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The Honorable Steve Chabot, Chairman
Subcommittee on the Constitution
Committee on the Judiciary
United States House of Representatives
129 Cannon House Office Building
Washington, D.C. 20515

The Honorable Jerrold Nadler, Ranking Member
Subcommittee on the Constitution
Committee on the Judiciary
United States House of Representatives
2334 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Chabot and Ranking Member Nadler:

Thank you for holding a hearing on the important subject of Congressional voting representation for District of Columbia residents. There is wide-spread agreement in the Congress, and across the country, that in the world's greatest democratic nation the people of the District of Columbia should not continue to be disenfranchised. The problem, as your hearing pointed up, is how to achieve the desired objective without violating the Constitution.

Two of the witnesses before your Committee pointed out the Constitutional infirmity of the bill introduced by Mr. Davis, H.R. 5388. Mr. Davis's bill would have the residents of a non-state—the District of Columbia—be represented in the House (although not in the Senate). But the Constitution clearly states that only states shall be represented in the Congress.

There is another way, consistent with the Constitution, to provide voting representation in Congress for District residents: treat them as if they are Maryland residents. The Constitution gives the Congress the right of "exclusive legislation" for the District of Columbia, and the Maryland state legislature has no authority to enact laws affecting the District of Columbia. But Congress also has the same exclusive legislative authority over many other territories—military bases, national parks, Indian reservations, etc.—that have likewise been carved out of states. The people in each of these territories vote for, and are represented by, the Representatives and Senators elected from the states in which the territory is

located. The fact that the state legislatures have no authority, except that granted by Congress, to pass laws affecting those territories does not mean that they lose their right of voting representation in the Congress.

The U.S. Supreme Court was clear about this point when it ruled 9 to 0 in 1970 that people living on the campus of the National Institutes of Health in Bethesda, MD., could not be deprived of their right to vote simply because NIH was subject to the exclusive legislative authority of Congress. Evans v. Cornman, 398 U.S. 419 (1970).

There is a bill currently pending before the Judiciary Committee that would provide full voting representation for the people of the District of Columbia—in both the House and the Senate—as citizens of Maryland. That is H.R. 190, introduced by Rep. Dana Rohrabacher, which was not explicitly part of the hearing and the implications of which were not explored by the witnesses. For that reason I would like to ask that this letter, and the attached legal memorandum, be included as part of the record of the hearing. As our legal memorandum points out, the Rohrabacher bill is fully consistent with the Congressional requirement that only states be represented in the Congress. There is ample legal and legislative precedent that Congress, by ordinary legislation, can give people who live on land under the exclusive legislation of Congress voting representation in Congress as residents of the states from which these "federal enclaves" have been carved. By enacting H.R. 190 Congress would resolve the long-standing dispute over not allowing the residents of the District of Columbia voting representation in Congress, without the need to amend the Constitution and without creating either a new state or new voting rights for people who do not live in a state. We hope that your subcommittee will give HR 190 full consideration as you search for a way to provide voting representation in the Congress for the too long disenfranchised people of the District of Columbia.

Sincerely yours,

Lawrence H. Mirel

cc:

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