Gerlach
Giffords
Gilchrest
Gillibrand
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (GA)
Johnson (IL)
Johnson, Sam
Jones (OH)
Jordan
Kagen
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (AK)

NOT VOTING—9

Cramer
Davis, Jo Ann
Deal (GA)
Johnson, E. B.
Jones (NC)
Kanjorski
Larson (CT)
Radanovich
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1213

So (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 1433, the District of Columbia House Voting Rights Act of 2007.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISTRICT OF COLUMBIA HOUSE VOTING RIGHTS ACT OF 2007

Mr. CONYERS. Madam Speaker, pursuant to House Resolution 260, I call up the bill (H.R. 1433) to provide for the treatment of the District of Columbia as a Congressional district for purposes of representation in the House of Representatives, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 260, the amendment printed in House Report 110–63 is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 1433

SECTION 1. SHORT TITLE.

This Act may be cited as the ''District of Columbia House Voting Rights Act of 2007''.

SEC. 3. TREATMENT OF DISTRICT OF COLUMBIA AS CONGRESSIONAL DISTRICT.

(a) REPRESENTATION IN HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Whereas the District of Columbia is drawn from the State of Maryland, notwithstanding any other provision of law, the District of Columbia shall be considered a Congressional district for purposes of representation in the House of Representatives.

(2) NO REPRESENTATION PROVIDED IN SENATE.—The District of Columbia shall not be considered a State for purposes of representation in the Senate.

(b) CONFORMING AMENDMENTS RELATING TO APPORTIONMENT OF MEMBERS OF HOUSE OF REPRESENTATIVES.—

(1) INCLUSION OF SINGLE DISTRICT OF COLUMBIA MEMBER IN REAPPORTIONMENT OF MEMBERS AMONG STATES.—Section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), is amended by adding at the end the following new subsection:

''(d) This section shall apply with respect to the District of Columbia in the same manner as this section applies to a State, except that the District of Columbia may not receive more than one Member under any reapportionment of Members.''.

(2) CLARIFICATION OF DETERMINATION OF NUMBER OF PRESIDENTIAL ELECTORS ON BASIS OF 23RD AMENDMENT.—Section 3 of title 3, United States Code, is amended by striking ''come into office;'' and inserting the following: ''come into office (subject to the twenty-third article of amendment to the Constitution of the United States in the case of the District of Columbia);''.

(c) CONFORMING AMENDMENTS REGARDING APPOINTMENTS TO SERVICE ACADEMIES.—

(1) UNITED STATES MILITARY ACADEMY.—Section 4342 of title 10, United States Code, is amended—

(A) in subsection (a), by striking paragraph (5); and

(B) in subsection (f), by striking ''the District of Columbia,''.

(2) UNITED STATES NAVAL ACADEMY.—Such title is amended—

(A) in section 6954(a), by striking paragraph (5); and

(B) in section 6958(b), by striking ''the District of Columbia,''.

(3) UNITED STATES AIR FORCE ACADEMY.—Section 9342 of title 10, United States Code, is amended—

(A) in subsection (a), by striking paragraph (5); and

(B) in subsection (f), by striking ''the District of Columbia,''.

(4) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office for the One Hundred Tenth Congress.

SEC. 4. INCREASE IN MEMBERSHIP OF HOUSE OF REPRESENTATIVES.

(a) PERMANENT INCREASE IN NUMBER OF MEMBERS.—Effective with respect to the One Hundred Tenth Congress and each succeeding Congress, the House of Representatives shall be composed of 437 Members, including any Members representing the District of Columbia pursuant to section 3(a).

(b) REAPPORTIONMENT OF MEMBERS RESULTING FROM INCREASE.—

(1) IN GENERAL.—Section 22(a) of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a(a)), is amended by striking ''the then existing number of Representatives'' and inserting ''the number of Representatives established with respect to the One Hundred Tenth Congress''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to the regular decennial census conducted for 2010 and each subsequent regular decennial census.

(c) SPECIAL RULES FOR PERIOD PRIOR TO 2012 REAPPORTIONMENT.—

(1) TRANSMITTAL OF REVISED STATEMENT OF APPORTIONMENT BY PRESIDENT.—Not later than 30 days after the date of the enactment of this Act, the President shall transmit to Congress a revised version of the most recent statement of apportionment submitted under section 22(a) of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a(a)), to take into account this Act and the amendments made by this Act.

(2) REPORT BY CLERK.—Not later than 15 calendar days after receiving the revised version of the statement of apportionment under paragraph (1), the Clerk of the House of Representatives, in accordance with section 22(b) of such Act (2 U.S.C. 2a(b)), shall send to the executive of each State a certificate of the number of Representatives to which such State is entitled under section 22 of such Act, and shall submit

a report to the Speaker of the House of Representatives identifying the State (other than the District of Columbia) which is entitled to one additional Representative pursuant to this section.

(3) REQUIREMENTS FOR ELECTION OF ADDITIONAL MEMBER.—During the One Hundred Tenth Congress, the One Hundred Eleventh Congress, and the One Hundred Twelfth Congress—

(A) notwithstanding the Act entitled ''An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting'', approved December 14, 1967 (2 U.S.C. 2c), the additional Representative to which the State identified by the Clerk of the House of Representatives in the report submitted under paragraph (2) is entitled shall be elected from the State at large; and

(B) the other Representatives to which such State is entitled shall be elected on the basis of the Congressional districts in effect in the State for the One Hundred Ninth Congress.

(d) ADJUSTMENT OF PERCENTAGE LIMITATION ON THE USE OF THE PRECEDING YEAR'S TAX.—

(1) IN GENERAL.—The table in clause (i) of section 6654(d)(1)(C) of the Internal Revenue Code of 1986 (relating to limitation on use of preceding year's tax) is amended by striking ''110'' and inserting ''110.003''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5. REPEAL OF OFFICE OF DISTRICT OF COLUMBIA DELEGATE.

(a) REPEAL OF OFFICE.—

(1) IN GENERAL.—Sections 202 and 204 of the District of Columbia Delegate Act (Public Law 91–405; sections 1–401 and 1–402, D.C. Official Code) are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office for the One Hundred Tenth Congress.

(b) CONFORMING AMENDMENTS TO DISTRICT OF COLUMBIA ELECTIONS CODE OF 1955.—The District of Columbia Elections Code of 1955 is amended as follows:

(1) In section 1 (sec. 1–1001.01, D.C. Official Code), by striking ''the Delegate to the House of Representatives,'' and inserting ''the Representative in the Congress,'' .

(2) In section 2 (sec. 1–1001.02, D.C. Official Code)—

(A) by striking paragraph (6); and

(B) in paragraph (13), by striking ''the Delegate to Congress for the District of Columbia,'' and inserting ''the Representative in the Congress,''.

(3) In section 8 (sec. 1–1001.08, D.C. Official Code)—

(A) in the heading, by striking ''Delegate'' and inserting ''Representative''; and

(B) by striking ''Delegate,'' each place it appears in subsections (h)(1)(A), (i)(1), and (j)(1) and inserting ''Representative in the Congress,''.

(4) In section 10 (sec. 1–1001.10, D.C. Official Code)—

(A) in subsection (a)(3)(A)—

(i) by striking ''or section 206(a) of the District of Columbia Delegate Act'', and

(ii) by striking ''the office of Delegate to the House of Representatives'' and inserting ''the office of Representative in the Congress'';

(B) in subsection (d)(1), by striking ''Delegate,'' each place it appears; and

(C) in subsection (d)(2)—

(i) by striking ''(A) In the event'' and all that follows through ''term of office,'' and inserting ''In the event that a vacancy occurs in the office of Representative in the Congress before May 1 of the last year of the Representative's term of office,'' and

(ii) by striking subparagraph (B).

(5) In section 11(a)(2) (sec. 1–1001.11(a)(2), D.C. Official Code), by striking ''Delegate to the House of Representatives,'' and inserting ''Representative in the Congress,''.

(6) In section 15(b) (sec. 1–1001.15(b), D.C. Official Code), by striking ''Delegate,'' and inserting ''Representative in the Congress,''.

(7) In section 17(a) (sec. 1–1001.17(a), D.C. Official Code), by striking ''the Delegate to the Congress from the District of Columbia'' and inserting ''the Representative in the Congress''.

SEC. 7. NONSEVERABILITY OF PROVISIONS.

If any provision of this Act, or any amendment made by this Act, is declared or held invalid or unenforceable, the remaining provisions of this Act and any amendment made by this Act shall be treated and deemed invalid and shall have no force or effect of law.

The SPEAKER pro tempore. Debate shall not exceed 1 hour and 20 minutes, with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Oversight and Government Reform.

The gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 30 minutes, and the gentlewoman from the District of Columbia (Ms. NORTON) and the gentleman from Virginia (Mr. TOM DAVIS) each will control 10 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. CONYERS. Madam Speaker, I yield myself as much time as I may consume.

This is an historic moment indeed. I am honored to lead the floor management of a bill that we have been waiting so long to debate and hopefully move forward from the House of Representatives.

This is an important moment in American history. We must now act to discontinue the disenfranchisement of citizens in the Nation's Capital. We must act to complete the important unfinished business of our democracy.

All of you here are all too familiar with the struggle for D.C. voting rights. I remember Chairman Emanuel Celler, chairman of the House Judiciary Committee, when the House gave the District a vote in 1967. I remember Delegate Walter Fauntroy's and Senator Ed Brooke's pursuit of the District's representation in 1978. I have now had the privilege of working with the distinguished gentlewoman, the Delegate from the District of Columbia, ELEANOR HOLMES NORTON, a tireless, relentless, brilliant advocate of the effort that brings us here today.

Right now we are attempting to resolve what could not be resolved before, through the bipartisan efforts of so many. Mr. DAVIS of Virginia, Mr. CANNON of Utah, Mr. MATHESON and Mr. BISHOP have gotten us this far today, but I would be remiss if I did not name the former chairman of the House Judiciary Committee, JIM SENSENBRENNER, who helped bring us so close to passage of this legislation in the last Congress. I thank all of you for the important work that has led us to this great and wonderful day.

Now, the bill before us today has a novel proposal, but it is one that we have seen before. We are now here today to finish the important work on this measure that we almost completed when we adjourned the last Congress. We are here today to finish the job.

As the only democracy in the world where citizens living in the capital city are denied their representation in the National Legislature, we come here to repair this obvious defect. Nearly 600,000 people who call the District of Columbia home, who pay taxes, who fight and die in the military, do not have a vote in the Congress. They do not have a vote in the Congress. That is what brings us here today. I am talking about people like one of its citizens, Andy Shallal, a local business owner and an Iraqi American.

Thousands of American soldiers, including District residents, have given their lives in fighting for democracy in Iraq. Because of their sacrifice, Andy can vote for the national legislature in Iraq but is denied a vote for his own Member of Congress in Washington, District of Columbia.

So District residents like Andy and all those who share the responsibilities of U.S. citizenship deserve voting representation in this Congress, and I believe that most in this body agree with me. I believe that H.R. 1433 is a sound policy response to this inequity. While some have raised questions and we have debated, we have had constitutional scholars from across the country join us in analyzing the way that we have put this measure together. I am totally and confidently satisfied that we have a bill that passes constitutional muster. We have a bill that can finally end the disenfranchisement of District residents.

The legislation relies obviously on Article I, section 8, clause 17, which provides Congress with the authority to give the District a vote. The Supreme Court has held that Congress's exclusive authority over the District is ''national in the highest sense.'' The D.C. Circuit Court has held that the Congress has ''extraordinary and plenary power'' over the District. The District of Columbia Court of Appeals has found the District Clause to be ''sweeping and inclusive in character.''

Distinguished conservatives, we emphasize that this is not a partisan measure. Thoughtful scholars like Viet Dinh, judges and scholars like Ken Starr, whom I have never cited or quoted before now, and our former colleague Jack Kemp, just to name a few, agree that the Congress has the power through simple legislation to give the District of Columbia a vote.

We have used the District Clause to treat the District like a State repeatedly: for diversity jurisdiction, for 11th amendment immunity, for alcohol regulation, for interstate transportation, for apprentice labor, for the collection

of State income taxes, the list goes on and on. Surely, we cannot say that we cannot give them, the District residents, a vote in the same way that we have handled so many other matters.

I am confident that we can pair the District of Columbia with Utah and give Utah an at-large seat. Article I, section 4 gives Congress ultimate authority over Federal elections. The one person, one vote principle will be left intact. No vote will be compromised or diluted. None of their vote will be lost, nor will it be expanded. Utah voters will be given an equal opportunity to elect an at-large Representative on a temporary basis and a District Representative.

This fight has been long, 200 years too long. We can debate this issue to no end, but at the end of the day, if District residents remain disenfranchised, we ought to be ashamed. We have a sound, bipartisan proposal before us, and I am happy to entertain the discussion on both sides of the aisle that will proceed at this time.

I want to thank those of our Republican colleagues in the House who have already seen fit to make it clear that they, too, will be joining with us to make this a bipartisan solution to an old problem. I am proud to think and hope that D.C. disenfranchisement will come to an end.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I oppose this legislation because it is clearly unconstitutional. While the bill may be well-intentioned, as Members of Congress, we swear an oath to support our Constitution. We cannot gloss over its deficiencies.

At the Judiciary Committee hearing on this bill, Professor Jonathan Turley, someone the majority consults frequently for his views, said, ''Permit me to be blunt, I consider this act to be the most premeditated unconstitutional act by Congress in decades.''

Supporters of this bill claim Congress owes the authority to enact this bill under a broad reading of the so-called District Clause in Article I, section 8. However, Article I, section 2 says, ''The House of Representatives shall be composed of Members chosen every second Year by the People of the several States.'' Since D.C. is not a State, it cannot have a voting Member in the House.

This was an issue that was clearly raised, debated and rejected by the Founding Fathers. Alexander Hamilton offered an amendment to the Constitution during the New York ratification convention that would have allowed Congress to provide the District with congressional representation, but his amendment was rejected by the convention on July 22, 1788.

More recently in 2000, a Federal district court here in D.C. spoke on the issue, stating, ''We conclude from our analysis of the text that the Constitution does not contemplate that the District may serve as a State for purposes of the apportionment of congressional representatives.''

The House Judiciary Committee has already spoken on this point as well in the 95th Congress. Under the leadership of Democratic Chairman Peter Rodino, the Judiciary Committee reported out a constitutional amendment to do what this bill purports to be able to do by statute. The report accompanying that constitutional amendment stated the following, ''If the citizens of the District are to have voting representation in the Congress, a constitutional amendment is essential; statutory action alone will not suffice.''

Congress passed that constitutional amendment in 1978, but it failed to get the approval of three-quarters of the States over a 7-year period. In fact, only 16 of the 38 States required for its ratification supported the amendment.

So what is being attempted by the legislation before us today is something long recognized as requiring a constitutional amendment that the vast majority of States have already failed to approve. Proponents of this legislation cite a 1949 Supreme Court case called Tidewater, but the nonpartisan Congressional Research Service issued a report analyzing that case. It concluded that ''at least six of the Justices who participated in what appears to be the most relevant Supreme Court case, National Mutual Insurance Co. of the District of Columbia v. Tidewater Transfer Co., authored opinions rejecting the proposition that Congress's power under the District Clause was sufficient to effectuate structural changes to the political structures of the Federal Government.

''Further, the remaining three judges, who found that Congress could grant diversity jurisdiction to District of Columbia citizens despite the lack of such jurisdiction in Article III, specifically limited their opinion to instances where there was no extension of anymore fundamental right,'' such as the right to vote for a Member of Congress.

□ 1230

The unconstitutional approach of this bill is completely unnecessary. Most of the District of Columbia, other than a few Federal buildings, could simply be returned to the State of Maryland. That process of retrocession is clearly allowed by the Constitution. It would grant representation to those in Washington D.C., by a simple majority vote, and they would then have representation in both the House and Senate, an improvement over this bill that limits representation only to the House.

Any discrepancies regarding the number of electorates granted to D.C. by the 23rd amendment could easily be corrected through a constitutional amendment once D.C. Members were represented in Congress through retrocession. Madam Speaker, even conceding for purposes of argument the proponents' interpretation of the vast breadth of the District clause, this bill unfairly subjects many citizens to unequal treatment.

H.R. 1433 grants Utah an additional Representative that will run at-large or statewide. The at-large provision creates a situation this country has not seen since the development of the Supreme Court's line of cases affirming the principle of ''one man, one vote.''

Under this provision, voters in Utah would be able to vote for two Representatives, their district representative and the at-large representative, whereas voters in every other State would only be able to vote for their one district representative. The result would be that Utah voters would have disproportionately more voting power compared to the voters of every other State.

There is no question D.C. residents have fought bravely in wars and served their country in a variety of ways. That is interesting, even heartrending, but irrelevant to whether or not this legislation is constitutional.

I also ask this House to consider the serious, practical consequences of passing this legislation. The inevitable legal challenge to this bill could produce legislative chaos by placing into doubt any future legislation passed in Congress by a one-vote margin.

Madam Speaker, I urge my colleagues to oppose this bill because it is clearly unconstitutional, and, if enacted, could lead to years of protracted legislation.

Madam Speaker, I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I yield myself 10 seconds, and I include for the RECORD the 25 legal scholars of constitutional authority who have already weighed in on this bill, plus the former elected officials and former Senators and Members of Congress and Presidential appointees that have all examined this with great care and find that it is not constitutionally defective.

DC VOTE,
Washington, DC, March 12, 2007.

25 LEGAL SCHOLARS SUPPORT CONSTITUTIONALITY OF DC VOTING RIGHTS

DEAR REPRESENTATIVE: DC residents pay federal income taxes, serve on juries and die in wars to defend American democracy, but they do not have voting representation in the Congress.

This lack of representation is inconsistent with our nation's core democratic principles. Justice Hugo Black put it well in Wesberry v. Sanders in 1964: ''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. Other rights, even the most basic, are illusory if the right to vote is undermined.''

Congress is currently considering granting voting rights to Americans living in Washington, DC. Lawmakers have been faced with questions about the constitutionality of extending the right to vote to residents of a ''non-state.''

As law professors and scholars, we would like to address these questions and put to

rest any concerns about the constitutionality of extending the right of representation to residents of the District.

While the language of the Constitution literally requires that House members be elected ''by the People of the Several states,'' Congress has not always applied this language so literally. For example, the Uniformed and Overseas Citizens Absentee Voting Act allows U.S. citizens living abroad to vote in congressional elections in their last state of residence—even if they are no longer citizens there, pay any taxes there, or have any intent to return.

To fully protect the interests of people living in the capital, the Framers gave Congress extremely broad authority over all matters relating to the federal district under Article I, §8, clause 17 (the ''District Clause''). Courts have ruled that this clause gives Congress ''extraordinary and plenary power'' over DC and have upheld congressional treatment of DC as a ''state'' for purposes of diversity jurisdiction and interstate commerce, among other things. Article III provides that courts may hear cases ''between citizens of different states'' (diversity jurisdiction). The Supreme Court initially ruled that under this language, DC residents could not sue residents of other states. But in 1940, Congress began treating DC as a state for this purpose—a law upheld in D.C. v. Tidewater Transfer Co. (1949).

The Constitution also allows Congress to regulate commerce ''among the several states,'' which, literally, would exclude DC. But Congress' authority to treat DC as a ''state'' for Commerce Clause purposes was upheld in Stoughtenburg v. Hennick (1889).

We believe, under the same analysis of the Constitution, that Congress has the power through ''simple'' legislation to provide voting representation in Congress for DC residents.

Sincerely,

Sheryll D. Cashin, Georgetown University Law Center; Viet D. Dinh, Georgetown University Law Center; Charles J. Ogletree, Harvard Law School; Jamin Raskin, American University Washington College of Law; Samuel R. Bagenstos, Washington University Law School; Brian L. Baker, San Joaquin College of Law; William W. Bratton, Georgetown University Law Center; Richard Pierre Claude, University of Maryland; Sherman Cohn, Georgetown University Law Center; Peter Edelman, Georgetown University Law Center; James Forman Jr., Georgetown University Law Center; David A. Gantz, The University of Arizona James E. Rogers College of Law.

Michael Gottesman, Georgetown University Law Center; Michael Greenberger, University of Maryland; Pat King, Georgetown University Law Center; Charles R. Lawrence III, Georgetown University Law Center; Paul Steven Miller, University of Washington School of Law; James Oldham, Georgetown University Law Center; Christopher L. Peterson University of Florida, Levin College of Law; Robert Pitofsky, Georgetown University Law Center; David Schultz, University of Minnesota; Girardeau A. Spann, Georgetown University Law Center; Ronald S. Sullivan Jr., Yale Law School; Roger Wilkins, George Mason University; Wendy Williams, Georgetown University Law Center.

DC VOTE,
Washington, DC, March 12, 2007.

Re 25 former elected and appointed officials support DC Voting Rights Act.

DEAR MEMBER OF CONGRESS: We are writing to ask you to extend the basic American right of voting representation in Congress to Americans living in our nation's capital.

Citizens living in Washington, DC pay federal taxes, serve on juries, and send their family members to protect our nation during times of war. They should no longer be denied the very essence of our democratic ideals.

Representative Tom Davis, Delegate Eleanor Holmes Norton, and many others have reached across party lines in crafting a bill, the District of Columbia House Voting Rights Act of 2007 (DC Voting Rights Act, H.R. 1433), which corrects this injustice by providing Washingtonians with a full voting member of the U.S. House of Representatives for the first time in the history of our country. These members of Congress should be congratulated for their principled courage and patriotism.

The time has come for all DC residents to have a vote in our national legislature. We ask that you support this bill so that Washingtonians will enjoy the fundamental, democratic right to representation—a right which, as a nation, we are promoting all around the world.

Sincerely,

Jack Kemp, Julius W. Becton, Jr., Ed Brooke, Lawrence Eagleburger, Eric Holder, Thomas P. Melady, Susan Molinari, J.C. Watts, Harris Wofford.

Clifford Alexander, Jim Blanchard, Dale Bumpers, Peter Edelman, Frank Keating, Kweisi Mfume, Sharon Pratt, Togo West.

John Anderson, Sherwood Boehlert, Tom Daschle, Alexis Herman, Timothy May, George Mitchell, Michael Steele, Anthony A. Williams.

Madam Speaker, I yield 1 minute to the distinguished majority leader.

Mr. HOYER. Madam Speaker, this important legislation, the District of Columbia House Voting Rights Act, is designed to do one thing, enfranchise Americans fully with a voting representative in the House of Representatives. I have the great honor of representing the great State of Maryland. Maryland, at the request of the Federal Government, gave some square miles of its State to our Federal Government and to the people of America.

At that time there were Marylanders living, just a few, but Marylanders living within the confines of what was to become the District of Columbia. Now, this was post-1787, so that the miracle in Philadelphia did not contemplate disenfranchising those voters in the various States, as my friend from Texas mentioned, because the residents that then became, because of the generosity of the State of Maryland, residents of that Federal district, were then residents of the several States.

Washington, D.C. is the only capital in a democracy in the world, in the entire world, that does not have a voting representative in its parliament, in the world. Clearly, the successor residents of the District of Columbia succeed residents of the several States. The continued disenfranchisement of more than half a million Americans is unconscionable, is indefensible and wrong.

Since 1801, when Washington, D.C. became this Nation's capital, the citizens of the District of Columbia have not had representation in the Congress, not in the House of Representatives and not in the Senate. It is wrong, as a matter of principle, because District citizens pay Federal taxes, sit on juries and serve on our Armed Forces, like all other Americans who enjoy full representation in this body do.

If they move tomorrow to Maryland or to Virginia or to Texas or to California, they will be fully enfranchised. They are not second-class citizens, but the area in which they live is being treated as a second-class area, this, the Nation's capital. You cannot cite another capital in the world that does that if they allow any of their voters to be represented in a true democratic institution.

It is wrong politically, because District citizens since 1801 have effectively been a ward of Congress without the opportunity to make their voice felt on the legislation that affects only them. Ironically on this bill, we are going to again have a motion to recommit, which affects only the residents of the District of Columbia.

It is wrong, I suggest to you, morally as well, because the United States professes to have the truest form of representative government in human history. We are proud of that, rightfully so. Yet we deprive the citizens of this Nation's capital of their voice in their national legislature.

Let me add, the United States is the only representative democracy, as I have said, that does that. The absence of representation in Congress for District citizens underscores the failure of the Congress to use the authority vested in it, by the Constitution, to correct an injustice.

I want to say to my friends in this body, so many of you have voted ''aye'' on propositions that only recently the Supreme Court of the United States has said are unconstitutional. You put in language to say, oh, well, it's constitutional because of X, Y and Z, to try to substitute our judgment for the judgment of the Supreme Court of the United States, but repeatedly you have voted for legislation which the Supreme Court has said is unconstitutional, and you know it.

We have spent $379 billion, 3,200 lives. We will vote tomorrow on a bill that seeks to spend $100 billion more so that the citizens of Baghdad, the citizens of Baghdad can have a parliament in which the citizens of Baghdad have a vote; but too many will vote not to give the same right to our sisters and brothers who live in the District of Columbia.

The authority I refer to for the constitutionality of this is, of course, Article I, section 8 of the Constitution, is the so-called seat of government clause, under which ''The Congress shall have power . . . to exercise exclusive legislation in all cases whatsoever,'' exclusive legislation in all cases whatsoever, for as I remind you, those residents of the several States or their successors, who are now residents of the District of Columbia.

Plain and simple, this sweeping language gives Congress ''extraordinary and plenary'' powers over our Nation's capital city, including the authority to adopt legislation to enfranchise the District's 550,000 Americans with a full vote in this House.

I am far from alone in my view of Article I, section 8. Twenty-five legal scholars, which have just been entered into the RECORD, make that assertion.

As the chairman of the committee, I am not used to quoting Kenneth Starr, and I quote Kenneth Starr, not as the supreme expert, but certainly as not a partisan of my party.

In fact, I would remind every Member of this House, this bill was reported out of the Republican-chaired, Republican-majority Government Reform Committee just last Congress.

Mr. DAVIS is a cosponsor, not only a Republican leader, but the former chairman of a committee and former chairman of the Republican Congressional Campaign Committee, not just a back-bencher, but a leader in the party, who said this is constitutional, but in any event, it is the right thing to do.

Mr. Starr's tightly reasoned testimony before the House Government Reform Committee in 2004 in favor of the substance of today's measure should be required reading for every Member of the body who believes that somehow this may be a partisan vote. In fact, as we mentioned, we give to Utah as well, as has been historical practice, to usually do two at a time, as we did Alaska and Hawaii.

That doesn't unusually enfranchise, I would suggest, Utah's voters. I come from a State that had an at-large Representative for most of the 1960s. His name was Carlton Sickles. He lived in the county in which I grew up. He was an at-large Representative, yes, before Reynolds v. Sims and Baker v. Carr, but that was for the State legislature purposes. He was an at-large Representative in the State of Maryland. I am not sure that anybody here served with him.

We, the Members of this House, must never be seduced into thinking there is such a thing as settled injustice. Here me, settled injustice. The author of the Dred Scott decision was a Marylander. There is a statue of him, a bust of him, as you enter the old Supreme Court Chamber.

That was the constitutional law. It was wrong. It was wrong legally, it was wrong ethically, and it was certainly wrong morally. It is time, my friends, in this body, today, to stand up, speak out for democracy and justice for our fellow Americans. If we can fight for democracy in Baghdad, we can vote for democracy in Washington, D.C.

Mr. SMITH of Texas. Madam Speaker, I yield myself 15 seconds.

Madam Speaker, I certainly agree with the majority leader on one point that he made and that is that Washington, D.C. is distinctive. However, it is especially distinctive because it is the only capital in the world that exists under the U.S. Constitution, and that is why this bill is unconstitutional.

Madam Speaker, I include for printing in the RECORD the Statement of Administration Policy in opposition to this bill.

STATEMENT OF ADMINISTRATION POLICY: H.R. 1433—DISTRICT OF COLUMBIA HOUSE VOTING RIGHTS ACT OF 2007

(DEL. NORTON (D) DISTRICT OF COLUMBIA AND 17 COSPONSORS)

The Administration strongly opposes passage of H.R. 1433. The bill violates the Constitution's provisions governing the composition and election of the United States Congress. Accordingly, if H.R. 1433 were presented to the President, his senior advisers would recommend that he veto the bill.

The Constitution limits representation in the House to representatives of States. Article I, Section 2 provides: ''The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State legislature.'' The Constitution also contains 11 other provisions expressly linking congressional representation to Statehood.

The District of Columbia is not a State. Accordingly, congressional representation for the District of Columbia would require a constitutional amendment. Advocates of congressional representation for the District have long acknowledged this. As the House Judiciary Committee stated in recommending passage of such a constitutional amendment in 1975:

''If the citizens of the District are to have voting representation in the Congress, a constitutional amendment is essential; statutory action alone will not suffice. This is the case because provisions for elections of Senators and Representatives in the Constitution are stated in terms of the States, and the District of Columbia is not a State.''

Courts have reached the same conclusion. In 2000, for example, a three-judge panel concluded ''that the Constitution does not contemplate that the District may serve as a state for purposes of the apportionment of congressional representatives.'' *Adams* v. *Clinton*, 90 F. Supp. 2d 35, 46–47 (D.D.C. 2000). The Supreme Court affirmed that decision. And just two months ago, Congress's own Research Service found that, without a constitutional amendment, it is ''likely that the Congress does not have authority to grant voting representation in the House of Representatives to the District of Columbia.''

Recent claims that H.R. 1433 should be viewed as an exercise of Congress's ''exclusive'' legislative authority over the District of Columbia as the seat of the Federal government are not persuasive. Congress's exercise of legislative authority over the District of Columbia is qualified by other provisions of the Constitution, including the Article I requirement that representation in the House of Representatives is limited to the ''several States.'' Congress cannot vary that constitutional requirement under the guise of the ''exclusive legislation'' clause, a clause that provides the same legislative authority over Federal enclaves like military bases as it does over the District.

For all the foregoing reasons, enacting H.R. 1433's extension of congressional representation to the District would be unconstitutional. It would also call into question (by subjecting to constitutional challenge in the courts) the validity of all legislation passed by the reconstituted House of Representatives.

Madam Speaker, I yield 2½ minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), a former chairman of the Judiciary Committee.

Mr. SENSENBRENNER. Madam Speaker, the Judiciary Committee is supposed to be the legislative guardian of the Constitution. Unfortunately in this instance, the majority gets an F. This bill is fraught with constitutional questions.

All I need to do is to go back to the report that was issued by then-Chairman Peter Rodino, a Democratic and a liberal icon, when he reported out a constitutional amendment enfranchising the District of Columbia in 1978. That committee report clearly said that giving a vote to the representative of the District of Columbia in this House could not be done statutorily.

□ 1245

And that is exactly what is happening today. And not only can't it be done statutorily, but the Rules Committee last night played a partisan card. It rejected all proposed amendments, including constructive amendments that eliminate some of the legal and constitutional problems relating to the at-large seat in Utah, as well as an amendment offered by my friend from Texas (Mr. SMITH) to have an expedited review of the United States Supreme Court, a review that we gave to the McCain-Feingold law on campaign finance.

There are constitutional questions on this issue. And in the year 2000, the Federal court of D.C. expressly said that, ''We conclude from our analysis that the text of the Constitution does not contemplate that the District may serve as a State for purposes of apportionment of congressional representatives.'' That case was Adams v. Clinton that was decided in the year 2000. Now, that was the more recent case than the Tidewater case which is being used by the proponents of this legislation as saying that the District clause allows us to do this.

Now, rather than enfranchising the citizens of the District in a constitutionally questionable manner, why not do it in a way that is very clearly constitutional? There are three ways to do this, all of which have been rejected by the majority. One is to repropose the amendment to the Constitution which failed in 1978. Second is to admit the non-Federal part of the District as a separate State, with two Senators and two Representatives. That was rejected in 1993, but could be reintroduced. And the third is to retrocede the non-Federal part of the District to Maryland. We can do it the right way. Those are the right ways; this is the wrong way.

Mr. CONYERS. Madam Speaker, I yield myself 30 seconds to point out that a constitutional amendment could take 10 years, who knows, to have a part of a State ceded back. The three methods that have been suggested by

the former chairman of Judiciary Committee, who has worked very hard on this, are, in effect, impractical.

Madam Speaker, I am pleased now to recognize the chairman of the Constitutional Subcommittee on the Judiciary, Mr. NADLER, who has done extraordinary work in this regard, 5 minutes.

Mr. NADLER. Madam Speaker, it is a disgrace, a blot on our Nation that the citizens of our Capital do not have a voice in Congress.

Whatever technical issues there may be with respect to rectifying this problem, we must never lose sight of the fact that our democracy is permanently stained by the disenfranchisement of a large group of our citizens who pay taxes, serve in our wars, work in our government, and bear all the responsibilities, but do not have all the rights of citizenship.

Whether you took a cab to work today or rode the Metro or bought a cup of coffee or walked down the sidewalk or were protected by a police officer, your safety, your livelihood, every aspect of your life was made possible by people who have no vote in our democratic society. There is no excuse for that.

Now, we have heard from people who say, well, we should change this, but let's amend the Constitution. We have tried that. Very difficult.

We have heard from people who say, well, we should change this, but let's do it another way that will take forever and that haven't worked. This way we are told, doing it by statute, giving the District of Columbia a vote in the House by statute, is unconstitutional.

Well, it is not unconstitutional. The fact is the Constitution says that the Congress shall have power to exercise exclusive legislation in all cases whatsoever over such District, as may, by cession of particular States, become the seat of the Government of the United States. Exclusive jurisdiction. Very plenary power.

The Constitution also says in Article III, discussing the powers of Federal courts: The judicial power shall extend to controversies between citizens of different States, so-called diversity jurisdiction.

One of the earlier cases cited by the Supreme Court was that citizens of the District of Columbia have standing to go into Federal court and sue citizens of a different State, of any State under diversity jurisdiction, because the District of Columbia, for that purpose at least, is considered a State, and the Supreme Court was very clear on this. And if the District of Columbia is a State for purposes of diversity jurisdiction under Article III of the Constitution, there is no reason why Congress cannot take advantage of that fact and legislate under its exclusive jurisdiction clause that the District of Columbia is a State for purposes of representation in the House of Representatives.

The judicial cases are fairly clear. We have ample constitutional authority to do this, and we should take that up. Let those who are opposed to American citizens having taxation without representation, let those who are supportive of American citizens be subjected to taxation without representation, let those who are opposed to American citizens having the full rights of citizens, let them go to court and argue that it is unconstitutional. Let us assert our authority, because we believe it is constitutional. The courts will ultimately decide if the Bush administration continues to oppose this bill and has threatened to veto.

What I don't hear from the administration is any concern about the injustice of depriving D.C. citizens of the right to vote, which speaks volumes about the administration's hostility to voting rights.

If we are to have the audacity to hold ourselves out to the world as a beacon of freedom and democracy, if we want to lecture other countries about the importance of freedom and democracy, as this Congress and the President regularly seek to do, we need to clean up our own House. I urge passage of this bill.

Mr. SMITH of Texas. Madam Speaker, I yield 2 minutes to the gentleman from California, Mr. DANIEL E. LUNGREN, a member of the Judiciary Committee and a former attorney general of the State of California.

Mr. DANIEL E. LUNGREN of California. Madam Speaker, after listening to several Members on the other side of the aisle, I can only come to one conclusion; and that is, the U.S. Constitution is an inconvenient thing.

We have heard that it may take too long to do it the constitutional way. We have even heard suggested here that, if you oppose this, you are against voting rights.

Well, as a former prosecutor, I can tell you I am absolutely, morally convinced of certain people who are not convicted of crimes they committed because of constitutional protections given them during trial; the Constitution was inconvenient, the Constitution did not allow us to do justice. But the Constitution prevailed, because if we ignore the Constitution, we ignore the very compact which is the basis of our relationship with our government. The vote today is more about the representational status of the District of Columbia in this body. It goes to the heart of constitutional governance.

Some in this House would have us believe that the Constitution is so sophisticated, so foreign, so strange that the words used, that only a few people can define its meaning, that the people of America are not capable of understanding the words of the Constitution, and, therefore, we should genuflect at the altar of the elite.

Well, let's look at the words. Article I, section 2 states very simply: The House of Representatives shall be composed of Members chosen by the people of the several States. By the people of the several States.

It says in Article I, section 2: No person shall be a representative who shall not have attained the age of 25, been 7 years a citizens of the United States, and who shall not when elected be an inhabitant of the State in which he shall be chosen.

Madam Speaker, those words are so simple, and yet we try to make them so complicated. Let's at least uphold the Constitution in this debate.

Mr. CONYERS. Madam Speaker, I yield myself 15 seconds. I refer the former attorney general of the State of California to the list we have right now about 10 decisions in which reviews, under the constitutional authority, D.C. as a State.

Madam Speaker, I am pleased now to yield 5 minutes to the distinguished lady, a member of the committee and who has served with great distinction on the House Judiciary Committee for constitutional questions, SHEILA JACKSON-LEE of Houston, Texas.

Ms. JACKSON-LEE of Texas. Mr. CONYERS, may I pay tribute to you? It gives me such a privilege to be able to come to this floor with you as the chairperson of the House Judiciary Committee, along with the ranking member, who is a friend and colleague from Texas. But it is a special honor, and it humbles many of us, because a lot of us were not here for the debate on the Civil Rights Act of 1964 and the Voter Rights Act of 1965. Many Americans think that that bill only pertains and helps people of color, but really what it does is it restores that legislation, the value and the preciousness of the right to vote for all Americans. I am gratified that Chairman CONYERS, who has a history with restoring the rights of Americans to vote, now finds himself on the floor in the doorway of history to be able to reaffirm the Constitution.

And I heard my good friend, and I am glad that you will hear from my colleague from Texas, Congressman AL GREEN, who spent a few days on the bench and I think would recognize a Constitution when he would see it. But I think this is important, because if the American people are listening, there is some suggestion, what kind of irreverent actions are occurring on this floor? Why are we ignoring the Constitution? And I take great umbrage with that. I am sensitive to that. My very fabric of my existence is embedded in the 13th, 14th, and 15th amendment. I want the Constitution to be cherished, and I want it to be right.

So let me just recount for you why we can move from one section to the next, and it relates to the constitutionality of what we are doing. And I would only hope that my friends would not be rejecting this bill because, in fact, it is the District of Columbia. And let me remind America that Utah is given an opportunity for its citizens to be represented.

But in 1820, the Supreme Court held that Congress could impose Federal taxes on the District, and it was related to the provision in here that says

representatives and direct taxes shall be apportioned among the several States. So we tax them based upon language in the Constitution that they equal the States.

Then in 1889, the Supreme Court found that the constitutional prohibition against State laws that interfere with commerce applies to States and the District of Columbia, again equating the District of Columbia to States.

And then in 1934, the Supreme Court found that Congress could treat the District of Columbia as a State.

So in the Constitution it says that: The House of Representatives shall be composed of Members chosen every second year by the people of several States.

But it also says that this Congress has jurisdiction in clause 17 under section 8 over the District of Columbia, and that is what we are doing here today. We are correcting a wrong, an ill. We are correcting a disease. We are equating this city to the rights of Iraqis, who are now able to vote for all of those they want to vote for, albeit it is in a troubled situation.

And so I would simply commend my colleagues to this, and to suggest that there was something wrong in the rule for not asking for an expedited Supreme Court review, my friends, the Supreme Court will be able to deliberate on this particular legislation in due time and be able to render a decision and expedited request warrants or suggests there should be a crisis. There was not an expedited request in the election of 2000, and the Supreme Court decided it in 4 or 5 days. For me, that was an emergency.

Mr. CONYERS. Madam Speaker, if the gentlelady will yield, I ask her, why would we be asking for special standing, we in the Congress? Why would we be asking for an expedited review? Can't the courts decide who gets either of those two special privileges to come to the front of the line?

□ 1300

Ms. JACKSON-LEE of Texas. Let me thank the gentleman for his inquiry. He made a very good point: can't the courts reconcile the issues between the two parties on their own expedited time. They can. And that is the example I used with the issue in the election of 2000. As you well know, that case, Gore v. Bush, went to the United States Supreme Court on their own expediting, and a decision was made between four or five days.

My friends, this is a smoke-and-mirror issue. We welcome the Supreme Court's review. But today, we are holding up the Constitution, and I hope that as we hold it up, we will reflect upon those whose blood has been shed on behalf of this country, that we are giving them the right to vote legally, and under the Constitution.

Madam Speaker, I rise in strong support of H.R. 1433, the District of Columbia House Voting Rights Act of 2007, and thank the chairman of the Judiciary Committee for his leadership in shepherding this important piece of legislation to the floor. Today we remove a stain that has blighted our Nation for more than 200 years of shame and correct an injustice to the citizens of the District of Columbia.

H.R. 1433 would permanently expand the U.S. House of Representatives from 435 to 437 seats, providing a new, at-large seat to Utah and a vote to the District of Columbia. Based on the 2000 Census, Utah is the State next in line to enlarge its congressional delegation. The bill does not give the District statehood, nor does it give the District representation in the Senate. Rather, in H.R. 1433 Congress is simply treating the District as a congressional district for the purposes of granting full House representation, as it can pursuant to the grant of plenary power over the District of Columbia conferred by the Constitution in article I, section 8, clause 17.

At the outset, let me address the claim that H.R. 1433 is a weak foundation upon which to base the District's voting rights in the House because it is a statutory rather a constitutionally based remedy. The argument should be rejected for the simple reason that it makes the perfect the enemy of the good. It is like asking a person to remain homeless while she saves to buy a house even though she has enough money to rent an apartment.

Madam Speaker, let us not lose sight of one indisputable and shameful fact: Nearly 500,000 people living in the District of Columbia lack direct voting representation in the House of Representatives and Senate. Residents of the District of Columbia serve in the military, pay billions of dollars in Federal taxes each year, and assume other responsibilities of U.S. citizenship. For over 200 years, the District has been denied voting representation in Congress—the entity that has ultimate authority over all aspects of the city's legislative, executive, and judicial functions.

Madam Speaker, if a person can be called upon to pay Federal taxes and serve in the Armed Forces of the United States, then he or she should at least have the opportunity to vote for a representative who could at least cast a symbolic vote in this Chamber on critical matters facing our Nation—issues like war and peace, equality and justice.

Madam Speaker, taxation without representation is tyranny. It is unconscionable that more than a half million American citizens are being unconscionably denied a vote and a voice in the most important legislative body in the world.

As a supporter of freedom, democracy, and equality, I believe that it is long overdue for the citizens of the District of Columbia to have a Representative in Congress who can vote on the vital legislation considered in this body.

Madam Speaker, it is wrong that we must be reminded daily by license plates in the District of Columbia that ''Taxation without representation is tyranny.'' The people in Boston felt so strongly about this in 1775 that they rebelled in Boston Harbor, launching the ''Boston Tea Party.''

The principle that political authority derives from the consent of the government is no less applicable when it comes to the District of Columbia. Let us be clear. There is no dispute that hundreds of thousands of American citizens reside in the District of Columbia. We all agree that universal suffrage is the hallmark of a democratic regime, of which the United States is the world's leading exemplar.

None of us believes it is fair that citizens of the District of Columbia pay Federal taxes, risk life and limb fighting wars abroad to protect American democracy and extend the blessings of liberty to people living in foreign lands. In short, there is no moral reason to deny the citizens of the District of Columbia the right to full representation in Congress. The only question is whether Congress has the will and the constitutional authority to do so. As I will discuss, Congress has always had the constitutional authority. For the last 12 years, we have not had the will; but now we do.

CONGRESS CAN GRANT VOTING RIGHTS TO THE DISTRICT UNDER THE DISTRICT CLAUSE

As Professor Dinh argued in his powerful testimony before this Committee, Congress has ample constitutional authority to enact H.R. 1433 under the Constitution's ''District Clause.'' Art. I, § 8, cl. 17. The District Clause empowers Congress to ''exercise exclusive Legislation in all Cases whatsoever, over such District'' and thus grants Congress plenary and exclusive authority to legislate all matters concerning the District. The text, history and structure of the Constitution, as well as judicial decisions and pronouncements in analogous or related contexts, confirms that this broad legislative authority extends to the granting of congressional voting rights for District residents.

The District Clause, which has been described by no less a constitutional authority as Judge Kenneth Starr as ''majestic in its scope,'' gives Congress plenary and exclusive power to legislate for the District. Courts have held that the District Clause is ''sweeping and inclusive in character'' and gives Congress ''extraordinary and plenary power'' over the District. It empowers Congress to legislate within the District for ''every proper purpose of government.'' Congress therefore possesses ''full and unlimited jurisdiction to provide for the general welfare of citizens within the District of Columbia by any and every act of legislation which it may deem conducive to that end,'' subject, of course, to the negative prohibitions of the Constitution.

Although, the District is not a State for purposes of Congress's article I, section 2, clause 1, which states that Members of the House are chosen ''by the people of the several States,'' this fact is not dispositive of Congress's authority under the District Clause to give residents of the District the same rights as citizens of a State. Since 1805, the Supreme Court has recognized that Congress has the authority to treat the District like a State, and Congress has repeatedly exercised this authority. No court has ever sustained a challenge to Congress's exercise of its power under the District Clause.

Two related Supreme Court cases illustrate this point. In *Hepburn* v. *Ellzey*, 6 U.S. 445 (1805), the Court held that the diversity jurisdiction provision of article III, section 2 of the U.S. Constitution excluded citizens of the District of Columbia. The Court observed, however, that it was ''extraordinary'' that residents of the District should be denied the same access to Federal courts provided to aliens and State residents, and invited Congress to craft a solution, noting that the matter was ''a subject for legislative, not judicial consideration.''

Congress accepted that invitation 145 years later and enacted legislation that explicitly granted District residents access to Federal

courts on diversity grounds. That legislation was upheld by the Supreme Court in 1949 in *National Mutual Insurance Company* v. *Tidewater Transfer Company,* 337 U.S. 582 (1949). A plurality of the Court led by Justice Jackson held that Congress could for this purpose treat District residents as though they were State residents pursuant to its authority under the District Clause. The two concurring justices would have gone even further; they argued that Hepburn should be overruled and that the District should be considered a State for purposes of Article III.

Tidewater strongly supports Congress's authority to provide the District a House Representative via simple legislation. As the plurality explained, because Congress unquestionably had the greater power to provide District residents diversity-based jurisdiction in special article I courts, it surely could accomplish the more limited result of granting District residents diversity-based access to existing article III courts. Similarly, Congress's authority to grant the District full rights of statehood—or grant its residents voting rights through retrocession—by simple legislation suggests that it may, by simple legislation, take the more modest step of providing citizens of the District with a voice in the House of Representatives. Indeed, since Congress has granted voting representation to residents of Federal enclaves in *Evans* v. *Cornman*, 398 U.S. 419 (1970), and to Americans living abroad through the Overseas Voting Act, there is no reason to suppose that Congress has less ability to provide voting representation to the residents of the Nation's capital.

II. CONGRESS MAY DIRECT THE NEXT-ENTITLED STATE TO ELECT ITS ADDITIONAL REPRESENTATIVE AT LARGE

H.R. 1433 also grants an additional congressional seat to the State of Utah as the next-entitled State and directs that State to elect its additional Representative at large, rather than creating an additional single-Member district. Congress plainly has the authority to do so. This statutory scheme does not violate the ''one person, one vote'' principle.

As the Supreme Court held in *Wesberry* v. *Sanders*, 376 U.S. 1 (1964), ''the command of Article I, Section 2 [of the Constitution], that Representatives be chosen 'by the People of the Several States' means that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's.'' In that case the Court struck down a Georgia apportionment statute because it created a congressional district that had two-to-three times as many residents as Georgia's nine other congressional districts. The Court stated:

> The apportionment statute thus contracts the value of some votes and expands that of others. If the Federal Constitution intends that when qualified voters elect members of Congress each vote be given as much weight as any other vote, then this statute cannot stand.

''One person, one vote'' concerns arise when congressional districts within a State contain different numbers of residents, diluting the voting power of residents in the district with more residents. In contrast, here the proposed temporary ''at large'' district in Utah does not dilute the voting power of any Utah voter.

When Utah holds its at-large election for the new fourth seat, Utah voters may cast a vote in their existing district and in the statewide election for the fourth seat. While it is true that the statewide ''at large'' district will necessarily contain more residents than the other districts, the establishment of that ''at large'' district would create no constitutional dilution concerns. Each person's vote in the ''at large'' district would have equal influence, and the opportunity to cast that vote would not alter in any way the value of that person's vote in her own smaller district.

Nor does a potential ''one person, one vote'' challenge arise on the ground that Utah residents vote in two elections while residents of other States with single-member districts would vote only once. First, the Supreme Court has never held that the ''one person, one vote'' principle applies to the apportionment process. Indeed, the Court has held that Congress is entitled to substantial deference in its apportionment decisions. Second, the proposed at-large election does not give residents of the State more or less voting power than the residents of States with single-Member districts. The example cited by Richard Bress, one of the witnesses who testified before the Judiciary Committee in support of the bill, illustrates why this is so.

Suppose that State A and State B have roughly the same population and are each entitled to four Representatives. State A holds an at-large election for all four of its Representatives, while State B divides its Representatives and voters into four districts. State A's statewide district would have a population four times the size of each district in State B. As compared to the single-district voter in State B, the ''at-large'' voter in State A has a one-fourth interest in each of four Representatives. The single-district voter in State B has a whole interest in one Representative. But in both scenarios, each voter has, in the aggregate, one whole voting interest.

Similarly, as compared to a State with four single-Member districts, the voters in Utah's existing three districts would have proportionately less influence in the election of the Representative from their own district, but would gain a fractional interest in the State's at-large Representative. In short, Utah residents would have no more—and no less—voting power than residents of any other State.

III. CONCLUSION

For these reasons, I believe H.R. 1433 is constitutionally unassailable. Granting voting rights to the citizens of the District of Columbia is a matter of simple justice. I know it is morally right. It is also long overdue. Let us end this injustice and be true to the better angels of our nature. I urge all Members to join me in voting for H.R. 1433.

Mr. SMITH of Texas. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GOHMERT), a member of the Judiciary Committee and the deputy and ranking member of the Crime Subcommittee.

Mr. GOHMERT. Madam Speaker, it is important to look at the words of the Constitution themselves. It says very clearly, and this is Article I, section 2. This is what talks about who will comprise the House of Representatives, who will comprise the Congress. It says ''it shall be composed of members that come from the several States.'' It is very clear.

Now, all of the people that testified before the Judiciary Committee who were supporting this amendment through legislation said, well, they base that on section 8, which says we can exercise exclusive legislation over the district. But once you open that door you have opened Pandora's box, because that same clause, that same paragraph says, exercise like authority over all places, that should include things like places where we have forts, magazines, arsenals, dark yards and other needful buildings. Once you go there, then every military institution in America could have a representative. Every needful Federal building in America could have a representative. That is what happens when you start bending and twisting the Constitution.

Now, these arguments were had when the Constitution was written. Alexander Hamilton lost. And there is a good position that people should be able to elect their representative, and that was discussed. But I would submit to you that Washington, D.C. is also the only city in the entire country that every Senator and every Member of Congress has a vested interest in seeing that it works properly, that water works, sewer works, and no other city in America has that.

In conclusion, let me just say, south of Columbus, Georgia, used to be an old blacksmith iron work shop with a sign above the door that said ''All types of bending and twisting done here.'' And I would humbly submit the Constitution should not have the same sign on the front of it. The Constitution is clear. Let's don't bend and twist it.

Mr. CONYERS. Madam Speaker, I yield myself 1 minute because the speaker from Texas, Mr. GOHMERT, a valuable member of Judiciary, a highly praised judge, and a supporter of gun rights too, incidentally ignores a decision that just came out of the federal court, just recently, within weeks, Parker v. Williams, which held that the second amendment renders the District's gun ban unconstitutional—which I was sorry to hear, but he probably wasn't—in that ''a well regulated militia being necessary to the security of a free State, the right of the people to bear arms shall not be infringed.''

The court held that D.C. was a State for purposes of the Constitution's second amendment.

Madam Speaker, I reserve the rest of my time.

The gentlelady from Los Angeles, California, has come upon the floor. I know she wants to speak on this, and I recognize MAXINE WATERS from California for 3 minutes on this subject.

Ms. WATERS. Thank you so very much, Madam Speaker, and Chairman JOHN CONYERS.

A lot of people want to know what difference does it make that Democrats are now in the majority. This is a fine example. Chairman CONYERS and others have been working on this issue for so very long.

And I rise in support of H.R. 1433, the District of Columbia House Voting Rights Act of 2007, of which I am a proud cosponsor.

In a country where basic human and civil rights were only incrementally given to similarly situated citizens throughout its history, I applaud my colleagues for their courage and integrity to consider this measure and support its passage after 200 years of injustice.

I thank the gentlelady from the District of Columbia (Ms. NORTON) and the gentleman from Virginia (Mr. TOM DAVIS) for their leadership and tenacity. Ms. NORTON has consistently fought for the 16 years since she was first elected to Congress as my classmate in the 102nd Congress.

Just like securing the right to vote, or securing civil rights, for that matter, for African Americans, women and other minorities was a long fight with slow rewards, seeking the franchisement of D.C. citizens has been equally as difficult.

Just as it was shameful and unconscionable for African Americans and women to not have a vote until the passage of the 19th amendment, and of the 1965 Voting Rights Act, it is unconscionable for tax-paying citizens in America not to have a vote in Congress in the 21st century.

It is even more ironic that D.C. citizens have no vote in Congress when it operates right in their back yard. To discriminate against tax-paying citizens for over 200 years is an embarrassment to our democracy and undermines fundamental constitutional principles.

Nowhere in the United States Constitution is the word ''State'' defined, but some of our colleagues now wish to gerrymander a definition that would somehow distinguish citizens of D.C. from citizens of every other voting State.

Furthermore, not only does the guaranty clause, which reads that ''the United States shall guarantee a republican form of government,'' but the fifth amendment equal protection clause, which insures that all persons of the United States enjoy equal protection of the laws, make it clear that D.C. citizens should receive voting representation.

Article IV, section 4 of the Constitution guarantees us a republican form of government. And the Supreme Court has defined a republican form of government as one constructed on the principle that the superior power resides in the body of the people. Are D.C. citizens not a part of the people?

Mr. Chairman, in this new Congress we hope to rid America of all traces of disenfranchisement, of impediments to voting. And giving D.C. residents a vote in the Congress is a major part of this goal.

I thank you, Congressman JOHN CONYERS, for your leadership.

Mr. SMITH of Texas. Madam Speaker, I yield 2 minutes to my friend from Virginia (Mr. GOODLATTE), a senior member of the Judiciary Committee.

(Mr. GOODLATTE asked and was given permission to revise and extend his remarks.)

Mr. GOODLATTE. Madam Speaker, I rise in opposition to H.R. 1433, the District of Columbia Voting Rights Act.

There is no doubt that citizens of the District of Columbia do not have a full voting representation in the House of Representatives. However, there are ways that these individuals can receive representation without trampling on the Constitution. Unfortunately, this bill is not one of them.

The Constitution does not mince words when it says that Members of Congress may only be elected from the States. Article I, section 2 states that the House of Representatives shall be composed of Members chosen every second year by the people of the several States.

The Constitution also does not mince words when it distinguishes the District of Columbia from a State. In describing the powers of the Congress, Article I, section 8 describes the seat of Federal Government as a district, not exceeding 10 miles square, as made by cessation of particular States and the acceptance of Congress, become the seat of government of the United States.

Furthermore, the text of the 23rd amendment to the Constitution further illustrates that the District was never meant to have the same rights as States. Specifically, it grants D.C. the power to appoint a number of electors, a President and Vice President, equal to the whole number of Senators and Representatives in Congress to which the district would be entitled if it were a State.

The plain language of the Constitution is clear, that D.C. is not a State and that it is not granted the same rights as States. However, the constitutional problems with this bill do not end here. The bill would also establish an at-large representative for Utah, which would allow the citizens of Utah to vote twice, once for their local representative and another time for an at-large representative. This would clearly violate the constitutional principle of one man-one vote by granting Utah citizens disproportionately large voting power.

Finally, the procedure for bringing this bill to the floor is appalling. Debate has been eliminated on a bill that affects the relative voting power of citizens in each of our congressional districts. Ranking Member SMITH offered an amendment which would have provided for an expedited judicial review.

I urge my colleagues to vote against this legislation which is clearly unconstitutional.

I rise in opposition to H.R. 1433, the District of Columbia house voting rights act.

There is no doubt that citizens of D.C. do not have a full voting representative in the house of Representatives. However, there are ways that these individuals can receive representation without trampling on the Constitution. Unfortunately, this bill is not one of them.

The Constitution does not mince words when it says that members of Congress may only be elected from the states. Article I Section 2 states that ''The House of Representatives shall be composed of members chosen every second year by the people of the several States.'' The Constitution also does not mince words when it distinguishes the District of Columbia from a State. In describing the powers of the Congress, Article I Section 8 describes the seat of Federal Government as a ''District (not exceeding ten miles square) as may, by cessation of particular states, and the acceptance of Congress, become the seat of government of the United States.''

Furthermore, the text of the 23rd amendment to the Constitution further illustrates that the district was never meant to have the same rights as States. Specifically, it grants D.C. the power to appoint ''a number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State. . .''

The plain language of the Constitution is clear that D.C. is not a State and that it is not granted the same rights as States. However, the Constitutional problems with this bill do not end here. The bill would also establish an at-large representative for Utah, which would allow the citizens of Utah to vote twice—once for their local representative and another time for an at-large representative. This would clearly violate the Constitutional principle of ''one man, one vote'' by granting Utah citizens disproportionately large voting power.

Finally, the procedure for bringing this bill to the floor is appalling. Debate has been eliminated on a bill that affects the relative voting power of citizens in each of our congressional districts. Ranking member SMITH offered an amendment which would have provided for an expedited judicial review of the bill after it is enacted, to determine its constitutionality. It is revealing that the majority decided to block that amendment which would have settled the Constitutional concerns about this legislation.

For all these reasons, I urge my colleagues to oppose this ill-crafted legislation.

Mr. CONYERS. Madam Speaker, I reserve my time.

Mr. SMITH of Texas. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. ISSA), a member of the Judiciary Committee and also a member of its Constitution Subcommittee.

(Mr. ISSA asked and was given permission to revise and extend his remarks.)

Mr. ISSA. Madam Speaker, it is an unusual day in which the cosponsor of a bill, not in just this Congress but in the previous Congress, comes to oppose the final passage. It is not that I object to the people of the District of Columbia gaining a vote in this body, just the opposite. For two Congresses I have worked with Chairman DAVIS, now Ranking Member DAVIS, to achieve that.

It is that, for whatever reason, in this Democratically controlled Congress, we have lost democracy. In the regular order of the two committees, amendments were offered, some were passed, some failed. One that was passed was one of mine. It intended to make clear the Maryland relationship to the District of Columbia. It was a

fairly small technical amendment. The Democrat majority, led by Speaker PELOSI, chose to strip that out of what was brought to the floor, to my amazement, but not amusement. And then when I offered the same amendment to the Rules Committee, they voted not to allow it. So that which was voted in the committee of jurisdiction was stripped out by the leadership and then refused to be considered in the body of the whole. That is without any democratic fairness.

I am not here to complain about process. I believed it was an essential piece of language when this legislation was considered. So without it, I feel I am compelled not only to vote against it, but to seek alternate remedies for future legislation.

We cannot, in this body, Madam Speaker, allow the Speaker of the House or the House majority leader to simply eliminate the tradition of how we do business in order to reach democratically produced legislation. So I will be voting against this bill, and it will be a vote against the kind of heavy-handedness that led to this bill being less than it could have been.

Mr. CONYERS. Madam Speaker, we continue to reserve time.

Mr. SMITH of Texas. Madam Speaker, I yield 1½ minutes to the gentleman from Ohio (Mr. JORDAN), a valued member of the Judiciary Committee.

Mr. JORDAN of Ohio. Madam Speaker, the United States of America is the greatest Nation in human history. And that is due to a number of reasons, number of facts, number of truths that make that so. But certainly, one of those is the document we call the United States Constitution. And on giving the District of Columbia a voting Member in Congress, the United States Constitution could not be more clear. And let me just read what other Members have read: ''Article I, section 2, the House of Representatives shall be composed of Members chosen every second year by the people of the several States. No person shall be a Representative who shall not have attained to the age of 25 years and have been 7 years a citizen of the United States and who shall not, when elected, be an inhabitant of that State in which he shall be chosen. Further, when vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.''

State, State, State. Three different times the word State is used. The District of Columbia is not a State. I can't help that inconvenient fact, as someone has said earlier. But those are the facts. You don't have to be a lawyer. You don't have to be a judge. You don't have to sit on the Supreme Court to understand what the Constitution says.

This bill is unconstitutional, and that is why I oppose it.

Mr. SMITH of Texas. Madam Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KING), another valued member of the Judiciary Committee, and also the ranking member of one of its subcommittees.

Mr. KING of Iowa. Madam Speaker, I thank the gentleman, and ranking member, Mr. SMITH, for yielding and for his leadership on this issue.

I come to the floor here to stand up for this Constitution. That is my oath as it is all of our oaths here. We all stand here on the floor of Congress and take an oath to this Constitution, Madam Speaker. And the language in this Constitution has been many times stated. It is utterly clear. But I want to draw a distinction here that has not been emphasized very much and that is that if you can rationalize that the District of Columbia can constitutionally be conferred a Member by this Congress, then you also have to rationalize that same rationale that two Senators can be conferred upon the District of Columbia as well.

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And I point your attention to, Madam Speaker, Article I, section 2 and the operative language: ''The House of Representatives shall be composed of Members chosen every second year by,'' and this is the distinct language, ''by the people of the several States.''

In Article I, section 3, when you incorporate the 17th amendment into it, reads: ''The Senate of the United States shall be composed of two Senators from each State,'' just like a Member chosen by the State, but elected by the people thereof; elected by the people thereof in section 3; chosen by the people of the several States in section 2. They each reference ''States.'' There is not a distinction. If you can constitutionally confer a Member of Congress, you can do the same thing for Senators.

And I would point out also that a couple of bright legal minds that have weighed in on this, Ken Starr and Viet Dinh, people whom I do respect, also I believe they made an argument that is taught in law school: How do you analyze both sides of the argument so you can make both sides or defend either side?

And I think it is just an utterly weak argument that they made. And the simple principle was that between 1791 and 1801, that 10-year period of time, Virginia and Maryland, those residents that existed and lived in this District that was contemplated by the Framers of the Constitution were granted temporarily the right to vote in their respective States until such time as this Federal jurisdiction was established.

Just because there is consensus agreement among the House, the Senate, and the President does not constitute a constitutional principle.

Mr. SMITH of Texas. Madam Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Madam Speaker, as chairman of the Congressional Constitution Caucus and as a Representative of the State of New Jersey, I come to the floor to strongly oppose this unconstitutional taking away, diminution, and reducing of voting rights for citizens of my district in the State of New Jersey.

The sponsors of the bill do this in order to accommodate the equally unconstitutional creation of voting rights in an area of this country that is not a State. And it has been pointed out already that there is a legal and constitutional manner to enfranchise these people of the District of Columbia.

But in section 4.5 of the bill, the sponsor gives some citizens of another State, Utah, two votes in Congress for every one vote for my citizens in the State of New Jersey.

The Founding Fathers of this Nation never intended that one State would be more equal than another State. The Founding Fathers of this country never intended that Congress could strip away rights to vote from my State to give it to another. The Founding Fathers never intended that Congress would create a situation that one State would be second class to another State.

I urge my colleagues from New Jersey to vote against this bill.

Mr. SMITH of Texas. Madam Speaker, I yield 1 minute to my colleague from Texas (Mr. POE).

Mr. POE. Madam Speaker, I am glad that we are finally discussing the U.S. Constitution. So much legislation goes through this House from both sides where the Constitution is never mentioned as to whether it is constitutional or not.

No question about it: the folks in Washington, D.C. ought to be represented in the House. But the Constitution does not allow it except by constitutional amendment. And history is on the side of what I say.

The 23rd amendment to the Constitution that was approved in 1961 gives the District of Columbia and the people here representation or voting in the Presidential election by giving them three electors. It took a constitutional amendment to give them that right. The arguments were made then that are being made now. D.C. was not a State in 1961 any more than it is a State today.

So let us proceed. Let us proceed with a constitutional amendment if need be and give the folks in Washington, D.C. a representation in this House of Representatives. But do it the right way. Do it the constitutional way, not by just some legislation of Congress.

Mr. SMITH of Texas. Madam Speaker, I yield 1 minute to the gentleman from Ohio (Mr. REGULA), a senior Member of this body.

(Mr. REGULA asked and was given permission to revise and extend his remarks.)

Mr. REGULA. Madam Speaker, I have a little bit different approach to this. I have been introducing a bill in several sessions which would provide for retrocession of the city of Washington, D.C. minus the Federal portion

to the State of Maryland. This would give the people who reside in Washington, D.C. a chance to vote on Senators. It would give them a chance to vote on legislators. It would give the people who live here a chance to participate in the university system, the highway system, economic development. A lot of things would accrue to the benefit of the people if we would have retrocession of the city minus the Federal portion.

There is precedent for this in the fact that originally we had a portion of it retrocede to Virginia, and I think retroceding the balance to Maryland would make a lot of sense for the people. It would give them what they are seeking, which would be a vote not just for Congress but for Senators, for the legislators, and it would be a way in which they could more effectively participate.

Madam Speaker, I rise in opposition to this legislation. I want to be clear, however, that I have long been an advocate of voting rights for the residents of the District of Columbia. Beginning with my service on the DC Appropriations Subcommittee in 1987, I have been keenly aware of this unfair situation within our democracy. Virtually every Congress since then I have introduced legislation that would give the District of Columbia residents representation in Congress. Voting is a privilege that our founding fathers intended every American to have, and giving this right to DC residents is a matter of doing what is right. Yet 200 years have passed since DC residents lost their voting rights and they continue to express dissatisfaction over their lack of voting representation in Congress.

Because of this frustrating situation and the numerous failed attempts to grant DC either statehood or a voting representative, I have advocated for a simple, sound and proven process to give DC residents voting rights. This process is known as retrocession or reunion. Through this process, the District, barring a small Federal enclave, would be returned to the State of Maryland, which originally ceded the land in 1790.

Retrocession would be beneficial for both the District and Maryland. The voting rights issue would be resolved, as DC residents would gain not only a voting representative in the House of Representatives but also two in the United States Senate. The residents also would gain new representation on the State level and enjoy access to Maryland's State infrastructure, facilities and assistance programs. On a very local level, Washington, as a city in a state, would regain the local decision-making authority it has been seeking for so long.

Conversely, by gaining the District's nearly 600,000 residents, Maryland would gain a seat in the House and extend its influence in Congress. With the Nation's 2nd highest per capita income, District residents would enhance Maryland's tax base and help create the 4th largest regional market in the country.

Canada offers a prime example of how this proposal could work. Its capital, Ottawa, lies in the province of Ontario and sends representatives to the provincial parliament in Toronto as well as the federal parliament as part of the Ontario delegation. Also, in 1790, Alexandria, Virginia was in a similar position to DC. Alexandria was included in the area chosen by George Washington to become the District of Columbia. A portion of the City of Alexandria and all of today's Arlington County share the distinction of having been originally in Virginia, ceded to the U.S. Government to form the District of Columbia, and later retroceded to Virginia by the Federal Government in 1846, when the District was reduced in size to exclude the portion south of the Potomac River.

I believe this framework is the most logical and constitutionally sound way to give DC residents the voting rights they deserve. Additionally, as I mentioned previously, the precedent already exists. Let's pursue a realistic solution to restore the rights of District residents and provide them with a better future.

Mr. SMITH of Texas. Madam Speaker, I yield 1 minute to the gentleman from Florida (Mr. FEENEY), a former Speaker of the House in Florida.

(Mr. FEENEY asked and was given permission to revise and extend his remarks.)

Mr. FEENEY. Madam Speaker, I find almost a surreal debate going on with my friends on the left side of the House saying to us don't you like democracy. We have got soldiers fighting for democracy throughout the world, while we are saying to our friends on the left, don't you like the Constitution?

The question is are we a pure democracy or a constitutional republic? The Constitution is made up of powers delegated by the States, and the States alone, to the Federal Government. The States and the States alone, according to the language of the Constitution, are represented in the U.S. House.

If you believe in democracy, use the constitutional amendment process, use the retrocession process. If you have a quarrel with the Constitution, it is not because you don't like the position of the Republicans and the minority in this House. It is because your quarrel is with the Founding Fathers.

Hamilton tried to get this provision in the Constitution, representation for D.C. The Founding Fathers considered it and they rejected it.

So, again, we are for democracy within a constitutional republic status. We are not an unadulterated democracy. We are a constitutional republic.

Mr. SMITH of Texas. Madam Speaker, I yield 1 minute to the gentleman from Nevada (Mr. HELLER).

Mr. HELLER of Nevada. Madam Speaker, I thank the ranking member for yielding.

I rise in opposition to this legislation. The matter is a question of basic fairness, but also serious constitutional concern.

As a former Secretary of State for the State of Nevada, I have spent years trying to figure out ways to promote voting, and I support the voting rights of all Americans. I additionally understand the concerns of Utah for its population that lives abroad outside its borders and their desire for an extra seat.

But I will tell you until this year, Nevada has had a 20-year grip as the fastest-growing State in the Nation, and Nevada's population is about even to Utah's, but Nevada is growing significantly faster than our neighbor.

I understand the concerns of my Utah colleagues following the 2000 census; but to give Utah an extra seat at the expense of Nevada would, arguably, slight Nevada.

I know the intent is good, but the means by which we achieve them are just as important, and I urge a ''no'' vote.

Mr. CONYERS. Madam Speaker, I am proud to yield 1 minute to the most patient Member in the House of Representatives, the gentleman from Texas (Mr. AL GREEN).

Mr. AL GREEN of Texas. Madam Speaker, I thank the chairman for yielding.

I want to make it conspicuously clear that I love the Constitution. And I understand that there are constitutional scholars on both sides of this issue.

There were constitutional scholars on both sides of Dred Scott. There were constitutional scholars on both sides of Plessy vs. Ferguson. There were constitutional scholars on both sides of Brown vs. The Board of Education.

The question is which side are you on? Which side are you on today?

I stand with the half million people, more than a half million people, in the District of Columbia who do not have full representation in the United States Congress. Which side are we on today?

I stand with ending 206 years of injustice on people who are citizens of the United States who live in the District of Columbia. I stand on the side of ending taxation without representation. I stand with the chairman and I want to especially say that I stand with the majority leader, who stood here and made me proud of him today. Just when I think that the stock of the chairman of this committee and the majority leader can't go any higher, it goes up.

I stand for government of the people, by the people, and for the people.

Mr. SMITH of Texas. Madam Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. CONYERS. Madam Speaker, I am proud to yield 1 full minute to RUSH HOLT of New Jersey.

Mr. HOLT. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, the constitutional history of the United States has been the expansion of the voting franchise. Our history has been to expand the rights and responsibilities of citizenship.

With respect to the District of Columbia, the Constitution provides that the Congress shall have the power to exercise exclusive legislation. It does not say that the price is the loss of the franchise.

As a youngster who lived here in the District of Columbia, I was told by some that residents of D.C. were special. My colleague from Texas used the

word ''distinctive'' awhile ago, that somehow we were honored to have Congress govern us even though we did not have representation.

What a strange honor. It is truly paradoxical and ironic that residents of the seat of government of the greatest democracy in the world should not themselves have the right of direct representation, 600,000 citizens, citizens without the complete basic rights of citizens. Giving D.C.'s 600,000 residents direct representation of Congress is long overdue.

I rise today in support of the District of Columbia House Voting Rights Act of 2007, and I would like to commend my colleagues ELEANOR HOLMES NORTON and TOM DAVIS for their tireless efforts to bring this important measure to the Floor for a vote.

The United States Constitution, a relatively short and simple document, has utterly transformed the world in its 200 year history. It has served as a model for fledgling democracies everywhere, because of its establishment of a system under which the citizenry grant limited powers to the government and choose the individuals who will represent them in that government. The Constitutional history of the United States has been the expansion of the voting franchise. Our history has been to expand the rights and responsibilities of citizenship.

As for the District of Columbia, however, the Constitution provides that Congress shall have the power ''to exercise exclusive legislation over such District (not exceeding ten miles square) as may . . . become the seat of government of the United States.'' It does not say that the price is disenfranchisement.

The importance of creating a neutral jurisdiction for the seat of the federal government under the exclusive control of Congress made sense at the time. As a youngster who lived in the District of Columbia many decades ago, I was told by some that residents of DC were special, distinctive as the gentleman, Mr. SMITH, that we were honored to have Congress govern us even though Congress worked without representation from us. What a strange honor! It is truly paradoxical that the residents of the seat of government of the greatest democracy in the world should not, themselves, have the rights to direct representation. The District of Columbia was created in 1790 and, in 1800, it had a population of just over 8,000. Today, it is home to about 600,000 citizens—citizens without the complete basic rights of citizens.

If enacted, H.R. 1433 would treat the District of Columbia like a congressional district for the purposes of allowing direct representation within the House of Representatives. This measure was reported out favorably by the House Committee on the Judiciary Committee by a margin of almost two to one, and subsequently by the House Committee on Oversight and Government by a margin of 25 to four. [Giving Washington D.C.'s 600,000 residents direct representation in Congress is long overdue;] I fully support this measure and I urge my colleagues to do the same.

Mr. CONYERS. Madam Speaker, I yield 1 minute to the gentleman from Ohio, DENNIS KUCINICH, a distinguished Member of this body.

Mr. KUCINICH. Madam Speaker, I thank the chairman for yielding.

D.C. residents shoulder the burden of a colossal injustice. They live within a system of governance that extracts the full range of taxes paid by all other U.S. citizens without the benefit of voting representation in the United States Congress.

The history of D.C. is the history of democracy denied. Its citizens have given the full measure of their allegiance to the United States. They fought in wars for the United States. They have paid taxes. They have provided labor, resources, and space to the United States Government. Yet for 200 years District residents have been bystanders in the governance of their Nation and city.

''Taxation without representation'' is not just a good slogan. It is a plight that sparked revolution. We attempt to create democracies around the globe, but to deny democracy in the shadow of the U.S. capital, it is now time to end that.

Voting rights, civil rights, human rights are all one. Support this resolution.

Mr. CONYERS. Madam Speaker, I am pleased now to yield 1 minute to my good friend from Virginia, JAMES MORAN.

Mr. MORAN of Virginia. Madam Speaker, I listened carefully to the arguments against this bill, and no one has made the argument that this is not the right thing to do. The opposition is hiding behind the language of the Constitution. I say ''hide'' because there are any number of interpretations and any number of conservative constitutional scholars who have said this is fully constitutional.

But it is the right thing to do because there is no jurisdiction, no State, no local government that has had more legislation passed in this body affecting them than the onerous provisions directly affecting the citizens of the District of Columbia and uniquely affecting them.

Forty-four thousand veterans are in the District of Columbia. Every D.C. resident pays Federal taxes.

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They are solid American citizens and there are more of them than in the entire state of Wyoming. They deserve voting representation.

Let me say one further thing. I represent the area in Alexandria that used to be part of the District of Columbia. When that area retroceded back to Virginia, on the front page of the Alexandria Gazette they described the freed men and freed women on their knees begging for citizens of Alexandria not to do this—not to deprive every black person of all their rights. But the entitled white people of Northern Virginia voted to deny them their rights because of racism. The history of this disenfranchisement of D.C. residents is not a pretty one. It needs to be undone.

Mr. CONYERS. Madam Speaker, I am proud to yield 1 minute to my friend the gentlewoman from New York (Mrs. MALONEY).

(Mrs. MALONEY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. Madam Speaker, I rise in strong support for voting rights for residents of the District of Columbia.

I would note, Madam Speaker, that this month is Women's History Month, and it took women many, many long years to gain the right to vote. It took a constitutional amendment in 1920 to give women the right to vote. But today we can vote to give the vote to the residents of the District of Columbia.

I would note that it was not until 1965 that the landmark Voting Rights Act was signed into law to outlaw discriminatory practices like literacy tests and to ensure that all Americans, regardless of race, had access to the ballot. Today we have the opportunity to take another historic step in the right direction by ending the disenfranchisement of hundreds of thousands of tax-paying Americans.

The people of the District of Columbia contribute to our national economy, they fight in our wars, and it is simply wrong that they not have representation.

I rise in strong support of voting rights for these residents.

Madam Speaker, I rise today in strong support of H.R. 1433, the ''District of Columbia House Voting Rights Act,'' introduced by my good friend and colleague, Representative ELEANOR HOLMES NORTON.

She has been a steadfast champion for her constituents on many issues, and has worked tirelessly to bring this legislation to the floor today.

I want to commend her for her commitment to the residents of the District of Columbia, who for too long have been denied a voice in the House of Representatives.

We have seen through our own history the great struggles that have been endured to win the right to vote.

For women, it took a constitutional amendment in 1920 to give us the right the vote.

It was not until 1965 that the landmark ''Voting Rights Act'' was signed into law to outlaw discriminatory practices like literacy tests and to ensure that all Americans, regardless of race, had access to the ballot box.

Today, we are taking another step in the right direction by ending the disenfranchisement of hundreds of thousands of tax-paying Americans.

It is undemocratic that we can determine the taxes that District residents pay to the Federal Government, but they have not been able to elect a representative who has a say in what those taxes will be.

The people of the District of Columbia contribute to our national economy and they fight in wars.

It is simply wrong that their representative in the House does not have full voting rights.

The House of Representatives is known as ''the people's house'' yet for the people living in the District of Columbia, their voices have been silenced for far too long.

It is sadly ironic that the citizens living in the Nation's Capital do not have full representation in the House.

With this legislation, we will change history.

I urge my colleagues to support his legislation.

Mr. SMITH of Texas. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, let me summarize the reasons we should oppose this legislation. D.C. is not a State, and the Constitution clearly limits representation in the House to States.

Supporters of this bill claim Congress has the authority to enact this bill under a broad reading of the so-called ''District clause'' in Article I, section 8 of the Constitution. However, Article I, section 2 clearly says, ''The House of Representatives shall be composed of Members chosen every second year by the people of the several States.''

The bill unfairly subjects many citizens to unequal treatment as well. H.R. 1433 grants Utah an additional Representative who will run statewide or at large. The at-large provision violates the principles of one man, one vote. Voters in Utah would be able to vote for two Representatives, their district Representative and their at-large Representative, whereas voters in every other State would only be able to vote for their one district Representative. The result would be that Utah voters will have disproportionately more voting power than the voters of every other State, and that, too, is clearly unconstitutional.

In 2000, the Federal District Court in D.C. itself stated, ''We conclude from our analysis of the text that the Constitution does not contemplate that the District may serve as a State for purposes of the apportionment of congressional representatives.''

Furthermore, Madam Speaker, this unconstitutional approach is completely unnecessary. Most of the District of Columbia, other than a few Federal buildings, could simply be returned to the State of Maryland. That process of retrocession is clearly allowed by the Constitution. That process could grant representation in the House to those in Washington by a simple majority vote. D.C. voters could then be represented by both House and Senate Members, an improvement over the current legislation.

Madam Speaker, finally, and for many good reasons, the administration also opposes this legislation.

Madam Speaker, I yield back the balance of my time.

Mr. CONYERS. Madam Speaker, I yield to the gentlewoman from California (Ms. WATSON) for the purpose of a unanimous-consent request.

(Ms. WATSON asked and was given permission to revise and extend her remarks.)

Ms. WATSON. Madam Speaker, I just want to say that this is long overdue.

Madam Speaker, I am elated that this bill is finally reaching the House floor for a vote—that we might finally be granting a voice in Congress to half a million patriotic taxpaying Americans. I know that my colleague, ELEANOR HOLMES NORTON, is elated as well.

Democracy for District residents is long overdue. There are over 500,000 residents living in DC and they pay some of the highest income taxes in the Nation, but they do not have full representation in Congress. This is unacceptable. DC residents should have the voice and voting rights that the other 50 States in this country share.

Voting is fundamental to the Democratic process. It is the one act that allows the widest participation of the American public in our political process. Every voter who goes to the polls should be assured that his or her vote will be counted and the candidates they put in office will be able to have the voting power to voice their needs in this House.

Madam Speaker, I am hopeful that when this bill passes, I will soon be able to call my colleague from the District of Columbia Congresswoman HOLMES NORTON and she will be joining me on the floor to vote and represent the people of Washington, DC to the fullest.

Mr. CONYERS. Madam Speaker, I yield 30 seconds to the distinguished former member of the Judiciary Committee, the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. I thank the chairman.

Madam Speaker, this bill is about justice, it is about fairness and about democracy. What a terrible message we send when the people in the capital of the world's greatest democracy do not have a vote in the people's House.

I have the privilege of representing the district right next to Washington, D.C., and it is simply wrong that when you cross the border from Washington, D.C., into my district, you go from a district where you have no voting representation in Congress to one where you do.

We need to make sure that all the people in this country share the right to a vote in the people's House. I urge adoption of this bill.

Mr. CONYERS. Madam Speaker, I yield 30 seconds to the distinguished gentlewoman from California (Ms. PELOSI), the Speaker of the House.

Ms. PELOSI. Madam Speaker, I thank the gentleman for yielding and his leadership in bringing this very important legislation to the floor.

This is a happy day indeed. It is an historic day. It is a day when the people of the District of Columbia will finally have their voices heard and represented.

This is a personal joy for me as well, because when I was born all those many years ago, my father served in the Congress, and he became the Chair of the District of Columbia Appropriations Subcommittee. As such, that was a time when there was no Mayor, no home rule, no anything; that committee practically ran the District of Columbia. My father was a strong advocate for home rule for the District, and, of course, we had hoped eventually, and still do, statehood.

It took a long time, but at last today we will get a vote once again for Congresswoman ELEANOR HOLMES NORTON. She has really been a champion for the District. Even without the full vote, her impact is felt here, but it is the right thing to do for her to have the vote.

Congressman DAVIS, as Chairman DAVIS and now as ranking member, has always been a strong advocate for this, as has HENRY WAXMAN, the Chair of the Government Reform Committee, and you, Mr. Chairman, from the standpoint of the Judiciary Committee.

How impressive it was to see the Iraqi vets, these young people, coming back from the Iraq war, and those serving in Afghanistan, where they were willing to make any sacrifice for our country. Their courage and patriotism is honored by all of us. They came and pled to us for the District of Columbia to have the vote. They live here, they went to war from here, they wanted to come home to the fullness of democracy for the District of Columbia.

Today's vote affirms an enduring principle of our democracy, the right to be heard and represented. They fought for that in Iraq. They should have it here in the District.

For more than 200 years, the people of the District of Columbia have been denied full representation. This carefully crafted, bipartisan legislation corrects a serious flaw in our democracy. America is at its best honoring the cause of freedom and justice when all voices are fully represented.

The effort to politicize the issue of fundamental fairness disrespects the ideals of this Nation and the people of the District of Columbia. We must honor our democracy. House Democrats will not rest until full representation in the House is granted to the District of Columbia.

This is an important day on which I congratulate Congresswoman ELEANOR HOLMES NORTON and the people of the District of Columbia for having this right come due.

Mr. CONYERS. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, I will insert in the RECORD under yesterday's date, March 21, a CRS report handed to me by ELEANOR HOLMES NORTON that validates the fact that the one man, one vote principle is not violated by the Utah creation of an at-large district.

Madam Speaker, we have had a lot of predictions from Members of the Congress who may be on the Supreme Court someday. They predicted unconstitutionality and constitutionality. Let's leave it up to the Court. But, remember, those challenging on the basis of unconstitutionality have the burden.

I close with this observation: The three recommendations we have had, a constitutional amendment; retrocession, giving D.C. back to Maryland; or statehood, are not going to work.

I urge support for this measure before us today.

CRS REPORT FOR CONGRESS: CONGRESSIONAL REDISTRICTING: THE CONSTITUTIONALITY OF CREATING AN AT-LARGE DISTRICT

(L. Paige Whitaker, Legislative Attorney)

SUMMARY

Among other provisions, H.R. 1433 (110th Cong.), the District of Columbia House Voting Rights Act of 2007, would expand the U.S.

House of Representatives by two Members to a total of 437 Members. The first of these two new seats would be allocated to create a voting Member representing the District of Columbia, and the second seat would be assigned in accordance with 2000 census data and existing federal law, resulting in the addition of a fourth congressional seat in the state of Utah, which would be a temporary at-large district. This report is limited to discussing only the constitutionality of the creation of an at-large congressional district. While it is not without doubt, based on the authority granted to Congress under the Constitution to regulate congressional elections and relevant Supreme Court precedent, it appears that federal law establishing a temporary at-large congressional district would likely be upheld as constitutional.

H.R. 1433 (110TH CONG.), THE DISTRICT OF COLUMBIA HOUSE VOTING RIGHTS ACT OF 2007

Among other provisions, H.R. 1433 (110th Cong.), the District of Columbia House Voting Rights Act of 2007, would expand the U.S. House of Representatives by two Members to a total of 437 Members. It specifies that the first of these two new seats would be allocated to create a voting Member representing the District of Columbia, and that the second seat would be assigned in accordance with 2000 census data and existing federal law, which would currently result in the addition of a fourth congressional seat in the state of Utah. This report is limited to considering only the issue of the constitutionality of the creation of an at-large congressional district.

H.R. 1433 (110th Cong.) was introduced on March 9, 2007, and supersedes H.R. 328, which was introduced earlier in the 110th Congress. On March 13, the House Government Oversight and Reform Committee reported H.R. 1433, by a vote of 24–5, and on March 15, the House Judiciary Committee reported the bill by a vote of 21–13.

BRIEF CONSTITUTIONAL ANALYSIS

The U.S. Constitution provides the states with primary authority over congressional elections, but grants Congress the final authority over most aspects of such elections. This congressional power is at its most broad in the case of House elections, which have historically been decided by a system of popular voting. Article I, §4, cl. 1 provides that:

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Supreme Court and lower courts have interpreted this language to mean that Congress has extensive power to regulate most elements of congressional elections, including a broad authority to protect the integrity of those elections.

The Constitution does not specify how Members of the House are to be elected once they are apportioned to a state. Originally, most states having more than one Representative divided their territory into geographic districts, permitting only one Member of Congress to be elected from each district. Other states, however, allowed House candidates to run at-large or from multimember districts or from some combination of the two. In those states employing single-member districts, however, the problem of gerrymandering, the practice of drawing district lines in order to maximize political party advantage, quickly arose.

Accordingly, Congress began establishing standards for House districts. Congress first passed federal redistricting standards in 1842, when it added a requirement to the apportionment act of that year that Representatives ''should be elected by districts composed of contiguous territory equal in number to the number of Representatives to which each said state shall be entitled, no one district electing more than one Representative.'' (5 Stat. 491.) The Apportionment Act of 1872 added another requirement to those first set out in 1842, stating that districts should contain ''as nearly as practicable an equal number of inhabitants.'' (17 Stat. 492.) A further requirement of ''compact territory'' was added when the Apportionment Act of 1901 was adopted stating that districts must be made up of ''contiguous and compact territory and containing as nearly as practicable an equal number of inhabitants.'' (26 Stat. 736.) After 1929, there were no congressionally imposed standards governing congressional redistricting; in 1941, however, Congress enacted a law providing for various redistricting contingencies if states failed to redistrict after a census—including at-large representation. (55 Stat 761.) In 1967, Congress reimposed the requirement that Representatives must run from single-member districts, rather than running at-large. (81 Stat. 581.)

Both the 1941 and 1967 laws are still in effect, codified at 2 U.S.C.§§2a and 2c. In Branch v. Smith, the Supreme Court considered the operation and inherent tension between these two provisions. It does not appear, however, that the question of congressional authority was in serious dispute in this litigation. Rather, the Court noted in passing that the current statutory scheme governing apportionment of the House of Representatives was enacted in 1929 pursuant to congressional authority under the ''Times, Places and Manner'' provision of the Constitution. Consequently, it seems likely that Congress has broad authority, within specified constitutional parameters, to establish how Members' districts will be established, including the creation of at-large districts.

It might be suggested that creating an at-large congressional district in a state could violate the ''one person, one vote'' standard established by the Supreme Court in Wesberry v. Sanders. In Wesberry, the Supreme Court first applied the one person, one vote standard in the context of evaluating the constitutionality of a Georgia congressional redistricting statute that created a district with two to three times as many residents as the state's other nine districts. In striking down the statute, the Court held that Article I, section 2, clause 1, providing that Representatives be chosen ''by the People of the several States'' and be ''apportioned among the several States . . . according to their respective Numbers,'' requires that ''as nearly as is practicable, one man's vote in a congressional is to be worth as much as another's.''

While it is not beyond dispute, it does not appear that the creation of an at-large district under the circumstances outlined in H.R. 1433 would be interpreted to create a conflict with the ''*one person, one vote*'' standard. Under H.R. 1433, each Utah voter would have the opportunity to vote both for a candidate to represent his or her congressional district as well as for a candidate to represent the state at-large. Each person's vote for an at-large candidate would be of equal worth. Further, each person's vote for an at-large candidate would not affect the value of his or her vote for a candidate representing a congressional district. Accordingly, all Utah residents' votes would have equal value, thereby arguably comporting with the one person, one vote principle.

Based on the authority granted to Congress under the Constitution to regulate congressional elections and relevant Supreme Court precedent, it appears that a federal law establishing a temporary at-large congressional district would likely be upheld as constitutional.

The SPEAKER pro tempore. The gentleman from California (Mr. WAXMAN) and the gentleman from Virginia (Mr. TOM DAVIS) each will control 10 minutes.

The Chair recognizes the gentleman from California.

Mr. WAXMAN. Madam Speaker, I yield my time to be managed by the gentlelady from the District of Columbia, soon to be, her voters willing, the actual Representative of the District of Columbia in every way possible.

The SPEAKER pro tempore. The gentlewoman from the District of Columbia (Ms. NORTON) will control 10 minutes.

The Chair recognizes the gentlewoman from the District of Columbia.

Ms. NORTON. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, I thank the gentleman from California for yielding me his time.

Madam Speaker, this bill is covered with the full handprints of scores of Members, beginning on the other side of the aisle with Congressman TOM DAVIS, who planted and tirelessly cultivated the seed; and Utah Members CANNON and BISHOP, joined by Mr. MATHESON, the State's only Democratic Member.

However, it was leadership that got us to this historic day, especially Speaker PELOSI's personal insistence, Majority Leader HOYER's outspoken energy, Chairman CONYERS' decades of persistence and Chairman WAXMAN's indispensable guidance.

I am inspired daily by the citizens of this city, personified by Emory Kosh, a staff assistant in my office here in the House whose second child was born while he was serving in Iraq. Emory's military service follows in the tradition of D.C. residents, who first fought in the Revolutionary War to establish ''the Republic for which we stand,'' have fought and died for their country in every war since, and, like other Americans, have always been obliged to pay Federal income taxes, today ranking second among the 50 States and the District of Columbia in taxes paid to support the Government of the United States. Today, I come forward in their name.

Our forefathers in this city were the three Virginians who signed the Constitution and the three signers from Maryland. Yet some seriously argue that the Virginians, the Marylanders and the other Framers fresh from the Revolutionary War, waged specifically to obtain representation, contributed land where thousands of their own residents resided, some of them veterans of the Revolutionary War, and then signed away their rights in the new Constitution.

However you vote on the District's voting rights, do not slander the Framers. For two centuries, the fault has been right here in the Congress, not the flawed vision of the Framers.

Madam Speaker, I reserve the balance of my time.

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Mr. TOM DAVIS of Virginia. Madam Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Madam Speaker, I come to the House today to express my support for the District of Columbia House Voting Rights Act of 2007.

I believe after much consideration that this legislation is a constitutional remedy to a historic wrong. Now, while many have focused on the political consequences of such a move, I believe the only question for a Member of Congress on such matters is this: What does justice demand and what does the Constitution permit this Congress to do about it?

The fact that more than half a million Americans live in the District of Columbia and are denied a single voting representative in Congress is clearly a historic wrong, and justice demands that it be addressed. At the time of the adoption of our present system of government, the Federal city did not exist apart from a reference in the Constitution. And when the District of Columbia opened for business in 1801, only a few thousand residents lived within her boundaries. Among our Founders, only Alexander Hamilton would foresee the bustling metropolis that the District of Columbia would become, and he himself was an advocate of voting representation.

The demands of history in favor of representation for the Americans living in Washington, D.C. are compelling. In establishing the Republic, the single overarching principle of the American founding was that laws should be based on the consent of the governed. The first generation of Americans threw tea in Boston Harbor simply because they were denied a voting representative in the British Parliament. Given their fealty to representative democracy, it is inconceivable to me that our Founders would have been willing to accept the denial of representation to so great a throng of Americans in perpetuity.

But the demands of justice are not enough for Congress to act. As many of my colleagues have eloquently stated, under the principles of limited government, a republic may only take that action which is expressly authorized in its written constitution. In this regard, I believe that H.R. 1433 is constitutional. And I am not alone in this view.

In support of this legislation, Judge Kenneth Starr, former independent counsel and U.S. Solicitor General observed: ''There is nothing in our Constitution's history or its fundamental principles suggesting that the framers intended to deny the precious right to vote to those who live in the capital of the great democracy they founded.''

Now, opponents of D.C. voting rights understandably cite the plain language of Article I of the Constitution that the House of Representatives be comprised of representatives elected ''by the people of the several States.'' Now if this were the only reference to the powers associated with the Federal city, it would be persuasive, but it is not. Article I, section 8, clause 17 provides that ''Congress shall have power to exercise exclusive legislation in all cases whatsoever'' over the District of Columbia.

In 1984, it would be Justice Scalia who would observe that the seat of government clause gives the Congress ''extraordinary and plenary power'' over our Nation's capital.

And Congress has used this power to remedy the rights of Americans in the District of Columbia in the past. In 1949, the Supreme Court upheld legislation that extended access to the Federal courts to citizens of the district even though Article III expressly limited jurisdiction of those courts to citizens of States. As Judge Starr observed: ''The logic of this case applies here,'' and I agree.

But one caveat, Madam Speaker. None of this argues for the District of Columbia ever to be granted a right to elect Members to the Senate. From the inception of our Nation, this House of Representatives was an extension of the people. The Senate, from the inception of our Nation, was an extension of the States. If the people of the District of Columbia would like two seats in the United States Senate, under the Constitution, they will have to become a State.

You know, the Old Book tells us what is required: do justice, love kindness, and walk humbly with your God. I believe that justice demands that we right this historic wrong. The American people should have representation in the people's House. I believe that kindness demands that we do the right thing for all Americans regardless of race or political creed, and I believe that humility demands that we do so in a manner consistent with our Constitution.

The D.C. House Voting Rights Act meets this test, and I am honored to have the opportunity to continue to play some small role in leading our constitutional Republic ever closer to a more perfect Union.

I commend the gentleman from Virginia and my colleague, the delegate from the District of Columbia, for their yeoman's work on this legislation.

Ms. NORTON. Madam Speaker, I am pleased to yield 1 minute to the chairman of the Oversight Committee without whose leadership we could not have come to this day, the gentleman from California (Mr. WAXMAN).

(Mr. WAXMAN asked and was given permission to revise and extend his remarks.)

Mr. WAXMAN. Madam Speaker, I thank my colleague for yielding to me.

Today, we are considering a bill that will bring democracy to the District of Columbia. This bill will grant the District of Columbia a full vote in the House of Representatives. They have been denied full representation in Congress for over 200 years, and this will help right this long-standing injustice.

But I want to use my time to point out that there have been two champions of this legislation who deserve recognition. One is Congresswoman NORTON who has been working tirelessly on behalf of her constituents to forge a compromise that has bipartisan support; and the second is the ranking member of the Oversight and Government Reform Committee, and its former Chair, the gentleman from Virginia (Mr. TOM DAVIS).

Last year as chairman of our committee, he led the charge for voting rights for the District. It was his inspiration that brought this compromise to the point now where I expect this bill will pass the House of Representatives and go on its way to the other body. This is a bill that is long overdue. I urge all of my colleagues to vote for this bill.

H.R. 1433, the District of Columbia House Voting Rights Act of 2007, will grant the District of Columbia a full vote in the House of Representatives.

District of Columbia residents have been denied full representation in Congress for over 200 years. District residents pay billions of dollars in federal taxes yet get no vote in Congress. This bill will help right this longstanding injustice.

There have been two champions of this legislation who deserve recognition. One is Congresswoman NORTON, who has worked tirelessly on behalf of her constituents to forge a compromise that has bipartisan support. The second is the Ranking Minority Member of the Oversight and Government Reform Committee, Representative DAVIS. Last year, as Chairman of the Committee, he led the charge for voting rights for the District.

The District of Columbia House Voting Rights Act includes a number of important provisions.

This bill will increase the size of the House by two seats. One of those seats will go to the District of Columbia and the other seat will go Utah, the next state in line to get a congressional seat. The bill prevents partisan gerrymandering by creating the new seat for Utah as an at-large seat and by ensuring that Utah does not redistrict its other congressional seats until apportionment is conducted following the 2010 census.

H.R. 1433 also contains a nonseverability clause providing that if a court holds one section of this bill invalid or unenforceable, all other sections will be invalid or unenforceable. This is an important safeguard because it means that no section of this legislation can have legal effect unless the entire bill has legal effect. Under this legislation, Utah cannot be granted a seat in the House without the District also being granted a seat or vice versa.

H.R. 1433 is a step in the right direction toward providing the residents of the District fair representation in Congress. I urge all of my colleagues to join me in supporting this legislation.

Mr. TOM DAVIS of Virginia. Madam Speaker, I yield to the gentleman from

Georgia (Mr. PRICE) for the purpose of a unanimous consent request.

(Mr. PRICE of Georgia asked and was given permission to revise and extend his remarks.)

Mr. PRICE of Georgia. I thank the ranking member and appreciate his indulgence.

I strongly oppose the underlying bill, as I believe it to be unconstitutional.

The House of Representatives stands on the verge of voting on a flatly unconstitutional, historically egregious bill, the District of Columbia House Voting Rights Act of 2007. This bill would grant the District of Columbia a full voting seat in the House of Representatives by circumventing the Constitution. While I agree that it is an injustice that any United States citizens not have voting representation in Congress, the contorted logic some have used to justify this bill is quite troubling.

In supporting this proposal, Kenneth Starr wrote, ''There is nothing in our Constitution's history or its fundamental principles suggesting that the Framers intended to deny the precious right to vote to those who live in the capital of the great democracy they founded.'' While this may be true, the fact remains that the Constitution exclusively affords House representation to the states. Just because the District of Columbia was denied a seat in the People's House does not mean that Congress can ignore the Constitution.

Advocates of the DC Voting bill are discounting as unpersuasive the ''plain language'' of Article I, Section 2 of the Constitution, which states, ''The House of Representatives shall be composed of Members chosen every second Year by the People of the several states.'' As if that weren't enough, the next sentence declares, ''No Person shall be a Representative who shall not . . . when elected, be an Inhabitant of that State in which he shall be chosen.''

It is indisputable that House representation is constitutionally limited to the states. In fact, the Bush administration recently declared the bill unconstitutional, citing 12 provisions in the Constitution that expressly link congressional representation to statehood. Certainly, no one is claiming that the District of Columbia is one of the 50 states.

Sadly, constitutionality is not a concern of proponents of this legislation. The central argument from supporters of this bill is fairness. They argue that Members of Congress have a moral responsibility to right this wrong by any means. The Founding Fathers would be aghast at this brazen disregard for the Constitution in pursuit of a quick fix.

Supporters of this feel-good legislation frequently cite the ''District Clause'' of the Constitution as justification, which reads, ''Congress shall have power . . . to exercise exclusive Legislation in all Cases whatsoever, over such District.'' It is correct that Congress has the power to govern the District of Columbia, but this does not mean that the residents of the District of Columbia have the right to a seat in Congress, giving them the power to legislate over the 50 states.

The District Clause is found in section 8 of article I, the same section that gives Congress the power to ''establish Post Offices'' and to ''make Rules for the Government and Regulation of the land and naval forces.'' Surely no one would propose granting Fort Gordon a seat in the House, but the promotion of this would follow the same logic.

To be clear: I support representation for the residents of the District of Columbia but not under this bill's approach. It is truly unjust that these tax-paying citizens are denied the right to have their voice heard in the people's House. But Congress cannot create voting rights for D.C. residents by simply ignoring or contorting the Constitution because it is our will. There are two proper, constitutionally just courses of action to remedy this unfairness.

First, the Founders gave Congress and the people the authority to amend the Constitution. This course would provide for a 51st state of the District of Columbia. But as the constitutional amendment process can be protracted and complicated, I support the second course—retroceding the non-federal portion of Washington, D.C., to the State of Maryland. Following this plan, most of the residents would have full representation in the House and Senate, as residents of Maryland. This is a commonsense proposal with historic precedent. In 1846, the land west of the Potomac was ceded back to the Commonwealth of Virginia, and these people now enjoy full congressional representation.

There is a great responsibility in supporting the republican form of government that our Founders created. And where injustices lie in the Constitution, Congress is right to try to correct them. But the greatest respect is owed to our Founders and our Nation as the longest surviving democracy in history. There is a reason for that and it has much to do with respecting the genius of our founding document. We must not ignore the principles of the constitutional republic our Founders laid out.

It is fundamentally antithetical to pursue representative fairness while disregarding the Constitution. I am hopeful that supporters of this bill will see the great fault in their logic, and resolve the injustice of the residents of the District of Columbia not having a voting representative in Congress properly within the bounds of the Constitution.

Mr. TOM DAVIS of Virginia. Madam Speaker, I reserve the balance of my time.

Ms. NORTON. Madam Speaker, I am pleased to yield 2½ minutes to the Chair of the subcommittee with jurisdiction over the District of Columbia, the gentleman from Illinois (Mr. DAVIS).

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Illinois. Madam Speaker, first of all, let me thank the gentlewoman from the District of Columbia for yielding me this time. I also want to commend the chairman of oversight, the Honorable HENRY WAXMAN, and the ranking member, TOM DAVIS, for their leadership on this tremendous legislation. But I also want to add accolades for the gentlewoman from the District of Columbia who has put her heart, mind and soul into this legislation; and without her leadership, we obviously would not be here this afternoon.

I have heard many people talk from both sides. I have heard individuals say that the Constitution denies the opportunity, and I am thinking of the Constitution as a living document. I don't want to keep the Constitution where it might have been. Representative AL GREEN made the most eloquent statement a few moments ago when he suggested there are always individuals on different sides of the Constitution. You can be on the right side, or you can be on the wrong side. You can be on the old side, or you can be on the new side; and the side that we are on this afternoon is the side that gives the residents of the District of Columbia the opportunity to help make more perfect this Union that we are a part of.

I stand firmly in support of this legislation. Again, I commend my colleagues on Oversight and Government Reform and urge all of the Members to vote in favor of giving the District of Columbia residents the right to vote.

Madam Speaker, I rise in support of H.R. 1433, the ''District of Columbia House Voting Rights Act of 2007.'' I want to extend a thank you to Representatives TOM DAVIS and HENRY WAXMAN, and especially to Delegate ELEANOR HOLMES NORTON for their hard work and dedication in introducing and moving this legislation forward to provide the District of Columbia the right to vote with full representation in the House of Representatives.

The legislation before us today will give voting representation to over 500,000 District's residents and increase the size of the House from 435 to 437 voting members. The right to vote is the most basic act of citizenship. Voting representation for District residents who pay Federal taxes, defend our country during war, and contribute to the economic viability of other states, should not be disfranchised because they chose to live in the District of Columbia.

The Constitution, ratified in 1789, provided for the creation and government of a permanent home for the national government. Article I, Section 8, Clause 17, called for the creation of a Federal district to serve as the permanent seat of the national government and granted Congress the power, ''to exercise exclusive legislation in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of government of the United States. . . .'' The Constitution grants Congress plenary power to govern the District of Columbia's affairs. This includes granting voting representation in the House of Representatives for the District of Columbia.

On March 13, 2007, H.R. 1433 was passed by a decisive vote of 24 yeas to 5 nays in the Committee on Oversight and Government Reform and reflects bipartisan support for this legislation.

Madam Speaker, Congress is attempting to correct a longstanding inequity for residents in the Nation's Capital—taxation without representation. We in this body must up hold the Constitution by not denying a large mass of people their fundamental right to voting representation. Congress has the power to correct the wrongs of the past for District residents and it lies in our power to grant the people of DC the right to voting representation.

Madam Speaker, I urge all my colleagues to support this legislation.

Mr. TOM DAVIS of Virginia. Madam Speaker, I yield myself the balance of my time.

(Mr. TOM DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

Mr. TOM DAVIS of Virginia. Madam Speaker, it is often said that if opportunity doesn't knock, build a door. With this bill, we are doing just that.

Using the materials at hand today, we can open a portal to full democratic participation that for too long has remained locked. The circumstances are right, the stars are aligned, and the proposal is sound.

Four years ago, we saw a confluence of events that set the stage for the compromise we have before us today. Two injustices met to create this opportunity to correct both. On the one hand, a long-ignored historical anomaly denies the citizens of the District of Columbia voting representation in the House of Representatives. On the other hand, a more recent problem with the census denies the citizens of Utah the additional House vote that a true count would have yielded.

As it happens, one jurisdiction is predominantly Democratic, the other predominantly Republican. The circumstances opened the way to a politically neutral solution to both problems.

Throughout our Nation's history, it has been just this kind of win-win compromise that, however rooted in the fleeting circumstances of the day, provide enduring solutions to seemingly intractable problems.

Each of us swears to uphold the Constitution, its letter and spirit. That living document is at its heart the most fundamental right of citizens in a democracy. All the citizens. So we rely on the plenary power found in the District clause to restore the full right of citizenship to our disenfranchised countrymen and women.

After researching every possible avenue to right these wrongs and give the citizens of the District of Columbia and Utah, the next State that is eligible for a vote under the formula, the representation to which they are entitled, we concluded the approach before us today is both constitutionally sound and politically viable.

The former is our sworn duty. The latter is a practical imperative.

In 4 years, I have found no evidence that any Member of this body seriously plans to attempt retrocession or campaign for a constitutional amendment. There is a good reason for that: they are politically not viable. Most Members, including me, don't waste their time tilting at windmills.

By now, every Member is aware of the constitutional arguments. I ask that you think carefully about what you hear today. Every first-year law student in this country learns that you can't just read the Constitution once over literally to figure out what it means. But that is what the other side's arguments are. That is where it stops, and that is where it starts.

Those opposing this bill ignore 200 years of case law and clear instruction from the Court that this is a congressional matter and requires a congressional solution. Under their literal reading of the Constitution, District residents would have no right to a jury trial under the sixth amendment because you have to be a State to have that right.

D.C. residents would have no right to sue people from outside D.C. in the Federal courts; only people from States have that right under Article III, section 2.

The full faith and credit clause would not apply to D.C. because that only applies to States under a literal reading of the Constitution.

And the Federal Government would not be allowed to impose Federal taxes on the District. The Constitution says direct taxes shall be apportioned among the several States. Article I, section 2, clause 3.

But in each of these cases, the Supreme Court has held that Congress can consider the District a State for purposes of applying these fundamental provisions. If Congress has the authority to do so regarding these lesser rights and duty, there should be no question we have the same authority to protect the most sacred right of every American: to live and participate in a representative Republic.

It should also be pointed out that Congress granted voting representation in 1790 when it accepted the land that would become the Federal city. It then removed those rights, by statute, 10 years later. Those facts are undisputed. No amendment to the Constitution was considered necessary then. And those opposing the bill today will not explain, only assert, the claimed need for a constitutional amendment to reverse a decision that was made through enactment of a statute.

This problem should be solved. A lot of people today will talk about the Framers and tell us that the Framers intended for the Federal city to have no direct representation.

Do you really believe that if the capital had stayed in New York, the city would have been disenfranchised? Do you believe that if the capital had stayed in Philadelphia, the city would have been disenfranchised? Of course not, and neither should the people of Washington, D.C.

What we know is men and women who fought and died to create this country were willing to die for people who might disagree with them politically. D.C. residents are paying Federal taxes. They are fighting and dying in the Middle East to bring democracy to that part of the world.

This is no mere legal or political science exercise. It's a crisis. Your fellow Americans are being denied the full rights and benefits of representative government. We have before us this unique moment in our history, the opportunity to fulfill the promise of the Constitution and make our democracy whole again.

□ 1400

I hope we hear opportunity knocking, and I hope we hear the faint, but unmistakable whisper of conscience and of history, urging us all to seize the moment with courage and humility.

[From the Washington Post, Mar. 14, 2007]

RIGHTS AND WRONG

Historic legislation giving the people of the District a vote in their national government is being debated in the House of Representatives. Prospects for its passage have never been better. The Democrats who control the House have kept a promise to move the bill forward, but the disenfranchisement of American citizens shouldn't be about partisan politics. It should be about what is right and wrong.

Indeed, the legislation working its way through the House sprang from he sense of injustice of a Republican House member from suburban Virginia. Rep. Thomas M. Davis III believes it is grotesque that D.C. residents are denied congressional representation. he came up with an ingenious way to get politics out of the equation. Two seats would be added to Congress—one for the mostly Democratic District and the other for heavily Republican Utah. The bill is on a fast track thanks to House Speaker Nancy Pelosi (D-Calif.) and Majority Leader Steny H. Hoyer (D-Md.). The House Oversight and Government Reform Committee approved the measure yesterday, with every Democrat and six Republicans voting for it. The Judiciary Committee now takes it up, and a battle is expected.

It's hard to make a case for depriving people of a voice in Congress when they pay federal taxes, serve on federal juries and send family members off to war. It's also pretty embarrassing that the Untied States, while preaching democracy to the rest of the world, remains the only democratic country where people in the capital city are without representation. So opponents of D.C. voting rights have latched onto the only argument they can make with a straight face—that the bill is unconstitutional.

Former judges and constitutional scholars such as Kenneth Starr, Patricia Wald and Viet Dinh, not to mention the American Bar Association, believe the bill is constitutional. They argue that Congress has repeatedly treated the District as if it were a state and that this treatment has been upheld. For his part, Mr. Davis has delved into history to make a compelling argument that the lack of a vote was never the aim of the Founding Fathers but rather an ''undemocratic accident.''

We concede that serious people hold the contrary view. No court has ever weighed in on the D.C. Voting Rights Act, so the constitutional question is open. That, though, is an issue for the courts to decide, in the event of a legal challenge. It should not be an excuse for Congress to continue to deny a basic right to more than half a million people.

[From the Washington Times, Mar. 22, 2007]

D.C. DUE VOTING RIGHTS

(By Jack Kemp)

How's this for irony: Headlines recently proclaimed that the White House was opposed to giving the vote to the more than 600,000 residents of our nation's capital, who, incidentally, are paying federal income taxes to send members of their families to Iraq and Afghanistan so as to guarantee the right to vote for the residents of those nations' capitals.

Even as the Judiciary Committee of the House of Representatives was passing the bill, cosponsored by Reps. Eleanor Holmes Norton, D–D.C., and Tom Davis, R–Va., a spokesman for President Bush was saying the bill is unconstitutional without showing a modicum of sympathy or even a modest understanding of this irony.

The White House spokesman is putting the president in the position of outspoken opposition to expanding the democratic ideal here in the nation's capital, while simultaneously the White House argues the president has the constitutional authority to defend freedom and extend democratic rights to the people of Baghdad and Kabul.

I wrote last May: ''Throughout our nation's history, District of Columbia citizens have given the full measure of their allegiance to the United States. They have fought in and died in every war in which the United States was engaged, they have paid billions in taxes, and they have provided labor and resources to the U.S. economy and government. Yet for 200 years, District residents have been bystanders in the governance of their nation.''

With regard to the constitutional arguments, one of the leading conservative lights in the House of Representatives, Mike Pence of Indiana, recently wrote, ''Opponents of D.C. voting understandably cite the plain language of Article I that the House of Representatives be comprised of representatives elected by 'the people of the several states.' If this were the only reference to the powers associated with the federal city, it would be most persuasive, but it is not. Article I, Section 8, Cl. 17 provides, 'The Congress shall have power . . . to exercise exclusive legislation in all cases whatsoever' over the District of Columbia.''

Pence courageously and wisely voted yes against White House wishes and, sadly, those of the GOP leadership.

In 1984, Justice Antonin Scalia observed that the Seat of Government Clause of the Constitution gives Congress ''extraordinary and plenary'' power over our nation's capital. Scalia added that this provision of the Constitution ''enables Congress to do many things in the District of Columbia which it has no authority to do in the 50 states . . . There has never been any rule of law that Congress must treat people in the District of Columbia exactly the same as people are treated in various states.'' United States v. Cohen, 733 F.2d 128, 140 (D.C. Cir. 1984).

Chief Justice John Marshall acknowledged in the early 19th century that ''It is extraordinary that the courts of the United States, which are open to aliens, and to the citizens of every state in the union, should be closed upon (district citizens).'' But, he explained, ''This is a subject for legislative, not for judicial consideration.''

Marshall thereby laid out the blueprint by which Congress, rather than the courts, could treat the District as a state under the Constitution for the purposes of enfranchisement.

Neither I, nor Tom Davis nor Mike Pence, is arguing for the District of Columbia to become a state. Indeed, from the inception of our nation the founders believed the House of Representatives was the House of the people. I believe passionately that the architects of the American Constitution left us the tools to ensure that all American people should have a voice and vote in the ''people's house.''

I'm troubled by people in the White House who show compassion for the people of Baghdad and Kabul, as they should, but can't find it in their hearts to show anything but indifference to the cries for justice in the nation's capital.

What these presidential advisers are doing is rigidly interpreting the Constitution in such a way as to make the Party of Lincoln into a party that condemns the people of our nation's capital, including four of my 17 grandchildren, from ever participating in the great issues of the day as debated and decided in the House of Representatives.

Indeed, this is taxation without representation.

Republicans have historically supported civil, human and voting rights, including the passage of the 13th, 14th and 15th Amendments. We have a great history of bipartisan support for civil rights, but it was our presidential candidate in 1964 who refused to take a stand for civil and social justice for African-Americans.

My question is, does this president want to continue the legacy of Lincoln, Grant and Eisenhower, or that of Barry Goldwater in 1964?

[From the Washington Post, Feb. 7, 2007]

MORE THAN WORDS

National Democratic party leaders are on record with their unequivocal endorsement of the District's bid for full voting rights in the House of Representatives. Support is always welcome, but what's needed is action. It's time for the Democrats who control Congress to act on legislation to end the disenfranchisement of citizens living in the nation's capital.

The Democratic National Committee voted last weekend to support the measure, promising a grass-roots lobbying campaign. It's a welcome boost for a bill that has languished too long. Sponsored by Rep. Thomas M. Davis III (R–VA.) and the District's nonvoting delegate, Eleanor Holmes Norton (D), the measure would add two seats to the House—one for the heavily Democratic District and the other for largely Republican Utah. The bill enjoyed widespread bipartisan support in the past Congress but was never scheduled for a floor vote, to what should be the everlasting embarrassment of the Republican leadership.

Democrats are in a position to push the bill for approval, but internal party squabbling has slowed its movement. Some Democrats balked at doing anything for Utah until they were convinced that the District seat wouldn't have a chance unless balanced against Utah, which probably would get an extra seat anyway after the next census reapportionment. In recent days, Rep. Henry A. Waxman (D–Calif.) has raised the concern that the bill would give Utah an extra electoral college vote in the 2008 presidential election and could hurt Democrats in a close race. The question is whether Democrats will allow that highly remote and partisan concern to stand in the way of their claimed support for fair representation for District residents.

Party insiders are confident that the disagreements will be ironed out, and they stress that, unlike the Republican leadership, House Speaker Nancy Pelosi (D–Calif.) and Majority Leader Steny H. Hoyer (D–Md.) are genuinely committed to voting rights for the District. We have no reason to doubt that. But the strength of the bill crafted by Mr. Davis and Ms. Norton is that it takes into account the self-interest of both parties while weighing the needs of the people of the District and Utah. Tinkering with that formula could doom the bill, and no matter how good the intentions of lawmakers, the District deserves results.

[From the Virginian-Pilot, Mar. 21, 2007]

SENSIBLE COMPROMISE ON D.C. VOTING

''Taxation without representation'' has been a bedrock excuse for American political dissent since Boston Tea Party days.

Which brings us to the perennial crack in the teacup—the 600,000 residents of the District of Columbia, many of whom are required to pay taxes but none of whom gets to elect a voting member of Congress.

Now, Reps. Tom Davis, R–Va., and Eleanor Holmes Norton, the District's non-voting representative to Congress, have teamed to sponsor an innovative plan thought to have the best shot in years of closing the gap between principle and practice.

The D.C. Voting Rights Act of 2007 would expand the number of U.S. House seats from 435 to 437, balancing a predictably Democratic D.C. vote with one from a new, predictably Republican Utah district.

Previous expansions of congressional membership sought similar balance. At the last census, Utah came within a whisker of getting an additional seat. It fell short, Utahans claim, only because hundreds of young Mormon missionaries were on the road and weren't counted.

The Norton-Davis legislation passed both the House Government Operations Committee, which Davis used to chair, and the Judiciary Committee, but never made it to the floor when Republicans controlled the House.

Now, the Democrats in charge expect to bring the proposal to a floor vote, probably later this month.

Opponents of the bill question its constitutionality, noting that Article 1 says members should be chosen by ''the people of the several states.'' Norton-Davis counters that the District actually had a voting representative for several years around the turn of the 19th century, so the precedent already is set.

Various constitutional scholars have opined that the framers clearly intended for all the nation's citizens to have voting representation at the highest levels of government. Conservatives ascribing to that view include former U.S. Circuit Judge Kenneth W. Starr, who served on the D.C. Circuit Court of Appeals.

So long as a reasonable constitutional reading supports the legislation, and it does, Norton-Davis ought to pass.

A large block of taxpaying citizens should not to be disenfranchised through no fault of their own. Tom Davis and Eleanor Holmes Norton have offered a reasonable fix.

[From the Columbian, Jan. 4, 2007]

IN OUR VIEW—FAIR IS FAIR

And D.C. residents are not getting a fair deal.

Here are 435 voting members of the U.S. House of Representatives. Washington, the 15th largest state with 6.3 million residents, has nine of them. That's 2.068 percent of the House.

Wyoming, the nation's smallest state with 509,000 people, has one House member—0.229 percent.

With 550,000-plus residents, the District of Columbia, which would rank one above Wyoming if it were a state, has zero voting members in the House.

That's 0.000 percent.

That's not fair.

Congress can rectify this inequality and fix a glitch in the Utah's House apportionment at the same time. Our federal lawmakers should enact a proposal to increase House voting members to 437. One new seat would go to the District of Columbia and one to Utah. The D.C. seat would almost certainly be won by a Democrat and Utah's by a Republican.

The reasons for D.C. being shorted on representation for more than two centuries are numerous and of debatable legitimacy. What is indisputable is that more than a half-million Americans living in the very city that is the seat of federal government face federal taxation without representation, and it isn't fair. Utah's two U.S. senators and the state's political establishment support this idea, which died in the Republican-controlled Congress last month. They make a convincing case that in the 2000 census, Utah was undercounted because many of the state's young Mormons were out of state doing missionary

work. Had they all been counted, the argument goes, Utah would have earned a fourth House member and some other state would have lost one.

There are two legitimate concerns. One is that the Constitution says members of the House shall be chosen by ''the people of the several states'' and D.C. is not a state. But, many scholars say the Constitution also gives Congress power ''to exercise exclusive legislation'' over D.C. and therefore may give the District a voting member of the House.

Then there's the fear that if Congress starts down this road, it will add House members on political whims in the future. But that hasn't been the practice. In fact, Congress added two seats in 1959, giving one each to the new states of Alaska and Hawaii, but after the 1960 census cut the total back to 435. The new states kept one each and other states gave up the two, based on population.

A legitimate case can be made that D.C. should get one seat and Utah should get nothing until the next census. But this Utah-D.C. scenario is the best chance in decades for the District of Columbia to get rightful representation. In the name of fairness, Congress should make it happen.

[From the Battle Creek Enquirer (MI), Jan. 5, 2007]

PROPOSAL WOULD GIVE D.C. AND UTAH NEW HOUSE SEATS

For years, the fact that residents of Washington, D.C., have no voting representation in Congress has been a political hot potato. In 1961, the 23rd Amendment to the Constitution gave them the right to vote in presidential elections, and a decade later Congress voted to allow the district to send a nonvoting delegate to the House. That delegate currently is Eleanor Holmes Norton, who is allowed to vote on matters at the committee level, but not once they come to the House floor.

Now Congress may soon consider a bill that would increase the voting membership of the House from 435 to 437, adding new seats both for the District of Columbia and Utah.

The argument for giving Utah a fourth House seat is supported by those who insist the 2000 census undercounted Utah's population because of the many young Mormon men who travel out of that state as part of their missionary work.

Since D.C. is considered a Democratic stronghold and Utah is dominated by Republicans, the proposal has gained bipartisan support and could be taken up early in this congressional session.

The District of Columbia was created to provide an independent site for federal government that did not favor anyone state. Congress moved there from Philadelphia in 1800, and shortly thereafter the question of voting rights for D.C. residents became an issue. The lack of a voting representative long has been a sore point for many of the district's approximately 600,000 residents, who pay federal taxes and must abide by rules established by Congress.

Congress approved a constitutional amendment to provide a voting representative for district residents in 1978, but it failed to be ratified by three-fourths of the states.

There is debate among scholars as to whether increasing the number of House members requires a constitutional amendment, but supporters of this latest proposal insist that it does not. They say that all that is required is for Congress to revise a 1929 law that fixed House membership at 435 seats. That limit was boosted to 437 in 1959 in order to give representatives to the new states of Alaska and Hawaii, but then went back to 435 with the reapportionment after the 1960 census.

Washington, D.C., is the only national capital in any democratic nation where residents do not have full voting rights. We think district residents should have a voting representative in Congress, and there is merit to the D.C.-Utah proposal that we hope will be considered soon by federal lawmakers.

[From washingtonpost.com, Mar. 22, 2007]

D.C. VOTING: A GOP ISSUE—OPPOSITION TO A HOUSE SEAT GOES AGAINST PARTY TRADITION

(By Carol Schwartz)

Having personally written to President Bush and Congress numerous times over the years urging them to support voting rights for the citizens of our nation's capital, I was disheartened to learn that the Republican leadership is working to defeat legislation that would add a voting member from the District of Columbia and a voting member from Utah to the House of Representatives, and that the president is thinking about vetoing the bill. As a fellow Republican, I beseech them to reconsider.

News accounts indicate that Republican opposition is based largely on ''constitutional concerns.'' However, respected constitutional scholars have argued that a congressional vote for the District is well within the bounds of the Constitution. Former solicitor general Kenneth Starr and Patricia M. Wald, a former chief judge of the U.S. Court of Appeals for the D.C. Circuit, jointly wrote, ''There is nothing in our Constitution's history or its fundamental principles suggesting that the Framers intended to deny the precious right to vote to those who live in the capital of the great democracy they founded.'' Viet Dihn, a Georgetown University law professor and principal author of the USA Patriot Act, argued in a paper submitted to the House Committee on Oversight and Government Reform that it is constitutional to give the District a vote.

Regardless of the outcome of this debate, why would the president—who has committed so much to fighting for democracy around the world—and Republican members of Congress not stand on the side of democracy for the 572,000 residents of the District of Columbia? Who is going to challenge in court the rectification of this centuries-long injustice? And if someone is cruel enough to try, let the Supreme Court decide otherwise.

I want to remind my fellow Republicans that historically our party has been at the forefront of struggles to enfranchise citizens and expand basic rights. It was a Republican Congress, the 38th, that proposed the 13th Amendment to abolish slavery. It was a Republican Congress, the 39th, that proposed the 14th Amendment, guaranteeing due process and equal protection under the law. It was a Republican Congress, the 40th, that proposed the 15th Amendment, guaranteeing citizens the right to vote regardless of their race. And it was a Republican Congress, the 66th, that proposed the 19th Amendment, guaranteeing women the right to vote.

I had hoped that the recent Republican Congress would continue this admirable tradition. The introduction of a D.C. voting rights bill by a Republican, Rep. Tom Davis (Va.), was a good start. Although the bill made it out of committee, unfortunately it never went to the House floor. President Bush and Congress still have the opportunity to advance the democratic cause here at home. And they should, particularly since ours is the only capital city in any of the world's democracies where citizens do not have voting representation in their national legislature.

In doing so, Republican members would uphold a proud tradition as well as be in good company. For generations, respected Republican statesmen have expressed support for voting rights for D.C. residents. Former Senate majority leader Robert Dole, during an earlier voting rights effort, said, ''The Republican Party supported D.C. voting representation because it was just, and in justice we could do nothing else.'' Former Senate minority leader Howard Baker, describing representation in the legislature as the ''bedrock of our republic,'' said that Congress ''cannot continue to deny American citizens their right to equal representation in the national government.'' Former president Richard Nixon said, ''It should offend the democratic sense of this nation that the citizens of its capital . . . have no voice in Congress.'' And former senator Prescott Bush, the president's grandfather, said in 1961, ''Congress has treated the District with slight consideration. We have treated it like a stepchild, in comparison with the way we have treated other States. . . . They should also be entitled to representation in the Congress.''

It is obvious that this injustice has persisted far too long. Our country's leaders have within their power the ability to address it now. It is time to give the residents of the District of Columbia—who pay federal taxes and who were subject to the military draft—a fundamental right that all other Americans enjoy: our long overdue vote in the United States House of Representatives. I implore the president and Congress to do what I believe they know in their hearts is right.

[From the Washington Times, Mar. 20, 2007]

D.C. VOTING RIGHTS AND CONGRESSIONAL POLITICS

(By Tod Lindberg)

When I moved to Washington 21 years ago and decided to live in the District rather than Maryland or Virginia, I knew I was voluntarily choosing to forgo something most Americans take entirely for granted, namely, their say in choosing a representative in the House and two members of the Senate. In truth, I was not especially bothered by this lost opportunity for political participation then, nor am I now.

You could say, moreover, that no one lives in the District involuntarily. If voting for a member of Congress and senators is a sufficiently high priority for you, you can probably find your way to a location that allows you to do so. And you could remark, as well, the special constitutional status of the District as precisely not a state, equal among other states, but rather a place where the representatives of all the states, that is, Congress as a whole, has jurisdiction. One might even deem this constitutional provision to have been an innovative and admirable solution to the late 18th-century problem of the undue influence a state might have were it home to the nation's capital.

Nor is the District some sort of island of authoritarianism in a sea of democracies. D.C. residents have for more than a generation enjoyed substantial home-rule powers, including the ability to elect a legislative body, the D.C. Council, and a mayor who has genuine and not merely symbolic power. It is undeniable that Congress second-guesses these locally elected officials from time to time, and indeed reserves the right to intervene on a massive scale in case of local mismanagement, a judgment Congress alone will make, not subject to appeal by local residents. We saw this in the days of the Control Board. But in the ordinary course of events, substantial political decisions are the province of locally elected officials. And

even at the national level, the District is not entirely cut out, since it has three votes in the electoral college that decides the presidency, the same number as the least populous states.

Nevertheless, how exactly is it a good thing that residents of the District, uniquely among American taxpayers, have no representation in Congress? I think critics of the proposal now emerging to replace the District's participation-limited delegate with a full-fledged voting member of Congress owe us an explanation of why it's better for the country for residents of the District not to be able to have a share in selecting a member of the national legislature. That includes the White House, which has expressed opposition to the legislation on constitutional grounds.

If the provision of the Constitution holding that members of Congress shall come from the states (by implication, not from anywhere that isn't a state) is dispositive, then why not let the Supreme Court be the body that says so? Since at least some legal scholars believe that the provision cited is not the last and dispositive word on the subject, why pre-empt the question? Or rather, please, let us hear the reason from the executive branch why the president would choose to pre-empt by asserting his view of the Constitution in his veto message when the legislation gets to his desk.

No, presidents and lawmakers shouldn't be casual about the responsibility they accept in their oaths of office to protect and defend the Constitution. But in this instance, we have a true anomaly, hundreds of thousands of people who lack what every other American taxpayer has, an equal say in the selection of a lawmaker.

It's not obvious that taking action to address this anomaly would harm any other interest the Constitution protects. Oh, one can spin out elaborate and paranoid scenarios, according to which the representative from the District of Columbia becomes the chairperson of a powerful committee and then, uh, well, what exactly? Earmarks federal dollars to construct bike paths in D.C.? Federally funded bike paths may be stupid, but they are no more stupid in the District than in any congressional district.

In fact, addressing this anomaly of disenfranchisement would fit into a centuries-long tradition of expanding the franchise to those whom contemporaneous reasoning now concludes are unreasonably excluded. If taking such action requires a constitutional amendment, let the Supreme Court say so.

It seems to me that the only other possible objection, besides the constitutional one, is politics. And it's a pretty serious one, in that the representative from the District would be a Democrat for the foreseeable future. Why would Republicans be willing to go along with an extra Democrat? But that's the beauty of the proposed legislation: In adding a seat to Republican-friendly Utah, thereby increasing the size of the House from 435 to 437, lawmakers came up with a reasonable way to address a longstanding injustice without harming anyone unduly. They devised a fair political solution to a fair political objection.

They don't do this so often, in the scheme of things, that we should neglect supporting them when they do.

[From Roll Call, Feb. 28, 2007]

VOTE FOR D.C.

Now that Democrats have control of the House, it's simply inexplicable that legislation to give voting rights to the District of Columbia's delegate is not moving rapidly toward passage.

Voting rights for D.C. has broad support in the majority party, including that of both Speaker Nancy Pelosi (Calif.) and House Judiciary Chairman John Conyers (Mich.). Yet no hearings have been scheduled on H.R. 328, co-sponsored by D.C. Del. Eleanor Holmes Norton (D) and Rep. Tom Davis (R–Va.), to give Norton voting rights while giving Utah a fourth Congressional seat and enlarging the House to 437 Members.

The bill does present constitutional problems, as a recent Congressional Research Service report details. Article 1, Section 2 of the Constitution stipulates that the House shall be made up of Members chosen every two years by the people of the several states. Since D.C. is not a state, but a constitutionally designated federal district, a CRS analysis concluded last month that ''it is difficult to identify either Constitutional text or existing case law that would directly support the allocation by statute of the power to vote in the full House of the D.C. delegate.''

On the other hand, Article 1, Section 8 grants Congress exclusive legislative authority ''in all cases whatsoever'' over the District. As another CRS report suggested last month, there is a conflict here. We suggest that Congress resolve it by passing the Norton-Davis bill promptly and then await a court test to determine its constitutionality. If the measure is struck down, Congress should look for other methods to grant voting rights to the District, which the principle of representative government demands.

The other options include a constitutional amendment; ''retrocession,'' giving D.C. residents the right to vote in Maryland; and Congressional action making D.C. (or at least part of it) a state. Everyone of these solutions presents a political problem—the fact that D.C. is overwhelmingly Democratic—that the Norton-Davis bill neatly skirted by balancing a vote in D.C. with a vote in overwhelmingly Republican Utah.

Meanwhile, the House has taken symbolic action by giving D.C., as well as other U.S. possessions—Puerto Rico, American Samoa, Guam and the Virgin Islands—a vote when the House meets as a Committee of the Whole. But their votes don't count if they make the difference in the outcome of legislation. This amounts to the right to participate but not to have an effect.

D.C., with about 570,000 residents, has a larger population than Wyoming and is shy by only about 100,000 of matching three other states—which, of course, have two Senators and at least one House Member. We hope that the Democratic Congress will pass a measure granting D.C. full voting rights—and that President Bush will sign it. In the meantime, however, the Judiciary Committee and the House should get on with passing Norton-Davis as an interim step toward justice.

[From the Washington Post, May 3, 2005]

A VOTE IN THE HOUSE

WHEN THE HOUSE of Representatives votes on federal taxes or decides solemn questions such as when citizens must go off to war, the District's representative, Eleanor Holmes Norton, has to stand and watch as her Democratic and Republican colleagues decide the fate of her constituents. Despite having served and died in 10 wars and paid billions in federal taxes, D.C. residents are still voteless in Congress. That inexecusable situation exists despite polls showing that the American public favors congressional representation for D.C. residents. Today Rep. Thomas M. Davis III (R–Va.) will launch a second effort to rectify at least half of the problem by sponsoring a bill that gives the District a vote in the House. The measure would still leave the District unrepresented in the Senate. The Davis proposal, however, is a substantial advance in D.C. voting rights and deserves strong bipartisan support in Congress.

Mr. Davis's measure would achieve the goal of giving the district a single vote by increasing the size of the House by two and reapportioning seats. Given the most recent census, the likely result would be an extra seat for Utah along with the District. And given party registration and voting patterns in the two jurisdictions, the Utah seat is likely to be held by a Republican and the District's by a Democrat. The new arrangement would last, under Mr. Davis's proposal, until the regular 2012 reapportionment, at which time the House would revert to 435 members to be divided by population among the District and the states. No matter what happens to the size of Utah's delegation at that point, the District would keep its seat.

This should be a win-win situation. For those hoping to address the controversy over the last census count, when Utah just barely lost out on a fourth seat, Mr. Davis offers a remedy. As far as the District is concerned, the bill will most assuredly give D.C. residents what Mr. Davis has called ''the primary tool of democratic participation: representation in the national legislature.''

Unfortunately, blind partisanship may trump democracy unless members take a stand against the present injustice. Fear that the Republican-dominated Utah state legislature would redraw lines to doom a Democratic member of the House caused Democrats to balk at the Davis proposal in the last Congress. We have stated on other occasions our own dislike for the way redistricting is being conducted in most states—amounting to little more than state-sanctioned gerrymandering benefiting incumbents, the majority party or both—and have offered our own thoughts on a proper alternative. However, depriving more than half a million District residents of a fundamental right enjoyed by all other Americans because of partisan politics is neither a proper nor an acceptable response by the Democratic Party. A D.C. vote in the House is the right thing to do. We remain fully committed to the District having two senators as well as representation in the House. The Davis proposal takes the nation's capital halfway there.

[From the Hill]

LET D.C. PLAY

The people of the District of Columbia have finally gotten back their rightful representation in Major League Baseball; the Washington Nationals have swiftly become an established and moderately successful National League team. It now seems odd that there were people who argued the D.C. residents already had a local team—by which they meant the Orioles, beyond the Maryland state line in Baltimore. All that has changed; when there is a pennant to be won, the District will no longer have to sit on the sidelines.

Something like this happy event is now possible in the political arena, too, with Rep. Tom Davis's (R–Va) legislation that would temporarily increase House membership to 437 by giving D.C. one voting seat, and Utah an extra one. After the next census, the number would fall again to 435, but Washington would keep its seat, and the remaining 434 would be divided among the states according to population.

This as it should be. It is an injustice and an embarrassment that people who live in the nation's capital are disenfranchised. They have no less a moral right to a say in the policies that govern them than any other American citizens. It is pleasing that they now have another chance of acquiring the

legal right as well. No partisan calculations should cloud principle when lawmakers vote on this issue. Davis's bill deserves to become law.

If the baseball analogy may be stretched yet further, however, it is also worth noting that the new team did not adopt the same name as the team that abandoned Washington a generation ago: the Senators. There are those who argue that the District should also have two senators in the upper chamber of Capitol Hill, but the case for this is less convincing than for voting representation in the House.

The House is a proportional body, in that seats are apportioned according to population numbers. But the Senate is not representative in that way—never was, and never was intended to be. Indeed it was, as is often being said these days, designed as a counter-weight to the power of the more purely representative body. Tiny states such as Delaware and Wyoming have two senators, just as huge ones such as California and Texas have two. Until the passage of the 17h Amendment in 1913, senators generally were chosen by state legislatures rather than directly elected by the people.

Senate representation is the preserve of formal statehood and there are reasonable arguments on both sides as to whether D.C. should become a state. Whatever the dispute in principle, however, there is no chance of D.C. statehood soon. Perhaps it will come, but for now it's enough that House representation is on the table again.

[From Roll Call, May 4, 2005]

GIVE D.C. A VOTE

If the District of Columbia were a state, it would rank third in per-capita income taxes paid to the federal government. In America's wars of the 20th century, the District suffered more casualties than several states did. So there is no excuse for the nation to continue to leave D.C. residents without any representation in Congress.

Ideally, the District should be represented in both the House and Senate, as called for in Democratic-backed legislation introduced by D.C. Del. Eleanor Holmes Norton (D) and Sen. Joe Lieberman (D–Conn.). Unfortunately, that bill has zero chance of passing and being signed into law. So, as an interim measure—and we acknowledge it may be a long interim—we urge leaders of both parties to get behind the bill just reintroduced by Rep. Tom Davis (R–Va.) to give D.C. a vote in the House. The measure would temporarily enlarge the House by two, adding one seat for the District and one for heavily Republican Utah—a constructive nod toward the partisan balance that seems to be a prerequisite for passage.

The Constitution gives Congress all the power it needs to give D.C. a vote in Congress. In fact, Congress has the power ''to exercise exclusive legislation in all cases whatsoever'' over the capital district. Legal scholars, including conservatives such as former federal appeals court judge Kenneth Starr, agree that the Constitution permits Congress free rein on the issue of representation. While statehood would require a constitutional amendment, voting representation would not.

We're glad to see that the idea of giving the District representation has attracted the support of Republicans. Davis' measure has 11 GOP co-sponsors, including two from Utah. Two other bills, both of which would give D.C. residents voting rights in Maryland by different means, are also sponsored by Republicans, Reps. Dana Rohrabacher (Calif.) and Ralph Regula (Ohio).

Unfortunately, the GOP sponsors have not been able to interest their party's leaders in their measures. In fact, when Republicans took control of the House in 1995, one of their first acts was to reverse a Democratic rule allowing the D.C. Delegate to vote in the Committee of the whole House when that vote was not decisive in the outcome. We hope that Davis, the influential chairman of the Government Reform Committee and former chairman of the National Republican Congressional Committee, can convince his leaders of the merits of the cause.

Some Democrats have been opposed, both because they support full representation and because they fear that Utah's GOP-dominated Legislature might eliminate the state's lone Democratic district in the process of a mid-decade reapportionment. The state's GOP Members should pledge not to pursue such a course.

There's not much that Republicans and Democrats are doing together in this Congress. One thing that they can do, however, is expand democracy right in their own backyard.

[From Human Events.com, Mar. 17, 2007]

WHY I VOTED FOR D.C. REPRESENTATION IN THE HOUSE

(By Rep. Mike Pence)

Last week in the House Judiciary Committee, I voted in favor of legislation granting the residents of the District of Columbia the right to full voting representation in the House of Representatives. I believe this legislation is a constitutional remedy to a historic wrong. While many have focused on the political consequences of such a move, the only question for a Member of Congress on such matters is this: what does justice demand and what does the Constitution of the United States permit Congress to do to remedy this wrong?

The fact that more than half a million Americans living in the District of Columbia are denied a single voting representative in Congress is clearly a historic wrong and justice demands that it be addressed. At the time of the adoption of our present system of government, the federal city did not exist apart from a reference in the Constitution. When the District of Columbia opened for business in 1801, only a few thousand residents lived within her boundaries. Among the founders, only Alexander Hamilton would forsee the bustling metropolis that Washington, D.C. would become and he advocated voting representation for the citizens of the District.

The demands of history in favor of representation for the Americans living in Washington, D.C. is compelling. In establishing the republic, the single overarching principle of the American founding was that laws should be based upon the consent of the governed. The first generation of Americans threw tea in Boston harbor because they were denied a voting representative in the national legislature in England. Given their fealty to representative democracy, it is inconceivable to me that our Founders would have been willing to accept the denial of representation to so great a throng of Americans in perpetuity.

But the demands of justice are not enough for Congress to act. Under the principles of limited government, a republic may only take that action which is authorized by the written Constitution.

In this regard, I believe that the legislation moving through the Congress is constitutional. And I am not alone in this view. In support of this legislation, Judge Kenneth Starr, former independent counsel and U.S. solicitor general observed, ''there is nothing in our Constitution's history or its fundamental principles suggesting that the Framers intended to deny the precious right to vote to those who live in the capital of the great democracy they founded''.

Opponents of D.C. Voting understandably cite the plain language of Article I that the House of Representatives be comprised of representatives elected by ''the people of the several states''. If this were the only reference to the powers associated with the federal city, it would be most persuasive but it is not. Article I, Section 8, CI. 17 provides, ''The Congress shall have power . . . to exercise exclusive legislation in all cases whatsoever'' over the District of Columbia.

Justice Antonin Scalia observed in 1984, that the Seat of Government Clause, gives Congress ''extraordinary and plenary'' power over our nation's capital. Scalia added that this provision of the Constitution ''enables Congress to do many things in the District of Columbia which it has no authority to do in the 50 states. . . . There has never been any rule of law that Congress must treat people in the District of Columbia exactly the same as people are treated in various states''. United States v. Cohen, 733 F.2d 128, 140 (D.C. Cir. 1984)

And Congress has used this power to remedy the rights of Americans in the District of Columbia in the past. In 1949, the Supreme Court upheld legislation that extended access to the federal courts even though Article III expressly limited the jurisdiction of the federal courts to suits brought by citizens of different states. As Judge Starr observed, ''the logic of this case applies here, and supports Congress's determination to give the right to vote for a representative to citizens of the District of Columbia''.

None of which argues for the District of Columbia to ever be granted the right to elect members of the United States Senate. In the most profound sense, from the inception of our nation, the House of Representatives was an extension of the people. I believe our founders left us the tools in the Constitution to ensure that all the American people have a voice in the people's house.

The Senate, from the inception of our nation, was an extension of the states. Senators were appointed by state legislatures until 1915. The Senate was and remains the expression of the principle of federalism in the national legislature and should ever be so. If the people of the District of Columbia would like two seats in the United States Senate, they will have to become a state.

The old book tells us what is required, ''do justice, love kindness and walk humbly with your God.'' I believe that justice demands we right this historic wrong. The American people should have representation in the people's house. I believe that kindness demands that, like Republicans from Abraham Lincoln to Jack Kemp, we do the right thing for all Americans regardless of race or political creed. And I believe humility demands that we do so in a manner consistent with our constitution, laws and traditions. The D.C. Voting bill meets this test and I am honored to have the opportunity to continue to play some small role in leading our constitutional republic ever closer to a more perfect union.

Ms. NORTON. Madam Speaker, has the gentleman yielded back his time?

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. NORTON. Madam Speaker, I want to end this debate by finally letting genuine constitutional scholars speak to this bill.

To guarantee the Framers' promise to the citizens of Maryland and Virginia, who contributed their land to form this Capital City, the very first Congress enforced the District clause of the Constitution by law, guaranteeing the status quo during the 10-

year transition period, and they said, by law thereafter, as memorialized in the Constitution itself.

The Framers had left Congress fully armed with ''exclusive jurisdiction in all cases whatsoever,'' which former Court of Appeals Judge Kenneth Starr, who testified in favor of the bill, said, left Congress with power ''majestic in scope.''

Professor Viet Dinh, President Bush's former Attorney General for Legal Policy, his point man on the Constitution in the Ashcroft Justice Department, testified in two separate committees that the bill is constitutional. He said that since the birth of the Republic, the courts and the Congress itself have treated the District as a State in treaties and in statutes and in applying the Constitution to the city. Members who reject the views even of conservative scholars and of the Supreme Court and the Federal courts supporting their views should be confident to send this bill to a conservative Supreme Court.

Members are elected officials who can neither run nor hide behind their personal and inexpert views on the Constitution. Another branch will be held fully accountable for that weighty decision. Our decision, in just a few minutes, is just as weighty, today when the world sees us at war, we say, to spread democracy and wants to know whether we practice democracy or merely preach it. Our decision comes down to whether this House wants to be remembered for granting the vote or denying it, and whether this place will be the people's House or the House for some of the people.

Mr. WYNN. Madam Speaker, I represent the 4th District of Maryland which abuts the District of Columbia. These citizens are our friends, neighbors, and relatives. It is time to give the citizens of the District of Columbia full representation in the House of Representatives. It is time to end the injustice of ''taxation without representation'' for the District and give these good citizens the right to vote.

For 206 years, the citizens of the District of Columbia have paid taxes, served in the military and worked hard for this great country and yet, for over 200 years these citizens have been denied the right to representation. The United States is the only democracy in the world that, to date, has deprived the residents of its capital city full voting representation.

We have sent thousands of soldiers overseas and spent billions of dollars fighting to bring democracy to the rest of the world. We must stand on the side of democracy in our country and give our own citizens in the District of Columbia the right to vote and an opportunity for full representation in this great democracy.

Mr. LANGEVIN. Madam Speaker, I rise today in support of H.R. 1433, the District of Columbia Fair and Equal House Voting Rights Act of 2007.

Today, the House of Representatives has a chance to correct an injustice that affects the nearly 600,000 residents of the District of Columbia. These citizens pay Federal taxes, serve in our military and the Federal Government and graciously host millions of American and foreign tourists every year, yet they remain unable to have their views represented in Congress. It is indeed ironic that the capital of our Nation, where our government and many non-governmental organizations work to promote freedom and liberty in other countries, is not representative of the ideals that we urge others to value. We have the chance to rectify this glaring problem today.

One of the primary justifications of the American Revolution was our forefathers' opposition to ''taxation without representation.'' Indeed, in my home town Warwick, angry Rhode Islanders attacked and burned the British customs ship H.M.S. *Gaspee* in 1772 to demonstrate their opposition to British rule—one of the earliest acts of rebellion leading to the American Revolution. Fortunately, the residents of the District of Columbia have not resorted to such extreme tactics to achieve justice, but they have been more than patient, waiting more than 200 years for a right that is enjoyed by 300 million other Americans.

The bipartisan legislation before us today would give the District of Columbia a voting member in the House, as well as create a second new seat for Utah, thereby raising the number of Members in the House to 437. It would finally grant Washingtonians a voice in Federal legislation involving health, governance, budgeting, taxes, gun control and other matters directly affecting their lives and livelihoods. Our current system of disenfranchisement for District residents does not befit a nation as noble as the United States, and it is time for change.

Madam Speaker, I encourage my colleagues to support H.R. 1433 so that we may grant fair representation to the residents of Washington, DC.

Mr. CANNON. Madam Speaker, today, the House is presented with a unique opportunity to address two prevailing problems with representation in the House.

One relates to whether the District is entitled to a Representative and the other whether Utah is owed an additional seat in Congress because of the illegitimate counting of residents after the 2000 census.

Utah lost out on a 4th seat because of a census bureau decision to count, and to enumerate to their respective home States, government employees residing temporarily abroad, but not count similarly situated missionaries.

Had the Bureau either not counted any Americans residing temporarily abroad, or counted all such Americans and not just those employed by the Federal Government, Utah would have been awarded a fourth seat.

Although this legislation provides Utah the seat it deserves and was denied in the 2000 census, I do have concerns with the language in the bill which ties the hands of the Utah legislature.

The preemption language is offensive and demeans the historic role of States in the reapportionment process.

I offered an amendment that was rejected by the Rules Committee on a 7–4 vote that would have simply removed the language of the bill mandating the ''at large'' seat in Section 4 and left it to the State to decide.

The amendment would have changed ''shall'' to ''may'', and would not have prohibited an at large seat, but rather would have provided Utah the opportunity to choose whether to redistrict or not.

The intent of my amendment was to reaffirm the role of the State in the decisionmaking process, but the Democrats treated the 10th Amendment of the Constitution as words without meaning by rejecting my amendment.

Although I will vote in favor of this legislation, as this bill moves forward I will continue my efforts to push for inclusion of my amendment to protect the State's role in the process.

Mr. SHAYS. Madam Speaker, as an original cosponsor of H.R. 1433, I am pleased we are moving quickly to consider this legislation, to finally give Washington, DC voting rights in the House of Representatives.

This bill would establish the District of Columbia as a congressional district and thus grant the citizens of the District representation in Congress.

The legislation also would grant an additional congressional seat to Utah based on the results of the 2000 Census.

Unlike some previous versions of this legislation, H.R. 1433 would make these two seats permanent.

The Oversight and Government Reform Committee has led the charge on granting the city of Washington, DC the right to have a full vote in the House of Representatives.

The citizens of the District pay Federal taxes, so it is only right they have a say in Federal affairs.

Madam Speaker, I urge the support of this important and historic legislation.

Ms. GINNY BROWN-WAITE of Florida. Madam Speaker, I rise today in opposition to H.R. 1422, the District of Columbia House Voting Rights Act.

Our Constitution clearly states that Members of Congress should be chosen by residents of States.

However much we might revere our Nation's capital and appreciate its residents, our Founders decided not to make it a State.

In fact, Alexander Hamilton offered an amendment at the 1788 Constitution ratification convention to give D.C. representation in the House, but his amendment was rejected.

In 1978, the 95th Congress passed a similar amendment, but only 16 of the required 38 States ratified it in the 7 year time period before it expired.

The message from these votes is clear: only residents of States may have representation in Congress.

The Constitution lays out a method for adding a new State to our Nation.

If we truly want D.C. to have congressional representation, we can either work to make D.C. a State, make it part of an existing State, or we can either amend the Constitution, like the 95th Congress attempted to do.

And if we actually did this the right way, we wouldn't spend years in litigation while D.C. residents' votes hang in the balance.

Listen up America! This bill is merely a shortcut around the tools we have at our disposal, and is therefore blatantly unconstitutional.

I urge a ''no'' vote on this bill.

Mr. BLUMENAUER. Madam Speaker, I strongly support the DC House Voting Rights Act. It is long overdue to give the nearly two-thirds of a million residents of our Nation's Capital the fundamental right of representation.

This is not a partisan issue. Maintaining a fair and responsive government is a duty that transcends politics.

This legislation fairly addresses both parties by granting one seat in the House to the District and one additional seat to Utah, which is next in line to receive an additional House seat based on its population. This elegant and equitable solution leaves the overall composition of the House unchanged as the District seat is anticipated to be Democratic and the Utah seat Republican.

Given this bipartisan spirit, I am disappointed that the administration is fighting to deny citizens their basic voting rights. I hope the President has the good sense to withdraw his veto threat. Any concerns this administration has regarding this bill's constitutional appropriateness are best left up to the judicial branch to clarify.

I am proud to support this important legislation and urge its speedy passage into law. Residents of the District have waited long enough.

Ms. NORTON. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 260, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Madam Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SMITH of Texas. I am, Madam Speaker, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Smith of Texas moves to recommit the bill H.R. 1433 to the Committee on Oversight and Government Reform with instructions to report the same back to the House promptly with the following amendment:

Add at the end the following new section:

SEC. 6. DISTRICT OF COLUMBIA PERSONAL PROTECTION.

(a) REFORM D.C. COUNCIL'S AUTHORITY TO RESTRICT FIREARMS.—Section 4 of the Act entitled ''An Act to prohibit the killing of wild birds and wild animals in the District of Columbia'', approved June 30, 1906 (34 Stat. 809; sec. 1–303.43, D.C. Official Code) is amended by adding at the end the following: ''Nothing in this section or any other provision of law shall authorize, or shall be construed to permit, the Council, the Mayor, or any governmental or regulatory authority of the District of Columbia to prohibit, constructively prohibit, or unduly burden the ability of persons not prohibited from possessing firearms under Federal law from acquiring, possessing in their homes or businesses, or using for sporting, self-protection or other lawful purposes, any firearm neither prohibited by Federal law nor subject to the National Firearms Act. The District of Columbia shall not have authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms.''.

(b) REPEAL D.C. SEMIAUTOMATIC BAN.—

(1) IN GENERAL.—Section 101(10) of the Firearms Control Regulations Act of 1975 (sec. 7–2501.01(10), D.C. Official Code) is amended to read as follows:

''(10) 'Machine gun' means any firearm which shoots, is designed to shoot, or can be readily converted or restored to shoot automatically, more than 1 shot by a single function of the trigger, and includes the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.''.

(2) CONFORMING AMENDMENT TO PROVISIONS SETTING FORTH CRIMINAL PENALTIES.—Section 1(c) of the Act of July 8, 1932 (47 Stat. 651; sec. 22—4501(c), D.C. Official Code) is amended to read as follows:

''(c) 'Machine gun', as used in this Act, has the meaning given such term in section 101(10) of the Firearms Control Regulations Act of 1975.''.

(c) REPEAL REGISTRATION REQUIREMENT.—

(1) REPEAL OF REQUIREMENT.—

(A) IN GENERAL.—Section 201(a) of the Firearms Control Regulations Act of 1975 (sec. 7–2502.01(a), D.C. Official Code) is amended by striking ''any firearm, unless'' and all that follows through paragraph (3) and inserting the following: ''any firearm described in subsection (c).''.

(B) DESCRIPTION OF FIREARMS REMAINING ILLEGAL.—Section 201 of such Act (sec. 7–2502.01, D.C. Official Code) is amended by adding at the end the following new subsection:

''(c) A firearm described in this subsection is any of the following:

''(1) A sawed-off shotgun.

''(2) A machine gun.

''(3) A short-barreled rifle.''.

(C) CONFORMING AMENDMENT.—The heading of section 201 of such Act (sec. 7—2502.01, D.C. Official Code) is amended by striking ''Registration requirements'' and inserting ''Firearm Possession''.

(2) CONFORMING AMENDMENTS TO FIREARMS CONTROL REGULATIONS ACT.—The Firearms Control Regulations Act of 1975 is amended as follows:

(A) Sections 202 through 211 (secs. 7–2502.02 through 7–2502.11, D.C. Official Code) are repealed.

(B) Section 101 (sec. 7—2501.01, D.C. Official Code) is amended by striking paragraph (13).

(C) Section 401 (sec. 7—2504.01, D.C. Official Code) is amended—

(i) in subsection (a), by striking ''the District;'' and all that follows and inserting the following: ''the District, except that a person may engage in hand loading, reloading, or custom loading of ammunition for firearms lawfully possessed under this Act.''; and

(ii) in subsection (b), by striking ''which are unregisterable under section 202'' and inserting ''which are prohibited under section 201''.

(D) Section 402 (sec. 7—2504.02, D.C. Official Code) is amended—

(i) in subsection (a), by striking ''Any person eligible to register a firearm'' and all that follows through ''such business,'' and inserting the following: ''Any person not otherwise prohibited from possessing or receiving a firearm under Federal of District law, or from being licensed under section 923 of title 18, United States Code,''; and

(ii) in subsection (b), by amending paragraph (1) to read as follows:

''(1) The applicant's name;''.

(E) Section 403(b) (sec. 7—2504.03(b), D.C. Official Code) is amended by striking ''registration certificate'' and inserting ''dealer's license''.

(F) Section 404(a)(3) (sec. 7—2504.04(a)(3)), D.C. Official Code) is amended—

(i) in subparagraph (B)(i), by striking ''registration certificate number (if any) of the firearm,'';

(ii) in subparagraph (B)(iv), by striking ''holding the registration certificate'' and inserting ''from whom it was received for repair'';

(iii) in subparagraph (C)(i), by striking ''and registration certificate number (if any) of the firearm'';

(iv) in subparagraph (C)(ii), by striking ''registration certificate number or'';

(v) in subparagraph (D)(ii), by striking ''or registration number''; and

(vi) in subparagraph (E), by striking clause (iii) and redesignating clauses (iv) and (v) as clauses (iii) and (iv).

(G) Section 406(c) (sec. 7—2504.06(c), D.C. Official Code) is amended to read as follows:

''(c) Within 45 days of a decision becoming effective which is unfavorable to a licensee or to an applicant for a dealer's license, the licensee or application shall—

''(1) lawfully remove from the District all destructive devices in his inventory, or peaceably surrender to the Chief all destructive devices in his inventory in the manner provided in section 705; and

''(2) lawfully dispose, to himself or to another, any firearms and ammunition in his inventory.''.

(H) Section 407(b) (sec. 7—2504.07(b), D.C. Official Code) is amended by striking ''would not be eligible'' and all that follows and inserting ''is prohibited from possessing or receiving a firearm under Federal or District law.''.

(I) Section 502 (sec. 7—2505.02, D.C. Official Code) is amended—

(i) by amending subsection (a) to read as follows:

''(a) Any person or organization not prohibited from possessing or receiving a firearm under Federal or District law may sell or otherwise transfer ammunition or any firearm, except those which are prohibited under section 201, to a licensed dealer.'';

(ii) by amending subsection (c) to read as follows:

''(c) Any licensed dealer may sell or otherwise transfer a firearm to any person or organization not otherwise prohibited from possessing or receiving such firearm under Federal or District law.'';

(iii) in subsection (d), by striking paragraphs (2) and (3); and

(iv) by striking subsection (e).

(J) Section 704 (sec. 7—2507.04, D.C. Official Code) is amended—

(i) in subsection (a), by striking ''any registration certificate or'' and inserting ''a''; and

(ii) in subsection (b), by striking ''registration certificate,''.

(3) OTHER CONFORMING AMENDMENTS.—Section 2(4) of the Illegal Firearm Sale and Distribution Strict Liability Act of 1992 (sec. 7—2531.01(2)(4), D.C. Official Code) is amended—

(A) in subparagraph (A), by striking ''or ignoring proof of the purchaser's residence in the District of Columbia''; and

(B) in subparagraph (B), by striking ''registration and''.

(d) REPEAL HANDGUN AMMUNITION BAN.—

(1) DEFINITION OF RESTRICTED PISTOL BULLET.—Section 101(13a) of the Firearms Control Regulations Act of 1975 (sec. 7—2501.01(13a)) is amended to read as follows:

''(13a)(A) 'Restricted pistol bullet' means—

''(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

''(ii) a full-jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

''(B) The term 'restricted pistol bullet' does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Attorney General of the United States (pursuant to section 921(a)(17) of title 18, United States Code) finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Attorney General finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.''.

(2) REPEAL OF BAN.—Section 601 of the Firearms Control Regulations Act of 1975 (sec. 7–2506.01, D.C. Official Code) is amended—

(A) by striking ''ammunition'' each place it appears (other than paragraph (4)) and inserting ''restricted pistol bullets''; and

(B) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(e) RESTORE RIGHT OF SELF DEFENSE IN THE HOME.—Section 702 of the Firearms Control Regulations Act of 1975 (sec. 7–2507.02, D.C. Official Code) is repealed.

(f) REMOVE CRIMINAL PENALTIES FOR POSSESSION OF UNREGISTERED FIREARMS.—

(1) IN GENERAL.—Section 706 of the Firearms Control Regulations Act of 1975 (sec. 7–2507.06, D.C. Official Code) is amended—

(A) by striking ''that:'' and all that follows through ''(1) A'' and inserting ''that a''; and

(B) by striking paragraph (2).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to violations occurring after the 60-day period which begins on the date of the enactment of this Act.

(g) REMOVE CRIMINAL PENALTIES FOR CARRYING A FIREARM IN ONE'S DWELLING OR OTHER PREMISES.—

(1) IN GENERAL.—Section 4(a) of the Act of July 8, 1932 (47 Stat. 651; sec. 22—4504(a), D.C. Official Code) is amended—

(A) in the matter before paragraph (1), by striking ''a pistol,'' and inserting the following: ''except in his dwelling house or place of business or on other land possessed by that person, whether loaded or unloaded, a firearm,''; and

(B) by striking ''except that:'' and all that follows through ''(2) If the violation'' and inserting ''except that if the violation''.

(2) TREATMENT OF CERTAIN EXCEPTIONS.—Section 5(a) of such Act (47 Stat. 651; sec. 22—4505(a), D.C. Official Code) is amended—

(A) by striking ''pistol'' each place it appears and inserting ''firearm''; and

(B) by striking the period at the end and inserting the following: '', or to any person while carrying or transporting a firearm used in connection with an organized military activity, a target shoot, formal or informal target practice, sport shooting event, hunting, a firearms or hunter safety class, trapping, or a dog obedience training class or show, or the moving by a bona fide gun collector of part or all of the collector's gun collection from place to place for public or private exhibition while the person is engaged in, on the way to, or returning from that activity if each firearm is unloaded and carried in an enclosed case or an enclosed holster, or to any person carrying or transporting a firearm in compliance with sections 926A, 926B or 926C of title 18, United States Code.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to violations occurring after the 60-day period which begins on the date of the enactment of this Act.

Mr. SMITH of Texas (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. CONYERS. Madam Speaker, I object.

The SPEAKER pro tempore. The Clerk will read.

The Clerk continued reading the motion to recommit.

Mr. CONYERS (during the reading). Madam Speaker, I withdraw any objection.

The SPEAKER pro tempore. Without objection, the motion is considered as read and printed in the RECORD.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas is recognized for 5 minutes.

Mr. SMITH of Texas. Madam Speaker, the motion to recommit I have offered contains a bipartisan proposal by Representatives MIKE ROSS and MARK SOUDER, the District of Columbia Personal Protection Act.

My colleagues on the other side of the aisle have suggested today that District of Columbia citizens have the right to vote in Congress. If that is the case, then they must also agree that the citizens of the District should have a constitutionally guaranteed right to possess firearms.

Currently, D.C. citizens are prevented from owning any handgun at all. Even those who lawfully own and store a rifle or shotgun are prohibited from using them to defend themselves, their families or their homes.

District law threatens honest people with imprisonment if they unlock, assemble or load their guns even under attack. Although the District has the most stringent gun control laws in the Nation, they still suffer from one of the highest murder rates. Since January 1 of this year alone, 35 people have been murdered in the District. Last year over 150 people were murdered, and 2,000 suffered gun assaults.

This violence continues unabated, despite the strict gun control laws. It is time to restore the rights of law-abiding citizens to protect themselves and to defend their families.

On March 9, 2007, the U.S. Court of Appeals for the District of Columbia Circuit struck down some, but not all, of the District of Columbia's gun control laws as unconstitutional. The court agreed with the U.S. Court of Appeals for the Fifth Circuit, the Justice Department and constitutional scholars, present and past, that the second amendment protects the right of individuals to possess firearms. This court decision, which will continue to wind its way through the judicial system, compels Congress to act now to protect all second amendment rights.

Mr. Speaker, the prohibition of firearms in the District of Columbia is as ineffective as it is unconstitutional. It is high time we rectify this wrong.

I urge my colleagues to support this measure.

Madam Speaker, I yield the balance of my time to the gentleman from Indiana (Mr. SOUDER), who in the last Congress passed a piece of legislation very similar to the motion to recommit that we consider now.

Mr. SOUDER. I thank Mr. SMITH for his leadership on this motion to recommit and his long-standing leadership in the Judiciary Committee, and for including the Personal Protection Act in our motion to recommit.

This has been passed by the House in two different forms, in the appropriations bill and as a free-standing bill. It is the first clear gun control vote, and possibly the only one we will have this year. It is a matter of whether you believe the District of Columbia should have the second amendment.

We can dispute what the Constitution says in other areas, but clearly the Constitution says that people have the right to own and bear arms for self-protection. This legislation has been upheld now, in terms of homes, by the D.C. District Court, but it is only a district court ruling. This would codify it, make it clear that there are not second-class citizens on this second amendment.

D.C., while it has had a decline in the homicide rate, it is less than the rest of the country, it has led the country repeatedly. It is five times the national average in murders, in spite of having the most stringent gun control law that restricts the right to bear arms. Up until the D.C. court ruling, for a gun in your home you had to have it locked, disassembled, with a key in another location, without the bullets in it. And when a criminal came into your house, you would have to go find the key for the cabinet, put your gun together, go find a bullet to protect yourself. This needs to be codified by Congress that we passed multiple times.

The majority of Members of Congress are sponsors of this bill, and we need to make sure that the District of Columbia residents have this protection. There are many charges made, false charges, machine guns, all this type of stuff. This is the same right that people throughout America have that has been constitutionally upheld, and if we can pass this law, we will once again make the citizens of the District of Columbia have the same second amendment rights as the rest of America.

H.R. 1399, THE DISTRICT OF COLUMBIA PERSONAL PROTECTION ACT

WHAT WOULD THE LEGISLATION DO?

H.R. 1399 would allow law-abiding citizens of the District of Columbia (D.C.) to exercise their second amendment right to own rifles, shotguns and handguns by repealing the current draconian registration requirements and bans. More specifically, it would: repeal the registration requirements for firearms; eliminate criminal penalties for possession of firearms; repeal the ban on semi-automatic firearms; repeal the ban on the possession of ammunition; permit the storage of

armed firearms in one's home or place of business; and eliminate the criminal penalties for carrying a handgun in a person's home or business.

H.R. 1399 would not affect any law directed at true criminal conduct, and would leave in place strict penalties for gun possession by criminals and for violent crime committed with guns.

WHAT ARE D.C.'S CURRENT GUN LAWS?

Washington, D.C. has perhaps the most restrictive gun control law in the United States. Yet, at the same time, Justice Department figures show that the District is usually ''the murder capital'' of the country. It's no coincidence that when law-abiding Americans are unable to defend themselves and their families, violent crimes and murder will increase. Here are some of the particulars of the current D.C. law:

All handguns are banned unless they were owned and registered in the District before 1977;

The citizens of the District—even the few remaining legal handgun owners—are prohibited from even carrying their handguns in their own homes;

All guns must be registered with the Metropolitan Police Department;

Even rifles and shotguns that can be legally registered and owned in the District, must be stored unloaded, and disassembled or locked—rendering them useless for self-defense—unless the gun is kept at a place of business. Apparently the D.C. government thinks it's more important to let people protect their business assets than to protect their homes and families;

The D.C. Code absurdly defines many (if not most) semi-automatic firearms as ''machine guns'' based on their ammunition capacity, rather than on how they work. This definition is totally inconsistent with federal law.

The ''District of Columbia Personal Protection Act'' would fix each of these injustices and restore constitutional self-defense rights to the law-abiding citizens of the District.

Under this bill, D.C. citizens would enjoy the same self-defense rights as residents of the 50 states. The bill would allow honest citizens to own rifles, shotguns and handguns, without the current bureaucratic registration requirements. And it would allow law-abiding people to use guns to protect their homes and families.

The bill would not affect any law directed at true criminal conduct, and would leave in place strict penalties for gun possession by criminals and for violent crime committed with guns.

HAS D.C.'S GUN BAN WORKED?

The ''gun control capital'' of the United States is repeatedly also the violent crime and murder capital of the nation—not coincidentally.

Prior to the enactment of the gun ban, the homicide rate in D.C. had been declining, but it increased after the ban was imposed in 1976. By 1991, D.C.'s homicide rate had risen more than 200 percent. By comparison, the U.S. homicide rate rose only 12 percent during the same period. As of 2002, D.C.'s homicide rate is almost double the rate when its handgun ban took effect. As of 2002, it is almost five times higher then the national average. (Source: FBI, Metropolitan Police of the District of Columbia).

According to Justice Department crime statistics, 2003 saw D.C. once again earn its infamous distinction as murder capital of America. It was the 15th time in 16 years that the District has earned this dubious distinction. (Source: Bureau of Justice Statistics).

A January 2004 Centers for Disease Control and Prevention (CDC) report found no conclusive evidence that gun control laws help prevent violent crime, suicides or accidental injuries in the United States. The national task force of healthcare and community experts found ''insufficient evidence'' that bans on specific guns, waiting periods for gun buyers and other such laws changed the incidence of murder, rape, suicide and other types of violence.

WHAT'S THE CONSTITUTIONAL JUSTIFICATION FOR H.R. 1399?

On March 9, 2007, the U.S. Court of Appeals for the D.C. Circuit overturned D.C.'s gun control law, ruling it unconstitutional. The majority wrote (in a 2–1 decision):

''To summarize, we conclude that the Second Amendment protects an individual right to keep and bear arms. That right existed prior to the formation of the new government under the Constitution and was premised on the private use of arms for activities such as hunting and self-defense, the latter being understood as resistance to either private lawlessness or the depredations of a tyrannical government (or a threat from abroad). In addition, the right to keep and bear arms had the important and salutary civic purpose of helping to preserve the citizen militia. The civic purpose was also a political expedient for the Federalists in the First Congress as it served, in part, to placate their Anti-federalist opponents. The individual right facilitated militia service by ensuring that citizens would not be barred from keeping the arms they would need when called forth for militia duty. Despite the importance of the Second Amendment's civic purpose, however, the activities it protects are not limited to militia service, nor is an individual's enjoyment of the right contingent upon his or her continued or intermittent enrollment in the militia.''

The U.S. Appeals Court also concluded that the current D.C. law ''. . . amounts to a complete prohibition on the lawful use of handguns for self-defense. As such, we hold it unconstitutional.''

In addition, the Appeals Court rejected the argument that the second amendment does not apply to D.C. because it is not a state.

HOW DOES ''HOME RULE'' FIT INTO THIS?

Article I, Section 8 of the U.S. Constitution grants Congress the power ''To exercise exclusive Legislation in all Cases whatsoever'' over the District.

When Congress chose to delegate home rule to the District in the 1970s, it specified that legislation by the District must be ''consistent with the Constitution of the United States'' and ''reserve[d] the right, at any time, to exercise its constitutional authority as legislature for the District, by enacting legislation for the District on any subject''. (District of Columbia Self-Government and Governmental Reorganization Act (P.L. 93–198), secs. 302 and 601.) Numerous court cases have reaffirmed congressional authority over the District.

Mr. CONYERS. Madam Speaker, I rise in opposition to this motion to recommit.

The SPEAKER pro tempore. The gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. This is the most startling double hypocrisy I have ever heard of on a bill of this magnitude. Very clever, whoever dreamed this up. The motion to recommit would deny everyone in this House the right to vote on whether citizens would gain the right to vote, and at the same time arm them with military-type weaponry that is being used in Iraq right now to destroy aircraft and bring down helicopters.

We would also repeal the District's strong ban on handgun ammunition that can pierce body armor worn by police officers and other law enforcement officials at a time when security has become a top priority in the District, making military-style assault weapons readily available.

Now, the most important person I have ever met in my life, with due respect to all the great people I have had the honor of working with as a Member of Congress, is Martin Luther King, Jr. If he is looking down on us now to see if we are working for justice and peace in our country, in our Capital and throughout the world, I am sure he would be as dismayed as I am by putting a gun control vote up for a motion to recommit.

Madam Speaker, I yield 1 minute to the gentleman from Virginia, Mr. DAVIS.

Mr. TOM DAVIS of Virginia. Let me just say to my colleagues, I think the gun ban in the District is ridiculous, and I would join with my colleagues in overturning it. The problem is this motion doesn't do that. Instead of bringing this motion back to the floor forthwith for a vote up or down to continue this resolution and send it to the Senate with the gun ban, it sends it back to the committee; is that correct, Mr. SMITH? It does not send it back to the floor, this sends it to committee. So essentially this vote doesn't go anywhere. You can get your vote on gun rights, but it kills the bill, and that is the intention of this. And it is put there to put Members in a difficult situation. If you want to get a vote on District voter rights, you have to vote against this.

I would hope that we can have a free vote on the District gun ban later on. The courts have overturned it. I don't think it is a good law. But this doesn't overturn it because this kills the bill, and with it kills the amendment.

I would urge my colleagues to reject it.

Mr. CONYERS. I thank the gentleman.

I now turn to the gentlewoman from the District of Columbia, ELEANOR HOLMES NORTON, and recognize her at this time.

Ms. NORTON. I ask my colleagues not to be fooled. The House will give you plenty of times to vote on guns in the District of Columbia. This is not a motion to recommit, it is a motion to shoot the bill dead.

Most of the time you can vote for the motion to recommit and still save the bill. Not true here. If you vote for the motion to recommit, you will kill this bill. Please do not do it.

This matter is in the courts. No matter what we do here, it is a nullity because it is now in the Federal courts, and it is in the Federal courts, on a constitutional question, and that will rule the day.

These people are trying to kill voting rights for the District of Columbia.

They have prevailed on guns here before, they will do it again. Those of you who are for guns and for voting rights for the District of Columbia, vote against the motion to recommit or else you are voting against voting rights for the residents of the District of Columbia.

□ 1415

Mr. CONYERS. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to section 2 of House Resolution 260, further proceedings on the bill will be postponed.

PARLIAMENTARY INQUIRIES

Mr. SOUDER. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SOUDER. Did I understand because of the motion to recommit that the gentleman from Michigan has asked us to not vote and delay proceedings?

I didn't understand the ruling of the Chair.

The SPEAKER pro tempore. Further proceedings have been postponed.

Mr. LINDER. Parliamentary inquiry, please.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LINDER. What I heard the Speaker say was under the rule it is postponed.

The SPEAKER pro tempore. The gentleman is correct.

Mr. LINDER. Is it in the rule that there will be no vote on this issue?

The SPEAKER pro tempore. Consideration of H.R. 1433 has been postponed under section 2 of House Resolution 260.

Mr. SOUDER. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SOUDER. Proceeding on this bill or on all things in front of the House?

The SPEAKER pro tempore. Further proceedings on this bill have been postponed.

Mr. CONYERS. Regular order, Madam Speaker.

Mr. BOEHNER. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BOEHNER. Madam Speaker, there is a motion to recommit that is under consideration on the floor at this moment. Wouldn't it be appropriate for the House to continue to finish the work on this motion before further legislative action is postponed? Because there is, in fact, a pending question before the House.

The SPEAKER pro tempore. The Chair is operating under section 2 of the rule, and will state it: ''During consideration of H.R. 1433 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.''

Mr. BOEHNER. Madam Speaker, the Chair recognized the gentleman from Texas for a motion to recommit. The motion, in fact, has been debated. To stop before we complete action on that motion does not seem to be covered under the rule, as I understand it.

The SPEAKER pro tempore. Section 2 provides for further consideration to be postponed.

Mr. CONYERS. Regular order, Madam Speaker.

Mr. WAXMAN. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WAXMAN. Madam Speaker, as I understand the Chair's ruling, this is no different than any other proposal on a bill where the vote could be postponed under the rule. That has been, I point out to my colleagues, done on numerous occasions.

The SPEAKER pro tempore. This postponement was enabled by section 2 of the rule, which has been stated.

Mr. PRICE of Georgia. Parliamentary inquiry, Madam Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. PRICE of Georgia. Section 2 of the rule states that the Chair may postpone further consideration of the bill to a time designated by the Speaker.

What time would that be?

The SPEAKER pro tempore. It is within the discretion of the Chair.

Mr. PRICE of Georgia. Further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. PRICE of Georgia. Can the Chair enlighten the Members of the House as to when the Chair might rule as to what time we would be voting on this?

The SPEAKER pro tempore. A decision will be forthcoming. The gentleman should check with his leadership.

Mr. PRICE of Georgia. Further inquiry.

The SPEAKER pro tempore. The gentleman from Georgia.

Mr. PRICE of Georgia. The gentleman from California mentioned that this was no different than any other rule. Isn't it true that this section 2, under the rule, is a new and unique section that has been added to this rule?

The SPEAKER pro tempore. Authority to postpone consideration is not new, but the gentleman is correct that it has not before been used in these circumstances.

Mr. PRICE of Georgia. I thank the Speaker.

Mr. MCHENRY. Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MCHENRY. Madam Speaker, under the operational rule of the House today, it says, the rule specifies that notwithstanding the previous question. The previous question has already been ordered on this legislation. Therefore, the pertinent rule the Speaker is specifying is not operational under this rule; is that not correct?

The SPEAKER pro tempore. The gentleman is not correct.

Mr. MCHENRY. Madam Speaker, additional parliamentary inquiry. Why am I incorrect?

The SPEAKER pro tempore. The Chair will read the rule again:

''Section 2. During consideration of H.R. 1433 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.''

The Chair was authorized to postpone further consideration notwithstanding the fact that the previous question was ordered to passage.

PROVIDING FOR CONSIDERATION OF H.R. 1591, U.S. TROOP READINESS, VETERANS' HEALTH, AND IRAQ ACCOUNTABILITY ACT, 2007

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 261 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 261

Resolved, That upon adoption of this resolution it shall be in order to consider in the House the bill (H.R. 1591) making emergency supplemental appropriations for the fiscal year ending September 30, 2007, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) four hours of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit with or without instructions.

SEC. 2. During consideration of H.R. 1591 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

The SPEAKER pro tempore (Mr. TIERNEY). The gentlewoman from New York (Ms. SLAUGHTER) is recognized for 1 hour.

□ 1430

Ms. SLAUGHTER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California (Mr. DREIER). All time yielded during consideration of the rule is for debate only.

I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

GENERAL LEAVE

Ms. SLAUGHTER. Mr. Speaker, I also ask unanimous consent that all