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## A Moral Appeal to President George Bush

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# A Moral Appeal to President George Bush

by  
Reverend Jesse Jackson

*The following is the text of a letter written by Reverend Jesse Jackson to President George Bush dated May 1, 1991, as a plea for statehood for the District of Columbia, where 650,000 citizens are politically disenfranchised.*

Dear Mr. President:

I trust this letter finds you well. Thank you very much for receiving me at the White House on Tuesday, March 26. I found our meeting to be very positive. I hope you agree.

I wanted to follow up on our conversation regarding statehood for the District of Columbia with a substantive letter and a moral appeal.

I believe our case is strong and irrefutable. If the statehood petition for the District of Columbia is considered on its merits and the substantive arguments, District of Columbia statehood cannot be denied.

The case for District of Columbia statehood can be summarized in ten words. It is morally right, rationally sound, economically feasible, legally possible and constitutionally permitted. Let me expand upon each premise:

## **District of Columbia statehood is morally right.**

The American Revolution was declared under the principle that taxation without representation is tyranny. There are nearly 650,000 taxpaying American citizens in the District of Columbia who have no federal voting representation in Congress. We have enough people, pay enough taxes, and, in times of war, bleed and die enough. District of Columbia residents have fought and died in every war since the War for Independence. During the Vietnam War, the District of Columbia had more casualties than ten states, and more killed per capita than forty-seven states.

The District of Columbia had more total reservists in the Persian Gulf than nineteen states (including Puerto Rico), and more per capita than all but four—Mississippi, Louisiana, Georgia, and West Virginia. We believe that these honorable young men and women should return home to enjoy the same right of self-determination for which they risked their lives during Operation Desert Storm to restore the Kuwaiti monarchy. We also believe that since they assumed the obligation to serve their country in the military and fought for their country in a time of war, they should return to a democratic society at home with the same



rights and privileges as all other Americans who served their country in a similar way.

Mr. President, you have been an avid and unwavering supporter of Puerto Rican statehood. Your letter to members of the Senate Energy and Natural Resources Committee on February 28, the same day you declared a cease-fire in the Middle East, profoundly stated that, "If we do not act now to resolve this question [of Puerto Rico's status], it will call into question whether we truly

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believe in self-determination for 3.6 million of our fellow citizens."<sup>1</sup> You reminded the committee members that young men and women from Puerto Rico were fighting in the Persian Gulf. I applaud your convictions and the democratic principles you expound in your support for self-determination for the residents of Puerto Rico.

The New World Order that you envision must be based upon sound principles that are applied consistently everywhere, beginning at home. I support the principle of self-determination in Kuwait, Puerto Rico, and the District of Columbia. After considering the case for District of Columbia statehood, I hope that you will revisit your prior reluctance to accept the District of Columbia's petition for admission to the Union.

## **District of Columbia statehood is rationally sound.**

While the U.S. Constitution does not define specific conditions for statehood, Congress, over the years, has developed certain standards and procedures for the admission of new states. Historically, statehood has been granted when three criteria were met: (1) the people, through some democratic process, express their desire to become a state (the District of Columbia passed a

referendum); (2) the people accept the republican form of government required by the Constitution and practiced in the United States; and (3) there are sufficient people and economic resources to support a state. The District of Columbia passes all three of the traditional tests for statehood.

### **District of Columbia statehood is economically feasible.**

District of Columbia residents pay over a billion dollars annually in federal taxes—more total federal taxes than eight states. The per capita tax payment for the District of Columbia is \$500 above the national average—payment higher than forty-nine states.

One misconception which has been traditionally embraced by statehood opponents is that the federal government pays most of the District's operating costs. In reality, the opposite is true. The federal government does not subsidize us. We subsidize the federal government and the adjoining states. You will find as you read this letter that we pay more, and, in fact, a disproportionate share of federal income taxes. In reality, we are cheated out of billions of dollars by the federal government, Maryland, and Virginia.

Can we afford statehood? You strongly favor statehood for Puerto Rico. The per capita income in Puerto Rico is \$6,000; for the nation, \$19,000; and for the District, \$24,000. It is estimated by some experts that adding Puerto Rico to the Union on an "Equal Footing" with all other states will cost the federal government an additional \$17 billion. I support their choice, their right to self-determination. If their financial status is no barrier to your supporting statehood for them, then certainly the District's positive financial resources should only bolster our case for admission to the Union.

The District has been exploited economically. *Financing the Nation's Capital*, also known as the (Alice)

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*The Senate in South Africa looks just like the U. S. Senate. It does not reflect or represent all of the people.*

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Rivlin Report, was a study commissioned to analyze and make recommendations relative to the financial crisis facing the nation's capital. Its findings of just how unfairly Congress and its neighboring states have treated the District are revealing.<sup>2</sup>

The Congress has imposed special costs on the District because it is the nation's capital. While restricting the District's ability to raise revenues to meet those costs, Congress has failed to provide adequate compensation through a fair federal payment.

Approximately 50 percent of the District's real estate is exempt from taxation because it belongs to the federal government, diplomatic missions, or other tax-exempt organizations. In addition, while we understand and support the limitation on the height of buildings in the

District (restricted to ninety feet), in purely economic terms, it reduces the income we can collect from property taxes.

Furthermore, approximately half of all sales in the District are to the federal government or other tax-exempt organizations, producing no revenue to the District government.

Most importantly, the District is prohibited by law from taxing incomes of nonresidents at their source, which results in *60 percent* of all income earned in the District being exempt from District taxes. What is the estimated cost to the District? \$1.2 billion. No state has such restrictions. In fact, people who work in New York but live in New Jersey, pay taxes where they work (at the source of the income earned) and get a tax adjustment where they live. All states have the same right. Congress has prohibited the District government from negotiating a similar reciprocal taxing agreement with Maryland and Virginia.

The federal government has also imposed three other major financial obligations on the District. First, the federal government established pension plans for police officers and fire fighters (1916), teachers (1920), and judges (1970). The federal government's "pay-as-you-go" plan, however, was inadequate for workers' *future* security. When limited self-rule was granted in 1974, Congress assumed only 25 percent of the costs, while imposing on the District 75 percent of the liability they created. This clearly represented an unfair formula. By the year 2004, it is estimated that this unfunded pension liability will have grown to \$8 billion.

Second, upon granting the District home rule, the federal government forced the District to assume a \$378 million operating deficit that Congress, not the District, had created.

Third, the federal government transferred St. Elizabeth's Hospital to the District government in 1985, and authorized \$31.5 million (with no provision for inflation) for certain capital improvements to meet safety standards. The federal government never appropriated the funds, and now the same work is estimated to cost \$88 million.

Finally, the federal payment—a payment partially in lieu of taxes, but primarily for services rendered to the federal government, not welfare or a special subsidy—has steadily declined as a percentage of the District's budget since home rule was established. It has declined from 25 percent to 13 percent of the District's current \$3.6 billion budget. The federal payment has been frozen at \$430.5 million since 1985. Taxes *forgone* increased over 50 percent from 1985 to 1990, to \$1.8 billion, while the federal payment remained constant.

The \$100 million that Congress granted to Mayor Dixon reflects well on lobbying efforts, but does not reflect well on what Congress owes the District. Yesterday, a House committee voted in favor of legislation which would, for the first time, establish a funding formula upon which to base the federal payment. This

will remove the arbitrary nature of the payment and help stabilize the budget process for the District. The percentage, however, may not totally reflect fairness in terms of compensation for services rendered and taxes foregone because of the federal presence. This is, however, a step in the right direction.

### **District of Columbia statehood is legally possible.**

Statehood for the District of Columbia does not require a constitutional amendment and ratification by the states. It only requires a simple majority vote in the House and Senate and the president's signature. Every other state admission has been accomplished through congressional legislation. The District of Columbia does not require, and should not be made, an exception. No entity applying for admission to the Union has ever been turned down by Congress. Again, since we meet all of the historic criteria, we should not be the first.

### **District of Columbia statehood is constitutionally permitted.**

The District of Columbia is the federal seat of government as required by the Constitution. Our legislative proposal (H.R. 51) for creating the state of New Columbia out of newly structured nonfederal parts of the current District, means that New Columbia and the federal seat of government would constitutionally coexist harmoniously.

In summary, let me raise and answer the basic constitutional questions involved.

*Does Article I, Section 8, Clause 17 of the U.S. Constitution prohibit Congress, through legislation, from forming a new state from part of the land that currently comprises the District of Columbia?* **No.**

This "District Clause" grants Congress exclusive legislative authority over the federal seat of government (District of Columbia), which is not to exceed ten miles square (i.e., 100 square miles). No minimum size is required.

Thus, if Congress has exclusive legislative authority over the District, it can dispose of some land in order to create the state of New Columbia, while preserving the federal seat of government. Congress reduced the original size of the District in 1846 by returning to Virginia the land originally given by them. The current federal seat of government is comprised of land contributed by Maryland.

The constitutionally required federal seat of government would be preserved by maintaining the District of Columbia in the form of a *National Capital Service Area*. It would be comprised of key federal buildings and agencies (e.g., the White House, Congress, Supreme Court, the Mall, and monuments, etc.) and allow the federal government to conduct its functions in safety and security—the original purpose of creating the federal seat. The Constitution, therefore, does not force a choice between *seathood* and *statehood*.

*Does District of Columbia statehood require a constitutional amendment?* **No.**

District of Columbia statehood requires a simple majority vote in the House and Senate and the president's signature. Since the founding of the original thirteen states, it is the way *all* territories have become states.

The Constitution does not define specific conditions for the admission of new states. But the District of Columbia meets the three traditional statehood tests imposed by Congress: (1) the people, through some democratic process, express their desire to become a state (the District of Columbia voted for statehood in a 1980 referendum); (2) acceptance of a republican form of government; and (3) enough people and economic wealth to support a state.

An amendment is not required to terminate congressional control over the District because once New Columbia is admitted to the Union, Congress permanently

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*Of the 115 nations in the world with elected legislatures, including Moscow and Beijing, we stand alone in denying residents of the capital city the right to participate and be represented in their national legislative body.*

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relinquishes its power to legislate over it. Congress retains its jurisdiction over the federal seat of government as mandated by the Constitution.

*Is Maryland's consent required before Congress can admit New Columbia into the Union?* **No.**

Maryland's formal consent is not a constitutional prerequisite to statehood. Article IV, Section 3, Clause 1 of the Constitution, requiring consent of affected states to admission of a new state, does not apply in this case because Maryland no longer has power over the land that it ceded to the federal government 200 years ago.

Maryland's consent is not required because Maryland, in its 1791 cession of land to the federal government, expressed its clear intent to "forever cede and relinquish . . . in full and absolute right and exclusive jurisdiction . . ." the land to the federal government.

If so intended, state law required that Maryland explicitly state that it expected the land to be returned after the federal government finished using it. The language used by Maryland in its cession of the land to create the District of Columbia stated just the opposite. Maryland's clear intent was to permanently and unconditionally relinquish its sovereignty over the territory.

*Does granting statehood to New Columbia require the repeal of the Twenty-Third Amendment to the Constitution, which granted District residents representation in the electoral college and thus the right to vote for presidential candidates?* **No.**

The Twenty-Third Amendment will not serve to bar

District of Columbia statehood. The amendment granted participation in the electoral college to the residents of the federal seat of government. Once admitted to the Union, the lands constituting the state of New Columbia would no longer be a part of the federal seat of government, and thus, the Twenty-Third Amendment would not apply.

The purpose of the Twenty-Third Amendment—to give District of Columbia residents the right to vote in presidential elections—would be fulfilled. Residents still living in the District of Columbia, the federal seat of government, would vote in New Columbia, just as citizens of all other federal enclaves (e.g., federal military bases) vote in the elections of those respective states.

Congress could enact clarifying legislation granting federal enclave residents the right to vote in New Columbia, just as it did when it provided for Americans overseas to participate in state elections at home.

The admission of New Columbia may render the Twenty-Third Amendment moot. This result is neither unprecedented nor unconstitutional. Rather, the amendment would join other obsolete yet unrepealed provisions of the Constitution. For example, Article I, Section 9, limiting the tax imposed on imported slaves to \$10, remains on the books.

Thus, Mr. President, if District of Columbia statehood is moral, rational, economically feasible, legal, and constitutional, why not support it?

The form and structure of our relationship to Congress is similar and comparable to that of Soweto and Pretoria, South Africa. In Soweto, the people can vote for a mayor and city council, who then appoint a police and fire chief; and they administer some funds from Pretoria. The people of Soweto, however, cannot vote on policy in Pretoria.

In the District of Columbia, we elect our own mayor and district council, who appoint a police and fire chief; and we administer some funds from Congress. However, we cannot vote on policy in Congress. The Senate in South Africa looks just like the U. S. Senate. It does not reflect or represent all of the people.

In your administration, you advocate the laudable goal of empowerment. Your education and housing programs are built on the premise of empowering parents and tenants. There could be no clearer case for empowerment, than of empowering the nearly 650,000 politically disenfranchised citizens of the nation's capital.

Of the 115 nations in the world with elected legislatures, including Moscow and Beijing, we stand alone in denying residents of the capital city the right to participate and be represented in their national legislative body.

Last year, Congressmen Ralph Regula and Stan Parris introduced two different pieces of legislation. Both, in their own way, would have had the effect of politically retroceding the citizens of the District of Columbia to

Maryland. It is true that both of their solutions would have eliminated the moral wrong and undemocratic practice of inflicting taxation without representation upon District residents. In a democracy, however, taxation without representation is one, but not the only or primary issue involved.

Inherent in democracy is the right of self-determination, subject only to extenuating circumstances or other prohibitive factors—factors which do not exist in the District. People living in a democracy have the right to be governed with the consent of the governed. District of Columbia and Maryland residents overwhelmingly rejected both of these proposals.

Congress does not have a moral or democratic right to impose a solution upon the District against the will of the people. In a democracy, the means and ends must be consistent. Statehood is the choice of the people in the District of Columbia.

Finally, Mr. President, one of the most important ideas in our democratic form of government is the concept of checks and balances. Yet, in the District of Columbia, we have none. In the *Dred Scott* case of 1857, the issue was race, and the Court said blacks had no rights which a white was bound to respect. In the District of Columbia, in 1991, the issue is representation, and our

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national legislative and executive branches say District of Columbia citizens have no rights which they must respect.

This formula runs counter to the democratic foundations and traditions of this great country. We appeal to you, Mr. President, to help fix this crack in the Liberty Bell. We appeal to you, in your quest to establish a New World Order, to stand for the sound principles of self-determination, representation, and democracy at home as well as in foreign lands.

We appeal to you to expand democracy in the cradle and capital of democracy, Washington, D.C., to include all of the American people. If you do so, you will go down in history as a great president, as a president who acted on principle, and practiced those principles by applying them at home as well as abroad.

Mr. President, this is our plight and our plea. We hope you will reconsider our just case. Thank you for hearing our appeal.

#### Notes

<sup>1</sup>Congressional Record, 28 February 1991.

<sup>2</sup>Commission on Budget and Financial Priorities of the District of Columbia, *Financing the Nation's Capitol* (Washington, D.C.: November 1990).

Reverend Jesse Jackson is president and founder of the National Rainbow Coalition and a former candidate for president.