the District of Columbia, in assessing those figures.

I rather doubt that you have that many eligible to register in the District of Columbia.

Mr. McCULLOCH. Mr. Chairman, may I submit that the Bureau of the Census undoubtedly could give, within at least 1 year, the age groups within any State. The head count is taken in accordance with age.

Mr. DAVIS. That is correct.

Mr. POFF. Mr. Chairman, may I thank the gentleman for that contribution. It was one suggested, too, by the distinguished gentleman from Delaware, Mr. Roth, in an informal conversation earlier. He may want to express himself as to that now.

I would be glad to yield for that purpose.

Mr. ROTH. Thank you.

As the distinguished gentleman from Ohio indicated, I, too, share a concern as to what kind of information we can obtain as to how many residents of the District of Columbia maintain a voting domicile in a State, and in light of the dialog, I would like to ask at this time, Mr. Chairman, whether any plans have been made to extend an invitation to a representative of the Bureau of the Census to obtain some of the significant information that we need.

Mr. ROGERS of Colorado. As far as I know, no contact has been made.

The Bureau of the Census may maintain figures to show that.

For example, the Bureau of the Census asked, when they took the census, whether or not I maintained my residence in Colorado, and voted.

We could well ask the Bureau if they did maintain such information and if so, ask them to supply it.

Mr. ROTH. I would urge that we do so, Mr. Chairman, because, first, if they have this information, I think it would be most helpful to these deliberations, and second, if they do not have it presently, how it could be obtained for the purposes of the next election. I so request.

Mr. ROGERS of Colorado. We can request it, and see what they have.

(The information supplied by the Bureau of the Census appears at pages 165-67.)

Mr. DAVIS. And, Mr. Chairman, I will also take it upon myself to get some figures and file them with the counsel.

Mr. ROGERS of Colorado. Mr. Cahill?

Mr. CAHILL. No question.

Mr. ROGERS of Colorado. Mr. Tenzer?

Mr. TENZER. No questions.

Mr. ROGERS of Colorado. Mr. Mathias?

Mr. MATHIAS. Thank you, Mr. Chairman.

I would like to observe that it has certainly been a tonic to me to have the Chair this morning quoting frequently from publications of the Republican National Committee. It is a refreshing experience, and it restores my faith in the possibility of salvation and redemption.

Mr. ROGERS of Colorado. I must say we must always be alert to what the enemy is doing.

Mr. MATHIAS. I would like to say a word of welcome to the witness, who is a distinguished lawyer in the District of Columbia, and whose testimony here and whose participation in the colloquy that has taken place I think is ample evidence of his ability.

I have just three questions.

One was anticipated by the questions that have been asked by the Chair and by the gentleman from Ohio, Mr. McCulloch, because on page 11 you say that you urge the committee to give us representation in the House.

Now, my resolution, 723, provides for such representation in the House as would be apportioned to a State, and then it provides for the same two Senators.

You would support that proposition, I gather.

Mr. DAVIS. We would support that proposition, and over the years we have supported that proposition, and now this present resolution.

Mr. MATHIAS. It occurs to me that when we have eliminated the interposition of State sovereignty between the Government and the Federal City, there is no other difference in the civil status of the people of the District of Columbia.

For that reason, I think we might as well face this thing head on.

Now, the second question I have is this. Let us assume, if we can, and I personally hope and have confidence it is a safe assumption, that this committee does take favorable action in this matter of full representation, but we all know that the mechanics of getting a constitutional amendment adopted is not a speedy matter.

Would you support the concept, for the interim period, which might be a year, or might be 2 or 3 years, of a nonvoting delegate analogous to the territorial representation, giving the District some voice pending the final adoption of the constitutional amendment?

Mr. DAVIS. Mr. Congressman, our committee discussed this, and it was the opinion of the executive committee that we should, not unanimously, but of the majority, that we should go forward and attempt to get this voting Representative.

We thought maybe a nonvoting Representative might delay indefinitely our getting the voting Representative.

Mr. MATHIAS. This was on the assumption that this committee had acted, and of course, that is not a bill which is before this committee.

Mr. DAVIS. No, sir.

Mr. MATHIAS. The third and final question: The gentleman from Ohio, being the good lawyer that he is, raised the problem, which had not occurred very often in our history, but certainly it must be considered by us on this committee—the difficulty that might arise when we are contesting a presidential election thrown into the House of Representatives.

Might I suggest, if you are going to respond further on that subject, that we do have pending in this committee at this time proposals for electoral college reform and I believe there is some disposition on the part of the committee to give hearings to the proposal of a direct presidential election, and you might have some thought as to how the role of the District of Columbia might be shaped in the event that there were favorable consideration to a direct presidential election.

I once again thank the gentleman for his very valuable contribution.

Mr. TENZER. At that point, would the witness agree that in the language of Amendment 23, which this committee was very active in helping to have passed, there is a limitation in the definition? The language there provides that the number of electors to which the District would be entitled would be the number to which it "would be entitled if it were a State."

These limitations could be written into this amendment, if we find the complication raised by our distinguished colleague from Ohio, Mr. McCulloch.

Would that not be so?

Mr. DAVIS. That is very true, and I think it is a very good point. I think it is something that the committee should consider.

Mr. TENZER. But in any event, the resolution before us is to provide representation in the Congress of the United States for the District of Columbia, the seat of the Government of the United States, and that implies representation in both the Senate and in the House.

Mr. DAVIS. It gives the Congress the power to give us representation, additional representation, in the House and in the Senate. But it only gives us one voting Representative.

Mr. TENZER. The rest of it will be based on the legislation dealing with the 1970 census?

Mr. DAVIS. It would be based upon, as I understand it, the action taken by Congress in the future.

Mr. TENZER. Well, with respect to the 1970 census.

Mr. DAVIS. No, sir. It is discretionary with the Congress.

Mr. TENZER. Well, it is discretionary with the Congress under the authority of the apportionment which will be based upon the 1970 census.

Mr. ROGERS of Colorado. No. The gentleman has testified in his statement that House Joint Resolution 396 only gives one Representative.

Mr. TENZER. And such others as may be provided by law.

Mr. ROGERS of Colorado. The provision of law would be what the Congress of the United States decided.

Of course, you may also have a problem in connection with the apportionment of Congress if the proposed amendment is ratified by the States after the decennial census in 1970 and before the congressional elections in 1972, or, for that matter, after the 1972 elections. If the Congress maintains the membership of the House at 435, who then would lose a Congressman?

Mr. DAVIS. That is one of the problems. Someone would lose a Congressman, but that will be based on the census.

Mr. ROGERS of Colorado. Mr. Jacobs?

Mr. JACOBS. No questions.

I want to thank Mr. Davis for appearing.

Mr. DAVIS. I might say, Mr. Chairman, that from the point of view of having the States ratify this constitutional amendment, if approved by this committee, the House, and the Senate, it would be simplified by a resolution such as the one under consideration.

I think where you had two Senators and such number of Representatives as a State might have, it might be more difficult to get it ratified by the State legislatures.

Now, the record will show that we were able to get the 23d amendment ratified in less than 14 months, and that was the second fastest ratification of a constitutional amendment, and we had a lot of volunteers giving full time.

We plan to do that again, and I think this resolution would be one that we could get through speedily.

Mr. ROGERS of Colorado. Thank you so much, Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman.

Mr. ROGERS of Colorado. At last we shall hear from our colleague from Maryland, Mr. Gilbert Gude, who is the author of three separate resolutions.

We appreciate your patience in waiting until today.

You may proceed in your own manner.

STATEMENT OF HON. GILBERT GUDE, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF MARYLAND

Mr. GUDE. Thank you, sir.

It has been of great benefit to be able to sit in on the deliberations of your committee.

I wish I could take full credit for authority of these resolutions, but my relationship to them I think will develop as I proceed.

I appreciate the opportunity to address the committee on a matter which I consider of great importance, national representation for the District of Columbia.

I would like to quote a Member of the House of Representatives, who said in part:

Not a man in the District would be represented in the Government, whereas every man who contributed to the support of the Government ought to be represented in it. Otherwise, his natural rights were subverted, and he was left not a citizen but a slave.

It was a right which this country, when under subjection to Great Britain, thought worth making a resolute study for, and evinced a determination to encourage, rather than not enjoy.

The Congressman's name was Smiley. The statement was made in a debate in the House of Representatives in 1800, 167 years ago.

One hundred and sixty-seven years is a long time for the plea of representation to be echoing through the Halls of Congress. Yet here we are, over a century and a half later, still debating whether or not to give congressional representation to a large number of our citizenry.

Since Congressman Smiley made a statement, countless other statements have been made supporting or opposing the proposal.

President Monroe in 1818 voiced the opinion that the District perhaps should have national representation, but it was not until 1877 that the first actual resolution was introduced in Congress—by a Republican, I might add.

Since 1915, every President has supported this goal for the District.

And what has been the result? Nothing. The District of Columbia is in the same position it was in in the beginning. It has no congressional representation.

Congress has debated for years on this question—debate, talk, suggestions, but no action.

It is true that the citizens of the District have finally been given the right to vote, but this is only the first step to full citizenship.

I cannot understand why Congress has shirked its responsibility to demand the right of congressional representation for all the citizens of the Nation. I think that 167 years is much too long a period to stall on this issue.

The first bill that I have introduced as a Member of Congress was a resolution that you have before you, House Joint Resolution 176.

I might add that this resolution is one that was introduced in the Senate last year. It is an identical resolution to one that was sponsored by both Senator Mansfield and Senator Dirksen. And I believe this indicates somewhat the support for this resolution.

This provides for a constitutional amendment that will entitle the District of Columbia to voting representation in Congress in such measure as Congress would decide at a later date.

I recognize the problems and questions that will arise with such a broad bill. I know that it will mean further congressional debate after ratification of the amendment, and could mean that only part of the struggle for the District will be achieved.

It should be remembered that once the principle of voting representation is established by a constitutional amendment, Congress could then implement the provision by a simple majority.

There would be an obligation, however, and I think it would be a very strong obligation, to fulfill the principle of the amendment to which the great majority of Congressmen would respond.

This bill is just a beginning, but then, considering the time that has elapsed since the idea was first proposed, 167 years ago, a beginning is a major accomplishment.

The committee has before it today many other bills that go further in specifying the number and type of Representatives to which the District would be entitled.

I have also introduced House Joint Resolution 724, which insures that the District will have at least one Representative upon ratification of the amendment, and would entitle it to representation up to the number it would be entitled to as a State.

This is identical to Chairman Celler's bill.

Personally, I would like to see the District gain full representation in both the House and Senate, but, gentlemen, let's be realistic.

What are the possibilities of such a measure passing the 90th Congress? Why, after a century and a half, when little or no action has been taken, should this Congress be suddenly willing to go all out for full representation of the District?

I would be delighted if it were feasible to give the District what I believe are its full rights now.

Many Congressmen are supporting voting representation. Three weeks ago, 23 of my freshmen Republican colleagues joined me in issuing a statement that supported this concept.

With the committee's permission, I am submitting a copy of this statement for the record, with the signatories.

Mr. ROGERS of Colorado. It will be received for the record and entered at this point in your testimony.

(Statement referred to follows:)

Two dozen freshmen Republicans joined forces today in an effort to raise the residents of the District of Columbia to the status of first-class citizens by endorsing legislation to provide voting representation in Congress for the District. Most of these members introduced legislation to achieve this goal in hopes that prompt hearings will be held on this measure by the House Judiciary Committee.

The freshmen Republicans noted that as the House of Representatives was about to recess for the 191st anniversary of the Declaration of Independence, the District citizens still do not have the rights for which their forefathers fought so bitterly with England. The freshmen Republicans also noted the papers of the Constitutional Congress state that the residents of the Nation's Capital would "enjoy the privilege of trial by jury and of being governed by laws made by representatives of their own election." Yet today, they do not have voting representation in either the House or the Senate, the Federal legislative branch which not only decides on national affairs, but it directly responsible for District affairs. Voting representation would in no way alter the District of Columbia's unique situation as the seat of Federal government set apart from the states. It would simply allow the people a voice equal to that of those of other individual citizens across the nation.

Perhaps the Founding Fathers did not foresee that the tiny village on the Potomac would one day grow to be one of the major cities of the world, but neither did they mean to deprive its people of equality. The injustice of this inequality has long outlasted any reasonable defense, and it is time for Congress and the American people to correct the situation as quickly as possible.

LIST OF SUPPORTING MEMBERS

Congressman Edward Biester, of Pennsylvania.
 Congressman Donald Brotzman, of Colorado.
 Congressman Daniel Button, of New York.
 Congressman William Cowger, of Kentucky.
 Congressman John Dellenback, of Oregon.
 Congressman Marvin Esch, of Michigan.
 Congressman Edwin Eschelman, of Pennsylvania.
 Congressman Gilbert Gude, of Maryland.
 Congresswoman Margaret Heckler, of Massachusetts.
 Congressman Guy Vander Jagt, of Michigan.
 Congressman Donald Lukens, of Ohio.
 Congressman James McClure, of Idaho.
 Congressman Jack McDonald, of Michigan.
 Congressman Tom Meskill, of Connecticut.
 Congressmna John Myers, of Indiana.
 Congressman Tom Railsback, of Illinois.
 Congressman Donald Riegle, of Michigan.
 Congressman Philip Ruppe, of Michigan.
 Congressman Charles Sandman, of New Jersey.
 Congressman Fred Schwengel, of Iowa.
 Congressman Sam Steiger, of Wisconsin.
 Congressman William Steiger, of Arizona.
 Congressman Larry Winn, of Kansas.
 Congressman John Zwach, of Minnesota.

Mr. GUDE. Twenty-one of these Congressmen also introduced or cosponsored various measures for fulfilling the principle of voting representation.

A Congressman's introduction of one specific measure does not preclude his support of another measure.

It is now up to this committee to decide what is the best way to implement this principle, but it is also the responsibility of this committee to decide which measure has the best chance of passing this Congress and of being ratified by the States, as the previous witness pointed out.

I believe that you will agree with me that there is real danger that opponents of national representation for the District could gain a great deal of stalling time by insisting on passage of the full measure or nothing at all.

Need for such legislation, to my mind, is very evident. I can find no basis or justification for denying any citizen of this country his basic rights.

This legislation is imperative if the District of Columbia is to be raised from its present status of second-class citizenship.

As a Congressman from a local area, I naturally have a strong desire to see the present District conditions improved. Enabling the District residents to become first-class participants in government affairs is a necessary step toward a better metropolitan government.

As a member of the District Committee, I am very involved in problems within the area. I have taken a number of trips throughout the District, in attempting an assessment of what areas need particular legislative attention.

I feel that my work in this area is very important to my own congressional district, because of the interrelationship within our metropolitan area.

Throughout this endeavor, I have met and talked with many District residents. It has been an extremely revealing experience, and the fact that continually impresses me is the almost pathetic craving of District residents to talk to someone in authority—someone, somewhere, who may be willing to listen to them and perhaps help them.

Is there any justification for citizens of this country to be so unrecognized?

District residents pay taxes, fight for their country, and in all other ways perform the obligations of an American citizen. Yet they are now denied their basic rights and privileges.

Apart from the evident argument of having a voice in Federal affairs through congressional representation, there is a human element that is added by each Congressman for his constituents, that of casework.

We all know how important this is. I know that all of us on the District Committee handle casework for District residents as much as possible, but this is not enough.

And this raises another pathetic aspect. Some District citizens feel that they cannot presume upon a Congressman to help them with their personal problems, when he does not directly represent them.

Another important and basic reason for this legislation is to correct an historic injustice.

Historical research points out that the intention of the Founding Fathers was not to deny the District residents their rights.

The Constitutional Congress papers and the other writings of the times indicate that the Founding Fathers thought of District residents as sharing equal political rights with other U.S. citizens.

Although the authors of the Constitution agreed that Congress should be supreme in the Federal capital, nowhere is there an indication that protecting the Capital from State power necessitated canceling political rights for the District's inhabitants.

Yet today they do not have voting representation in either the House or the Senate, the Federal legislative branch, which not only decides on national affairs, but is directly responsible for District affairs.

To me, there is no rationale behind this situation.

Having an equal voice in government is the basic constitutional right of each American citizen.

A constitutional amendment such as I propose would not alter the District's unique position as the seat of Federal Government, set apart from the States. Voting representation has no relation to these factors.

It would simply allow the people a voice equal to that of other individual citizens across the Nation.

Mr. ROGERS of Colorado. Mr. Gude, House Joint Resolution 687, which you introduced, would propose an amendment which would permit Congress to deny any representation for the District of Columbia in Congress.

It says:

The District, constituting the seat of Government of the United States, shall be given voting representation in Congress in such measure as the Congress may direct.

Now, after this amendment is adopted, it would be necessary for Congress then to designate the number of Representatives and Senators. If it failed to do that, then the District would be denied the right of representation, would they not?

Mr. GUDE. That is right.

Mr. ROGERS of Colorado. But as I understand your statement, you are ready, willing, and able to take any of the proposed amendments in order to try to get them on to some representation in Congress.

Mr. GUDE. I would leave that to the wisdom of the committee.

I would like to point out one of the merits of House Joint Resolution 687.

I think many Congressmen and many American citizens have the concept that the District of Columbia is a Federal city, and Congress is responsible for its government, and this resolution leaves entirely in the hands of the Congress the extent to which it is represented.

The passage of this resolution, which has the compulsive language of "shall" in it, I believe would put an obligation on Congress which they would face up to, to provide at least one Representative or more in the House.

And as I said, I think there are problems with all of these resolutions, as has been pointed out in previous testimony.

Mr. ROGERS of Colorado. Then you feel that if I am a Representative from a State, which ratifies the proposed amendment to authorize representation for the District, then I am obligated to vote for *some* representation? Is that what you said?

Mr. GUDE. I think there would be, let's say, one four-thirty-fifths moral obligation on every Congressman to share in providing voting representation.

Mr. ROGERS of Colorado. Mr. Poff?

Mr. POFF. Thank you, Mr. Chairman.

As the gentleman said, his language is rather broad, and the grant of powers is rather plenary.

For instance, do you think it would be possible for the Congress, under your language, to create a voting delegate to the House, as distinguished from a Member of the House?

Mr. GUDE. Yes; definitely they could establish a voting position which would have less authority and less staffing than we have.

They could curtail the powers of the voting delegate. I would hope they would establish representation coequal to other congressional representatives.

Mr. POFF. Could they also create the position of a voting delegate to the U.S. Senate?

Mr. GUDE. I don't know whether he could go under the name of anything other than a Senator to serve in the Senate.

I don't know. That may be a constitutional question.

They can create a voting Senator, but whether they can create a voting delegate of a Senator, I don't know.

Mr. POFF. But the language you mentioned specified no minimum number in either or both Houses?

Mr. GUDE. That is right. It merely says "shall establish voting representation."

Mr. POFF. Neither does it establish a maximum of either or both Houses?

Mr. GUDE. That is true.

Mr. POFF. Your amendment envisions an increase in the total membership of the House in order to accommodate whatever new Members might be granted?

Mr. GUDE. I personally believe that the way to handle this would be, as has been the case in the introduction of additional States, that the representation is added on to the 435 until the next census, and then would be readjusted back to 435, but this would be left up to Congress to decide.

One Member raised the very good point that our congressional districts are reaching the size where an increase in population per Representative may do some violence to representative government, in that it is difficult for a Representative to handle a much larger population than we are handling on the average now.

Mr. POFF. Now, your language I say is rather broad, as I have illustrated, and yet it is possible that in some particulars it might be too narrow.

For instance, does it give the Congress the power to treat with the problem of an election in the House of Representatives, when candidates for the Presidency fail to receive a majority of the electoral college?

Mr. GUDE. I think that is a very good point, and one for an improving amendment, which might well be added to several of these resolutions.

Mr. POFF. Then, of course, we would have to make some provision, too, for the election of the Vice President. The 12th amendment now vests that power in the U.S. Senate.

Mr. GUDE. Yes.

Mr. POFF. I thank the gentleman for his testimony.

Mr. GUDE. Thank you.

Mr. MATHIAS. I just want to say a word of welcome to my colleague from Maryland, Mr. Gude, and to express my own thanks for his statement here, and the interest he has showed in this matter.

Also, the ranking minority member of our committee, Mr. McCulloch, was called away during Mr. Gude's testimony, and he asked me to convey his thanks to the gentleman from Maryland.

I would ask only one question, because there is an aspect of House Joint Resolution 176 which disturbs me.

Does it guarantee representation to the District, or might it be—and we have had some experience with this, because, as you know, the District did have home rule, the local council to which the gentleman from Massachusetts, Mr. Donohue, referred, the City Council of Washington, once did exist, and then was taken away and abolished by the Congress.

Now, under House Joint Resolution 176, would it be possible to give representation, and then at some future date to retract it?

Mr. GUDE. It would be possible. And I have given a great deal of thought to this aspect of the problem. I think the establishment of a voting representative here in Congress is a little different from the establishment of a municipal government, and alterations in municipal government, because I think that this resolution carries what might be called certain moral obligations.

We have certain unwritten amendments, as is said, to our Constitution, and rules of Government, and I think this would become one

of them, if Congress established voting representation in the Senate and the House under this amendment.

Of course, this problem goes through a number of these resolutions. I know, for example, Mr. Broyhill's resolution provides for one or two Senators, as Congress would see fit, and this of course would mean that if Congress should establish two Senators in the future, under the terms of this resolution, then they could wipe one out.

This is a problem, but I believe that the viewpoint I have taken is one that bears a lot of thought on the part of the committee.

Mr. MATHIAS. I have no quarrel with the gentleman's answer to my question, but in my joint resolution there would be no such option on the part of Congress in the future to retract or withdraw that equitable representation, once it has been granted and affirmed.

I thank the gentleman again.

Mr. GUDE. There is that mirrored in my colleague's resolution, and I would like to say that I think this shows a characteristic concern for the affairs of the District of Columbia, as well as his own congressional district.

However, as I pointed out, there are very real problems in getting such a resolution passed through Congress, both the House and the Senate, and ratified by the States.

Mr. MATHIAS. There is, of course, always the saving grace, as the gentleman from New York has just mentioned, that an amendment can always be followed by another amendment, and Congress could take some comfort in that.

But I think personally if we are going to do this, we ought to do it with no strings attached. We ought to face it head on.

Mr. TENZER. Would the gentleman yield?

I agree with the last statement, but I did want to call the attention of the gentleman and the speaker that what the Congress did in the Volstead Act was to repeal one amendment with another amendment to the Constitution.

Mr. McCLORY. I just want to comment on the gentleman's statement.

Since he is a new Member, who represents a district which adjoins the District of Columbia, I want to commend him on his immediate recognition of the need for fair treatment and full representation of the citizens of the District of Columbia, and for carrying through and following recognition of that need, and for the initiative that he has demonstrated in bringing this subject to the Congress, and for the very enlightening and informative statement he has presented here this morning.

I thank the gentleman.

Mr. ROGERS of Colorado. Mr. Jacobs?

Mr. JACOBS. I simply want to compliment the gentleman from Maryland for not only the work he is doing on this matter, but for his work generally in the District of Columbia.

I am very gratified about his enlightened approach in District of Columbia affairs.

Mr. GUDE. I would like to thank the gentleman and commend him, as an out-of-town Congressman, for his interest in District affairs.

Mr. SMITH. Mr. Chairman, I, too, want to compliment the gentleman from Maryland for the good job he has done in this most important matter that we are discussing here.

Mr. ROGERS of Colorado. Mr. Roth?

Mr. ROTH. I would like to join the others in congratulating my freshman colleague for his interest in this matter.

I do have a couple of questions I would like to ask him.

Under your resolution, what would you intend to be the qualifications for candidacy as a District of Columbia voting representative?

Mr. GUDE. I would hope that Congress would establish exactly the same qualifications as accrue for Representatives from the States.

Mr. ROTH. Would you care to comment further on why you do not believe it desirable to make it fixed in this resolution of yours, rather than at the discretion of Congress?

Mr. GUDE. You mean the number, or the qualifications?

Mr. ROTH. The qualifications.

Mr. GUDE. The qualifications? As I stated, I believe there is a very strong feeling among Congressmen and among people throughout the country that Congress is responsible for the government of the Federal city, and therefore should establish not only criteria in other matters, but also in regard to voting representation, the qualifications of representatives.

Mr. ROTH. Thank you, Mr. Chairman.

Mr. ROGERS of Colorado. Mr. Railsback?

Mr. RAILSBACK. I want to commend the gentleman, and note that the gentleman from Maryland feels strongly about this important problem. Early in this session he met with a number of freshmen Members of Congress that had no previous interest in or experience with the problems of the District of Columbia, and I will not say persuaded us, but informed us of some of the problems, and also urged us to become interested in representation in the Congress for the District of Columbia.

I thought that was very meritorious on his part, and I want to commend him for it.

In addition, I was interested in the remarks of the witness about case work, because every Member of Congress has certain duties, including casework, as well as legislative duties.

I know casework can be a rather time-consuming duty, and I wonder if you have any records of what percentage of casework your office handles from the District of Columbia.

Mr. GUDE. No, I would not be able to give the gentleman any idea, but I know that a number of cases cross my desk every day that are from District citizens as well as citizens in my own congressional district.

Mr. RAILSBACK. When we are talking about casework, we are talking about problems that people have, whether they are with Government agencies or with the services. At this time the citizens of the District of Columbia really have no one to turn to, like other citizens outside the District, in respect to these kinds of problems.

Mr. GUDE. Yes. The casework covers the same range of casework that I have with my district, problems with the draft board, problems with a serviceman, a marine, or a sailor who is abroad—maybe there is an illness in the family—the same type of casework.

In addition, I remember the remark by Congressman Mathias about a case of an indigent resident of the District who was being evicted from her residence, and finally got to him, and was able to get relief.

These types of cases I think are even more critical, because people in this position often have no idea to whom to turn for help.

Mr. RAILSBACK. Now, if one of these proposals goes through, I would like to ask your opinion as to whether you would favor the establishment of congressional districts within the District of Columbia, provided that they are entitled to more than one elected Representative in the House, which I assume they would be, or would you prefer them to run at-large?

Mr. GUDE. I should think that they would have districts. I think this is preferable.

Mr. RAILSBACK. In other words, district lines within the District of Columbia.

Then would they enjoy the same rights, if you had your way, as other elected Representatives from multidistrict States?

Mr. GUDE. Yes. They should have the same rights, subject to the restrictions that we mentioned before, about voting in a presidential election, for Senators and Congress.

Mr. RAILSBACK. We have seen different resolutions trying to do something about this problem, and they vary in their approach. I gather from what you have already said that you don't have any particular pride of authorship, as far as what proposal goes through, as long as some proposal goes through that provides some representation.

Mr. GUDE. Yes. I think it is a political decision, which I think the committee is going to have to give very careful study to, as to the proposal that goes through.

I think there is merit to most all of these proposals.

Mr. RAILSBACK. Thank you.

Mr. ROGERS of Colorado. Mr. Biester?

Mr. BIESTER. Thank you, Mr. Chairman.

I wish to join with the others in commending the gentleman for the work which he has done with respect to this matter.

I would like to point out that Mr. Railsback joined with Mr. Gude in sponsoring this legislation, and I did, also.

I think that it is important that the caseload which is carried as a matter of grace and interest by those Representatives who represent the area contiguous to the District—that this caseload be handled as a matter of right, and that the people of the District are entitled to some form of representation.

And I think that the gentleman's approach to this problem makes as much sense as any, and I commend him for his interest and commend him for generating among our Republican colleagues a genuine and a deep interest in doing something about this problem this year.

Mr. GUDE. I thank the gentleman.

Mr. ROGERS of Colorado. Mr. Wiggins?

Mr. WIGGINS. I would like to know from my friend and colleague, Mr. Gude, the answers to several questions, particularly because his district is immediately adjacent to the District of Columbia.

I would like to have your observation as to what problems would be created if the residents of the District of Columbia, for purposes of representation in the Congress only, were included in the State of Maryland.

Mr. GUDE. Well, this is a favorite question of annexing part or all of the District of Columbia back to Maryland, and I have given this idea a great deal of thought.

It is raised over and over again, sometimes in joking terms, but I think there is a great deal of merit to having a Federal city here, a city which is the seat of Government of one of the greatest nations in the world. Other nations have Federal cities.

And incidentally, I would like to point out that to my knowledge, every Federal city of the other nations of the world has representation in their national legislature.

But I think it is most important to have a Federal city which is unique as a unit of government from the States, and a city in which the citizens take pride in being citizens of the District, which is the Federal city of the greatest nation.

I don't know whether I can quite express this in words.

I am a native of this area, and I have noticed that since World War II there has been a growth of interest in being citizens of the metropolitan area of Washington, which transcends being just citizens of another great city, but being citizens of the Capital of the greatest Nation in the world, and that ought to give you a little bit of an idea.

Mr. WIGGINS. This does not assume any retrocession of the territory of the Federal city to the State of Maryland, or any other State.

It only assumes for purposes of the question that in determining representation in Congress, only, and for that purpose only, the population of the city of Washington be added to and included within the State of, let's say, Maryland, although it does not happen to be Maryland, and districts be created upon that population.

Mr. GUDE. I have never encountered that proposal, and I would like to give that some thought.

This would mean that we would gain several Congressmen in Maryland, I imagine.

This has possibilities, Mr. Wiggins. I don't know whether or not I might support it.

Mr. WIGGINS. I am not asking for your wholehearted support. I was asking if you had given thought to it.

Mr. GUDE. This is a problem. I don't know whether it is an approach.

To which Congressman would the citizens of the District of Columbia turn when they wish to direct their attention, as far as a piece of legislation goes, or as far as case work was concerned?

Mr. WIGGINS. It would assume an identical situation to the citizens of any other city in America, and not have a special condition in the District of Columbia, would it not?

Mr. GUDE. I am sorry. I did not understand the question.

Mr. WIGGINS. All I am suggesting is that we treat the city of Washington as any other city in America.

The other approaches seem to recognize the District of Columbia as a separate political entity, entitled to separate political representation, even to the extent of perhaps a Senator or two.

Mr. GUDE. Well, maybe I can answer it in this way.

I think you have two problems involved, as far as the District is concerned.

You have one, that it is the Federal city, and it is the domicile of the Federal Government.

The other problem is that you have a city here which is like the other great cities of our Nation. I mean we have the same transportation, poverty, welfare, and crime problems, that we have in many other cities.

We have our peculiar governmental problems. For example, several of the cities of the large metropolitan areas of the Nation run across several States. They involve two States within their boundaries.

MR. WIGGINS. I thank the gentleman very much for his testimony, and I am going to conclude only with the observation that it is perfectly apparent that the citizens of the District of Columbia do not share the same political rights as other citizens of America, and that is an intolerable condition, which we must correct.

However, I think the problem is not so much the representation of the citizens of this city, for I know of no other city in America that has as many Congressmen and Senators worried about it as the District of Columbia.

The problem, I think, is the manner of selecting a Representative, rather than whether they have de facto representation.

MR. GUDE. I think maybe we want to try to relieve some of the Congressmen from some of their concern about the District.

MR. ROGERS of Colorado. Thank you, Mr. Gude. We certainly appreciate receiving your thoughts in connection with this legislation.

MR. GUDE. Thank you, sir.

MR. ROGERS of Colorado. Our next witness is Mr. Leonard B. Doggett, who I understand has Mr. William H. Press to represent him here.

Come forward, Mr. Press.

STATEMENT OF WILLIAM H. PRESS, EXECUTIVE VICE PRESIDENT, METROPOLITAN WASHINGTON BOARD OF TRADE

MR. PRESS. Mr. Chairman and members of the committee, I am William H. Press, and I am the executive vice president of the Metropolitan Washington Board of Trade.

I, too, am a native, and lifelong resident of the District of Columbia.

Mr. Doggett expresses regret that a very pressing matter kept him from being here today, and I would like to file a very brief statement on his behalf, and merely say that the board of trade is one of the original members of the Joint Committee for National Representation, and we support Mr. Davis' statement fully.

MR. ROGERS of Colorado. We accept the statement, and appreciate your brevity in the matter.

Any questions?

If not, that will be all, Mr. Press.

(Statement referred to follows:)

STATEMENT OF MR. LEONARD B. DOGGETT, JR., PRESIDENT METROPOLITAN WASHINGTON BOARD OF TRADE

MR. Chairman, gentlemen of the committee, my name is Leonard B. Doggett, Jr. I am a native of the District and have been engaged in business in the District of Columbia all of my adult life. I appear here today in my capacity as President of the Metropolitan Washington Board of Trade during the year 1967.

Since the Board of Trade does not appear very frequently before the Judiciary Committee, let me state briefly that it was organized in 1889 by leading business and professional men of the Nation's Capital mainly to represent the Federal City

before Congress as spokesman for the entire District and without regard for neighborhood or special interest objectives.

It is a voluntary, non-profit membership organization concerned with the development and maintenance of the great growing National Capital community. Its overriding purpose is to foster the economic development and prosperity of the National Capital area. It is today composed of some 6,000 members representing more than 3½ thousand business firms and professional enterprises throughout Greater Washington. In a letter dated November 4, 1964, Senator Alan Bible, Chairman of the Senate District of Columbia Committee, congratulating the Board on its 75th Anniversary, said, "Your organization of business and civic leaders has probably played a more important role in the development of the Nation's Capital area than any other single group."

The Board of Trade is in full agreement with the Joint Committee on National Representation for the District of Columbia of which it is one of the original members. We were extremely active in securing adoption of the 23rd Amendment to the Constitution, both in the Congress and in securing the ratification of the states throughout the country.

We are happy to re-affirm our support for Congressional representation which we have advocated since the turn of the century. We, of course, will continue to press for the same representation enjoyed by all other Americans in the Congress if the amendment now under consideration is adopted. But we recognize after many years of experience that this is difficult to accomplish so we enthusiastically support House Joint Resolution 396 which would give us, upon adoption, one voting representative in the House of Representatives and empower the Congress to provide one or more additional Representatives or Senators or both up to the number to which the District would be entitled if it were a state. We firmly believe that such representation is the only way to grant the residents of the District a meaningful measure of self government.

Having made this statement, in the interests of conserving the Committee's valuable time, may I say that we fully support the comments and observations being made to this Committee by a former president of the Board of Trade—F. Elwood Davis.

We appreciate this opportunity of making our views known and will be very happy to submit any additional information which the Committee may desire.

Mr. ROGERS of Colorado. Our next witness will be Mr. Tilford E. Dudley, chairman of the Democratic Central Committee.

You have a statement to be filed for the record, sir?

STATEMENT OF TILFORD E. DUDLEY, CHAIRMAN, DEMOCRATIC CENTRAL COMMITTEE

Mr. DUDLEY. That is correct. I have a statement, which I believe has been distributed, and I suggest we file it.

(The statement referred to follows:)

STATEMENT OF TILFORD E. DUDLEY, CHAIRMAN OF THE DEMOCRATIC CENTRAL COMMITTEE

Mr. Chairman, I am Tilford E. Dudley, Chairman of the Democratic Central Committee for the District of Columbia. Our office is at 1009 13th Street, N.W., in Washington, D.C. I am happy to report that the Democratic Central Committee is strongly and unanimously in favor of the Joint Resolution introduced by Chairman Celler, and similar resolutions, for the amendment of the U.S. Constitution to provide for the election by D.C. residents of representatives to the United States Congress. In this we have the support of our entire District membership. There is no disagreement. Our support is based upon the following considerations.

HISTORICAL CONSIDERATIONS

We consider the lack of Congressional representation from the District to be an historical accident. It was never intended and never decided upon by vote or otherwise. It just happened, unintentionally.

It is clear that the jealousies of the founding states were the primary cause for the creation of a federal district completely free from the control or interference of any state. A secondary desire for security and protection by its own militia was heightened by the Philadelphia incident of 1783 when the veterans marched on Congress for their over-due pay. In the strenuous competition for the capital, every offer (New York, New Jersey, Maryland, Pennsylvania, Virginia and several towns) included provisions granting complete federal jurisdiction. All of them assumed congressional control.

Constance McLaughlin Green, in the first volume of her outstanding history of the District (Washington: Village and Capital, 1800-1878) reports:

"The very jealousies between the states made each loath to see a rival in a position to dominate the general government * * *. Yet to place a permanent capital within the jurisdiction of one state was to imperil the influence of every other. The surest way of avoiding that risk was to vest in Congress rights of 'exclusive legislation' over the capital and a small area about it. The debates on the residence bill had proceeded on that premist." (P. 9.)

It is also clear that disenfranchisement of District residents was not the objective. Mrs. Green states:

"In accepting the principle eventually written into the Constitution, that Congress must be supreme in the federal district, no one had equated sacrifice of state power with cancellation of political rights of citizens of the future federal territory. On the contrary, Americans of the 1780's had taken for granted that permanent residents, like citizens of any state, would 'enjoy the privilege of trial by jury and of being governed by laws made by representatives of their own election.' (Papers Continental Congress) Madison, to be sure had recognized the puzzling character of the problem in a country where all political machinery operated through state organizations and only citizenship in a state enabled a man to vote in national elections. In 1783 the Virginian had noted * * * that 'the power of Government within the said district (should be) concerted between Congress and the inhabitants thereof.'" (P. 11.)

In 1787, Madison wrote, in the 43rd number of the *FEDERALIST*, that each state ceding territory to the federal government would no doubt provide for the rights and the consent of its citizens in the territory and the citizens would find sufficient inducements to become willing parties "as they will have had their voice in the election of the government which is to exercise authority over them; (and) as a municipal legislature for local purposes, derived from their own suffrages, will of course be allowed them." (See *Our National Capital and Its Un-Americanized Americans* by Theodore W. Noyes, p. 56.)

The Act of Congress of July 16, 1790, accepting the ceded territory stated that the operation of the laws of the states providing the territory would not be affected until the national government moved there and "Congress shall otherwise by law provide." Consequently local citizens continued to vote in state and national elections, at least through 1800.

In May 1800 the government records were moved to the District and on November 21, Congress opened its first session at the new Capitol. In December debate broke out on the form of government for the new District, and the extent of the local franchise. Congress has passed various acts for the local government since then and that debate continues today.

It was generally admitted that an amendment to the U.S. Constitution was necessary to permit District citizens to vote for President and to elect senators and representatives. The key to the discussion on the amendment was perhaps stated in the House of Representatives by Representative Dennis who said in December of 1800:

"If it should be necessary, the Constitution might be so altered as to give them a delegate to the general legislature when their numbers should become sufficient."

Congressman Dennis was probably right. At that time, the District did not have sufficient population to merit a representative. There were then only 501 "heads of households" in Washington City. The District itself had a total population of 14,093, consisting of 10,266 white, 783 free Negro and 3,244 slaves.

However, Washington City and the District grew rapidly, despite many vicissitudes. By 1880 District population reached 177,638. The number of persons to be represented at that time by each Representative was 152,000. The District already had more people than Nevada (62,265), Delaware (146,654), and Oregon (174,767) and more than Montana, Washington and New Mexico which were recommended for admission during that decade. If it had been a normal territory, it would have been entitled to become a state at that time.

It is clear that by the criterion of population, the District of Columbia has merited representation in Congress since at least 1880. The intentions and promises of our founders are thus at least 87 years over-due in their fulfillment.

Permit me to mention one additional incident—an ironical one. Article I, Section 2 of the U.S. Constitution provided that Representatives and direct taxes "shall be apportioned among the several States * * * according to their respective numbers." Under this provision the District was considered a state and paid its proportion of the direct taxes as long as the provision was in effect. The last payment was in 1861 in the amount of \$50,000. Of course, however, the District was not considered a state for the purpose of representation in Congress. No representatives were apportioned; only taxes.

ECONOMIC SIGNIFICANCE OF THE DISTRICT

The citizens of our great nation, living throughout the 50 states, are proud of our capital city and aware of its great buildings, wide avenues, extensive parks and the importance of the decisions made in its government halls. It is important that they realize also that the hundreds of thousands of people living here have built a community of size and economic significance which should no longer be denied the right to participate in our government.

The 1960 census credits the District of Columbia with a population of 763,976 people. We have grown rapidly since then and the U.S. Census Bureau now estimates a population of 808,000 as of July 1, 1966. The District population is larger than that of 11 states. It is the 9th largest city in the nation. The comparative statistics are:

State	1960 population	Estimated 1968 voting age population	Number of Congressmen	Senators
Alaska.....	226,167	151,000	1	2
Delaware.....	446,292	306,000	1	2
Hawaii.....	632,772	421,000	2	2
Idaho.....	667,191	404,000	2	2
Montana.....	674,767	412,000	2	2
Nevada.....	285,278	285,000	1	2
New Hampshire.....	606,921	418,000	2	2
North Dakota.....	632,446	370,000	2	2
South Dakota.....	680,514	408,000	2	2
Vermont.....	389,881	244,000	1	2
Wyoming.....	330,066	202,000	1	2
District of Columbia.....	763,976	515,000	0	0

Furthermore, District residents are fairly well off, financially. In fact, they have a higher average individual income than all the states. Including all kinds of personal income, such as wages, proprietorial profits, dividends, interest, rents, etc., D.C. inhabitants averaged \$3,708 in the year 1965. Connecticut was next with a \$3,401 average and Delaware next with \$3,392.00. The total individual income for District residents was thus \$2,832,823,008.00.

High income naturally produces high income taxes, assessed and appropriated by the U.S. Congress. The Internal Revenue Bureau reports that in 1964 District residents filed 308,000 returns, showing a total gross income (after deductions) of \$1,900,000,000, on which income taxes of \$300,000,000 were paid.

Corporation taxes would be in addition but are not available on a D. C. basis. Surely the payers of taxes in such large amounts are entitled to representation in the Government which collects and spends them. Otherwise the efforts of our founding fathers will have been in vain.

Other economic statistics will be of interest. In March 1966 our three daily newspapers had an average weekday circulation of 986,842, or over 1 newspaper per person. We had a total of 757,426 telephones in January 1966, making us the 7th city in this respect. In 1965 our post office receipts totalled \$51,057,860 putting us in 8th place among the nation's cities.

On December 31, 1965, District banks had \$2,280,630,000 in deposits, which exceeded the bank deposits in 21 of the states. Our banks then had \$553,376,000 invested in U.S. Government securities and \$1,369,131,000 in loans. Also in 1965, our residents registered 236,070 automobiles, buses and trucks with the D.C. Government. Our public schools enrolled 92,665 pupils in our elementary school and 51,351 pupils at the secondary school level.

I know, Mr. Chairman, that statistics can be dull and mis-leading but surely these statistics show at least that the District of Columbia has grown and matured in the economic or business sense; that we have arrived. We have come of age—and by that, I mean of voting age.

IMPORTANCE TO D.C. GOVERNMENT

The growth of the District in population and private businesses indicates the concern of its residents with all the national issues pertaining to the general welfare, such as taxation, the economy, social security, health, aid to education, civil rights, anti-poverty programs, foreign affairs, international trade and tariffs and—more recently—urban development, mass transit and other city programs. This is the same interest that all the states and cities have in Congressional legislation.

The District has an additional interest because Congress is its city council, with the power of "exclusive legislation in all cases whatsoever." This responsibility will continue, regardless of whether Congress establishes a local mayor-council government or other form of home rule.

When the city was small, as with its 501 heads of households in 1800, the government was small and the local issues simple. Contact between Congress and the town was rather easy. But as the city and the District have grown, so has its government. And the issues have grown more intricate and complicated. Contact and keeping informed are now mountainous tasks.

The District Commissioners now supervise 15 major operating departments and 15 "offices," such as Urban Renewal Office, Minimum Wage Board and Parole. In addition there are 25 independent agencies in the District Government, some of which are very important, such as the Boards of Education, Recreation and Library Trustees, the D.C. Courts and the Housing Authority, Planning Commission, Transportation Authority, Redevelopment Land Agency, and the United Planning Organization. Other programs such as urban renewal, community renewal and model city are still incipient, requiring more than the usual thought and supervision. All of these units, programs and problems are the responsibility of the Congress.

The District's budget was \$414.6 million last year, with \$527.2 million requested by the President for this year. Most of this money comes from D. C. taxes paid by D. C. residents but Congress has to decide whether we can spend our own money for these purposes. It is difficult for most congressmen to know, for example, when and where a new Shaw Junior High School should be built, whether we need 400 new teachers, 50 more walkie-talkies and 66 more cruisers for the policemen, a new Receiving Home for delinquent children, an expanded Recreation Department and a center leg for the freeway system.

Improved communication between the District and the Congress is essential. The District Commissioners need at least one or two full-time liaison representatives working on the Hill to help the Representatives and Senators keep informed on District developments. Time now spent in this coordinating task detracts from their executive responsibilities.

Most congressmen don't have time to attend the many citizens meetings held in the city, such as the political assemblies, neighborhood associations, parent-teacher meetings, protest rallies, seminars of special interest associations and hundreds of related groups. They are thus unable to get people's opinions and facts directly. Instead congressmen have to rely on testimony of appointed agents from government and witnesses appearing for private organizations or for themselves individually. But none of these people can tell what the people want, because they don't know.

In a discussion last year with a congressman on a local issue, the Representative remarked to me: "If the people of the District can't get together and decide what they want, they'll get nothing. Congress doesn't have time to decide their disputes." I replied: "There is no way for the people to decide because there is no method of voting, either in a referendum or for candidates running on issues. Without elections, there is no alternative to everyone coming up to the Hill with their various points of view and letting Congress select what it thinks is best."

District residents suffer from considerable frustration and anger over their inability to communicate with Congress. A citizen with a "good idea" finds he has to lobby members of the subcommittees and full committees on the District in the House and Senate and then the subcommittees and full committees on appropriations in the House and Senate, and possibly conference committees and the White House, to get his idea considered and adopted. The average person does not have this much time. He thus feels the doors are closed against him by the gentle process of buck-passing and "due consideration" and he is sore about it—more so than you realize.

Congressmen elected from the District would help the District Government and the District citizens maintain a better liaison with the Congress, know the desires of the citizenry and relieve much of the existing frustration. They would help the Congress in its work in many ways. I suspect, for example, that Congressmen could communicate more easily with one of their number, stationed here on the Hill, and responsible to his own electorate, with the same basic worries and problems as other members, than with some appointed or self-appointed agent appearing before them.

SUMMARY

In summary, we urge you to support the proposition for elected congressmen from the District because it was intended by our founding fathers, is basic to our American democratic principles, is merited by the size and significance of the Washington community and is urgently needed to provide a better liaison between Congress and the capital city.

Mr. DUDLEY. There are a couple of points to which I might call your special attention in just a few minutes.

You will notice on the first page I analyzed the history and the intention of our forefathers.

On the second page, at the top, I have a quote from Representative Dennis, and there is a misprint. It was in the Congress in December 1800, rather than 1880, and if the reporter, in putting the statement in, could make that change, it would be helpful.

Some additional material I have put in has to do with the economic growth of the District, and I think this is relevant to the various questions that have been asked about possible representation from the territories.

Puerto Rico, which is mentioned, has indicated it wants independence rather than a representative, and also Puerto Rico, if it wanted to come in, could come in as a State, and if it came in as a State, it would of course have Senators and Congressmen as such.

The District should not come in as a State, and we do not propose it, and therefore we are quite different from Puerto Rico.

In regard to the other territories, the information which I have given here indicates our growth populationwise, our growth in terms of people of voting age, our growth economically, the taxes that we pay, our bank deposits, and so forth, which distinguish us from the smaller territories.

I might point out there is some difference in my figure on taxes from the figures that Representative Kastenmeier gave yesterday.

I have checked. He and I are talking about different kinds of taxes.

He apparently was talking about all taxes, such as gift and estate and perhaps corporation taxes. My figures are correct for what they pertain to, namely, individual income taxes filed from residents in the District.

Another point I have mentioned, Mr. Chairman, which has not been discussed here, is the importance of the Congress as a city council for the District, and this bears somewhat on the comment about the case load that the Congressmen from nearby areas have to handle.

I think that the Congress is not aware of the very serious situation we have in the District, the frustration, and even the anger by the citizens of the District, who know that they have no place to go.

It is impossible for them to go from Member to Member to Member, to lobby bills. They feel that the doors are really closed, and although some of them go to neighboring Congressmen, most of them feel simply frustrated.

And I point this out in my statement, which I have given here.

It is possible that I might indicate also comments on the questions about the differences between the various resolutions which would require one Representative plus others that Congress might give, as in Chairman Celler's resolution, and those that would give specific amounts.

There is the question as to how many people living in the District vote elsewhere. I think it is not as much as some of the members of the committee may believe.

Mrs. Cipriani, our vice chairman, who is here, tells me that in the last year the Democrats ran an absentee voters bureau in the District, and registered only 20,000 absentee voters.

There will be some for Republicans, and others go in individually, but there would not be very many.

However, there is this uncertainty as to how many people vote elsewhere, and there is also the uncertainty as to whether the Census figures include noncitizens, and of course there are a lot of noncitizens residing in the District.

This would be one reason for giving the Congress some flexibility, pursuant to the Celler resolution, in seeing how many more we ought to have plus the one.

It is possible that those who vote back home, and the noncitizens here might cause Congress to deviate from the usual pattern.

Certainly we don't want to ask for too much, and get nothing, and we are willing to leave this in the discretion of the Congress, and of the committee.

Mr. ROGERS. of Colorado. Any questions?

Mr. MATHIAS. Yes, Mr. Chairman. I would just like to comment on that particular point.

Is it not true that the headcount on which Representatives are apportioned in the Census does not make the legal determination of the place where they find you when they count you?

They are simply counting heads. So from that point of view, it really does not make any particular difference.

Mr. DUDLEY. I think that is true. That is my understanding, Mr. Mathias.

This is merely the question as to whether they want to count heads, citizens or noncitizens, in a district which is different from the average district in the United States.

Mr. TENZER. Would the gentleman yield?

I am reading from the "Congressional Apportionment Roll of the Bureau of the Census," and the report made September 14, 1960, on page 3, outlines the method used by the Bureau of the Census.

It says that the enumerator's instructions to the 1960 census of population made provision for various types of situations that may be encountered at the time of enumeration. For example, the enumeration of members of the Armed Forces, persons who maintain more than one residence, college students, persons in institutions, persons abroad at the time of the census, and the general rule is summarized in the enumerator's instructions as follows:

In accordance with Census practice, each person is counted as an inhabitant of his usual place of residence or usual place of abode. This residence is ordinarily the place he would name in reply to the question: "Where do you live?" or, the

place he regards as his home. As a rule, it will be the place where the person usually sleeps.

This place is not necessarily the same as his legal residence, his voting residence, or his domicile, although for most persons these will be identical.

Persons who have no usual place of residence are counted as inhabitants of the place in which they happen to be staying at the time of enumeration.

This document may be incorporated by reference in the hearing. It is House Report 2223, Union Calendar 1009, September 14, 1960, report of the Committee on Post Office and Civil Service of the House of Representatives.

There is in addition a rather extensive explanation as to how the apportionment is achieved.

The method and the history of the apportionment contained in this document would be very interesting for those proposing this legislation, and sponsoring, to know these factors.

(The document referred to appears at pages 99-110).

Mr. DUDLEY. I am grateful to Mr. Tenzer for that information.

That is somewhat along the line of our thinking.

Mr. Chairman, I might also add, as chairman of the Democratic central committee, I am grateful for the support of the members of the committee, not only by our fellow Democrats, but the members of the other party.

We appreciate the dedication they are showing in this case for the welfare of the people of the District, and their right to vote.

It really should be as it is, a bipartisan or nonpartisan issue.

Mr. ROGERS of Colorado. Thank you, Mr. Dudley.

We certainly appreciate your testimony.

Our next witness is the chairman of the GOP of the District of Columbia, Mr. Carl Shipley.

Instead of Mr. Shipley, I understand Mr. Sam Biddle is here to represent him.

STATEMENT OF SAM BIDDLE, ON BEHALF OF DISTRICT OF COLUMBIA GOP CHAIRMAN, CARL SHIPLEY

Mr. BIDDLE. Thank you, Mr. Chairman.

Distinguished members of the committee, is it safe for me to speak, after all of that talk?

I hope so.

This is a bipartisan matter, as you can gather, and it has, I assure you, all the support of our party here in the District of Columbia.

I have submitted into the record Mr. Shipley's statement, and with apologies to you, I would like to say that there is one correction that should be read in there.

Rather than "The Citizen's Council," in the third paragraph, there, it should be this committee.

Mr. ROGERS of Colorado. We accept it, and make that change, and we appreciate your patience in staying with us.

(Statement referred to follows:)

STATEMENT OF DISTRICT OF COLUMBIA GOP CHAIRMAN CARL SHIPLEY

Members of this Committee are to be congratulated on their leadership in moving forward with this public hearing in an effort to have Congress take affirmative action on pending proposals to provide residents of the District of Columbia with representation in the Congress of the United States.

On March 7, 1967, Congressman Emanuel Celler of New York, Chairman of the House Judiciary Committee, introduced H.J. Res. 396, which would amend the Federal Constitution to provide the people of the District of Columbia at least one Representative in Congress, and one or more additional Representatives or Senators, or both, up to the number to which the District would be entitled if it were a State.

Earlier this year Congressman Joel Broyhill of Virginia, a long time member of the House District Committee and a member of the House Ways and Means Committee, introduced a similar Joint Resolution on January 31, 1967, just after the 90th Congress assembled. The Broyhill Resolution would provide for residents of the District the same number of Representatives in the House of Representatives as it would have if it were a State, the number to be determined on the basis of the census in the same manner as the number of Representatives of each of the several States is determined. In addition, the Broyhill Resolution would give the District one or two Senators as the Congress might by law provide. We recommend that the Judiciary Committee consider the Broyhill proposal H.J. Res. 235 along with the Celler proposal H.J. Res. 396, in order to develop the broadest possible bi-partisan support in Congress for D.C. voting representation in that body.

On May 9, 1967, D.C. Democratic Chairman Ted Dudley and myself held a joint meeting with Congressman Celler and with the ranking Republican member of the House Judiciary Committee, Congressman William M. McCulloch of Ohio, to discuss early hearings on proposals to provide voting representation in Congress for District residents. Both of these leaders assured us that early hearings would be held, and we are gratified that this hearing has been scheduled so soon.

So far as we have been able to determine, nearly all newspapers and radio and TV stations in the Washington Metropolitan area, along with virtually all citizens and civic organizations, strongly support the idea of voting representation in Congress for the District of Columbia. The Washington Board of Trade, is actively engaged in the program to further such legislation. Apparently there is no significant opposition to the proposals made by Congressman Celler and Congressman Broyhill.

In a statement in the Congressional Record of April 24, 1967, Congressman Celler pointed out that the average Congressional District is composed of 410,000 persons based on population count. He pointed out that the population of the District of Columbia is almost twice that, which fact alone would justify representation in Congress. Indeed, with over 800,000 persons, the District of Columbia has a greater population than Alaska (272,000), Delaware (512,000), Hawaii (718,000), Idaho (694,000), Montana (702,000), Nevada (454,000), New Hampshire (681,000), North Dakota (650,000), South Dakota (682,000), Vermont (405,000), and Wyoming (329,000). Although the District of Columbia has no representative in Congress, each of these States has two United States Senators, and Alaska, Nevada, Delaware, Vermont and Wyoming have in addition one Representative in the House of Representatives, and all of the others have two Representatives in the House of Representatives.

Since the Federal Constitution provides that Congress shall be made up of Representatives and Senators from *States*, and the District of Columbia is not a State, it is necessary to amend the Federal Constitution before Congress can enact the necessary laws giving the District Representation in Congress.

We therefore urge this Committee to take every necessary action to further adoption of a proper Resolution by two-thirds of each House of Congress, so that it may be submitted to the legislatures of the several States, where it must be ratified by three-fourths within seven years to become effective.

Mr. ROGERS of Colorado. Are there any questions from any members?

We are pleased to know that there is at least agreement between two political parties in the District of Columbia.

Thank you so much for coming.

Mr. BIDDLE. Thank you, Mr. Chairman.

Mr. ROGERS of Colorado. Our next witness is Mr. Irving R. Panzer.

Mr. Panzer, you are vice chairman of the Citizens Council of the Government of the District of Columbia.

STATEMENT OF IRVING R. M. PANZER, FIRST VICE CHAIRMAN,
CITIZENS COUNCIL FOR THE DISTRICT OF COLUMBIA

Mr. PANZER. Thank you, Mr. Chairman.

I am going to submit for the record my full statement, and I will just summarize it here.

Mr. ROGERS of Colorado. All right, sir. We will accept it for the record, and you may summarize it.

(Statement referred to follows:)

STATEMENT OF IRVING R. M. PANZER, FIRST VICE CHAIRMAN, CITIZENS COUNCIL
FOR THE DISTRICT OF COLUMBIA

Mr. Chairman, and members of the committee, I am Irving R. M. Panzer, first Vice Chairman of the Citizens Council for the District of Columbia, testifying on behalf of the Citizens Council with respect to H.J. Res. 396 and companion measures, in response to the invitation of this Committee. I wish to express the regrets of our Chairman, Mr. George E. C. Hayes, that he could not be here today, but he is unavoidably detained and has asked me to represent the Council on this matter.

Let me say at once that our Council fully and unanimously endorses and supports H.J. Res. 396 (and the companion measures to the same effect). We urge its speedy passage. Before I state our reasons, however, I think you might like to know what our Council is, and how representative it is of the citizens of the District of Columbia.

The Citizens Council for the District of Columbia is an advisory group to the Commissioners of the District, appointed by the Commissioners themselves. There are, of course, many advisory bodies to the Commissioners, but all the others are specialized, while ours is the top group and the only general advisory group. We have no limitation on subject matter, and thus we may deal with any and all matters pertaining to the citizens of the District.

Our Council is composed of 25 members, broadly representative of the District of Columbia. Indeed, I think I may say that we are in many ways the most representative group of citizens in the District. Of our 25 members, 13 are Negro, 12 are white. We represent all sections of the city—four of our members live in Northeast, four in Southeast, two in Southwest, and fifteen are from widely differing areas in the Northwest section. This proportion is very close to the adult population of these sections, as reported by the D.C. Board of Elections for January, 1964. Our membership includes federal and congressional employees, union officials, representatives of civic organizations, businessmen, attorneys in private practice, and housewives active in community affairs. All of us are of course residents of the District of Columbia.

Before our Council takes a position on a matter, we study it carefully, draft reports, and have full discussion. If the issue seems important enough to warrant holding a hearing at which the citizens of the District come and testify before us, we hold such a hearing—and that is what we did with regard to the matter before you today. We held a public hearing on June 9, 1967 on this very question. Notices of that hearing, and invitations to testify at it, were sent on May 22 to more than 450 organizations and individuals in the District of Columbia. We received twenty-eight requests to submit statements, and twenty-one persons came to testify personally. Some of those who testified represented large groups, and indeed groups of groups. In addition eight others, who did not appear personally, submitted written statements.

The testimony and statements submitted to us covered a wide range, an excellent cross-section, I feel, of the District of Columbia. They ran from conservative to liberal, from labor unions to the Board of Trade, from Democrats to Republicans; they included educators, parent-teacher organizations, the League of Women Voters of D.C., the Bar Association of the District of Columbia, a veterans' group, civic and community associations, and religious groups. I should like to submit, for the record, first a copy of our Notice of Hearing, and second a list of those persons or groups submitting testimony or statements to us.

Summing up the views of all these groups and individuals, I can report to you that with a single insignificant exception not one of them expressed opposition to the proposal of H.J. Res. 396 and its companion measures. On the

contrary, the strongest support was shown from all over the District of Columbia. Based on our hearing, it is our view, and we report it to you here today, that the people of the District of Columbia overwhelmingly desire to be represented in the Congress by Representatives and Senators.

But I am presenting to you today more than a report on our own hearing. What I am presenting to you is the considered view of the Citizens Council itself, based not only upon that hearing but also upon our own opinions as representing all the citizens of the District. And I repeat now what I said at the beginning—the Citizens Council unanimously and enthusiastically endorses and supports H.J. Res. 396 and companion measures which would give the citizens of this District representation in the House of Representatives and in the Senate of the United States. We urge the speedy passage of this bill.

I could go into the detailed reasons for our position, and I could recite the population of the District as compared with the states; I could speak of the taxes we pay, the young men we send to the military services, the fact that we are affected by everything the Congress does without having a representative of the District or indeed any voice at all, and above all, the simple unfairness and injustice of our lack of representation in the Congress. Other witnesses, however, will undoubtedly go into detail on these and other arguments, and I do not want to take up your time in repeating what others will say.

The unique thing that I bring to you is the sincere and unanimous conviction of a body representing all the citizens of this District, that the present situation should and must be changed so that we have representation in the Congress. To this end, the Citizens Council asks the speediest possible passage of H.J. Res. 396.

Mr. PANZER. I am first vice chairman of the Citizens Council of the District of Columbia, and I would like to tell you a word about what the council is.

We are an advisory group to the Commissioners. We are the top advisory group, in that we have a general jurisdiction. There are other specialized advisory groups, but we advise the Commissioners on anything that appears to be in the interest of the District of Columbia.

Now, I think our council is probably the most representative group of any citizens' group that can come before you.

We are composed of 25 members, of whom 13 are Negro and 12 are white, at this time. We represent all sections of the city, and in my statement I have spelled out the "how." It is very close to what the Board of Elections found for 1964, and we have all sorts of people on our committee, on our council. All of us, of course, are residents of the District of Columbia.

Now, before we take a position on something, we study it, have reports, and if necessary hold a hearing, and that is exactly what we did on the very matter before you today.

We held a hearing on this matter. We sent out notices on that, on the bill before you today, to over 450 organizations and individuals in the District of Columbia.

There came to testify before us—and this is a slight correction of my statement—22 individuals, and in addition 10 others submitted written statements. Of those who testified most represented groups, and indeed, some represented groups of groups, like Mr. Davis.

I think this is an excellent cross section of the feelings of the citizens of the District of Columbia, and in my statement I have pointed out that they run from conservative to liberal, from Republicans to Democrats, from labor unions to the board of trade, and so forth.

Summing up the views of all these groups and all these individuals, I want to report to you today on behalf of the citizens council that with a single insignificant exception, nobody expressed opposition to

this bill, and instead, that there is overwhelming support for this bill from the people of the District of Columbia.

They want to be represented in the Congress.

Mr. ROGERS. I want to say we appreciate your making a survey and bringing the results to us.

Mr. PANZER. We thought it was important that this committee know not only from the groups who might ordinarily appear, but as much as possible from the people themselves, and our council really is about the only group outside the Commissioners that can do such a thing.

I want to add one more thing.

I am not merely reporting to this committee on the results of our hearing, but I am also expressing the views of our council, which is supposed to be representative of the people of the District, and our view on the citizens council is unanimously and overwhelmingly in support of this bill.

We urge its speedy passage.

Mr. ROGERS. Thank you.

Any questions?

Mr. PANZER. May I place in the record the notice of our public hearing, and the list of witnesses who appeared before us?

Mr. ROGERS. They may be received for the record.

(The documents referred to follow :)

CITIZENS COUNCIL FOR THE DISTRICT OF COLUMBIA

NOTICE OF PUBLIC HEARING ON DISTRICT OF COLUMBIA REPRESENTATION IN THE CONGRESS

Commencing at 10:00 a.m. on Friday, June 9, 1967, in the Board Room (room 500) of the District Building at 14th and E Streets, N.W., the Citizens Council for the District of Columbia will hold a public hearing on the desirability of an amendment to the United States Constitution providing for the election by the citizens of the District of one or more Representatives and/or Senators to the U.S. Congress.

Particular attention will be given to the Cellar Resolution (H.J. Res. 396) and to similar proposals now pending before the Congress. Copies may be obtained by telephoning the Office of the Secretary at 629-4406.

Individuals and representatives of organizations wishing to be heard are requested to furnish their names, addresses and telephone numbers, and the organization they represent, if any, in writing to the Secretary of the Citizens Council, Room 509, District Building, Washington, D.C., 20004, not later than the close of business on Monday, June 5 so that they may be listed as witnesses. Others may be heard after the witness list is called. Written statements may be submitted for the record.

GEORGE E. C. HAYES, *Chairman*.

PUBLIC HEARING ON DISTRICT OF COLUMBIA REPRESENTATION IN THE CONGRESS

Witness List

1. F. Elwood Davis, Chairman of the Citizens Joint Committee on National Representation.
2. Richard K. Lyon, Chairman, Suffrage Committee, Democratic Central Committee.
3. Carl L. Shipley, Chairman, D.C. Republican Committee.
4. Peter Glickert, D.C. Federation of Civic Associations.
5. David Carliner, President, Washington Home Rule Committee, Inc.
6. John Immer, President, D.C. Federation of Citizens Associations.
7. Don B. Goodloe, Legislative Representative of the Washington Teachers' Union.

8. Mrs. Bernard H. Udel, Chairman, Committee on Self-Government & Representation, League of Women Voters of the District of Columbia.

9. George W. Apperson, Greater Washington Central Labor Council, AFL-CIO.

10. Mrs. Arthur Strout, Washington Chapter, Americans for Democratic Action.

11. Mrs. Mayo R. DuBasky, Area 4B Council, D.C. Congress of Parents and Teachers.

12. Eldridge V. Parks, Home Rule Chairman, Young Democrats of the District of Columbia.

13. Frank Wilner, Public Interest Civic Assn.

14. Mrs. Vardell C. Nesbitt, President, D.C. Democratic Women's Club.

15. Elizabeth D. Griffith, Executive Secretary, D.C. Education Association.

16. Frank E. G. Weil, Chairman, American Veterans Committee, DC Chapter No. 1.

17. Leonard Lupo, Mt. Pleasant Neighbors Association.

18. John N. Thurber, Legislative Chairman, Whittier (Elementary School) PTA.

19. John Patler, White Power Committee.

20. Elizabeth D. Griffith, National Education Association, Division of Federal Relations.

21. Rev. Patsy L. Allen, Pastor, First National Southeast Baptist Church.

22. Mrs. Leon Gerber, Vice President of the Washington D.C. Section of the National Council of Jewish Women.

Written statements for the record were received from the following:

1. D.C. Republican Committee.
2. Friends Meeting of Washington.
3. Chevy Chase Citizens Association.
4. Justruhon, Inc.
5. Gateway Community Association.
6. Bancroft Parent-Teacher Association.
7. Committee for Forward Looking Republicans.
8. Washington Urban League.

The following statements were received for the record after the hearing:

1. Personal statement from William A. Albaugh.
2. Statement from the Fort Chaplin Park Tenants Assn.
3. Statement from the Board of Trade.

Mr. ROGERS of Colorado. Our next witness is Mr. F. Howard McGuigan.

Do you have a statement that we can submit for the record?

STATEMENT OF F. HOWARD McGUIGAN, LEGISLATIVE REPRESENTATIVE, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

Mr. McGUIGAN. The statement is very brief, Mr. Chairman.

I would only like to state that as a personal matter, having long been a resident of this area, and associated with the area labor movement, we, too, have cooperated with Mr. Davis' organization over the years in trying to bring national representation to the citizens of the District of Columbia.

The national AFL-CIO has long taken a policy position on this matter, and we are very hopeful that this Congress will at long last enact legislation to enable the people to enjoy representation in the Congress of the United States.

We are grateful to you for moving in this direction.

Mr. ROGERS of Colorado. Thank you very much for your statement, and for the expression of the AFL-CIO.

Any questions by the members?

If not, we will again say thank you, and your statement will be received.

(Statement referred to follows:)

STATEMENT BY F. HOWARD MCGUIGAN, LEGISLATIVE REPRESENTATIVE, AMERICAN
FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

Mr. Chairman, my name is F. Howard McGuigan. I am a Legislative Representative for the AFL-CIO and I am here to express the support of the AFL-CIO for the legislation before you. H.J. Res. 396, a proposed amendment to the Constitution of the United States would permit the people of the District of Columbia to elect at least one Representative to serve in the Congress of the United States.

As you know, the people of the District of Columbia now have an opportunity to vote every four years in the national election for President and Vice President. Unfortunately, they still have no vote, no voice in their local government and they have no elected representative to speak up for them in the halls of the United States Congress.

The AFL-CIO has a long record of interest in "full suffrage for District of Columbia," and we are delighted to see the strong bipartisan support for congressional representation which has appeared in the House of Representatives. An impressive number of Congressmen from both sides of the aisle have sponsored resolutions similar to H.J. Res. 396. All of these sponsors deserve appreciation and commendation from the people of the District of Columbia.

It is highly significant that you find strong and united support in the District of Columbia for the proposed constitutional amendment on congressional representation. Clearly the people of the District of Columbia want to participate in the process of government of the United States.

Certainly they are justified in this desire. Here in this city whose population exceeds 800,000 people, citizens are deprived of one of the basic rights of citizenship, the right to elect representatives who share the responsibilities of government. These citizens are subject to the responsibility of paying their taxes to the federal government. Certainly they are entitled to the privilege of voting for a representative who will participate in setting taxes and passing laws under which our national government operates.

Let me remind you also of the basic inequity in a congressional representation system which entitles six states with less population than the District of Columbia to have two Congressmen each and which entitles five states with less population than the District of Columbia to have one Representative in the United States Congress.

Mr. Chairman, I appreciate this opportunity to express the support of the AFL-CIO for H.J. Res. 396. We hope this proposal will have your Committee's prompt approval.

Mr. ROGERS of Colorado. We call the next witness, Mr. John R. Immer.

STATEMENT OF JOHN R. IMMER, PRESIDENT, FEDERATION OF
CITIZENS ASSOCIATIONS OF THE DISTRICT OF COLUMBIA

Mr. IMMER. I am John R. Immer, president of the Federation of Citizens Associations of the District of Columbia.

We appreciate the opportunity of appearing before this committee this morning.

Although our statement is quite brief, we would be quite pleased to have it submitted for the record.

(Statement referred to follows:)

STATEMENT OF JOHN R. IMMER, PRESIDENT, FEDERATION OF CITIZENS ASSOCIATIONS
OF THE DISTRICT OF COLUMBIA

I am John R. Immer. I live at 1638 19th St., N.W., Washington, D.C., and I have just recently been reelected as President of the 57-year-old Federation of Citizens Associations of the District of Columbia which has 20,000 members

organized into 38 chapters throughout the city. We have members from both major racial groups in the District and all our members live in the District.

Our Federation has long had a policy of supporting national representation for our District of Columbia and is pleased that other groups in the city are finally getting behind this worthwhile objective.

Our Federation is dedicated to a greater participation by the citizens in the local government and much of our opposition to recent so-called Home Rule proposals has been based on the belief that these proposals would decrease the amount of citizen participation in our local government and lead to the creation of a political machine and graft and corruption at the local level. I would like to point out to this committee that the District has not had the riots that a number of other large cities have had and that you hear no rumor of graft or corruption in our local government. Surely, if any people in the United States are qualified to have representation in the halls of Congress it is the citizens of the District of Columbia.

Our dedication to the participation of citizens in local government is also the reason why we oppose the Reorganization Plan which would place complete power of the District in the White House with no protection for the employees of the District from the threat of a political spoils system. We do not want this for the nation's capital.

The objective of greater participation of District citizens in the governmental processes relating to the District can be accomplished best, we believe, by having our representatives in Congress and thereby having a greater influence upon the decisions that are made by Congress relative to the District. We recognize the responsibility of the District as the home of Congress and are pleased that our laws and our budgets are deliberated upon and passed by legislators of the quality and experience of Members of the United States Congress. We now hope to be able to contribute our own representatives to this body.

Mr. IMMER. I would simply like to point out that our organization represents about 20,000 dues-paying members of the District of Columbia, and I would also like to counteract a statement made to you by one of our predecessors here, and deny the statement that the Citizens Advisory Council of the District of Columbia speaks for the citizens of the District.

It definitely does not. It is a highly partisan group which has been formed by a clique within the White House, and does not have any standing in speaking for the citizens of the District.

We feel that the two federations having monthly meetings are the two organizations qualified to speak from that position.

Mr. ROGERS of Colorado. Nevertheless, you are in favor of representation of the District of Columbia in the Congress.

Mr. IMMER. Yes, sir.

In fact, our main point here is that our federation has had this position for a good many years, and we are most pleased to see that finally these other organizations are coming around to the realization that this is the real answer to our problems in the District, and the real answer to getting a greater representation and greater voice in the decisions that are made relative to the District.

Mr. TENZER. Let us hope that you will work together with the other committee, and perhaps learn to agree or disagree agreeably.

Mr. JACOBS. Mr. Chairman, I am moved to quote one of the criminal court judges of my jurisdiction in the earlier part of the century.

His name was Baker, and he said, "I am against any damned organization I am not a part of."

Mr. IMMER. I think we have grounds for our statement, in this instance, sir.

Mr. ROGERS of Colorado. Thank you.

We have one remaining witness, Mr. Richard W. Nathan, chairman of the Legislative Committee of the National Capital Area Civil Liberties Union.

STATEMENT OF RICHARD W. NATHAN, CHAIRMAN, LEGISLATIVE COMMITTEE, NATIONAL CAPITAL AREA CIVIL LIBERTIES UNION

Mr. NATHAN. Mr. Chairman and members of the Committee, my name is Richard W. Nathan. I am chairman of the Legislative Committee of the National Capital Area Civil Liberties Union which is the local affiliate of the American Civil Liberties Union.

I am grateful for the opportunity to appear before the committee today to present the views of the NCACLU on House Joint Resolution 396, a bill of major significance to citizens of the District of Columbia.

Within 7 miles of where we sit today live more than 800,000 American citizens. Last year these citizens—and local business establishments—contributed more than \$287 million in taxes to the Federal Treasury. Yet they have no representative among you. In the last national election, these citizens were entitled to cast their ballots for President and Vice President. Yet they still may not vote for Representatives of their choice to the Congress. The founders of our country declared nearly 200 years ago that governments derive their powers from the consent of the governed. They declared that taxation without representation is unjust and intolerable. Yet these conditions exist today at the very seat of the government they founded.

The citizens of the District of Columbia, whose rights are otherwise indistinguishable from those of all other American citizens, should have the right to elect their own representatives to the Congress of the United States. The resolution under consideration by this committee today proposes an amendment to the Constitution to grant that right. The National Capital Area Civil Liberties Union wholeheartedly supports the resolution. The NCACLU would further support legislation providing for an elected nonvoting delegate to the House of Representatives in the interim period before necessary ratification of the proposed amendment by three-fourths of the States.

Many arguments have been advanced in opposition to elected representation of the District in Congress. All would appear to disregard the fundamental democratic principle on which our society is based, but some, nevertheless, deserve further consideration.

It is said that the Congress has two committees whose sole concern is the District of Columbia. What greater protection of their interests could District citizens want? This objection implies that citizens of the District—who are also citizens of the United States—have no interest in affairs of their country but only those of the District of Columbia. With respect to District affairs, it ignores the fact that the congressional district committees are hardly representative of the people for whom they legislate. Of the 25 members of the House District Committee, for example, only three come from States within 200 miles of the District and several come from areas with problems and concerns far different from those of a great urban center like Washington.

It is said that the special status of the District is the outgrowth of careful deliberations by members of the Constitutional Convention and should not be disturbed. There is considerable evidence, however, that this special status is rather the result of simple oversight. The city of Washington, it must be remembered, hardly existed at the time of the Constitutional Convention although James Madison, one of the members of the Convention, expressed his wish in Federalist Paper No. 43 that the prospective inhabitants of the seat of the National Government "have their voice in the election of the government which is to exercise authority over them." Thomas Jefferson, incidentally, another member of the Convention, had this to say:

Laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times * * *.

Residents of the District of Columbia have a particular interest in seeking to elect their Representatives to the Congress. The Congress, for District residents, is not only the national legislature, but the State legislature and the city council, too. Perhaps it was this factor which some 36 State legislatures recognized a few years ago when they ratified the 23d amendment in little more than 9 months—more quickly than any other amendment save one.

Clearly an elected representative could most effectively make known to the Congress the views of his constituents on the full range of local, national, and international issues before it. Clearly he could most effectively deal with the range of legitimate grievances his constituents may have with Federal departments and agencies.

Fundamentally, however, the NCACLU supports this resolution because it accords to well over three-quarters of a million American citizens the right of self-government—a right which is basic to the political philosophy of our Nation and one considered inalienable since its founding.

Thank you.

Mr. ROGERS of Colorado. Thank you.

I will offer for the record the statement of the Honorable Jack McDonald, of Michigan, and a statement of Neighbors, Inc., of the District of Columbia, together with a letter addressed to the chairman of the committee from the District of Columbia Education Association. (Documents referred to follow:)

STATEMENT OF HON. JACK McDONALD, U.S. REPRESENTATIVE FROM THE STATE OF MICHIGAN

Mr. Chairman, on June 28th of this year, I joined with twenty-three of my freshman Republican colleagues in proposing an amendment to the Constitution which would provide citizens of the District of Columbia with voting representation in Congress. By the time-honored amendment process spelled out in Article V of the U.S. Constitution, we seek to correct the anomaly of a voteless community in a Nation where an effective ballot and access to a responsive representative are recognized as fundamental political rights.

This year, Mr. Chairman, marks the 165th anniversary of Washington's incorporation as the District of Columbia. Yet only during the four-year span from 1871 to 1875, when Norton P. Chipman served as a non-voting Delegate to Congress from the District, have the people of this Federal City enjoyed even the barest pretense of viable representation. My feelings today, and those of many of my colleagues in Congress, approach the frustration felt nearly one hundred years ago by Delegate Chipman when he stood on the floor of the House and said: "I am weary of this contest year after year to obtain simple justice for

the District of Columbia." And that is all that H.J. Res. 687 seeks—the simple justice of voting representation for the 810,000 American citizens estimated to live within the nearly seventy square mile expanse of Washington, D.C.

There are eleven states with fewer citizens than the District of Columbia. Five of those states have one Representative each in the House, and six of them send two Representatives each to the House. Under the apportionment of Congress based on the 1960 census, the population size of the District would entitle it to two Representatives in Congress if it were a State. As is all too obvious, Washington representatives in Congress total zero.

Some who oppose this measure point to the fact that the District of Columbia is not, after all, a State and somehow may be deprived of representation on the basis of this legal distinction. The distinction is indeed valid, but it is irrelevant since Members of the House represent people, and not States. Our concern is not that a State or even a Federal district is unrepresented, but that 810,000 American citizens are unrepresented. It is this that my colleagues and I deplore, and it is this that we seek to correct.

To allay any unnecessary apprehension, allow me to reiterate here that the sole purpose of H.J. Res. 687 is to give Washingtonians a representative of their own choosing to speak and to vote on their behalf in the National Legislature. This measure would not make the District of Columbia a State, nor would it grant to the District the sovereign powers of a state, nor would it constitute a foundation for statehood.

Although the Constitution makes no mention of District suffrage, it is incongruous to think that the men at Philadelphia in 1787 had any intention of excluding District residents from the mainstream of political experience afforded all other Americans. Today Washington is the seat of government for the world's leading democracy; it is the eighth largest city by population in the United States; in many instances it is the national showcase—for some visitors, it is the only point of contact with the United States. It seems even more incongruous today, then, that citizens at the seat of government should be denied voting representation in Congress—the basic element of American democracy.

The cry of the American Revolution, "No taxation without representation," might well be applied here. It is reported that the residents of the District of Columbia average close to \$3,400 per year in personal income. Needless to say, their Federal income tax bill is substantial, yet they are unrepresented when Congressional decisions are made on levying those taxes or on spending the tax revenues. As Mr. Celler, the distinguished Chairman of this Committee and long a courageous proponent of D.C. representation in Congress, has recently pointed out: "For too long a period, the District has stood in splendid isolation—isolated from Congress. But it is not isolated from the needs and aspirations of all districts."

Indeed, it might be argued that the District of Columbia stands in greater need of viable Congressional representation than do other districts. The Congress serves as city council for Washington and exercises ultimate authority over the city's affairs. With no Representatives in Congress, the "needs and aspirations" that Chairman Celler spoke of are denied authoritative articulation from an indigenous source. The residents of the city are thus subject to a government that they cannot control. The unhappy result was well phrased by Delegate Chipman as far back as 1874: "I weary of the abject dependence of this community and the position of obsequiousness which their agent must submit lest he offend some congressional propriety or step upon some congressional toe."

Clearly, the people of the District need a voice that they can call their own—one who can introduce legislation, serve on committees, engage in floor debate, and cast votes. Only through a District Representative in Congress can Congressional legislation for the District begin to reflect more accurately the "needs and aspirations" of 810,000 Americans. I strongly support a constitutional amendment to provide for that representative.

STATEMENT OF NEIGHBORS, INC.

Mr. Chairman, members of the committee, my name is Edward S. Hollander. I am Executive Director of Neighbors, Incorporated. Neighbors is a non-profit association of residents in four neighborhoods in the District of Columbia—Brightwood, Manor Park, Shepherd Park and Takoma. More than 40,000 persons of different races, religions, cultural backgrounds, and national origins live in these neighborhoods. The purpose of our organization is to maintain stable, integrated neighborhoods and to maintain the attractive residential quality of our area.

Neighbors is happy to appear at this hearing in support of House Joint Resolution 396 introduced by the distinguished Chairman of this committee. We note that in introducing the resolution Chairman Celler observed that the first proposal to give representation to the District was introduced in 1877. We agree with him that the citizens of the District of Columbia have waited long enough for such representation to become a reality.

It is no doubt true that the Founding Fathers in moving the Nation's Capitol from New York City to Washington envisioned the District as the seat of the Federal Government primarily inhabited by citizens devoted to conducting and coordinating the affairs of the new nation, and as such inhabited largely by a transient population whose roots and community interest lay elsewhere. Indeed, at that time the National power of the Federal Government was in an embryonic state and the Federal Government did not exercise the predominant role in the Nation's governmental affairs—National, State and Local—which it was later to attain, a role which affects the daily lives of each and every citizen of the Nation, including all the citizens of the District.

But the conditions existing at the time the District of Columbia came into existence have changed. Today the District has a population in excess of 750,000—larger than some States. Today, the District is indeed a megalopolis. In fact, because of its unique geographic location it is the focal point of a megalopolis composed of some of the fastest growing and more affluent counties in the Nation. It is also the Southern terminus of an urban area of development which extends northward to Boston. It is in this setting of a growing dynamic city that the urgent need for direct representation for the citizens of the District must be approached.

Clearly, the changes wrought in the District over the years—quite apart from the fact that the deprivation of direct representation to the citizens of the District is clearly a contradiction of both the spirit and promise of the Constitution—require that whatever Constitutional impediments which may bar direct representation for the District's citizens should be removed through the process provided for in the Constitution. We believe that House Joint Resolution 396 accomplishes that objective in accordance with the express terms of the Constitution and that it is consistent with the promise and spirit of the Constitution which through the years has been amended to broaden the suffrage by constant extension of the franchise to previously excluded groups and providing for the direct representation of more and more citizens. This has been accomplished through the granting of Statehood to territories beginning with the State of Vermont, in 1791. In addition, the Fifteenth Amendment extended suffrage to the freed slaves; the Seventeenth Amendment provided for popular election of Senators; the Nineteenth Amendment extended suffrage to women; the Twenty-third Amendment gave the citizens of the District of Columbia the right to vote in National elections for President and Vice-President; and, more recently the Twenty-fourth Amendment abolished the poll tax.

In the grant of Statehood to the territories and in the enactment of each of the aforesaid Constitutional amendments, there has been a continuous increase in making available the full franchise to all citizens of the United States. This we know was not accomplished without opposition, sometimes vehemently bitter opposition. But today any opposition to this Resolution would appear to be frivolous. Just as the citizens who were fully enfranchised by these past actions have responded responsibly to the new duties and responsibilities their full citizenship required, so it will be with the citizens of the District of Columbia. They are no less responsible than the citizens of any State. They are no less concerned with the problems of the Republic—both national and international—than the citizens of the States. They are no less concerned with the local problems of their community than the citizens of any state or locality. They are no less taxed than the citizens of the States, and they are no less concerned about their duty and responsibility to provide the taxes necessary to support all of the activities which a modern municipality must have to thrive and grow. And finally, the obligations of Federal law falls equally upon them in all respects, including the duty to defend their country at the risk of their lives.

These, Gentlemen, are but a few of the very cogent considerations which underlie our support of the proposed Amendment. They are, we believe, fundamental arguments in support of the Amendment. We further believe that they are consistent with common decency, the spirit of liberty embodied in the Constitution, and they are fundamentals on which all men of good will can agree and around which they can proudly rally.

We have tried to limit our statement to fundamentals and avoid becoming embroiled in petty superficial arguments which generate much heat but little light and which are totally inconsistent with the beliefs of a majority of the people of the United States. We can conceive of no rational argument for prohibiting the people of the United States from having the right and opportunity to amend the Constitution in the manner proposed by the Amendment. We believe that the people of the United States are in enlightened electorate and will agree with us that the citizens of the District of Columbia are entitled to all the benefits of the Constitution, including the first-class citizenship which direct participation through their own chosen representative will provide. This can be accomplished only through the proposed Amendment which we fully endorse and which we call upon all members of the Congress to actively support.

We thank you for your invitation permitting us to present this statement.

DISTRICT OF COLUMBIA EDUCATION ASSOCIATION,
Washington, D.C., July 19, 1967.

JUDICIARY COMMITTEE,
House of Representatives,
Washington, D.C.

GENTLEMEN: The District of Columbia Education Association strongly supports the House Joint Resolution 396 introduced on March 7, 1967, to amend the Constitution of the United States to provide for representation of the District of Columbia in Congress.

The association is deeply interested in legislation which will bring to the more than 763,966 District citizens in the right to be first class citizens of our city and nation. We desire to have a voice and to take responsible action in local self-government and, like citizens in the fifty states, in our national government.

The people of the District have demonstrated that they can be responsible citizens when they responded to the opportunity of voting for the President and Vice President in the election of 1964.

The members of the District of Columbia Education Association took an active part in that election by setting an example through marching in a group to the District Building to register for voting, by working in the precincts, by calling in the official vote from each voting place to the central office in the District Building, and by encouraging citizens of voting age to register and vote.

The DCEA has testified before committees of Congress on home rule. On May 16, 1966, the association adopted a resolution on home rule and successfully obtained the passage of a home rule resolution at the 1966 National Education Association Convention in Miami, Florida. This resolution also was passed by the 1967 NEA Convention in Minneapolis, Minnesota. (see attachment)

The DCEA passed a resolution at its Delegate Assembly which accepted in good faith the President's Reorganization Plan as one step in the right direction to achieve self-government for the District of Columbia.

Copies of the House Joint Resolution 396 were taken by the DCEA Delegates to the NEA Convention in Minneapolis.

We discussed favorably the merits of this resolution with the many educators who visited the DCEA booth in the Exhibit Hall. We heard only favorable comments from these friends who visited us from all over our country.

We urge, therefore, that appropriate action be taken by this committee and the 90th Congress on the House Joint Resolution 396 to provide "at least one Representative in Congress and, as may be provided by law, one or more additional Representatives or Senators, or both, up to the number to which the District would be entitled if it were a state." This is an important step for the benefit of D.C. citizens.

In brief, the association favors action by the Congress which will bring self-government to the citizens of the nation's capital without relinquishing the responsibility by the Congress to legislate and exercise proper control over this Federal city. Washington belongs to all American citizens, but the citizens of the District of Columbia strongly desire to share in the responsibilities exercised by good and responsible citizens.

The District of Columbia Education Association pledges its full support to those efforts by citizens, both here and throughout the country, by the Congress, and by the President to achieve responsible self-government in the District of Columbia.

Respectfully submitted.

ELIZABETH D. GRIFFITH, *Executive Secretary*.

ATTACHMENT 1

66.27. Home Rule for the District of Columbia.¹

In order to safeguard the rights of the citizens of the District of Columbia and to enable them better to discharge their obligations for the education of their children, the National Education Association supports home rule for the District of Columbia.²

Mr. ROGERS of Colorado. The committee will adjourn, to reconvene at 10 a.m., Wednesday, July 26.

(Whereupon, at 12:17 p.m., the committee adjourned, to reconvene at 10 a.m., Wednesday, July 26, 1967.)

¹ From resolutions adopted at Miami Beach, Florida, 1966 National Education Association Convention.

² Same resolution adopted at Minneapolis, Minnesota, 1967 National Education Association Convention.

PROPOSED CONSTITUTIONAL AMENDMENTS FOR CONGRESSIONAL REPRESENTATION OF THE DISTRICT OF COLUMBIA

WEDNESDAY, JULY 26, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met at 10 a.m., pursuant to adjournment, in room 2141, Rayburn House Office Building, Hon. Emanuel Celler (chairman) presiding.

Present: Representative Celler, Feighan, Rogers, Donohue, Kastenmeier, Corman, Hungate, Tenzer, Jacobs, McCulloch, MacGregor and Poff.

Present also: Benjamin L. Zelenko, counsel, and John W. Dean III, associate counsel.

The CHAIRMAN. The committee will come to order.

Our witness this morning is the distinguished Attorney General of the United States, the Honorable Mr. Ramsey Clark.

Before we begin, Mr. Clark, I understand there is also present Mrs. Donald Clusen of Green Bay, Wis., a Director of the League of Women Voters of the United States, accompanied by Mrs. L. Noble Robinson, third vice president, League of Women Voters of the District of Columbia.

The statement by Mrs. Clusen will be accepted for the record, and the one by Mrs. Robinson will likewise be accepted for the record.

(Statements referred to follow:)

STATEMENT OF MRS. DONALD E. CLUSEN, DIRECTOR, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

I am Mrs. Donald E. Clusen of Green Bay, Wisconsin, an elected Director of the League of Women Voters of the United States and Chairman of the committee responsible for League work for self-government and representation in Congress for the District of Columbia. The League of Women Voters of the United States has 146,000 members in the 50 states, the District of Columbia, and Puerto Rico, and is a volunteer citizens' organization working in the field of government on local, state, and national issues.

It is a matter of great concern to use that a basic right, related to the principle of representation for taxpayers, one of the foundations of American democracy, has not yet been granted to citizens in the nation's capital. To us in the League, this right, representation in Congress, now denied to District residents, has been a goal toward which we have worked since the year that the women of the United States were granted the right to vote. Over the years at every national Convention of the League, members have reaffirmed their belief in representation in Congress—and self government—for citizens of the District of Columbia.

H.J.R. 396 and several identical resolutions, which provide for a constitutional amendment to guarantee for the district one representative in the House of Representatives and such other representation in Congress as Congress may provide, up to the number to which the District would be entitled if it were a state,

offer the Congress and all U.S. citizens the opportunity to rectify one of these wrongs. We are glad to see this measure before this committee and the Congress, not as an alternative to self-government, but in a form in which it can be debated on its own merits.

The case for voting representation in Congress needs no detailed defense. It is an inherent right of American citizens, and in purely practical terms, an even more precious right in the District than in other normal areas; for, whatever the form of local government in Washington, Congress retains ultimate authority over the city. From a pragmatic point of view, D.C. representation could be vastly helpful to Congress in discharging its responsibility. From the viewpoint of local citizens, such a direct voice in Congress would be a meaningful form of suffrage.

The District of Columbia is the only part of the United States in which citizens have no representation of any sort in Congress. With a population of 800,000 (more people than in any one of 11 states), a per capita income of \$3,544 (higher than that in any state), the present situation is impossible to defend to the nation—or the world. District residents pay their full share toward the federal budget. They serve in the armed forces, and meet all the obligations of citizens, but are not represented in any way in the Congress which governs them.

Congressional representation, in addition to providing a basic right to D.C. citizens, would fill the present vacuum with at least one elected spokesman for District needs, sources of information for other Congressmen, and outlets for D.C. residents, who have no one to see, responsive to their votes, in their search for solutions to local problems, or to represent their views on national and international matters.

Should this session of the 90th Congress submit this amendment for ratification by the states, League members throughout the country will work with enthusiasm and conviction to secure passage and ratification. Because H.J.R. 396 would right a grievous wrong, is long overdue, is practical and realistic, the League of Women Voters of the United States urgently requests this committee to recommend its immediate passage.

As the nation's showplace, Washington ought to be a showplace for what it is—the capital city of a great representative government. The nation's capital should display the successful solution of local problems through the cooperation of citizens with their elected officials. You, gentlemen, can take an effective step in realizing this goal by affirmative action on this measure. Thank you for allowing us to present our views.

STATEMENT OF MRS. L. NOBLE ROBINSON, MEMBER OF THE BOARD, LEAGUE OF WOMEN VOTERS OF THE DISTRICT OF COLUMBIA

The League of Women Voters of the District of Columbia, which now has over 800 members, for nearly 50 years has been working toward various forms of franchise for the citizens of our city. We have studied the different proposals which have been considered over the years. We have endeavored to further public understanding and support for D.C. representation in Congress. At every opportunity we have testified before committees of Congress. Nothing is more central to the entire purpose of the League than the matter of informed and active participation of citizens in government.

With ratification of the 23rd Amendment, citizens of Washington were able to take part in the national electoral process in 1964. The record shows that we responded enthusiastically. But we still do not enjoy the full rights of citizenship. We are still governed by a Congress in which we are not represented. Not only is our local government controlled by decisions of Congress, but as citizens of the United States we have no one in Congress to represent us in the consideration of national and international questions about which we are just as concerned as are the people in the rest of the country.

The Congress itself would derive benefits from a District representative. The citizens of the District know that we have many friends in Congress who are very helpful in many cases. However, their first responsibility is to their own constituents and we cannot believe that they enjoy adding District problems to their own heavy workloads.

At the present time the Congress, when dealing with District affairs, must depend on many sources of information. There is duplication, confusion and time wasted. It is difficult to evaluate the information and almost impossible to

discover what the will of the people really is. An elected Congressman from the District could channel information through his office and, since he would be elected by the citizens of the District, it could be assumed that he represented their will.

We in the D.C. League of Women Voters have watched new members of Congress come on the District Committees and gradually over the years become more and more knowledgeable about the affairs of the District. That this might take some time is understandable since members of the District Committees have many other duties and cannot be expected to devote all their time to mastering the complexities of the City of Washington. This is even more true in the case of the other committees of Congress which occasionally must deal with District affairs. A representative from the District, well informed and aware of underlying problems, should be of great assistance.

For the citizens of Washington, the opportunity to go to the polls every two years would be beneficial. It would force examination of issues preceding the election which citizens need to clarify their views. As both a right and an opportunity, the exercise of this vote would be appreciated by the citizens of the District of Columbia.

In a nation which founds its political system on the concept of the consent of the governed, it is wrong to deny representation in the national legislature to the more than 800,000 who live in the District of Columbia. The great question of our time is whether a free and open society such as ours can successfully meet the challenge of a system in which the rights of individuals are disregarded. By granting to all of our citizens a full measure of rightful franchise, we can strengthen the fabric of our own society.

We, of the District of Columbia League, join the other Leagues over the country in support of H.J. Res. 396 and the other resolutions before you which guarantee to the District of Columbia at least one representative in Congress.

The CHAIRMAN. Mr. Clark, we will be very happy to hear from you.

STATEMENT OF HON. RAMSEY CLARK, ATTORNEY GENERAL OF THE UNITED STATES

MR. CLARK. Thank you very much, Mr. Chairman.

Members of the committee, I have a brief statement prepared here, which I can read quickly.

What perfect irony that our great democracy denies representation in the Congress to citizens resident in its Capital City.

This right to vote, to be represented, is the last we should ever refuse, because it can protect all of the others.

Washington, D.C., with 800,000 people—more populous than any State when the Republic was founded, and larger than 11 States today—is governed without a voice in its Government and taxed without representation.

House Joint Resolution 396 would rectify this ancient wrong.

The District is a vital city, with major commerce and industry. Most of its citizens live, as do people in any other city, without any closer proximity to government than geography. The 1960 census showed that 63 percent of the working District of Columbia residents were in nongovernment jobs.

District residents carry all the burdens of citizenship. They should share its rights.

Figures for fiscal 1965 show that only 12 States exceeded the District in per capita tax revenue. The number of civilian residents who have served their country in the military is greater than the veteran population of 11 States. District residents have all the needs and interests and problems of their fellow citizens in the States.

There can be no justification for relegating their interests in Congress to the care of those, from States near and far, who may be willing to plead their cause. Even if their needs are generously met, this is not the proper estate for citizens of a democracy.

A national consensus that the District is entitled to full partnership in our Government was reflected by rapid adoption of the 23d amendment in 1961. House Joint Resolution 396 would complete the course then initiated.

House Joint Resolution 396 would assure the people of the District one voting Member of the House of Representatives. Congress would have authority to extend that representation in either or both Houses of the Congress; up to the representation to which the District would be entitled if it were a State.

The CHAIRMAN. May I ask a question there?

That means that the District would have one Representative, and if the population increases in such amount that it would be entitled to two, as other States would have, then the additional Representative would be granted by law—by subsequent act of Congress. Is that correct?

Mr. CLARK. That is correct.

This amendment would assure the people of the District of Columbia one vote in the House of Representatives. It would empower the Congress to give them such other representation in the Congress, House and Senate, as equality with the States themselves would justify.

The CHAIRMAN. The power to give and the power to take away—would Congress then have the right, after giving an additional seat in the House, at some subsequent time, to take away that seat, by law?

Mr. CLARK. Congress would have the power to take away such representation as it may have conferred over and above the one Representative in the House of Representatives. The latter, however, it could not take away.

The CHAIRMAN. What is your opinion on that?

Mr. CLARK. My opinion is that under the circumstances this is the most intelligent way to address the problem at this time. It must be expected that the Congress will act wisely and justly in the sense of fair representation. It can address itself to the many little problems legal and factual, that distinguish this Capital City from a State. It can thus provide a more equitable representation than by including specific provisions in the Constitution similar to those applicable to the States.

The CHAIRMAN. Thank you.

You may proceed.

Mr. CLARK. The resolution would confer on the Congress the power to enforce the article by appropriate legislation. Such legislation would cover the qualifications of voters and of Representatives and Senators to be elected from the District, the time, manner, and place of holding elections, the manner in which vacancies are to be filled, and the rights, privileges, and immunities of the Representatives and Senators elected from the District.

On adoption, Congress would make appropriate adjustments in related laws.

For example, it would determine whether the membership of the House should be increased permanently by the number of Representatives to be elected from the District of Columbia.

It might decide, as was done on the occasion of the admissions of Alaska and Hawaii, that such increase would be temporary and the membership of Congress restored, after the next decennial census, to the normal statutory figure of 435, the level which has been on the books since 1913.

The article would have no effect on the provision in the 23d amendment for determining the number of electors for President and Vice President to be appointed for the District.

Other resolutions before the committee also recognize the District's need for congressional representation. Under one of these proposals the District would be given as much representation as it would have as a State.

This is the theoretical ideal, but its prospect for adoption is less than that of House Joint Resolution 396.

Limiting the District to one Representative would be an unnecessarily rigid and small step forward. Merely to grant Congressional authority to provide representation would create a solemn amendment to the Constitution having absolutely no effect in itself.

The administration supports the minimum representation and subsequent flexibility offered by House Joint Resolution 396.

In proposing this resolution, the administration continues to support pending proposals to provide the District with a nonvoting delegate in the House. A delegate now, as an interim measure, would provide the District an opportunity to be heard in the Congress pending ratification of the constitutional amendment.

However, that legislation is no substitute for House Joint Resolutions 396, for true democratic representation presupposes the power to participate in decisions, not merely in deliberations.

Only a constitutional amendment can eliminate the anomaly of denying citizens residing in the National Capital representation in the National Legislature. By this means we must act now to eliminate this major flaw in our democratic form of government.

The CHAIRMAN. Mr. Attorney General, article I, section 2, of the Constitution specifies the qualifications of a Representative: he must be 25 years of age, a citizen, and an inhabitant of the State from which he was elected.

Under the provisions of my proposal and some of the other proposals, what would be the qualifications of a Representative from the District of Columbia?

Mr. CLARK. They would be the qualifications set by the Congress.

The CHAIRMAN. Would Congress have to adopt a statute in that regard?

Mr. CLARK. That would be the theory of this resolution, Mr. Chairman.

The CHAIRMAN. Again, article I, section 6, of the Constitution, talks of privilege from arrest, eligibility for compensation, privilege for any speech or debate, and so forth. Under the provisions of the resolutions mentioned this morning, to what privileges would a Representative from the District be entitled?

Would Congress have to provide specifically by a subsequent statute that the Representative from the District of Columbia would be endowed with the same privileges and rights that other Representatives possess?

Mr. CLARK. Generally, when the Constitution, in describing the qualities of Senators and Representatives, refers to Senators and Representatives as being from States, then the Congress in its wisdom would have to enact appropriate legislation with respect to the Senators or Representatives from the District of Columbia.

When the Constitution merely refers generally to Senators and Representatives, as is the case in section 6, without reference to Senators and Representatives from the State——

The CHAIRMAN. Would it do any harm to provide this in the amendment itself?

For example, under that arrangement you speak of, it is conceivable that Congress could provide by statute that a Representative from the District of Columbia would have to be a minimum of 35 years of age, instead of 25.

Congress could do it. I don't say it would. But when you are amending the Constitution, you have to foresee every possible contingency.

Mr. CLARK. Anything that the Congress might choose, and the States might ratify, relating to the qualifications of Senators and Representatives can be put in the amendment.

Generally we would feel that it is best to leave those matters to legislation. Where the Constitution in its present provisions does not refer to Representatives and Senators from the States, I should think the legislation would simply make applicable the constitutional provisions to the District's legislation.

The CHAIRMAN. I see.

Well, now, let's consider another point here.

Under the 12th amendment, the House of Representatives under certain circumstances may be called upon to choose a President. The 12th amendment provides: "the votes shall be taken by states, the representation from each State having one vote."

Under the provisions of my resolution, House Joint Resolution 396, could the Representative from the District of Columbia cast a vote under the 12th amendment in such circumstances?

Mr. CLARK. No, sir. He is not a Representative from the States.

The CHAIRMAN. He could not cast a vote, then?

Mr. CLARK. That is correct.

The CHAIRMAN. Do you think that he should have the right to cast a vote, an electoral vote in the case of a presidential contest being thrown into the House? Should he have a vote?

Mr. CLARK. As you know, a number of constitutional proposals related to electoral college reform are pending before this committee, and in the Senate as well.

It would be my judgment that this matter can best be determined by the Congress in connection with electoral college reform.

The CHAIRMAN. Finally, the proviso clause in article V of the Constitution states that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Equal suffrage in the Senate. Does this proviso mean that only States are entitled to representation in the Senate? And does this proviso mean also that authorizations for Senators from the District of Columbia would constitutionally require ratification by every single State?

Mr. CLARK. No, sir. In my judgment, a constitutional amendment providing for representation in the Senate for the District of Columbia that does not exceed the representation of a State would be proper.

The CHAIRMAN. Is that your definition of what is meant by equal suffrage in the Senate, meaning that no State could have greater representation than another?

Mr. CLARK. Article V of the Constitution relates only to the equality of suffrage.

Of course, we only had 13 States at the time the Constitution was ratified.

The CHAIRMAN. We seem to have had no difficulty with reference to that clause. I personally don't see any, either, but I would like to get your opinion.

Mr. CLARK. No, sir; I see no difficulty.

Mr. McCULLOCH. Mr. Attorney General, I would like to go back to the question that the chairman asked concerning the authority of the Congress to fix the qualifications of a Member of the House, or Members of the House and/or the Members of the Senate.

Did I understand you to say that the Congress, by legislative act alone, might have the authority under this proposed amendment to fix an age that is contrary to the age fixed in article I, section 2, subsection 2, of the Constitution, which says:

No person shall be a Representative who shall not have attained to the age of 25 years and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

I ask the question in another way: Is that not a positive mandate, which every candidate for membership in the House and every candidate for a seat in the Senate, subject to the different age limits, is required to meet?

Mr. CLARK. Mr. McCulloch, generally it has been my thought that this proposal left to the Congress the specification of those qualifications prescribed in the present text of the Constitution for Senators and Representatives in those clauses of the Constitution which presently refer in terms to their representation of a State. I base this conclusion on the ground that the Representative or Representatives and Senator or two Senators from the District of Columbia would not be representing a State.

Mr. McCULLOCH. Now, may I interrupt there?

Do I properly conclude in that statement, because the prospective Member of the House from the District, and the prospective Members for the Senate, not representing a State, but representing the District of Columbia, could have lesser qualifications than those set forth in article I, section 1, of the Constitution, particularly with respect to membership in the House?

And if you do believe that to be the case, the second part of the question is: Do you believe that there should be a Member of the House of Representatives from the District of Columbia who might be elected when 21, or 18, or that a United States Senator from the District of Columbia might be elected, in the face of the constitutional provision for age of Senators, at a lesser age than that now contained in the Constitution?

Mr. CLARK. No. It would be my view that the qualifications as to age for all of the Representatives and Senators from all of the States and the District of Columbia would ideally be the same.

Mr. McCULLOCH. Well, I agree with that.

The CHAIRMAN. Would the gentleman yield?

Would it not be rather simple—it certainly could not hurt—to put a clause in the proposed amendment that the qualifications for the Representative from the District of Columbia, or the qualifications for Senator from the District of Columbia, shall be the same as prescribed in the Constitution?

Mr. CLARK. I think that might be done.

The CHAIRMAN. That would be simple.

Mr. McCULLOCH. Mr. Attorney General, I conclude from the first full paragraph on page 3 of your statement that you believe that in due course the District of Columbia should have such membership in the House as its population warrants, and should have two Members in the U.S. Senate.

Mr. CLARK. That would be my view.

When you say "population warrants," you have to analyze population of the District in a way that you would not analyze the population of the States.

Mr. McCULLOCH. I am very glad to hear you say that.

Our colleague, Mr. Roth, has been doing intensive study on this matter, and he probably will have some questions and some written contributions to make in this field.

The CHAIRMAN. I will place in the record at this point House Report No. 2223, 86th Congress, 2d session entitled "Congressional Apportionment—Role of the Bureau of the Census," which describes the apportionment procedure and the criteria employed by the Bureau of the Census.

(The document follows:)

Union Calendar No. 1009

86TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
No. 2223

CONGRESSIONAL APPORTIONMENT—ROLE OF THE BUREAU OF THE CENSUS

SEPTEMBER 14, 1960.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MURRAY, from the Committee on Post Office and Civil Service, submitted the following

REPORT

When the 88th Congress convenes in January 1963, the number of Representatives from about half of the States will have changed from the number in the previous Congress. In this report, the manner of determining these changes will be described. The changes are made by following a clear and precise procedure resting on the determination of—

- (a) The total size of the House of Representatives, and
- (b) The method of assignment of Representatives among the States.

Both of these determinations have been made by previous Congresses. If the 87th Congress does not change the law after receiving from the President a report with calculations based on these determinations, it makes, in principle, the basic decision to accept the determinations made by previous Congresses.

THE APPORTIONMENT PROCEDURE

The steps in determining the number of Members to be seated in the House of Representatives from each State has been specifically outlined by act of Congress. The steps and timing start with the enumeration of the inhabitants provided for in article 1, section 2 of the Constitution. The enumeration, the decennial census of population, determines the number of persons in each of the States on the basis of which the apportionment calculations are made.

The enumeration of inhabitants is carried out by the Bureau of the Census under the provisions of title 13 of the United States Code, which provides for the taking of the census. Section 141(a) of that title requires the Secretary of Commerce to take a census of population as of the 1st day of April 1960. Section 141(b) specifies that—

the tabulation of total population by States as required for the apportionment of Representatives shall be completed within eight months of the census date and be reported by the Secretary to the President of the United States.

The total population of each State thus should be in the hands of the President by December 1.

The next step in the procedure is provided for in title 2, United States Code, section 2a. Under the provisions of this section, the President is to submit a report to the Congress during the first week of the 87th Congress, which will convene early in January 1961. This report shall consist of—

a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under the seventeenth and each subsequent decennial census of the population, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives by the method known as the method of equal proportions, no State to receive less than one Member.

The report which the Bureau of the Census prepares includes the results of the apportionment computations which the President is required to transmit to the Congress. It should be noted that all elements of the required report are specified, namely:

1. The population of each State as determined by the decennial census.
2. The existing total number of Representatives (435).
3. The apportionment by a method known as the method of equal proportions.

The apportionment section of the United States Code also makes provision for steps to be followed after the President's report is received by the Congress. Within 15 calendar days after the statement is received, the Clerk of the House of Representatives must send to the executive of each State a certificate of the number of Representatives to which his State will be entitled in the 88th and subsequent Congresses. Provision is made for carrying out this step even if the office of Clerk is vacant. The law also states that until a State is redistricted as provided by its laws, Representatives shall be elected from existing districts, unless the number of districts exceeds the number of Representatives. In the latter event all the Representatives would be elected from the State at large unless the State took appropriate action. If the number of Representatives were increased and exceeded the number of districts, then only the extra number would be elected at large until the State took action.

Under this procedure, therefore, if no other action is taken by the Congress, the States will be informed in early 1961 of whatever changes will occur in the number of Representatives from their States. The State legislatures, many of which meet only biennially or for limited sessions, can then take action in 1961 or early 1962 to revise congressional districts, if necessary. This action will be in preparation for the primary and general elections to be held in 1962 for Representatives to be sent to the 88th Congress, which will convene in January 1963.

THE APPORTIONMENT POPULATION

Because of the use of the enumerated population for apportioning Representatives among the States, the legislation for the decennial censuses is specific with reference to the details of defining the population. In the act providing for the first decennial census (approved March 1, 1790), section 5 starts:

* * * *Be it enacted*, That every person whose usual place of abode shall be in any family on the aforesaid first Monday in August next, shall be returned as of such family; * * *

Some of the details have varied over the decades, but the current requirements are similar in concept to that expressed in the 1790 law. An enumeration as of the 1st day of April is now specified for uniform application throughout the country. Each enumerator is required to visit personally each dwelling house to obtain the information. The term "usual place of abode," which was used in 1790, is still used in the instructions to enumerators for the taking of the census.

The enumerators' instructions for the 1960 Census of Population make provision for various types of situations which may be encountered at the time of enumeration; as, for example, the enumeration of members of the Armed Forces, persons who maintain more than one residence, college students, persons in institutions, persons abroad at the time of the census. The general rule is summarized in the enumerators' instructions as follows:

In accordance with census practice, each person is counted as an inhabitant of his usual place of residence or usual place of abode. This residence is, ordinarily, the place he would name in reply to the question "Where do you live?" or the place he regards as his home. As a rule, it will be the place where the person usually sleeps. This place is not necessarily the same as his legal residence, his voting residence, or his domicile, although for most persons these would be identical. Persons who have no usual place of residence are counted as inhabitants of the place in which they happen to be staying at the time of enumeration.

Thus, the whole number of persons in each State is defined as those whose usual place of residence was in that State on April 1, 1960, including those in the State on that date who had no usual place of residence elsewhere.

The law requires the exclusion of "Indians not taxed" from the whole number of persons, and, in this respect, it follows the language of the Constitution. Since 1940, however, the reports to the Congress have pointed out that all Indians have been included in the tabulation of the total population. The opinion of the Attorney General of November 28, 1940, which accompanied the 1940 report, pointed out that the construction given the phrase "Indians not taxed" is a matter for Congress to decide. The inclusion of all Indians in the total population for apportionment purposes was accepted by the Congress in 1940 and in 1950.

From time to time questions arise as to the interpretation of the phrase "whole number of persons" or as to the limitation of the apportionment population to citizens. The last extensive discussion of this type was in 1931, when hearings were held by the Committee on

the Judiciary of the House of Representatives. The general outcome of this and earlier discussions indicates that the Constitution referred to the total population of the States for use as the basis for apportioning Representatives and any change in this definition would require a constitutional amendment. A number of such proposals have been made, but no action to modify this definition has been taken by the Congress.

The population residing overseas at the time of the census is not included in the apportionment population, which is limited to the population of the States. In 1949, prior to the 1950 Census of Population, the Attorney General reviewed the proposed methods to be followed in enumerating such persons and the reasons for not attempting to allocate such inhabitants back to their respective States. In the printed opinion, the statements are repeated that many factors would tend to make the results obtained from any such attempt "comparatively meaningless" and "that the small proportion of persons for whom there is a clear-cut basis" of such allocation "cannot possibly justify the great expenditures involved." He then expressed the opinion that the procedures followed for previous censuses and proposed for 1950 were not contrary to the Constitution or the statutes. The procedures proposed for 1960 are identical with those for 1950.

THE SIZE OF THE HOUSE OF REPRESENTATIVES

Until 1912, every apportionment except that of 1840 resulted in an increase in the number of Representatives in Congress. Members were added when new States were admitted to the Union and the size of the House was gradually increased until the apportionment based on the census of 1910. The number assigned in that enactment was 433, with provision for 1 more to be added, each, for New Mexico and Arizona when they attained statehood. This action was taken for both States prior to the date the apportionment took effect in 1912.

The House was maintained at this size, 435, until the admission of Alaska and Hawaii as States. The statehood enactment for both new States provided for a temporary increase in the membership of the House until the apportionment based on the census of 1960, at which time the total of 435 was to be restored.

Since 1912, various proposals for increasing the size of the House have been introduced, but no action has been taken. In the discussions in 1941, a suggestion to increase the size of the House by only 1 member, to 436, to avoid a conflict on method, was not approved.

THE CALCULATION OF THE ASSIGNMENT OF REPRESENTATIVES AMONG THE STATES

The population of the various States and the total number of Representatives to be assigned (435) are the figures used for determining how many Congressmen will be assigned to each State. The law specifies that the calculations be made by the method of equal proportions. By this method, the percent difference between any two States in the average number of people per Representative is as small as possible.

By using mathematical techniques, it is not necessary to work out the comparisons between every pair of States. After each State has been assigned one Representative, as provided by the Constitution, a set of values for each State is calculated which provide a measure of the strength of the State's claim to its second Representative, its third, and so forth. When these values are arranged in order, they indicate which State would get the 51st Representative, which the 52d, etc. up to 435 or any desired number. Such a listing is called a priority list. For the method of equal proportions the priority values are determined by dividing the State populations by the geometric means of successive numbers (i.e., $\sqrt{1 \times 2}$, $\sqrt{2 \times 3}$, etc.) If properly calculated, the assignments made from this list will meet the test that the percent difference between any two States in the average population per Representative will be as small as possible for the given number of Representatives. The rules for calculation are given in attachment A.

Prior to the adoption of the method currently used for apportionment, the procedure for determining the number of Representatives for each State was subject to much discussion and varied from time to time. In earlier apportionments, the number of persons per Congressman was selected. This number was then divided into the population of each State to provide a quota for the State. Until 1840, the assignments were the whole numbers in these quotas and fractions were dropped. In 1840, an additional Representative was assigned for each fraction of one-half or more. It should be noted that under these methods the number of seats to be assigned was not predetermined.

Starting in 1850 the method was changed. First the total number of seats to be assigned was selected. This total was divided into the apportionment population for the country as a whole to obtain the average number of persons per Representative. In turn, this average was divided into the population of each State to determine the State quota. Representatives were then assigned for the whole numbers in these quotas. The balance of the seats were assigned to those States with the largest fractions. This method, known as the Vinton method, was used until 1910.

Dissatisfaction developed when, in 1880, it was noted that in some instances the number of Representatives assigned to a State could drop when the size of the House was increased. This defect, known as the Alabama paradox, started a hunt for a better method. In 1910, the priority list was used for the first time. The mathematical analysis which was made between 1910 and 1920 resulted in the development of the method of equal proportions. The problem of apportionment methods was reviewed at the request of the Congress by a special committee of the National Academy of Sciences which recommended the method of equal proportions. (See attachment B.) This method was officially selected by the Congress in the act of November 28, 1941.

The apportionment at the end of each decade is shown in the following table:

Membership in House of Representatives, by States, at adoption of Constitution and each decade, 1790-1950

[Includes Representatives added during the decade]

State	C ¹	1790	1800	1810	1820	1830	1840	1850	1860	1870	1880	1890	1900	1910	1930	1940	1950
Total.....	65	106	142	186	213	242	232	237	243	293	332	357	391	435	435	435	437
Alabama.....				1	3	5	7	7	6	8	8	9	9	10	9	9	9
Alaska.....																	1
Arizona.....														1	1	2	2
Arkansas.....						1	1	2	3	4	5	6	7	8	4	4	6
California.....									2	3	4	6	7	8	11	20	30
Colorado.....										1	1	2	3	4	4	4	4
Connecticut.....	5	7	7	7	6	6	4	4	4	4	4	4	5	5	6	6	6
Delaware.....	1	1	1	2	1	1	1	1	1	1	1	1	1	1	1	1	1
Florida.....							1	1	1	2	2	2	3	4	5	6	8
Georgia.....	3	2	4	6	7	9	8	8	7	9	10	11	11	12	10	10	10
Hawaii.....																	1
Idaho.....											1	1		2	2	2	2
Illinois.....				1	1	3	7	9	14	19	20	22	25	27	27	26	25
Indiana.....				1	3	7	10	11	11	13	13	13	13	13	12	11	11
Iowa.....							2	2	6	9	11	11	11	11	9	8	8
Kansas.....									1	3	7	8	8	8	7	6	6
Kentucky.....		2	6	10	12	13	10	10	9	10	11	11	11	11	9	9	8
Louisiana.....				1	3	3	4	4	5	6	6	6	6	7	8	8	8
Maine.....				7	7	8	7	6	5	5	4	4	4	4	3	3	3
Maryland.....	6	8	9	9	9	8	6	6	5	6	6	6	6	6	6	6	7
Massachusetts.....	8	14	17	13	13	12	10	11	10	11	12	13	14	16	15	14	14
Michigan.....						1	3	4	6	9	11	12	12	13	17	17	18
Minnesota.....								2	2	3	5	7	9	10	9	9	9
Mississippi.....				1	1	2	4	5	5	6	7	7	8	8	7	7	6
Missouri.....					1	2	5	7	9	13	14	15	16	16	13	13	11
Montana.....											1	1	1	2	2	2	2
Nebraska.....										1	3	6	6	6	5	4	4
Nevada.....									1	1	1	1	1	1	1	1	1
New Hampshire.....	3	4	5	6	6	5	4	3	3	3	2	2	2	2	2	2	2
New Jersey.....	4	5	6	6	6	6	5	5	5	7	7	8	10	12	14	14	14
New Mexico.....															1	1	2
New York.....	6	10	17	27	34	40	34	33	31	33	34	34	37	43	45	45	43
North Carolina.....	5	10	12	13	13	13	9	8	7	8	9	9	10	10	11	12	12
North Dakota.....											1	1	2	3	2	2	2
Ohio.....			1	6	14	19	21	21	19	20	21	21	21	22	24	23	23
Oklahoma.....													5	8	9	8	6
Oregon.....								1	1	1	1	2	2	3	3	4	4
Pennsylvania.....	8	13	18	23	26	28	24	25	24	27	28	30	32	36	34	33	30
Rhode Island.....	1	2	2	2	2	2	2	2	2	2	2	2	2	3	2	2	2
South Carolina.....	5	6	8	9	9	9	7	6	4	5	7	7	7	7	6	6	6
South Dakota.....											2	2	2	3	2	2	2
Tennessee.....		1	3	6	9	13	11	10	8	10	10	10	10	10	9	10	9
Texas.....							2	2	4	6	11	13	16	18	21	21	22
Utah.....													1	1	2	2	2
Vermont.....		2	4	6	5	5	4	3	3	3	2	2	2	2	1	1	1
Virginia.....	10	19	22	23	22	21	15	13	11	9	10	10	10	10	9	9	10
Washington.....											1	2	3	5	6	6	7
West Virginia.....										3	4	4	5	6	6	6	6
Wisconsin.....							2	3	6	8	9	10	11	11	10	10	10
Wyoming.....											1	1	1	1	1	1	1

¹ As specified in the Constitution.

Source: Based on U.S. Bureau of the Census, U.S. Census of Population: 1950, vol. II, "Characteristics of the Population," U.S. Summary, Washington, D.C., 1953, pp. 1-13.

THE ESTABLISHMENT OF CONGRESSIONAL DISTRICTS

After the number of Representatives in Congress from each State is determined, general practice calls for the States to establish the number and limits of the congressional districts from which these Representatives are to be elected. The number of congressional districts in a State may be less than the total of its Representatives in Congress because one or more Representatives may be elected "at large." The determination of the number of Representatives to be sent to the Congress from each State, which has been described in this report, is a Federal legislative problem. The establishment of the districts from which these Representatives are to be elected is a matter for the State legislative bodies.

When a State has been redistricted, and the boundaries have been established by State law, the Bureau of the Census then makes an official determination of the population of the new district, based on the last previous census, which it furnishes to the Congress for its official use.

ATTACHMENTS

ATTACHMENT A

STEPS IN COMPUTING AN APPORTIONMENT

The computation of an apportionment involves principally the establishing of a priority list so that Representatives can be assigned up to the desired number. In both the regular and shortcut methods outlined below, it is important to remember that the last priority value (e.g., the value for the 435th Representative) is approximately equal to the total population divided by the number of Representatives. This number can be used as a guide in computing the priority values.

In the full computation, the steps would be as follows:

1. Multiply the State populations by the multipliers shown in the table below.

When the State populations are multiplied by the multipliers in the table, they show the strength of the State's claim to the number of Representatives in the column headed " η ". These values are known as priority values.

2. Arrange the priority values from largest to smallest.

The first 50 Representatives are assigned automatically one to each State. The State with the highest priority value gets the 51st Representative, the one with the next largest the 52nd, and so forth. This listing of priority values in order of size is called the priority list.

3. When the desired number of Representatives (435) have been apportioned, the priority list is complete.

SHORTCUT METHOD

To reduce the amount of calculations, the following steps can be followed:

1. Divide the sum of the populations of the States to be included in the apportionment by the number of Representatives to be apportioned (435). This gives an approximate number for the last priority value.

2. Using the table of multipliers and a calculating machine, determine the priority value for each State just above and below the approximate number for the last priority value. Note the number " η " in the table of multipliers for each value computed.

3. Add together the " η 's" for the priority values just above the estimated last priority value. This gives an approximate apportionment which will total about 435.

4. (a) If the total is 435, the assignments represent the apportionment.

(b) If total is larger than 435, find the States for which the priority values are just larger than the last priority value and reduce the assignments by the number required to make the total 435.

(c) If the total is smaller than 435, find the States for which the priority values are just smaller than the last priority value. Add to the assignments the number required to make the total 435.

TABLE OF MULTIPLIERS FOR APPORTIONMENT

Method of equal proportions (reciprocals of the geometric means)

$$\text{Formula: } \frac{1}{\sqrt{\eta(\eta-1)}}$$

η	Multiplier	η	Multiplier	η	Multiplier
2	.707 10678	21	.048 79500	41	.024 69324
3	.408 24829	22	.046 52421	42	.024 09813
4	.288 67513	23	.044 45542	43	.023 53104
5	.223 60680	24	.042 56283	44	.022 99002
6	.182 57419	25	.040 82483	45	.022 47333
7	.154 30335—	26	.039 22323	46	.021 97935—
8	.133 63062	27	.037 74257	47	.021 50662
9	.117 85113	28	.036 36965—	48	.021 05380
10	.105 40926	29	.035 09312	49	.020 61965+
11	.095 34626	30	.033 90318	50	.020 20305+
12	.087 03883	31	.032 79129	51	.019 80295+
13	.080 06408	32	.031 75003	52	.019 41839
14	.074 12493	33	.030 77287	53	.019 04848
15	.069 00656	34	.029 85407	54	.018 69240
16	.064 54972	35	.028 98855	55	.018 34940
17	.060 63391	36	.028 17181	56	.018 01875
18	.057 16820	37	.027 39983	57	.017 69981
19	.054 07381	38	.026 66904	58	.017 39196
20	.051 29892	39	.025 97622	59	.017 09464
		40	.025 31848	60	.016 80732

ATTACHMENT B

REPORT OF NATIONAL ACADEMY OF SCIENCE COMMITTEE ON APPORTIONMENT

(Source: Annual Report of National Academy of Sciences, fiscal year 1928-29, pp. 20-23)

Report of the President of the Academy

In accordance with the provision of article V, section 4, of the constitution of the Academy, stipulating that in cases of requests by the Government of the United States to the National Academy of Sciences for investigations or reports by the Academy the President shall report their results to the Government as soon as obtained and to the Academy at its next following stated meeting, I beg to report that the President of the Academy has replied to a request by Mr. Nicholas Longworth, Speaker of the House of Representatives, for information with regard to the mathematical aspects of the problem of reapportionment. Upon receipt of the request the following committee was appointed to consider the matter: Raymond Pearl, chair-

man; G. A. Bliss, E. W. Brown, L. P. Eisenhart, and W. F. Osgood (Mr. Osgood resigning before the completion of the committee's report). The committee presented a very comprehensive report which was forwarded to the Speaker on February 5, 1929. Later, with the Speaker's informal approval, copies of the report were sent to Senator Claude A. Swanson, of Virginia, and to Senator David I. Walsh, of Massachusetts, both of whom had requested the information.

A full copy of the report, as presented by the committee and forwarded by the President of the Academy to the Speaker and to Senators Swanson and Walsh, is attached hereto.

T. H. MORGAN, *President.*

REPORT TO THE PRESIDENT OF THE NATIONAL ACADEMY OF SCIENCES

The committee appointed by you, in response to the request of the Speaker of the House of Representatives for information regarding the mathematical aspects of the problem of reapportionment, submits the following report:

The Constitution provides that—

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. * * * But each State shall have at least one Representative.

If fractional voting were permitted in the House of Representatives the exact number of Representatives with whole votes, and the size of the fractional vote for an additional Representative, to which each State would be entitled in a theoretically perfect apportionment could be readily calculated. It would only be necessary to work out the following proportion: The number of votes for any particular State is to the total number of votes for all States as the population of the particular State is to the total population of all States.

If, however, this simple proportionality were calculated it would result, in nearly all cases, that the number of Representatives for each particular State would consist of a whole number and a fraction, as, for example, 7.3. Fractional voting is not permitted. Therefore it is necessary to reach a solution of the apportionment problem in whole numbers. This fact alters the mathematical nature of the problem fundamentally. Even when the exact number of votes, including fractions, belonging theoretically to each State is precisely known, this knowledge is not of itself sufficient to determine the proper number of Representatives to be apportioned to that State. The proper apportionment of integral numbers of Representatives to a particular State may differ by several units from the number obtained by simple proportion. This is true regardless of which of the several known methods of apportionment described below is adopted.

The problem of apportionment which has been thus described is a problem in applied mathematics. It should be understood that frequently a problem in applied mathematics may have no unique solution, for the reason that the data initially given do not completely characterize the solution mathematically. In such cases a solution must be chosen for other than mathematical reasons among those which are mathematically possible.

There are five methods of apportionment now known which are unambiguous (that is, lead to a workable solution) and should be considered at this time.

These five methods are:

- Method of smallest divisors.
- Method of the harmonic mean.
- Method of equal proportions.
- Method of major fractions.
- Method of greatest divisors.

In the present state of knowledge your committee regards these as the only methods of apportionment avoiding the so-called Alabama paradox which require consideration at this time. Their effectiveness is based upon a mathematical test which will be described below. Another method of approach to the apportionment problem may be based upon the adjustment by some method of curve fitting (as, for example, the method of least squares) of representation to the population of the country as a whole, but in the opinion of your committee the methods of this type so far proposed, which do not lead to solutions among the five listed above, fail.

After full consideration of these various methods your committee is of the opinion that, on mathematical grounds, the method of equal proportions is the method to be preferred. Each of the other four methods listed is, however, consistent with itself and unambiguous.

The essential mathematical characteristics of the five methods are as follows:

Let the population of a State A and the number of Representatives assigned to it according to a selected method of apportionment be a , and let B and b represent the corresponding numbers for a second State. Under an ideal apportionment the population A/a B/b of the congressional districts in the two States should be equal, as well as the numbers a/A , b/B , of Representatives per person in each State. In practice it is impossible to bring this desirable result about for all pairs of States.

In the opinion of this committee the best test of a desirable apportionment so far proposed is the following:

An apportionment of Representatives to the various States, when the total number of Representatives is fixed, is mathematically satisfactory if for every pair of States the discrepancy between the numbers A/a and B/b cannot be decreased by assigning one more Representative to the State A and one fewer to the State B , or vice versa, or if the two numbers a/A and b/B have the same property.

For the purposes of discussion let A/a be larger than B/b so that the State A is underrepresented as compared with B . If the "discrepancy" between A/a and B/b is defined to be the percentage discrepancy; that is, the difference $A/a - B/b$ divided by the smaller B/b of the two numbers A/a , B/b and if the discrepancy between b/B and a/A is measured in the same way, the test above leads to an apportionment which satisfies the test when applied to either the pair A/a , B/b , or the pair a/A , b/B . The method so determined has been called the "method of equal proportions."

If the test is applied only to the pair a/A , b/B , and if the discrepancy between these numbers is interpreted to be the absolute difference $b/B - a/A$, another method of apportionment called the "method of major fractions" is uniquely determined. If, on the other hand, the

test is applied only to the absolute difference of the pair A/a , B/b a third method, called the "method of the harmonic mean," is similarly defined.

It has been shown that there are two further methods of apportionment determined by the test set down above when applied to the differences $b-aB/A$, $bA/B-a$. Those are called, respectively, the "method of smallest divisors," and the "method of greatest divisors."

The methods thus briefly characterized mathematically are the five methods in the list above. Each method in the list favors the larger States as compared with the methods which precede it. This means in the case of the second and fourth methods, for example, that if for two unequal States A , B , the fourth method assigns more Representatives to A and fewer to B than the second method, then the State A is the larger of A and B .

The method of the harmonic mean and the method of major fractions are symmetrically situated on the list. Mathematically there is no reason for choosing between them. A similar symmetry exists for the methods of smallest and greatest divisors for which the defining discrepancies seem, however, more artificial than those for any one of the other three methods.

The method of equal proportions is preferred by the committee because it satisfies the test proposed above when applied either to sizes of congressional districts or to numbers of Representatives per person, and because it occupies mathematically a neutral position with respect to emphasis on larger and smaller States.

G. A. BLISS.

E. W. BROWN.

L. P. EISENHART.

RAYMOND PEARL, *Chairman*.

Mr. FEIGHAN. Mr. Attorney General, I notice that you feel that a nonvoting delegate to Congress is not satisfactory. I was wondering what thought you have given to, say, the Commonwealth of Puerto Rico, which is populated by U.S. citizens. Of course they do have special privileges, but at least they are U.S. citizens, and entitled to all the protection of the United States.

Mr. CLARK. We have of course given considerable thought to the status of Puerto Rico over the years. I do not think it is analogous to the District of Columbia, the Nation's Capital.

Mr. FEIGHAN. Are they not people we want to have represented?

Mr. CLARK. They are certainly citizens of the United States. Puerto Rico is not an area within the United States in the most complete sense of the word, whereas, the District of Columbia is.

It is the Nation's Capital, and its situation in the United States is central to our federalism and to our system of government, and its people have been citizens from the beginning of the Republic.

Just last Sunday in Puerto Rico there was a plebiscite, a vote, on its status. At that time the people there voted for continuation of the Commonwealth status, so you can see that there is that difference there.

There is no prospect for a similar vote among the people of the District of Columbia, nor has there been in the past.

This is an integral part of the United States, has been, and must be, and will be.

Mr. FEIGHAN. Now, I am not advocating that. I am just bringing it up, because I think it is a subject that should be discussed, but it is not a question of being contiguous to the mainland. We have one in Hawaii.

Mr. CLARK. No, that is certainly true. Alaska and Hawaii both demonstrated that.

On the other hand, the Philippines might be considered, and the course that was taken there between 1898 and 1946.

Mr. FEIGHAN. Thank you.

Mr. POFF. Mr. Chairman.

I thank you for this opportunity to meet again an old friend, and welcome him individually as a member of the committee to this committee.

The distinguished witness understands that our problem is to decide, first, if the goal we seek is desirable, and second, if it is desirable, what method we should pursue. The several methods available are indicated by the several proposals pending before us.

It is possible on the one hand for the constitutional amendment to fix precisely the number of Representatives and/or Senators to which the District shall be entitled, and in the alternative, it is possible for the amendment to give the Congress the power of establishing and deciding from time to time how many representatives in each body the District of Columbia shall have.

And then there is the middle course, which is exemplified by House Joint Resolution 396, which undertakes to fix minimum national representation entitlement, and thereafter leaves to Congress the power to fix by statute how many representatives the District of Columbia shall have.

As a matter of wisdom, do you believe it is best to fix precisely and constantly in the Constitution itself the number from each or both

Houses? Or is it better to follow the course presented by House Joint Resolution 396?

Mr. CLARK. I would think that wisdom indicates the course outlined by House Joint Resolution 396, that some minimum representation, a voting Representative in the House of Representatives, should be assured by the Constitution and that the Congress should be empowered to tailor the further representation to the equities of the situation.

Mr. POFF. The reason I ask this question is that we must remember what the Congress has the power to do, the Congress also has the power to undo, and inasmuch as the language of House Joint Resolution 396 does not erect precise guidelines, it would seem to me that the Congress later might decide that while the District was entitled to a minimum of representation, it was entitled to no more than that, and it could repeal the statute which it had previously enacted enlarging the representation.

Is that not a possibility?

Mr. CLARK. That would certainly be a possibility under this resolution.

Mr. POFF. The proposal of the distinguished Member from Maryland, Mr. Mathias, writes into the language of the Constitution the exact representation to which the District would be entitled. Do I understand that the witness opposes that resolution?

Mr. CLARK. It is my judgment that the preferable technique is the one outlined in 396 for two reasons.

First, it would seem that that is more probable of enactment and ratification, and second, it lends to an unclear and developing situation a flexibility that would promise higher assurance of a proper resolution of the problem.

As I said, in my statement, I believe the theoretical ideal would be for equal representation in the District of Columbia. I think that we have perhaps a better chance of securing such equal representation with flexibility than we would with absolutism.

I would have considerable confidence that the Congress would not take that away which was previously granted, where the merits are on the side of such representation.

It is hard to vote against the right of others to be an equal citizen of this country, to be represented in your own body.

I would think the risks there are somewhat minimal, and perhaps down the road we have waited this long for this step, and we can visualize the more perfect implementation of the Constitution.

I really think that 396 would give that to us at this time, as a practical matter.

Mr. POFF. What would you think of a provision in House Joint Resolution 396 requiring that once the Congress fixed national representation for the District of Columbia, it could not thereafter decrease the number, without a two-thirds vote in both Houses of Congress, absent some change in the population?

Mr. CLARK. That would place some inhibition on the Congress in reducing representation. It would seem fairly marginal in significance, but it would not go against the basic thrust or undermine the theory of this resolution.

Mr. POFF. Do you think it might prejudice its chances of passage in either House of Congress?

Mr. CLARK. I would think it would have insignificant impact in that direction.

Mr. POFF. Suppose the provisions were that only with a two-thirds vote could the Congress enlarge upon the minimal representation in the amendment. Would that have an effect on the two Houses of Congress?

Mr. CLARK. I think that might be a more difficult provision.

Mr. POFF. Little attention has been given to section 3 of House Joint Resolution 396, which provides that the amendment shall have no effect on the 23d article of the Constitution or in determining the number of electors for the District.

I don't criticize that provision, except to inquire what purpose it serves.

Mr. CLARK. Well, the purpose is to make it clear that this constitutional amendment, dealing with representation in the Congress from the District of Columbia, is not meant to affect the 23d amendment, which deals with election of the President, and electors for that purpose.

Mr. POFF. But what I am suggesting is that I find nothing in House Joint Resolution 396 which would affect that determination as provided in the 23d amendment. Perhaps there is some?

Mr. CLARK. It was our judgment that this was a desirable precaution.

Mr. POFF. Article I, section 2——

Mr. CLARK. Excuse me just a moment.

A potential conflict has been pointed out to me. If only a minimum representation in the Congress was provided in the House of Representatives, as required by the proposed constitutional amendment, then it could be argued that the District would have only one vote in the electoral college, on the theory that the new amendment overrode the 23d amendment.

Mr. POFF. Well, since you have added that last qualification, I am inclined to agree with what you say. Yet, if you read article 23 standing alone, it would appear clear that the District would be entitled to the number of electors to which it would be entitled of it were a State, and unless there is a clear intent in the language of the new constitutional amendment to abrogate that, I rather doubt——

Mr. CLARK. We prefer to play it safe.

Mr. POFF. I might say that is typical of the gentleman's conservative nature.

The CHAIRMAN. Will the gentleman yield?

As I understand the 23d amendment, it provides that if the number of electors of the President and Vice President, to which the District would be entitled if it were a State, exceeds that in the least populous State, the District would have only three. It would have three under those circumstances, and if it had only one Congressman, and no Senator, it would of course, have only one electoral vote.

Mr. POFF. I don't care to dispute with the chairman, but I think that that question is not quite as certain as he states.

I believe that a person would have to inquire about the intent behind the passage of the two constitutional amendments, and my own feeling is that probably the courts would decide that the District would be entitled to the same number of electors as if it were a State, and not any less than the minimum.

Yet I say there is an area in which legal and constitutional authorities disagree.

The CHAIRMAN. It might be well for us to clear that up in some way.

Mr. CORMAN. I wonder if the problem would really arise when the District had two Senators and two or more Congressmen, because then, with article 23, they would be entitled to four electors.

I take it we still have one State that has only one Congressman. In 23, they are only entitled to three, so it would be more apt to occur when they alleged that they were entitled to more electors, than less.

Mr. POFF. I think the gentleman makes a very good point.

Now turning to another question, if I may. Article I, section 4 of the Constitution reads in part as follows.

Does the gentleman have a copy of the Constitution available?

When vacancies happen in the representation of any State, the executive authority thereof shall issue writs of election to fill such vacancies.

Does the witness feel section 2 of House Joint Resolutions 396 is broad enough to authorize the Congress to prescribe the method by which such vacancies would be filled?

Mr. CLARK. Section 2 of the resolution? Yes; we do.

Mr. POFF. Well, in fixing that procedure, does the witness feel that such authority should be granted to the President, or to the Congress, or to a committee of the Congress, or to one of the District Commissioners, or to some other individual or group of individuals?

Mr. CLARK. I would say it should be granted to the chief executive of the District of Columbia, under what we would then hope to be a home-rule situation.

Mr. POFF. The gentleman, in response to a question put by the distinguished gentleman from Ohio, indicated that in the event of contest in a presidential election in the House of Representatives under House Joint Resolution 396, as now written, the District of Columbia would not have a franchise because the language of the 12th article of the Constitution requires that the vote be taken by States, and the District of Columbia is not a State.

Do I fairly state the position that you stated?

Mr. CLARK. Yes, it is my view based on the language of the 12th amendment and of Resolution 396 that the District of Columbia would not be represented in that procedure, in the absence of a reform of the electoral college.

Mr. POFF. In the same 12th article is the provision for election by the Senate of the Vice President, when such an eventuality occurs. That language does not require election by States, but by a majority of a quorum of the Senate, two-thirds of the whole membership of the Senate constituting a quorum.

There would be no such problem with respect to the election of Vice Presidents in such case. Is that your view?

Mr. CLARK. I would assume that the constitutional convention did not make the same provision on the Senate election side because there was equal representation by States there.

However, I am inclined to think if you would prefer to study it a little more closely, my view is as you stated.

Mr. POFF. Do you feel, then, that we would be giving the District of Columbia complete enfranchisement, if the language of the constitutional amendment fails to make a provision for such contingency?

Mr. CLARK. My view is that the Constitution is such an important document, and changes should be so carefully and comprehensively considered, that this matter that we are now discussing should be fully treated in connection with the badly needed electoral college reform, and not as a side issue, in connection with the matter before the committee this morning, namely, the representation in the Congress of the citizens residing in the District of Columbia.

Mr. POFF. May I suggest two things to the witness. First, that the right to cast a vote in such a case is a part of the concept of national representation, and secondly, I suggest that it is not realistic to consider one constitutional amendment in anticipation of ratification of a second constitutional amendment.

I think we must legislate in the present, and then we should consider the next constitutional amendment. We must deal with the situation as it exists at the time we write the amendment.

I doubt that we can anticipate what the Congress or the legislatures of three-fourths of the States can do with respect to a constitutional amendment that has not yet been heard by this committee.

So what I am really suggesting, I suppose, is: Had we not better treat this thing in whole, rather than in part?

Mr. CLARK. I think that perhaps 99 percent of the whole is covered, without touching on this problem. This has not arisen a good many times in history, and it is not likely to arise too often in the future.

We have electoral college reform under intensive consideration, with growing consensus among both representatives of the people and the people themselves that we need it badly.

These bills are before this committee, and I come out the other way. I think that if we treat the problem that we're discussing now in the context of electoral college reform we will do better work on the Constitution. I think we will have a cleaner, leaner document, and that is so terribly important to us.

Mr. POFF. One further line of questioning, and I am through.

In your formal statement you indicated that the Congress would have to deal with certain statutes, including the apportionment statute, after this amendment, or any form it takes, becomes a part of the Constitution.

Now, as a matter of wisdom, rather than a matter of political power, do you think the Congress should undertake to increase its membership, whether temporarily or permanently, to accommodate any increase in the House that might result?

Or should it hold the number to 435 initially, and require the States collectively to surrender one or two of the seats in the House?

Mr. CLARK. I would really defer to the wisdom of the Congress. I think it is much better able than I am to consider and judge that matter wisely.

I have never been privileged to serve in the Congress. I have a general view, which is theoretical, that I would be happy to give you, but I would be much happier to rely on your judgment.

I like the number 435. It was established when the great Representative from my State, Sam Rayburn, first came to the Congress. That was his first term in the Congress. And there is something about an increase in the numbers that makes effective representation perhaps more difficult.

But, again, as a citizen, I would look to your guidance on that question.

Mr. POFF. Of course, that question would depend upon when the Constitution was ratified finally, if it should be ratified before the next reapportionment following the decennial census of 1970.

If it should be in 1972 or 1973, then the problem would be rather difficult. It would be difficult first of all in terms of whether it was intended that the reapportionment should await the next decennial census of 1980, or whether the reapportionment that had already been accomplished the preceding year by the legislature should be undone and done over.

Mr. CLARK. Yes.

On the basis of the underlying thought behind your expression, plus other independent bases, I would urge expedition by the Congress and the States in the ratification of this amendment, so that we would have it by the 1970 census.

Mr. POFF. In that context, may I inquire what role could the Department of Justice properly play in encouraging State legislatures to ratify?

Mr. CLARK. Some people might say the best role we could play would be to say nothing to the State legislatures.

We could give them the benefit of the history, as it is known to us, of experience in the Federal system.

We have worked with them in recent years in a number of areas of constitutional reform. We have worked with the committees of the Congress, which have done such an excellent job on the last several constitutional amendments in relating to their counterparts in the States.

And I think that is a terribly important aspect of federalism, that your committee work closely with its counterparts in the State legislatures.

We would hope that you would provide great leadership and incentive to the State legislatures in this respect, and we would want to stand by to serve in any way possible.

Mr. POFF. May I thank the distinguished witness for his responsive testimony. I think it has been illuminating to me, and I am sure it has to all.

Mr. McCULLOCH. Could I ask one question?

In furtherance of the question that you answered about the membership in the House of Representatives after such a resolution was adopted and had become an amendment: Has the Department of Justice, as the executive department, or you, as the Attorney General, found any fault with the legislation adopted by the Congress which increased for a temporary period the total membership of the House to take care of the admission of the new States of Hawaii and Alaska?

Mr. CLARK. That is beyond my personal experience, Mr. McCulloch, and a matter I would have to review. To give you a fair answer, I would have to study it. I would be happy to do so and see what experience we have.

My hunch is that it did not affect the activities of the executive branch in executing the laws.

Mr. ROGERS of Colorado. Mr. Attorney General, may I express my appreciation for your coming here and taking a stand for the proper representation of the District of Columbia.

Now that you have seen by the questions that have been propounded that we do have some problems, I am sure that we can depend upon your office for assistance in trying to clarify whatever amendment we may propose to the people.

Thank you for coming to see us this morning.

Mr. FEIGHAN (presiding). Mr. MacGregor?

Mr. MACGREGOR. I have no questions, Mr. Chairman.

Mr. DONOHUE. Mr. Attorney General, would you enlighten me and probably the other members of the committee by stating whether the matter of representation to the Congress has ever been submitted to the people by way of a plebiscite or a referendum?

Mr. CLARK. I am sure it must have been, Mr. Donohue. I don't have a personal recollection of it at the moment.

I have very little doubt as to what it would show. If there were one now, there would be overwhelming support for representation.

Mr. DONOHUE. I appreciate your opinion and observation in that regard, but don't you think if a referendum has not been held, or a plebiscite has not been held, we should first, just as we did down in Puerto Rico, find out if the people in the District here would like to remain in their present status?

Mr. CLARK. I should amend my statement when I referred to "plebiscite." I was thinking more in terms of a poll or something like that than any formal vote.

Mr. DONOHUE. I think your experience with polls has been as mine, that they are not always reliable.

Mr. CLARK. I don't believe that such a plebiscite is a necessary prerequisite at all. I think the Congress has the issue clearly before it, and can and should act now.

Mr. DONOHUE. Don't you think that we should have some regard for the wishes of the people?

Mr. CLARK. I think the Congress should always have full regard for the wishes of the people.

Mr. DONOHUE. And a way of determining their wishes and desires is doing it by referendum?

Mr. CLARK. I think we know the issues now, and I would, frankly, hate to see further delay.

Mr. DONOHUE. Thank you very much.

Mr. FEIGHAN. Mr. Hutchinson?

Mr. HUTCHINSON. I have no questions, Mr. Chairman.

Thank you.

Mr. FEIGHAN. Mr. Smith?

Mr. SMITH. I merely want to thank the Attorney General for coming today and giving us the benefit of his testimony.

I think this colloquy has been very valuable to all of us.

Thank you for coming

Mr. FEIGHAN. Mr. Kastenmeier?

Mr. KASTENMEIER. I have just one question.

I am pleased to have the Attorney General here.

Out of some of the former questions it would seem that the District of Columbia would continue to enjoy a separate status in representation from that of other States. I am wondering whether in fact it might be simpler if we conferred upon the District the status of a State, for the purpose of the Constitution and for all other purposes.

And I am wondering what difficulties this might entail; in other words, if we simply made the District the State of Columbia, in fact.

Mr. CLARK. I would be really happy to have a significant statehood movement.

I would fear that this approach at this time, however, would cause long delays. It is a matter that could remain open. This resolution, if enacted, gives full potential for representation, and that potential will be accomplished now.

Mr. ROTH. Mr. Attorney General, earlier in your testimony you made some reference to making an analysis of the inhabitants of Washington, D.C. I assume you probably had reference to those who live here yet maintain a voting residence in some State.

I wonder if you have any specific information as to how many of the 800,000 inhabitants do maintain voting residence elsewhere.

Mr. CLARK. No, sir, not to my knowledge, we do not.

I think the fraction would be fairly small.

My reference was, as well, to the noncitizen population of the District, which proportionately is likely to be considerably higher than in other areas within the United States.

Mr. ROTH. Let me ask you this question, then. Do you think it would be worthwhile for us to obtain this kind of information in deciding on the number of Representatives?

In other words, should we have a breakdown not only of the category described by you, but, because of the number of Federal employees, is it not possible that there might be an unusually large number of inhabitants who do vote elsewhere?

Mr. CLARK. My judgment is that the Congress has no need for those data in considering this resolution, and that this resolution should be embodied in the Constitution. The information relating to the extent of absentee voting by the District's residents is something that should be considered in connection with implementing legislation to be enacted pursuant to the resolution, once it has become a part of the Constitution.

Mr. ROTH. In connection with Congress deciding on the number of Representatives to which the District is entitled, do you think they should have the power to give more Representatives than a State would be entitled to, if it should turn out that there is a high percentage of inhabitants in this category?

Mr. CLARK. Well, I am a one-man, one-vote advocate, myself. I believe that it should have representation based upon its citizenship, you might say, the number of people living here, residing here, voting here, or qualified to vote here.

Mr. ROTH. For purposes of verification, to take the other side, those that vote elsewhere—should they be included in deciding the number of the census count?

Mr. CLARK. Their number should be known.

Now, if your question is whether they should be included in determining the number of Representatives here, I would think that they should make their choice. They should be counted where they choose to be represented from, and they should not be represented from your State, or mine, and again from the District of Columbia.

Mr. ROTH. Yes, because if I understand what you are saying, then you would be giving these people possibly more than one vote if they were counted in two places.

Mr. CLARK. Yes, or, turned around the other way, assuming, which I do not take to be the fact at all, that half of the residents of the District of Columbia, of people living here, are voting in a State or maintain legal residence in a State, and that perhaps another substantial portion are aliens, then, if the number of Representatives in the Congress from the District of Columbia were based upon the entire population—including this half that was voting in another State, plus the aliens—the voters of the District would have a greater voice and greater representation per capita in the Congress than their counterpart citizens in the States.

Mr. ROTH. One final question.

For that reason, would you agree that it would be desirable, because of the special circumstances in the city of Washington, that this kind of information, as to breakdown of aliens and inhabitants voting elsewhere, be obtained by the census takers?

Mr. CLARK. It would seem to me that that would be something the Congress would want to know when it considers implementing legislation under this resolution, once it has become a part of the Constitution.

I don't believe that that is a prerequisite to action now on a constitutional amendment to provide for representation in the Congress under the theory of House Joint Resolution 396.

Mr. ROTH. Thank you, Mr. Attorney General.

Mr. Chairman, I would like to renew my request that I made last week, that we obtain a representative from the Bureau of the Census to obtain information as to exactly what kind of data is available, and that they could obtain.

(Information supplied by the Bureau of the Census appears at pages 165-67.)

Mr. HUNGATE. Will the gentleman yield at that point?

Along that line, Mr. Attorney General, that Mr. Roth raises, is it not true that under the one-man, one-vote formula, the population of military installations is counted in determining the population of a State or district?

Mr. CLARK. That is my understanding.

Mr. CORMAN. Mr. Attorney General, I want to join the others in thanking you for your testimony. It has been certainly helpful.

I don't want to prolong the discussion concerning the vote of the District in the event the presidential election is decided in the House. I recognize the possibility I am thinking of is remote, and it has never happened yet.

On the other hand, I think we get into some very complex problems on electoral college reform, and I am not sure we are proceeding as expeditiously as we should.

The District would be affected only in the event of a tie. We now have an equal number of States, and should that possibility occur, we might well realize that we had let the District break the tie.

Mr. CLARK. That is an interesting observation, Mr. Corman.

Mr. FEIGHAN. Mr. Hungate?

Mr. HUNGATE. I would like to inquire of the Attorney General.

The statement that only a constitutional amendment could eliminate the anomaly of denying citizens of the Capital a vote—this is an anomaly, is it not, that is provided by the Founding Fathers in the Constitution?

Mr. CLARK. It is an anomaly that is inherent in the Constitution, and as the Constitution was written by the Founding Fathers, it was a matter that they could not address themselves to or foresee.

The population of the District of Columbia now is right at one-fourth of the population, the entire population, of the Original Thirteen States. It exceeds the population of any State at the time of the formation of the Union.

I don't believe that we should fault the Founding Fathers on this injustice. I do believe it is an injustice, in that it is absolutely incompatible with our democratic beliefs.

Mr. HUNGATE. If House Joint Resolution 396 in its present form should be adopted, is it correct to state that there would be one Representative in the House of Representatives from the District of Columbia, and there might or might not be a Senator from the District?

Mr. CLARK. That is partially correct. There would be at least one Representative from the House of Representatives. There might be more than that. There could be as many as two Senators, but no more than that.

Mr. HUNGATE. But would it not be possible that there would be one or more Representatives in the House of Representatives from the District of Columbia, and no Senators?

Mr. CLARK. That would be a possibility, too.

Mr. HUNGATE. Now, the statement concerning the per capita tax revenue—that would be a distinguishing feature, I presume, from the Puerto Rican situation, that there is a much higher percentage paid from the District.

Mr. CLARK. Not only that, but the citizens residing in the District of Columbia who are not represented in Congress, are subject to Federal taxation to a much greater degree than the citizens of the United States residing in Puerto Rico. In general, the Puerto Ricans are exempt from Federal income taxes.

Mr. HUNGATE. How would the per capita Federal expenditures compare in the District of Columbia with the States as a whole?

Mr. CLARK. I missed the first part of your question. I am sorry.

Mr. HUNGATE. The per capita Federal expenditures: How would they compare in the District of Columbia with the 50 States?

Mr. CLARK. That would involve a number of considerations that would be very difficult to analyze, because it depends on what is defined as to the Federal expenditures, Federal expenditures in city government, police power, and such as that, that you cannot analogize to a State.

For instance, in the Attorney General's office, that I am in, we are doing things here in the District of Columbia because this is a Federal city, the laws of which are enacted by the Congress, that we don't do in Missouri or Texas.

Mr. HUNGATE. Are there certain formulas that are applied—I recognize it would be a shortcoming in any formula—to measure Federal expenditures per capita in States and the District?

I wonder if there are any such figures available.

Mr. CLARK. There are a whole bunch of figures that go into expenses and such as that, because there is this vast Federal land here not on the tax rolls.

It is a very complex thing, and I cannot see that it makes any difference in the merits of the matter before the committee at this time.

Mr. HUNGATE. Likewise, I would not see too much relevance to the amount of tax paid, as to whether its citizens should be represented or not, and I was just seeking to make a comparison between the per capita tax paid and the per capita expenditure made by the Government.

Mr. CLARK. We have never thought too much of taxation without representation, and you are confronted with that in the District of Columbia, while in Puerto Rico they are not paying the Federal income tax and other taxes paid by the residents of the District.

Mr. HUNGATE. In fact, Puerto Rico is somewhat of a tax haven, is it not?

Mr. CLARK. In many ways, going back to Rex Tugwell's time, there were tax incentives for all sorts of things, back there.

Mr. CORMAN. Do you think your end result would be drastically affected by the population factor, when you are figuring out the per capita amount of expenditures of Federal funds in the District?

Mr. HUNGATE. Yes, and I suppose you would have to charge all the Federal buildings built elsewhere accordingly.

I think my district would accept it and make it tax exempt.

Mr. RAILSBACK. I realize that this question is a little premature, but assume that the resolution passes, and that it is determined by a census or a survey that the District is entitled to more than one Representative.

Do you feel Representatives should be elected at large or elected from districts within the District of Columbia?

Mr. CLARK. I really have not focused on that at all. I just have some random ideas, based on my experience, say, with State legislatures.

Mr. RAILSBACK. What are your general ideas?

Mr. CLARK. Well, I have thought generally that fixed districts are preferable. A fixed district brings your representatives closer to the people and provides a surer and more direct basis for representation.

That is quite a general notion. That has been my experience with our legislature in my State, and it has been my experience with our congressional situation down there, where at times we have had at-large elections.

Mr. TENZER. Would the gentleman yield?

Obviously, if there is only one Representative from the District of Columbia, the Representative would be elected at-large. The question would only arise if there were more than one.

Mr. RAILSBACK. That is exactly why I asked that question.

I want to thank the Attorney General.

I happen to share his general feeling. I think if it is determined that the District of Columbia is entitled to more than one Representative, it would be good if they were elected by congressional districts.

Mr. TENZER. I would like to welcome my good friend, the Attorney General.

I was not here when your testimony was originally presented, but I will read your testimony very thoroughly.

There was one series of questions asked relating to the difference between the status of the District as the seat of government and the status of a commonwealth. It should be pointed out that there is a considerable difference, and I hope you agree, between the status of a commonwealth, the status of some of the other possessions of the United States of America, and the status of States as defined by the Constitution of the United States, and the status of the District of Columbia as a seat of government, particularly as outlined in article 23 of the amendment to the Constitution.

You agree that there is a wide difference in the status between possessions, a commonwealth, and the District of Columbia?

Mr. CLARK. I agree, and believe that the differences are many.

Mr. TENZER. Many, and very distinct?

Mr. CLARK. Yes.

Mr. TENZER. And that before there would be any comparable treatment with respect to representation, each one in turn, on its own, would have to be treated before they could be given either the status of a State or before they can be given representation in the House of Representatives. For example before Hawaii and Alaska were made States, and the situation we have now with the Commonwealth of Puerto Rico?

Mr. CLARK. I am afraid I missed the original predicate for your question.

Were you referring to Puerto Rico and Guam and places like that?

Mr. TENZER. Well, Guam is a possession. Puerto Rico is a commonwealth. The Commonwealth has representation in the Congress, without right to vote. Guam does not.

But each of these things are distinct, and the question of the plebiscite that took place in Puerto Rico last Sunday would have only raised the question as to whether or not the majority of the people of Puerto Rico would like to apply for Statehood, and they rejected that idea. Thus, there is no comparison between the situation we are facing today, with respect to representation in the Congress of the United States for the people of the District of Columbia, and the situation that exists in the Commonwealth of Puerto Rico.

Mr. CLARK. I think they are quite different, yes.

Mr. TENZER. I agree with that.

On the question of a preference, as you expressed in your testimony on page 3, between House Joint Resolution 396 and the other resolutions pending before this committee, would it simplify the situation of House Joint Resolution 396—and I am a cosponsor of the legislation—if, when the committee goes into executive session, section 1 were to be amended by striking out on page 1, beginning with the words “at least” and ending on page 2, line 3, with “up to the number of two”—striking out that portion and substituting “shall elect such number of Representatives and Senators in the Congress which the District would be entitled to if it were a State,” following the concept developed in article 23 of the amendments to the Constitution, eliminating the flexibility which would be left to the Congress to deal with by law?

Mr. CLARK. As I said in my statement, I think equal representation for the District in the Congress is the theoretical ideal. I think under the circumstances at this time, the approach of House Joint Resolution 396, which gives the guarantee of one Member in the House of Representatives and such other Members here and in the Senate, up to two, as the Congress may specify, is preferable.

Mr. TENZER. But in answer to a question, you responded by saying that it is possible that in the implementation legislation, representation in the Senate may possibly be denied to the District of Columbia.

Mr. CLARK. Yes, that is a possibility, under this resolution, and I would hope that the Congress will act otherwise. But I think there are two reasons, two strong and compelling reasons, to go on with 396 now, one of which my belief is that it can be enacted and ratified quickly. I think this point is awfully desirable at this late date.

Mr. TENZER. Then your view, as expressed in your prepared statement, is that the ideal would be representation in both Houses, but that you have some reservations as to whether that could be achieved at this time?

Mr. CLARK. I have some reservations as to whether it could be achieved at this time. The other point is that the facts regarding the population here are such that it might be preferable to confer on the Congress the power to study and look into this problem.

I assume that Congress in exercising its power under 396 would also strive for the ideal.

Mr. TENZER. I agree with you that there should be no delay in handling this proposal. I believe we have ample testimony here before this committee in connection with this proposal to indicate the sentiment of the people of the District of Columbia supports congressional representation, and we will still have other scheduled witnesses who will be speaking out in connection with that question.

And I also agree with you that such information as may be required in the 1970 census from the people residing within the District of Columbia should not delay our dealing with the proposed amendment.

It is very possible, I suggest, that after full representation in the Congress of the United States is granted to the District of Columbia, many persons who have been living here for more than 2, 3, 5, 10, even 20 years, may discontinue voting back in the States from which they came, and there would be a complete shifting of the residency from the States, to the District of Columbia.

Mr. CLARK. I think that is a very valid observation, and the Census should look at this question. The original pattern of people living here and voting elsewhere may change drastically after the right to vote is established here for congressional representation.

Mr. TENZER. From the census standpoint we have been informed in connection with other legislation being considered that the Census Bureau is qualified and capable of making a quick check in an area for less than 25 or 30 cents per person, so the cost of obtaining such information on a continuing basis would be very minimal.

Mr. CLARK. A small price to pay for democracy.

Mr. TENZER. That is right. I agree with you.

Thank you, Mr. Attorney General.

Thank you, Mr. Chairman.

Mr. FEIGHAN. Mr. Biester?

Mr. BIESTER. I also want to thank the Attorney General for coming here and testifying this morning in favor of a proposition which I also support.

I am concerned about one aspect of your testimony, and that relates to the senatorial representation.

I take it from your answers to Mr. Kastenmeier and to Mr. Tenzer that you regard the situation in Washington, D.C., as a unique situation, and one that should be so treated. Is that correct?

Mr. CLARK. As a generalization, that is correct; yes.

Mr. BIESTER. And would you agree that it may not, under those circumstances, serve a good, useful purpose to treat the problem on an as-if basis—as if it were a State or as if it were a city? Rather it might be best to treat the problem by approaching it with a solution which as nearly as possible meets the needs and precise equities of this situation.

Mr. CLARK. That is a fair and practical way to address the question; and that is the way that I would look at it.

Mr. BIESTER. I also understand that on a one-man, one-vote principle, as you have expressed yourself, you support that principle.

We do have an historical basis for having two Senators represent each State, and in a sense in many areas the one-man, one-vote principle is not supported by two senatorial representatives from some of the smaller States in population.

Therefore, in treating this unique situation, don't we jeopardize to some extent the one-man, one-vote principle, in California and New York and other more populous States, if we grant two Senators to 800,000 people?

Mr. CLARK. Certainly no more, if as much, as we do in connection with the 11 States that have populations smaller than the District of Columbia today.

That is a concept that is deeply embedded in the Constitution, and the District of Columbia would simply add another representation potential in the Senate that would be below the median population for the States.

Mr. BIESTER. That would be true if we were going to do it on an as-if basis; as if it were a State; but if we treat it as a unique situation, might it not be fair on the one-man, one-vote principle not to have two Senators, but to have one Senator, or something like that?

Mr. CLARK. It might be fair, on the one-man, one-vote approach. I am, however, inclined to think that the overriding value is equal justice, or equal protection of the laws. If the one-man, one-vote theory applies to this matter—and I do not address myself to that question—it ought to be applied uniformly to the 50 or the 51, and not limited to one of the group. In other words, the District of Columbia should not be singled out for the application of the one-man, one-vote doctrine with respect to its representation in the Senate.

So I would say that those considerations should not really figure in determining Senate representation for the District of Columbia, under our present constitutional basis.

Mr. BIESTER. I am inclined to agree to some extent, but I have some question along those lines.

I am glad to have your answers, and appreciate your testimony here today.

Mr. FEIGHAN. Mr. Jacobs?

Mr. JACOBS. Mr. Attorney General, I simply want to say that as usual your testimony before our committee has been most scholarly, and therefore most helpful, and I thank you personally and for the committee.

Mr. CLARK. Thank you.

Mr. EILBERG. I would like to make a comment first, and then ask the distinguished Attorney General to reply.

I am from the State of Pennsylvania, whose population growth among the States has been about the lowest in the country. I would expect, without the matter of District of Columbia representation intervening that after the 1970 census, Pennsylvania might very well lose a Member in the House. We have 27 now. We might very well go to 26. That will, of course, cause some distress to the citizens of the State of Pennsylvania.

Now, along comes District of Columbia representation proposed by House Joint Resolution 396 and related measures.

If your position is to be adopted by the Congress, that the number of the Members of Congress be kept at 435, we might very well have the situation of the State of Pennsylvania giving up a Member to the District of Columbia.

This is something speculative, but it concerns me, as a Member of Congress from Pennsylvania.

Now, I ask you, Mr. Attorney General: If you were in my position, how would you explain this to the members of my district, or to any citizen in the State of Pennsylvania?

Mr. CLARK. I would have to explain it on principle, I guess, rather than self-interest.

I may be old fashioned about this—but I would say that the numbers of a deliberative body are important, and that they affect its ability to judge wisely.

I even feel this way about the Federal judiciary. I think the proliferation, the addition of judges does something to the quality of our product, and to our potential for equal justice.

I think we have to devise other methods of securing proper representation, and the addition of numbers over a period of time will really make it very unwieldy and very difficult to be effective.

And we are concerned about the role of the Legislature in Federal Government. It is so important that it be a dynamic force, and this is hard to come by.

I would also say to the people that we of course do not want more, and we cannot ask for more than our fair share of representation in that body. On the other hand, we would not ask that anyone else, any other citizen of this country, be denied representation because we ourselves might have a little greater representation as a result of such denial.

Mr. EILBERG. Just one further point. This could be discussed ad infinitum, but, Mr. Attorney General, I really don't see how a body of 436 or 437 is significantly more unwieldy than this body of 435.

I find this fallacy in your reaction to what I have just inquired about.

Mr. CLARK. Well, I agree that you cannot tell the difference between those numbers, because of it is a fourth of 1 percent, or something like that.

The question is where you draw the line, and don't you need to draw a firm line and hold it?

And we have held this line for 54 years.

Mr. FEIGHAN. Thank you very much, Mr. Attorney General, for your presentation and very helpful assistance.

Mr. CLARK. Thank you, sir. It was a pleasure to be here.

Mr. FEIGHAN. We have the privilege of having with us Mrs. Donald E. Clusen, director of the League of Women Voters of the United States, from the State of Wisconsin, accompanied by Mrs. L. Noble Robinson, member of the board of the League of Women Voters of the District of Columbia.

As we have both of your statements already in the record, we will be pleased to have you comment or make any summary you desire to.

Mr. Kastenmeier?

Mr. KASTENMEIER. Mr. Chairman, I would like to extend a particular personal note of welcome to Mrs. Clusen, who is from my State of Wisconsin.

She has come all the way from Wisconsin to be here to represent the League of Women Voters, and she of course is the chairman of the committee of the League of Women Voters directly dealing with the subject of representation for the District of Columbia, and I am privileged that she has come to speak to us today.

Mr. TENZER. Will the gentleman yield?

I would like to add to what my colleague, Mr. Kastenmeier, has said.

I would be very happy to wait for this testimony, because I know of the great contribution which the League of Women Voters makes to educate the voters of our respective districts.

I am delighted to see you here.

STATEMENTS OF MRS. DONALD E. CLUSEN, DIRECTOR, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES, AND MRS. L. NOBLE ROBINSON, MEMBER OF THE BOARD, LEAGUE OF WOMEN VOTERS OF THE DISTRICT OF COLUMBIA

Mrs. CLUSEN. Thank you.

I am very hesitant about taking up your time, knowing of the situation in which you find yourselves today; and since you already have copies of our statements, I think there is little need for me to repeat the entire statement for the record.

If you have any questions dealing with the statements, we would be glad to respond to them.

One of the points which we were anxious to make is that there is concern of a national organization like ours, with some 146,000 members in the 50 States, the District of Columbia, and Puerto Rico, about the fact that there is no representation in Congress for the District of Columbia, and that we who concern ourselves with the field of government on local, State, and national issues are glad of the opportunity to demonstrate to this committee that all across the country, on the part of thinking citizens who feel that this is a basic flaw in our system of democratic representation, there is concern.

We want you to know that we are glad that this measure on congressional representation is before this committee and this Congress, not as an alternative to proposals for self-government, but in a form in which it can be considered on its own merits.

I know that you have heard many discussions in defense of why congressional representation for District citizens is necessary, so there is little need for us to repeat them.

This morning, however, we have heard no discussion of one aspect. It seems to us, at least, that congressional representation, in addition to providing a basic right, would fill the present vacuum with one elected spokesman, to provide an outlet for residents of the District of Columbia, who have no one to talk to who is responsive to their voice, in their search for answers to local problems, or to represent their particular views.

I simply want to emphasize that should this committee report favorably, and this session of the Congress submit the amendment for ratification by the States, league members throughout the country will work very hard, with enthusiasm and conviction, to secure passage and ratification, and that we hopefully would not expect final approval to extend into the period of 1972 or 1973, as was suggested by some of the questioning this morning.

We think a grievous wrong exists, that this remedy is long overdue, that it is practical and realistic, and that you have an opportunity to take a very effective and impressive step forward during this session.

Mr. FEIGHAN. I am sure, Mrs. Clusen, that if and when H.J. Res. 396 is passed by the Congress the membership will be very grateful if the League of Women Voters, who have contributed so much to the economic and civic development of our country, will disseminate their views to the membership, and from the membership to other people, so that this proposal may become a reality.

Mr. Kastenmeier?

Mr. KASTENMEIER. No further questions.

Mr. TENZER. Mr. Chairman, the League of Women Voters may be able to contribute to establishing a record in which this constitutional amendment has been approved.

Mr. FEIGHAN. Would you like to speak, Mrs. Robinson?

Mrs. ROBINSON. No.

The members of the League of Women Voters of the District of Columbia are very happy to associate themselves with the views presented by our distinguished national board chairman.

Mr. FEIGHAN. We want to express our appreciation to the League.

We have some statements and communications which we will put in the hearing record.

(Documents referred to follow :)

STATEMENT OF HON. THOMAS J. MESKILL, U.S. REPRESENTATIVE FROM THE
STATE OF CONNECTICUT

Mr. Chairman, I am here in support of H.J. Res. 687, a bill which I co-sponsored, proposing a Constitutional amendment for the purpose of providing voting representation in the House of Representatives for the District of Columbia.

This bill was introduced June 28 and I wish to acknowledge with appreciation the promptness with which the Committee is acting to consider it.

My reason for supporting this legislation is plain, uncomplicated and does not take long to tell. At the present time this city of 800,000 persons has no voice in Congress. The citizens of the District of Columbia are being taxed without representation. In my opinion, this absolutely wrong.

Of course, it is more than a matter of taxation: the citizens of the Nation's Capital simply have no effective voice in the operation of their own affairs. H.J. Res. 687, would go far to correct this.

Since the city was established as the seat of government, it has grown enormously as the government has expanded and as our mighty country has grown. I believe I am correct in saying that there is no other capital in the free world, including the capitals of all our States, which does not have home rule. I believe that the District of Columbia should have home rule, as well as representatives in Congress. I do not consider this bill in any way a substitute for home rule. Washington is entitled to have a voice in Congress as well as to run her own strictly local municipal affairs just as much as Hartford, Connecticut, my own State capital, or Albany, New York, or Sacramento, California, or the City of London, or Paris, Rome, Berlin and the other free-world capitals.

This city, once a small village with little else but government clerks in residence, is a major metropolis today. While its chief occupation is still the government, how ironic it is that this, the center and capital of freedom's citadel, is in a state of servitude as great as that of the captive nations whose plight we will be deploring later today on the Floor of the House.

Whether home rule comes or not, however, Congress will necessarily always be a major, if not a wholly controlling authority in the Nation's Capital. For that reason, I strongly urge the adoption of H.J. Res. 687 to give effective voice in the national Congress to the citizens of the District of Columbia who are ruled by the Congress.

STATEMENT OF HON. LARRY WINN, JR., U.S. REPRESENTATIVE FROM THE STATE OF KANSAS

Mr. Chairman, Members of the Subcommittee: I come before you today to indicate my support of H.J. Res. 687, which, if enacted, will propose an amendment to the Constitution to provide voting representation for the District of Columbia.

Mr. Chairman, as you know, a very inequitable situation exists in this nation today. The people of the District of Columbia are not allowed the right of representation in what was intended to be a representative democracy. The 800,000 people of the District are the only people in the United States that are not allowed to vote for a government official, at any level, who is directly responsible only to them.

I am sure it was not the intent of the framers of the Constitution to deny this right to the residents of the District of Columbia while it was guaranteed to every other citizen in the Nation. Their intent, at that time, was to insure that the Nation's capital would not become the subject of interstate rivalries and jealousies. In the 1780s, there was ample evidence that the District had to be set apart from any State's jurisdiction to prevent such a state from exercising undue influence on national affairs.

The people of the District of Columbia, just like people everywhere in the United States, have the right to have elected officials whose actions must respond to their needs. The election of a voting representative in Congress will assure them of proper representation in the councils of government. As a member of the District of Columbia Committee, I have been repeatedly shocked at conditions which exist in the District because of lack of knowledge on the part of public officials whose responsibility it is to correct the condition.

Just as every citizen in the country, the people of the District of Columbia deserve, at the very least, one elected official who will be responsible to the problems and needs of the people.

STATEMENT OF HON. JOHN M. ZWACH, U.S. REPRESENTATIVE FROM THE STATE OF MINNESOTA

Mr. Chairman, nothing is more fundamental to our way of life than the ideal that the will of the people should prevail in the decision-making process of representative government. It is the responsibility of the Congress to insure voting rights to every man and woman in the Nation.

Unfortunately, those folks who live in the District of Columbia—the seat of federal government—have been denied this sacred right.

The Founding Fathers of this nation never intended that the people living here should be second class citizens. But they faced the question of securing a district to house the seat of federal government—and preventing any one state from exercising undue influence on national affairs. It was important for them to do whatever they could to mold thirteen strong states into an even stronger union.

The leaders of government in 1800 probably never imagined that the then tiny village on the banks of the Potomac would someday grow up to be a sprawling, congested American metropolis—a city facing problems of crime, transportation, welfare and many, many others. Today Washington is a rapidly expanding area of 800,000 people.

Clearly, in these times there is no question that these people should have representation in Congress. Since I have been at this job, particularly as a member of the District of Columbia Committee, I have talked with a number of folks and groups from the city about important problems. They must begin, "Since we have no congressman . . ." Imagine, 800,000 people with no voice in the National Legislature. If they run into a problem in dealing with the maze of expanding federal programs, they have no one to whom they can turn for prompt assistance. They have no one to discuss fiscal matters with, even though they must accept increased taxes by a vote of Congress.

Mr. Chairman, I hope that there may be immediate action to remove this injustice. I urge that the committee report a measure to the House that will allow citizens of the District to fully participate in the government process.

STATEMENT OF HON. PETER RODINO, U.S. REPRESENTATIVE FROM THE STATE OF NEW JERSEY

I urge prompt adoption of H.J. Res. 396, the proposed constitutional amendment which would, as the President said, "give the District at least one sure voice . . . in the Congress."

Resolution 396 will assure the District one voting representative in the House. This very minimum at least should be guaranteed by the text of the amendment itself.

Resolution 396 takes the important next step, however, and I support it strongly in this regard. It authorizes the Congress from time to time to provide for additional voting representatives in the House and the Senate up to the level to which the residents of the District would be entitled if it were a state. I hope the Congress, following ratification of this amendment, will see fit to provide this additional representation.

While I also favor a bill such as H.R. 9634, which would provide the District with a single non-voting representative in the House of Representatives, it must be recognized that such a bill is no more than a temporary measure.

Complete representation in Congress, as we know it, is more than the power to speak or to be heard; it is the power to vote. Indeed, it is this power, above all, which represents the ultimate means of legislative participation and legislative decision. Without a representative who has this fundamental power, the people of the District cannot help but feel that they have been relegated to political obscurity and dependence, to neglect and unfair discrimination. We must not permit such unequal treatment—treatment so contrary to our national heritage and traditions—to continue.

Adoption of Resolution 396 will serve a second pressing need. It will provide the 800,000 residents of the District with a representative in the Legislature which acts as their City Council. He will be available to represent their concerns, to introduce needed legislative measures, to respond to their questions, and to present their views before other Committees of the Congress. In turn, he will offer to the other members of the House a colleague to whom they may present their views on District matters. The improvement in communication of the citizens to the Legislature and return will add strength to both and improve overall government.

As important as these considerations are, there is one additional consideration that transcends all others—it is that the citizens resident in the District of Columbia should be treated as first-class citizens. For there is no room whatever for second-class citizenship anywhere in this country.

STATEMENT OF LEONARD S. BROWN, JR., MEMBER, DISTRICT OF COLUMBIA YOUNG DEMOCRATIC CLUBS AND THE DISTRICT OF COLUMBIA POLITICAL SCIENCE ASSOCIATION

Mr. Chairman and members of the House Committee on the Judiciary I am submitting this statement on Congressional representation for the District of Columbia as a private citizen and as a social scientist, and not as a representative of the organizations in which I hold membership.

I support the adoption by Congress of a Constitutional amendment granting FULL Congressional representation (two Senators and Representatives) for our nation's capital city. I would go much further than the provisions of House Joint Resolution 396!

I am in favor of granting the nearly one million people of the District full participation in the electoral process for the selecting of our Presidents and Vice Presidents, as well as participation in any other Congressional processes which might affect the Presidency after election day and the subsequent counting of the Electoral votes, e.g., the counting of the Electoral votes themselves; House vote for the President; Senate vote for Vice President; House impeachment of the President; Senate trial of the President; Congressional confirmation of a Vice President in the event of a vacancy; Congressional action in the case of Presidential disability; the succession of the Speaker of the House and/or the President Pro Tempore of the Senate to the Presidency, etc.

While the House Committee on the Judiciary is conducting hearings on possible Congressional representation for the District, the Senate is simultaneously holding hearings on the Presidential Electoral College System. This occurrence might just be providence, because Congressional representation and complete participation in Presidential electoral politics for the District are the most crucial Constitutional problems facing the Congress and the nation today—in our “democratic way of life.” The District of Columbia can only have full, complete participation in the Electoral Presidential choice process as the direct results of the District's actual representation in the Congress. Today, as the results of the Constitutional provisions in Articles I and II and Amendments 12, 23, and 25, there are very serious Constitutional defects in regard to the District and the Presidency. These defects ought to be corrected by Congressional action before the 1968 Presidential election and before someone takes the matter into the Federal courts.

The following are truisms today: (1) Under Amendment 23, the District is permitted to participate in the choice of Presidential Electors, and thus it is permitted to participate only partially in the Presidential Electoral process and cannot “go all the way” because it does not now have two Senators and Representatives in the Congress. Presently, the District cannot vote for and help choose a President if the election were thrown in the House and votes for the three leading candidates were taken according to the States. This would be the similar case if the Senate found it incumbent upon it to choose a Vice President while the House was electing the President. The District would be responsible for the votes for the three leading candidates in the House vote (i.e., nominating), but the lack of Congressional representation in the Congress would not permit it to follow through the electoral process all the way.

(2) If under Article I of the Constitution, it became incumbent upon the House to impeach the President and the Senate to try the impeached President, the District could not participate, after having voted for the Chief Magistrate in the Presidential Electoral College System. The District does not today have the necessary Congressional representation for such participation.

(3) Under Article I, Section 2, of the Constitution, the national decennial census is presently taken in the District for the other purposes other than the original purpose, i.e., for determining Congressional representation in the House each ten years.

(4) Under Article XII, presently no District representation is present in and during the Joint Sessions of Congress for the counting of the Presidential Electoral votes and the subsequent Congressional certification that Presidents and Vice Presidents have been elected.

(5) Under the provisions of the Presidential Succession Act of 1947, providing for the assumption of the Presidency by the Speaker of the House and the President Pro Tempore, respectively, in the absence of a Vice President, the District would not have had the occasion to participate beforehand in the choice of these officers in the respective bodies of the Congress—because these officers are sup-

posed to be closer to the people than members of the President's Cabinet, who are next in line for the succession.

(6) Under the newest Amendment to the Constitution, the 25th, dealing with Presidential disability, the District is not permitted to participate in the Congressional ("a majority of both Houses of Congress") confirmation of a new Vice President after the President nominates one to fill a vacancy. Nor is the District presently permitted to participate in the 25th Amendment's provision giving Congress ("by two-thirds vote of both Houses") the power to decide when the President is "unable to discharge the powers and duties of his office . . ." A Vice President could become President under these circumstances without the District electorate having ever had any say-so in the choice one way or the other.

Congress might just help remedy some of the Constitutional defective problems here by causing amendment to the Constitution to abolish the Presidential Electoral College System and provide for direct, popular election of our Chief Executive. If this were the case, the problems of the District of Columbia in regard to the nation's capital and its "half-way" participation in the Presidential Electoral College process and "Congressional Presidential politics" would continue to remain with us. This would be the case short of granting full, complete Congressional representation to the District.

There is, moreover, the legal situation to be considered (apart from the Constitutional question) because of the District's lack of voting representation on Capitol Hill. Some lawyers and citizens are now of the opinion that the people of the District could go to court now and have some "Congressional Presidential politics" action invalidated under the "Equal Protection of the Laws" clause of the 14th Amendment. The view has also been expressed that if the Electoral College is abolished (and the District is still without Congressional representation in Congress) District residents will have strong cases under the "one-man, one-vote" doctrine as enunciated by the United States Supreme Court in *Gray vs. Sanders*, 372 U.S. 368, 381 (1963).

So it is, with or without the Electoral College, the District can only participate adequately in the "Congressional Presidential political process" except by full, complete Congressional representation—two Senators and Representatives. Only by granting the District full Congressional representation in both Houses can the present defective problems of the Constitution be remedied in so far as the District of Columbia is concerned.

I thus support the adoption of a House Joint Resolution providing, *inter alia*, the following:

ARTICLE —

SECTION 1. The people of the District of Columbia constituting the seat of Government of the United States shall elect and be represented in the Congress by two Senators and in the House of Representatives by one or more Representatives in accordance to the rule of apportionment established by Article XIV of the Constitution.

SECTION 2. For the purposes of electing a President and Vice President of the United States, the District shall be entitled to the number of electors as it has representation in the Congress, as if it were a State.

SECTION 3. The Congress shall have power to enforce this article by appropriate legislation.

In conclusion, I urge that the remedy to the District's legal and Constitutional representational problems ought to be supplied before the next Presidential election, i.e., November, 1968. The nearly one million people of the nation's capital city deserve full Congressional representation on the very strength of the ideals of democracy itself (and the District's people have no representation in the national legislative of a democracy) and the ideals of the "American Way of Life"!

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THE EIGHTEENTH AND COLUMBIA ROAD BUSINESS ASSOCIATION,
Washington, D.C., July 20, 1967.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives,
Washington, D.C.

DEAR CHAIRMAN CELLER: I am writing to support the Washington Board of Trade and the Federation of Citizens Associations in their efforts to develop a consensus among District citizens in support of the Constitutional Amendment to provide voting representation in the Congress. In his February 27, 1967 Message to the Congress President Johnson said:

"I recommend that the Constitution be amended to authorize one Representative for the District of Columbia in the House and such additional representation in the House and the Senate as the Congress may from time to time provide.

"Upon ratification, this would give the District of Columbia at least one sure voice—the minimum possible voting representation—in the Congress. At the same time, it would provide, through the Congress, the ability to adjust the representation for the District as population increases and as other changes make such adjustments appropriate and fair."

President Johnson is right, for there is nothing in the Constitution declaring that the right of citizens to vote shall be denied or abridged because they reside in the District of Columbia. Citizens who reside in the District, who make their home here, who pay its taxes, have the right to suffrage.

The President's proposal, spelled out in House Joint Resolution 396, is to give District citizens the right to send representatives to the Congress which is charged with the serious business of the nation: its government.

I believe that Congress itself has much to gain from the presence of a Representative of the people of the District, for elected Representatives would be in a position to give the other members of Congress accurate and valuable information on all District questions and issues, and the views of District citizens regarding them.

At the present time, more than 800,000 District citizens are unable to participate or have a voice in our government because they are not represented in the Congress. The District of Columbia has a larger population than in each of 11 States who together send 22 Senators and 17 Representatives to the Congress.

The Constitutional Amendment proposed by President Johnson takes the suffrage of District citizens to a higher plateau than was provided by the 23d Amendment to the Constitution which was adopted in March of 1961 and gives District citizens a vote for President and Vice President.

It might be useful to point out the 14th Amendment states in part: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

The 15th Amendment, which is also germane to this discussion, provides that "The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude."

The 19th Amendment provides that "The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of sex."

Mr. Elwood Davis, immediate past president of the Washington Board of Trade and chairman of the Citizens' Joint Committee on National Representation for the District of Columbia, and a resident of our area declared, in his testimony before your Committee that: "There is nothing in the Constitution declaring that the right of citizens of the United States to vote shall be denied or abridged on account of residence in the National Capital. The citizens of the District have an absolute and constitutional right to exercise suffrage, but no machinery was set up, and District residents are without legal residence in a State. We find ourselves in this position because the Constitution failed to give any political status to us and failed to empower the Congress to correct this shortcoming. It is hard to believe that those who had rebelled and waged a successful war against 'taxation without representation' would intentionally create at the seat of the new Government a condition duplicating that to which they so strenuously objected."

It is important to note that the citizens of the District paid more toward support of the United States Government in Federal individual income taxes than the residents of each of 19 States in the Union, yet they have no elected and voting representatives in that government.

But there are other significant statistics which we wish to bring to your attention. For instance, the District of Columbia furnished more men to the Armed Forces in World War II than were furnished by each of 14 States. The 103,376 men and women from the District were divided up this way: 68,361 in the Army; 29,729 in the Navy; 3,966 in the Marine Corps; and 1,320 in the Coast Guard.

3,029 citizens of the District of Columbia who served in the Armed Forces lost their lives in the defense of their country during World War II.

I am very pleased at the bipartisan support of District Republicans and Democrats for this Constitutional Amendment.

Congressman John J. Rhodes, Chairman of the Republican House Policy Committee, in his very strong criticism of President Johnson's Reorganization Plan No. 3 of 1967 told the members of the District of Columbia Republican Committee on June 15, 1967 that:

"Although Madison in the Federalist papers indicated that there should be some kind of local self-government in the District of Columbia, the historical record is anything but happy in this respect. One might fairly say that so-called 'home rule' has been demonstrated to be a failure because of the lack of a tax base."

The lack of a tax base could be taken care of quite easily by amending House Joint Resolution 396 as follows:

"Sec. 4. Section 8, article 1 of the Constitution is amended to read as follows: 'To exercise exclusive legislation in all cases whatsoever over such District (including the District of Columbia, and Montgomery and Prince Georges Counties in Maryland, and Arlington and Fairfax Counties in Virginia) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States.'"

The lack of a tax base is and must be a matter of concern to your Committee, which must consider that if the lack of a secure tax base historically has been the cause of the several attempts of the Congress to provide self-government to District citizens to be failures, then every effort must be made by this Committee to provide such a secure tax base as will guarantee this present attempt of the Congress and of President Johnson to be a success.

In the past 15 or 20 years, there has been a great exodus of higher income families, and business, to the suburbs from the central city, and these families are thereby freed of many District taxes so that the businesses and the families which remain, and which are solvent, are required to pay ever mounting taxes.

There is nothing sacrosanct about the boundaries of the District, since they do not contain the area south of the Potomac retroceded to Virginia in 1847.

Despite the fact that the Federal Government owns more than 50 percent of the land area of the District, the plain fact is that it falls far short of paying 50 percent of the taxes of the District; and the Federal payment, while it has risen in recent years, is still a long way from representing the total amount which the Federal Government should pay toward the District.

We need the brains and the talent of the suburbanites which would help make the District of Columbia a more attractive place to work and live.

This suggested amendment, which I have developed, could make it possible to provide an attractive, balanced, and well-run city which would be self-supporting, and which would not be a continued and growing drain on the Federal Government. It could be a city in which the citizens of the District and of the

Nation could take pride. It could be a clean, well-ordered city, with a very-low crime rate, it could be a city to which people from all over the Nation and the world would not be afraid to come to visit, and would not fear for their lives and limbs.

I think all of these things are possible with the adoption of the Amendment I have suggested, and I hope that the Majority and Minority members of the House Judiciary Committee will give it their most serious study and consideration, and that they will adopt it.

Respectfully yours,

GEORGE FRAIN,
Administrative Secretary.

AMERICAN VETERANS COMMITTEE,
Washington, D.C., July 20, 1967.

HON. EMANUEL CELLER,
Chairman,
House Judiciary Committee,
2137 Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN CELLER: I am writing this letter for inclusion in the record of the hearings now going on before the House Judiciary Committee concerning H.J. Res. 396 and other proposals to amend the United States Constitution to provide voting representation in Congress for the District of Columbia.

The American Veterans Committee has long included in its platform, which has been adopted anew by each National Convention, a provision supporting representation in Congress for the Nation's Capital. The text of the relevant passage, as most recently reaffirmed by our 20th National Convention, held in Atlantic City, New Jersey, June 16-18, 1967, is as follows:

"We urge that the District of Columbia receive, by legislation or by constitutional amendment where the matter cannot be handled by legislation:

- A. The right to local self-government and;
- B. The right to elect Senators and Representatives in Congress;
- C. An equitable annual Federal contribution in lieu of taxes."

For the benefit of the 113,000 veterans and all other citizens who reside in the District of Columbia, the American Veterans Committee supports the principle of national voting representation in Congress. The provisions of H.J. Res. 396, which you introduced on March 7, 1967, would achieve this end admirably, but we are also prepared to support any amended form which will accomplish the same purpose.

We are submitting our statement for the record rather than requesting time to testify in person because we believe that appropriate legislation should be enacted as soon as possible, and we do not wish to prolong the hearing stage.

It is time that the population of the District of Columbia, which is larger than that of 11 states, all of which have two Senators and one or two Congressmen, obtain its proper share of representation in Congress. The people of the District of Columbia need to have individuals representing and speaking for them in Congress, and to whom they can turn with their problems, rather than imposing on the good graces of Congressmen and Senators whose time should be devoted to their own constituents. In short, it is high time that the people of the District of Columbia attain at least this mark of first-class citizenship in the United States.

Yours very sincerely,

EUGENE D. BYRD, D.D.S.,
National Chairman, American Veterans Committee.

MOUNT RAINIER, Md., July 26, 1967.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives, Washington,
D.C.

DEAR MR. CHAIRMAN: I would like to request that this statement be made part of the record in your Committee's hearings on the question of passing a Constitutional Amendment to give District of Columbia citizens some representation in Congress.

I am totally opposed to the adoption of any legislation which would have the effect of permanently establishing District of Columbia citizens as second class citizens. To use the amendment process to provide for second class citizenship

rights is a thousand times more objectionable than doing this by ordinary statutory law.

The Constitution was originally written on the assumption that all citizens with any voting privileges at all would be first class citizens who would be residents and citizens of one of the states. The Constitution authorizes Congress to create new states any time Congress wishes by a simple statutory Act of Congress. There is absolutely no limit on the location or population of new land that may be selected to be a new state. If the Constitution prohibits making the District of Columbia a state or a part of a state, this is the only territory in the whole universe with this restriction. To me it is perfectly ridiculous to argue that the Constitution has been written in such a way that any land in the whole universe may be part of a state or a state except the nation's capital.

The argument behind this fantasy is that "state" status and "exercising exclusive legislation" are incompatible. It is falsely assumed that state governments in the respective states have local legislative authority which can never be excluded. There are many Federal territories located in the various states and Congress retains full legislative control over most of them. There are several cases where Congress may have delegated these legislative powers to local city or state governing bodies but Congress is always free to revise and amend any legislation that the local bodies may enact for the governing on the Federal territories.

When all other arguments fail, the die hards invoke the newly enacted Twenty-Third Amendment, which was presumably enacted to give District of Columbia citizens an equal vote for President and Vice-President, and say its allocation of three presidential electoral votes to the "seat of Government" conflicts with the District of Columbia being a state or a part of a state. But this Amendment assigns the Presidential voting power to the seat of government. In 1846 Congress changed the boundary of the seat of government by a simple Act of Congress, namely, the Act that retroceded that part of the District of Columbia ceded from the State of Virginia. There is no reason that Congress may not once again redefine the boundary of the seat of government to include more or less than the existing District of Columbia boundary. Therefore, Congress could bypass this Amendment whether it chose to make the District of Columbia an independent state or a part of a state. Congress could simply enact a statutory law providing that the seat of the government is that part of the District of Columbia's state that is associated with the state's first three electoral votes for President.

In my view, there is no reason why the District of Columbia should not be established as a state or a part of a state by a simple statutory Act of Congress. State status would give District of Columbia citizens first class citizenship and give them all the equal voting rights, privileges, and immunities that are carefully protected by many guarantee clauses in the Constitution. State status would correct the major defect of the Twenty-Third Amendment which gave District of Columbia citizens no voice in the selection of the President in cases where the choice was determined solely by the members of Congress according to run-off election, impeachment, or disability procedures. The Twenty-Third Amendment also was very unfair in allocating more Presidential votes to some states like New Hampshire than to the District of Columbia notwithstanding the fact that the population of the District of Columbia was twenty percent larger than that of New Hampshire.

Now that the Twenty-Third Amendment is on the verge of being repealed anyway by the proposed Amendment to elect the President by direct vote which will automatically make District of Columbia citizens' vote equal to those of New Hampshire citizens, it would be tragic to see another discriminatory Amendment passed which would permanently award the District of Columbia less voting representation in Congress than the less populous State of New Hampshire is given.

The question of treating the District of Columbia as an independent state or as a part of the State of Maryland is easy for most residents of the District of Columbia or of Maryland to answer. They want the District of Columbia to be an independent state with two U.S. Senate seats allocated solely to the District of Columbia. Maryland politicians don't want to share their two Senate seats and look upon District of Columbia citizens participating in their local elections with absolute horror. The State of Maryland has just gone through five bad years trying to redistrict their Congressional and State Legislature Districts and this would all have to be done over if the District of Columbia is treated as part of Maryland. Many of the existing elected officers of Maryland could be sure that political union would make their reelection impossible because either their seat might be lost in the shuffle or because the new voters in their district might be

so different as to upset the normal balance and throw the other major party into power.

I am opposed to independent statehood for the District of Columbia. Unless the U.S. Senate is reapportioned to give more voting power to the larger states, it is absurd to create another small state. As it is, six and one half percent of the population has an absolute veto over any legislation that may be presented to the Senate. This results from the fact that the seventeen smallest states have this population and control one third of the seats in the U.S. Senate. Since the Senate has a ridiculous filibuster rule that requires a two-thirds vote to either stop a filibuster or to change this rule, the seventeen smallest states are able to prevent any bill from coming to a vote. Furthermore, in exercising this legislative blackmail the business in the Senate is delayed endlessly year after year.

Another point in opposition to independent statehood is that it would make it more and more difficult to solve the metropolitan problems of the Greater Washington Metropolitan Area. If instead of having three equal size independent empires running sections of the metropolitan area the area were mostly under the jurisdiction of Maryland, problems of an overlapping nature like air pollution, crime, transportation, housing, and education could be more easily coordinated and financed more equitably.

Historically, of course, the District of Columbia voted in Maryland Congressional and Presidential Elections for many years following the 1790 Cession. I have always argued that the land was never legally removed from Maryland in the first place since the Act of Cession and the other laws controlling Congressional Redistricting provide that the ceded land remain under the force of existing Maryland Laws. Unless the territory was transferred to another state I don't see how it was ever removed from Maryland without changing the original Redistricting Laws of Maryland and violating the One Man-One Vote rights of District of Columbia citizens who were also Maryland citizens at the time of any removal. I offered \$1,000 to every Congressman last year if the Act of Congress which removed the District of Columbia from the State of Maryland could be found by him. Nobody answered so I assume there is no such Act of Congress.

However, it doesn't make any difference here whether the land has been removed from the State of Maryland or not. A simple statutory Act of Congress is all that is necessary to reverse the situation whether it has been removed or it has not been removed.

Finally, it should be obvious to every Congressman that holding the number of seats fixed in the House of Representatives at 435 while creating new states will endanger the seats of some marginal states. The apportionment of seats really is a complicated mess since Congress discontinued allocating the House seats in direct proportion to population. Nobody wants to vote for a bill which would abolish his own Congressional seat. Democracy is one thing but self survival is another. In all honesty, I have to admit that either independent statehood or part statehood status for the District of Columbia will cause two of the 435 seats to be lost to the District of Columbia. The seats would be taken from Maryland and New York I think if the District of Columbia gained statehood today. Since Congress is perfectly free to increase the number of seats, this problem can be avoided in the first place.

In conclusion, I am opposed to making anybody a second class citizen. I see no reason why the nation's capital should not be a Federal territory in some state like Maryland. I think this result can be obtained by a simple statutory Act of Congress.

Sincerely yours,

WILLIAM A. ALBAUGH.

Mr. FEIGHAN. The committee will now adjourn, subject to the call of the Chair.

(Whereupon, at 11:40 a.m., the committee adjourned, subject to the call of the Chair.)

PROPOSED CONSTITUTIONAL AMENDMENTS FOR CONGRESSIONAL REPRESENTATION OF THE DISTRICT OF COLUMBIA

WEDNESDAY, AUGUST 2, 1967

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met at 10:05 a.m., pursuant to adjournment, in room 2141, Rayburn House Office Building, Hon. Emanuel Celler (chairman) presiding.

Present: Representatives Celler, Feighan, Rogers, Donohue, Ashmore, Whitener, Hungate, Tenzer, Eilberg, Poff, Moore, Jr., Cahill, MacGregor, Hutchinson, McClory, Smith III, Roth, Jr., Sandman, Jr., Railsback, Biester, Jr., and Wiggins.

Present Also: Benjamin L. Zelenko, counsel, and John W. Dean, III, associate counsel.

The CHAIRMAN. The committee will come to order.

The Chair wishes to announce that today's meeting will be the final public meeting on the proposed constitutional amendments before us, and there will be 5 legislative days within which members and others can submit their opinions for the record.

Our first witness is Joseph Rauh, Jr., of Washington, who is no stranger to us.

STATEMENT OF JOSEPH L. RAUH, JR., NATIONAL VICE CHAIRMAN, AMERICANS FOR DEMOCRATIC ACTION; ACCOMPANIED BY VERLIN NELSON

Mr. RAUH. I am accompanied this morning by Mr. Verlin Nelson.

I appreciate the opportunity to appear and testify in support of House Joint Resolution 396, a proposed constitutional amendment providing for representation of the District of Columbia in the Congress of the United States.

I am appearing on behalf of the National Americans for Democratic Action and the Greater Washington Chapter of ADA which give their wholehearted endorsement to this proposal and also as a citizen long concerned with the undemocratic nature of the District of Columbia government.

The difficulty in testifying for this resolution is that it is hard to conjure up any possible argument against it. Every conceivable consideration militates strongly in favor of this amendment for District of Columbia congressional representation:

It would at long last give a voice in Congress to 800,000 District of Columbia residents, a larger number of Americans than the population of 11 States.

It would help end the travesty of the residents of the Capital of the free world being largely excluded from the electoral process on which the democratic governments of the free world rest.

It comes at the right time—when the drive for this constitutional amendment interferes with no other viable effort to enfranchise the District.

It has virtually unanimous support from every organization and individual in the District of Columbia.

Home rule is and will always remain the No. 1 objective of most of this city. The next liberal electoral upsurge—whether that comes in the 1968 election or thereafter—should produce the extra margin of strength for home rule so narrowly missing in September 1965. But the absence of a strong home rule effort in the 90th Congress makes this the ideal moment for the drive for national representation.

Too often in the past opponents of home rule, such as the Board of Trade, have used “national representation” as an alternative to home rule and have split the forces necessary to obtain either. Today the city is united behind national representation—this is the moment to enact this long overdue proposal.

I would not be here now if I thought this amendment would weaken the cause of home rule. My credentials are in order on the fight for home rule, and my sadness over our loss in September 1965, is well known. But, on the contrary, I believe national representation will strengthen that cause. There will be very real dividends for home rule in the constitutional amendment being considered by the committee today.

The first-elected Congressman will be home rule's number one lobbyist. He will run on a home rule ticket, he will be elected by home rule supporters and he and his staff will give their all to home rule in the Congress.

Furthermore, the right to vote every 2 years will strengthen the electoral process in the District and prepare the city for the day when local officials are chosen by the people.

Finally, this amendment will deprive the Board of Trade and the few other local opponents of home rule of one of the arguments they have consistently used; namely, that the District should concentrate on getting national representation. Once we have that representation in Congress, there can be no further contention made that some other reform is more necessary than home rule. All hands and eyes can then focus on that most basic and necessary reform in the District of Columbia—home rule.

Another point, too, should be stressed. The Democratic Party of the District of Columbia is the largest and strongest organization binding the white and Negro populations of this city together; it is truly a going concern of interracial activity. But Washington political parties are severely handicapped today by the absence of elections except once every 4 years. During much of the 4-year cycle politics seems remote and political activities largely academic and unrealistic. National representation, providing biennial elections of real meaning, will strengthen the political parties by giving them the opportunity for year-round work every year. Given national representation, the

Democratic Party can multiply many times its interracial activities, and the Republican Party, too, can build its activities in this area.

No argument of substance has been made or could be made against giving the District of Columbia national representation. The time has long since passed when the unworthy consideration of the race of future District of Columbia Congressmen or Senators can be raised in our country. Those who might in a bygone day have been governed by race prejudice must know now just how much damage such prejudice has done our Nation. The resident of Washington, D.C., Negro and white together, deserve and need national representation.

In the name of hundreds of thousands of District of Columbia residents who have worked hard for civic and racial improvement in this city, we ask for speed in the enactment of this amendment. Congress has not always been generous and effective with our problems in the District. This time, with a united city asking for this amendment, it would seem appropriate for Congress to be both generous and effective—for this committee and the House of Representatives to act at the earliest possible moment so that the Senate can concur with the House before his session of Congress adjourns. In this instance, haste will make for a better city and a more democratic Nation.

Mr. Chairman, I want to thank you and the members of the committee for holding these hearings. Our long association together, Mr. Chairman, makes me realize how much you have done in the area of civil rights for this country, and what a wonderful job you have done. Everytime I come before you and your committee I realize more and more how much we have to be grateful for in your work and that of this committee.

In a very real sense, Mr. Chairman, this is a civil rights bill. This means the enfranchisement of 800,000 disenfranchised citizens.

This time we speak for a united city when we say, "Please hurry"; we have waited a long time, and we need this. We need this as soon as possible. We need this amendment before Congress adjourns. Only the speed that you and your committee can give to this amendment will make this possible. And I do appreciate the opportunity to be here this morning.

The CHAIRMAN. The resolution you refer to, House Joint Resolution 396, also provides for the possibility of the election of Senators. Do you agree with such a provision?

Mr. RAUH. Yes. The only thing in this whole world I would like to do is run for Senator from the District of Columbia, Mr. Chairman, and I couldn't agree with anything more than putting in that provision. I think you have struck a very, very wise compromise here.

We start with one Congressman. Then Congress could go ahead and give us the Senators. Maybe I will be in a wheelchair by the time we get that far and I won't get my chance to run. But at least the system you have set up, it seems to me, makes possible our having Senators in the future.

I would like to see the provision for Senators in there now, but I would rather get this much than not get anything. I recognize the political necessity of starting the way we are starting. I think you are very wise to make it possible for us to get Senators later on if the Congress at a subsequent date sees fit to give us that right.

The CHAIRMAN. The Congress, after providing for, say, more than one Member of the House, and one or more Senators, could also withdraw that representation, could it not?

Mr. RAUH. It could, but I have a feeling that we are going to elect a Congressman who will turn into a lobbyist for more and more enfranchisement. I would much rather have the Senators in there now, but I recognize that asking for that would make it more difficult to get the amendment through.

We are so desperately in need of this one Congressman that I wouldn't rock any boats by asking you to give us the Senators now. I am perfectly satisfied with the compromise which gives us the Congressman now and gives the Congress the right as time goes on to give us more.

I think that was a very statesmanlike compromise and I support House Joint Resolution 396 without reservation.

The CHAIRMAN. But there are some questions which should be discussed.

In the event of a contested presidential election, the 12th amendment provides that each State would have one vote in the House. Under the proposed constitutional amendment would Washington, D.C., have a vote in the House?

Mr. RAUH. That may be a problem that is not covered in the amendment at the present time. I think it would probably be wiser to cover it expressly. There is an ambiguity at the present time, Mr. Chairman.

I was aware of that ambiguity, and I think the committee might want to consider resolving that ambiguity by indicating its views on the matter.

I'm so desperately anxious to get this amendment adopted that I would myself feel that almost any arrangement worked out on the presidential election in case it is thrown into the House would be satisfactory.

But I recognize there is an ambiguity at the present time.

The CHAIRMAN. Should those ambiguities be resolved in the constitutional amendment here, or should it be left to statute or what?

Mr. RAUH. I think it could be left to the statute. I don't see anything in the Constitution that would prevent this from being left to the statute. But I must say, Mr. Chairman, I don't feel very confident in my judgment on that particular point.

The CHAIRMAN. Mr. Rogers?

Mr. ROGERS. I would like to welcome Mr. Rauh to the committee.

We have heard his testimony many times on civil rights, and it is interesting here to see something about keeping the party system going in the District of Columbia.

There is some rumor around here that if you were a voting Member from the District of Columbia you would be able to convince Congress that it is entitled to two Senators. Is that right?

Mr. RAUH. I didn't start that rumor, but I would certainly try to validate it.

I would like to thank the Congressman from Colorado for all his work on civil rights over the past years. We all are very grateful for the help you gave the chairman on the 1964 and 1965 laws, Mr. Rogers.

Mr. ROGERS. Thank you.

That is all, sir.

Mr. POFF. Mr. Chairman, if I may pursue for a moment the line of inquiry raised by the distinguished chairman. The 12th amendment raises the problem in this area. It provides the method by which the President and the Vice President are to be elected in the event no candidate receives a majority in the electoral college.

Clearly, the procedure outlined in the 12th amendment with reference to the election of the President relates to States, because it provides that each State shall have one vote.

The same is not true with respect to the procedure for the election of a Vice President. In that case, each Member of the Senate has an equal vote, and that being true, I wonder if it would be possible, simply by statute, to make provision for a matter that the Constitution, in specific language, lays out.

I am inclined to feel, and I would like to have the benefit of the witness' judgment, in this regard, that out of an abundance of caution it might be wise, if we are to deal with this, to deal with it precisely and definitely in the constitutional amendment itself.

Mr. RAUH. If I correctly understand you, Congressman Poff, you are making a distinction between the contested election for President and the contested election for Vice President.

As far as the contested election for Vice President is concerned, if we had a Senator, he would have the same rights as any other Senator, and the constitutional provision would work perfectly—

Mr. POFF. I don't want to disillusion the gentleman, but I do not agree that the constitutional language would provide that. The constitutional language is addressed to States, and I am fearful that unless the language is specifically provided—

Mr. RAUH. I misunderstood the Congressman. I thought you were saying there was a difference between the issue where you have the election for President, where the voting is by States, and the issue where you have the election for Vice President where the voting is by Senators.

I thought you were making that distinction. Did I misunderstand you?

Mr. POFF. Not entirely. I do make that distinction but I make it simply to dramatize the fact that the District of Columbia would not have full enfranchisement unless it had two Senators rather than one.

Mr. RAUH. That would be the total enfranchisement, I agree. But coming to the selection of a President in a contested election, that is the more difficult problem.

I must say, as I listen to your statement of the problem, that there would be sound ground for making clear in the constitutional amendment the question of the District of Columbia's vote in a contested election, and I would certainly have no objection to that.

I just hope you will do it quickly when you come to marking up the resolution, so it won't hold things up, but I can see the logic behind clarifying at least the presidential issue in the amendment.

I do not think it is as necessary for the vice-presidential question, but if you are going to write something in on one, quite likely you would want to write it in on both.

Mr. POFF. Another clause of the Constitution gives me some concern. The second section of the first article, I believe, provides that when a

vacancy occurs in the House of Representatives, the chief executive of the State shall issue writs of election.

I underscore the word "State," in that context, and my question is, without additional language in the constitutional amendment, who would determine who would issue the writ of election as the District of Columbia government is now functioning?

Mr. RAUH. We have an electoral law now which was passed by Congress. I think the first law was passed in the midfifties and then some amendments were made after we got the right to vote for President.

In my judgment at the present time, if House Joint Resolution 396 were to become law, I would interpret it without more as giving the Commissioners the power to issue the writ as the highest body of the District.

Of course, that, too, is now before the Congress in a different way. I don't want to get into a digression, but obviously, if the reorganization plan passed or other bills that are up, they would affect the question. But I would consider at this moment that the District Commissioners are the chief executive body, and I would so interpret the resolution if it became a constitutional amendment without adding anything on that ground.

Mr. POFF. Of course, I agree that the Commissioners constitute the chief executive authority, but I call attention again to the fact that the constitutional language addresses itself to the State, and for that reason I am wondering if here, too, it would not be wise to make specific provision in the language of the constitutional amendment.

Mr. RAUH. I would have no objection to that, sir, but it seems to me a question of just how much detail you want to write into a constitutional amendment.

I think that is peculiarly within the province of the committee. I would think that without any more detail we would not get into the kind of trouble you called my attention to in connection with the 12th amendment, but I would certainly have no objection to making it totally clear.

Mr. POFF. There have been some differences of opinion as to whether national representation should be written into the body of the Constitution itself, or the Constitution should be amended in such a way as to empower the Congress, by statute, to provide for national representation, or some middle course between those two alternatives.

The bill introduced by the chairman takes the middle course.

Whatever approach is pursued, following ratification there will have to be some changes made in the existing statutes concerning apportionment and other related matters.

Mr. RAUH. Yes, sir.

Mr. POFF. This would involve the Congress, again, in the question as to whether the entire membership of the House should be increased in order to accommodate the additional seats authorized for the District of Columbia, or whether the other States should be required to absorb two additional seats. What would you recommend as the best course?

Mr. RAUH. If you think I am going to make any enemies here, Mr. Poff, you are wrong. I am not for taking anything away from

anybody. When the Attorney General spoke here, he indicated they are having a hard time holding the line on the number of judges and the number of Congressmen. He gave a different answer, but he doesn't live here and he doesn't have all the feelings that I have on the amendment.

I don't want Mr. Eilberg to feel that I am in any way hostile to Pennsylvania having just as many seats after as before the adoption of this amendment.

I am for adding seats—and without reservation.

(Mr. Rogers assumes the chair at this point)

Mr. POFF. I must say that I did not expect you would fall so carelessly into that trap.

I thank the gentleman.

Mr. ROGERS. Mr. Eilberg?

Mr. EILBERG. Since Mr. Rauh has been so kind as to refer to me and my concern for Pennsylvania, I would ask him, would you have any objection to adding to the magic number of 435 to take care of any representation Washington, D.C. would receive?

Mr. RAUH. On the contrary, I feel we should not come in shooting down other people. We should come in here as a welcome group without having caused anyone to lose anything.

Mr. EILBERG. I don't want to put words in your mouth, certainly, but I take it you have no objection to adding to the figure 435. Is that fair?

Mr. RAUH. That is fair and correct.

Mr. EILBERG. Thank you.

Mr. ROGERS. Mr. Biester.

Mr. BIESTER. On that point I also share the concern expressed by the gentleman from Pennsylvania. Ought not this to be written into the amendment in some form so that not only Pennsylvania, but any other State would know it is secure from that, and ought not that language state the number of Representatives the District shall have and the number the House would increase as a result of such representation?

Mr. RAUH. I would have no objection to that, but I would wonder out loud with you whether it would be workable. Congress in its wisdom could take a few seats away for some other reason, and someone might say, "You are doing it because the District is in there" and even though the ostensible reason was something else. I would somewhat question the advisability of putting it into the amendment, but I personally would feel we ought not to cause someone else to lose out. I think it the kind of thing that would be difficult to make part of the constitutional amendment.

Mr. BIESTER. Not to pursue it too long, but wouldn't the States know better what they were ratifying if it were in this amendment than if it were out? If it were out, Congress could produce the number it chose, but it would be an expression of the whole people, and something as specific as an amendment—

Mr. RAUH. Again, I am in the tender spot of not wanting to create opposition. I just feel that we must have this amendment and I would be willing to go either way on this detail. You asked me my judgment. My honest judgment would be that that would not be necessary to go into the amendment.

Mr. BIESTER. Would you agree that the problem of the representation of the District is rather a unique one and should be handled as unique situation?

In other words, I find the problem unique in deciding whether we should treat the District as a city or as a State. Is it a city of 800,000 people, or a State of 800,000, and different consequences flow from how one considers it.

The Attorney General, when he testified, agreed that it really was a unique situation.

I am also concerned about the impact on the one-man, one-vote principle if we were to have two Senators from the District. Would this not reduce the weight of the senatorial representation of the other States?

Mr. RAUH. Again, of course, the senatorial question is left for the future, left to the whole Congress in the future. First, it requires two-thirds Senate concurrence to get this far, and then it requires majority Senate concurrence to get Senators later on. So we are not faced with that question now.

My answer to the question, if down the road we are faced with it, would be as follows:

First, Nevada with—what is their population?—maybe one-tenth of ours, or one-fifth of ours, has two Senators, and I don't consider that a dilution and I don't see that we would be either.

If, Mr. Congressman, you are referring to the last clause of article V of the Constitution which says, "No State without its consent shall be deprived of its equal suffrage in the Senate," my answer would be that that clause was intended to prevent differences *between* States. That clause, of course, as you know better than I, came in through the Connecticut compromise between the big and little States. Its purpose was that the little States would always be protected in the Senate, where in the House the larger States would have dominance because the number of Representatives was based on population. This is the one clause in the Constitution that cannot be amended.

I don't think that clause was intended to deal with the problem before us. I call your attention to a Senate report, No. 507, in the 67th Congress, second session, which deals with this problem. There the Senate committee report states, and I quote:

The plain meaning of this provision is that no State shall have any greater numerical representation in the Senate than any other State. It can not mean that the aliquot share of the legislative power possessed by a State at any given time cannot be reduced, as the proportion of that power, which was originally two as to 26, has been steadily diminished by the admission of new States, so that it is now two to 96.

It is now two to 100, of course, because this was written when there were only 48 States.

My feeling is that there was never any thought at the time this clause in the fifth article of the Constitution was adopted, was that it would prevent additional Senators from anywhere. It was only that you would have to have a level of two Senators and not let New York, the then biggest State, have more than two.

This clause was aimed at big States, like New York, not at problems as unthought of as Senators for the District of Columbia.

Mr. BIESTER. I am inclined to agree. I am led to this question more by the one-man, one-vote problem than by the Connecticut Compromise language.

It seems to me this is a problem, the impact of having two Senators from a population as relatively small as the District's.

Mr. RAUH. Sir, I would just like to say that the Senate is not one man, one vote.

Mr. BIESTER. But it isn't one man, one vote for any other reason than historically. It was created that way. We should consider this as a unique consideration, and we should consider one man, one vote.

Mr. RAUH. I think, sir, you might be correct if we were the lowest in population. In other words, you might create a serious problem, let's say, if you were to take in Guam. I don't know the population of Guam, but let us assume it is very, very much less than the lowest State. I think your problem then might arise. I don't think it arises in the District of Columbia where we are larger than 11 other States. I don't think the problem exists where someone is coming to ask for Senators in a situation where we are not by any means the smallest. If you divide the States into five sectors, we would be in the second sector.

Mr. BIESTER. Thank you very much.

Mr. McCLORY. No questions.

Mr. ROGERS. Mr. Tenzer?

Mr. TENZER. I want to join in welcoming Mr. Rath in the committee; and I have had the pleasure of working with him in the past years.

From what I understand, you have indicated your support for House Joint Resolution 396 without reservation.

Mr. RAUH. Yes, sir.

Mr. TENZER. Being a cosponsor of the legislation, I share those sentiments, but do I understand correctly that you stated your preference would be a bill that would read, for example, that the District of Columbia shall elect the number of representatives in Congress to which it would be entitled to if it were a State?

Mr. RAUH. That is my preference, sir. But the political judgment of men I respect, and with which I concur, is that if we tried now to get the two Senators mandatory and the number of Congressmen we would be entitled to as a State, we wouldn't be able to get the amendment through. This is a political judgment I am making.

If you want to know my preference, my preference is that we get our two Senators and two Congressmen right now and I could run for the Senate.

My preference is clear, but I think I would be hurting the cause of national representation by urging my preference. Therefore, my practical preference is based on the resolution.

Mr. TENZER. I was referring to your preference in your representative capacity. The testimony of others from the District of Columbia would seem to be the preference that they have representation in the Congress, both Houses, as if the District were a State.

Mr. RAUH. That is correct, sir.

Mr. TENZER. Wouldn't that, then, be precisely what the Congress and the States of the Union and the people through their representatives in various State legislatures did in article XXIII, when they

recognized the District as indeed unique when they said, "The District constituting the seat of the Government."

"Seat of government" indicates a different category than that of a State or that of a Commonwealth, and we only have one seat of the Government, and therefore a distinction was made and the unique character of the District was thereby recognized. Amendment XXIII then proceeds to say that the District shall be entitled to the number of electors for President as if it were a State.

That language, "as if it were a State," denies that it is a State, recognizing again the unique character of the District of Columbia, so that the questions that were raised here today indicate the uniqueness in the first place.

We establish an entirely different category of political subdivision of which there can only be one, so there is no danger of it being repeated any other time, and it recognized that the people of the District, the 800,000 people, were entitled to representation, amongst the electors. "as if it were a State."

Mr. RAUH. Sir, may I interrupt you?

Mr. TENZER. Yes.

Mr. RAUH. I don't have the XXIII amendment in front of me, but my recollection is that we only get the amount of electors that the smallest State gets. In other words, we got a little shortchanged here, if I am correct.

May I read it?

Mr. TENZER. Surely.

Mr. RAUH. Thank you for handing it to me, and thank Mr. Dudley for bringing it to me. The XXIII amendment reads:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State;

Your point is quite correct, but then the amendment turns around and doesn't give us the number of electors we would have gotten as a State. It gave us three instead of the four that we would have gotten that way. It is a minor point. I just wanted to make the record clear.

Mr. TENZER. I understand that point, and of course they did not want to give them less because there is perhaps—and you couldn't tell from the fact that you got three—whether it was because you were entitled to two Members of the House of Representatives and one Senator, or two Senators and one Member of the House of Representatives.

Mr. RAUH. That is correct, sir.

Mr. TENZER. There is something unique about the District of Columbia because there are so many people residing or domiciled here who vote in other States. My colleague to my right has raised that question time and time again, and perhaps when the census of 1970 is taken, hopefully after this amendment has been passed by both the House and the Senate and is well on the way to being approved by the required number of States, we may be able to get some provision in the census that will indicate the number of people resident or domiciled here who actually vote elsewhere.

We also pointed out that, if and when this amendment is passed, many people who today are voting in their respective States are doing that only because they are deprived of having a representative in the

House and/or in the Senate. There is a strong likelihood that they would thereafter vote in the District. Do you agree with that?

Mr. RAUH. Oh, yes. I think a great percentage of the people who now vote at home would vote here if it were worthwhile to do so. You run into the home rule problem, too. I think a lot of people would give us their votes here instead of elsewhere if we got the Congressman, even more if we got home rule. Obviously, the more we get in the line of democratic procedures, the more people would give up their vote back home. I am sure a lot of people, if we had a Congressman, would give up their vote back home.

May I make the point here, sir, that we are absolutely certain that if you take away all the people who still vote back home, we still would have more voters here than you would ordinarily have for one Congressman. All that we get from the amendment is one Congressman until the Congress later considers the question of more. Congress could certainly make a census of the people who vote back home in determining whether we would ever get a second Congressman.

Mr. TENZER. That is correct. I might call your attention to House Joint Resolution 396, which says, "At least one."

Mr. RAUH. That is correct. And that "at least one" is justified by the number of voters we would have even putting a maximum figure on those who may vote elsewhere.

Mr. TENZER. I might add at this point, Mr. Rauh, that the population estimates issued by the Bureau of the Census under date of March 7, 1967, makes a projection of the population of the District of Columbia by 1985 of 960,000.

Mr. RAUH. That is correct. Actually, our population has not gone up very much in the last decade. The population has risen far more in the metropolitan area than in the District. But there is now a projection that it will go up that far, yes, sir.

Mr. TENZER. I would like to cover one more point, the question of the total number of Members of the House of Representatives. The number of 435, while it is not a magic number nevertheless is the number which we operate with and of course, it is subject to change, but I am just one who had hoped there would be no change.

The fact remains that with the population now approximating the 200 million mark, and the probability that it will be somewhere around 203, 204, or 205 million by 1970, there are some States which, by virtue of the shifting of the population, will lose some representatives in the House. Before other States which might be entitled to an increase in their number receive their increase, there would be room for one seat for the District of Columbia if and when this amendment is ratified.

Do you get that point, Mr. Rauh?

Mr. RAUH. Yes, I get the point, and I want to be careful that I don't get into a crossfire on the disagreements on this committee on the 435 figure. I am not here asking for something for the District of Columbia at anyone else's expense. If the committee should feel that it, in its capacity as judge of the number of Congressmen, wants to make any decision, that is fine with me. I didn't want to get to the point where we who are supporting national representation appear to have an adverse interest with States who might lose a representative. It was for that reason that I said we are not here advocating taking anything away from anybody.

If the Congress decides on a number, that will be perfectly satisfactory with us.

Mr. TENZER. I understand that, and coming from the State of New York, which lost two seats in 1960, and may even lose another seat in 1970, I just wanted to add that word.

Some of the States may lose a representative or more by virtue of the shifting populations resulting from the 1970 census, and in that event, before such seat is assigned to another State, there would be a seat available for the District of Columbia if the resolution is passed and becomes part of the Constitution of the United States.

Thank your very much, Mr. Rauh.

Mr. RAUH. Thank you, Congressman Tenzer, and for all your help on civil rights activity.

Mr. ROGERS. Mr. Roth?

Mr. ROTH. I just have one question:

In deciding the number of representatives to which District of Columbia should be entitled, would you give us your opinion as to whether or not residents who maintain voting domicile, if you want to call it that, elsewhere, or aliens, should be included?

Mr. RAUH. No, sir, they should not. I would think a person ought not to vote in two places. I think, as Congressman Tenzer indicated, we would get a lot more people voting here if we had the Congressman. But if someone wants to keep his vote at home, he can do so. You undoubtedly have legislative assistants whom you may have brought in from your home State. They obviously have an interest in politics, because of you, back home. They ought to vote back home. But people who are less connected with politics back home probably would join our political arena and would give up their vote back home. But I am not suggesting that your office staff, who really care about politics back home, should have a double vote. I think that would be a mistake.

Mr. ROTH. Let me ask you a further question: Do you have any idea as to how many people are in this category, No. 1, the number of aliens, which may be considerable—I have no idea myself—and secondly, the number of residents who do vote in other States? How many of these people make up this 800,000 figure referred to by you?

Mr. RAUH. I don't know, Mr. Roth. I will be honest about it. I would say it is probably rather small. By aliens, I suppose that would be in good part the diplomatic corps, and I don't have much feeling about what the diplomatic corps would really amount to in numbers. A lot of them and their staffs live in surrounding areas rather than in the District itself.

As far as people voting back home, we just don't know for sure what that amounts to. The only thing we know is that we run absentee voters bureaus—the Republican Party and the Democratic Party each run an absentee voters bureau. Mr. Moore is aware of this, because West Virginia has a very large population here, and actually, I think almost the largest number of absentee voters come from West Virginia. But I just don't think there is a figure.

The point I would like to stress, Mr. Roth, is that no matter how high you estimate that absentee figure, what is left will still be far in excess of the number necessary for one Congressman, which is all that this amendment gives us. Before you were to give us the second Congressman, say, some years hence, a census could be taken to determine

whether we were entitled to the second Congressman, and this factor would be related to that. My contention is that this factor is not related to the first Congressman.

Mr. ROTH. Yes, sir, I understand, and you did raise the point that I wanted raised. It seems to me that no one really knows how many are involved, and this is a bit of information that is needed before we go to the second representative.

Mr. RAUH. Correct.

Mr. ROGERS. Thank you, Mr. Rauh. Counsel has a question.

Mr. ZELENGO. Mr. Rauh, article V of the Constitution states that no State without its consent shall be deprived of equal suffrage in the Senate.

Does that provision in your view mean that only States are entitled to representation in the Senate?

Mr. RAUH. No, sir. That provision was clearly put in there to prevent a big State from getting more Senators than a little State. I don't believe that this was ever thought of by the framers of the Connecticut Compromise. I think that they were thinking in terms of big and little States.

You might argue, as the implication of your question does, that maybe this clause could be strictly interpreted to mean that only States could have Senators. But I read into the record the position taken by the Senate Judiciary Committee in the 67th Congress, second session, Report 507, which seems to me to have answered this better than I can repeat it, and I did read that into the record a little while ago. In essence, what they are saying is that this clause has one purpose, and one purpose only: "Don't let one State have more Senators than another State."

It doesn't say that only States could have Senators. It only says they must be equal.

Now I think you would be going contrary to the spirit of that clause if you gave the District of Columbia three Senators. I would be perfectly clear in believing that that would be contrary to the spirit of that clause. But I don't think that if down the road we were to get a Senator or two Senators a decade hence, I don't think that in any way contravenes the clause to which you refer.

I think this committee report I mentioned was excellent.

I would also like to call to your attention, and maybe this has been done before in these hearings, a brief that was put in on that point in the 67th Congress, third session, during hearings on House Joint Resolution 11 and 32. This was a brief by Citizens Joint Committee on National Representation for the District of Columbia before this committee and also made the same point I am making here.

Mr. ZELENGO. I want to pursue one step further. Do you think it would be a dilution of equal representation of the States in the Senate if others than the District were given Senate representation—for example, if counties were authorized to have Senators.

Is it contrary to the spirit or letter of the proviso in article V to authorize any political entity other than a State to have senatorial representation?

Mr. RAUH. I believe it is not, Mr. Zelenko. Your county question would be answered because that would be a circumvention of the provision. For example, if you gave New York County a Senator, you

would be circumventing the purpose of not having more than two from any State. I think the clause meant from within the confines of that State, rather than representing that State.

The CHAIRMAN. Mr. Hungate?

Mr. HUNGATE. I wonder, would you see any legal or constitutional problems inherent in the fact that under the minimal requirements of this amendment there would be a Congressman from the District but there would not be the Senator, and that legislation would then be acted on so that the District would be represented in one body but not in the other.

Would you see any problem there?

Mr. RAUH. I do not, Mr. Hungate. I think you have actually had a precedent for that, not in voting, but in nonvoting representation with the delegates from Alaska and the Hawaiian Islands and Puerto Rico. I think now we have a delegate from Puerto Rico.

Mr. HUNGATE. A Resident Commissioner.

Mr. RAUH. Yes. It is true he doesn't have a vote, but he has certain privileges. I don't see that there is anything in the Constitution that calls for this sort of balancing.

Mr. MOORE. What we are seeking here is a voice, and I think Mr. Hungate has a point.

We are talking in terms certainly, that maybe half a vote is better than none, but is not the ultimate here of representation for the District of Columbia, does not the argument have just as much weight seeking to establish that voice in the other body as it would in the House of Representatives?

Mr. RAUH. Before you came in, sir, I announced my candidacy for the Senate, and I couldn't agree with you more.

Mr. MOORE. I am aware of that. That is the reason I came down. I wanted to see what kind of representation we are going to have in the other body.

Mr. RAUH. I couldn't agree with you more that the ultimate goal is representation in both bodies. My answer to Mr. Hungate was that I didn't think there was anything unconstitutional in starting with representation only in the House. I don't see that this is unconstitutional. It might be more ideal, and it might be more in the spirit of the Constitution, that we have both, because we are a part of this country and we do the things that other citizens do in this country. We pay our taxes and do our best to make this a better country.

So I would say the spirit of the Constitution would support our demand for a Senator. I am only saying I don't think there is anything in the letter or the spirit of the Constitution that would prevent us from being in one House and not in the other.

Mr. MOORE. In other words, if we decide that a representative only be in the House, you see no contravention of the Constitution?

Mr. RAUH. Precisely.

Mr. MOORE. I would say the amendment would be self-explanatory.

May I tie something on in a rather experimental way: Your greatest problem in the District of Columbia, and I don't know whether you will agree with me or not, has been the historic position that the District itself has had in relationship to the entire country and to the States.

Do you see anything wrong as we discussed this and the prospects of a voice, say, a valid constitutional voice in one or both bodies, that we go one step further and, by reason of the character of the District, provide a voice of each of the major parties that have obtained a certain percentage of the vote, looking to the time when some other party movement might get a greater percentage of the vote than is presently alined by reason of the special character of the District of Columbia, and again, its historical relationship with the States. Do you think this might be a matter to which the committee should give attention?

Mr. RAUH. I am not sure I fully understood, sir. Is the point like, say, in the home rule proposal that there should be built-in minority representation, and that if we were to have two Congressmen, it would be required that one be from each party? Was that the proposal?

Mr. MOORE. That is exactly my suggestion.

Mr. RAUH. If you ask me whether I would take that rather than nothing, my answer is "Yes."

You would have a hard time finding something I wouldn't rather have than the present setup. But, sir, I don't think that proposal would be correct. I don't think it would be the right way to do it. I don't see why we should be treated differently than others. If the Republicans won both seats—assuming we had two, and again we are far down the road—we are only starting with one, and the question that you asked—

Mr. MOORE. I'm trying to reach your population question and do it in the best way to be—to obtain the result that you want, and that is the reason for my question.

Mr. TENZER. Would the gentleman yield?

Mr. MOORE. I would like to have the answer, and then I will yield.

Mr. RAUH. Mr. Moore, my feeling would be that we ought not to be treated differently in this respect. When Congress comes to consider a second Congressman some years hence, it could consider this question, whether it wanted to say to the District, "You must have your second Congressman from the minority party."

It doesn't arise at this moment. Certainly, under H.J. Res. 396, you would have the right to consider that question down the road. So in my asking you not to do that now, I am only asking you to delay it, because you don't lose the right to do that down the road.

I would think if I were arguing here 5 years from now for a second Congressman and you asked me that same question, my answer would be, "Why treat us differently than you do the others?" And my answer would also be "Please don't treat us differently."

But as I say, I don't think you would be barred in any way from raising that question with me 5 years from now under 396.

Mr. TENZER. Would the gentleman yield at this point?

Mr. MOORE. Yes, I would be happy to.

Mr. TENZER. Article I, section 2 of the Constitution of the United States, says the House of Representatives shall be composed of members chosen every second year by the people of the several States, and therefore such a provision would be unconstitutional.

Mr. MOORE. I don't know how it would be unconstitutional if the people themselves put it in the Constitution. We are talking about a Constitutional amendment here. We can amend the Constitution to

say that people only 6 feet tall will vote in the election if the people of the country want to put it that way.

Mr. TENZER. Of course, the suggestion being made is that the choice would be made from amongst the political parties and not from amongst the people.

Mr. MOORE. As representatives of the District of Columbia in the National Legislature, which now is not given representation under the Constitution. The people of the country can decide any way they want to how that representation should be formed.

I appreciate your frankness, but I am earnest in the suggestion from the standpoint of a population problem. I am not unaware that the press here in the District of Columbia has suggested that since the Congress is considering this matter, why don't they do it as fairly with respect to the population of the District of Columbia as they would with any State that had this number of inhabitants.

The gentleman, being the practical politician he is realizes that we don't have an easy row to hoe here, and I am trying to try on for size something that might, as we look at the overall picture help us obtain your objective.

I think it would be just as easy, and I do see one disability in the amendment as it is presently drafted, and that is that we put off some 5 years hence a further decision of the Congress.

There is going to be a certain jealous prerogative in the States to not delegate unduly to the Congress a further changing of the text of an amendment to the Constitution, so by reason of the fact that the District all these years has been treated as it has been, which a great number of us feel has been quite a bit to the prejudice of the District, the fact is that suggesting that this Federal city and its racial character be given representatives of the major political voices of the city seem to the—seem totally compatible with the suggestion that was given.

I would appreciate the gentleman's response.

Mr. WIGGINS. Would the gentleman yield?

Mr. MOORE. Yes.

Mr. WIGGINS. Would not the population question mentioned be completely and equitably solved if the total population of the District of Columbia were included within the State of Maryland for the purpose of determining the total representatives of the State of Maryland? Wouldn't that be in exact parity with every other State in the Union?

Mr. RAUH. I am not certain that I understand the question. Are you suggesting that we be made a part of the Maryland political entity for all purposes?

Mr. WIGGINS. For this purpose only, for purposes of representation of the National Government only. Wouldn't that be exact equality?

Mr. RAUH. No, sir, because we would not be part of Maryland for other purposes. We would be voting for a Senator in a State where we had no other part of the political process of the State—if I understand the question correctly, which I am earnestly trying to do.

Mr. WIGGINS. The proposed constitutional amendment, as I understand it, is to provide for national representation in the National Government, and for that purpose only would it not achieve parity with other States?

Mr. RAUH. I am afraid not, sir.

Mr. WIGGINS. Why not?

Mr. RAUH. Because we wouldn't be part of their political processes for all purposes.

For example, we wouldn't be part of their political processes because they would have a political machinery predicated on electing a Governor, on electing local officials, all of which we would be excluded from. I don't see how we could be included in simply a part of Maryland's electoral process.

Furthermore, and I guess there is a little pride here, we are a city—

Mr. WIGGINS. You are not a State.

Mr. RAUH. We are not a State. We are a city trying to stand together. We have some interests here, unique to ourselves, that are not similar to the interests, necessarily, of the State of Maryland.

Many of us have lived here a long time. Many of us were born here. We have feelings for our city, for our District, for our distinct entity, and I would strongly urge against the proposal.

There is another proposal, I am sure the Congressman is aware, that has been made that we be incorporated into Maryland for all purposes—that is, that our government be in Annapolis. I oppose that, too, because I think we have our own separate and distinct interest, but—

Mr. WIGGINS. I can understand the gentleman's feeling and his justifiable pride, but I have the same pride in my city, and you are seeking benefits for your city that I am not seeking for mine.

Mr. HUNGATE. Would the gentleman yield?

There is an all-purpose problem, in that they might have a Congressman representing the District and no Senator, and the legislation would be passed in which a certain area would have a vote in one House and could cast a vote in one House and would be moot and voteless in the other body. It seems to me this could lead to some sort of difficulty because one House would be representative of one group of people, and you see no difficulty to that?

Mr. RAUH. When you first put the question to me, it was would the Constitution bar that?

Mr. HUNGATE. I think I said Constitution, legal and so forth.

If the Senate passes a District of Columbia bill, a crime bill, it would seem to me someone would have a duty to raise the issue that was debated in one House and not in the other.

Mr. RAUH. I don't think he would be successful.

But if you ask me if I think as a matter of policy it would be better to have representation in both Houses, the answer is clearly yes.

I have accepted the political judgment of the leaders of this body that this 396 is the correct assessment of what can be adopted.

Mr. HUNGATE. And I suppose there would be no legal standing if some one's bill passed the Senate and was defeated by one vote in the House. He would have no standing.

Mr. RAUH. I would think not, sir.

Mr. HUNGATE. The amount of taxes has repeatedly been raised. The amount of taxes paid, or the amount of tax benefits received shouldn't be a determining factor in this country whether somebody should be able to vote or not.

Mr. RAUH. I don't think it is a determinative factor.

Mr. HUNGATE. I would suggest it is an irrelevant factor.

Mr. RAUH. I wouldn't say it is irrelevant. Everytime I pay my income tax on April 15, I guess I do say a word to myself that it would be nice if I had the privilege of voting in return for this responsibility.

I would not say it is determinative, but it is not totally irrelevant.

Mr. HUNGATE. But someone might live in a State and has never paid income tax, and you would not seek to keep him from voting.

Mr. RAUH. Not only that, but my whole life has been spent in trying to get the vote for people who cannot read or write or own any property.

Mr. ROGERS. I think what he had reference to is, that if you are a taxpayer, at least you would have a Congressman you could write to and protest. [Laughter.]

Thank you, Mr. Rauh.

Mr. RAUH. Thank you, Mr. Rogers.

Mr. ROGERS. Our next witness is Sturgis Warner, Esq., chairman of the Committee on Pending Legislation of the Bar Association of the District of Columbia, who I understand represents the president, John Powell.

STATEMENT OF STURGIS WARNER, CHAIRMAN OF THE COMMITTEE ON PENDING LEGISLATION OF THE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA

Mr. WARNER. I would like to appear in two capacities this morning: First, as a messenger boy for Mr. Powell, who is at the American Bar Association meeting in Honolulu at the present time.

He has asked me to convey to you his regret that he could not be here, and to file this written statement in strong support of what you are doing here.

Mr. ROGERS. We will be pleased to receive his statement for the record.

(The document referred to follows:)

STATEMENT OF JOHN E. POWELL, PRESIDENT, THE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA

My name is John E. Powell. I am President of the Bar Association of the District of Columbia. The Bar Association has for many years actively supported the principle of amending the Constitution to provide for elected voting representation in Congress for the citizens of the District. In 1959 and again in 1960 representatives of the Association appeared before this committee and its counterpart in the Senate in support of resolutions providing for representation in the District of Columbia in the House of Representatives and in the Electoral College. We thus played our part in the process which led to the ratification of the 23rd Amendment to the Constitution.

At this time we urge the Congress to propose an amendment that would give the District the same representation in the Senate and in the House as it would have if it were a State.

Our position in these matters has been constant and we hope that Congress will take prompt and affirmative action. Upon ratification of the amendment we shall do our proper part in further helping to build the District of Columbia electorate into one of which the District, Congress and the Nation will be proud.

Mr. ROGERS. Proceed in your own way.

Mr. WARNER. I would like to appear next in my own capacity as a private lawyer who has been concerned with and working on these various voting problems in the District for a good many years.

I want to cover four specific points, most of which were discussed when the Attorney General was here, and some of which have been raised again this morning.

I have no answer for any of them, but I have some material which I think may be helpful to the committee in its consideration of these problems.

May I say briefly, to qualify myself: I worked with this committee and its staff in connection with the 23d amendment, was able to furnish quite a bit of constitutional background, which I got from excellent constitutional lawyers downtown. Then after the amendment was proposed to the States, both political parties here asked me to act as counsel for them in obtaining the ratification of the amendment by the States; we got an effective operation underway and ended up by having 39 State legislatures ratify it in just over 9 months.

It has never been done before or since, and I think it is a tribute to the people in this town who have a great love for the legislative process, and who know something about it. These are the people who are going to send up their Senators and Congressman when this amendment is passed.

Now the four points: May I say that fools step in where angels fear to tread, but the four points I would like to talk about are these:

First, the matter of the qualification of Senators and Congressmen from the District of Columbia. This is a point that was raised late in the morning when the Attorney General was here; should something be written into the proposed amendment specifically to cover the matter of the qualification of Senators and Congressmen?

The second point I would like to cover is the point which has been discussed at some length this morning, the matter of the constitutional status of the District, and how it relates to the status of the States and the territories. It is a very important point; it gets to, you might say, the guts of what we are talking about.

Third, I would like to touch briefly on the matter of ratification, a matter that was discussed the other day when the Attorney General was here. Lastly, I would like to cover some of the points that Mr. Tenzer and Mr. Roth and Mr. Moore, I believe, have raised about the electorate here in the District: what is our local electorate composed of?

We don't know all the answers to these four points but let me make available to you what we do know.

So let us talk a little bit about the first point; that is, the qualifications of the proposed Senators and Congressmen from the District of Columbia. Should their qualifications be written expressly into the proposed constitutional amendment? In order to try to get the answer, I took a crack at drafting a sentence to be put into the end of section 1 of House Joint Resolution 396. I will give it to Mr. Zelenko.

(The draft sentence referred to is set out below:)

SUGGESTED NEW SENTENCE TO BE ADDED TO THE END OF SECTION 1
(H. J. RES. 396)

"The qualifications, powers and duties established by this Constitution with respect to Representatives and Senators elected by the people of the States shall apply with respect to such officials elected pursuant to this article by the people of such District."

Mr. WARNER. When you start to draft something, you begin to realize what some of the problems are, and right away I realized if the members of the committee and the Congress picked up the matter of the qualifications, and cranked into the proposed amendment specific language covering only the qualifications, it would raise a question right away about "Well, what about the other matters of powers and duties of these new special Senators and Congressmen from the District? If those other matters are not mentioned, what does this mean in interpreting the new amendment?"

So I redrafted the sentence and suggest that if this point is to be covered at all in the body of the amendment—and I hold no brief this should be done—but if it should be done at all, it would be necessary to say that, "The qualifications, powers, and duties established by this Constitution with respect to the Representatives and Senators elected by the people of the States shall apply with respect to such officials elected pursuant to this article by the people of such District."

I think that this may cover the point. As I say, I hold no particular brief for this draft, but if this is a matter which the committee wants to go into, let me simply submit that to you as possible language. It is too serious and too difficult to analyze this language in oral testimony, and I submit it simply for the record and for your later consideration.

It may well be that the way to handle it is simply to let it go, let the first sentence of House Joint Resolution 396 stay as it is and rely on your basic constitutional authority to legislate later on the point.

Congress has plenary power over the District of Columbia and it seems to me that once the Congress has the power, by a constitutional amendment, to provide that the people elected from the District can vote in the Senate and can vote in the House (because you don't have that constitutional power now, I think that is quite clear) once Congress has that power, the matter of age, residence, citizenship, and so on can be covered pretty well by legislation under the constitutional authority of section 2 of the proposed amendment and also under Article 1, section 8, clause 17, which is the clause which gives you plenary power over the District of Columbia.

It seems to me that pretty good arguments can be made that these problems can be handled by legislation.

Incidentally, a question was raised in the discussion as to whether the ages and the citizenship of the Senators and the Congressman from the District should be the same as from the States, and I would say, of course. Why should they be different?

I suggest there may be a point in having a special residence requirement of more than a year or so. I say that, because some people feel quite strongly that the people who should be participating here in the process of running our District government should be people who have been here for more than 6 months. I raise that without holding any brief for it.

For instance, with respect to our own Board of Elections: by statute, they must have lived here for 3 years in order to serve on the board. It is not unreasonable when you are talking about electing people who are to represent the area with respect to matters which concern the area and which require local knowledge.

Mr. HUNGATE. Pardon me. May I inquire on that?

In view of the recent case, I believe in Connecticut, on welfare payments, where there is a 1-year residence requirement, would you think this would be a valid and legal and constitutional restriction—are you restricting the electorate?

Mr. WARNER. No.

Mr. HUNGATE. You are restricting the representatives?

Mr. WARNER. Yes.

Mr. HUNGATE. Would this exist in any other State—

Mr. WARNER. Under article I, both with respect to Congressmen and Senators, they must be residents of the State at the time of their election.

Mr. HUNGATE. For what period of time?

Mr. WARNER. It doesn't say.

Mr. HUNGATE. You think there should be a distinction, and it should be 6 months or a year?

Mr. WARNER. I don't take a specific position. I am flagging that as an important point in your deliberations. I don't know what you should do, but dealing with a population of this kind as we have in the District—of course, the people who get concerned with the local matters are not the transients. They are the people who live here year after year.

But there is a rather strong feeling here that they would like to elect somebody who has been here for 6 months or more to get the feel of the local problems, because there are unique problems here.

Mr. HUNGATE. I apologize for interrupting you, and I think your qualifications draft is helpful. Thank you.

Mr. WARNER. Thank you. That is really the end of the first point.

The second point is the distinction between the territories and the District of Columbia and the States, an important point which gets right to the essence of what we are talking about.

Basically, we have two separate constitutional provisions with respect to the plenary power of the Congress over Federal enclaves.

Over and over again we forget that the first one is one which does not affect the District of Columbia and that is article IV of the original Constitution. It has never been changed, and it is the one that gives the Congress power over the territories. In the next section of article IV it says that Congress by law can admit new States by act of Congress. It doesn't require a constitutional amendment to turn a territory into a State.

Article IV is the article by which most of our States, with the exception of the Thirteen Original States, Texas, and California and a couple of the others—most of our States became States; first, by being frontier, then, by being territories, and then by being organized territories and then going through the territorial business, having a delegate here, and then going to statehood.

Mr. ROGERS. May I interrupt you just for a question, please?

Most of the territories that were admitted as States, were given the right to vote in their State constitutions which were submitted to the people.

Do you think the question of representation in Congress for the District of Columbia should be submitted to the people of the District for a vote?

Mr. WARNER. I do not, sir.

Mr. ROGERS. You do not?

Mr. WARNER. No, because I don't think it is necessary.

Mr. ROGERS. Why should you make it any different in the District of Columbia than you have in the territories?

Mr. WARNER. In the first place, I am not familiar with whether every territory had a plebiscite as to whether it wanted to be a State. That did happen last Sunday in Puerto Rico, of course, and they voted no.

Whether every territory that came through the Louisiana Purchase had a plebiscite, whether the Northwest Territories had a plebiscites, I don't know. I am not a good enough historian.

Mr. ROGERS. But you would be opposed to it being submitted to the people in the District for their determination of whether they are entitled to it?

Mr. WARNER. No, not opposed, but I have been at this a long time, and I know they are not opposed.

Mr. ROGERS. We are not taking one man's opinion.

Mr. WARNER. I could come up with some plebiscites that were voted on by the registered voters of the District of Columbia, and to me this is enough of an expression of the public's opinion on the point.

Mr. ROGERS. Do you feel that submission to the inhabitants of the District of Columbia for their approval or disapproval would delay action on congressional representation?

Mr. WARNER. Delay, yes.

Mr. ROGERS. And that is the reason you would be opposed to it?

Mr. WARNER. Exactly. Having worked so long in this field, I know how people feel. They feel terribly strongly they want elected representation in the Congress. You haven't had many people up here in these hearings who have testified against this. You have invited witnesses; witnesses have come freely. I don't think you have had people come up here and say, "I don't think the District should have this." This is a curiously uniting force. People want to participate in congressional representation. Yes, of course we could have a plebiscite; I just mean you don't need one.

Mr. ROGERS. Thank you. Proceed.

Mr. WARNER. Let's talk about the article IV group—that is, the territories. Puerto Rico is one of them, and its people decided no, that for the present they don't want to be a State. All these States in the Louisiana Purchase came in under article IV. They came in as territories and one by one they became States. Alaska and Hawaii are the most recent ones that have taken that route. The Philippines broke off and became independent.

The little ones, the Virgin Islands and so forth—there is no great prospect for statehood at the present time, but that is the group which does not include the District of Columbia.

The District of Columbia is under article I, section 8, clause 17, and the great difference is that the District of Columbia and all the jurisdictional areas which are under article I, section 8—and this includes forts, arsenals, and so forth—they all came from the States, carved out from the States.

Where we are sitting now, gentlemen, used to be the State of Maryland and in 1790 it was ceded by the State of Maryland to become the Seat of Government in 1800.

It was carved out to give a permanent seat to the Federal Government, as some of you gentlemen have said this morning. We are a permanent non-State, and the minute we bear down on that and recognize that fact we immediately see why it is necessary now to sit here and debate an amendment to the Constitution to provide the people here with an opportunity to vote in Congress.

This is why the 23d amendment was passed, because we are a permanent non-State. This area was ceded from a State for a Federal purpose. Congress has exclusive legislative power over it and it has been exercised very actively. All you have to do is look at the District of Columbia Code, and see the whole spectrum of legislation which has been passed by the Congress over the years with respect to the District.

Article I, section 8, clause 17 gives you jurisdiction over the District, you maintain it, you have no intention of giving it up, and so far as I know there has never been any pressure on the Congress to give it up.

There are all kinds of ways of relaxing it, or delegating authority, or one thing or another, but there never has as far as I know, been any pressure to change the basic Constitutional power of the Congress over the District of Columbia.

So there it is. The permanent non-State.

That is why we need to have the constitutional amendment to only get our opportunity to participate effectively in this Congress.

This need was recognized by many when the 23d amendment was passed. We are now talking about the constitutional change with respect to our participation in the legislative branch, instead of participating in the election of the head of the executive branch.

That is all there is to this basic proposition.

One of the things which I came up against over and over again, in getting the State legislatures to ratify the 23d amendment, they wanted to know, "Is this a step toward statehood?" And I was able to point to the excellent language in this committee's report on the 23d amendment, House Report 1770, in 1960, in which this committee said, "It is not a step toward statehood, because it doesn't change our exclusive legislative authority." That is what makes the difference between a State and a Federal enclave—the State has its own legislative authority over its area; Congress has its legislative authority over this one.

Mr. HUNGATE. Historically, could you advise us as to what reasons the Founding Fathers may have had, or have listed, for creating such a permanent non-State in 1790 or 1800?

Mr. WARNER. I would be glad to. Let me give you a thumbnail sketch, and also a reference to a very good document. Let me give you the reference first.

These books which I hold here are a pair of fine books which are out of print—the two-volume report to the Attorney General, who in turn submitted it to the President, called "Jurisdiction Over Federal Areas Within the States"—part 1 and part 2. This is the best source of material on this subject that exists today anywhere.

Mr. ROGERS. You say they are out of print? What is the date of the printing?

Mr. WARNER. June 1957 for part 2, and April 1958 for part 1. They are printed by the Superintendent of Documents.

Mr. ROGERS. Prepared by whom?

Mr. WARNER. By the Attorney General, and submitted to the President. They were prepared by an interdepartmental group of lawyers from the Land Division of the Department of Justice, the Interior Department, and the Department of Defense, pooling together the whole picture of Federal ownership of States—land within States. These volumes cover forts and arsenals, as well as the District of Columbia.

The great difference is that these Federal enclaves are all covered by article I, section 8, clause 17, these pockets of land all over the United States, and they have all been bought by the Federal Government, or held back by the State at the time of statehood.

Mr. DONAHUE. I wonder if the witness would endeavor to answer the question raised by Mr. Hungate, because the hour is growing close to the point where we will have to return to the floor.

Mr. WARNER. May I?

Mr. ROGERS. Yes.

Mr. WARNER. After the hearing, I will show these two volumes to your committee counsel, and he can copy what he wants from them.

Basically, people say why did this happen, why are we sitting down now and changing the Constitution so people in the District can vote for Senators and Congressmen, why do we have to change the Constitution in order to vote?

We talk about an oversight. Let's look at what happened. In 1787, before the Constitution, before that summer when the 55 people went up to Philadelphia and drafted the Constitution, there was no Federal Government—just 13 States. They were all independent of each other.

Back in 1783 when the Continental Congress was meeting in Philadelphia, the Pennsylvania Militia had not been paid, and the soldiers in the militia stuck their rifles in the windows where Congress was sitting and asked to be paid. Congress blew town and went to Princeton, N.J., and the next night they went to Lancaster, Pa.

They recognized that to have a legislative body like this meet within the boundaries of a State might be disruptive. There is a very good account in these volumes of that episode. So they realized right away if there was going to be a Federal Government—which there wasn't at that time—they had better have its seat in a place that wasn't a State.

Now at the time, in 1787, when they were debating the proposed Constitution, they cranked into article I the principle that the seat of government should be in an area ceded by the States and under the exclusive jurisdiction of the Congress, they didn't know where this precise area was going to be. They did know it was going to be south of Philadelphia. That is a story in and of itself. They agreed it was going to be in the southern part of the United States. They thought it might be in Maryland, or in Virginia, or on the banks of the Delaware, but they didn't know exactly where it was going to be.

The Constitution was ratified in 1788, and in 1788 they still didn't know where the seat of the Federal Government was going to be, and they began to debate where it was going to be, and in June of 1790, they decided it was going to be on the banks of the Delaware, and about 2 months later, I think it was August 1790, they voted to have it on the banks of the Potomac.

Only then was there a recognition as to where it was going to be, and who would be affected by it, and furthermore, the statute which they passed said, "We will pick the site on the Potomac, but it won't be the Capital until the end of 10 years."

Still nobody was really legally affected by it, and, well, where we are standing now, gentlemen, was the State of Maryland and the people who lived here voted in the 1796 election, and in the November 1800 election, as part of the State of Maryland, and on the first Monday in December, 1800, they woke up and found they were the District of Columbia and no longer part of any State.

So you had a situation then where at that time nobody was going to the defense of an as yet unknown area, and it wasn't until the people here were faced with the fact that they were no longer able to vote, that something began to happen and about 1803 they began to cry, "We have got to change the Constitution so that we can vote."

That is the story.

Mr. HUNGATE. Pardon me. I am interested in the Continental Congress and the congressional reasons, and do I understand that the congressional reasons grew out of the Philadelphia situation, where the militia demonstrated and put their rifles in the doors?

Mr. WARNER. Yes.

Mr. HUNGATE. And they decided they wanted to have a place of their own?

Mr. WARNER. And be free of pressure from the States. That is why article I, section 8, clause 17, is in there, and it is why we have to make these constitutional changes—again, it is the permanence of the District we are talking about.

Mr. HUNGATE. Would you know when they were in Lancaster, Pa.?

Mr. WARNER. It is in here in these books to which I have referred.

Mr. ROGERS. Then, it is not entirely true that the District of Columbia was proposed by land promoters, and they were going to profit by the Government being put here?

Mr. WARNER. I suppose that would have happened anywhere, and I suppose no matter where it would have happened the people who owned that land would want to make a profit out of it, but I don't think there is anything special about it, because the problem really goes way back to 1787, when nobody knew where the Federal City was going to be.

Mr. MOORE. That charge was even leveled at the fellow called George Washington, wasn't it?

Mr. WARNER. He is supposed to have had something to do with it, and he is the one who persuaded the House, after June 1790, to switch over to the Potomac. He always felt the Potomac was good, because he felt the Potomac was going to be the route to the west. He owned the canal company around Great Falls, and everybody moved by water in those days.

Mr. ASHMORE. Would the gentleman yield for an observation? I would like to say that I am quite interested in the gentleman's history of the adoption of the Constitution and the location of the Federal City, and from the very beginning this Government has been one that has been operating under pressure from various groups and organizations in the country, including the rioters at the Convention in Philadelphia. We still have those with us.

Mr. WARNER. Well, this is probably what makes us get our work out.

Mr. ROGERS. How much more do you have?

Mr. WARNER. I think, sir, that I have covered enough on this second point. Simply let me say that it is not a step toward statehood to do what we are asking. It would be very helpful to us to have you in your report make that clear, so that we will have no problem with the States. They were very sympathetic once they understood our special problem, so I think at this point we can drop the second point, and I will quickly move on to ratification and then go on to the last point very quickly.

On ratification, I think it is significant to know that this 23d amendment was ratified very fast. That amendment was ratified in 9 months 14 days, and actually in the first 90 days of 1961, 36 State legislatures ratified it. I just put that in the record because I think it is important to know that the States have an understanding of the problem once it is explained to them and once we understand the States' problems. We got along fine working with the State legislatures. It was a pleasurable experience to be working with them.

I am putting that in simply because I think we do have some experience in ratification. We need everybody's help. There is no question about it. It was a great big community operation last time, and it will have to be the same again.

That is really all I want to say about it. It works.

I would like to go quickly to the fourth point, something about the electorate here in the District. We don't know much, but I think we know a little bit more than is in the record. Mr. Roth was asking about it, Mr. Tenzer was, and there were others.

The 1960 census reported 509,000 people in the District of Columbia of voting age—21 and over. It is about the same here now. I made a check with our local demographers, and they thought it was about the same.

A great interest was expressed here in wanting to know how many people are going to be affected by this amendment. I am going to reach up and say we take a ballpark figure of adults 21 and over—who do not have the right to vote anywhere else—U.S. citizens living in the District of Columbia. I am going to suggest it is between a quarter of a million and a third of a million people. There are a lot of people who are going to be affected by this, and this is not just pulling a figure out of the air. Gentlemen, under our present District election law, in order to qualify to vote here you have to sign an affidavit that you are a U.S. citizen, 21 years of age, you have lived here at least a year prior to the date of the next election, and do not vote or claim the right to vote in any other State or territory. In the 1964 election we registered 219,687 persons.

Mr. MOORE. Both parties?

Mr. WARNER. Both parties, plus some undeclared. We have a closed primary election but for the presidential election we had a substantial number of undeclared.

Mr. MOORE. The correct designation would be independents, I assume.

Mr. WARNER. I suppose you could call them independents; yes. I will put that right in the record quickly. I am reading from the annual

report of the Government of the District for the fiscal year 1965. Among the 219,687 persons who registered for the 1964 presidential election, there were 29,459 undeclared.

Mr. ROGERS. Thank you for that information.

You recognize that the bells rang and we are going to be taken up in about 15 minutes, and I will ask if there are any questions to be asked.

Mr. Feighan?

Mr. FEIGHAN. I want to congratulate Mr. Warner for his excellent and interesting testimony.

Mr. ROGERS. Mr. Moore?

Mr. MOORE. No further questions.

Mr. ROGERS. Mr. MacGregor?

Mr. MACGREGOR. Thank you, Mr. Chairman. Thank you for this insight into American history.

Mr. ROGERS. Mr. Ashmore?

Mr. ASHMORE. No questions.

Mr. ROGERS. Mr. Smith.

Mr. SMITH of New York. Thank you for coming this morning.

Mr. ROGERS. Mr. Sandman?

Mr. SANDMAN. No questions.

Mr. ROGERS. Thank you very much, Mr. Warner. We have other witnesses, and our next witness is the Reverend Philip R. Newell, Jr., who has a statement that we can place in the record at this point, and you can summarize if you want to.

**STATEMENT OF REV. PHILIP R. NEWELL, JR., REPRESENTING THE
COUNCIL OF CHURCHES OF GREATER WASHINGTON, THE JEWISH
COMMUNITY COUNCIL, AND THE ARCHDIOCESE OF WASHINGTON**

Reverend NEWELL. Mr. Chairman, I am a Presbyterian minister, and am appearing on behalf of the Council of Churches of Greater Washington, the Jewish Community Council, and the Archdiocese of Washington.

We are delighted to join in religious unity to present you this statement in support of the joint resolution. I will not read the statement. It is a simple statement of support for this resolution.

Mr. ROGERS. We appreciate that very much. It will be received for the record.

Are there any questions?

If not, you will be excused.

Reverend NEWELL. Thank you, Mr. Chairman.

Mr. ROGERS. Thank you for being here.

(The document referred to follows:)

STATEMENT OF THE REV. PHILIP R. NEWELL, JR.

Mr. Chairman: I am Philip Newell. I appear here today representing the Council of Churches of Greater Washington to affirm its support of H.J. Res. 396. It is a privilege for me to add the voice of the religious community of the city of Washington to those many organizations which have indicated their support of this vital legislation. I am happy to inform you, Mr. Chairman, of the support of the Archbishop's Committee on Community Relations of the Archdiocese of Washington and the Jewish Community Council of Greater Washington for this legislation.

The Council of Churches of Greater Washington wholeheartedly supports H.J. Res. 396, the effect of which is to amend the Constitution so as to provide at least one voting delegate in the Congress for the citizens of the District of Columbia. We do not view the effect of H.J. Res. 396 as a substitute or an alternative to self-government in the District of Columbia, but we do believe that it represents an important and necessary first step towards such government for the District and, indeed, it represents a part of what full self-government for the District must be.

When the District of Columbia was created as the seat of the Federal Government no-one could predict, of course, that it was to become one of America's great cities. Today Washington is the center of America's ninth largest metropolitan area. Like all major metropolitan areas Washington is beset by huge and complex problems. The destiny of our large urban areas will depend to a great extent on decisions made by the Congress in the near future. It will be to the detriment of all Americans if the people of Washington are denied a voice and a vote in these decisions.

Not only will H.J. Res. 396 permit citizens of the District to elect representatives to speak for them on matters that vitally affect them, but it will also mean that the energies of those able Congressmen and Senators which have been centered on District affairs could be channeled to a wider range of public concerns and to their own constituencies. Mr. Chairman, to continue to deny District citizens a voice and a vote in the Congress is not only to deny 800,000 people their rightful representation in the Congress, but it is also to deny more than 10 million people in nineteen different states the full attention of their own Representatives and it is also to deny more than 31 million people the undivided attention of their Senators. In addition to introducing legislation, Members of Congress provide a wide range of assistance to constituents and represent their interests in the many and complex factors of urban living. While it is clear that Congress will retain District of Columbia Committees to meet the Constitutional requirements, it is equally clear that there is no moral or legal or practical substitute for a voice and a vote in the Congress on behalf of the citizens of the District of Columbia.

Mr. Chairman, the Council of Churches of Greater Washington, in affirming its support of H.J. Res. 396, affirms also that the realization of the intention of this bill and the election to the Congress of Representatives of the people of this city will begin to fulfill for us the vision of old Isaiah when he said "The people that walked in darkness have seen a great light: they that dwell in the land of the shadow of death, upon them hath the light shined." (Isaiah 9:2)

Thank you, Mr. Chairman.

Mr. ROGERS. The next witness is Mr. David Carliner, president of the Washington Home Rule Committee.

STATEMENT OF DAVID CARLINER, PRESIDENT, WASHINGTON HOME RULE COMMITTEE, INC.

Mr. CARLINER. I will be very brief, Mr. Chairman. I have no statement. There are several things, Mr. Chairman, and members of the committee, I will say.

First of all, as a native Washingtonian, I don't believe anyone could appear before this committee without paying tribute to Theodore Noyes who made his life the goal of achievement of national representation for the District. It is my hope that if this is accomplished that the citizens of the District of Columbia will provide for a Theodore Noyes chair in the House for their first elected Representative.

I have read the questioning and some of the testimony by other witnesses before the committee and I have become aware of the concern about the effect of the movement for national representation upon the movement for an elected municipal government in the District of Columbia. I would like to say very emphatically that there is no conflict whatever, that not only are the two movements not alternative, but we truly cannot have self-government in the District of Columbia unless there is representation in Congress.

As you know, the clause in the Constitution which relates to the District of Columbia provides that Congress shall have exclusive legislative jurisdiction over the District.

The only way that we can have a share in that legislation relating to our city is to have membership in Congress. I am not here to criticize other organizations, but I can say of our own organization, I think that we have been mistaken in the past to take a cautious attitude toward national representation. For my part we will work doggedly and wholeheartedly for the enactment of the national representation amendment.

Mr. ROGERS. Thank you so much.

Mr. FEIGHAN. I would like to say it is always a pleasure to hear from Mr. Carliner. While all members of the committee do not agree with him, he presents his arguments with fervor.

Mr. CARLINER. Thank you. Mr. Feighan and I are old friends, and I am happy to have the compliment.

Mr. ROGERS. Thank you, Mr. Carliner.

With that, sir, you will be excused.

We will insert at this time a letter from the chairman of the committee addressed to the Director of the Census and the Director's answer, together with statements of other Members in Congress, and excerpts from the District of Columbia Code.

(The documents referred to follow :)

JULY 26, 1967.

Hon. A. ROSS ECKLER,
Director, Bureau of the Census,
Washington, D.C.

DEAR Mr. ECKLER: As you may know, the House Committee on the Judiciary has been holding public hearings on H.J. Res. 396 and similar measures which would amend the Constitution to provide for representation of the District of Columbia in the Congress.

A number of questions have arisen concerning the population characteristics of the District of Columbia. It would facilitate the work of the Committee if you would furnish the following information.

(1) What is the total population and voting age population for the District of Columbia for the years 1960 through 1968, actual and estimated?

(2) Are any statistics available to indicate the number of persons who live in the District of Columbia but also meet voting residence requirements of a State? If so, would you make them available to the Committee? If not, would you indicate why no such statistics are compiled?

(3) Would you describe the procedure used by the Bureau of the Census in compiling population statistics with reference to apportionment of Representatives among the States, and with special reference to determinations concerning legal residence?

Your early response would be greatly appreciated.

Sincerely yours,

EMANUEL CELLER, *Chairman.*

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF THE CENSUS,
Washington, D.C., August 1, 1967.

Hon. EMANUEL CELLER,
House of Representatives,
Washington, D.C.

DEAR Mr. CELLER: This is in reply to your letter of July 26 in which you raise several questions relating to the population of the District of Columbia. The answers to these questions are as follows:

1. The enclosed table shows figures on the total population and the population of the voting age of the District of Columbia for each year from 1960 to 1968.

2. The Bureau of the Census has no information on the number of persons living in the District of Columbia who also meet the voting residence requirements of a State. Neither does the Bureau have a count or estimate of the number of persons residing in the District who exercise voting rights in the various States. Since apportionment has always been based on the population as determined in accordance with the rule of usual residence, there has never been a need for a determination of this nature on a country-wide basis. Moreover, the great State-to-State variability in the requirements which determine eligibility for voting, would make such a determination difficult if not impossible.

3. In the statistics used for purposes of the apportionment of Representatives among the States the population is classified by usual residence. A summary of the rules used in the determination of usual residence appears in the section entitled "Usual place of residence" on page V of the enclosed 1960 report for the District of Columbia.

Please let us know if we can be of any further assistance to you.

Sincerely yours,

A. ROSS ECKLER,
Director, Bureau of the Census.

TOTAL POPULATION AND POPULATION OF VOTING AGE FOR THE DISTRICT OF COLUMBIA, 1960 TO 1968

Year	Total population	21 years old and over
1968.....	818,000	508,000
1967.....	813,000	505,000
1966.....	808,000	501,000
1965.....	802,000	504,000
1964.....	795,000	506,000
1963.....	792,000	512,000
1962.....	780,000	510,000
1961.....	775,000	511,000
1960.....	763,956	509,110

Note: Figures for 1960 are from the 1960 Census, those for 1961 to 1966 are estimates and those for 1967 and 1968 are projections.

EXCERPT FROM 1960 CENSUS REPORT FOR
THE DISTRICT OF COLUMBIA

(Summary of rules used in determining "usual residence," p V)

Usual place of residence.—In accordance with census practice dating back to 1790, each person enumerated in the 1960 Census was counted as an inhabitant of his usual place of residence or usual place of abode, which is generally construed to mean the place where he lives and sleeps most of the time. This place is not necessarily the same as his legal residence, voting residence, or domicile; however, in the vast majority of cases, the use of these different bases of classification would produce substantially the same statistics, although there may be appreciable differences for a few areas.

In the application of this rule, persons were not always counted as residents of the places in which they happened to be found by the census enumerators. Persons in the larger hotels, motels, and similar places where guests usually pay for quarters were enumerated on the night of March 31, and those whose usual place of residence was elsewhere were allocated to their homes. In addition, information on persons away from their usual place of residence was obtained from other members of their families, landladies, etc. If an entire family was expected to be away during the whole period of the enumeration, information on it was obtained from neighbors. A matching process was used to eliminate duplicate reports for a person who reported for himself while away from his usual residence and who was also reported at his usual residence by someone else.

Person in the Armed Forces quartered on military installations were enumerated as residents of the States, counties, and minor civil divisions in which their installations were located. Members of their families were enumerated where they actually resided. As in 1950, college students were considered residents of the communities in which they were residing while attending college. The crews of vessels of the U.S. Navy and the American Merchant Marine in harbors of the United States were counted as part of the population of the ports in which their

vessels were berthed on April 1, 1960. Inmates of institutions, who ordinarily live there for long periods of time, were counted as inhabitants of the place in which the institution was located; whereas patients in general hospitals, who ordinarily remain for short periods of time, were counted at, or allocated to, their homes. Persons without a usual place of residence were counted where they were enumerated.

Americans who were overseas for an extended period (in the Armed Forces, working at civilian jobs, studying in foreign universities, etc.) are not included in the population of any of the States or the District of Columbia. On the other hand, persons temporarily abroad on vacations, business trips, and the like, were enumerated at their usual residences on the basis of information received from members of their families or from neighbors.

STATEMENT OF HON. ROBERT N. GIAIMO, A U.S. REPRESENTATIVE FROM CONNECTICUT

Mr. Chairman and members of the Committee, I am pleased to have this opportunity to testify in support of my bill, H.J. Res. 704, to amend the Constitution to provide for representation of the District of Columbia in the Congress.

It is ironic that in the same month that our Nation celebrates the 191st anniversary of the Declaration of Independence that this Committee must meet to discuss representation for the inhabitants of our Nation's Capital. The cherished motto of the Patriots, "No taxation without Representation", has never applied to the citizens of the District of Columbia. Keeping with the fundamental ideals for which this country has stood, we must act now to assure a voice for the citizens of the District in their government.

If my legislation is enacted by the Congress and ratified by three-fourths of the states within seven years from the date of its submission to the states by the Congress, the inhabitants of the District of Columbia will be guaranteed at least one Representative in the Congress. Furthermore, under the provisions of my amendment, the authority to provide by law for one or more additional Representatives or Senators, or both, up to the number to which the District would be entitled if it were a state, is bestowed upon the Congress. However, this amendment will not affect the provisions of the Twenty-Third Amendment to the Constitution for determining the number of electors for President and Vice President to be appointed for the District. Enforcement of the provisions of H.J. Res. 704, if enacted and ratified, would be vested in the Congress.

Mr. Chairman, to have in the seat of our National government the deplorable situation whereby more than three quarters of a million Americans have no right to participate in their government is shocking and should be corrected immediately. The Population of the District of Columbia is larger than eleven of our states. Would we think of denying these states their representation in the Congress?

As the ranking majority member of the Subcommittee on the District of Columbia of the House Appropriations Committee, I am acquainted with many of the problems of the District. I have devoted a great deal of time and effort to assist the citizens of the District. Establishing representation in the Congress for the inhabitants of the District would not only grant them an effective voice in government, but also it would assist the Congress in its duties as caretaker of the District.

It is unfortunate that the Congress has been forced to act as the City Council for the District of Columbia, but it is even more shameful that the inhabitants of the District have not even had the opportunity to be represented in the direction of their affairs. Let us amend our Constitution, an amendment in the spirit of our forefathers, to give the citizens of the District the right to participate in their government and to share the same rights and privileges of American citizens living in the states.

Thank you very much for your consideration of my bill.

STATEMENT OF HON. DONALD G. BROTZMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO, IN SUPPORT OF H. J. RES. 687

Mr. Chairman and Members of the Committee: I am pleased to have this opportunity to present a statement in behalf of H. J. Res. 687. I long have felt that the District of Columbia has been deprived of the basic rights or representation to which the citizens of the other States are entitled and I am pleased

that the Committee has seen fit to hold these hearings on the various resolutions which have been introduced in this session of Congress to provide the District with the means of achieving representation in the Congress.

Basically, H. J. Res. 687 would propose an amendment to the Constitution providing for representation in the Congress for the District of Columbia in a manner to be prescribed by the Congress.

This measure differs from the Administration's proposal in so much as the Administration has proposed an amendment which specifically provides for at least one Representative in the Congress and as may be provided by law, one or more additional Representatives or Senators up to the number to which the District would be entitled if it were a State.

Mr. Chairman, I have no quarrel with the Administration's proposal. However, it seems to me that whether or not the amendment requires a specific number of Representatives or Senators, legislative action by the Congress will be required if the District is to achieve true representation on par with the other States of the Union. It is for this reason that I have introduced H. J. Res. 687.

According to the estimates of the Bureau of the Census, the District of Columbia is more populous than 11 states. We all agree that the District is entitled to at least one Representative and probably two. Therefore, I think this decision should be left to the Congress and I am confident that the Congress will act prudently and swiftly in determining the representation to which the District is entitled once that right is secured.

Mr. Chairman, I think it is a strange irony that the citizens who live in the very shadow of the Capitol dome do not have voting representation in either the House or the Senate. The residents of the District are affected by national issues as much as you and I, yet they cannot be heard in the Halls of Congress. I do not believe that the Founding Fathers intended that the residents of the seat of the Federal government should forever be deprived of representation equal to that of the rest of the nation. The injustice of this inequality has endured for too long and should be corrected.

Mr. Chairman, I urge the Committee to favorably report H. J. Res. 687.

THE WASHINGTON TEACHERS' UNION,
Washington, D.C., July 31, 1967.

Hon. EMANUEL CELLER,
Chairman of House Judiciary Committee,
Washington, D.C.

DEAR CONGRESSMAN CELLER: I am sending a copy of testimony prepared for the hearings on proposed Constitutional Amendments, for granting representation in the Congress of the United States to the District of Columbia. I have already given copies to the Counsel and asked to have it included in the Record. After listening to testimony at the hearings, however, I have decided that I should amplify mine, in accordance with new information, which I was thereby able to gain.

In the testimony which I have presented for the Record, I took no position definitely in favor of any of the numerous House Joint Resolutions introduced during this session of the 90th Congress. Now, however, I have come to the conclusion that HJ 396, with some amendments, offers the best practical means of securing representation in Congress, for the inhabitants of the Nation's Capital. In the succeeding paragraphs, I shall give my reasons for this view.

In the first place, it seems probable that trying to get the representation to which the District would be entitled, if it were a state, would not immediately succeed. There would probably be strong opposition to that in both Houses of Congress. At present, moreover, it is not possible to foresee how the country would react, if such an Amendment were proposed to the states for ratification.

As I see it, the main point in my presentation is that the Twenty Third Amendment to our Constitution does not absolutely guarantee an effective vote for the citizens of the District of Columbia in electing the President and Vice President of the United States. When the enclosed statement was prepared, our Union assumed that the people of Washington would at least have a vote, if an election were thrown into the House of Representatives. After listening to discussion centering around the testimony of Attorney-General Clark, however, I realized that this would by no means be certain, if HJ 396 were adopted and ratified in its present form. Since the House would vote by states and the Dis-

trict is not technically a state, its right to cast a vote in such a contingency would be questionable.

The Washington Teachers' Union, consequently, urges that HJ 396 contain a provision, which would unmistakably spell out the right of the inhabitants of the Nation's Capital to a Representative, who would actually have a vote, in case the events of 1800 and 1824 were repeated.

We likewise wish to have a vote in the Senate, if that body again chooses a Vice-President of the United States. There would not seem to be quite the same difficulty here. It would be necessary only to provide that Washingtonians have representation in the Senate. Even in case only one Senator were granted to us, we would be represented. The Twelfth Amendment does not specify that a vote by a majority of states is necessary for a selection of the Vice-President.

Teachers' Union Number 6 of the American Federation of Teachers, therefore, recommends that HJ 396 contain provisions insuring actual participation in the selection of the President and Vice-President of the United States, in the eventuality that the Electoral College again does not provide a majority of votes for that purpose.

Very respectfully,

DON B. GOODLOE,

Legislative Representative of the Washington Teachers' Union.

STATEMENT OF THE WASHINGTON TEACHERS' UNION

Gentlemen of the House Judiciary Committee, the Washington Teachers' Union is glad to present its views on the Constitutional Amendments proposing representation in the Congress of the United States for the inhabitants of the District of Columbia. We regard this as an important step toward full citizenship for the people of the Nation's Capital. At the start, our organization wishes to emphasize that attainment of this objective is important, but is not the final goal of our endeavors. The ultimate objective of the Washington Teachers' Union is local self-government for the people of the District of Columbia. Only when that is achieved, will Washingtonians have attained first-class American citizenship.

Progress toward municipal self-government here has indeed been slow. Recovery from the backward steps taken in the seventies of the last century has taken considerable time and effort. A beginning was made by the enactment of Public Law 376 by the 84th Congress, which opened up some opportunity for participation in national politics. The Twenty-Third Amendment gave the citizens of the District a chance to share in the election of the President and Vice-President of the United States. Yet, it does not absolutely insure that the voters of the Nation's Capital would cast a vote for these officers.

Twice within the history of our nation, no candidate for the two highest offices in the land has received a majority of the electoral votes. As a result, the choice of the President has devolved on the House of Representatives. This happened in the elections of 1800 and 1824. In case this happens again, our citizens would be without a vote in the Electoral College, because we have no representation in the House. Washington would likewise be without a voice in the choice of the Vice-President because of having no one to speak for us in the Senate. In other words, a constitutional amendment is necessary to implement the one which has so far enabled us to vote for our two highest Federal officials.

It may be that an example of events that occurred more than a century ago is not impressive. If that is the case, it is in order to remind everyone that the same thing nearly happened less than twenty years ago. A slight shift of votes in several populous states in the Presidential Election of 1948 might have had the same result as described in the preceding paragraph. I am not actually predicting when, if ever, this will come to pass. The discomfiture of the political prophets in that memorable year serves a severe warning against attempting such a prognostication. It could, however, take place; and a good constitution is supposed to guard against eventualities, even if they are improbable. A Constitutional Amendment is necessary to make sure that one recently adopted and ratified never proves to be a dead letter.

As for other arguments, they are much the same as those advanced in support of local self-government. For example, it is clear that Senators and Representatives do not really have enough time for District affairs. In addition to national interests which concern all Congressmen, they must devote time and energy to the affairs of their constituents. That makes them unable to do as much for Washington as they would like. There should be Senators and Representatives responsible to the people of this city. Like other Americans, they should be rep-

resented by legislators able to use their energy and talents primarily for the benefit of their constituents.

There is probably no way to over-emphasize what we have just said. No individual or group of people can be an adequate substitute for voting representatives in our National Legislature. Again, we stress the point that representation in both Houses of Congress is necessary to insure an effective vote for citizens of the Nation's Capital in electing the two most important officials in the United States. In addition to this, lack of such representation prevents Washingtonians from participating in other important decisions made by Congress. Let us name a few. Having no Senator to speak for us leaves our people without a voice in ratifying treaties or confirming Federal officeholders. The inhabitants of the District of Columbia have had no share in the laws that have periodically changed the Presidential Succession. They are without a voice in impeachment proceedings. The same is true of determining Presidential disability under the last Amendment to the Constitution.

In short, the present system here is out of date. The only possible way to have the people of this city function properly as American citizens is to provide them eventually with representation in both House of Congress. That is the only possible means of bringing about proper participation by our citizens in their government and their suitable liaison with the lawmakers of our Nation.

We again emphasize the fact that adoption and ratification of such a Constitutional Amendment could not be regarded as the ultimate step in giving the inhabitants of the Nation's Capital their rightful position as citizens of the United States. Local self-government should always be kept in view by the citizens of the District and their supporters throughout the nation.

DISTRICT OF COLUMBIA CODE

ANNOTATED

1961 EDITION

CONTAINING THE LAWS, GENERAL AND PERMANENT IN THEIR NATURE,
RELATING TO OR IN FORCE IN THE DISTRICT OF COLUMBIA (EXCEPT
SUCH LAWS AS ARE OF APPLICATION IN THE DISTRICT OF
COLUMBIA BY REASON OF BEING GENERAL AND PER-
MANENT LAWS OF THE UNITED STATES),
IN FORCE ON JANUARY 2, 1961

NOTES TO DECISIONS THROUGH DECEMBER 1960

Chapter 11.—ELECTIONS

Sec.

- 1-1101. Election of officials of political parties.
- 1-1102. Definitions.
- 1-1103. Board of elections—Terms of office.
- 1-1104. Qualifications and compensation of members.
- 1-1105. Functions and authority of Board.
- 1-1106. Board independent agency—District to furnish facilities to Board.
- 1-1107. Registration—Conditions for registration—Registration affidavit—Registration period—Appeal.
- 1-1108. Candidates for office—Form and date for filing petitions—Number of signatures required—Arrangement of ballot.
- 1-1109. Method of voting—Place—Watchers—Challenging of votes—Appeal from challenged ballots—Handicapped voters.
- 1-1110. Date for holding elections—Voting hours—Method of deciding tie votes—Naming successor to deceased official.
- 1-1111. Petition for recount by candidate—Procedure—Expenses—Petition for recount by voter to United States District Court—Grounds for voiding election.
- 1-1112. Interference with registration and voting.
- 1-1113. Appropriations—Maximum expenditures by candidate—Maximum contributions receivable by committee—Maximum contributions to campaign—Statement of election expenses.
- 1-1114. False registration, fraud and other corrupt practices in elections—Penalties.

§ 1-1101. Election of officials of political parties.

The following officials of political parties in the District of Columbia shall be elected as provided in this chapter:

- (1) National committeemen and national committee women;
- (2) Delegates to conventions of political parties nominating candidates for the Presidency and Vice Presidency of the United States;

(3) Alternates to the officials referred to in clauses (1) and (2) above, where permitted by political party rules; and

(4) Such members and officials of local committees of political parties as may be designated by the duly authorized local committees of such parties for election at large in the District of Columbia. (Aug. 12, 1955, 69 Stat. 699, ch. 862, § 1.)

§ 1-1102. Definitions.

For the purposes of this chapter—

(1) The term "District" means the District of Columbia.

(2) The term "qualified elector" means a citizen of the United States (a) who does not claim voting residence or right to vote in any State or Territory, and who has resided in the District continuously since the beginning of the one-year period ending on the day of the next election, or, if such period has not begun, resides in the District; (b) who is, or will be on the day of the next election, twenty-one years old; (c) who has never been convicted of a felony in the United States, or if he has been so convicted, has been pardoned; and (d) who is not mentally incompetent as adjudged by a court of competent jurisdiction.

(3) The term "Board" means the Board of Elections for the District of Columbia provided for by section 1-1103. (Aug. 12, 1955, 69 Stat. 699, ch. 862, § 2.)

§ 1-1103. Board of elections—Terms of office.

There is hereby created a Board of Elections for the District of Columbia, to be composed of three members appointed by the Commissioners of the District of Columbia. The first terms of offices on the Board shall expire, as designated by the Commissioners, one at the close of December 31 of each of the first three years which begin after August 12, 1955. Subsequent terms of each such office shall be three years beginning January 1 following the expiration of the preceding term of such office. Any person appointed to fill a vacant office shall be appointed only for the unexpired term of such office. Until his successor is appointed and has qualified, a member may continue to serve even though the term of the office to which he was appointed has expired. (Aug. 12, 1955, 69 Stat. 699, ch. 862, § 3.)

§ 1-1104. Qualifications and compensation of members.

(a) No person shall be a member of the Board unless he qualifies as an elector and resides in the District. No person may be appointed to the Board unless he has resided in the District continuously since the beginning of the three-year period ending on the day he is appointed. Members of the Board shall hold no other paid office or employment in the District government and shall hold no active office, position or employment in the Federal Government. Not more than two members shall be members of the same political party.

(b) Each member of the Board shall be paid compensation of \$25 per day while performing duties under this chapter. Except as provided in subsection (a) no person shall be ineligible to serve or to receive compensation as a member of the Board because he occupies another office or position or because he receives compensation (including retirement compensation) from another source. The right to compensation from another source otherwise secured to such a person under the laws of the United States shall not be abridged by the fact of his service or receipt of compensation as a member of the Board, or as an employee of the Board. (Aug. 12, 1955, 69 Stat. 699, ch. 862, § 4.)

§ 1-1105. Functions and authority of Board.

(a) The Board shall—

- (1) maintain a permanent registry, keeping it accurate and current;
- (2) conduct registrations and elections;
- (3) print, distribute, and count ballots, or provide and operate suitable voting machines;
- (4) divide the District into appropriate voting precincts, each of which shall contain at least three hundred and fifty registered persons;
- (5) operate polling places;
- (6) certify nominees and the results of elections; and
- (7) perform such other duties as are imposed upon it by this chapter.

(b) The Board, and persons authorized by it, may administer oaths to persons executing affidavits pursuant to sections 1-1107 and 1-1108. It may provide for the administering of such other oaths as it considers appropriate to require in the performance of its functions.

(c) The Board may prescribe such regulations as it considers necessary to carry out the purposes of this chapter.

(d) The Board may employ necessary personnel, at such rates of compensation as may be fixed by the Commissioners of the District of Columbia, without reference to the provisions of the Classification Act of 1949, as amended. (Aug. 12, 1955, 69 Stat. 700, ch. 862, § 5.)

REFERENCES IN TEXT

The Classification Act of 1949, as amended, referred to in subsec. (d), is classified to U.S. Code, title 5, chapter 21.

§ 1-1106. Board independent agency—District to furnish facilities to Board.

(a) In the performance of its duties, the Board shall not be subject to the direction of any non-judicial officer of the District.

(b) The District government shall furnish to the Board, upon request of the Board, such space and facilities as are available in public buildings in the District to be used as registration or polling places, and such records, information, services, personnel, offices, and equipment, and such other assistance and facilities, as may be necessary to enable the Board properly to perform its functions. Subject to the approval of the Commissioners of the District of Columbia, privately owned space, facilities and equipment may be rented for the registration, polling, and other functions of the Board. (Aug. 12, 1955, 69 Stat. 700, ch. 862, § 6.)

§ 1-1107. Registration—Conditions for registration—Registration affidavit—Registration period—Appeal.

(a) No person shall vote in any election in the District unless he is a qualified elector and, except as provided in subsection (e), is registered in the District.

(b) No person shall be registered unless—

(1) he is qualified elector;

(2) he has resided in the District continuously since the beginning of the nine-month period ending on the day he offers to register; and

(3) he executes a registration affidavit by signature or mark (unless prevented by physical disability) on the form prescribed by the Board pursuant to subsection (c), showing his political affiliation, and that he meets each of the requirements specified in section 1-1102 (2) for a qualified elector as well as the requirement of paragraph (2) of this subsection.

(c) In administering the provisions of subsection (b) (3), the Board shall prepare and use a registration affidavit form in which each request for information is readily understandable and can be satisfied by a concise answer or mark. The Board may request additional information required to determine whether the registrant meets the requirements imposed by or referred to in subsection (b).

(d) The registry shall be kept open except during the fifteen-day period ending on the first Tuesday in May of each presidential election year, and except as provided by the Board in the case of a special election. While the registry is open, any person may apply for registration or change his registration.

(e) If a person is not permitted to register, such person, or any qualified candidate, may appeal to the Board, but not later than three days after the registry is closed for the next election. The Board shall decide within five days after the appeal is perfected whether the challenged elector is entitled to register. If the appeal is denied, the appellant may, within three days after such denial, appeal to the municipal court for the District of Columbia. The decision of such court shall be final and not appealable. If the appeal is upheld by either the Board or the court, the challenged elector shall be allowed to register immediately. If the appeal is pending on election day, the challenged elector may cast a ballot marked "challenged", as provided in section 1-1109 (d). (Aug. 12, 1955, 69 Stat. 700, ch. 862, § 7.)

§ 1-1108. Candidates for office—Form and date for filing petitions—Number of signatures required—Arrangement of ballot.

(a) Candidates for office participating in an election held pursuant to this chapter shall be the persons registered under section 1-1107 who have been nominated for such office by a petition—

(1) prepared and presented to the Board in accordance with rules prescribed by the Board, but not later than thirty days before the date of the election; and

(2) signed by not less than one hundred voters, registered under section 1-1107, and of the same political party as the nominee.

(b) No person shall hold elected office pursuant to this chapter unless he has been a bona fide resident of the District of Columbia continuously since the be-

ginning of the three-year period ending on the date of the next election, and is a qualified elector registered under section 1-1107.

(c) The Board shall arrange the ballot of each political party so as to enable the voters of such party—

(1) to vote for the candidates duly qualified and nominated for election by such party under this chapter; and

(2) to answer in the affirmative or negative such questions relating to the conduct of the affairs of such party as the duly authorized local committee of such party may file with the Board in writing: *Provided, however*, That the questions shall be so filed not later than thirty days before the date of the election.

(Aug. 12, 1955, 69 Stat. 701, ch. 682, § 8.)

§ 1-1109. Method of voting—Place—Watchers—Challenging of votes—Appeal from challenged ballots—Handicapped voters.

(a) Voting in all elections shall be secret. Voting may be by paper ballot or voting machine.

(b) The ballot of a person who is registered as a resident of the District shall be valid only if cast in the voting precinct where the residence shown on his registration is located.

(c) Each qualified candidate may have a watcher at each polling place, provided the watcher presents proper credentials signed by the candidate. No one shall interfere with the opportunity of a watcher to observe the conduct of the election at that polling place and the counting of votes. Watchers may challenge prospective voters who are believed to be unqualified to vote.

(d) If the official in charge of the polling place, after hearing both parties to any such challenge or acting on his own initiative with respect to a prospective voter, reasonably believes the prospective voter is unqualified to vote, he shall allow the voter to cast a paper ballot marked "challenged". Ballots so cast shall be segregated, and no such ballot shall be counted until the challenge has been removed as provided in subsection (e).

(e) If a person has been permitted to vote only by challenged ballot, such person, or any qualified candidate, may appeal to the Board within three days after election day. The Board shall decide within seven days after the appeal is perfected whether the voter was qualified to vote. If the appeal is denied, the appellant may within three days of such denial appeal to the municipal court of the District of Columbia. The decision of such court shall be final and not appealable. If the Board decides that the voter was qualified to vote, the word "challenged" shall be stricken from the voter's ballot and the ballot shall be treated as if it had not been challenged.

(f) If the official in charge of the polling place is satisfied that a qualified elector is unable to record his vote by marking the ballot or operating the voting machine, two officials of the polling place shall on the request of the voter enter the voting booth and vote as directed. The officials shall tell no one how the voter voted. The official in charge of the voting place shall make a return of all such voters, giving their names and disabilities.

(g) No person shall vote more than once in any election nor in an election held by a political party other than that to which he has declared himself to be a member.

(h) Copies of the regulations of the Board with respect to voting shall be made available to prospective voters at each polling place. (Aug. 12, 1955, 69 Stat. 702, ch. 862, § 9.)

§ 1-1110. Date for holding elections—Voting hours—Method of deciding tie votes—Naming successor to deceased official.

(a) The elections of the officials referred to in clauses (1), (2), and (3) of section 1-1101 and of officials designated pursuant to clause (4) of such section shall be held on the first Tuesday in May of each presidential election year. Any such election shall be conducted by the Board in conformity with the provisions of this chapter. Polls shall be open from 8 o'clock antemeridian to 8 o'clock postmeridian on election days.

(b) Candidates receiving the highest number of votes in said election shall be declared the winners.

(c) In the case of a tie, the candidates receiving the tie vote shall cast lots before the Board, at 12 o'clock noon on a date to be set by the Board, but not sooner than ten days following the election, and the one to whom the lot shall fall shall be declared the winner. If any candidate or candidates, receiving a

tie vote, fail to appear before 12 o'clock noon on said day, the Board shall cast lots for him or them. For the purpose of casting lots any candidate may appear in person, or by proxy appointed in writing.

(d) In the event that any official elected pursuant to this chapter dies during his or her term of office leaving no person elected pursuant to this chapter to serve the remainder of the unexpired term of office, the successor or successors to serve the remainder of such term shall be chosen pursuant to the rules of the duly authorized local committee. (Aug. 12, 1955, 69 Stat. 702, ch. 862, § 10.)

§ 1-1111. Petition for recount by candidate—Procedure—Expenses—Petition for recount by voter to United States District Court—Grounds for voiding election.

(a) If, within seven days after the Board certifies the results of an election, any qualified candidate at such election petitions the Board to have the votes cast at such election recounted in one or more voting precincts, the Board shall order such recount. In each such case, the petitioner shall deposit a fee of \$20 for each precinct petitioned to be recounted. If the cost of the recount is less than \$20 per precinct, the difference shall be refunded. If the result of the election is changed as a result of the recount, the entire amount deposited by the petitioner shall be refunded. Such recounts shall be conducted in the manner prescribed by the Board by regulation.

(b) Within seven days after the Board certifies the results of an election, any person who voted in the election may petition the United States District Court for the District of Columbia to review such election. In response to such a petition, the court may set aside the results so certified and declare the true results of the election, or void the election in whole or in part. To determine the true results of an election the court may order a recount or take other appropriate action, whether or not a recount has been conducted or requested pursuant to subsection (a). The court shall void an election only for fraud, mistake, the making of expenditures by a candidate in violation of this chapter, or other defect, serious enough to vitiate the election as a fair expression of the will of the registered qualified electors voting therein. If the court voids an election it may order a special election, which shall be conducted in such manner (comparable to that prescribed for regular elections), and at such time, as the Board shall prescribe. The decision of such court shall be final and not appealable. (Aug. 12, 1955, 69 Stat. 703, ch. 862, § 11.)

§ 1-1112. Interference with registration and voting.

No one shall interfere with the registration or voting of another person, except, as it may be reasonably necessary in the performance of a duty imposed by law. (Aug. 12, 1955, 69 Stat. 703, ch. 862, § 12.)

§ 1-1113. Appropriations—Maximum expenditures by candidate—Maximum contributions receivable by committee—Maximum contributions to campaign—Statement of election expenses.

(a) There are hereby authorized to be appropriated, out of any money in the Treasury to the credit of the District of Columbia not otherwise appropriated, such amounts as may be necessary to carry out the purposes of this chapter.

(b) Subject to the penalties provided in this chapter, a candidate for national committeeman, national committeewoman, delegate, or alternate, in his campaign for election, shall not make expenditures in excess of \$2,500.

(c) No independent committee or party committee shall receive contributions aggregating more than \$100,000, or make expenditures aggregating more than \$100,000 for any campaign covered by this chapter.

(d) No person shall, directly or indirectly, make contributions in an aggregate amount in excess of \$5,000 in connection with any campaign for election of any national committeeman, national committeewoman, delegate, or alternate.

(e) Every candidate and independent committee or party committee shall, within ten days after the election, file with the Board of Elections an itemized statement, subscribed and sworn to by the candidate or committee treasurer, as the case may be, setting forth all moneys received and expended in connection with said election, the names of persons from whom received and to whom paid, and the purpose for which it was expended. Such statement shall set forth any unpaid debts and obligations incurred by the candidate or independent committee or party committee with regard to such election, and specify the balance, if any, of such election funds remaining in his or their hands. (Aug. 12, 1955, 69 Stat. 704, ch. 862, § 13.)

§ 1-1114. False registration, fraud, and other corrupt practices in elections—Penalties.

Any person who shall register, or attempt to register, under the provisions of this chapter and make any false representations as to his place of residence or his voting privilege in any other part of the United States, or be guilty of bribery or intimidation of any voter at the elections herein provided for, or, being registered, shall vote or attempt to vote more than once in any election so held, or shall purloin or secrete any of the votes cast in such elections, or attempt to vote in an election held by a political party other than that to which he has declared himself to be affiliated, or, if employed in the counting of votes in such elections, make a false report in regard thereto, and every candidate, person, or official of any political committee who shall make any expenditure or contribution in violation of this chapter, shall upon conviction thereof be fined not more than \$500 or be imprisoned not more than ninety days, or both. The provisions of this section shall be supplemental to and not in derogation of any penalties under other laws of the District of Columbia. (Aug. 12, 1955, 69 Stat. 704, ch. 862, § 14.)

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DISTRICT OF COLUMBIA CODE 1961 EDITION

SUPPLEMENT V—LAWS—JANUARY 3, 1961, TO JANUARY 9, 1966

NOTES TO DECISIONS—FROM JANUARY 1, 1961, TO SEPTEMBER 30, 1965

Chapter 11.—ELECTIONS

Sec.

- 1-1101. Election of electors of President and Vice President, and officials of political parties.
- 1-1106. Board independent agency—District to furnish facilities to Board—Seal.
- 1-1108. Candidates for office—Form and date for filing petitions—Number of signatures required—Arrangement of ballot—Nominations for presidential electors—Names of candidates for President and Vice President to appear on ballot under party designation—Form of ballot—Candidates for electors not to appear on ballot—Nominations by nonqualifying political parties—Qualifications of electors.
- 1-1109. Method of voting—Place—Watchers—Challenging of votes—Appeal from challenged ballots—Handicapped and absent voters—Voting in party elections.
- 1-1110. Dates for holding elections—Voting hours—Method of deciding tie votes—Naming successor to official who dies, resigns, or is unable to serve—Votes cast for President and Vice President to be counted as votes for presidential electors.

§ 1-1101. Election of electors of President and Vice President, and officials of political parties.

In the District of Columbia electors of President and Vice President of the United States and the following officials of political parties in the District of Columbia shall be elected as provided in this chapter:

- (1) National committeemen and national Committeewomen;
- (2) Delegates to conventions of political parties nominating candidates for the Presidency and Vice Presidency of the United States;
- (3) Alternates to the officials referred to in clauses (1) and (2) above, where permitted by political party rules; and
- (4) Such members and officials of local committees of political parties as may be designated by the duly authorized local committees of such parties for election at large in the District of Columbia. (Aug. 12, 1955, 69 Stat. 699, ch. 862, § 1; Oct. 4, 1961, 75 Stat. 817, Pub. L. 87-389, § 1(1).)

AMENDMENTS

1961—Section 1(1), act Oct. 4, 1961, amended the section by inserting at the beginning thereof the words: "In the District of Columbia electors of President and Vice President of the United States and".

Section 1(25), act Oct. 4, 1961, amended the title of the chapter to read as follows: "An Act to regulate the election in the District of Columbia of electors of President and Vice President of the United States and of delegates representing the District of Columbia to national political conventions, and for other purposes."

APPLICABILITY OF FEDERAL VOTING ASSISTANCE ACT

Section 2(c), act Oct. 4, 1961, provided that: "For the purposes of the Federal Voting Assistance Act of 1955, the word 'State' shall be deemed to include the District of Columbia." This act is set out in 5 U.S.C. 2171 et seq.

CROSS REFERENCES

For definition of "State" and executives of each State as including the District of Columbia and its Board of Commissioners, see 1 U.S.C. 21.

For provisions of constitutional amendment [Articles XXIII] granting the District of Columbia authority to appoint electors of President and Vice President, see preliminary pages in this supplement.

§ 1-1102. Definitions.

For the purposes of this chapter—

(1) The term "District" means the District of Columbia.

(2) The term "qualified elector" means a citizen of the United States (a) who does not claim voting residence or right to vote in any State or Territory; and who, for the purpose of voting in an election under this chapter, has resided in the District continuously since the beginning of the one-year period ending on the day of such election; (b) who is, or will be on the day of the next election, twenty-one year old; (c) who has never been convicted of a felony in the United States, or if he has been so convicted, has been pardoned; and (d) who is not mentally incompetent as adjudged by a court of competent jurisdiction.

(3) The term "Board" means the Board of Elections for the District of Columbia provided for by section 1-1103. (Aug. 12, 1955, 69 Stat. 699, ch. 862, § 2; Oct. 4, 1961, 75 Stat. 820, Pub. L. 87-389, § 1(26).)

AMENDMENT

1961—Section 1(26), act Oct. 4, 1961, amended clause (a) of par. (2) of the section to read as above set out. The wording of the clause before this amendment is set out in the main volume of the Code.

§ 1-1103. Board of elections—Terms of office.

There is hereby created a Board of Elections for the District of Columbia, to be composed of three members appointed by the Commissioners of the District of Columbia. The first terms of offices on the Board shall expire, as designated by the Commissioners, one at the close of December 31 of each of the first three years which begin after August 12, 1955. Subsequent terms of each such office shall be three years beginning January 1 following the expiration of the preceding term of such office. Any person appointed to fill a vacant office shall be appointed only for the unexpired term of such office. Until his successor is appointed and has qualified, a member may continue to serve even though the term of the office to which he was appointed has expired. The said Commissioners shall from time to time designate the Chairman of the Board. (Aug. 12, 1955, 69 Stat. 699, ch. 862, § 3; Oct. 4, 1961, 75 Stat. 817, Pub. L. 87-389, § 1(2).)

AMENDMENT

1961—Section 1(2), act Oct. 4, 1961, Pub. L. 87-389, amended the section by inserting at the end thereof the following sentence: "The said Commissioners shall from time to time designate the Chairman of the Board."

§ 1-1105. Functions and authority of Board.

(a) The Board shall—

- (1) maintain a registry, keeping it accurate and current;
- (2) conduct registrations and elections;
- (3) provide for recording and counting votes by means of ballots or machines or both and not less than five days before each election held pursuant to this chapter, publish in one or more newspapers of general circulation in the District a copy of the official ballot to be used in any such election;
- (4) divide the District into appropriate voting precincts, each of which shall contain at least three hundred and fifty registered persons;
- (5) operate polling places;
- (6) develop and administer procedures for absentee registration for and voting in any election held under this chapter by any person included within the categories referred to in paragraphs (1), (2), (3), or (4) of section 101 of the Federal Voting Assistance Act of 1955 (69 Stat. 584) [5 U.S.C. 2171].
- (7) certify nominees and the results of elections; and
- (8) perform such other duties as are imposed upon it by this chapter.

(b) Each member of the Board and persons authorized by the Board may administer oaths to persons executing affidavits pursuant to sections 1-1107 and 1-1108. It may provide for the administering of such other oaths as it considers appropriate to require in the performance of its functions.

(c) The Board may prescribe such regulations as it considers necessary to carry out the purposes of this chapter, including, a regulation permitting persons not absent from the District but who are physically unable to appear personally at an official registration place, to register in the manner prescribed in such regulation for the purpose of voting in any election held pursuant to this chapter.

(d) The Board may employ necessary personnel, at such rates of compensation as may be fixed by the Commissioners of the District of Columbia, without reference to the provisions of the Classification Act of 1949, as amended. (Aug. 12, 1955, 69 Stat. 700, ch. 862, § 5; Oct. 4, 1961, 75 Stat. 817, Pub. L. 87-389, § 1 (3), (4), (5), (6).)

REFERENCES IN TEXT

The Classification Act of 1949, as amended, referred to in subsec. (d), is set out in U.S. Code, Title 5, chapter 21.

AMENDMENTS

1961—Section 1(3), act Oct. 4, 1961, amended par. (1) of subsection (a) by striking out, "permanent".

Section 1(4), of same act, amended par. (3) of subsection (a) to read as above set out. The original wording of par. (3) is set out in the main volume of the Code.

Section 1(5) of the same act, amended the first sentence of subsection (b) by striking the words: "the Board, and persons authorized by it" and inserting in lieu thereof the words: "Each member of the Board and persons authorized by the Board" and by striking the period at the end of subsection (c) and inserting the following: ", including, a regulation permitting persons not absent from the District but who are physically unable to appear personally at an official registration place, to register in the manner prescribed in such regulation for the purpose of voting in any election held pursuant to this chapter."

Section 1(6) of the same act renumbered pars. (6) and (7) of subsection (a) as pars. (7) and (8) and inserted a new par. (6) as above set out.

§ 1-1106. Board independent agency—District to furnish facilities to Board—Seal.

* * * * *

(c) Subject to the approval of the Commissioners of the District of Columbia, the Board is authorized to adopt and use a seal. (Aug. 12, 1955, 69 Stat. 700, ch. 862, § 6; Oct. 4, 1961, 75 Stat. 817, Pub. L. 87-389, § 1(7).)

AMENDMENT

1961—Section 1(7), act Oct. 4, 1961, amended the section by adding subsection (c).

§ 1-1107. Registration—Conditions for registration—Registration affidavit—Registration period—Appeal.

(a) A person shall be entitled to vote in an election in the District of Columbia only if he is a qualified elector and, except as provided in subsection (e) of this section, he registers in the District during the year in which such election is to be held.

(b) No person shall be registered unless—

(1) he is a qualified elector;

(2) he executes a registration affidavit by signature or mark (unless prevented by physical disability) on the form prescribed by the Board pursuant to subsection (c) showing that he meets each of the requirements specified in section 1-1102(2) for a qualified elector or qualifies under procedures established by the Board under paragraph (6) of subsection (a) of section 1-1105, and, if he desires to vote in a party election, such form shall show his political party affiliation.

(c) In administering the provisions of subsection (b)(2), the Board shall prepare and use a registration affidavit form in which each request for information is readily understandable and can be satisfied by a concise answer or mark. The Board may request additional information required to determine whether the registrant meets the requirements imposed by or referred to in subsection (b).

(d) The registry shall be open from January 1 until forty-five days before the first Tuesday following the first Monday in November during each presidential election year except the forty-five day period which ends on the first Tuesday in May, and except as provided by the Board in the case of a special election. The Board may close the registry on Saturdays, Sundays and holidays. While the registry is open, any person may apply for registration or change his registration.

(e) If a person is not permitted to register, such person, or any qualified candidate, may appeal to the Board, but not later than three days after the

registry is closed for the next election. The Board shall decide within five days after the appeal is perfected whether the challenged elector is entitled to register. If the appeal is denied, the appellant may, within three days after such denial, appeal to the municipal court for the District of Columbia. The decision of such court shall be final and not appealable. If the appeal is upheld by either the Board or the court, the challenged elector shall be allowed to register immediately. If the appeal is pending on election day, the challenged elector may cast a ballot marked "challenged", as provided in section 1-1109 (d). (Aug. 12, 1955, 69 Stat. 700, ch. 862, § 7; Oct. 4, 1961, 75 Stat. 817, 818, Pub. L. 87-389, § 1(8, 9, 10, 11).)

AMENDMENTS

1961—Section 1(8), act Oct. 4, 1961, amended subsection (a) to read as above set out. The original wording of subsection (a) is set out in the main volume of the Code.

Section 1(9) of the same act, amended pars. (2) and (3) of subsection (b) to read as above set out. The original wording of former pars. (2) and (3) are set out in the main volume of the Code.

Section 1(10) of the same act, amended subsection (c) by striking "(b) (3)" and inserting in lieu thereof "(b)(2)".

Section 1(11) of the same act amended the first sentence of subsection (d) to read as above set out. The wording of the sentence prior to amendment is set out in the original Code.

§ 1-1108. Candidates for office—Form and date for filing petitions—Number of signatures required—Arrangement of ballot—Nominations for presidential electors—Names of candidates for President and Vice President to appear on ballot under party designation—Form of ballot—Candidates for electors not to appear on ballot—Nominations by nonqualifying political parties—Qualifications of electors.

(a) Candidates for office participating in an election of the officials referred to in clauses (1), (2), and (3) of section 1-1101 and of officials designated pursuant to clause (4) of such section shall be the persons registered under section 1-1107 who have been nominated for such office by a petition—

(1) prepared and presented to the Board in accordance with rules prescribed by the Board, but not later than thirty days before the date of the election; and

(2) signed by not less than one hundred voters, registered under section 1-1107, and of the same political party as the nominee.

(b) No such person shall hold elected office pursuant to this chapter unless he has been a bona fide resident of the District of Columbia continuously since the beginning of the three-year period ending on the date of the next election, and is a qualified elector registered under section 1-1107.

(c) The Board shall arrange the ballot of each political party so as to enable the voters of such party—

(1) to vote for the candidates duly qualified and nominated for election by such party under this chapter; and

(2) to answer in the affirmative or negative such questions relating to the conduct of the affairs of such party as the duly authorized local committee of such party may file with the Board in writing: *Provided, however,* That the questions shall be so filed not later than thirty days before the date of the election.

(d) Each political party who has had its candidate elected as President of the United States after January 1, 1950, shall be entitled to nominate candidates for presidential electors. The executive committee of the organization recognized by the national committee of each such party as the official organization of that party in the District of Columbia shall nominate by appropriate means the presidential electors for that party. Nominations shall be made by message to the Board of Elections on or before September 1 next preceding a presidential election.

(e) The names of the candidates of each political party for President and Vice President shall be placed on the ballot under the title and device, if any, of that party as designated by the duly authorized committee of the organization recognized by the national committee of that party as the official organization of that party in the District. The form of the ballot shall be determined by that Board. The position on the ballot of names of candidates for President and Vice President shall be determined by lot. The names of persons nominated as candidates for electors of President and Vice President shall not appear on the ballot.

(f) A political party which does not qualify under subsection (d) of this section may have the names of its candidates for President and Vice President of the United States printed on the general election ballot provided a petition nominating the appropriate number of candidates for presidential electors signed

by at least 5 per centum of registered qualified electors of the District of Columbia, as of July 1 of the year in which the election is to be held is presented to the Board on or before August 15 preceding the date of the presidential election.

(g) No person may be elected to the office of elector of President and Vice President pursuant to this chapter unless (1) he is a registered voter in the District and (2) he has been a bona fide resident of the District for a period of three years immediately preceding the date of the presidential election. Each person elected as elector of President and Vice President shall, in the presence of the Board, take an oath or solemnly affirm that he will vote for the candidates of the party he has been nominated to represent, and it shall be his duty to vote in such manner in the electoral college. (Aug. 12, 1955, 69 Stat. 701, ch. 682, § 8; Oct. 4, 1961, 75 Stat. 818, 819, Pub. L. 87-389, § 1 (12, 13).)

AMENDMENT

1961—Section 1(12), act Oct. 4, 1961, amended the portion of subsection (a) which precedes par. (1) to read as above set out.

Section 1(13) of the same act, further amended the section by adding subsections (d), (e), (f) and (g).

NOTES TO DECISIONS

1. Authority of board in relation to ballots

Board of Elections for the District of Columbia was without authority to permit official primary ballot to include what would be in effect a party presidential primary. *District of Columbia Republican Committee and Carl L. Shipley et al. v. The Board of Elections for the District of Columbia et al.* (1964, 336 F. 2d 939, 119 U.S. App. D.C. 20.)

§ 1-1109. Method of voting—Place—Watchers—Challenging of votes—Appeal from challenged ballots—Handicapped and absent voters—Voting in party elections.

(a) Voting in all elections shall be secret.

(b) The vote of a person who is registered as a resident of the District shall be valid only if cast in the voting precinct where the residence shown on his registration is located. The Board shall by regulation permit voting for electors of President and Vice President by any registered elector who is absent from the District or who, because of his physical condition, is unable to vote in person at the polling place in his voting precinct on election day.

(c) * * *

(d) * * *

(e) If a person has been permitted to vote only by challenged ballot, such person, or any qualified candidate, may appeal to the Board within three days after election day. The Board shall decide within seven days after the appeal is perfected whether the voter was qualified to vote. If the appeal is denied, the appellant may within three days of such denial appeal to the municipal court for the District of Columbia. The decision of such court shall be final and not appealable. If the Board decides that the voter was qualified to vote, the word "challenged" shall be stricken from the voter's ballot and the ballot shall be treated as if it had not been challenged.

(f) * * *

(g) No person shall vote more than once in any election, nor shall any person vote in an election held by a political party other than that of which he has declared himself a member.

(h) * * *

(Aug. 12, 1955, 69 Stat. 702, ch. 862, § 9; Oct. 4, 1961, 75 Stat. 819, Pub. L. 87-389, § 1(14, 15, 16, 17).)

CHANGE OF NAME

Act Oct. 23, 1962, 76 Stat. 1172, Pub. L. 87-883, section 6, eff. Jan. 1, 1963, changed the name of the Municipal Court of Appeals for the District of Columbia to "District of Columbia Court of Appeals."

AMENDMENTS

1961—Section 1(14), act Oct. 4, 1961, struck out the second sentence in subsection (a). The struck sentence read as follows: "Voting may be by paper ballot or voting machine."

Section 1(15) of the same act, amended subsection (b) by striking the word "ballot" and inserting in lieu thereof the word "vote" in the first sentence and by inserting at the end thereof the new sentence as above set out.

Section 1(16) of the same act amended subsection (e) by changing "municipal court of the District" to read "municipal court for the District".

Section 1(17) of the same act, amended subsection (g) to read as above set out. The original wording of subsection (g) is set out in the main volume of the Code.

§ 1-1110. Dates for holding elections—Voting Hours—Method of deciding tie votes—Naming successor to official who dies, resigns, or is unable to serve—Votes cast for President and Vice President to be counted as votes for presidential electors.

(a) (1) The elections of the officials referred to in clauses (1), (2), and (3) of section 1-1101 and of officials designated pursuant to clause (4) of such section shall be held on the first Tuesday in May of each presidential election year. Any such election shall be conducted by the Board in conformity with the provisions of this chapter. Polls shall be open from 8 o'clock antemeridian to 8 o'clock postmeridian on election days.

(2) The electors of President and Vice President of the United States shall be elected on the Tuesday next after the first Monday in November in every fourth year succeeding every election of a President and Vice President of the United States. Polls shall be open from 8 o'clock antemeridian to 8 o'clock postmeridian on election day. Each vote cast for a candidate for President or Vice President whose name appears on the general election ballot shall be counted as a vote cast for the candidates for presidential electors of the party supporting such presidential and vice presidential candidate. Candidates receiving the highest number of votes in such election shall be declared the winners, except that in the case of a tie it shall be resolved in the same manner as is provided in subsection (c) of this section.

(b) Candidates receiving the highest number of votes in such elections shall be declared the winners.

(c) In the case of a tie, the candidates receiving the tie vote shall cast lots before the Board, at 12 o'clock noon on a date to be set by the Board, but not sooner than ten days following the election, and the one to whom the lot shall fall shall be declared the winner. If any candidate or candidates, receiving a tie vote, fail to appear before 12 o'clock noon on said day, the Board shall cast lots for him or them. For the purpose of casting lots any candidates may appear in person, or by proxy appointed in writing.

(d) In the event that any official elected pursuant to this chapter dies, resigns, or becomes unable to serve during his or her term of office leaving no person elected pursuant to this chapter to serve the remainder of the unexpired term of office, the successor or successors to serve the remainder of such term shall be chosen pursuant to the rules of the duly authorized party committee: *Provided*, That such successor shall have the qualifications required by this Act for such office. (Aug. 12, 1955, 69 Stat. 702, ch. 862, § 10; Oct. 4, 1961, 75 Stat. 819, Pub. L. 87-389, § 1 (18, 19, 20).)

AMENDMENTS

1961—Section 1(18), act Oct. 4, 1961, amended subsection (a) by inserting the number (1) immediately after (a) and by the matter set out as par. (2) in said subsection.

Section 1(19) of the same act amended subsection (b) by changing "said election" to read "such elections."

Section 1(20) of the same act amended subsection (d) by striking the word "dies" and inserting in lieu thereof "dies, resigns, or becomes unable to serve" and by striking the words "local committee" at the end of the subsection and inserting in lieu thereof "party committee: *Provided*, That such successor shall have the qualifications required by this chapter for such office."

CROSS REFERENCE

Sale of alcoholic beverages on election days, see § 25-107.

§ 1-1113. Appropriations—Maximum expenditures by candidate—Maximum contributions receivable by committee—Maximum contributions to campaign—Statement of election expenses.

(a) There are hereby authorized to be appropriated, out of any money in the Treasury to the credit of the District of Columbia not otherwise appropriated, such amounts as may be necessary to carry out the purposes of this chapter.

(b) Subject to the penalties provided in this chapter, a candidate for elector of President and Vice President, national committeeman, national committeewoman, delegate, or alternate, in his campaign for election, shall not make expenditures in excess of \$2,500.

(c) No independent committee or party committee shall receive contributions aggregating more than \$100,000, or make expenditures aggregating more than \$100,000 for any campaign covered by this chapter.

(d) No person shall, directly or indirectly, make contributions in an aggregate amount in excess of \$5,000 in connection with any campaign for election of any elector, national committeeman, national committeewoman, delegate, or alternate.

(e) Every candidate and independent committee or party committee shall, within ten days after an election, file with the Board of Elections an itemized statement, subscribed and sworn to by the candidate or committee treasurer, as the case may be, setting forth all moneys received and expended in connection with said election, the names of persons from whom received and to whom paid, and the purpose for which it was expended. Such statement shall set forth any unpaid debts and obligations incurred by the candidate or independent committee or party committee with regard to such election, and specify the balance, if any, of such election funds remaining in his or their hands. (Aug. 12, 1955, 69 Stat. 704, ch. 862, § 13; Oct. 14, 1961, 75 Stat. 819, Pub. L. 87-389, § 1 (21, 22, 23).)

AMENDMENTS

1961—Section 1(21), act Oct. 4, 1961, amended subsection (b) by inserting after the words "a candidate for" the words, "elector of President and Vice President,". Section 1(22) of the same act amended subsection (d) by striking "any national committeeman" and inserting in lieu thereof "any elector, national committeeman".

Section 1(23) of the same act, amended subsection (e) by striking from the first sentence the words "the election" and inserting in lieu thereof "an election".

§ 1-1114. False registration, fraud, and other corrupt practices in elections—Penalties.

Any person who shall register, or attempt to register, under the provisions of this chapter and make any false representations as to his place of residence or his voting privilege in any other part of the United States, or be guilty of bribery or intimidation of any voter at the elections herein provided for, or being registered, shall vote or attempt to vote more than once in any election so held, or shall purloin or secrete any of the votes cast in such elections, or attempt to vote in an election held by a political party other than that to which he has declared himself to be affiliated, or, if employed in the counting of votes in any election held pursuant to this chapter knowingly, make a false report in regard thereto, and every candidate, person, or official of any political committee who shall knowingly make any expenditure or contribution in violation of this chapter, shall upon conviction thereof be fined not more than \$500 or be imprisoned not more than ninety days, or both. The provisions of this section shall be supplemental to and not in derogation of any penalties under other laws of the District of Columbia. (Aug. 12, 1955, 69 Stat. 704, ch. 862, § 14; Oct. 4, 1961, 75 Stat. 820, Pub. L. 87-389, § 1(24).)

AMENDMENT

1961—Section 1(24), act Oct. 4, 1961, amended the section by striking from the first sentence "if employed in the counting of votes in such elections" and inserting in lieu thereof "if employed in the counting of votes in any election held pursuant to this chapter knowingly" and by inserting the word "knowingly" before the words "make any expenditure".

* * * * *

Mr. ROGERS. As I say, this is the concluding hearing on the proposed constitutional amendment. The record will remain open for 5 days.

Mr. CAHILL. I don't think we should conclude without commending Mr. Carliner and the Reverend Newell for their brevity.

Mr. ROGERS. Thank you.

With that, the committee will stand in recess.

(Whereupon, at 11:55 a.m., the committee recessed subject to the call of the chairman.)

STATEMENT OF HON. DON EDWARDS, U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. Chairman, I have introduced a joint resolution identical to House Joint Resolution 566, to amend the Constitution to provide for the representation of the District of Columbia in Congress, and I submit this statement in strong support of this resolution.

This resolution would assure at least one voting representative for the District in the House of Representatives and would allow the Congress to provide by law, one or more additional Representatives or Senators, or both, up to the number to which the District would be entitled if it were a State.

There are over 800,000 residents of the District of Columbia—citizens of the United States, subject to all the laws, responsibilities, and obligations of national

and local life. And yet, as it stands now, there is only one opportunity for residents to have any choice at all in choosing their leaders—for President and Vice-President once every four years.

Other than this one opportunity, since July 1, 1878, the District has had absolutely no voice in their fate. Governed by a three man appointed Board of Commissioners, and subject to the whim, and sometimes what appears to be revenge, of the Congress, the people of the District have no local representation, no representation in the Congress. The suffrage, which is the fundamental right of American citizenship, is denied the people of the ninth largest city in the fastest growing metropolitan area in the country. This appalling contradiction of our basic heritage cannot be permitted to continue.

I urge the Judiciary Committee to act quickly to rectify what is now a serious and inexcusable gap in our representative form of government and an inequity and insult to the people of the District of Columbia.

I want to include as a part of my testimony an editorial from the *New York Times* of July 21, 1967, which simply and concisely states the case in support of this resolution. I ask unanimous consent that this editorial be placed in the record at this point.

[Editorial, New York Times, July 21, 1967]

WHEN WILL D.C. JOIN THE U.S.A.?

While many states continue to strive to achieve—and some to avert—the Supreme Court's "one-man, one-vote" dictum, Congress has resumed consideration of the plight of 800,000 Americans who, except in Presidential elections, have no vote: the citizens of the District of Columbia.

Hearings opened in the House Judiciary Committee on a constitutional amendment that would provide one seat in the House for the District, with authority for Congress later to increase the number to a maximum of the two Senators and two Representatives the District would be allowed if it were a state with a population of 800,000.

Justification for this extension of fundamental citizenship rights to the disfranchised Washingtonians and for concurrent efforts to grant the District, with its huge Negro population, at least a degree of home rule, should not have to be labored. There is no justice or logic at all in a system that denies to American citizens who live in the nation's capital voting rights that the highest court in the land has so vigorously reasserted for citizens of all the states, including eleven states whose populations are smaller than that of the District.

STATEMENT OF HON. JOHN H. BUCHANAN, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. Chairman, may I take this opportunity to thank the members of this committee for the opportunity to present my statement in support of the legislation now before the committee to amend the Constitution to grant to the District of Columbia representation in the Congress of the United States.

The District of Columbia is in fact a unique city. It belongs uniquely to the people, including not only those who live in the District of Columbia, but also Americans who live in California, or Ohio, or New York, or Alabama. This Capital City of our great Republic fills a unique place in the life of our country and in the hearts of the American people.

Yet the fact of its uniqueness and of the legitimate interest of all Americans in its affairs should not preclude the exercise of normal American rights and privileges by residents of Washington.

It is to my mind unthinkable that the people of Washington should ever have been denied the right to vote in Presidential elections, a privilege they now, belatedly, exercise. It is equally unthinkable that they should be denied representation in the Congress. Our complete heritage of representative government and of government by consent of the governed cries out the injustice of such denial. Let us not extend it further, but act to right this wrong for the benefit of all Americans, for every American has a vested interest in liberty and justice for all.

There should be no further delays in granting to the citizens of the District of Columbia their own representation in the United States Congress. The right to such representation is guaranteed to citizens of every other area within our nation. It must no longer be denied the citizens of our Capital City.

Mr. Chairman, I sincerely urge favorable consideration of this legislation by the Committee and prompt action by the Congress to remove a double standard of citizenship rights which has no place in the life of this great Republic.

STATEMENT OF J. C. TURNER, PRESIDENT, GREATER WASHINGTON CENTRAL LABOR COUNCIL, AFL-CIO

Mr. Chairman, Members of the Judiciary Committee, the Greater Washington Central Labor Council strongly supports the enactment of House Joint Resolution 396.

We believe that the language of the Resolution is the best form of an amendment to the Constitution for the purpose of securing national representation for the citizens of the District of Columbia. Under this proposal, we would be guaranteed one Congressman, with the Congress having the authority to grant additional representation in the House or Senate at a later date. The citizens of our city have launched a national drive to assure enactment of the Celler Amendment. If the amendment can pass Congress, the drive will be sustained until we reach victory through the favorable vote of three-fourths of the States.

The presence in the Congress of Representatives who would devote themselves primarily to the problems of the District of Columbia would do much to alleviate the multitude of problems confronting our community. The fact that we citizens of the District would be enabled to participate in an election every two years would eliminate much of the apathy which exists among our citizenry and stimulate a renaissance of interest and action in improving our City. In the interest of time, we shall not repeat the plethora of arguments favoring the Resolution.

We hope that the Committee on the Judiciary will act favorably on the Resolution within a short time.

○

The purpose of this study is to determine the extent to which the Federal Government has been successful in its efforts to rehabilitate the mentally ill. The study is based on a review of the literature and on interviews with officials of the Federal Bureau of Investigation, the Department of Justice, and the Department of Health, Education and Welfare.

The study is organized into four chapters. Chapter I is an introduction. Chapter II is a review of the literature. Chapter III is a description of the Federal Government's efforts to rehabilitate the mentally ill. Chapter IV is a conclusion.

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