



Written by [Ty Bodden](#) on May 4, 2026

Make Washington, D.C., Square Again

Virginia's [newly approved](#) (but not yet certified) congressional-redistricting plan has revived a constitutional question that has [lingered since 1846](#): Did Congress have authority to give part of Washington, D.C., back to Virginia? From a [strict constitutional perspective](#), the answer is no. The Constitution empowered Congress to exercise exclusive authority over a federal district "not exceeding ten Miles square," but it did not authorize Congress to later carve up that district for political convenience. Now, as Virginia's redistricting fight threatens to reshape the balance of power in Congress, the "[Make D.C. Square Again](#)" proposal has put this long-neglected constitutional issue back into the national spotlight.



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[Article I, Section 8, Clause 17](#) of the Constitution gives Congress power "to exercise exclusive Legislation" over a district that becomes the seat of government. [The Residence Act of 1790](#) created the federal district along the Potomac River, and George Washington's [1791 proclamation](#) fixed the boundaries of what became a 10-mile-square district. That original district included land ceded by both Maryland and Virginia. In 1801, Congress organized the district into Washington County and Alexandria County under the [District of Columbia Organic Act of 1801](#), with the Virginia side including what is now Alexandria and Arlington.

An Unconstitutional Retrocession

In 1846, Congress passed "[An Act to retrocede the county of Alexandria, in the District of Columbia, to the State of Virginia.](#)" After a local referendum, President James K. Polk [proclaimed](#) the result on September 7, 1846, and Virginia completed the process in 1847 by extending its jurisdiction over the returned territory. The result was that the federal district, originally designed as a square, was reduced to the irregular shape familiar today.

Supporters of retrocession [argued](#) that the Constitution's phrase "not exceeding ten Miles square" merely set a maximum size, and that Congress could reduce the District of Columbia if it believed the Virginia side was no longer needed. But that [reading](#) treats the federal district as though it were ordinary legislative property rather than a constitutionally established seat of government. Once Virginia and Maryland [ceded the land](#) and Congress accepted it for the capital, Congress had no enumerated power to hand a portion of that district back to a state.

That is the heart of the constitutional objection. The Constitution [authorizes](#) Congress to govern the federal district; it does not authorize Congress to dissolve part of it. The absence of such a power matters. In a constitutional republic, Congress may exercise only those [powers delegated to it](#). If Congress can return part of the District of Columbia to Virginia without constitutional authority, then



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constitutional boundaries become negotiable whenever political pressure demands it.

The Supreme Court addressed the issue in [Phillips v. Payne \(1875\)](#), but did not squarely decide whether the 1846 retrocession was constitutional. Instead, the court treated the arrangement as a long-settled political reality, and refused to allow a private litigant to undo it. In other words, the core constitutional question was never definitively settled.

Why Alexandria Wanted Out

The 1846 [retrocession was not driven by one motive](#). Alexandria's political leadership complained that residents had lost representation, that Congress neglected the Virginia side of the District of Columbia, and that Alexandria suffered economically after being tied to a [federal district](#) divided by the Potomac River and governed under two different inherited legal systems. The House report supporting [retrocession](#) emphasized that the Virginia side was supposedly unnecessary to the seat of government, and that Alexandria had been harmed by being joined to the District of Columbia.

Slavery also loomed in the background. Although the public [legal arguments](#) focused on representation, local governance, and economic decline, Alexandria was deeply tied to the domestic slave trade. After Congress abolished the slave trade in the remaining District of Columbia in 1850, Alexandria — then safely back in Virginia — became a major slave-trading center. That does not mean every supporter of retrocession was motivated primarily by slavery, but it shows that the return of Alexandria to Virginia had serious moral and political consequences.

Virginia Redistricting Reopens the Debate

The issue has returned because of Virginia's recent redistricting fight. On April 21, 2026, Virginia [voters approved](#) a constitutional amendment allowing the General Assembly to temporarily [adopt new congressional districts](#) before the next regular redistricting cycle. The official ballot question [asked](#) whether the state constitution should be amended to allow lawmakers to adopt new congressional districts "to restore fairness in the upcoming elections," while returning to the standard redistricting process after the 2030 census. The Virginia Department of Elections explained that the amendment would allow the General Assembly to redraw congressional districts if another state redrew its own districts before 2031 outside the ordinary census process.

The new map could [dramatically affect the balance of power](#) in Congress. Virginia currently has 11 congressional districts, with six Democrats and five Republicans elected under court-imposed lines after the state's bipartisan redistricting commission failed to agree on a map. The new voter-approved districts could give Democrats an improved chance to win 10 of the 11 seats. Legal challenges remain, and the Supreme Court of Virginia has been considering whether the General Assembly followed the state constitution's procedural requirements in placing the measure before voters.

That is where the "[Make D.C. Square Again](#)" [proposal](#) enters the debate. On April 22, 2026, [U.S. Representative Rich McCormick](#) (R-Ga.), holding a modest 77-percent [Freedom Index](#) score, [introduced](#) the [Make D.C. Square Again Act \(H.R. 8455\)](#), which would undo the 1846 retrocession and restore the original boundaries of Washington, D.C. McCormick's office argued that the Constitution gives Congress authority over a federal district "not exceeding ten miles square," but does not enumerate a power to retrocede such territory back to a state.

The political implications are obvious. Alexandria and Arlington are [heavily Democratic](#) areas. The Associated Press [reported](#) that Virginia's redistricting referendum could help Democrats gain a 10-1



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House-seat advantage, and that returning Alexandria and Arlington to the District of Columbia would reduce Virginia's Democratic advantage under the new map. Approximately [400,000](#) residents in the affected region would likely lose full representation in the U.S. House and Senate if returned to the District of Columbia.

A Constitutional Remedy, or Political Retaliation?

Critics will call the Make D.C. Square Again Act political retaliation — and they are not entirely wrong that the proposal has reemerged because of redistricting politics. But political timing does not settle the constitutional question. If the 1846 retrocession was unconstitutional, then the fact that it has produced political consequences for nearly 180 years does not make it lawful.

The deeper issue is whether Americans still believe written constitutional limits mean anything. If Congress lacked authority to give Alexandria County back to Virginia in 1846, then the proper remedy is not to shrug and call the matter settled merely because the unlawful act is old. [Bad precedent does not become constitutional simply by aging.](#)

The better constitutional view is straightforward: The federal capital was not meant to be a tool for partisan mapmaking, state manipulation, or congressional experimentation. It was created as an independent seat of government, insulated from state control. The 1846 retrocession undermined that design, and Virginia's 2026 redistricting battle shows how the consequences of that decision continue to shape national politics.

Restore the Constitutional Order

The Make D.C. Square Again Act may not pass Congress. It may face political [opposition](#) from Virginia officials, D.C.-statehood advocates, and residents of Alexandria and Arlington. But it raises a serious constitutional issue that deserves more than partisan dismissal.

The Framers [created](#) a federal district so the national government would not depend on any one state for its seat of power. Congress later surrendered part of that district without any clear constitutional authority to do so. That decision reshaped Virginia, weakened the original design of the capital, and left behind an unresolved constitutional wound.

Restoring Washington, D.C., to its original square would not merely alter a map. It would force Congress and the American people to confront a larger question: Are constitutional boundaries fixed limits on government power, or are they temporary lines politicians may redraw when convenient?

A constitutional republic requires the former. If Congress is serious about restoring respect for the Constitution, it should begin by admitting that the 1846 retrocession was a constitutional mistake — and by making Washington, D.C., square again.



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