

Race, Democracy, and Empire: Delegates to Congress from DC and the Territories

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Both democracy and empire are central to American political development. Yet, the role of Congress—that organ of democratic politics—in the expansion of US empire is not well understood. This article explains how and why Congress institutionalized representation from Washington, DC and the US territories in the mid-twentieth century. We uncover the history of a puzzling position: the Congressional delegate, who is permitted to debate, but not vote. Drawing on extensive original archival research and quantitative analysis of legislative voting behavior, this article explicates how racial attitudes structured conflict over the delegate position. We highlight the centrality of racial ideas to the institutionalization of American empire in the mid-twentieth century.

Keywords: Congress, American political development, race, empire, civil rights, federalism

What does it mean to have a voice without a vote? Over nearly its entire history, the United States has had a legislative institution wholly unique worldwide: the nonvoting delegate to Congress.¹ The delegate occupies a contradictory space

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1. The closest corollary is the Maine State House of Representatives, which under long-standing practice seats nonvoting tribal representatives. See Cameron DeHart and Elliot Mamet,

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within the halls of government. They can participate in legislative debate. At various times, they have had the right to serve on committees, to sponsor and cosponsor legislation, to serve in party leadership, to vote in Committee of the Whole, and even to move impeachment, among other procedural rights—yet they have always been unable to vote on final passage of legislation.² Elected by those living outside the states, who are today overwhelmingly racial and ethnic minorities, the nonvoting delegates are charged to represent without a vote.

Congress had a territorial delegate as early as 1794.³ Although its origins are obscure, the delegate position may have been the idea of Thomas Jefferson, who chaired a three-person committee on territorial incorporation. Jefferson's committee envisioned that territories would have "a sitting member in Congress, with a right of debating, but not of voting." This idea was codified in the quasi-constitutional Northwest Ordinance.⁴ The delegates were a constitutional innovation—a temporary position giving persons living outside the states a voice, if not a vote, in the national legislature.⁵ With limited exception, Jefferson's vision of seating a nonvoting delegate to represent a territory prior to statehood dominated American political history through Alaska and Hawaii's statehood admission in 1959.⁶

All of that changed in the 1970s. A new, permanent nonvoting delegate position would be created in the House of Representatives. Residents of Guam, American Samoa, and the US Virgin Islands, largely racial or ethnic minorities, would be represented in Congress by a nonvoting delegate. Hundreds of thousands of residents of the District of Columbia, a population which at the time was more than 70%

"Do Reserved Seats Work? Evidence from Tribal Representatives in Maine," *State Politics & Policy Quarterly* 23 (2023): 283–305.

2. Jane A. Hudiburg, *Parliamentary Rights of the Delegates and Resident Commissioner from Puerto Rico* (Washington, DC: Congressional Research Service, 2022); and Jason A. Smith, *Constitution, Jefferson's Manual, and Rules of the House of Representatives of the United States, 118th Congress* (Washington, DC: Government Printing Office, 2023), 403–6.

3. Jo Tice Bloom, "Establishing Precedents: Dr. James White and the Southwest Territory," *Tennessee Historical Quarterly* 54 (1995): 325.

4. Thomas Jefferson, "The Ordinance of 1784, 23 April 1784," in *The Papers of Thomas Jefferson*, ed. Julian P. Boyd, vol. 6 (Princeton, NJ: Princeton University Press, 1952 [1784]), 613–16; and Denis P. Duffey, "The Northwest Ordinance as a Constitutional Document," *Columbia Law Review* 95 (1995): 929–68.

5. Abraham Holtzman, "Empire and Representation: The U. S. Congress," *Legislative Studies Quarterly* 11 (1986): 251.

6. Everett Somerville Brown, *The Territorial Delegate to Congress, and Other Essays* (Ann Arbor, MI: G. Wahr Publishing Company, 1950); Holtzman, "Empire and Representation"; Jonathan Lewallen, "From Rules to Representation: Teaching about the Territories and Their Delegates in the US Congress," *PS: Political Science & Politics* 50 (2017): 497–500; and Elliot Mamet, "Representation on the Periphery: The Past and Future of Nonvoting Members of Congress," *American Political Thought* 10 (2021): 390–418.

Black, would also be represented by a nonvoting delegate for the first time since Reconstruction.⁷ In the past, delegates hailed from territories on the Northwest Ordinance's framework toward statehood, in what Abraham Holtzman would call a "territorial delegate-statehood-constitutional representative sequence."⁸ Now, these delegates would represent places with faint hope of ever becoming states, as a kind of permanent, second-class member of Congress.

The creation of permanent delegates to Congress was a major innovation in governance which heralded a new era of relations between the US and its imperial vestiges, and the first permanent expansion of Congress in over half a century. Why did this innovation occur? What can it tell us about US state-building and congressional development? And what does this history portend for the political future of those living outside the states? Drawing on original archival research alongside quantitative analysis of voting behavior, we argue that US empire was institutionalized in the mid-twentieth century through the position of delegate to Congress. Our article reconstructs the confluence of racial attitudes and policy entrepreneurship which led Congress to create delegate seats for Washington, DC, Guam, the US Virgin Islands, and American Samoa.

Congressional representation was extended to Washington, DC and the territories in the 1970s—an effort that was to permanently change Congress and its relationship to majority-minority subnational governments beyond the states. We argue that legislators, civil rights organizations, and presidents alike viewed the delegate question through a racial frame. For advocates of democratic representation, granting DC and the territories nonvoting delegate seats was a way to achieve political power for people of color. On the other hand, racist critics, often Southern Democrats, derided the effort to provide even partial representation in Congress for an overwhelmingly non-white constituency. Individual entrepreneurship mattered, too. For lawmakers like Phillip Burton (D-CA), the motivation to push for delegate seats was, in part, a desire to bolster personal political power. Burton was a policy entrepreneur who saw in the

7. One study notes that "from the first to the 117th Congress, 1.8% of all members of the House have been nonvoting representatives—while 3.5% of Black members, 26% of Hispanic members, and 34% of Asian Pacific American members of Congress have been nonvoting members." See Mamet, "Representation on the Periphery: The Past and Future of Nonvoting Members of Congress," 398–99.

8. Holtzman, "Empire and Representation," 251; see also Joseph Story, *Commentaries on the Constitution of the United States: With a Preliminary Review of the Constitutional Histories of the Colonies and States Before the Adoption of the Constitution*, 4th ed., vol. 3 (New York: Little, Brown and Company, 1873), 192; William R. Tansill, "The Resident Commissioner to the United States from Puerto Rico: An Historical Perspective," *Revista Jurídica de La Universidad de Puerto Rico* 47 (1978): 69–70; and Jamin Raskin, "Is This America? The District of Columbia and the Right to Vote," *Harvard Civil Rights-Civil Liberties Law Review* 34 (1999): 52–58.

nonvoting delegate a way to win democracy for the territories and promote civil rights—as well as gain power within the Democratic caucus.

Theoretically, we posit the importance of both demand-side and supply-side explanations for the creation of delegate positions in the 1970s.⁹ On the demand-side, the expansion of American empire, especially after 1898, fostered organizing for democratic governance from those living outside the states. We show that these organizing efforts, which emanated not only from people living in DC and the territories but also from civil rights and other interest groups, were echoed and amplified by sympathetic members of Congress. On the supply-side, dramatic changes to Congress in the 1970s established favorable conditions for a policy entrepreneur, Phillip Burton, to champion the issue through the legislative process. Burton's advocacy illustrates the observation that in Congress, "most leaders select proposals that advance their own central interest."¹⁰

The institution of Congress changed in important ways when seats were added for delegates from Washington, DC (1970), Guam (1972), the US Virgin Islands (1972), and American Samoa (1978). Beyond the halls of Congress, these delegate seats matter immensely for how millions of Americans who live outside the US states, overwhelmingly people of color, are governed today. Nonvoting members serve as the sole seated member of (or, "delegate to") Congress from DC and the territories. They can be effective legislators, serving on committees and sponsoring legislation.¹¹ Yet they lack that most important power of other members of Congress, the power to vote on the final passage of legislation—i.e., to make laws. Their position as second-class members of Congress illuminates an enduring inequality between core and periphery in the American polity.

Theorizing American Political Development: Democracy vs. Empire

Democratic politics in the United States has long relied on a distinction between those persons living within the states and those living outside of them. This distinction is

9. Gerald Gamm and Kenneth Shepsle, "Emergence of Legislative Institutions: Standing Committees in the House and Senate, 1810–1825," *Legislative Studies Quarterly* 14 (1989): 62–63.

10. R. Douglas Arnold, *The Logic of Congressional Action* (New Haven, CT: Yale University Press, 1990), 91.

11. DC Delegate Eleanor Holmes Norton, for example, is consistently recognized by the Center for Effective Lawmaking as one of the most effective legislators in the modern Congress. Craig Volden and Alan E. Wiseman, "Highlights from the New 117th Congress Legislative Effectiveness Scores – Center for Effective Lawmaking," *Center for Effective Lawmaking* (blog) (March 20, 2023), <https://thelawmakers.org/legislative-effectiveness-scores/highlights-from-the-new-117th-congress-legislative-effectiveness-scores> [<https://perma.cc/U5XH-PV89>]. See also Jonathan Lewallen and Bartholomew Sparrow, "Nothing on the Floor: Congress, the Territorial Delegates, and Political Representation," *Political Science Quarterly* 133 (2018): 729–52.

rooted in the Constitution. The Territorial Clause (Art. 4, Sec. 3, Cl. 2) gives Congress “Power to dispose of and make all needful Rules and Regulations respecting the territory or other Property belonging to the United States.”¹² The District Clause (Art. 1, Sec. 8, Cl. 17) grants Congress power “to exercise exclusive Legislation in all Cases whatsoever” over what would become the District of Columbia. Left ambiguous, however, is the status of peoples living in the territories and in the seat of government. The Declaration of Independence specifies that governments derive “their just powers from the consent of the governed,” but since the early Republic, the Constitution has been silent on how those Americans living outside the states could consent to the actions of their government. This silence reflects dueling impulses of democracy and empire in American political development.¹³

Conflict between ideas of democracy and empire were set in sharp relief after the Spanish-American War (War of 1898), when the US acquired Guam, the Philippines, Puerto Rico (and, briefly, Cuba) under the Treaty of Paris. These insular possessions were “unincorporated,” distinct from earlier territories in that there was no expectation that they were destined for eventual statehood. Puerto Rico was granted a “resident commissioner” to Congress under the Foraker Act of 1900. Without the power at first to even enter the House chamber, the resident commissioner role was “more akin to that of a foreign diplomat than that of a legislator.”¹⁴ The Philippines gained two resident commissioners under the Philippine Organic Act of 1902, one from the Philippine commission and one from the Philippine assembly.¹⁵ The commissioners, like the territorial delegates, gained the right to debate, but not vote.¹⁶

12. Story, *Commentaries on the Constitution of the United States*, 189–202; Akhil Reed Amar, *America’s Constitution: A Biography* (New York, NY: Random House, 2005), 264–70; and Cesar A. Lopez-Morales, “Making the Constitutional Case for Decolonization: Reclaiming the Original Meaning of the Territory Clause,” *Columbia Human Rights Law Review* 53 (2022): 772–812.

13. Christina Duffy Burnett, “Untied States: American Expansion and Territorial Deannexation,” *University of Chicago Law Review* 72 (2005): 797–897; David C. Hendrickson, *Union, Nation, or Empire: The American Debate over International Relations, 1789–1941* (Lawrence, KS: University Press of Kansas, 2009); Sam Erman, *Almost Citizens: Puerto Rico, the U.S. Constitution, and Empire* (Cambridge, UK: Cambridge University Press, 2018); and Adam Dahl, *Empire of the People: Settler Colonialism and the Foundations of Modern Democratic Thought* (Lawrence, KS: University Press of Kansas, 2018).

14. Holtzman, “Empire and Representation,” 253; and Tansill, “The Resident Commissioner to the United States from Puerto Rico,” 72.

15. Paul A. Kramer, *The Blood of Government: Race, Empire, the United States, & the Philippines* (Chapel Hill, NC: University of North Carolina Press, 2006), 324–27; and Albin J. Kowalewski, ed., *Asian and Pacific Islander Americans in Congress, 1900–2017* (Washington, DC: Government Printing Office, 2017), 45–66, 49.

16. Key differences exist between resident commissioners and delegates; for example, since 1917, the resident commissioner from Puerto Rico has served a four-year term. Holtzman,

These developments coincided with emerging jurisprudence surrounding the newly acquired territories that allowed Congress to treat them “like a disembodied shade, in an intermediate state of ambiguous existence for an indefinite period,” in the words of Chief Justice Fuller.¹⁷ This legal doctrine was articulated in the Insular Cases, a series of disputes about the trade relationship between the mainland United States and its territories, and about the citizenship status and rights afforded to inhabitants of these territories.¹⁸ The Insular Cases demarcated the second-class status of persons living in the US territories and formalized an unequal and undemocratic relationship between the territories and the US government.¹⁹ Justice Henry Billings Brown made clear that the territories acquired after the Spanish-American War would be treated differently from other US territories—and that this difference was based on race. “It is obvious,” he wrote, “that in the annexation of outlying and distant possessions grave questions will arise from differences of race, habits, laws and customs of the people.”²⁰ Brown further declared that the different racial composition of the new territories would mean that “the administration of government and justice, according to Anglo-Saxon principles, may for a time be impossible.”²¹ These cases—which have never been overturned—reflect a racist belief that residents of the territories are incapable of exercising civic responsibility, and therefore undeserving of the rights accompanying democratic citizenship.

A Voice Without a Vote: Early Efforts to Secure Territorial Representation

Racist beliefs about the unfitness of those living in the territories for self-government persisted long after Justice Brown’s opinion in *Downes*. While some lawmakers pushed back against his logic and attempted to extend congressional representation to the people of the territories in the first half of the twentieth century, their efforts were met with bipartisan opposition. From the 1920s to the early 1960s, most bills

“Empire and Representation,” 253; Tansill, “The Resident Commissioner to the United States from Puerto Rico”; and Bárbara M. Sabat Lafontaine, “Washington Politics Puerto Rican Style: The Role of the Resident Commission in USA-Puerto Rico Relations,” *Revista Jurídica Universidad de Puerto Rico* 80 (2011): 461–91.

17. *Downes v. Bidwell*, 182 U.S. at 372 (Fuller, C.J., dissenting).

18. Bartholomew Sparrow, *The Insular Cases and the Emergence of American Empire* (Lawrence, KS: University Press of Kansas, 2006).

19. See Justice Gorsuch’s concurrence in *U.S. v. Vaello Madero* (2022), 596 U.S. at 2–5.

20. *Downes v. Bidwell*, 282.

21. *Ibid.*, 287.

establishing congressional representation for the territories were drafted by executive branch officials in the Department of the Interior and introduced in Congress by committee and subcommittee leaders. However, reluctant sponsors such as Hugh A. Butler (R-NE) and Arthur L. Miller (R-NE) used their positions as chairs of the relevant committees in each legislative chamber to kill the bills.²²

This reticence of committee leaders reflects broader interbranch dynamics. Since the Truman administration, presidents had expressed rhetorical support for increased self-governance in the territories. This support was partially driven by concerns about US reputation in a post-war international society that pitted democracy against communism and authoritarianism. Presidents were eager to push back against Soviet criticisms of the moral superiority of liberal democracy, as well as against criticism of the US from the UN General Assembly, which passed a resolution in 1946 supporting the advancements of “non-self-governing-peoples,” written by John Collier and Abe Fortas with input from John Foster Dulles and Ralph Bunche.²³

Some congressional proponents of territorial representation also took up this international framing. Others layered in arguments about race and civil rights. The country’s treatment of these majority non-white territories, they argued, had symbolic implications for the narrative Americans wanted to tell abroad about democracy and race.²⁴ Despite incessant racism and racial inequality in the United States, American political leaders sought to make the case that democracy, however slow-moving and incremental, offered a route to racial equality that was preferable to the imposition of communism.²⁵ Denying congressional representation to the people living in the territories, the argument went, contrasted with ideals of democratic equality.

22. Committee chairs would sometimes introduce administration bills by request, but their sponsorship of these bills did not always imply support. In a letter to NAACP executive secretary Roy Wilkins, Ashley L. Totten singled out both men for defeating a bill to establish a Resident Commissioner position for the Virgin Islands. “Letter from Ashley L. Totten to Roy Wilkins, March 30th, 1950,” the NAACP Records, Group II, Series A, General Office File, Virgin Islands, 1949–1951.

23. John Collier, *From Every Zenith: A Memoir and Some Essays on Life and Thought* (Thousand Oaks, CA: Sage Books, 1963), 316–19; Ross Dardani, “Popular Constitutionalism in the US Empire: The Legal History of US Citizenship in Guam,” *Law & Social Inquiry* (2023): 17–21; and Doloris Coulter Cogan, *We Fought the Navy and Won: Guam’s Quest for Democracy: A Personal Memoir* (Honolulu, HI: University of Hawaii Press, 2008), 45–56.

24. Azza Salama Layton, *International Politics and Civil Rights Policies in the United States, 1941–1960* (Cambridge, UK: Cambridge University Press, 2000), 87–95.

25. Mary L. Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy* (Princeton, NJ: Princeton University Press, 2000); and Layton, *International Politics and Civil Rights Policies in the United States, 1941–1960*.

These arguments did not find much purchase in Congress during early debates over territorial representation. Congressional opposition to bills granting territorial representation was often framed in fiscal terms. Many conservative Republicans and Southern Democrats argued that the expense of creating new positions for the formal representation of the territories could not be justified based on the relatively small populations of these territories. Yet alongside fiscal conservatism was a paternalistic, racist argument that the people living in the insular territories were incapable of participating in a democratic form of government and a modern economy.²⁶

Given the framing of territorial representation as a racial question, it is unsurprising that some of the most ardent proponents of legislation to create delegate positions during this period were Black legislators.²⁷ In the 73rd Congress (1933–35), Oscar De Priest (R-IL), the first Black representative elected to Congress in the twentieth century, introduced a bill to establish a civil government and a Resident Commissioner position for the Virgin Islands.²⁸ The legislative efforts of Black Members like De Priest were bolstered by the Virgin Islands government, as well as widespread lobbying efforts on the mainland.²⁹ For example, the NAACP sought to tie support for congressional representation in the territories, including the predominantly Black Virgin Islands, to partisan competition for the Black vote in the 1948 election.³⁰ In a draft statement supplementing the Declaration of Negro

26. As one example, H.V. Berg, a white member of the St. Croix Colonial Council, remarked that “it is very seldom that you find a colored community that can carry on for themselves . . . they lack certain essentials necessary to carry on for themselves.” Rep. Guinn Williams (D-TX) agreed, saying “that is characteristic of the colored race.” *“The Virgin Islands,” Hearing before the House Subcommittee of the Committee on Insular Affairs on H.R. 7183, H.R. 8517, and H.R. 9395, Part 2, 69th Cong., (1926), (statements of Representative H.V. Berg and Representative Guinn Williams), 60–61.*

27. Mario O. Nisbett, “African American Direct Involvement in the Issue of Self-Government in the United States Virgin Islands, 1946–1958” (M.A. Thesis, Morgan State University, 2003).

28. Nancy J. Weiss, *Farewell to the Party of Lincoln: Black Politics in the Age of FDR* (Princeton, NJ: Princeton University Press, 1983), 82.

29. “Annual Report of the Governor of the Virgin Islands for Fiscal Year Ended June 30, 1933,” 5. In the Records of the U.S. House of Representatives, 73rd Congress, Box 236: Committee Papers, Committee on Insular Affairs, Folder HR73A-F14.3: Virgin Islands. Washington, DC: Center for Legislative Archives, National Archives and Records Administration. For more on De Priest as legislator, see Alison M. Parker, “Oscar Stanton DePriest: Republican Politics, the Strategy of Nonpartisanship, and the Struggle for Civil Rights,” *The Journal of African American History* 108 (2023): 600–28; and Greyson Teague, “Oscar DePriest and Black Agency in American Politics, 1928–1934,” *Journal of Policy History* 36 (2024): 134–60.

30. See Nisbett, “African American Direct Involvement in the Issue of Self-Government in the United States Virgin Islands, 1946–1958.” There is also evidence that the politics of territorial issues was relevant to Democratic intraparty dynamics. President Truman’s trip to the Virgin

Voters to the Republican Platform Committee, the members of the NAACP Continuous Committee of Negro Organizations emphasized their disappointment in the GOP's inaction on self-government for the Virgin Islands. The authors of the statement also emphasized that "the Negro vote, which holds a potential balance of power in any reasonably close election . . . has become increasingly an independent vote during the past thirty years."³¹

A similar message appears in a letter from Ashley L. Totten, president of the Virgin Islands Civic Association, to the Committee on Resolutions for the National Republican Convention of 1948. Totten wrote that the votes of 12,000 native Virgin Islanders, mostly living in the New York City area, were available to whichever party took action to improve the political status of the territory. His letter discusses the proposal for a Virgin Islands territorial representative introduced in the 81st Congress (1949–50). Implying racial motivations, Totten points out that while Puerto Rico and Hawaii had such a position, "the Bill to grant the same privilege to the Virgin Islands has been pigeonholed . . . it does not take a seer to know the reason."³²

Territorial representation faced great skepticism in Congress. The ACLU's Roger Baldwin warned of opposition to congressional representation for the Virgin Islands from Republicans on the House Rules Committee but suggested that "action by the Rules Committee might be forced by some united lobbying by the ACLU and the NAACP and the interested Clearing House agencies."³³ William Hastie, former Virgin Islands governor, wrote to the NAACP's Roy Wilkins that Southern Democrats on the Rules Committee were against the bill, and that while he had "not heard any racial objections expressed . . . one must have his suspicions." Given

Islands in 1948 was partially an attempt to wrest the party's base back from Progressive candidate Henry Wallace. See "Letter from Walter White to Harry Truman, March 8th, 1948," the NAACP Records, Group II, Series A, General Office File, Truman, Harry S., 1946–1949. For more on the role of the early NAACP in American political development, see Megan Ming Francis, *Civil Rights and the Making of the Modern American State* (Cambridge, UK: Cambridge University Press, 2014).

31. "Statement of the Continuous Committee of Negro Organizations to the Republican Platform Committee, March 27, 1948," the NAACP Records, Group II, Series A, General Office File. Republican National Committee, 1945–1948.

32. "Letter from Ashley L. Totten, President, American Virgin Islands Civic Association, to the Committee on Resolutions, National Republican Convention of 1948, June 15, 1948," the NAACP Records, Group II, Series A, General Office File. Republican National Committee, 1945–1948.

33. "Letter from Herbert M. Levy to Mary A. Baldinger, March 20, 1950," the NAACP Records, Group II, Series A, General Office File, Virgin Islands, 1949–1951.

these doubts, Hastie posited that “the most hopeful effort is one directed at [the] Republican group”—although he acknowledged opposition on their part as well.³⁴

Baldwin and Hastie’s apprehension with the House Rules Committee proved prescient, as that committee’s reticence to move ahead on H.R. 2988, establishing a resident commissioner for the Virgin Islands, ultimately killed the bill. Roy Wilkins wrote a letter to Rules Committee Chairman Adolph J. Sabath (D-IL) charging that the bill was “being held up because the people of the Virgin Islands are largely colored, and, for this reason, some members of the Rules Committee do not wish to give them a representative.”³⁵ Wilkins also wrote to President Truman, asking that “every effort be made to have this legislation acted upon favorably.”³⁶ Despite these efforts, the legislation did not move forward in either chamber.

The post-WWII geopolitical context saw even harsher criticism that the US failure to extend democratic governance to the territories hampered its standing to make claims about democracy in the international arena. For example, former Interior Secretary Harold Ickes wrote that “the way these islands are governed will constitute a tablet of imperishable brass from which the other nations of the world can read just what the United States of America and its protestations for democracy really mean.”³⁷ Argued naval reserve officer Richard H. Wels in a *New York Times* letter to the editor, “our failure to extend the democratic way of life to our own colonies makes perhaps the most effective argument that the Communists have.”³⁸ And Carlton Skinner, the Governor of Guam, argued that “the independent peoples of the Far East . . . are watching closely to see if Uncle Sam’s professions of democratic ideals are borne out.”³⁹ Organizations like the Institute for Ethnic Affairs, led by John Collier, led advocacy campaigns to urge Congress to act, arguing that democratic governance for the territories was “in keeping with American ideals

34. “Letter from William Hastie to Roy Wilkins, March 28, 1950,” the NAACP Records, Group II, Series A, General Office File, Virgin Islands, 1949–1951. For more on Hastie’s advocacy for the Virgin Islands, see Gilbert Ware, *William Hastie: Grace Under Pressure* (Oxford, UK: Oxford University Press, 1984), 192–212.

35. “Letter from Roy Wilkins to Adolph J. Sabath, April 25, 1950,” the NAACP Records, Group II, Series A, General Office File, Virgin Islands, 1949–1951.

36. “Letter from Roy Wilkins to Harry S. Truman, April 26, 1950,” the NAACP Records, Group II, Series A, General Office File, Virgin Islands, 1949–1951.

37. Harold L. Ickes, “The Navy at Its Worst,” *Collier’s* 118 (1946), 22–23, the John Collier Papers, Reel 49, Folder 958, “Hoover Commission Report on Overseas Administration - Memoranda, Statements, Clippings, 1948.”

38. Richard H. Wels, “Letter to the Editor: Self-Government for Guam,” *The New York Times* (March 9, 1949).

39. “Statement before a Senate Interior Affairs Subcommittee Considering Organic Legislation for Guam, April 19, 1950,” the Senate Committee on Interior and Insular Affairs Records, 81st Congress, S. 185, RG 46, Box 3, SEN81A-E9.

and traditions.”⁴⁰ The ACLU and NAACP also continued to lobby on territorial self-rule, grounding their claims in civil rights arguments.

Amid this sustained advocacy, unified Republican government in the 83rd Congress (1953–54) offered a prime opportunity to push for territorial representation. H.R. 5181, introduced by Arthur L. Miller (R-NE) at the request of the Department of the Interior, amended the Virgin Islands organic act and included a provision to create a resident commissioner position. Yet by the time the bill had been reported out of the House Committee on Territories and Insular Affairs, this provision had been removed.⁴¹

Advocates sharply dissented. Secretary Walter White and the Washington Bureau of the NAACP lobbied actively throughout the legislative process on both H.R. 5181. White was in communication with members of the Virgin Islands legislature, who asked him to push for restoration of the resident commissioner provision.⁴² The Citizens Committee for Revision of the Organic Act sent a telegram to Secretary White expressing the same sentiment, and White relayed these complaints in a telegram to Senator Hugh Butler (R-NE), chair of the Committee on Interior and Insular Affairs.⁴³ Butler was unmoved regarding the resident commissioner position, claiming that the estimated annual cost of \$47,000 was too high a price to pay for the representation of roughly 25,000 people.⁴⁴ White also sent a telegram to Interior Secretary Douglas McKay, urging his department to oppose the legislation unless several provisions, including the resident commissioner provision, were restored. White emphasized the international stakes. “In view of the interest and world wide rebellion against colonialism especially in Latin America, Asia and Africa,” he noted, “we are convinced that a backward step such as provided in this bill would do irreparable harm to America’s reputation and prestige.”⁴⁵

40. “Letter from John Collier to M.T. Tuiasosopo, America Samoa, April 2, 1947,” the John Collier Papers, Reel 41, Folder 745, “Tuiasosopo, M.T., 1947–1949.”

41. Roger N. Baldwin sent a letter to Miller expressing the support of the ACLU, NAACP, and American Virgin Islands Civic Association for an amendment restoring the resident commissioner provision. The amendment was never offered. “Letter from Roger N. Baldwin to Arthur L. Miller, June 15, 1954,” the NAACP Records, Group II, Series A, General Office File, Virgin Islands, 1954–1955.

42. “Letter from Earle B. Ottley to Walter White, April 28th, 1954,” the NAACP Records, Group II, Series A, General Office File, Virgin Islands, 1954–1955.

43. “Telegram from Lucinda Milling and Louis Souffront to Walter White, May 4, 1954,” the NAACP Records, Group II, Series A, General Office File, Virgin Islands, 1954–1955.

44. “Letter from Hugh Butler to Walter White, May 6, 1954,” the NAACP Records, Group II, Series A, General Office File, Virgin Islands, 1954–1955.

45. “Telegram from Walter White to Douglas McKay, May 5, 1954,” the NAACP Records, Group II, Series A, General Office File, Virgin Islands, 1954–1955.

During floor debate, civil rights champion Adam Clayton Powell, Jr. (D-NY) echoed this framing, placing the argument within the context of the Cold War.

This is why we are losing throughout the world. This is just a capsule, this is just a tiny island, about 30,000 people, but it is a symbol to 2 billion colored people throughout the world who say “If this is the kind of democracy that America wants us to follow, we are going to have to look twice.” [W]hen the common man knows that this is the way we are practicing democracy, he is not going to listen to our preachments concerning democracy.⁴⁶

Like Powell, interest groups pushing for increased territorial self-government remained unhappy that the bill did not include a delegate provision. The ACLU’s Baldwin sent a telegram to President Eisenhower asking the president to consider vetoing the legislation.⁴⁷ The request was in vain; Eisenhower signed the bill into law. Representation for the Virgin Islands in Congress would not be achieved for nearly another two decades.

A Turning Point

By the 1950s, the political climate for advocates for territorial representation had changed substantially. The Cold War was rampant, US-Soviet tensions were building in East Asia, and the Space Race captivated national imaginaries. And in 1959, Alaska and Hawaii were admitted as states, gaining voting members of the House and Senate.⁴⁸ The success of the Hawaii and Alaska statehood movement buoyed

46. *Congressional Record*, 83rd Cong., 2nd Session (June 22, 1954), 8667.

47. “Telegram from Robert N. Baldwin to Dwight D. Eisenhower, July 16th, 1954,” the NAACP Records, Group II, Series A, General Office File, Virgin Islands, 1954–1955.

48. The reasons why Alaska and Hawaii achieved statehood during this period, as opposed to Washington, DC and the territories of American Samoa, the Canal Zone, Guam, Puerto Rico, and the US Virgin Islands, are complex and idiosyncratic. For one, Alaska and Hawaii were substantially larger in population than American Samoa, the Canal Zone, Guam, and the Virgin Islands. Only Puerto Rico was more populous and voters there in 1952 approved a “commonwealth” constitution, which removed Puerto Rico from the UN list of non-self-governing territories but left legal structures of colonialism intact. Sam Erman, “Status Manipulation and Spectral Sovereigns,” *Columbia Human Rights Law Review* 53 (2021): 854–59. Legal status was at play. Congress designated Hawaii and Alaska as “incorporated” territories, which meant under the territorial incorporation doctrine of *Downes* that both territories were slated for statehood, unlike the “unincorporated” territories. Frederic R. Coudert, “The Evolution of the Doctrine of Territorial Incorporation,” *American Law Review* 60 (1926): 801–64; and Christina D. Ponsa-Kraus, “The Insular Cases Run Amok: Against Constitutional Exceptionalism in the Territories,” *Yale Law Journal* 131 (2022): 2390–2758. Likewise, for American policymakers, Alaska and Hawaii served as valuable military locations by which to counter Soviet aggression during the Cold War. John S. Whitehead, *Completing the Union: Alaska, Hawai’i, and the Battle for*

hopes for advocates of democracy in Washington, DC and the territories. Then-Senator John F. Kennedy, for example, delivered a speech at the 1958 Virgin Islands Jefferson-Jackson Day Dinner supporting territorial self-government, and specifically calling for a nonvoting delegate position to represent the territory in Congress.⁴⁹

In the 86th Congress (1959–60), the House Committee on Interior and Insular Affairs considered eleven bills to provide representation for the Virgin Islands or Guam. These bills were informed by field hearings held in Guam and the Virgin Islands in the fall of 1959, which, according to the committee report, “found a unanimous desire to have representation in the Congress.”⁵⁰ The committee favorably reported one of these bills, H.R. 11274, sponsored by new committee chair Wayne Aspinall (D-CO), to create an office of Territorial Deputy to the House from Guam and the Virgin Islands.

H.R. 11274 had strong support from across the Eisenhower administration.⁵¹ It was also met with racist opposition. One correspondent from the Virgin Islands derided the effort to expand nonvoting representation there. “As for a non-voting deputy, no. All you would get in the halls of congress is some strutting, self-important darky who would have only a parochial outlook on matters, and seek only more and greater benefit from the Great White Father in Washington.”⁵² Replied Rep. James A. Haley (D-FL), a member of the House Committee on Territories and Insular Affairs, “It is apparent that we do think along the same lines. I do welcome

Statehood (Albuquerque, NM: University of New Mexico Press, 2004), 135–236. Above all, Alaskan and Hawaiian statehood was driven by partisan and racial considerations. Pairing the territories allowed civil rights activists to overcome racist anxieties about a plurality-Asian state, and to insist on statehood as a core component of democratic self-rule. Roger J. Bell, *Last among Equals: Hawaiian Statehood and American Politics* (Honolulu, HI: University of Hawaii Press, 1984); Giles Scott-Smith, “From Symbol of Division to Cold War Asset: Lyndon Johnson and the Achievement of Hawaiian Statehood in 1959,” *History* 89 (2004): 256–73; and Daniel Immerwahr, *How to Hide an Empire: A History of the Greater United States* (New York: Farrar, Straus and Giroux, 2019), 227–41.

49. “Remarks, St. Thomas, Virgin Islands, 16 December 1958,” the Papers of John F. Kennedy. Pre-Presidential Papers. Senate Files. Speeches and the Press. Speech Files, 1953–1960; and “Remarks, St. Thomas, Virgin Islands, 16 December 1958,” JFKSEN-0902-004. John F. Kennedy Presidential Library and Museum.

50. *House Report No. 1646*, 86th Congress, accompanying H.R. 11274, (May 24, 1960), 2.

51. “Letter from Fred A. Seaton to Wayne N. Aspinall, February 8, 1960,” the John P. Saylor Collection, Manuscript Group 18. Indiana University of Pennsylvania, Special Collections and University Archives. Box 49, Folder 2.

52. “Letter from Sterling Sorensen to James A. Haley, August 9, 1961,” the James A. Haley Papers, 1948–1977. Sarah D. and L. Kirk McKay, Jr. Archives Center, Florida Southern College. Box 282, File 6.

your advice and counsel.”⁵³ Another writer decries the potential Red Threat. “It can be taken for granted that senators and representatives from those territories . . . would vote to strengthen the Communist Conspiracy which is rapidly taking over our country.”⁵⁴ While H.R. 11274 was favorably reported from committee, it ultimately died in the Rules Committee, chaired by the white supremacist Howard W. Smith (D-VA).

As Congress delayed, the UN adopted Resolution 1514, which enshrined the principle of self-determination in international law. Both in the US and in international forums, Black intellectuals connected decolonization with the Black freedom struggle against what Du Bois would call the “global color line.”⁵⁵ This international pressure was leveraged by activists to promote a domestic civil rights agenda.⁵⁶ It also emerged in partisan discourse. Both major parties adopted frames of self-determination in their rhetoric leading up to the 1960 election, with the Republican Party even advocating “eventual statehood [for the Virgin Islands], when qualified.”⁵⁷ The Democratic platform included specific language supporting the Virgin Islands “to have a delegate in the Congress of the United States.”⁵⁸ Additionally, in an effort to attract Black voters in the 1960 election, both Nixon and Kennedy supported granting electoral college votes to DC, culminating in the 1961 ratification of the 23rd Amendment.⁵⁹

Congressional action on the territories began to swell. Unified Democratic government in the 87th Congress (1961–62) brought forth multiple legislative proposals to extend congressional representation to various territories. The House Subcommittee on Territorial and Insular Affairs held a hearing on these bills, and

53. “Letter from James A. Haley to Sterling Sorensen, August 11, 1961,” the James A. Haley Papers, 1948–1977. Sarah D. and L. Kirk McKay, Jr. Archives Center, Florida Southern College. Box 282, File 6.

54. “Letter from Ellen Leist to James A. Haley, August 11, 1961,” the James A. Haley Papers, 1948–1977. Sarah D. and L. Kirk McKay, Jr. Archives Center, Florida Southern College. Box 282, File 6.

55. Adom Getachew, *Worldmaking after Empire: The Rise and Fall of Self-Determination* (Princeton, NJ: Princeton University Press, 2019), 71–106, at 80; and Adom Getachew and Jennifer Pitts, “Democracy and Empire: An Introduction to the International Thought of W. E. B. Du Bois,” in *W.E.B. Du Bois: International Thought* (Cambridge, UK: Cambridge University Press, 2022), xv–lvii.

56. Layton, *International Politics and Civil Rights Policies in the United States, 1941–1960*.

57. “Republican Party Platforms, Republican Party Platform of 1960,” The American Presidency Project, <https://www.presidency.ucsb.edu/node/273401> [<https://perma.cc/REW7-QDH4>].

58. “Democratic Party Platforms, 1960 Democratic Party Platform,” The American Presidency Project, <https://www.presidency.ucsb.edu/node/273234> [<https://perma.cc/3GA7-LJRA>].

59. Amar, *America’s Constitution*, 438–42. While Americans living in the territories participate in presidential primaries, they cannot vote for president. The territories also exercise voice through intergovernmental organizations. Philip Rocco et al., “Voice in an Asymmetric Federation? The U.S. Territories as Intergovernmental Actors,” *Regional & Federal Studies* (2024): 70–79.

on March 27th, 1961, the subcommittee reported H.R. 4752, which provided a Territorial Deputy to the Virgin Islands and Guam, to the full Committee on Interior and Insular Affairs. The bill had some popular support. In a letter to committee chair Wayne Aspinall (D-CO), seven writers from the Guam Women's Club wrote to express their support for a nonvoting position for Guam in Congress, "since all its residents are citizens of the United States and since it plays an important part in the defense of the free world."⁶⁰ Geopolitics were also important. Guam held weapons systems and military intelligence which placed the territory at the center of the Cold War arms race between the US and the USSR.⁶¹

The full committee markup of H.R. 4752 on August 9 revealed striking intraparty racial divisions. Opposition to the bill was spearheaded by Walter Rogers (D-TX), a conservative Southern Democrat and signatory of the Southern Manifesto. In fact, all three southerners present at the markup session, Rogers, J.T. Rutherford (D-TX), and Roy A. Taylor (D-NC), voted to recommit the bill to subcommittee, and voted against favorably reporting the bill. Regression models presented in the online appendix demonstrate the importance of racial ideology, and the relative unimportance of partisanship, in explaining vote choice. Conditioning on first-dimension NOMINATE scores, legislators who were more liberal on the second dimension, often considered a reflection of preferences on racial issues, were considerably less likely to vote for the motion to recommit H.R. 4752 to subcommittee. They were also considerably more likely to vote to report the bill.⁶²

While the bill was reported from the House Committee on Interior and Insular Affairs, it never received a special rule for consideration from the House Rules Committee, and it was never considered on the floor. Advocates were dismayed. Leo O'Brien (D-NY) opined in a private letter to Early Ottley of the Virgin Islands, "Much of the opposition to the Bill is due to the well-known hesitation by Congress to enter into a new field. The rest of the opposition appears to be a hangover from the Alaska-Hawaii statehood fight."⁶³ It would take another decade before territorial representation would pass the finish line.

60. Letter to Wayne Aspinall, July 18, 1961. Records of the Committee on Insular and Interior Affairs, Bill Files. Office of the House Historian. <https://history.house.gov/HouseRecord/Detail/15032436179> [https://perma.cc/5KUB-VU4L].

61. Camilla Fojas, *Islands of Empire: Pop Culture and U.S. Power* (Austin, TX: University of Texas Press, 2014), 171–72; and Immerwahr, *How to Hide an Empire*, 352.

62. We interpret these results as ancillary to the archival evidence presented here. When possible, we include models using alternative measures of legislators' racial attitudes as robustness checks in the online appendix.

63. "Letter to Earle B. Ottley, July 18, 1961," the Leo O'Brien Papers, Series 1: Subject Files, 1939–1966, Box 2, Folder 26, "Guam-Territorial Deputy HR-6023," M.E. Grenander Department

Phillip Burton and the Advent of Territorial Representation

The decades-long quest for territorial representation in Congress was to change under the dogged advocacy of Phillip Burton (D-CA), chairman of the House Subcommittee on Territorial and Insular Affairs. Burton was a talented policy entrepreneur, a “genius . . . [who] understood the relationship” between process and substance.⁶⁴

Burton pursued territorial representation for multiple reasons.⁶⁵ Part of his zealous advocacy for the creation of delegate seats may have been strategic: with an eye on leadership within the Democratic caucus, Burton likely wanted to rally as many votes as possible in support of his candidacy.⁶⁶ Noted a *Washington Post* profile of Burton, “Around the House there is a belief, well-founded or not, that Burton’s sway over the territorial delegates is so powerful that he is assured their votes”—because, importantly, even though they lacked a floor vote, delegates could vote in the Democratic caucus leadership elections.⁶⁷ Likewise, because nonvoting delegates could also vote in committees, adding territorial representatives would strengthen Burton’s committee power.⁶⁸ All this support would give Burton political muscle. His biographer notes that Burton could count on the votes of the nonvoting members “on virtually any issue” in committee, and that Burton “started out on any issue with one-sixth of the votes needed to pass anything . . . if Burton couldn’t run the United States . . . at least he could run the territories.”⁶⁹

In 1968, Burton first attempted to include a provision creating a nonvoting delegate position in a bill (H.R. 7329) establishing an elected governor for Guam, but this provision was removed in committee. In 1969 and 1970, Burton introduced multiple bills seeking to extend territorial representation, including H.R. 19389, which would establish a delegate position for both Guam and the Virgin Islands.

of Special Collections and Archives, University Libraries, University at Albany, State University of New York.

64. John Jacobs, *A Rage for Justice: The Passion and Politics of Phillip Burton* (Oakland, CA: University of California Press, 1995), xxiv.

65. John W. Kingdon, *Agendas, Alternatives, and Public Policies* (New York: Longman, 2011 [1984]), 122–24.

66. Jacobs, *A Rage for Justice*, 397.

67. Ward Sinclair, “Building an Empire: Burton Is ‘Lord’ of Parks, Territories Sun Never Sets on Burton’s ‘Empire,” *Washington Post* (September 8, 1980).

68. Cameron DeHart, “Territorial Delegates and Party Balance: House Committee Membership after 1970,” *APSA Preprints* (2020), 4–6, 11, <https://doi.org/10.33774/apsa-2019-z1g7c-v2> [<https://perma.cc/L8TW-CLW5>]; see also Sean A. Cain, “Oversight and Legislative Activity Concerning Pacific Island Territories of the United States: A Balancing of Partisanship and Autonomy,” *Asia Pacific Journal of Public Administration* 41 (2019): 72–84.

69. Jacobs, *A Rage for Justice*, 220, 331.

The bill had a bipartisan coalition of twenty-three total cosponsors, thirteen Democrats and ten Republicans, and twenty out of the thirty-four members of the House Committee on Interior and Insular Affairs were cosponsors, including Ranking Member John P. Saylor (R-PA). Burton also attracted three cosponsors who did not sit on the committee, including majority leader Carl Albert (D-OK) and minority leader Gerald Ford (R-MI).⁷⁰ An amended version of H.R. 19389 was reported out of committee on September 25th, 1970, but with the 1970 midterm election approaching, the bill was never considered on the floor.

A major accomplishment of the 91st Congress (1969–70) was the enactment of H.R. 18725, granting the District of Columbia a nonvoting delegate for the first time since the delegate was revoked in 1875.⁷¹ President Nixon supported the Washington, DC delegate bill, calling DC’s lack of self-governance “one of the truly unacceptable facts of American life.”⁷² After a spirited election, civil rights activist and pastor Walter Fauntroy became delegate, and shortly thereafter, in 1973, won the enactment of DC home rule, which provided limited self-government to the District of Columbia.⁷³

Burton’s efforts to expand the delegate position can be viewed within dramatic reforms occurring in the House in the 1970s, where partisan realignment fostered a much more liberal, and less Southern, Democratic caucus. Newly empowered liberal Democrats ushered in an array of changes to “democratize House operations.”⁷⁴

70. Cosponsorship of the bills introduced in the 91st and 92nd Congresses is analyzed extensively in the online appendix. In almost all cases, legislators’ racial attitudes were found to be important predictors of cosponsorship, with more racially liberal members being more likely to sign on as cosponsors.

71. Norton Parker Chipman served as DC delegate from 1871 until 1875, when Congress ended territorial government in DC in an effort to quash Black political power during Reconstruction. W. E. B. Du Bois, *Black Reconstruction in America: An Essay toward a History of the Part Which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860–1880*. (New York: Oxford University Press, 2014 [1935]), 461–63; Kate Masur, *An Example for All the Land: Emancipation and the Struggle over Equality in Washington, DC* (Chapel Hill, NC: University of North Carolina Press, 2010), 214–56; and Chris Myers Asch and George Derek Musgrove, *Chocolate City: A History of Race and Democracy in the Nation’s Capital* (Chapel Hill, NC: University of North Carolina Press, 2017), 152–68.

72. “D.C. Delegate,” *The New York Times*, September 16, 1970; and Asch and Musgrove, *Chocolate City*, 378–80.

73. Michael Fauntroy, *Home Rule or House Rule? Congress and the Erosion of Local Governance in the District of Columbia* (Lanham, MD: University Press of America, 2003); Asch and Musgrove, *Chocolate City*, 376–82; Mamet, “Representation on the Periphery: The Past and Future of Nonvoting Members of Congress,” 400–405; and Eric Cervini, *The Deviant’s War: The Homosexual vs. the United States of America* (New York: Farrar, Straus and Giroux, 2020), chapter 20.

74. Robert V. Remini, *The House: The History of the House of Representatives* (Washington, DC: Smithsonian Books, 2006), 427; see also David W. Rohde, *Parties and Leaders in the*

The Legislative Organization Act of 1970 opened committee meetings to the public and the press, permitted a committee majority to expand the chair's agenda, mandated recorded votes for committee markups, and set regular committee meeting times.⁷⁵ Alongside its promotion of publicity and transparency, the law also provided for the election of delegates and resident commissioners as regular, voting members of standing committees.⁷⁶ Meanwhile, the "subcommittee bill of rights" and other changes helped erode the powers of Southern chairmen.⁷⁷ Nelson Polsby has written that "by the end of the 1970s, the power structure of the House of Representatives had been very substantially remodeled."⁷⁸ This "remodel" sought to make the legislative machinery of the House more responsive to the policy demands of an increasingly liberal Democratic caucus, and opened political opportunity for advocates of territorial representation to advance their bills through Congress.

As pressure grew to add additional delegates to Congress, House reforms widened the policy window for action. Burton set out to take advantage of the momentum he had built behind his nonvoting delegate bills. On June 1st, 1971, Burton introduced H.R. 8787, to provide both Guam and the Virgin Islands with a delegate. The bill was reported out of the Committee on Interior and Insular Affairs, with James A. Haley (D-FL) as the lone dissenting vote, on June 10, and was brought to the floor in January 1972. As Burton stated in his remarks managing the bill, it "extends democratic representation to American citizens who have never had a direct voice in the course of their government. In passing this bill, we shall be affirming our commitment to the democratic principles of our Republic."⁷⁹ The bill passed the House by a vote of 232-104 on January 18, 1972, passed by voice vote in the Senate after minimal debate on March 28, 1972, and was signed into law by President Nixon on April 10, 1972. Its enactment was marked by a single sentence in the *New York Times*.⁸⁰

Postreform House (Chicago, IL: University of Chicago Press, 1991), 17–39; and Donald R. Wolfensberger, *Congress and the People: Deliberative Democracy on Trial* (Washington, DC: Woodrow Wilson Center Press and Johns Hopkins University Press, 2000), 86–102.

75. John A. Lawrence, *The Class of '74: Congress after Watergate and the Roots of Partisanship* (Baltimore, MD: Johns Hopkins University Press, 2018), 24.

76. Jane A. Hudiburg, "Delegates to the U.S. Congress: History and Current Status" (Washington, DC: Congressional Research Service, 2022), 8–9.

77. Roger H. Davidson and Walter J. Oleszek, *Congress Against Itself* (Bloomington, IN: Indiana University Press, 1977), 18–57, 48–49.

78. Nelson Polsby, *How Congress Evolves: Social Bases of Institutional Change* (Oxford, UK: Oxford University Press, 2004), 73.

79. *Congressional Record*, 92nd Cong., 2nd Session (January 18, 1972), 13.

80. "Territory Delegate Backed," *The New York Times* (April 11, 1972).

Table 1. House Final Passage Vote on H.R. 8787 (92nd Congress)

	<i>Dependent variable:</i>	
Party (Republican)	-2.342*** (0.393)	
NOMINATE (Dim. 1)		-4.511*** (0.618)
NOMINATE (Dim. 2)	-3.972*** (0.564)	-3.608*** (0.541)
South	0.056 (0.394)	0.333 (0.423)
Seniority	0.004 (0.040)	-0.003 (0.043)
Interior and Insular Affairs Committee	2.762*** (0.779)	2.924*** (0.806)
House Democratic Leadership	0.615 (0.692)	0.562 (0.781)
House Republican Leadership	-0.006 (0.591)	0.317 (0.626)
Constant	2.230*** (0.360)	0.945*** (0.279)
Observations	374	374
Akaike Inf. Crit.	348.06	312.48

* $p < 0.1$; ** $p < 0.05$; *** $p < 0.01$

Note: Results are from a logistic regression. The dependent variable is a legislator's vote on passage of H.R. 8787 (yea=1, no=0). The unit of analysis is a legislator. Coefficients are reported with standard errors in parentheses. Due to issues with multicollinearity, we do not include first-dimension NOMINATE and partisanship in the same model. Paired yeas and paired nays were coded as yeas and nays, respectively, bringing the total number of members voting to 374. Results are substantively unchanged if these paired votes are excluded.

Table 1, above, presents results from two models fit on the House final passage vote data for H.R. 8787. Together, the models demonstrate the importance of membership on the committee of jurisdiction, partisanship, and legislator ideology in explaining vote choice on the bill. Importantly for our theoretical argument, legislators' second-dimension NOMINATE scores, often interpreted as their position on race and civil rights, are statistically significant predictors of vote choice in both models.⁸¹ In the first model, second dimension NOMINATE scores explain more of the variation in vote choice than does partisanship.⁸²

81. Our online appendix presents models with an alternate measure of legislators' preferences on racial and civil rights issues, with substantively similar results.

82. We compared McFadden's R^2 for models with and without both variables.

Aided by Burton, Congress was to quickly explore territorial representation beyond Guam and the Virgin Islands. By March 23, 1972, Burton's subcommittee held a hearing on a proposal to institute an elected governor and lieutenant governor in American Samoa. It was a watershed proposal: since its acquisition by the US in 1900, the Samoan governor and lieutenant governor were appointed, first by the Navy and then by the Department of Interior, in a colonial arrangement with which many Samoans were increasingly dissatisfied.

In the hearing, Le'aeno W. Reed, president of the American Samoa Senate, testified in support of giving Samoans a vote. He noted his agreement with Phillip Burton that "the time has come for the people to have a voice in the selection of their chief executive officers." He pointed out the hypocrisy in American pro-democratic intervention abroad in the absence of democracy at home, asking "can we American citizens say we want free elections in Vietnam, but not in American Samoa, where our U.S. flag has flown for some 72 years?" And he read Article 73 of the U.N. Charter, which emphasized the "obligation . . . to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions."⁸³ American Samoans lacked self-government; they were subject to the whims of Washington, DC, located some 7,000 miles away, a plight Burton knew well because he employed Samoan staffers in his office.⁸⁴

Likewise, Burton took seriously the international pressure on the US and other countries to give all their inhabitants the right of self-determination. In the summer of 1972, Burton and his staff received authorization from Interior and Insular Affairs Chairman Wayne Aspinall to travel to New York for a series of hearings by the UN Trusteeship Council on self-determination.⁸⁵ The Council made special note to recognize Burton's attendance and to thank him for his "deep interest in this question."⁸⁶

Burton's championing of the delegates gave him leadership votes in the closely divided House Democratic caucus; even with their support, he lost the election for

83. "Samoan Elected Governor," *Hearing before the House Subcommittee on Territorial and Insular Affairs*, 92nd Cong., 2nd Session (March 23, 1972), Serial No. 92-38, 23-24.

84. Arnold H. Leibowitz, *Defining Status: A Comprehensive Analysis of United States Territorial Relations* (Dordrecht, NL: Martinus Nijhoff Publishers, 1989), 434n234.

85. "Letter to Wayne N. Aspinall, April 28, 1971," in Burton Papers, Carton 13, Folder 23; and "Letter to Wayne N. Aspinall, May 17, 1971," in Burton Papers, Carton 13, Folder 23.

86. *Provisional Verbatim Record of the Thirteen Hundred and Seventy-Third Meeting*, UN Trusteeship Council (May 27, 1971), 32. <https://digitallibrary.un.org/record/1647972?ln=en> [<https://perma.cc/2HX8-TQV7>]; and *Provisional Verbatim Record of the Thirteen Hundred and Seventy-Fourth Meeting*, UN Trusteeship Council (May 28, 1971), Document No. 1374, 18. <https://digitallibrary.un.org/record/1647952?ln=en> [<https://perma.cc/AE3N-BRUS>].

majority leader in 1976 by a single vote.⁸⁷ But by 1978, Burton was to triumph in gaining widespread backing for territorial representation. His H.R. 13702, granting American Samoa a non-voting delegate to the House, passed by voice on suspension on October 3, passed the Senate by voice on October 13, and was signed into law on October 31. Burton was at last to succeed in his dogged advocacy for territorial representation for Guam, the US Virgin Islands, and American Samoa.⁸⁸ After a long legislative struggle, the territories were given a voice, but not a vote, in Congress, as an institutional accommodation to imperial rule.

Conclusion: American Empire and American Political Development

The United States is not conventionally thought of as an empire.⁸⁹ Yet a range of scholars have questioned that assumption.⁹⁰ Theorizing empire as, in the words of Nikhil Singh, “the project of governance without a body politic,” these scholars have traced the centrality of racialized empire to US state building and political development.⁹¹ Much of this scholarship is indebted to the historian William Appleman Williams, who once described the American “imperial history, our imperial ethic, and our imperial psychology,”⁹² as well as to earlier criticisms of race

87. Matthew N. Green and Douglas B. Harris, *Choosing the Leader: Leadership Elections in the U.S. House of Representatives* (New Haven, CT: Yale University Press, 2019), 118–38.

88. After Burton’s 1983 death, scores of colleagues extolled his advocacy for the delegate seats—including the delegates themselves. Antonio Borja Won Pat of Guam remarked that “more than anyone in memory, Congressman Phillip Burton stands out as a man whose unyielding love of justice and the principles of democracy led him to pursue a policy of fairness toward his fellow Americans in the territories by the Federal Government.” Ron de Lugo of the Virgin Islands called Burton “the principal architect” of the Delegate positions. American Samoa’s Fofu I. F. Sunia noted that “Phil Burton served the territories as well as he did his own constituents in San Francisco.” Memorial Services for Burton, “Memorial Services Held in the House of Representatives and Senate of the United States, Together with Tributes Presented in Eulogy of Phillip Burton, Late a Representative from California, 98th Congress, First Session,” (Washington, DC: Government Printing Office, 1983), 58, 67–86, 103.

89. As Donald Rumsfeld remarked, “We don’t seek empires . . . We’re not imperialistic. We never have been. I can’t imagine why you’d even ask the question,” in Eric Schmitt, “Aftereffects: Military Presence; Rumsfeld Says U.S. Will Cut Forces in Gulf,” *The New York Times* (April 29, 2003).

90. Sparrow, *The Insular Cases and the Emergence of American Empire*; Colin D. Moore, *American Imperialism and the State, 1893–1921* (Cambridge, UK: Cambridge University Press, 2017); A. G. Hopkins, *American Empire: A Global History* (Princeton, NJ: Princeton University Press, 2018); Erman, *Almost Citizens*; and Immerwahr, *How to Hide an Empire*.

91. John Biewen et al., “American Empire,” *Scene on Radio* (2020), <http://www.sceneonradio.org/s4-e9-american-empire> [<https://perma.cc/X425-TZP9>].

92. William Appleman Williams, *Empire as a Way of Life* (Oxford, UK: Oxford University Press, 1980), xi.

and US empire leveled by the members of the Howard School of International Relations such as W.E.B. Du Bois, Alain Locke, Ralph Bunche, Rayford Logan, Eric Williams, and Merze Tate—who connected America’s propensity for empire with ideas of white racial dominance and control.⁹³

Building on these critiques, this article argues that the legacies of racialized empire led to a “durable shift in governing authority” for those in DC and the territories after Congress authorized nonvoting delegate seats in the mid-twentieth century.⁹⁴ Alongside recent work in American political development tracing the institutionalization of empire in westward territorial expansion and the overseas colonization of the Spanish-American War, our essay calls for foregrounding ideas of racialized empire in the story of twentieth-century American state development, and in the development and expansion of the modern Congress.⁹⁵

Situated between lobbyist and lawmaker, the delegate illustrates the profound inequality between states and non-states (like DC and the territories) in the imperial logic of American political development. In the words of Abraham Holtzman, the position of nonvoting member “has given unique representation in Congress to people in those territorial possessions that were never allowed to become states and participate as full-fledged partners in the American polity.”⁹⁶ Future research on the place of imperial ideas within American political development can contribute to “an emerging conversation in political science about the role of territorial expansion and empire in shaping the American state.”⁹⁷

93. Merze Tate, “The War Aims of World War I and World War II and Their Relation to the Darker Peoples of the World,” *The Journal of Negro Education* 12 (1943): 521–32; Robert Vitalis, *White World Order, Black Power Politics: The Birth of American International Relations* (Ithaca, NY: Cornell University Press, 2015); and Errol A. Henderson, “The Revolution Will Not Be Theorised: Du Bois, Locke, and the Howard School’s Challenge to White Supremacist IR Theory,” *Millennium* 45 (2017): 492–510.

94. Karen Orren and Stephen Skowronek, *The Search for American Political Development* (Cambridge, UK: Cambridge University Press, 2004), 123.

95. Paul Frymer, *Building an American Empire: The Era of Territorial and Political Expansion* (Princeton, NJ: Princeton University Press, 2017); Timothy Lindberg, “Legislating for American Empire: Territorial Policy and the House Committee on Territories,” *Congress & the Presidency* 47 (2020): 153–74; Moore, *American Imperialism and the State, 1893–1921*; Maye Henning, “The Empty Gift: Citizenship, Imperialism, and Political Development in Puerto Rico,” *Studies in American Political Development* 37 (2023): 1–12; and Nathan Jessen, *Populism and Imperialism: Politics, Culture, and Foreign Policy in the American West, 1890–1900* (Lawrence, KS: University Press of Kansas, 2017).

96. Holtzman, “Empire and Representation,” 251.

97. Colin D. Moore, “American Political Development: Expansion and Sovereignty Beyond the States,” *PS: Political Science & Politics* 50 (2017): 503; and Moore, *American Imperialism and the State, 1893–1921*, xiv.

We argue that the study of the institutionalization of American empire highlights an enduring conflict in American political development between democracy and empire.⁹⁸ What does it mean to be, as Jefferson famously remarked, an “empire of liberty”? On the one hand, delegates from Washington, DC and the territories are elected by voters, and may introduce legislation, serve on committees, and debate on the House floor. These tools are part and parcel with representative democracy. But they may not vote on final passage of legislation; their voice doesn’t count in the final determination about what the law is. The nonvoting delegates, who can debate, but not vote, and whose positions are authorized by statute, not the Constitution, are second-class members of Congress compared to their colleagues representing the fifty states. They represent a “break in the democratic fabric,” and it is right to call their political status paradigmatic for evaluating whether the American polity lives up to its democratic creed.⁹⁹

Lastly, our article offers a new understanding of structural racism in congressional institutions. The territorial delegates, who represent constituents who are overwhelmingly racial and ethnic minorities, are disenfranchised from voting in Congress, yet their congressional colleagues, representing districts within the states, retain voting power. Our article asserts that opposition to granting the territories representation was couched in racial terms. The opponents of territorial representation also did as much as possible to reduce the delegate’s power, an opposition which continues today. As W.E.B. Du Bois wrote, the territories present a problem of “arbitrary power without appeal and . . . a race and class situation unknown in free countries.”¹⁰⁰ Full voting representation for residents of Washington, DC and the territories is indeed an issue of racial justice, and the institution of nonvoting delegate illustrates the long arc of white supremacist ideas in the building of the American state.

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98. Hendrickson, *Union, Nation, or Empire*; Dahl, *Empire of the People*; and Getachew and Pitts, “Democracy and Empire: An Introduction to the International Thought of W. E. B. Du Bois.”

99. Raskin, “Is This America? The District of Columbia and the Right to Vote,” 41.

100. Du Bois, “Color and Democracy: Colonies and Peace,” in *The World and Africa and Color and Democracy: Colonies and Peace* (Oxford, UK: Oxford University Press, 2007 [1945]), 255.

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