

May I express my appreciation to the Committee and particularly to the original cosponsors of S. 1257 to give new seats to Utah and to the District of Columbia. Chairman Joe Lieberman has been the dedicated sponsor of my original bill, the No Taxation Without Representation Act, and has enthusiastically embraced this bill as well. I am grateful for the discussions with my old friend Utah Senator Orrin Hatch and how he and the junior Senator Bob Bennett have responded to the same strong sense of denial of the citizens of their state as I have to District of Columbia residents. We are deeply grateful to the Utah delegation and its Governor for their steadfast determination to join with us after the state barely lost a seat according to the 2000 census, most likely because Mormon missionaries were temporarily out of the state on a religious mission. As Governor Jon Huntsman said, "The people of Utah have expressed outrage over the loss of one congressional seat for the last 6 years. I share their outrage. I can't imagine what it must be like for American citizens to have no representation at all for over 200 years." In fact this bill was born bipartisan, initially not from me or any D.C. resident. Rather, it was an outlander, my regional colleague Ranking Member Tom Davis, Committee on Oversight and Government Reform who was moved by his personal sense of right and wrong when he was chair and used his insider political knowledge, his stature as a leader of his party, and his chairmanship to start us down the bipartisan path which must be traveled to expand representation in Congress. The thousands of Americans and others around the world, in the more than four years we have sought this bill cannot all be named, but the bill in the House was made possible as a personal priority of Speaker Nancy Pelosi, the out-spoken determination of Majority Leader Steny Hoyer, the splendid guidance of two chairmen, John Conyers and Henry Waxman; Utah Governor Jon Huntsman and the Utah delegation, Representatives Rob Bishop, Chris Canon, and Jim Matheson who forged a unique partnership on their understanding that Utah and D.C. citizens felt the same sense of loss, were after the same precious right, and could get there together; the local and national civil rights organizations that formed themselves into a formidable D.C. voting rights coalition, led by the Leadership Conference on Civil Rights and D.C. Vote; the Organization of American States and the Organization for Security and Cooperation in Europe, international organizations that asked the United States to come into conformance with international law by granting voting rights to the citizens of its capital; my own colleagues of both parties and especially my Republican colleagues who have joined this effort for D.C. and for Utah out of principle; and, of course, Mayor Adrian Fenty and elected officials and the residents of this city, living and dead, who have fought for equal citizenship over the ages.

We are late in relieving our country of the unique standing as the only nation that denies representation to the citizens of its capital. If ever a case has been made, the case for representation of every citizen, excluding none, in every nation's legislature, has been made here and around the world, ironically, most recently by the words and actions of our own country itself around the world. For most Americans, the case is made when they understand that the No Taxation Without Representation slogan of our own American Revolution of 1776 has yet to apply to the citizens of the nation's capital, which ranks second in federal income taxes that support the government of the United States. For others, the case is closed at the funerals of

District residents who have died fighting for the vote for the citizens of Iraq and Afghanistan, as Washingtonians have in every war, including the war for the “Republic for which we stand.”

Well, as the hearing proceeds, District residents are again serving in a shooting war. Andy Shallal, a D.C. citizen said it best, “People like me of Iraqi ancestry and even my son, who was born in the United States, are entitled to vote in the Iraqi’s election, due in large part to the service of the citizens of the District of Columbia and other Americans who have fought and died in Iraq.”

A vote for our capital also will erase the slander that the founders of our country who staged their revolution because they were denied representation would then almost immediately deny representation to the residents of their own capital city. Professor Viet Dinh, President Bush’s former assistant attorney general for constitutional matters has wiped away the major argument that because the District is not a state its American citizens cannot vote in the House, by detailing the many ways in which “since 1805 the Supreme Court has recognized that Congress has the authority to treat the District as a state and Congress has repeatedly exercised this authority.” The personal favorite of District residents is the 16th Amendment which requires only that citizens of states pay federal income taxes. Why then have District residents continuously been taxed without representation?

S. 1275 it must be said, will finally erase a history of wrong. As our country has unequivocally embraced equal rights regardless of race or color, the denial of a vote to the residents who live in our capital, where Black people are the majority, carries unintended messages around the world, S. 1275 will relieve the Congress of the terrible racial burden that has been at the core of the denial of the rights of D.C. citizens. Congress required the same racial segregation here in schools and public accommodations as the southern states mandated in their jurisdictions until the 1954 Brown decision. The denial of representation was part of that pattern. As one southern Senator put it, “The Negroes . . . flocked in . . . and there was only one way out . . . and that was to deny . . . suffrage entirely to every human being in the District.” Former Republican Senator Edward Brooke, a native Washingtonian and the nation’s first popularly elected black Senator wrote, “The experience of living in a segregated city and of serving in our segregated armed forces perhaps explains why my party’s work on the Voting Rights Act reauthorization last year and on the pending D.C. House Voting Rights Act has been so important to me personally. The irony of course, is that I had to leave my hometown to get representation in Congress and to become a Member.” The importance of giving representation to the only Americans denied it makes our bill the Voting Rights Act of 2007 just as last year Congress reauthorized the 1965 Voting Rights Act.

Utah and the District jumped high hurdles by successfully addressing the two most prominent issues that stood in the way – the necessity for political balance and to show that our bill is constitutional. Our bill concedes a virtual historical mandate that additional representation requires political balance. The required balance is modeled most recently on Alaska and Hawaii, both admitted to the Union in 1959 after Congress assured itself that their entry would benefit both parties. Our bill went further in the last Republican Congress session than many expected, getting a large bipartisan majority in two committees. After requiring Utah to draw a new map, the chairman of the committee, Rep. Jim Sensenbrenner, waived mark-up, but the bill

nevertheless failed to move during the lame duck session. However, in the final days of the session when it appeared that the bill would pass the House, the two Utah senators and Senator Joe Lieberman wrote a letter to their respective leadership asking immediate consideration on the Senate floor upon House passage. They were acting in the traditions of the Senate which has traditionally deferred to senators when a bill affects only their state. I ask that deference for the Utah sponsors of the bill. I also ask that the Senate grant deference and courtesy to the House because only the House is affected by S. 1275. You have asked constitutional scholars to speak on those issues, but as a lawyer who practiced constitutional law I would like to summarize my thoughts on the bills constitutionality as well. It is not surprising that unprecedented bills would attract claims of unconstitutionality, beyond those that are often offered as little more than political cover by opponents. There is some respectable opinion against the bill on constitutional grounds, but fortunately, the District has the better side of the case. Conservative scholars Kenneth Starr (former Court of Appeals Judge) and Professor Viet Dinh (former Assistant Attorney General under Attorney General Ashcroft) have both testified that our bill is constitutional. Although the District of Columbia is not at state, as Professor Dinh testified, the District meets the constitutional standards for House representation because “since the birth of the Republic, courts have repeatedly affirmed treatment of the District as a “state” for a wide variety of statutory, treaty, and even constitutional purposes.” Judge Starr testified that the District Clause, which gives Congress authority “[t]o exercise exclusive legislation in all cases whatsoever” – is “majestic in its scope” – and authorizes Congress to enact our bill. Most telling is the certainty that the framers did not and could not have intended to deny voting rights to the residents of the new capital. In accepting the land for the District, the first Congress, by law, guaranteed that the existing laws of the donor states, Maryland and Virginia, would be observed until jurisdiction passed to Congress, which would then, “by law provide” the laws for the District. Until the day that Congress took jurisdiction, for ten years, citizens living in the District continued to exercise their congressional voting rights “*not* because they were citizens of those states” – the cession had ended their political link with those states. . .” Dinh testified, [but because] their voting rights derived from Congressional action under the District Clause recognizing and ratifying the ceding states’ law as the applicable law.” Particularly considering that veterans of the revolutionary war who fought to get representation were living on the land ceded in the constitution for the new capital, it is unthinkable that Maryland and Virginia would have agreed to the sacrifice of the basic rights of their citizens as they donated the land or that the constitutional framers would have required it.

The only real obstacles to S. 1257 are political. Yet, this is one of those moments when I believe that democratic principles can prevail. I hope I can be forgiven a personal reference that I can no longer deny. I am counted among the veterans of the southern civil rights movement for equal rights for African Americans, beginning with my work in Mississippi with the Student Nonviolent Coordinating Committee. The irony is that I went South for equal rights when the city where I lived and was born had no rights, no mayor, no city council, no delegate, no self government, no democracy. The larger than life civil rights movement was the world changing forest that overshadowed the trees without leaves at home. By the time I was elected to the House, it was not difficult to translate the world view that had led me to go South to the issues of self governance and representation in Congress at home. The struggle been for my constituents, the citizens of the District of Columbia, by the here and now. Yet I cannot deny the personal side of this quest, epitomized by my family of native Washingtonians, my father Coleman

Holmes, my grandfather, Richard Holmes, who entered the D.C. Fire Department in 1902 and whose picture hangs in my office, a gift from the D.C. Fire Department, but especially my great-grandfather Richard Holmes, a slave who walked off a Virginia plantation in the 1850s, made it to Washington, and while still a slave settled our family here. By definition, subliminal motivation is unknown and unfelt, but today as I testify in the Senate I embrace the memory of Richard Homes, a slave in the District of Columbia until Lincoln freed the slaves here nine months before the Emancipation Proclamation. I embrace the memory of my great grandfather who came here in a furtive search for freedom itself, not the vote on the House floor. I cannot help but wonder what a man who lived as a slave in the District, and others like him, would think if Richard's great-granddaughter became the first to cast the first full vote for the District of Columbia on the House floor. I hope to have the special honor of casting the vote I have sought for 17 years. I want to cast that vote for the residents of my city whom I have had the great privilege of representing and who have fought and have waited for so long. Yes, and I want to cast that vote in memory of my great-grandfather, Richard Holmes.