
Washington, D.C.: Challenging Political and Administrative Issues

Yearn Hong Choi

(Professor of University of the District of Columbia)

Contents

- I. Introduction
- II. Political Problems
- III. Administrative Problems
- IV. Legitimate National Interest

I. Introduction

In August to 1790, the United states became the first nation in the world to begin conducting a regular population census. This enumeration was originally proposed by the Founding Fathers to provide a fair way of distributing legislative seats and funds to each states of the union. The 200th anniversary of the US census falls this year. The American political landscape, like the world, will change in 1990 as all Americans of all walks of life will be accounted for, by and in Congress. However, there is a small portion, 604,000, of the approximately 226 millions people who will not benefit from the census, politically, because the right to congressional representation and self-governance is secondary to the primary interest of the Nation's Capital. The citizens of Washington will be counted in the census but not accounted for in the Congress.

This article challenges the prevailing view that the District goverment, through the Home Rule Act, is sufficiently empowered to govern the city in the best interest of its residents. The District of Columbia residents, the city council, and the mayor feels their right to self-determination has been swept under the rug of the federal interest, to the extent that congressional representation and fiscal autonomy, two important elements of self-determination, precludes effective local gove-

rnance. Congress cancelled Home Rule under Alexander Sheppard and was obviously apprehensive in granting full authority to local officials this time around but serious questions remains as to who in charge here. This paper ask: what is the federal interest in the District of Columbia? What should be the method and form of federal payment? Why should the District do without Congressional representation and a voice in the Senate?

The author feels that these three major issues must be resolved before any progress can be made toward any alternative to Home Rule, whether it's a merger with Maryland, a partial merger, limited representation, a metro state, or preferably statehood.

II. Political Problems

It's 1990, George Bush is president, Nelson Mandela is free, the census is taken, East and West Germany unites, Virginia elects a black governor, Marion Barry is indicted for drug abuse, Budapest, Warsaw, Moscow, and Washington D.C. experience democratic growing pains. Why Washington D.C.? Consider Washington's status as the world capital, symbol of nationhood, world superpower, heart of western democracy, and then consider the fact that 604,000 residents of Washington cannot vote for either the House of Representative or the Senate. For 100 years, from 1874 to 1974, Washingtonians were not allowed to elect their own local officials.

The Founding Fathers could not have anticipated how radically unrepresentative, both politically and socially, Washington would become from the nation at large. The role of Washington D.C., in American politics is an oddity of history dating back to 1783. That year, Congress was meeting in Philadelphia when 280 soldiers from the Continental Army marched on Independence Hall to demand back pay. Pennsylvania state officials refused to protect Congress from the mutineers. The Founding Fathers, alarmed by the military threat, vowed to create a federal district where they could provide security for Congress and other government bodies. The District of Columbia was born in 1790 when the federal goverment purchased land in Maryland and Virginia, with their consent, at a price of \$66 an acre.

The most obvious paradox is that a nation so dedicated to representative government frequently denied residents of, its capital, Washington D.C., control over its own affairs. Even with the passage of limited Home Rule, a perennial, agonizing debate continues over Washington's self-government. The citizens of Washington have been ill-served by the current system of governance, Home Rule, and the cry for statehood is based on the need for legitimate control of the city of Washington and legitimate representation in the nation's capital. The District has a status similar to that of six other

national capitals: Brasilia, Buenos Aires, Canberra, Caracas, New Delhi, and Mexico City.¹⁾ These cities are all special districts directly under the authority of their special national government which in turns delegates varying degrees of power to elected or appointed local officials. With authority shared between the national government and locally elected officials, the District, unlike the others, has a very complex system of government.

The case for self-determination is based on the fundamental rights of all Americans citizens, including Washingtonians, to govern themselves in accordance with the democratic principles and processes and to be full participants in a government of, by, and for the people. What the District residents have is government of and by the people but not for the people. The Founding Fathers would argue, if alive today, for the creation of "New Columbia", the 51st state, on the rights of 600 thousands residents, who happen to be 70 percent black, 30 percent hispanic and white, 78 percent Democratic, being denied congressional representation and true self government.²⁾ After all it was Madison who wrote: "a good government implies two things: first, fidelity to the object of government, which is the happiness of the people; secondly, a knowledge of the means by which that object can be best attained. However, Congress has not fared well in balancing the ends and means of action.

A maze of congressional committees, subcommittees, spokespersons, executive branch departments and agencies, and judicial bodies have some authority or play a part in the government of the District. Congress, with article I of the Constitution; the D.C. City Council, with Home Rule, gives the District two legislative bodies with overlapping jurisdiction. Congress being in a superior position, have reserved for itself "the right at any time, to exercise its constitutional authority as legislature for the district, by enacting legislation to amend or repeal any act passed by the council."³⁾ Most council passed legislation must lay over for 30 days before it goes into effect, giving members of Congress like Rep. Stan Parris, a proverbial District nemesis, the opportunity to veto. Despite what is known as Home rule, and what is experience as half home rule, every facet of self government is ultimately subject to the caprice and scrutiny of congress, thus, making home rule as it now stands disputatious. The dispute is centered around the lack of local control and the extent of federal control, which substantiates the argument that if congress is going meddle in district affairs, to the extent that it has, the citizens of Washington should at least have congressional representa-

1) Charles Harris and Alvin Thornton, Perspective of Political Power in the District of Columbia, (National Institute of Public Management, 1981), VII.

2) R. Kent Weaver and Charles Harris, "Who's In Charge Here?" The Brooking Review (Summer 1989):pp.39 ~ 46

3) Ibid

tion, like the other fifty states, who have members lobbying, arguing, and supporting the interest of their constituents.

Presently there is no congressional representation for the District with a vote to make a difference. Virginia and Maryland have no interest in seeing the District emulate them in political clout and, therefore, aid in sweeping the constitutional rights of 604,000 citizens under the rug of federal interest. The composition nor the racial makeup of the Federal District, which is 70 percent black, 78 percent Democratic, the per capita income is \$ 21,539, with the federal tax burden being \$3.3 billion, comprising income, corporate, excise taxes, and social security, and has more people than Vermont, Alaska, and Wyoming, should have nothing to do with its governmental structure or with the basic rights of its citizen. The undeniable fact that the overwhelming majority of the people residing in the nation's capital are black tends to decrease the sensitivity of the issues involved in working out a satisfactory governmental arrangement.

Supposedly, local interest begins where federal interest ends. A primary responsibility of the Federal government toward the District of Columbia at least theoretically, must be to guarantee to local citizens their basic rights, and appropriate control over the structure of their government and local fiscal policy.⁴⁾ This arrangement should provide a framework for its residents that is conducive to a status of civic pride and respect that is on par with other American citizens. The main interest at the Federal level is to decide what standards constitute fairness to the nation's 226 millions people, of which the District is a part, and to the roughly 604 thousands citizens who lives in the District of Columbia. The concept "local" has a special meaning in the District because of the important difference historically between the origin of the states and the creation of the Federal District.

The states were created before the Federal District and have at least some pre-constitutional claim to sovereignty. The states have the 10th Amendment to the Constitution as a major source of protection for their rights. The Federal District is the creation of the national government and its *raison d'être* was to serve the national interest.⁵⁾ Unfortunately, the constitution makes no reference of local government so Congress tends to treat the District like it treats the states, like agents. American local government have a status not unlike the status of local agencies in unitary systems; they are not legally autonomous; the pieces of authority available, Home rule in this case, to them are carefully defined and strictly interpreted.⁶⁾ But in the District's case Congress does not

4) Harris, *op. cit.*, p.30.

5) *Ibid.* p.30.

6) Thomas Anton, American Federalism and Public Policy "How the system Works", (New York:Random House, 1989) p.5.

carefully define the concept of federal interest, therefore, there can be strict interpretation, Critics and supporters of local power and control admit that there is a federal interest in the District of Columbia. But, the citizens of Washington have no argument with this point, only with the fact that congress has for 200 years failed to distinguish what is and what is not "in the federal interest". Somewhere between Washington D.C. the city, and Washington D.C. the nation's capital, is the amorphous concept of the "federal interest". Defined in its broadest terms, as almost any activity in the nation's capital. Much of the confusion about clarifying Federal and local interest emanates from divergent interpretation of the exclusive power clause. The clause has been interpreted in very broad terms. Yet, such a broad interpretation is hardly supported by its legal and historic meaning.⁷⁾ There are no reasons why congress has not narrowed down the parameters of what is the federal interest. The events surrounding the insertion of clause in the Constitution suggests that the objective of the framers was to create a national capital free of control by any individual state. Because the Constituion is so vague in allocating responsibilities among the different levels of government, all efforts to define the distribution of authority among governments have been unsuccessful.⁸⁾ Surely the framers didn't intend that Congress would actually conduct the day to day government of the District, or that the residents of the Districts would be disenfranchised in either local or national election. There is no doubt there is a federal interest but there seems to be some doubt that there is a legitimate local interest in this city as well. Nowhere is the conflict of interest, between the federal and district government, more pronounced than in the congressional appropriation process.

III. Administrative Problems

There are three possible mechanism for federal influence on the District budget through the appropriation process. These mechanism are: the amount of federal payment, control of line item, and the general provision and legislative language.⁹⁾ The greatest influence on the district budget has been exercised through general provisions and legislative language. With respect to the federal

7) Harris, op.cit., p.34: John Dillion, "Last Colony Pushes for Statehood", The Christian Science Monitor, March 29, 1989, p.6.

8) Anton, op. cit, p.5.

9) Charles Harris, "Federal and Local Interest in the Nation's Capitol: Congress and the District of Columbia Appropriations", Public Budgeting and Finance (Winter 1989), p.71.

payment, it is not an allowance to the city like we use to get from our fathers during adolescence, but rather compensation for federal and foreign tax-exempt land in the district, and for services rendered by the city to those interest. The payment from the federal government is for the responsibilities, assumed by district, as seat of the nation's capital, with multiple functions similar to a city, county, or state. What's missing is the legal requirement that stipulates, in definitive language, not legal jargon inundated with amorphous clauses, that the payment be set at an amount equal to the cost incurred and revenues renounced by the district in fulfilling its role as a national capital. The fixed dollar amount authorized year by year, which is the current practice, fails to take into account changes in the local economy, and bears little relationship to growth in the needs of the District and federal government. It also falls short regularly of the Federal governments fair share. A predictable, constant and consistent formula is absolutely essential to efficient planning and budgeting by the District government. It is worth noting that from 1879 to 1920, the federal payment was on a formula basis as high as 50 percent of the general funds contributed by District taxpayers. This percentage was lowered to about 40 percent in 1924. In the Home Rule debate of 1973, the Senate decided that a 40 percent formula served the mutual interest of the federal and District government. Therefore, the payment was established on the basis of a percentage of the District of Columbia tax revenues and other receipts that the District itself collected. This position, unfortunately did not prevail in the House / Senate conference on the Home Rule Act.¹⁰⁾ If congress were serious about its role as legislature of the District as it about the entire nation, the issue of drafting a formula of payment would be a priority matter, yet, procrastination is the modus operandi, allowing congress to keep an eye on how the District spends its money by controlling how much money it has to spend. The cost, in local property and income taxes lost due to the federal presence, is now \$1.77 billion. The federal payment has remained constant at \$430.5 millions for years.

Thus the federal government now pays 24 percent of what it would pay as a taxpayer.¹¹⁾ In spite of the fact that 80 percent of the revenues for the budget is collected from local sources, the District leaders remain today in a position of utter weakness in the budgetary process. In exasperation, city official, to district residents, and agents, to congress, hold positions of power but have no power in their position during budget hearings. There are no agent or constituents in the Federal budgetary process concerned about defending and protecting the interest of the District in the same way as some the other aspects of the federal budget is protected. The use of legislative language in

10) Colbert King, "Here's What To Do About Home Rule-Now", The Washington Post, March 11,1990, p.B7.

11) Dave Clark, "Question For The Candidates", The Washington Post, March6, 1990, p.A23.

appropriation bills that forbids the district government from undertaking specific actions is nothing but blatant intrusions. Fiscal independence and accountability are essential ingredients in the success of representative government. Theoretically, legislating in an appropriation bills is prohibited by the rules of the House of Representative, however, this rule is often ignored and congress has intervened in a plethora of policy areas.¹²⁾ At times Congress has intervened in local policy areas to protect its own collective interest. In 1986 the district was required to keep the taxicab zone fare system in effect, rather than change to meters which would mean higher fares. The following is a list of examples exemplifying congressional legislation through the budget :

- (1) Appropriation in this act shall not be available for the compensation of any person to a permanent position during any month in which the member of employees exceeds 38,512...
- (2) None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to hiring of fire fighters or police officers;
- (3) Provided that none of these funds shall be made available to the District of Columbia until the Metropolitan Police Department is at least 3,800;
- (4) Provided further that none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Ave, Northw-
- (5) Appropriation in this Act shall not be used for or in connection with any regulation or order of the Public Service Commission requiring the installation of meters in taxicabs;
- (6) None of these funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered...; and
- (7) Provided further that this appropriation shall not be available to subsidize the education of nonresidents... at UDC, unless the Board... adopts... a tuition rate for nonresidents students.¹³⁾

These examples may indicates that the appropriation process is being used by congress to micromanage district affairs.

Congress performance since Home Rule does not inspire confidence that a larger federal role leads to better government. In fact, federal intervention on the whole have represented the assertion of parochial interest or the imposition of a particular social or moral values than they have an assertion of legitimate national interest. Moreover, it is the record of congressional intervention that substantiates the propensity to intrude in district affairs. Two legislative bodies are too much authority.

12) Harris, op. cit., p.72.

13) Ibid, p.74.

They're are too many hands on the steering wheel; congressmen from other states are influencing district policies, away from, and with no interest or accountability to the residents whose constitutional right to self government has already been neglected for 100 years.

The inevitable conflict of interest between the national government and the people of this city is understandable but it has lasted 100 years. The nature of the intrusions appears, base on the record of congressional performance, to emanates from non-national interest. In the areas of social and moral values, public safety, and personnel, the city is told what to do, and if it doesn't comply, city funding is withheld. According to the record of intervention there appear to be four reasons for intervening in district affairs: Parochial interest, (a) the interest of the bordering states of Maryland, Virginia, and sometimes Pennsylvania on such matters as prohibition of a commuter tax, residency requirement of city workers, and the transportation of municipal waste. Congressman from these states often prevail because most legislators do not really care about the district, (b) the interest groups within the district that uses Congress as an appeal board when they are not successful with the district government, (c) the collective interest of Congress as a whole (e.g., prohibiting meters in taxicabs or of smaller groups of legislators.) Standard Operating Procedures. Congress, and the appropriation committees in particular treat the district government like any other part of the federal government rather than a separate entity. Moral Conflict. Some conflicts of interest originates from moral issues that are national in scope, e.g. abortion, gay rights, and lotteries. If the District of Columbia were totally representative of the nation as a whole, then Congress would be less inclined to intervene because a whole, then Congress would be less inclined to intervene because the city council would probably make the same decisions as Congress. But the city suffers from the "four twos" too black, too urban, too liberal, and too Democratic, and for some reason this hurts, but it shouldn't, the city in the halls of congress.

IV. Legitimate National Interest

There are few cases where there appears to be an assertion of legitimate national interest as opposed to local interest through the appropriation process.¹⁴⁾ Congressional pressure regarding public safety personnel is the best example of the federal interest to date.

Should we keep Home Rule? The motivation of Congress in enacting the Home Rule Act in 19

14) Ibid, p.78.

73 was to allow locally elected officials to legislate on local matters, sparing Congress day to day operation of the district. But because there is no definitive or operational threshold of what is and what is not in the federal interest, the district government must count on federal restraints to prevent intervention that stifles the spirit and sometimes the letter of the Home Rule Charter. Effective democratic government in the nation's capital is a definite national interest and more effort should be put into improving the home rule situation.¹⁵ First, Congress must cease its annual forays into district affairs through the appropriation process by developing statutory criteria for intervening in district policy matters. To begin with, Congress could start by following the criteria established by the House District Committee, making them applicable not only to formal veto action but to all congressional intervention into district policy matters:

- (1) Does the action of the city violates the Constitution?
- (2) does the action exceed authority granted by the Home Rule Charter legislation enacted by Congress?
- (3) Does the action violate a clear federal interest?

The problem of determining the federal interest would always exist, especially, in close cases, but where there is flagrant interference in local affairs the district could asked the courts to require Congress to follow its own rules.¹⁶ But in the final analysis, the sure way to prevent and terminate further unnecessary intervention in district affairs would be to grant statehood. New Columbia would comprise all of the current district except the federal enclave. While many legislators are confident that the federal interest can be adequately protected in this limited area, it can always intervene on behalf of legitimate federal interest. People in the district, as taxpayers, should be represented in the national legislature as are all other US citizens. City official should move steadfast in its campaign for full voting rights in Congress. Whether its one senator or two the rights to vote has been denied for too long and must be granted. In gaining control over Washington the city, not the nation's capital, the mechanism use by congress the most, budget appropriation, must be eliminated.

The Solution to this problem is the most obvious one, transfer budget authority to the local government where the revenue is collected, leaving Congress accountable for appropriating the federal payment. Congress is always complaining that the district does not practice sound fiscal management. But how can it engage in financial planning when the amount of federal payment is always the same, or less than the amount of the loss incurred by the city acting as the nation'

15) Dorothy Gilliam, "In Fear of Statehood", The Washington Post, March 5, 1990, p. E3.

16) John Wilson, "Pointing Fingers Won't Make th City Solvent," The Washington Post, April 1, 1990. C8.

capital. The district can't charge a commuter tax, it can't sell municipal bonds, and it can't count on Congress to leave politics out of the budgeting process. A formula must be derived, the budget issue must be resolved and both must be written into the charter. The true test of leadership is in action not words. Congress must act to restore the constitutional rights of District residents; it must act to define the parameters of what is and what is not in the federal interest; it must act with discipline to refrain from intruding in district affairs; it must act to leave politics out of the budgetary process; and it must act to understand that statehood will help not hurt this federal city. After all the constitutional rights to representation and self governance are guaranteed and should be granted. Lastly, Congress must remain faithful, as Madison asserts, to the object of government, which is to make the people happy and proud. Statehood, congressional representation, budget autonomy, and self determination would do well in helping citizens of this city serve Washington D.C., the city, and Washington D.C., the nation's capital. Only then can it stand as capital of world democracy. We are reminded through history when Hawaii's delegate to congress introduced, in 1919, the first bill for Hawaiian statehood, many bills followed but for decades none were voted on. Hawaii became the 50th state in 1959 after forty years of perseverance. District residents must persevere.

Washington市の 政治・行政的 課題

최 연 흥

美 聯邦政府의 首都로서의 워싱턴D.C.는 지금까지 聯邦政府의 意圖에 의하여 그 政府形態, 機能 및 權限의 變更을 여러번 겪어 왔으며 이러한 우여곡절 끝에 1974年 이 바 自治法(Home Rule Act) 이 制定·公布되어 市長 및 地方議會議員을 住民의 直選에 의하여 選出하는 自治權을 갖게 되었다.

그러나 워싱턴 D.C.의 住民과 市議會 그리고 市場 등은 自治의 중요한 두가지 要素인 聯邦議會에의 代表權과 財政的 自律性을 가지고 있지 못하는 한 効果적인 自治를 기대할 수 없으며 어떤 意味에서 는 聯邦政府의 利害關係에 묻혀 버릴 수 있다고 주장하면서 그들의 代表者도 聯邦議會에 보낼 수 있도록 憲法改正을 要求하고 있다.

이러한 時代的 狀況을 염두에 두고 본 論文에서는 현재 워싱턴D.C.에서 해결되어야 할 다음과 같은 세가지 問題에 대해 論議하기로 한다.

첫째, 워싱턴D.C.에 있어 聯邦政府의 利害關係는 무엇이나

둘째, 聯邦政府의 補助金의 方法과 形態는 어떻게 되어야 하는가.

셋째, 워싱턴D.C.는 왜 聯邦議會 즉, 下院과 上院에 代表者를 보낼 수 없는가.