

DISTRICT OF COLUMBIA HOUSE  
VOTING RIGHTS ACT OF 2007—  
MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, there will now be 15 minutes equally divided between the two leaders or their designees on the motion to invoke cloture on the motion to proceed to S. 1257.

Who seeks time? The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to urge my colleagues to support the legislation before us today which was reported out of our committee on a 9-to-1 vote, bipartisan support.

In some sense, it is unbelievable that we are here today in 2007 trying, against some odds at this moment, to give to the residents of the Capital City of the United States, the District of Columbia, the right to have a voting representative in the Congress of the United States. To me, it is unbelievable, it is palpably unjust and, in my opinion, a national embarrassment.

This bill, comparable to a bill that passed the House of Representatives—bipartisan—cosponsored by Delegate ELEANOR HOLMES NORTON and Congressman TOM DAVIS—basically rights this grievous wrong by giving the District of Columbia, more than a half a million of our fellow Americans, a voting Member of Congress in the House of Representatives and to, frankly and directly, overcome concerns of the partisan impact of giving a House seat to the District because it tends to vote Democratic, and correcting another injustice, saying that the State of Utah, which came very close—less than 900 citizens—from having another seat in the Congress in the House as a result of the 2000 census also gets a seat. So one for the District of Columbia, one for Utah.

The situation is this: The residents of the Capital City of the greatest democracy in the world do not have voting representation in Congress. And yet, they have to pay the taxes we adopt—this is taxation without representation—their budget uniquely has to be approved by the Congress, and their sons and daughters today are serving, and I add dying in disproportionate numbers, in Iraq and Afghanistan in the war on terrorism, and yet they do not have a voting representative in Congress to pass judgment on appropriations and other matters related to that war.

It is time to end the injustice, to end the national embarrassment that the citizens of this great Capital City do not have voting representation in Congress.

I ask all my colleagues to vote for cloture. Do not let a filibuster kill a voting rights act, as used to happen too often around here.

I have been honored to join as a cosponsor of this measure my dear friend, a great Senator, Senator ORRIN HATCH of Utah.

I yield the remaining time we have to Senator HATCH.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we have had a lot of people talking about, oh, let's not do this because it is unconstitutional. I want everybody to know there are conservative and liberal advocates on both sides of this issue with regard to the District of Columbia and, I might add, I think most people will know Utah was not treated fairly after the last census. Naturally, Senator BENNETT and I are for adding a seat in Utah.

Let's go back to that point. There are good people on both sides of this issue, Democrats and Republicans on each side. There are decent arguments on each side of this issue, although I think our side has been given short shrift by some. And those who are so sure this is unconstitutional, that which the distinguished Senator from Connecticut, Mr. LIEBERMAN, and I have been advocating, then why do they fear the expedited provision in this bill that will get us to the Supreme Court of the United States of America in what would be a very appropriate decision on who is right and who is wrong in this matter?

We all know the argument that we should do this as a constitutional amendment is not a valid argument. It is a good argument, but the fact is it will never pass that way. There are 600,000 people in the District of Columbia, never contemplated by the Founders of this country to be without the right to vote. They are the only people in this country who do not have a right to vote for their own representative in the House of Representatives. This bill would remedy that situation.

Those who argue it would be a presage to getting two Senators don't know the people in America or in this body. The fact is that Senators are elected by States with equal rights of suffrage. This representative, should this bill pass both Houses of Congress, would represent 600,000 people as the people's representative in the House of Representatives, which is what that is supposed to be.

I might add, Supreme Court decision after Supreme Court decision has said the Congress has plenary power in this area, unique power in this area. It says Congress has authority over the District of Columbia. If Congress wants to give the District of Columbia a representative, Congress has the power to do so, and I believe the Supreme Court would uphold it. I do not believe the Supreme Court would uphold an attempt to try and get two Senators for something that is clearly not a State requiring equal rights of suffrage.

I compliment my good friend from Connecticut, Senator LIEBERMAN, for the hard battle he waged and for those in the House who worked so hard on this issue. I hope we can at least debate this matter. All we are doing today is deciding whether we are even going to allow a debate to occur. My gosh, when has the Senate been afraid to debate a

constitutional issue as important as this one? This is an important issue. We are prepared to debate. We are prepared to see what happens.

We know if it passes, it is going to have expedited review by the Supreme Court. We are prepared to accept whatever the Supreme Court decides to do, and those who say this is unconstitutional, per se, should not be afraid then. I am willing to go to the Supreme Court, and I will abide by whatever the Supreme Court says. I believe the Supreme Court would uphold this legislation because there are 600,000 people without a right to vote for their own representative.

I used to be opposed to this issue. The more I studied it, the more I agreed with the conservative and liberal constitutional proponents and the more I have become an advocate for it, and I am going to continue to do so. I hope we can at least debate this matter and then, hopefully, get it out of this body and go to the Supreme Court and have them finally decide what should be done.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

Ms. COLLINS. Mr. President. I rise to speak in support of S. 1257, the District of Columbia House Voting Rights Act of 2007. It is a measure introduced by Senator LIEBERMAN and Senator HATCH and favorably reported by the Committee on Homeland Security and Governmental Affairs.

After carefully considering the constitutional issues, I have come to believe, on balance, that S. 1257 is a legitimate mechanism for providing voting representation in the U.S. House of Representatives for the 600,000 Americans who live in the District of Columbia—citizens who serve in the Armed Forces, pay Federal taxes, participate in Federal programs, and support a local government overseen by Congress—yet who cannot choose a representative with voting rights for the House that meets in their midst.

S. 1257 would also correct an inequity affecting the State of Utah. That State fell just short of qualifying for an additional House seat in the last apportionment—a margin that likely would have disappeared had the census counted the thousands of Mormons who were out of State performing their religious duty as missionaries.

As the Senate considers this legislation, much hinges on our view of the powers assigned, and the rights protected, by our Constitution. Those

powers and rights were discussed at length in the May 15 hearing that our committee conducted on this bill.

We heard vigorous debate from legal experts on whether the enclave clause of the Constitution enables Congress to provide voting representation in the House for the District of Columbia—as a corollary of its exclusive power of legislation in Federal enclaves, including the District. We also heard an impassioned argument that the bill would pass constitutional muster purely on its merits as an equal-representation measure consistent with court rulings in civil rights cases.

I recognize that other lawmakers, and some constitutional scholars, have expressed sincere doubts about this measure. For those who have such concerns, the bill now offers a powerful safeguard. During our June markup, the committee adopted my amendment providing for expedited judicial review of this legislation in the event of a legal challenge. Thus, the new law's legitimacy could be determined promptly by our Federal courts.

My colleagues on the committee also adopted an amendment that I proposed concerning the scope and implications of the bill. The text now carries an explicit statement that the District of Columbia shall not be considered a State for purposes of representation in the Senate. This is an important distinction. Our Constitution links House representation to population, but it links Senate representation to statehood. The residents of the District of Columbia are Americans entitled to House representation, but they are not residents of an entity admitted to the Union as a State. The language added by the committee simply clarifies that the bill does not contemplate or provide support for a legislative grant of Senate representation.

The District of Columbia House Voting Rights Act of 2007 is a carefully crafted measure that provides for speedy review of any legal challenge. The bill's 21 sponsors and cosponsors span the liberal-to-conservative spectrum and includes two independent Senators, as well as Republicans and Democrats—eloquent testimony to the fact that this is not a partisan measure.

I urge my colleagues to support S. 1257, a simple matter of fundamental fairness for American citizens.

Mr. President, I wish to make a final point and say again that there are legitimate arguments about the constitutionality of the measure that is before us, and that is why, when it was before the Homeland Security Committee, I offered an amendment which is incorporated into the bill to allow for expedited judicial review of its constitutionality. I suggest to my colleagues that we should proceed with this measure. If, in fact, it fails on constitutional grounds, that is up to the courts. But today we can stand for an important principle of providing a vote to the residents of the District of Columbia.

I hope my colleagues will allow this bill to go forward, and I urge their support of this measure.

Mr. CARDIN. Mr. President, I rise in strong support of S. 1257, the District of Columbia House Voting Rights Act. This bill would provide the 580,000 residents of our Nation's Capital the voting representation in the House of Representatives that is so long overdue. It would also give the State of Utah a temporary at-large seat in the House through the next reapportionment.

Today's vote presents us the opportunity to grant District of Columbia residents the voice in "the people's House" that other Americans possess. It is time to remember the cry of our Founders that "taxation without representation is tyranny" and end the discriminatory treatment of our Capital City's residents.

District of Columbia citizens pay Federal taxes, and they deserve their full say in determining the direction of our country. They should have as much influence on the House and Senate floors as any other American over the policies that shape this Nation: our Tax Code, our involvement in Iraq and Afghanistan, and our laws affecting Social Security, health care, and childcare.

The right to representation is a basic civil right, and this is no less than a moral issue. Since coming to Congress, I have supported full voting representation for the citizens of the District of Columbia that would comprise one voting member of the House of Representatives and two Senators. The authors of this bill have, after much deliberation, crafted a compromise that they believe can pass both Chambers and be sent to President Bush for his signature. I will support that compromise with the hope that one day we will be able to enact legislation providing full representation to the District.

Mr. DODD. Mr. President, today we will vote on whether or not to take up one of the most important pieces of civil rights and voting rights legislation the Senate will consider in this Congress: the DC House Voting Rights Act of 2007. After months of careful consideration by the Committee on Homeland Security and Governmental Affairs, floor action on this bill has been blocked by a filibuster. We will soon see if there are sufficient votes to break that filibuster and enable it to move forward. We are in this procedural position because some of my Republican colleagues have persistently refused to even allow the Senate to take up and debate this measure, insisting on throwing up procedural roadblocks all along the way. I urge my colleagues to vote to bring this bill to the floor, and if that effort succeeds, to support its adoption.

There is nothing more fundamental to the vitality and endurance of a democracy of the people, by the people, and for the people than the people's right to vote. In the words of Thomas Paine: "The right of voting for rep-

resentatives is the primary right by which other rights are protected." It is, in fact, the right on which all others in our democracy depend. The Constitution guarantees it, and the U.S. Supreme Court has repeatedly underscored that it is one of our most precious and fundamental rights as citizens.

Although not all Americans were entitled to vote in the early days of the Republic, virtually all legal restrictions on the franchise have since been eliminated, including those based on race, sex, wealth, property ownership, and marital status. Americans living in the Nation's Capital also deserve to have voting representation in the body that makes their laws, taxes them, and can call them to war.

Even with most explicit barriers to voting removed, we still have a way to go before we get to the point where all Americans are able to participate without obstacle in our elections, and with confidence in the voting systems they use. In the 2000 Presidential election, 51.2 percent of the eligible American electorate voted. And although in the 2004 Presidential election voting participation reached its highest level since 1968, only 60.7 percent of eligible Americans voted. That dropped back down, in the 2006 off-year elections, to just over 40 percent. We should do everything we can to strengthen voter registration efforts and to move the election reform process forward in this Congress, and at the same time to extend voting representation to the nearly 600,000 people—hard-working, tax-paying U.S. citizens who fight for our country and serve on juries and fulfill their other civic duties—who live within the borders of the District of Columbia.

I know that some opponents argue that the reasons the Founders made the Nation's Capital a separate district, rather than locate it within a State, remain sound, and therefore we should not tinker with their work, even at the cost of continued disenfranchisement of DC's citizens. That argument ignores the fundamental commitment we all must have to extending the franchise to all Americans. And it ignores the fact that article I of the Constitution explicitly gives Congress legislative authority over the District "in all cases whatsoever." The courts have over time described this power as "extraordinary and plenary" and "full and unlimited," and decades of legislative and judicial precedents make clear that the simple word "states" in article I (which provides that the House of Representatives "shall be composed of members chosen . . . by the people of the several states"), does not trump Congress's legislative authority to grant representation in the House to citizens of the District.

I know that Senator HATCH, LIEBERMAN, and others have already thoroughly covered this important legal ground, so I will not belabor the history. But when even conservative legal scholars—from Judges Ken

Starr and Patricia Wald to former Assistant Attorney General Viet Dinh—have done exhaustive legal analyses which outline the positive case for Congress ceding representational rights to citizens of the District, you know there is a strong case to be made. In any event, it is clear to me that these important constitutional questions should ultimately be resolved by the U.S. Supreme Court, and enactment of this bill would enable us to do just that. If opponents of the bill are so certain of their constitutional arguments, they should, it seems to me, allow those arguments to be tested in the full light of day, in the courts, and resolved once and for all. The bill provides for expedited consideration of appropriate court challenges. If it were to be enacted and then struck down because of constitutional infirmities, it would then be clear that a constitutional amendment is the only viable alternative left to DC citizens.

This is the latest in a series of proposals to extend full rights of representation to voters in the District. In 1978, with overwhelming bipartisan support, both Chambers of Congress passed the DC voting rights constitutional amendment, which would have given District residents voting representation in the House and the Senate, by two-thirds majority in each Chamber. The amendment required 38 States to ratify it, but it fell short. In 1993, the House voted to give partial voting representation to the DC delegate in the “Committee of the Whole” of the House, unless her vote actually determined the outcome, in which case it would not be counted. That is obviously no real voting “right” at all, if it can be taken away when it really counts.

There have been many differing proposals over the years to extend the right to vote to DC citizens, from constitutional amendments to statehood legislation to retrocession proposals. Since many Americans would be shocked to learn that something as basic as voting representation is now withheld from certain of our citizens, and it is coming in a particular historical context in which Utah is poised to gain an additional House seat due to its growing population, let me describe briefly what this bill would actually do.

First, it would create two new permanent seats in the House of Representatives, one for the District of Columbia and the other for Utah. An election for the seat in DC would be held in 2008 and the new representative would be sworn in for the 111th Congress. The bill explicitly states that DC can only be considered one district and receive only one seat in all future censuses.

It also repeals the District of Columbia delegate and other related language once a full voting representative is sworn into the 111th Congress. Finally, it would allow the State of Utah to create a Fourth District, not an at-large seat, using census data from 2000. The election for that seat would be held in

2008. This seat would be guaranteed to Utah for the 111th Congress and the 112th Congress until another census is done and new districts are made in 2012. It also explicitly says that the District should not be considered a State for the purpose of representation in the Senate; that question is left for another day.

Mr. President, as my colleague Senator HATCH has observed, there are really two fundamental questions here for the Senate to consider. The first is the constitutional question about whether Congress may enact legislation to address this issue. The second is an essentially political question about whether we should enact such legislation. I have briefly addressed the first. On the second, I think there really should not be much of a debate. Citizens of the District, a majority of them African-Americans, who fulfill all of the duties of citizenship, ought to have the right to vote and be represented in Congress as decisions are made about their taxes, about war and peace, or about any of the myriad other questions that Congress faces every day.

This is not a perfect bill. There are provisions of it that some oppose, and that I might have drawn differently. But it is an exquisitely balanced compromise, and I believe it deserves our support. I commend Chairman LIEBERMAN and Ranking Minority Member COLLINS for developing the bill, and I congratulate the majority leader for bringing it to the floor today. We know it enjoys the support of a large majority of Americans—over 80 percent in national polls support the proposition that DC residents should be represented in Congress. I hope it will garner the broad support in the Senate it deserves. I urge my colleagues on both sides of the aisle to vote aye to enable this measure to come to the floor, and to support it when it does.

Mr. KENNEDY. Mr. President, today’s debate involves one of the most important issues in our democracy. Dr. Martin Luther King called the right to vote “civil right number one.” Yet hundreds of thousands of Americans who live in the Nation’s Capital have been denied an equal voice in our democracy. Citizens in the District of Columbia live in the very shadow of the Capitol Building, but they have no representative who can vote their interests within these halls. It is long past time for us to finally correct this basic wrong.

I commend Senators LIEBERMAN, HATCH, and BENNETT for their strong leadership on this legislation.

Since the Revolutionary War, “No taxation without representation” has been a fundamental American principle. It is a famous phrase in our history. James Otis said it first in a historic speech in Massachusetts in 1763, and it was so inspiring that John Adams later said, “Then and there, the child ‘independence’ was born.”

Yet more than two centuries later, citizens who live in the Nation’s Cap-

ital still bear the unfair burden of taxation without representation. The more than half a million District of Columbia residents pay significant Federal taxes each year. In fact, DC residents have the second-highest per capita tax burden in the Nation. Yet they have no say in how Federal taxes are spent, and they have no role in writing the Nation’s tax laws.

Residents of the District have fought and died in every war to defend American interests. Two hundred thirty seven DC residents died in the Vietnam war. Today, while we debate whether DC citizens deserve a vote in Congress, many brave Americans who live in the District are fighting for voting rights in Iraq. Since the beginning of the current wars in Iraq and Afghanistan, 2813 DC residents—2110 members of the Active Duty military and 703 members of the Reserve Forces—have been deployed in Iraq and Afghanistan. In the course of these conflicts, 28 DC residents have been wounded or killed.

Citizens of the District of Columbia have no voice when Congress considers whether to go to war. The brave soldiers from the Nation’s Capital have no representation in Congress when the votes are counted on funding levels for our troops and other issues relating to the war. When Congress debates assistance to war veterans or considers how to improve conditions at Walter Reed Hospital, the patriotic veterans who live in this city have no vote. It is unconscionable.

If we are for democracy in Iraq and Afghanistan, we should certainly be for democracy in the District of Columbia as well.

I have long been a strong supporter of DC representation in Congress. In 1978, I worked with Walter Fauntroy and many others on a constitutional amendment to correct this basic injustice. We finally passed the constitutional amendment in Congress, but we weren’t able to get it ratified by a sufficient number of States to take effect. Because we weren’t successful then, the issue remains just as urgent today.

Fortunately, a constitutional amendment isn’t the only option. The Constitution’s District clause provides another, legal means for providing citizens of the District of Columbia a vote in Congress. As respected constitutional scholars have made clear, article I, section 8 of the Constitution gives Congress the authority “to exercise exclusive Legislation, in all Cases whatsoever, over such District” of Columbia. The Supreme Court has ruled that Congress’s exclusive authority over the District of Columbia is broad and “national in the highest sense.”

Some have questioned the constitutionality of this approach. Although I supported a constitutional amendment in the past, I disagree that a constitutional amendment is the only valid option. Nothing in the Constitution explicitly denies residents of this city a

voice in Congress. Judges Patricia Wald and Kenneth Starr, both of whom served on the respected U.S. Court of Appeals for the DC Circuit, have studied this approach to giving the District a vote in the House of Representatives. Both have concluded that it is constitutional. As they and others have noted, the Supreme Court has recognized that Congress has the power to treat District of Columbia citizens as citizens of a State in other contexts. For instance, the District is treated as a State for purposes of diversity jurisdiction in Federal courts, although article III, section 2 of the Constitution provides for diversity jurisdiction in suits “between citizens of different States.”

It is impossible to believe that the Founding Fathers, having just finished a war to ensure democratic representation in America, would then insist on denying that representation to citizens living in the capital of their new Nation. Granting the District a vote in Congress is consistent with the spirit, as well as the letter, of our Constitution.

Even if you disagree about the bill’s constitutionality, we should not filibuster this important measure. Surely even my colleagues who have a different view of the constitutionality can agree that this issue is important enough to deserve an up-or-down vote. The Senate’s filibuster of the landmark Voting Rights Act of 1965 was one of its darkest days. We should not repeat that mistake now.

This is not a Republican or a Democratic issue. When we passed the constitutional amendment in 1978, we had strong support from Republicans like Senators Goldwater, Dole, and Thurmond, in addition to Democrats. Today, the bill has strong bipartisan support in both the House and Senate. That is because this issue is so obviously an issue of simple justice.

The Senate Judiciary Committee recently held a hearing to celebrate the 50th anniversary of the Civil Rights Act of 1957. We heard moving testimony in favor of this bill from Congressman JOHN LEWIS, our distinguished colleague in the House of Representatives and a leader in the continuing struggle for equal voting rights. At the age of only 23, Congressman LEWIS headed the Student Non-violent Coordinating Committee and helped organize a march on Washington. He and others were brutally assaulted during the fateful voting rights march at the Edmund Pettis Bridge, but their sacrifices helped inspire the progress that was to come.

Congressman LEWIS reminded us of the sacrifices of those who gave their lives for equal voting rights in this country, and called on us to pass the DC Voting Rights Act. He reminded us of our obligation to give the District a vote in Congress.

I urge my colleagues to vote for closure on this important bill and then vote for final passage of the bill so that

we can finally correct this historic wrong and to do it on our watch.

Mrs. FEINSTEIN. Mr. President, S. 1257, the District of Columbia House Voting Rights Act of 2007, is an important and consequential bill.

The bill before us would increase the 435-seat House of Representatives to 437 seats, by providing one seat for a voting member in DC, which is predominately Democratic, and one additional seat for Utah, which is predominately Republican. And it does it in a way that doesn’t give advantage to one political party over the other.

The time has come to give the District a voice and a vote in the House of Representatives.

I encourage my colleagues to support this legislation.

The legislation is sponsored by Senator JOSEPH LIEBERMAN, chairman of the Homeland Security and Governmental Affairs Committee; Senator ORRIN HATCH; and my distinguished ranking member on the Rules Committee, Senator ROBERT BENNETT. I am a cosponsor this legislation.

The District of Columbia occupies an interesting and unique place in the United States:

It covers just 61.4 square miles, sandwiched between Virginia and Maryland: Yet with more than 580,000 residents, the population of the District surpasses that of the entire State of Wyoming. The District of Columbia is the seat of American government. The U.S. Congress determines the laws for the District; the Federal Government impacts the District’s transportation system, health system, and police function. DC residents pay the second highest per capita Federal income taxes in the country. And District residents have sacrificed their lives defending our Nation. During World War I, World War II, Vietnam, the Korean war, and today in Iraq, they have fought for our democracy. Despite all this, DC residents have no vote in how the Federal Government operates.

“No taxation without representation,” the colonists told King George in the late 1700s. We cannot allow this lack of representation to continue during the 21st century.

Today, the District of Columbia has a nonvoting representative in Congress—Representative ELEANOR HOLMES NORTON. She has been vocal in representing the interests of the residents of DC, but she is unable to cast a vote on the House floor to ensure that voice is heard. This makes little sense.

We now have an opportunity to change this and to strike the right balance while doing it. The bill before us would add two seats to the House of Representatives, one for the District of Columbia and one for Utah.

Utah was next in line for a fourth congressional district representation in the House, according to 2000 population census data. At that time, Utah was only 856 residents away from becoming eligible for an additional seat.

So this legislation strikes the appropriate balance by allowing additional

representation for both DC and Utah without disadvantaging either national political party.

In the last 200 years, Congress has not granted House representation to the District of Columbia by statute. Whether such a Federal law is constitutional has never been before the courts. As a result, critics of the legislation have argued that a bill providing for a vote for the District representative is unconstitutional. However, a bipartisan group of academics, judges, and lawyers argue that Congress has the authority and historical precedents to enact Federal law, and I agree with their view.

The Constitution vests in Congress broad power to regulate national elections and plenary authority over DC under the District clause, article I, section 8, clause 17. This clause permits Congress wide discretion to grant rights to the District of Columbia, including for the purposes of congressional representation.

From 1790 to 1800, Congress allowed District residents to vote in congressional elections in Virginia and Maryland. This was allowed not because they were residents of those States but because Congress acted within its District clause authority.

Constitutional scholars from the right and the left, the most notable conservatives being Judge Kenneth Star and Professor Viet Dinh, believe this legislation is constitutional. These scholars reference the sweeping authority of the District clause, which provides that “The Congress shall have power . . . to exercise exclusive legislation in all cases whatsoever” over the District of Columbia.

In addition to believing that Congress can pass this legislation, I believe there are strong reasons why it should pass this legislation.

DC is affected, perhaps more directly than any other U.S. jurisdiction, by the actions of Congress.

Citizens of the District, rich and poor, work in this town and work in the industries of law, policy, business, tourism, academia and medicine. They pay high taxes; they face the challenges of living in one of the major cities in the United States.

This legislation would provide DC with permanent voting rights for the first time in over 200 years.

From the Boston Tea Party and “no taxation without representation” to the suffragettes and struggles over voting rights in the 1960s, the goal of American society has been to bring a voice to citizens who were voiceless.

Voting is the voice of democracy.

This political limbo that Congress has placed on the District has run its course.

It is time to give the District a voice and a vote in the House of Representatives.

This important step can not only right this wrong but can do it without causing partisan rancor or disadvantage to any party. What is at stake

here is nothing less than a fundamental fairness voting issue.

This bill is consistent with the historical precedents of Congress's role in protecting and preserving the right to vote, regardless of color or class, age or gender, disability or original language, party or precinct, and geography domestic or foreign.

It is the right thing to do, and the 21st century is the right times to do it.

I urge my colleagues to join me in taking up and passing this bill on a majority vote in the full Senate.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. BYRD. Mr. President, in 1978, as the majority leader of the United States Senate, I strongly supported and voted for H.J. Res. 554, a joint resolution that proposed amending the Constitution to provide for representation of the District of Columbia in Congress. Unfortunately, over the next 7 years, that resolution, which had passed the Senate by a vote of 67 to 32, failed to obtain the approval of the 38 States it needed for ratification under Article V of the Constitution.

Today, the Senate seeks to obtain the same commendable goal of granting voting rights to representatives of the District of Columbia. The Senate seeks to do so by passing S. 1257. However, Art. 1, Sec. 2 of the Constitution states that the House of Representatives shall be composed of Members chosen by the people of the several States. The Constitution does not refer to the people of the District of Columbia in this context. While I recognize that others believe that Art. 1, Sec. 8 of the Constitution authorizes the Congress to "exercise exclusive legislation" over the District, including legislation that would grant the District's representatives voting rights, the historical intent of the Founders on this point is unclear.

I oppose S. 1257, because I doubt that our Nation's Founding Fathers ever intended that the Congress should be able to change the text of the Constitution by passing a simple bill. The ability to amend the Constitution in only two ways was provided with particularity in Article V of the Constitution for a reason. If we wish to grant representatives of the citizens of the District of Columbia full voting rights, let us do so, once again, the proper way: by passing a resolution to amend the Constitution consistent with its own terms.

Now is certainly not the time for us to make it easier, rather than more difficult, to alter the text of the Constitution. We serve with a President who already believes that he can ignore the rule of law by issuing a simple directive, a signing statement, or an order that undermines the delicately balanced separation of powers, which the Framers so painstakingly included in the Constitution. A series of Federal judges is now confirming what many of us have known from the start: that this

Administration believes it can write 200 years of civil liberties out of the Constitution with a simple stroke of a pen.

We all seek the same laudable goal: to provide full Congressional representation and voting rights for the citizens of the District of Columbia. But let us accomplish that goal in the way the way the Founders intended—by amending the Constitution. Let us support a resolution to amend the Constitution that would enhance, rather than undermine, the rights of the 600,000 residents of the District of Columbia who seek a stronger voice in their government.●

Mrs. CLINTON. Mr. President, Our Nation was born out of a struggle against taxation without representation. Yet even as we endeavor to promote democracy around the world, it is alarming that we deny our own American citizens who live in the District of Columbia the right to representation in Congress. The nearly 600,000 residents of the District of Columbia have been denied voting representation in Congress for over 200 years. But this is not just an injustice perpetrated on DC residents. Their disenfranchisement tarnishes our democracy as a whole. The right to be represented in the national legislature is fundamental to our core American values, and for that reason, I am proud to cosponsor the District of Columbia House Voting Rights Act of 2007.

There is no principled basis for the disenfranchisement of the District's residents. After the Nation's Capital was founded, citizens who lived in the District were represented by congressmen from Maryland or Virginia. They were able to make themselves heard in Congress. It was only in 1801 that Congress chose to strip the District of voting rights. As a result of this decision, for more than 200 years, the District's residents have been taxed like other Americans but have been denied a vote in the Nation's legislature. It is Congress that took away the District's representation. After two centuries, it is time for us to fix that mistake. The District's residents deserve a voice in how the Nation is governed.

The people of this city are proud Americans. They pay their taxes. They serve with honor and distinction in our military. But yet we deny them the ability to fully participate in our democracy. The legislation before us goes a long way towards righting this wrong by giving the residents of the District representation in Congress that is long overdue.

Mr. LIEBERMAN. Mr. President, I rise to express my strong support for the legislation before us today to ensure that citizens of the District of Columbia and the State of Utah are properly represented in the U.S. House of Representatives.

In the 1964 *Wesberry v. Sanders* case, Supreme Court Justice Hugo L. Black wrote that "no right is more precious in a free country than that of having a

voice in the election of those who make the laws under which, as good citizens, we must live." The bill we are considering today—S. 1257—serves this purpose. It would, for the first time, give the citizens of the District of Columbia full voting representation in the House of Representatives, while adding a fourth Congressional seat for the state of Utah, based on updated population statistics from the 2000 Census.

I want to thank my good friends Senators HATCH and BENNETT for greatly increasing the possibility of success this year with their support for this effort. Earlier in the year, the three of us introduced S. 1257 as a compromise that would move us beyond the partisan stalemates of the past that have denied the citizens of DC their most precious right.

I must also thank DC Delegate ELEANOR HOLMES NORTON and Congressman TOM DAVIS, whose persistence and bipartisan cooperation has brought us to where we are today. It was they who forged the original compromise that passed the House in April by a vote of 241-177 and is now before us here in the Senate.

Notwithstanding the remarkable service of Congresswoman NORTON, the citizens of the District of Columbia deserve more than a non-voting delegate in the House. They deserve a representative who can vote not only in committee, as Delegate NORTON now does, but also on the House floor, which she is barred from doing.

The fact that District residents have been without voting representation in Congress since the District was formed more than 200 years ago is not only a national embarrassment, it is a grave injustice and at complete odds with the democratic principles on which our great nation was founded. America is the only democracy in the world that denies the citizens of its capital city this most essential right.

And yet, the people of DC have been the direct target of terrorist attacks but they have no voting power over how the federal government provides homeland security. They have given their lives to protect our country in foreign wars—including the current one—but have no say in our foreign policy. They pay taxes, like every other American. In fact, they pay more: Per capita, District residents have the second-highest federal tax obligation in the country. Yet they have no voice in how high those taxes will be or how they will be spent.

The District is also the only jurisdiction in the country that must seek congressional approval—through the appropriations process—before spending locally-generated tax dollars. So when Congress fails to pass appropriations bills before the beginning of the new fiscal year, the District's budget is essentially frozen. And yet DC has no say in our federal appropriations process.

Giving the residents of DC voting representation in the House is not only

the right and just thing to do; it has popular support. A poll conducted by the Washington Post earlier this year found that 61 percent of the nation believes it is time to end centuries of bias against the District by giving its citizens voting representation in Congress.

It helps to take a look back in history to locate the original source of this inequity. In 1800, when the nation's capital was established as the District of Columbia, an apparent oversight left the area's residents without Congressional representation. Maryland and Virginia ceded land for the capital in 1788 and 1789 respectively, but it took another 11 years for Congress to establish the District. In the interim, residents continued to vote either in Maryland or Virginia, but Congress withdrew those voting rights once the District was established. Apparently by omission, Congress neglected to establish new voting rights for the citizens of the new District.

Whatever the reason for this oversight, it has no relevance to reality or national principles today. To have your voice heard by your government is central to a functioning democracy and fundamental to a free society.

The Homeland Security and Governmental Affairs Committee held a hearing on the bill May 15, during which we heard compelling testimony on the need for and constitutionality of S. 1257 from legal scholars, civil rights leaders, and fellow members of Congress. The bill was reported to the full Senate on June 13 by a bipartisan vote of 9-1.

The primary argument against the bill that we heard at our hearing was the question of constitutionality. Opponents cite Article I, Section 2, of the Constitution which states that the House "shall be composed of members chosen . . . by the people of the several states." But those words were not written in a vacuum. Just six sections later, the framers of the Constitution gave Congress authority to "exercise exclusive legislation in all cases whatsoever" regarding the District. Numerous legal scholars, including Judge Ken Starr and former Assistant Attorney General Viet Dinh, both of whom have testified before Congress on this issue—said this broad authority is sufficient to give District residents full House representation.

Congress has repeatedly used this authority to treat the District of Columbia as a state. In 1940, the Judiciary Act of 1789 was revised to broaden the definition of diversity jurisdiction, which refers to the authority of the federal courts to hear cases where the parties are from different states, to include the District of Columbia. This revision upheld by the courts when challenged.

The courts have also found that Congress has the authority to impose federal taxes on the District; to provide a jury trial to residents of the District; and to include the District in interstate commerce regulation. These are

rights and responsibilities granted to states in the Constitution, yet the District Clause has allowed Congress to apply them to DC.

We should also remember that Congress has granted voting rights to Americans abroad in their last state of residence regardless of whether they are citizens of that state, pay taxes in that state, or have any intent to return to that state. Clearly, the courts have supported broader interpretations of Article I, Section 2 of the Constitution.

If, after listening to these arguments, you still doubt the constitutionality of this legislation, I hope I can persuade you to support it because it is the right thing to do, and we can let the courts resolve the constitutional dispute at a later date, once and for all. S. 1257 requires expedited judicial consideration of any appropriate court challenge, so any question of constitutional interpretation will be answered promptly.

Finally, allow me to reassure skeptics that in no way does this bill open the door to granting the District voting representation in the Senate, as some have contended. In fact, language was added in our Committee markup explicitly stating that DC, and I quote here, "shall not be considered a state for purposes of representation in the United States Senate." End of quote. It can't get any clearer than that.

The vote we are about to cast will decide whether the Senate should proceed to the bill. It is a vote on whether this legislation is worthy of Senate consideration. No matter where you stand on the merits of this bill, surely you must agree that a bill on voting representation and equal rights deserves consideration by the United States Senate. The Senate has not filibustered a civil rights bill since the summer of 1964 when it spent 57 days including six Saturdays on the Civil Rights Act of 1964. Let us together assure the American public that the days of filibustering voting rights bills are over.

The House has acted. It is now time for the Senate to do the same. The legislation introduced in both the House and the Senate is an expression of fairness and bipartisanship, an example of what we can do when we work across party lines as the good people of this nation have so often asked us to do.

Members from both parties and both houses have finally come together to find a solution to break the stalemates of the past that have denied DC residents equal representation in the Congress of the United States. Now is the time to give the residents of the District what they so richly deserve and that is the same civic entitlement that every other federal tax-paying American citizen enjoys, no matter where he or she lives. By giving the citizens of the District of Columbia a genuine vote in the House, we will ensure not only that their voices will finally be fully heard. We will be following the imperatives of our national democratic values.

The PRESIDING OFFICER. Who seeks time?

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 257, S. 1257, a bill to provide the District of Columbia a voting seat, and for other purposes.

Harry Reid, Joe Lieberman, Patrick Leahy, Russell D. Feingold, Benjamin L. Cardin, Robert P. Casey, Jr., Bernard Sanders, B.A. Mikulski, Byron L. Dorgan, Patty Murray, Dianne Feinstein, Mary Landrieu, Kent Conrad, Robert Menendez, Mark Pryor, Ken Salazar, Jim Webb.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1257, a bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—57

Akaka	Feinstein	Murray
Bayh	Harkin	Nelson (FL)
Bennett	Hatch	Nelson (NE)
Biden	Inouye	Obama
Bingaman	Johnson	Pryor
Boxer	Kennedy	Reed
Brown	Kerry	Reid
Cantwell	Klobuchar	Rockefeller
Cardin	Kohl	Salazar
Carper	Landrieu	Sanders
Casey	Lautenberg	Schumer
Clinton	Leahy	Snowe
Coleman	Levin	Specter
Collins	Lieberman	Stabenow
Conrad	Lincoln	Tester
Dodd	Lugar	Voinovich
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Mikulski	Wyden

## NAYS—42

Alexander	Crapo	Lott
Allard	DeMint	Martinez
Barrasso	Dole	McCain
Baucus	Domenici	McConnell
Bond	Ensign	Murkowski
Brownback	Enzi	Roberts
Bunning	Graham	Sessions
Burr	Grassley	Shelby
Chambliss	Gregg	Smith
Coburn	Hagel	Stevens
Cochran	Hutchison	Sununu
Corker	Inhofe	Thune
Cornyn	Isakson	Vitter
Craig	Kyl	Warner

## NOT VOTING—1

Byrd

The PRESIDING OFFICER. On this vote, the yeas are 57 and the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. OBAMA. Mr. President, I rise today to speak about the DC voting rights bill that the Senate just voted on. I am disappointed that this measure failed to receive the necessary 60 votes in order for the bill to be considered.

This is a bill that seeks to protect the most fundamental right of citizens in our democracy the right to vote. Different generations in our Nation's history have struggled to gain and safeguard this universal right—from the 15th amendment, which extended the right to vote to newly freed slaves, to the 19th amendment, which guaranteed the right to women, and finally to the Voting Rights Act, which gave real substance to voting laws that had been previously abused. Yet, as we speak, this most basic right in a democracy is denied to the citizens of the District of Columbia.

Our brave civil rights leaders sacrificed too much to ensure that every American has the right to vote for us to tolerate the disenfranchisement of the nearly 600,000 residents of the District of Columbia. Those who live in our Nation's Capital pay taxes like other Americans. They serve bravely in the Armed Forces to defend our country like other Americans. They are called to sit on Federal juries like other Americans. Yet they are not afforded a vote in Congress. Instead, they are granted a nonvoting Delegate who can sit in the House of Representatives and serve on committees but cannot cast a vote when legislation comes to the floor.

As a community organizer in Chicago and as a civil rights attorney, I learned that disenfranchisement can lead to disengagement from our political system. In many parts of DC, you can look down the street and see the dome of the U.S. Capitol. Yet so many of these streets couldn't be more disconnected from their Government.

If we are to take seriously our claim to a government of, by, and for the peo-

ple, Washington shouldn't be just the seat of our Government, but it also should reflect the core values and fundamental promise of our democracy. Denying the right to vote to citizens who are equally subject to the laws of this Nation undermines a central premise of our representative Government. The right to vote belongs to every American, regardless of race, creed, gender, or geography.

For these reasons, I fully support this important legislation. Although today's vote is a disappointment, I will continue to work with Mayor Fenty, Congresswoman NORTON, and the sponsors of this bill until the residents of the District of Columbia achieve full representation in Congress.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 1585, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1585) to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Pending:

Nelson (NE) (for Levin) amendment No. 2011, in the nature of a substitute.

Levin (for Specter/Leahy) amendment No. 2022, to restore habeas corpus for those detained by the United States.

Warner (for Graham/Kyl) amendment No. 2064, to strike section 1023, relating to the granting of civil rights to terror suspects.

Mr. SMITH. Madam President, I ask unanimous consent to call up my amendment No. 2067.

Mr. MCCAIN. Madam President, reserving the right to object, I will object. I say to my friend from Oregon, I understand this is the hate crimes bill. I appreciate his passion and commitment on this issue. There is no one more respected in the Senate who has had the situation of my distinguished friend from Oregon. But we are on the Defense bill. We have to move forward with the amendments. We have to get it done. We have both Iraq as well as the impending 1st of October date staring us in the face. At this time I object to the request by the Senator from Oregon.

The PRESIDING OFFICER. Objection is heard.

Mr. SMITH. I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, we have had an informal discussion. I am sad that there is not an opportunity on this bill to bring up the hate crimes bill. I do hope there is a way, following this session, to bring up the hate crimes bill. It has broad support and deserves to be heard and, I hope, passed. I discussed with Senator MCCAIN the possibility that the Senator from Delaware would now be recognized. We agreed that he would at this time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 2335.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Madam President, I reserve the right to object.

Mr. BIDEN. Madam President, I will not call it up at the moment. I withdraw the request.

I do ask unanimous consent that Senators GRAHAM, CASEY, BROWN, and SANDERS be added as cosponsors to amendment No. 2335.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. I want to explain briefly what this amendment does. It adds \$23.6 billion to allow the Army to replace all of its up-armored HMMWVs with mine resistant ambush protected vehicles, the so-called MRAPs. It also adds a billion dollars to increase the cost of the 8,000 MRAPs we are trying to purchase today. In terms of the specifics of this amendment, the idea is simple. If we can prevent two-thirds or more of our casualties with a vehicle that is basically a modified and armored truck, we have to do all in our power to do it, in my view.

Last, it provides \$400 million for better protection against explosively formed penetrators or EFPs. These are those shaped-charges that hit our vehicles from the side and are increasingly deadly.

I want to be straight with my colleagues. This is a very expensive amendment. Twenty-five billion dollars is a lot of money. But compared to saving the lives and limbs of American soldiers and marines, it is cheap.

Our commanders in the field tell us that MRAPs will reduce casualties by 67 to 80 percent.

The lead commander on the ground in Iraq, LTG Ray Odierno, told us months ago that he wanted to replace every Army up-armored HMMWV in Iraq with an MRAP.

Instead of adjusting the requirement immediately, the Pentagon has taken its time to study this issue and just recently they have agreed that the general needs a little over half of what he asked for, 10,000 instead of approximately 18,000.

This makes no sense. Are we only supposed to care about the tactical advice of our commanders in the field when it is cheap?