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2 MARKUP OF H.R. 157, THE "DISTRICT OF COLUMBIA

3 HOUSE VOTING RIGHTS ACT OF 2009"

4 Wednesday, February 25, 2009

5 House of Representatives,

6 Committee on the Judiciary,

7 Washington, D.C.

8 The committee met, pursuant to call, at 2:25 p.m., in Room

9 2141, Rayburn House Office Building, Hon. John Conyers

10 [chairman of the committee] presiding.

11 Present: Representatives Conyers, Berman, Nadler,

12 Scott, Watt, Lofgren, Jackson Lee, Waters, Wexler, Cohen,

13 Johnson, Pierluisi, Gutierrez, Sherman, Baldwin, Gonzalez,

14 Weiner, Schiff, Sanchez, Wasserman Schultz, Maffei, Smith,
15 Sensenbrenner, Coble, Gallegly, Goodlatte, Lungren, Issa,
16 Forbes, King, Gohmert, Jordan, Poe, Chaffetz, Rooney, and
17 Harper.

18 Staff present: Perry Apelbaum, Staff Director/Chief
19 Counsel; Ted Kalo, General Counsel/Deputy Staff Director;
20 George Slover, Legislative Counsel/Parliamentarian; Sean
21 McLaughlin, Minority Chief of Staff/General Counsel; Allison
22 Halataei, Minority Deputy Chief of Staff/Parliamentarian, and
23 Anita L. Johnson, Clerk.

24 Chairman Conyers. [Presiding.] Good afternoon. The
25 committee will come to order.

26 We have a working quorum. Pursuant to notice, I call up
27 the bill H.R. 157, the District of Columbia House Voting
28 Rights Act, for purposes of markup.

29 The clerk will report the bill, please.

30 The Clerk. H.R. 157, "A bill to provide for the
31 treatment of the District of Columbia as a congressional
32 district for purposes of representation in the House of
33 Representatives, and for other purposes."

34 [The bill follows:]

35 ***** INSERT *****

36 Chairman Conyers. Without objection, the bill will be
37 considered as read and open for amendment at any point.

38 May I begin with the observation that this legislation
39 is an attempt to correct a 200-year-old injustice, the
40 disenfranchisement of what is now going to be over 500,000
41 Americans living in the nation's capital.

42 The effort to remedy this undemocratic injustice has
43 been a long-running one. In the last 40 years, the
44 committee—this committee and Congress have considered
45 numerous proposals to accomplish this.

46 Today we may be nearing the finish line with a
47 legislative remedy that I would recommend for several
48 reasons.

49 First, the legislation brings democracy to a part of
50 America that has oddly been left out. We are the only
51 democratic society in the world where citizens in its
52 national capital are denied fair representation in their
53 legislature.

54 The district residents can go to war, serve on juries,
55 pay taxes, and observe other responsibilities of citizenship,
56 yet they are denied full representation in the Congress.

57 This proposal is nonpartisan, in that it gives the
58 district their rightful vote in Congress, and it should
59 appropriately be beyond partisan politics.

60 For those focused on the fact that the district is

61 likely to send a Democrat to Congress, the bill adds an
62 additional district that, under the terms of the bill, will
63 go to Utah initially, which is likely to result in a
64 Republican being sent to Congress.

65 Utah will get the additional seat it narrowly missed
66 getting under the 2000 census. The district will get the
67 seat it has been denied for 2 centuries.

68 I am convinced that this bill is constitutional,
69 although it is open for interpretation. Article I, Section
70 8, Clause 17 gives Congress, as courts have found, the
71 highest extraordinary and plenary, sweeping and inclusive
72 authority over the district.

73 On so many occasions, from diversity jurisdiction to
74 interstate commerce, we treated the district as if it were a
75 state—using the district clause to give district residents
76 the same rights and privileges that other Americans enjoy,
77 have been struck down.

78 On the matter of making Utah's additional seat at large
79 temporarily, we are also on sound constitutional footing.
80 Article I, Section 4 gives Congress ultimate authority over
81 federal elections.

82 We are also respecting the one person, one vote
83 principle established in Wesberry v. Sanders in 1964.

84 Last Congress, the legislation was voted out of this
85 committee favorably and was passed favorably in the House,

86 and so I am hopeful that we will be able to repeat that in
87 the 111th Congress.

88 And I will put the rest of my remarks in the statement,
89 my rest of my remarks in the record, and recognize my friend,
90 the ranking member, Lamar Smith.

91 [The statement of Chairman Conyers follows:]

92 ***** COMMITTEE INSERT *****

93 Mr. Smith. Thank you, Mr. Chairman.

94 Mr. Chairman, the Judiciary Committee has a special
95 responsibility to act as the guardian of the Constitution.
96 The committee's jurisdiction and that of each of its five
97 standing committees are grounded on the subject specifically
98 cited in the Constitution. These subjects, of course,
99 include individual constitutional rights, intellectual
100 property, the federal courts, bankruptcy, national defense,
101 and criminal law, and immigration.

102 If the Judiciary Committee will not uphold
103 constitutional principles, then who will? And if the
104 Judiciary Committee approves legislation that may violate the
105 Constitution, what does that say about our responsibility as
106 guardians of the Constitution?

107 In 1978, the House Judiciary Committee got it right when
108 it considered a constitutional amendment that would have
109 provided D.C. two senators and a representative. The House
110 Judiciary Committee, under the leadership of Democratic
111 Chairman Peter Rodino, approved a constitutional amendment
112 that would give D.C. residents equal representation in
113 Congress.

114 The report accompanying that constitutional amendment
115 stated, "If the citizens of the district are to have voting
116 representation in the Congress, a constitutional amendment is
117 essential. Statutory action alone will not suffice."

118 However, that amendment failed to get the approval of
119 three-quarters of the states over 7 years. In fact, only 16
120 states voted to ratify that amendment.

121 Since that time, the Constitution has not changed, but
122 unfortunately the majority is pursuing a constitutionally
123 suspect bill when other constitutional alternatives are, in
124 fact, available.

125 In 2000, a federal three-judge panel in D.C. stated, "We
126 conclude from our analysis of the text that the Constitution
127 does not contemplate that the district may serve as a state
128 for purposes of the apportionment of congressional
129 representatives." The Supreme Court affirmed that decision.

130 So not only does the text of the Constitution make the
131 bill before us unconstitutional, so does a ruling by the
132 Supreme Court handed down less than 10 years ago.

133 Yet a constitutional alternative is readily available.
134 It is called retrocession, a process in which the current
135 residents of D.C. would become residents of Maryland and
136 enjoy representation as citizens of that state.

137 Not only is retrocession constitutional, it is a better
138 deal for D.C. residents. Under today's proposal, the
139 district will be granted a vote in the House of
140 Representatives only. Residents will not have representation
141 in the Senate. A retrocession proposal gives D.C. residents
142 representation in both houses of Congress.

143 Some supporters of H.R. 157 point to the statements of a
144 few lawyers to bolster their case, but lawyers can always be
145 found who will argue on behalf of their paying clients.

146 Supporters of this bill claim Congress has the authority
147 to enact it under the so-called district clause. That very
148 clause makes clear that D.C. is not a state. Rather, it is a
149 specially created district.

150 The Constitution clearly states, "The House of
151 Representatives shall be composed of members chosen every
152 second year by the people of the several states." Since D.C.
153 is not a state, it cannot have a voting member in the House.

154 The founders understood the Constitution to deny
155 congressional representation to D.C. They even sought to
156 address it. At the New York Constitutional Convention,
157 Alexander Hamilton offered an amendment to the proposed
158 Constitution that would have allowed D.C. residents to secure
159 representation in Congress once they grew to a reasonable
160 size, but that amendment to the Constitution was rejected.

161 The Congressional Research Service's analysis concludes
162 that H.R. 157 is unconstitutional, stating that, "Case law
163 that does exist would seem to indicate that not only is the
164 District of Columbia not a state for purposes of
165 representation, but the congressional power over the District
166 of Columbia does not represent a sufficient power to grant
167 congressional representation."

168 According to Jonathan Turley of the George Washington
169 School of Law, often a Democratic witness, this proposal is,
170 "the most premeditated, unconstitutional act by Congress in
171 decades."

172 And at the end of the day, district residents will be no
173 closer in their quest for congressional representation.

174 Now, meanwhile, the Judiciary Committee will have a
175 little bit tarnished its reputation as the guardian of the
176 Constitution. And I hope today during our debate we will
177 remember that the Judiciary Committee in my judgment, more
178 than any other committee in Congress, is a guardian of the
179 Constitution. And I hope we take that responsibility
180 seriously.

181 I thank you, Mr. Chairman, for the time. And I will
182 yield back.

183 Chairman Conyers. I couldn't agree with the gentleman's
184 last statement more.

185 The chair recognizes the gentleman from Puerto Rico, Mr.
186 Pedro Pierluisi.

187 Mr. Pierluisi. Thank you, Chairman Conyers.

188 It is fitting and a source of pride that my first words
189 to this committee are offered in strong support of H.R. 157.
190 I believe that taking this step to end the disenfranchisement
191 of the district's nearly 600,000 residents is a just and
192 proper course of action.

193 There is no principled basis to deny to the district
194 that which is the birthright of states with smaller or
195 comparable populations, namely a single voting member in the
196 House of Representatives.

197 Laws with national applicability, as well as laws
198 designed specifically to govern life in the district, are
199 introduced and approved in Congress every day. D.C.
200 residents should have a real voice; that is a vote in those
201 debates. Representative democracy, the bedrock principle of
202 America's approach to government, requires no less.

203 Mr. Chairman, in a world where too many governments
204 remain indifferent or hostile to the rights and liberties of
205 those they purport to lead, to be born or to become a citizen
206 of the United States is a blessing.

207 The proof of this statement's essential truth is
208 revealed to us in many forms. It is reflected, for example,
209 in the eyes of a young Marine who readies himself for battle
210 by gently rubbing the small American flag stitched to his
211 uniform for good luck.

212 And it is evident from the lump that forms in the throat
213 of the elderly immigrant to this country as she takes the
214 oath of citizenship and reflects back on the long and
215 difficult journey that has culminated in this joyful moment.

216 I do not pretend to know for certain what combination of
217 factors inspires American soldiers to risk their lives for

218 this country or what blend of motives drives immigrants to
219 leave behind everything and everyone they know in order to
220 reach these shores.

221 But I do think it is because they, like us, revere this
222 country for its commitment to freedom and democracy.

223 H.R. 157 will mark another important step in the effort
224 to ensure that all U.S. citizens, wherever they reside, can
225 participate fully in our vibrant democracy. I want to join
226 my colleagues in commending Congresswoman Holmes Norton for
227 her tireless devotion to this fundamental issue.

228 Even though I am new to this body, I am not new to the
229 principle for which she is citing. Residents of Puerto Rico
230 have been U.S. citizens and U.S. soldiers since 1917. The
231 percentage of the island's sons and daughters currently
232 serving in the U.S. military is greater than the percentage
233 in 49 of the 50 states.

234 The island's 4 million residents cannot vote for the
235 president and commander-in-chief, are not represented in the
236 Senate, and send a single nonvoting member to the House, in
237 this instance, myself.

238 I will not belabor this point because I believe that the
239 situations confronting the District of Columbia and Puerto
240 Rico, while similar in some ways, are also different in key
241 respects. I firmly believe that H.R. 157 deserves to be
242 considered on its own merits.

243 Mr. Chairman, if there is a place where democracy should
244 be working at its best, it is in the capital city of our
245 great nation. There can be no democracy where the people
246 have no meaningful say in the process of making the laws that
247 govern their lives.

248 I urge my colleagues to support H.R. 157 and to make
249 democracy shine in the District of Columbia.

250 I thank you, Mr. Chairman, and I yield the balance of my
251 time.

252 Mr. Lungren. Mr. Chairman?

253 Chairman Conyers. The chair is happy to recognize the
254 first former attorney general after having heard from the
255 second former sitting attorney general. Dan Lungren is
256 recognized.

257 Mr. Lungren. Thank you. Thank you very much, Mr.
258 Chairman.

259 And I appreciate those remarks. And I have always
260 enjoyed the gentleman from Puerto Rico and his service as
261 attorney general of the commonwealth of Puerto Rico.

262 Let me just say, to repeat something I have said before,
263 the U.S. Constitution is an inconvenient truth. The
264 gentleman's sentiments were well expressed, and I understand
265 those sentiments.

266 But one of the things that people come to this country
267 for is that we are a people of laws. We are a people that

268 recognizes the Constitution. We are people who understand
269 that the Constitution is the fundamental document of our
270 governance and that, if we are to respect the Constitution,
271 we have to respect all parts of the Constitution.

272 Consideration of H.R. 157 is more than about the
273 representational status of the District of Columbia in this
274 body. It goes to the heart of constitutional governance,
275 whether this body feels bound by the clear language of
276 Article I, Section 2, Clause 1, which states these words:
277 "The House of Representatives shall be composed of members
278 chosen every second year by the people of the several states,
279 and the electors of each state shall have the qualifications
280 requisite for electors of the most numerous branch of the
281 state's legislature."

282 The reference to the people of the several states, as
283 well as to the reference of the state legislature, are
284 unequivocal. Now, we can talk about penumbras. We can talk
285 about emanations. We can talk about concepts. But
286 occasionally we have to talk about words.

287 The requirement that is found in Article I, Section 2,
288 Clause 2, that no person—no person shall be a representative
289 who shall not have attained the age of 25 years, been 7 years
290 a citizen of the United States, and who shall not when
291 elected be an inhabitant of the state in which he shall be
292 chosen.

293 We are thus affirmatively instructed by the express
294 language of the Constitution, the express language of the
295 Constitution that the states are the relevant political
296 jurisdictions from which members of this body must come.

297 We are also presented with an expressed prohibition that
298 no person who is not an inhabitant of the state in which they
299 are elected is eligible to serve in this body.

300 Now, I understand the changes that take place in
301 language over time. But as a former English major, I believe
302 that words are important and they have meaning.

303 The U.S. Constitution is not some sort of post-modern
304 meta-narrative. When it says that you must be from a state
305 that elects you in order to serve in the body, I presume it
306 means what it says, nothing more, nothing less.

307 We are not even called upon to read the tea leaves, if
308 penumbras are rising from emanations. The plain meaning is
309 self-evident. There is no question the founders meant that
310 state—when they used the word "state" and fully intended to
311 exclude the District of Columbia from the definition. That
312 is the unfortunate and uncomfortable truth.

313 In "Federalist No. 43," Madison explicitly argued that
314 there was a need for a non-state location for the seat of
315 government, as he said, in order to avoid a dependence on the
316 members of the general government on the state comprehending
317 the seat of the government, in a situation which we deemed,

318 as he said, dissatisfactory to the other members of the
319 Confederacy, and he was talking about the organization of
320 states as they then existed.

321 Now, he has been called the architect of the
322 Constitution. Perhaps we ought to listen to him. And maybe
323 they meant what they said when they said it.

324 Furthermore, the absence of a vote in Congress was
325 clearly understood as one of the ramifications for creating a
326 federal district. During the constitutional ratification
327 process in the states, Alexander Hamilton offered an
328 amendment which would have given the district representation
329 once it grew to a reasonable size.

330 The unfortunate and uncomfortable truth is that
331 Hamilton's amendment was not adopted. It was not made part
332 of the Constitution. So it is also clearly understood that
333 disenfranchisement would be entailed with the creation of a
334 federal district seat of government. It was not an
335 oversight.

336 Now, you can go back and say it shouldn't be that way,
337 that modern times mean that we ought to change, but the fact
338 of the matter is, the founders gave us a means to make that
339 change. It is called a constitutional amendment.

340 Now, the worst thing we could possibly do in saying that
341 we are urging members to support the greater extension of
342 democracy is to tear up the Constitution in the process. If

343 you truly believe that, then what you ought to do is bring
344 before us a constitutional amendment, have it adopted in the
345 manner prescribed by the Constitution, have it submitted to
346 the states, and have it then adopted in that way.

347 And I would just beg members on this committee, we are
348 the Judiciary Committee. We are supposed to be the
349 protectors of the Constitution. If we don't think the
350 Constitution means anything, if we throw away pieces of it,
351 if we take out a scissors and excise words we don't like, who
352 is to be here to protect the Constitution?

353 I thank the chairman for his indulgence in allowing me
354 to speak.

355 Chairman Conyers. I thank the gentleman.

356 The chair recognizes the chairman of the Constitution
357 Subcommittee, Jerry Nadler of New York.

358 Mr. Nadler. Thank you, Mr. Chairman.

359 Mr. Chairman, today we return to one of the great
360 injustices in our nation, the fact that the citizens of the
361 District of Columbia do not have voting representation in
362 Congress.

363 And for more than 2 centuries, the only way to describe
364 this state of affairs is inexcusable. More than 500,000
365 Americans within sight of this Capitol are completely
366 disenfranchised. The people who patrol these streets, put
367 out the fires, and provide emergency services, the people who

368 operate the trains and buses, drive the cabs, even the people
369 who work for the members sitting up here on the dais, the
370 people who work so hard to make sure we can do our jobs do
371 not have the simple voting rights we demand of other nations.

372 The current state of affairs is not without consequence.
373 How often does Congress decide a high-profile issue for the
374 District of Columbia? This body regularly interferes with
375 the rights of D.C. residents in ways that none of our
376 constituents would ever tolerate, yet Congress does it time
377 and time again.

378 How can Congress get away with it? Very simply: The
379 people of the District of Columbia have no vote. They have
380 what this nation fought its revolution against: taxation
381 without representation.

382 It is appropriate that this committee, which produced
383 the Voting Rights Act, should act to secure the vote for the
384 people of the District of Columbia.

385 The Subcommittee on the Constitution, Civil Rights, and
386 Civil Liberties held a hearing on this legislation last
387 month. At that hearing, every witness, including members of
388 the committee, agreed with that threshold issue. The
389 district's current status, taxation without representation,
390 is abhorrent and must be changed.

391 There is disagreement over how to right this historic
392 wrong. I believe that the distinguished delegate in the

393 District of Columbia has proposed a balanced approach, one
394 that has been endorsed by civil rights leaders, by members of
395 Congress from both parties, and by respected constitutional
396 scholars.

397 Now, I understand there is difference over the
398 constitutionality. Mr. Lungren points out that congressional
399 representation according to the Constitution is to be from
400 the states. Others have pointed out that that is very true,
401 but that other things in the Constitution are also said to be
402 from the states, and yet the Supreme Court has interpreted it
403 to apply to the District of Columbia.

404 For example, Article III, Section 2 of the Constitution
405 says, "The judicial power shall extend to controversies
406 between two or more states, between a state and citizens of
407 another state, between citizens of different states," what we
408 refer to as diversity jurisdiction.

409 It was long ago decided by the Supreme Court that a
410 resident of New Jersey could sue a resident of the District
411 of Columbia, that because the District of Columbia is not a
412 state, residents of the district are not immune from being
413 sued, nor are they deprived of the ability to sue other-to
414 residents of other-of states of New York or California, New
415 Jersey, under the diversity jurisdiction.

416 So-and there are many other examples. And we have heard
417 distinguished constitutional scholars, not unanimously, but

418 predominantly say that this Congress has the ability by law
419 to confer the vote on the residents—representation on the
420 District of Columbia.

421 This legislation represents a carefully crafted
422 bipartisan compromise. In 2007, it passed the House by a
423 vote of 241-177. I would hope that the 111th Congress would
424 be the one that finally rights this historic wrong.

425 The citizens of the capital of the greatest democracy on
426 Earth must not continue to be disenfranchised. It is time to
427 remove this stain from our nation's honor.

428 I yield back.

429 Chairman Conyers. The chair is pleased to recognize the
430 chairman emeritus of the Judiciary Committee, Jim
431 Sensenbrenner.

432 Mr. Sensenbrenner. Thank you very much, Mr. Chairman.

433 I had not planned to speak during opening statement
434 time, but after hearing the way this debate has gone on, I
435 guess I want to bring people back to Earth in terms of
436 practicalities.

437 First, let me say, I agree with every statement that the
438 proponents of this legislation have stated on how it is
439 unjust that residents of the District of Columbia are not
440 able to vote for a voting member of Congress. This is
441 discriminatory. I don't think it is in the true feeling of
442 the democracy that was created by the framers of the

443 Constitution.

444 That being said, there are three ways to go about
445 correcting this injustice, two of which I believe are clearly
446 constitutional, and then we have the present one, which, if
447 it is not unconstitutional, will deny the residents of the
448 District of Columbia the right to elect a voting member of
449 the House of Representatives until such time as the courts
450 determine that it is constitutional.

451 And that may take years for a lawsuit to be filed, to be
452 tried, to decide it, to be decided, and this is the type of
453 case that will go all the way to the Supreme Court, because
454 it does provide the type of extreme constitutional questions
455 that have to be decided.

456 So I think what we ought to do is to look at a way that
457 we can solve this issue constitutionally once and for all.
458 And there are two ways to do that.

459 One is through a constitutional amendment, and the
460 second is to retrocede that part of the district which is the
461 non-federal area back to Maryland. The second proposal does
462 have precedent, because the district did contain what is
463 mostly Arlington County and a part of the city of Alexandria
464 and Virginia, and that was retroceded back to the
465 commonwealth of Virginia in 1846.

466 As a matter of fact, near where I live in Virginia,
467 there is one of Benjamin Banneker's original survey stones

468 that he placed delineating the boundary between the District
469 of Columbia and the commonwealth of Virginia, when he was
470 going through that area with his surveying equipment, I
471 believe, in 1793.

472 The other is through a constitutional amendment. And
473 let me say that there is precedent for this. Article I,
474 Section 4 is pretty explicit on who has the right to vote.
475 And if you look at the amendments to the United States
476 Constitution, a lot of them involve broadening the franchise
477 to women, to 18-year-olds, to people who might be denied to
478 vote as a result of a previous condition of servitude—meaning
479 ex-slaves—the abolition of a poll taxes in those
480 jurisdictions that imposed them, and a constitutional
481 amendment that gave District of Columbia residents the right
482 to vote for presidential electors.

483 All of these broadenings of the franchise were done by
484 constitutional amendment, one specifically giving D.C.
485 residents the right to vote for president.

486 Now, over 30 years ago, this committee decided that the
487 constitutional amendment route was the only way to go. We
488 have heard about this before. And the Congress did propose
489 to the states for ratification an amendment that was drafted
490 in this committee to give D.C. residents the right to vote
491 for a voting member of the House of Representatives.

492 That amendment, as do most amendments, had a timeline

493 that required the states to ratify it within 7 years.
494 Thirty-eight states were needed to ratify the constitutional
495 amendment. And in the 7 years, only 16 states did so. I am
496 proud to say my State of Wisconsin was one of those 16
497 states.

498 Now, if the committee in 1978 determined that you
499 couldn't give the District of Columbia residents the right to
500 vote for a voting member by statute, but it required a
501 constitutional amendment, what has changed since then, in the
502 last 30-plus years? Legally and constitutionally, nothing
503 has changed since then.

504 And I guess what I am saying is that if the supporters
505 of this legislation decide to ram this through, it is going
506 to be a while before the legal and constitutional issue gets
507 resolved. In the meantime, our distinguished delegate from
508 the District of Columbia will be sitting across the street
509 without a vote, just like she is now.

510 So I would say that the time to err is on the side of
511 being safe. The time to err is on the side of where the law
512 is clear. The time to err is not in passing a statute that
513 will be the subject of litigation for several years to come.

514 And that is why I would hope that this bill would be
515 rejected. There are some other issues that I will discuss
516 later, but I would hope that this bill would be rejected so
517 that we can do it right.

518 My mom always taught me it was better to do it right the
519 first time than to redo it time and time again. And I am
520 afraid we are on the slippery slope of making several tries.

521 Thank you.

522 Chairman Conyers. I thank the gentleman.

523 And the chair recognizes Jerry Nadler of New York.

524 Mr. Nadler. Thank you, Mr. Chairman. I would like to
525 offer an amendment in the nature of a substitute. It should
526 be at the desk.

527 Chairman Conyers. The clerk will read the amendment.

528 The Clerk. Amendment in the nature of a substitute to
529 H.R. 157, offered by Mr. Nadler, for himself and Mr. Conyers.
530 Strike all-

531 [The amendment by Mr. Nadler follows:]

532 ***** INSERT *****

533 Mr. Nadler. Mr. Chairman, may I move the amendment be
534 considered as read?

535 Chairman Conyers. Without objection.

536 The gentleman is recognized in support of his amendment.

537 Mr. Nadler. Thank you.

538 Mr. Chairman, this amendment makes three changes in the
539 underlying bill. First, for practical considerations, the
540 bill's effect is delayed until the next Congress, the 112th
541 Congress, to implement the new D.C. and Utah seats for which
542 it would provide. This allows us to avoid the costs
543 associated with a special election to implement the seats
544 immediately in this Congress.

545 Second, it would provide the district with House
546 representation equivalent to what states are entitled to.
547 Article I, Section 2 of the Constitution provides that
548 congressional districts are to be based on population, and
549 that principle should apply to the District of Columbia, as
550 well.

551 Based on its population, the district would get one
552 representative now. And in the years to come, it is likely
553 that the district would remain entitled to only one.

554 But the amendment in the nature of a substitute does
555 provide that, if in some future census the district's
556 population ever rises to where it would be entitled to a
557 second seat, it would not be barred from getting that second

558 seat.

559 There is no anticipation that that is likely to occur,
560 but there is also no reason why that should be barred for all
561 time. And this way the district's representation will be
562 based on population, as is the case with everyone else.

563 Third, in light of the considerable expressions of
564 doubts, especially by the minority, of the constitutionality
565 of this bill, the amendment will provide for expedited review
566 of any court challenge to this act.

567 We heard Mr. Sensenbrenner say that there will certainly
568 be a court challenge—I am sure there will be—that that would
569 delay the effect of this bill for years, as it might,
570 assuming that they would injunction against the application,
571 that there—the applicability of the bill right away, which
572 may or may not occur.

573 But in any event, I think all members would agree that,
574 if there is a challenge, we would want it resolved as quickly
575 as possible, so the amendment would provide for expedited
576 review by a three-judge federal court with appeal directly to
577 the Supreme Court with expedited procedures.

578 So I urge the adoption of this amendment. And I yield
579 back the balance my time.

580 Chairman Conyers. Thank you.

581 Ranking Member Smith?

582 Mr. Smith. Thank you, Mr. Chairman.

583 Mr. Chairman, I support the manager's amendment. And I
584 appreciate the full committee chair and the subcommittee
585 chair for including in the manager's amendment half of the
586 bipartisan provision that was contained in the McCain-
587 Feingold campaign finance legislation, namely the expedited
588 judicial review that Mr. Nadler just referred to.

589 This is an improvement to the bill, even if it falls
590 short of truly expediting the judicial review process, since
591 it fails to contain a provision expressing an intent that
592 members themselves have standing to constitutionally
593 challenge this legislation.

594 As to the other changes made to the base bill, the
595 manager's amendment allows more than one seat in the House to
596 go to the District of Columbia, provided its population grows
597 and in accordance with the usual apportionment procedures.

598 Ironically, Alexander Hamilton offered an amendment to
599 the Constitution at the New York Constitutional Convention
600 that would have done just that, but it failed to pass.

601 As a consequence, it is my view that what is attempted
602 in the manager's amendment is not possible outside of a
603 constitutional amendment.

604 The manager's amendment also provides that the Utah and
605 D.C. members would have to wait to be seated until the next
606 Congress. That change will allow the courts more time to
607 address the constitutionality of the legislation before any

608 seats are actually filled.

609 So I think there are some improvements in the manager's
610 amendment, and I will yield back the balance of my time.

611 Chairman Conyers. Is there anyone on the Democratic
612 side that seeks recognition?

613 Yes, the gentlelady from Texas, Sheila Jackson Lee?

614 Ms. Jackson Lee. I thank the chairman very much.

615 And I want to thank the chairman and Chairman Nadler for
616 this manager's amendment, and particularly the language that
617 points to the judicial review. I think it keenly answers the
618 concern, not in its totality, of Congressman Sensenbrenner
619 that anything that we do in this Congress is going to be
620 subjected to an extensive judicial review.

621 But I do believe that there is good ground for this
622 overall amendment, and I thank the distinguished gentleman
623 from Puerto Rico for making a very passionate case of the
624 concerns of those in the commonwealth or in Puerto Rico, and
625 certainly I think it is worthy of our discussion.

626 We have had this particular issue under review for a
627 very, very long time. It has been vetted. The Senate is
628 moving on this legislation. We have had expert testimony.
629 We have had constitutionalists look at this. And, certainly,
630 I think that very good arguments and the court could very
631 much turn its decision on Article I, Section 8, Clause 17,
632 which gives the Congress the power to exercise exclusive

633 legislation in all cases whatsoever regarding the District of
634 Columbia.

635 But I think, as my good friend from Puerto Rico has
636 emphasized, is that this is a place where petitioners come,
637 the first line of battle for petitioners to come to the House
638 Judiciary Committee or to Judiciary Committees of the House
639 and Senate for clarification and for the enhancement of
640 rights.

641 This is a branch of the three branches of government.
642 And certainly the courts have a right to assess or review
643 what the Congress has done. But I, frankly, believe that
644 this particular legislation has a sufficient merit and
645 protection under the Constitution that it may stand the
646 constitutional challenge that would be incurred in the
647 courts.

648 I think it is important, Mr. Chairman, that we move
649 forward. There are millions-plus of citizens of the United
650 States who are forbidden to have the opportunity in a
651 representative vote. And I think that, in the balance of
652 equity, the court of equity, it is imperative that we move
653 quickly and move now.

654 I yield back.

655 Mr. Issa. Mr. Chairman?

656 Chairman Conyers. Does the gentleman from Wisconsin
657 seek recognition?

658 Mr. Sensenbrenner. Not on the manager's amendment.

659 Chairman Conyers. Does anyone—Darrell Issa, the
660 gentleman from California, is recognized.

661 Mr. Issa. Thank you, Mr. Chairman.

662 And I find this an appropriate time not to speak about
663 the amendment, which does seem to tune up the music of the
664 Titanic's band, but not change the underlying flaw in the
665 bill.

666 I was a co-sponsor of this bill's predecessor. I worked
667 with Tom Davis to try to find a constitutional way to solve
668 this problem. I looked at it for both on this committee and
669 Government Reform for a number of years. And it has been an
670 evolution for me of realizing that, in fact, there are two
671 equity questions that go even beyond the constitutional
672 question.

673 First of all, the people of the District of Columbia do
674 not want Eleanor Holmes Norton to be their congresswoman.
675 They really want her to be one of their senators. The
676 aspirations of the District of Columbia are not to have a
677 congressperson instead of a delegate. The aspirations are to
678 have greater representation, including full representation,
679 and full representation would have not one, but two senators.

680 With all fairness to the delegate from Puerto Rico, the
681 aspirations of Puerto Rico are mixed. Some people want
682 statehood; some don't. And just 9 years ago, they were given

683 that opportunity, and they chose less than statehood, and
684 they remain where they are.

685 So they have made a decision. And I appreciate and
686 served in the military with a great many of those U.S.
687 citizens from Puerto Rico who, the moment they put on the
688 uniform and left Puerto Rico, were citizens with voting
689 rights, taxation anywhere they chose to live, and two
690 senators to represent them.

691 In fairness, the delegate, Holmes Norton, if she were to
692 leave the District of Columbia and move to Maryland or to
693 Virginia, she would immediately have all those same rights.

694 This is not a form of slavery. This is not taxation
695 without representation. This is, in fact, a choice, a choice
696 to live in Puerto Rico rather than in New York, a choice to
697 live in the District of Columbia rather than elsewhere.

698 Now, I believe that retrocession is appropriate, that,
699 in fact, the time has come for the District of Columbia to no
700 longer exist in the way that it once did, as a bastion of
701 protection from a state impeding the government.

702 And I think that the best way to show that is that you
703 can draw lines, as Mr. Gohmert has in his legislation, you
704 can draw lines around a few federal buildings—this building,
705 the other buildings of the House and the Senate, the Capitol,
706 and down to the Supreme Court behind us, and its other
707 buildings, and then over to the White House—and not pass one

708 private residence, unless you include the president, but my
709 understanding is he keeps his statehood. You, in fact, do
710 not circle in the District of Columbia, as it could be drawn,
711 since the Constitution says "not greater than," but has no
712 minimum, you could draw a District of Columbia that would
713 still have a right to have its own National Guard, it would
714 have a right to have any and all that it needs, but, in fact,
715 not have one home.

716 You could do that. And I believe, Mr. Chairman, that,
717 in fact, this committee should take it on itself to do that,
718 to redraw the District of Columbia such that every person who
719 has chosen to live in a home or an apartment in the District
720 of Columbia would simply become part of Maryland, as was
721 envisioned in the Constitution.

722 We can fix this and give Ms. Norton an opportunity to be
723 a congresswoman from Maryland—and I suspect she would be
724 elected overwhelmingly with the support of the 400,000 or so
725 D.C. residents—and to have two senators, governor, and others
726 representing them.

727 We can make special provisions in that transition to
728 protect certain historic rights and privileges of the
729 District of Columbia. We can do all of that.

730 But I have become convinced that this bill is only a
731 step—and I happen to be an Arab-American, so take this in the
732 way in which it comes—this is one little bit of a camel's

733 nose under the tent flap, with the full intention of bringing
734 in the whole camel and the rest of the caravan.

735 This, in fact, if it were to pass and if it were to be
736 found narrowly constitutional, would then lead to a demand
737 for senators and, perhaps, a governor. I don't believe that
738 is in the best interests.

739 The balance, just as it is with Puerto Rico, is choose
740 statehood, in the case of Puerto Rico, choose membership in
741 state, a state from which the district was drawn, Maryland,
742 and I suggest that this committee modify this bill to offer
743 that opportunity to Maryland and the people of the District
744 of Columbia, that they choose that and that, in fact, we give
745 full voting rights to the people of the District of Columbia,
746 as is provided in the Constitution.

747 And if the gentleman—

748 Mr. Nadler. Will the gentleman yield?

749 Mr. Issa. —the gentleman would like to have a colloquy,
750 I would yield.

751 Mr. Nadler. Yes, I don't want to get into debating
752 everything you said, but I was struck by one thing, and I
753 want—

754 Mr. Issa. Any 10 points would be fine.

755 Mr. Nadler. I was struck by one thing you said about
756 the right of Eleanor Holmes Norton to move to Maryland and
757 immediately have the right to be represented by everybody and

758 the right of the delegate in Puerto Rico, the moment he goes
759 anywhere else, he has rights, et cetera.

760 In 1774, would not Americans, as subjects of the British
761 crown, had they moved to London immediately had the right of
762 representation in parliament and, therefore, the slogan of
763 "taxation without representation" in 1774 was invalid? Is
764 that what you are saying?

765 Mr. Issa. Reclaiming my time, it took more than a small
766 act of a band of men and women on a dais to make that
767 decision. And I would suggest that a constitutional
768 amendment is at least as appropriate to do this as a long-
769 protracted war was back, 1774 and beyond.

770 But I think the gentleman's point is valid that, in
771 fact, the difference between nonvoting and voting is a big
772 thing. And it is not taken lightly when, in fact, the
773 Constitution is explicit.

774 And, most importantly, as recently as 1961, a
775 constitutional amendment made a narrow change, a change which
776 the people just a generation before us felt was appropriate
777 to give voting rights for the presidential election to the
778 District of Columbia and explicitly did not take up the
779 opportunity to grant statehood to the District of Columbia,
780 something which I believe and have seen the signs and the
781 organizations is, in fact, the goal of the District of
782 Columbia.

783 So with the gentleman's indulgence, I really would
784 suggest that you have made my point and yield back to the
785 chair.

786 Chairman Conyers. I thank the gentleman.

787 And I suspect that such an amendment will come up before
788 our proceedings our concluded, which will have to be after
789 the votes that will occur at approximately 3:15.

790 Mr. King. Mr. Chairman?

791 Chairman Conyers. Does anyone else—

792 Mr. King. Mr. Chairman?

793 Mr. Chairman?

794 Chairman Conyers. Yes, is there anyone on this side
795 that seeks recognition?

796 If not, then I would be—

797 Mr. King. Mr. Chairman?

798 Chairman Conyers. —I would be pleased to yield to the
799 gentleman.

800 Mr. King. Thank you, Mr. Chairman.

801 Chairman Conyers. Steve King?

802 Mr. King. I move to strike the last word.

803 Chairman Conyers. The gentleman is recognized.

804 Mr. King. Thank you, Mr. Chairman.

805 I am doing my best to get engaged in this process of
806 this markup on this bill. And I am having significant
807 difficulty taking this process seriously. And I say so

808 because I am hearing the fairly flowery rhetoric about how
809 important it is that everyone have a vote, and everyone be
810 represented, and this is a constitutional republic, and that
811 the plea out here to the 500,000 or so people in the District
812 of Columbia is that they deserve representation, that they
813 are being taxed without representation.

814 And yet I sit on this committee, and I look back on a
815 bill, H.R. 200, that we brought out of this committee, a
816 bankruptcy bill, and I review an amendment that I—a rare
817 thing for Steve King to be successful in the minority in
818 getting an amendment passed on a bill—it passed this
819 committee 21-3. And what it did was it assured that those
820 who would be refinanced under the bankruptcy bill have not
821 committed an act of fraud or misrepresented their finances, a
822 very legitimate piece that we negotiated with the other side
823 and had the support of the chairman, including all Democrats
824 but three and every Republican.

825 And yet, when that amendment passed, and the bill was
826 passed by this committee and it came back, and it came back
827 written in a different form and, without consultation, the
828 language changed.

829 And so I am concerned about whether this right to vote
830 that we are pleading for the citizens of the District of
831 Columbia actually exists here on this committee. And is this
832 a serious markup?

833 And will this time, if we amend this bill, will it be
834 changed after the fact? And what is the level of credibility
835 of these negotiations? When we negotiate in good faith, how
836 much good faith can one have when the language changes after
837 we have the kind of support of an overwhelming support of 21-
838 3?

839 So I would like to know, who made the decision? Who was
840 consulted? What is to be done to reconcile this situation?
841 Because I don't know that I can become a cooperative member
842 of this committee with this kind of an environment. And I
843 think this is the day that we ought to consider such a thing.

844 And so, anyway, is it a real markup? What do we tell
845 our teachers of government, that there is a committee process
846 that is set up by the United States Constitution and we have
847 subcommittee markups and committee markups, and then it goes
848 to Rules, and then it goes to the floor, and you have an
849 opportunity to perfect the bill on the floor before it goes
850 to the Senate, where it comes back in the conference?

851 But there is another process in there. And it may be a
852 staff decision to change the language without consulting any
853 of the voting members here in this committee. And I am shut
854 out of this process to the extent that, when I asked the
855 question, the answer that I get back is, well, Democrats
856 reconsidered.

857 Well, I don't think it was just Democrats here in this

858 committee that voted or agreed 21-3. And the final answer
859 was, it is what it is.

860 So if it is what it is, maybe the markup is a waste of
861 all of our time, if the language is going to change after it
862 is voted out of this committee.

863 Chairman Conyers. Would the gentleman yield?

864 Mr. King. I would be happy to yield to the chairman.

865 Chairman Conyers. Well, first of all, I want to thank
866 the gentleman for bringing this to my attention. I am sorry
867 that it was at this time and place that he chose to bring it
868 to my attention.

869 But having done that, I want to assure him that the
870 procedures of the Judiciary Committee have not disintegrated
871 to a point of unconstitutional or abuse of process
872 whatsoever.

873 And I apologize for any misconstruction that the
874 gentleman has articulated with so much passion. And I accept
875 responsibility. I will find out what happened. I will
876 report back to you. But in no way does that reflect
877 negatively upon the procedure that is taking place before the
878 committee now.

879 Mr. King. And reclaiming my time, I accept the
880 chairman's explanation, and to this point that I did bring it
881 to the attention of the staff on Monday, and the response
882 that I got was a response that I put into the record.

883 But I do accept the chairman and the gentleman
884 chairman's response and commitment to me on that. And I hope
885 to have this dialogue after—

886 Chairman Conyers. I will get back to you right away.

887 Mr. King. I thank you very much.

888 And I yield back.

889 Chairman Conyers. Thank you.

890 Is there—

891 Mr. Pierluisi. Mister—

892 Chairman Conyers. I would like to at least proceed—

893 Mr. Pierluisi. Mr. Chairman?

894 Chairman Conyers. Yes, I would like to see—is there
895 anyone on this side? No.

896 Judge Gohmert? Oh, wait a minute. I am sorry.

897 Mr. Pierluisi?

898 Mr. Pierluisi. May I be recognized? I will be briefed,
899 Mr. Chairman.

900 Chairman Conyers. The gentleman is recognized for the
901 full 5 minutes.

902 Mr. Pierluisi. I just want to reply briefly to a couple
903 of statements made by the gentleman from California, Issa,
904 Mr. Issa.

905 First of all, with respect to Puerto Rico, let me just
906 say, again, it is a different issue, but I have to clarify
907 the record. The Congress has never sanctioned either a

908 referendum or a plebiscite in Puerto Rico. The three
909 plebiscites that have been held in Puerto Rico were organized
910 under Puerto Rico law.

911 The Congress has never done that. That is going to be
912 something that I will be raising before this Congress in due
913 course, so the record should be clear. My people haven't
914 been heard by this Congress regarding their wishes concerning
915 our status.

916 With respect to the bill that is before us, this bill is
917 not about—it is not about status. It is not—the District of
918 Columbia is not seeking statehood through this bill.

919 So to be talking about two senators, potential senators,
920 I believe it misses the point. This bill talks about seeking
921 representation, meaningful representation for the District of
922 Columbia, and also have to acknowledge that the Constitution
923 gives exclusive jurisdiction to this Congress to deal with
924 matters relating to the District of Columbia.

925 So the courts in due course will address this and will
926 balance this out, like they always do, when reading and
927 interpreting our Constitution. So that is what I would like
928 to say.

929 I do not believe this is a black-and-white thing. And
930 it is not a statehood bill, and it shouldn't be judged
931 accordingly.

932 Mr. Issa. Will the gentleman yield for a question?

933 Mr. Pierluisi. Of course.

934 Mr. Issa. Thank you.

935 I apologize if we misinterpret the 1998 bill that passed
936 here out of the House and Senate that led to a vote. And I
937 apologize. It was a three-way vote and confused many of us
938 from the 48 contiguous, because it—we thought, in fact, it—if
939 it had passed in favor of statehood, based on the vote here
940 in the House and the Senate—and the chairman well remembers—
941 would have led to statehood.

942 But, you know, having said that, I must make the
943 gentleman aware that the efforts for two senators are wide
944 and well—and very easy to find here in the District of
945 Columbia. So I show the organizations as not the efforts of
946 the members here, but the likely next step for requests.

947 And I thank the gentleman for making that clear.

948 Mr. Pierluisi. Mr. Chairman, may I—

949 Chairman Conyers. It is your turn.

950 Mr. Pierluisi. It will be quick. That bill you are
951 referring to, the Young Bill act, was truly approved by this
952 House, by the House of Representatives, but the Senate never
953 took it up. So it never became law.

954 There has never been a federal law providing for a
955 plebiscite in Puerto Rico. We did hold a plebiscite in
956 Puerto Rico, but it was different than the one that you
957 framed or at least your intention to frame was.

958 Chairman Conyers. Are there any amendments to the
959 manager's substitute?

960 Mr. Smith?

961 Mr. Smith. Mr. Chairman, I have an amendment at the
962 desk.

963 Chairman Conyers. The clerk will report the amendment.

964 The Clerk. Amendment offered by Mr. Smith to the
965 amendment in the nature of a substitute, add at the end of
966 the following new section, number one, section, intervention
967 and challenge by members of Congress—

968 [The amendment by Mr. Smith follows:]

969 ***** INSERT *****

970 Chairman Conyers. I ask unanimous consent that the
971 amendment be considered as read and recognize the gentleman
972 in support of his amendment.

973 Mr. Smith. Thank you, Mr. Chairman.

974 The amendment I am offering makes clear that members of
975 Congress have standing to directly challenge the
976 constitutionality of this legislation in court.

977 As members of this committee, we have a special
978 responsibility to uphold and protect the Constitution. This
979 week, the Wall Street Journal reported that, "Ken Thomas,
980 legislative attorney with the American law division at the
981 Library of Congress, says D.C. voting rights would certainly
982 be viable by constitutional amendment, but not by statute,"
983 and he is convinced the high court would agree.

984 But while the Supreme Court may easily conclude this
985 legislation is unconstitutional, it is in the interest of all
986 Americans that the Supreme Court make that conclusion sooner
987 rather than later.

988 My amendment makes clear that Congress intends that a
989 challenge to this legislation could be brought immediately by
990 those whose votes on behalf of their constituents are
991 unconstitutionally diluted.

992 This amendment contains the very same provisions on
993 members' standing in intervention that Congress agreed was
994 appropriate on a bipartisan basis in the McCain-Feingold

995 campaign finance law. That provision was successfully
996 employed to facilitate the Supreme Court's expeditious review
997 of the legislation.

998 This amendment is also supported by the Leadership
999 Conference on Civil Rights. Wade Henderson, the president of
1000 the Leadership Conference, testified at the Constitution
1001 Subcommittee's hearing on H.R. 157 that Congress should
1002 appropriately indicate in the bill that it wish members to
1003 have standing to mount a challenge to it.

1004 The precedence in the D.C. Court of Appeals, where a
1005 challenge to this legislation would be heard, grants standing
1006 to members of Congress on the grounds that their voting power
1007 has been diluted.

1008 In the 1994 case of Michel v. Anderson, the D.C. Circuit
1009 of Appeals unanimously confirmed the right of members to
1010 Congress to challenge the validity of a House rule that
1011 allowed delegates from the territories to vote in the
1012 committee of the whole. In that case, the court stated that
1013 the parties do not question the congressman's standing to
1014 assert that their voting power has been diluted and that
1015 existing case law establishes that congressmen asserting such
1016 a claim have suffered an Article III injury.

1017 The legislation before us today poses a question of such
1018 fundamental importance—mainly, Congress's power to alter the
1019 constitutional make-up of Congress—that we have a

1020 responsibility to do everything we can to ensure that the
1021 courts will hear argument on the constitutionality as soon as
1022 possible. This amendment codifies the right of members to
1023 bring a direct challenge to this legislation.

1024 Supporters of H.R. 157 say they believe the bill is
1025 constitutional. They also say they support the expedited
1026 judicial review of this legislation. If so, they should want
1027 to get that constitutionality established by the Supreme
1028 Court as soon as possible, and they should support a clear
1029 provision that grants members of Congress the right to get to
1030 court.

1031 This bill is either constitutional or it is not. If it
1032 is, supporters have nothing to fear. If it isn't, let me
1033 assure my colleagues that opponents are ready and willing to
1034 work with them on a constitutional solution that gives D.C.
1035 equal representation.

1036 Expedited judicial review is important. It should be
1037 facilitated by including standing for members. I really
1038 don't know how one argues for supporting expedited review
1039 while omitting standing for members to pursue expedited
1040 review.

1041 I assume expedited review is included in good faith, so
1042 I don't understand why standing would not be included if
1043 there is a real desire to get the constitutional issue
1044 decided quickly.

1045 I urge my colleagues on both sides of the aisle to adopt
1046 this amendment to ensure that question of constitutionality
1047 is resolved expeditiously.

1048 Mr. Chairman, I thank you, and I will yield back.

1049 Chairman Conyers. I thank the gentleman and recognize
1050 the gentleman from New York, Chairman Nadler.

1051 Mr. Nadler. Thank you. I thank the chairman.

1052 I respectfully oppose the amendment offered by Ranking
1053 Member Smith, which would give members standing to challenge
1054 this legislation. Yes, litigation in the federal courts is
1055 likely. And to this end, this substitute provides for
1056 expedited judicial review. Such review will provide for
1057 efficient and proper resolution of any challenge to this act.

1058 It is unnecessary, however, to go beyond expedited
1059 review and specifically give members standing. Mr. Smith
1060 believes that the McCain-Feingold act should serve as
1061 precedent for providing members standing, but I don't think
1062 that that precedent is applicable here.

1063 While the McCain-Feingold bill specifically governs the
1064 activity of federal lawmakers, the District of Columbia House
1065 Voting Rights Act does not. I believe that any American
1066 citizen in a different state has standing to challenge this
1067 bill on the grounds of vote dilution. And if members of the
1068 Congress want to bring a lawsuit, they have the right to do
1069 so as American citizens. They do not need extra standing as

1070 members of the House.

1071 Given this ancillary interest here, do we really need to
1072 grant the members of Congress standing? I do not believe
1073 that we should weigh in. It is up to the courts to determine
1074 who has standing. With or without this provision, the
1075 courts, not Congress, get the final say as to Article III
1076 standing, but we believe that any American citizen of a
1077 different—of a state other than a resident of the District of
1078 Columbia would have standing, and that includes all members
1079 of Congress.

1080 So I believe—so I oppose this amendment. I don't,
1081 frankly, believe it is very important one way or the other,
1082 because—

1083 Mr. Smith. Then why oppose it?

1084 Mr. Nadler. I think that American citizens have
1085 standing in any event, but I think it is unnecessary. And on
1086 that basis, I would oppose it.

1087 Mr. Smith. Would the gentleman yield briefly?

1088 Mr. Nadler. Sure.

1089 Mr. Smith. My question for the chairman of the
1090 subcommittee is this. You said that you don't think it
1091 matters much one way or the other. I happen to agree with
1092 you, and I hope you are right, that a lot of individuals will
1093 have standing.

1094 But considering our profound interest in trying to get

1095 this constitutionality question resolved as quickly as
1096 possible, why not do everything in our power to expedite the
1097 process—

1098 Mr. Nadler. Reclaiming my time, because it is an
1099 Article III issue. And I do not believe that
1100 constitutionally we can specifically give members of Congress
1101 the power.

1102 The case of a member standing on this matter does not
1103 look too good. The Supreme Court in *Raines v. Byrd* in 1997
1104 made a distinction between personal injury and institutional
1105 injury from members of Congress, institutional injury not
1106 providing members of Congress with standing.

1107 The loss of political power in terms of voting in
1108 Congress does not get members of Congress into court. *Raines*
1109 *v. Byrd*, having superseded *Michel v. Anderson*, a circuit
1110 court decision from 1994, means that if members of Congress
1111 have a legislative remedy or institutional fix, they do not
1112 get their case in court.

1113 But the courts, not Congress, determine standing. I
1114 believe American citizens of other states have standing. And
1115 we cannot give constitutionally—you talk about adherence to
1116 the Constitution—we cannot give members of Congress standing
1117 which they don't otherwise have, because there is no higher—
1118 because either they are part—either they have a personal
1119 interest in a case of controversy under the meaning of

1120 Article III as interpreted by the Supreme Court or they
1121 don't.

1122 If they do, they have standing in any event. If they
1123 don't, we cannot create that standing. And therefore this
1124 amendment, as I think about it, is unconstitutional.

1125 Chairman Conyers. There are two votes for the day
1126 pending on the floor. The chair would like to call a vote on
1127 this matter.

1128 All in favor of the Smith amendment indicate by saying
1129 "aye."

1130 [A chorus of ayes.]

1131 Chairman Conyers. All opposed, say "no."

1132 [A chorus of noes.]

1133 Chairman Conyers. The chair is in doubt. The roll will
1134 be called.

1135 The Clerk. Mr. Conyers?

1136 Chairman Conyers. No.

1137 The Clerk. Mr. Conyers votes no.

1138 Mr. Berman?

1139 [No response.]

1140 Mr. Boucher?

1141 [No response.]

1142 Mr. Nadler?

1143 Mr. Nadler. No.

1144 The Clerk. Mr. Nadler votes no.

1145 Mr. Scott?

1146 Mr. Scott. No.

1147 The Clerk. Mr. Scott votes no.

1148 Mr. Watt?

1149 [No response.]

1150 Ms. Lofgren?

1151 Ms. Lofgren. No.

1152 The Clerk. Ms. Lofgren votes no.

1153 Ms. Jackson Lee?

1154 Ms. Jackson Lee. No.

1155 The Clerk. Ms. Jackson Lee votes no.

1156 Ms. Waters?

1157 [No response.]

1158 Mr. Delahunt?

1159 [No response.]

1160 Mr. Wexler?

1161 [No response.]

1162 Mr. Cohen?

1163 [No response.]

1164 Mr. Johnson?

1165 Mr. Johnson. No.

1166 The Clerk. Mr. Johnson votes no.

1167 Mr. Pierluisi?

1168 Mr. Pierluisi. No.

1169 The Clerk. Mr. Pierluisi votes no.

1170 Mr. Gutierrez?
1171 [No response.]
1172 Mr. Sherman?
1173 [No response.]
1174 Ms. Baldwin?
1175 Ms. Baldwin. No.
1176 The Clerk. Ms. Baldwin votes no.
1177 Mr. Gonzalez?
1178 Mr. Gonzalez. No.
1179 The Clerk. Mr. Gonzalez votes no.
1180 Mr. Weiner?
1181 [No response.]
1182 Mr. Schiff?
1183 Mr. Schiff. No.
1184 The Clerk. Mr. Schiff votes no.
1185 Ms. Sanchez?
1186 Ms. Sanchez. No.
1187 The Clerk. Ms. Sanchez votes no.
1188 Ms. Wasserman Schultz?
1189 [No response.]
1190 Mr. Maffei?
1191 Mr. Maffei. No.
1192 The Clerk. Mr. Maffei votes no.
1193 Mr. Smith?
1194 Mr. Smith. Aye.

1195 The Clerk. Mr. Smith votes aye.
1196 Mr. Goodlatte?
1197 Mr. Goodlatte. Aye.
1198 The Clerk. Mr. Goodlatte votes aye.
1199 Mr. Sensenbrenner?
1200 Mr. Sensenbrenner. Aye.
1201 The Clerk. Mr. Sensenbrenner votes aye.
1202 Mr. Coble?
1203 Mr. Coble. Aye.
1204 The Clerk. Mr. Cobles votes aye.
1205 Mr. Gallegly?
1206 Mr. Gallegly. Aye.
1207 The Clerk. Mr. Gallegly votes aye.
1208 Mr. Lungren?
1209 Mr. Lungren. Aye.
1210 The Clerk. Mr. Lungren votes aye.
1211 Mr. Issa?
1212 [No response.]
1213 Mr. Forbes?
1214 Mr. Forbes. Aye.
1215 The Clerk. Mr. Forbes votes aye.
1216 Mr. King?
1217 Mr. King. Aye.
1218 The Clerk. Mr. King votes aye.
1219 Mr. Franks?

1220 [No response.]

1221 Mr. Gohmert?

1222 Mr. Gohmert. Aye.

1223 The Clerk. Mr. Gohmert votes aye.

1224 Mr. Jordan?

1225 Mr. Jordan. Yes.

1226 The Clerk. Mr. Jordan votes yes.

1227 Mr. Poe?

1228 Mr. Poe. Aye.

1229 The Clerk. Mr. Poe votes aye.

1230 Mr. Chaffetz?

1231 Mr. Chaffetz. Aye.

1232 The Clerk. Mr. Chaffetz votes aye.

1233 Mr. Rooney?

1234 Mr. Rooney. Aye.

1235 The Clerk. Mr. Rooney votes aye.

1236 Mr. Harper?

1237 Mr. Harper. Aye.

1238 The Clerk. Mr. Harper votes aye.

1239 Chairman Conyers. Are there other members who choose to

1240 vote?

1241 Mr. Berman?

1242 Mr. Berman. No.

1243 Chairman Conyers. Mr. Watt?

1244 The Clerk. Mr. Berman votes no.

1245 Mr. Watt. No.

1246 The Clerk. Mr. Watt votes no.

1247 Chairman Conyers. Are there other members that choose
1248 to vote?

1249 One more.

1250 Mr. Issa?

1251 Mr. Issa. I vote aye.

1252 The Clerk. Mr. Issa votes aye.

1253 Mr. Nadler. Mr. Chairman, how am I recorded, please?

1254 The Clerk. Mr. Nadler votes no.

1255 Chairman Conyers. Mr. Weiner?

1256 Mr. Weiner. How am I recorded?

1257 The Clerk. Mr. Weiner, I have no vote for.

1258 Mr. Weiner. No.

1259 The Clerk. Mr. Weiner votes no.

1260 Chairman Conyers. The clerk will report.

1261 The Clerk. Mr. Chairman, 15 members voted aye, 15
1262 members voted nay.

1263 Chairman Conyers. So the amendment is not agreed to.

1264 May I implore all of the members to return immediately so

1265 that we can at least—15-15. So let's return as soon as we

1266 finished these three votes. The committee stands in recess.

1267 [Recess.]

1268 Mr. Nadler. [Presiding.] The committee will come back
1269 to order.

1270 I hope some of the Republicans will come here, in case
1271 they have any amendments, because the next order of business
1272 is, are there any other amendments to the manager's
1273 amendment?

1274 Mr. Smith or anybody else?

1275 Well, we will wait a moment to find out if there are any
1276 other amendments to the manager's amendment in the nature of
1277 a substitute.

1278 Mr. Smith. Mr. Chairman, we have a couple of
1279 amendments, one by Mr. Gohmert, one by Mr. Sensenbrenner, who
1280 I think will return, and we—one by Mr. Chaffetz. And that is
1281 it, I think.

1282 Mr. Nadler. Are any of them here?

1283 Mr. Smith. Yes, two of the three are here. You can
1284 start with—

1285 Mr. Nadler. The chair recognizes the gentleman from
1286 Texas.

1287 Mr. Gohmert. Thank you, Mr. Chairman. I do have an
1288 amendment at the desk. This would be—

1289 Mr. Nadler. The clerk will report the amendment.

1290 Mr. Gohmert. —amendment number 1.

1291 Mr. Nadler. The clerk seems to indicate she doesn't
1292 have it.

1293 Mr. Gohmert. Well, then—

1294 Mr. Nadler. Let's see if it is coming. Looks like it

1295 is on the way.

1296 Mr. Gohmert. There we go. Okay.

1297 Mr. Scott. Mr. Chairman?

1298 Mr. Nadler. Yes, the gentleman from Virginia?

1299 Mr. Scott. Is it timely to reserve a point of order
1300 before he announces it?

1301 Mr. Nadler. Yes, you may reserve a point of order. The
1302 point of order is reserved. And let's—the clerk will report
1303 the amendment.

1304 The Clerk. Amendment offered by Mr. Gohmert to the
1305 amendment in the nature of a substitute. In lieu of—

1306 [The amendment Mr. Gohmert follows:]

1307 ***** INSERT *****

1308 Mr. Nadler. Without objection, the amendment is
1309 considered as read, and the gentleman is recognized, and the
1310 point of order is reserved.

1311 The gentleman from Texas has 5 minutes to speak to his
1312 amendment.

1313 Mr. Gohmert. Thank you, Mr. Chairman.

1314 We had discussed this earlier before the votes. And I
1315 think most everybody in here—I am sure everybody in here—
1316 believes what was first discussed in 1760, that taxation
1317 without representation is tyranny. And so what we have—and
1318 this is set out in the amendment—it goes through the history.

1319 Residents of Washington, D.C., pay federal income tax,
1320 but they do not have voting members in the United States
1321 Congress. It points out Article I, Section 2, Clause 1 says
1322 that the members will be chosen by the people of the several
1323 states.

1324 The founding fathers did consider the proposed district
1325 that would become Washington, and they did not consider it a
1326 state, as evidence when Alexander Hamilton, as my friend, Mr.
1327 Lungren, discussed, offered an amendment, trying to create
1328 that status.

1329 But, nonetheless, Chief Justice Marshall held in the
1330 Hepburn case in 1805 in 1805 that the term "states" in that
1331 provision does not include Washington, D.C., for
1332 representation purposes. Seven Supreme Court justices

1333 affirmed Marshall's holding in National Mutual Insurance
1334 Company case in 1949.

1335 The Democrat-controlled Congress in 1978 attempted to
1336 amend the Constitution, and the one thing back in 1978 that
1337 every proponent of D.C. having a representative agreed on was
1338 that, in order for D.C. to have a representative, it would
1339 require a constitutional amendment, and that is why this
1340 committee back in 1978 said the amendment to the Constitution
1341 was required "because statutory action alone will not
1342 suffice."

1343 Steve Colbert is a funny guy. He pointed out on his
1344 show, when our friend, Eleanor Holmes Norton, was on there
1345 that apparently we have some different proposals. One would
1346 be, you can amend the Constitution. Another would be that
1347 you can have retrocession and draw a line around the federal
1348 property that is actually occupied by federal offices and
1349 cede the rest of it back to Maryland. Or you could have a
1350 bill that simply says D.C. residents should not pay income
1351 tax.

1352 The constitutional amendment, obviously, would be
1353 constitutional. And the other ways legislatively could be
1354 done. In 1847, the land west of the Potomac was ceded back
1355 to Virginia. People were alive in 1847 who had been there
1356 during the founding of this country, including John Quincy
1357 Adams, who was in the House of Representatives that year.

1358 They knew that you would have to have a constitutional
1359 amendment to do otherwise and give a representative.

1360 Taxation without representation is tyranny. And I
1361 appreciated the comments from my friend from Puerto Rico. I
1362 didn't know until I came to Congress and met the
1363 distinguished gentleman that I think the world of him and his
1364 family, Luis Fortuno, and I asked Luis, you know, why did the
1365 voters of Puerto Rico not vote to ask to become a state?
1366 Because I had the impression that the Congress would have
1367 gone along with it. And he said, well, there are some in
1368 Puerto Rico that like the idea that they don't pay federal
1369 income tax. I didn't know that.

1370 And so as we got to looking at the issue, we found out
1371 that our possessions, the United States possession and
1372 territories that have a delegate or do not have a full-
1373 fledged voting representative, they don't pay income tax. So
1374 that is a way to address this.

1375 Mr. Colbert pointed out that he didn't realize
1376 constitutional rights could be multiple choice. But,
1377 actually, that is what we are trying to do, set out choices
1378 where these are the things that are constitutional.

1379 And that is why the respected constitutional scholar,
1380 the professor, Jonathan Turley, from George Washington Law
1381 School, said this bill, to simply just override the
1382 Constitution and give a representative, is the most, in his

1383 words, "premeditatedly unconstitutional bill in decades."

1384 Now, if we are not going to have respect for the
1385 Constitution, it doesn't matter much else what we do, because
1386 we have just relegated ourselves to one of the worst third-
1387 world countries where the law doesn't matter. It is the
1388 whims of whoever is in charge at the time.

1389 It is the Constitution that has held us together through
1390 the toughest times. It was the Constitution that propelled
1391 John Quincy Adams to talk about the evils of slavery and that
1392 Abraham Lincoln heard those discussions when he was in the
1393 House, and the Constitution that brought him to the end he
1394 did during the Civil War.

1395 It is the Constitution we need to be most concerned
1396 about. And that is why I am proposing the line drawn around
1397 all the federal offices and give everything else back to
1398 Maryland, as was done in 1847. That is constitutional. It
1399 gives two senators and a representative.

1400 Mr. Nadler. I thank the gentleman.

1401 Does the gentleman insist on his point of order?

1402 Mr. Scott. I do, Mr. Chairman.

1403 Mr. Nadler. Does the gentleman from Virginia insist on
1404 his point of order?

1405 Mr. Scott. I do, Mr. Chairman, if I could be recognized
1406 to say a word about the point of order.

1407 Mr. Nadler. The gentleman is recognized.

1408 Mr. Scott. The purpose of the bill is to give the
1409 residents of Washington, D.C., a vote in the House. This
1410 amendment proposes to return the District of Columbia to the
1411 State of Maryland, which has nothing to do with the
1412 underlying bill. It deals with a different subject matter
1413 and purpose, would broaden the underlying bill.

1414 It would also introduce matters within the jurisdiction
1415 of the Committee on Oversight and Government Reform,
1416 requiring a referral to that committee. So I would insist on
1417 the point of order.

1418 Mr. Nadler. Does the sponsor of the amendment wish to
1419 be heard on the point of order?

1420 Mr. Gohmert. I do, Mr. Chairman.

1421 Mr. Nadler. The gentleman is recognized.

1422 Mr. Gohmert. I appreciate the point of order. And I
1423 have over the years, the last 4 years of working with my
1424 friend from Virginia, grown to have great respect.

1425 But let's be realistic. To say that this is not
1426 relevant to what is before us? It is the constitutional
1427 method of doing just what is requested.

1428 So I realize the majority rules. I realize the point
1429 has been made. And the chair may go against me, but I would
1430 point out, this is constitutionally doing what the whole
1431 purpose of the D.C. voting rights is, and our friend, Eleanor
1432 Holmes Norton, would most likely be the representative,

1433 because they would basically be entitled to their own
1434 district once that voting bloc became part of Maryland.

1435 It is the way to go. And it would be extremely
1436 unfortunate if this was ruled out of order, because it is the
1437 constitutional order of things.

1438 Mr. Nadler. The chair is prepared to rule on the point
1439 of order, with no further comment on it. It may or may not
1440 be a wiser method of accomplishing a goal, but the amendment
1441 deals with a different subject matter and purpose, namely
1442 retrocession as opposed to allowing the current district
1443 representation in the House.

1444 It would broaden the underlying bill and the manager's
1445 amendment beyond their current scope and would also introduce
1446 matters within the jurisdiction of a separate committee.

1447 Therefore, pursuant to House Rule 16, Clause 7, and
1448 related precedence, the chair is constrained to rule the
1449 amendment to be not germane to the bill.

1450 Are there any other amendments?

1451 Mr. Sensenbrenner. Mr. Chairman?

1452 Mr. Nadler. The gentleman from Wisconsin?

1453 Mr. Sensenbrenner. Mr. Chairman, I have an amendment at
1454 the desk.

1455 Mr. Nadler. The clerk will report the amendment.

1456 The Clerk. Amendment offered by Mr. Sensenbrenner to
1457 the amendment in the nature of a substitute. Amend

1458 paragraph-

1459 [The amendment by Mr. Sensenbrenner follows:]

1460 ***** INSERT *****

1461 Mr. Nadler. Without objection, the amendment is
1462 considered as read, and the gentleman is recognized for the
1463 purpose of explaining his amendment.

1464 Mr. Sensenbrenner. Thank you very much, Mr. Chairman.
1465 The bill attempts to remedy a situation that have made
1466 lovers of democracy uncomfortable since the founding, which
1467 is the lack of representation in the House for citizens of
1468 our nation's capital.

1469 H.R. 157 seeks to remedy this situation by authorizing a
1470 new voting member for the District of Columbia, who would
1471 likely be a Democrat, and also a new member for the State of
1472 Utah, which came up just 800 people short of being granted a
1473 new member following the last census. Because the new member
1474 from Utah would likely be a Republican, this bill seeks to
1475 preserve a partisan balance.

1476 Unfortunately, while the legislation may strike a
1477 partisan balance, as written, the bill upends bedrock
1478 constitutional principles, which I talked about in my opening
1479 statement.

1480 My amendment focuses on one such principle: the
1481 principle of one person, one vote. The bill before us
1482 provides that the new seat established in Utah shall be
1483 filled by a member elected at large. Superimposing an at-
1484 large seat under the existing three seats selected by
1485 district in Utah would create an anomalous situation that

1486 this country has not seen since the development of the
1487 Supreme Court's one man, one vote line of cases.

1488 In effect, under this at-large arrangement, all voters
1489 in Utah would be able to vote for two representatives, their
1490 district representative and their at-large representative,
1491 whereas voters in the rest of the country would only be able
1492 to vote for their one district representative.

1493 This situation would result in Utah voters having
1494 disproportionately large voting power compared to voters in
1495 the other states and the District of Columbia.

1496 The amendment that I am now offering would strike the
1497 bill's requirement that the new Utah seat be filled at large
1498 and instead require the state to adopt a map with four
1499 congressional districts.

1500 It is similar to what the Senate has done. What the
1501 Senate bill says is that they accept the 2006 redistricting
1502 done by the governor and legislature of Utah, whereas my bill
1503 says they can do that or they can't do that, but it is up to
1504 Utah to make a decision whether to use the 2006 map or a new
1505 one.

1506 Ever since the one man, one vote doctrine was
1507 established by the Supreme Court in the 1964 case of Wesberry
1508 v. Sanders, at-large districts have been frowned upon. In
1509 that case, the Supreme Court held that the command of Article
1510 I, Section 2 of the Constitution, that representatives be

1511 chosen by the people of the several states mean that as
1512 nearly as is practical, one man's vote in a congressional
1513 election is to be worth as much as another's.

1514 In 1967, Congress codified the rule requiring the use of
1515 congressional districts in 2 U.S.C. 2c, which provides that
1516 there shall be established by a law a number of districts
1517 equal to the number of representatives to which such state is
1518 so entitled under this section and the representative shall
1519 be elected only from district so established.

1520 This principle is vitally important for the protection
1521 of civil rights. Just a few years ago in Branch v. Smith,
1522 Justices Stevens, Breyer, and Souter referred to "the 1950s
1523 and 1960s, when Congress enacted voting rights legislation
1524 that recognized the central importance of protecting minority
1525 access to the polls. It was only then that an important
1526 federal interest in protecting at-large voting became a
1527 matter of congressional concern."

1528 If this legislation passes with a provision establishing
1529 a seat for an at-large member, Congress will have taken the
1530 tragic step toward ignoring the central importance of
1531 protecting minority access to the polls.

1532 The Supreme Court made clear in the 1992 case of U.S.
1533 Department of Commerce v. Montana that congressional
1534 alterations of the apportionment formula remain open to
1535 challenge at any time. H.R. 157 invites such a challenge by

1536 departing from the principle of one man, one vote in the
1537 interstate context and adopting instead a principle of one
1538 person, two votes in Utah.

1539 As Professor Turley has written, this at-large district
1540 for Utah would be roughly 250 percent larger than the ideal
1541 district in the last 2000 census. In addition, citizens
1542 would have two members serving their interests in Utah,
1543 creating the appearance of a preferred class of voters.

1544 Recognizing the importance of all these principles, the
1545 Utah legislature met in special session in 2006 to approve a
1546 redistricting map, adding a fourth congressional seat to the
1547 state's delegation. That was done precisely to assuage
1548 concerns regarding the constitutionality of an at-large seat.

1549 I would also note that this bill contains a
1550 nonseverability clause that requires that, if any section of
1551 the bill is struck down as unconstitutional, the entire bill
1552 could not go into effect.

1553 Because the nature of an at-large seat—I ask unanimous
1554 consent for an additional minute.

1555 Mr. Nadler. Without objection.

1556 Mr. Sensenbrenner. Because the nature of the at-large
1557 seat for Utah threatens to open the bill up to a challenge
1558 under the equal protection clause, my amendment would improve
1559 the bill by removing the constitutional vulnerability that
1560 would unnecessarily threaten the separate provision of the

1561 bill, allowing the District of Columbia a voting member.

1562 The Utah legislature has already gone to great lengths
1563 to help cure one of the constitutional defects in this
1564 legislation. But without this amendment, that effort will
1565 have been needlessly wasted. At the same time, Congress will
1566 revise the practice of at-large voting that has proven so
1567 damaging to minority rights in the past.

1568 I urge all my colleagues to support me in voting for
1569 this amendment, which protects the principle of one person,
1570 one vote and can only improve the chances that this
1571 legislation will survive the inevitable constitutional
1572 challenge.

1573 This, my colleagues, is a chance to be bipartisan. And
1574 I yield back the balance of my time.

1575 Mr. Nadler. Thank you.

1576 The chair recognizes myself for 5 minutes.

1577 I respectfully oppose this amendment. This carefully
1578 crafted bipartisan agreement, as represented in this bill and
1579 in the manager's amendment, serves the best interests of this
1580 Congress. By making Utah's new seat at large, we allow Utah
1581 to maintain its current congressional districts.

1582 A single-member seat would have Utah redistrict now for
1583 the 2010 election and again just one term 2 years later again
1584 for the 2012 election. Why not have Utah redistrict once
1585 with the other states, following the reapportionment and

1586 redistricting that will occur for the 2012 election following
1587 the 2010 census?

1588 The Congress under Article I, Section 4 certainly has
1589 the authority to make Utah's seat at large temporarily. This
1590 constitutional provision gives Congress ultimate authority
1591 over federal elections. And rest assured, the one person,
1592 one vote principle is not jeopardized with an at-large seat,
1593 nor is there any question of minority disrepresentation in
1594 Utah as a result of this.

1595 All Utah voters have the opportunity to vote for a
1596 district representative and an at-large representative. The
1597 principle of one person, one vote, or equal vote, is
1598 maintained in Utah, as it is elsewhere in the country.

1599 So I urge defeat of this amendment. Adoption of this
1600 amendment would upset the bipartisan, bicameral compromise
1601 that we have.

1602 Are there any further?

1603 Mr. Watt. Mr. Chairman?

1604 Mr. Nadler. Are there any further—is there any further
1605 discussion of the amendment?

1606 Mr. Watt. Mr. Chairman?

1607 Mr. Nadler. The gentleman from North Carolina?

1608 Mr. Watt. Thank you, Mr. Chairman.

1609 I just want to weigh in. Mr. Sensenbrenner and I
1610 obviously worked very closely together on the extension of

1611 the Voting Rights Act, but in this case, I think he is just
1612 wrong. This is not a—single-member districts are not
1613 constitutional. They are statutory.

1614 Congressional districts—there is a statutory requirement
1615 that they be single-member districts for Congress, not a
1616 constitutional requirement. And if we could pass a statute
1617 creating single-member districts, we can pass a statute that
1618 says that they are not—they don't have to be single-member
1619 districts.

1620 In fact, they number—

1621 Mr. Sensenbrenner. Would the gentleman yield?

1622 Mr. Watt. Let me just finish, and I will be happy to
1623 yield to the gentleman.

1624 A number of us have—I personally tried to undo the
1625 statute, because I think, in a number of states, requiring
1626 single-member districts as opposed to multi-member districts
1627 actually polarizes the voting process needlessly. And I
1628 couldn't find any much support for it.

1629 But in this particular case, where there is really no—in
1630 Iowa, not a substantial concern about minority rights, which
1631 is what the voting—Utah, I am sorry—where there is not a
1632 substantial concern about minority rights, which was the
1633 purpose of the Voting Rights Act in the first place, this is
1634 not a constitutional issue, even less a constitutional issue.

1635 I am happy to yield to the gentleman.

1636 Mr. Sensenbrenner. The statute was put in place in
1637 response to Wesberry v. Sanders to make sure that there were
1638 not mixed at-large and district congressional districts.

1639 Now, I agree with the gentleman from North Carolina that
1640 it is not a constitutional requirement, but there also isn't
1641 a constitutional requirement that members be elected by
1642 district, either. Just there is the constitutional
1643 requirement that we be elected. It doesn't say how. The
1644 court in Wesberry v. Sanders made the statement that I
1645 quoted.

1646 You know, to respond to the chairman, Utah already has
1647 redistricted in the 2006 election, and the Senate version
1648 picks up the 2006 Utah redistricting. So we can eliminate an
1649 argument in conference by passing this amendment.

1650 I thank the gentleman for yielding.

1651 Mr. Watt. I just reaffirm my earlier comment and yield
1652 back.

1653 Mr. Schiff. Thank you, Mr. Chairman.

1654 It would seem to me that Congress would have the power
1655 to establish a statewide district or Congress would have the
1656 power to establish individual districts, but Congress may not
1657 have the power to do both at the same time. And I think you
1658 raise an interesting concern that someone would have the
1659 opportunity to vote for an at-large representative and vote
1660 for a second not-at-large representative in the same

1661 election.

1662 And I don't think that that argument that Mr.
1663 Sensenbrenner made has been addressed. The Voting Rights Act
1664 concerns—

1665 Mr. Nadler. Would the gentleman yield?

1666 Mr. Schiff. Yes.

1667 Mr. Nadler. Well, it is not a one-man—it is not an
1668 equal protection violation, because—and we have had
1669 situations—I can't cite any off the top of my head at the
1670 moment, but there were situations where states are partly
1671 districts and partly at large.

1672 But it is not an equal protection violation, meaning one
1673 man, one person, one vote, because everyone in Utah gets the
1674 same representation, and it doesn't negatively affect the
1675 rights of anyone in any other state, because Utah still gets
1676 the same representation to which it is entitled.

1677 How Utah internally divides that representation, so long
1678 as it divides it equally so as not to discriminate against
1679 any citizen within Utah, is of no concern to other states
1680 from a constitutional point of view.

1681 Mr. Schiff. If I—and I would be happy to yield to my
1682 colleague from Wisconsin on that point. You know, I think my
1683 colleague from New York makes a good argument that basically
1684 everyone in Utah would be able to vote for one and a—is it
1685 one and a fifth representatives?

1686 Mr. Nadler. One quarter, I think.

1687 Mr. Schiff. If Utah—I assume, Mr. Sensenbrenner, that
1688 you wouldn't quarrel the ability of Utah to have five at-
1689 large representatives. Why is it constitutionally
1690 problematic for each of them to have a vote for a local
1691 representative and a statewide representative?

1692 Mr. Sensenbrenner. Will the gentleman yield? It is not
1693 an intrastate equal protection violation. It is an
1694 interstate equal protection violation, where people in Utah
1695 can cast their vote for two representatives, but people in
1696 the other 49 states—and, if this bill passes, the District of
1697 Columbia—only vote for one representative. That is where the
1698 equal protection issue comes up.

1699 And I think the Senate recognized this in the
1700 legislation that they are currently considering and simply
1701 adopting the 2006 map that the Utah legislature passed when
1702 this committee started working on this legislation initially.

1703 Mr. Schiff. And reclaiming my time, Mr. Sensenbrenner,
1704 the—your amendment, is that the same form that this passed in
1705 the Senate?

1706 Mr. Sensenbrenner. If the gentleman will further yield,
1707 the answer is no. The Senate basically adopted the 2006 Utah
1708 law that said that, if the state gets four districts, this is
1709 how the state is to be divided.

1710 My amendment says that they can do that or they have the

1711 power to redistrict again. My understanding from the folks
1712 in Utah is that they will simply let the 2006 map stand,
1713 because the way this bill is worded, they have to use 2000
1714 certified census figures, anyhow.

1715 Mr. Schiff. If I could reclaim my team, ask you one
1716 other question, and that is, what case law support would you
1717 point to for the proposition that there is an interstate
1718 equal protection argument here?

1719 Mr. Sensenbrenner. Wesberry v. Sanders.

1720 Mr. Schiff. And tell me why you feel that case—

1721 Mr. Sensenbrenner. Because Wesberry v. Sanders says the
1722 command—the command of Article I, Section 2, that
1723 representatives be chosen by the people of the several
1724 states, means that as nearly as is practicable, one man's
1725 vote in a congressional district is to be worth as much as
1726 another's.

1727 Now, with the at-large seat in Utah, the votes of voters
1728 in Utah to elect or to have a say in the election of two
1729 representatives is more than the voters in the other 49
1730 states, plus the district, that only have a say in the
1731 selection one.

1732 Mr. Nadler. Would the gentleman yield?

1733 Mr. Schiff. Yes.

1734 Mr. Nadler. The discussion in Wesberry v. Sanders, I
1735 believe, was within the context of one state. And certainly

1736 that is true in the context of one state. And there is no
1737 equal protection argument with respect to residents of other
1738 states, so long as Utah in this case does not get more
1739 representatives in total than it is entitled to.

1740 Mr. Schiff. Thank you, Mr. Chairman. I yield back.

1741 Mr. Nadler. Is there any further discussion on the
1742 amendment?

1743 Mr. Chaffetz. Mr. Chairman?

1744 Mr. Chairman?

1745 Mr. Nadler. The gentleman from Utah is recognized.

1746 Mr. Chaffetz. Being from Utah, it does strike me that
1747 it should be left to the Utah state legislature to make a
1748 determination as to who and how the representation should be
1749 allocated, that while this body may be insightful in many
1750 things, it just seems a sense of fairness and balance that
1751 Utahans should be able to make that determination.

1752 Mr. Nadler. Would the gentleman yield?

1753 Mr. Chaffetz. Yes.

1754 Mr. Nadler. Let me step away from this wonderful
1755 academic exercise for a moment and point out that this bill
1756 is a political compromise on many different levels. One of
1757 the compromises is that the reason we are talking about
1758 giving Utah a seat in the first place is so that a
1759 predominantly Republican district is—to add a Republican on
1760 the assumption that Washington would add a Democrat. And

1761 after the next census, we would—you know, we would see
1762 whatever happens.

1763 And that is a political compromise so that we can do
1764 what on other grounds we think we ought to do, namely, give
1765 Washington the representation, the question and methodology—
1766 the other questions aside.

1767 And I don't think we should really beat around the bush
1768 here. The question—you can't simply say we are going to let
1769 the Utah legislature determine what it is going to be done.
1770 Let's assume the Utah legislature said, "Aha, an opportunity
1771 for redistricting. Let's get rid of our one or two or
1772 whatever number Democrats there are in Utah." That would
1773 kill the whole compromise.

1774 So this is all with a view toward a compromise that is
1775 really a compromise, that gets one Republican from Utah,
1776 doesn't change other things in Utah until the next census—

1777 Mr. Sensenbrenner. Will the gentleman yield?

1778 Mr. Nadler. —in a moment—when whatever happens,
1779 happens, and gets a presumably Democrat from Washington.
1780 That is the point of it, and that is what—well, it is not up
1781 to me. The gentleman—

1782 Mr. Sensenbrenner. Will the gentleman—

1783 Mr. Chaffetz. Yes, one moment. Reclaiming my time, I
1784 appreciate the in-depth understanding of the State of Utah.
1785 I see absolutely—I do not see an assurance that this, being

1786 statewide, would necessarily become a Republican district.

1787 And I think those types of political insights should be left

1788 to what is currently an 80 percent—

1789 Mr. Sensenbrenner. Will the gentleman yield?

1790 Mr. Chaffetz. Yes.

1791 Mr. Sensenbrenner. Would the chairman support this

1792 amendment if I modified it to be identical to the Senate

1793 language, which says the 2006 redistricting, which protects

1794 the Matheson seat in Salt Lake, would become a part of the

1795 law? That would make it identical to the Senate language.

1796 And the Democratic seat in Utah would be protected.

1797 Mr. Nadler. Will the gentleman yield?

1798 Mr. Chaffetz. Reclaiming my time, please, yes.

1799 Mr. Nadler. The answer is, no, I could not do that.

1800 And I am, as the gentleman implies, quite not the expert in

1801 Utah politics, and I do not know what would or would not be

1802 fair or politically acceptable or whatever.

1803 All I do know is that the bill as currently crafted is a

1804 carefully crafted, generally agreed to compromise. And as

1805 someone who would like to see Washington get its

1806 representative, I would like to see the bill passed without

1807 major change. And that is why I could not support this sort

1808 of an amendment.

1809 Mr. Chaffetz. Reclaiming my time, I would just like to

1810 reiterate briefly that these are the types of decisions,

1811 political decisions, that ought to be made within the state.

1812 And we just had a recent poll. Jim Matheson was the
1813 single most popular person in the State of Utah. Now, it
1814 could be—the Democratic side of the aisle, I understand that.
1815 But in sense of fairness, if you are really trying to allow
1816 Utahans to create their own destiny and actually determine
1817 how—it seems only fair the Utahans should make that type of
1818 decision.

1819 And I would ask my colleagues, particularly on the
1820 Democratic side of the aisle, if they would allow this body
1821 to understand and to redistrict on how they choose their
1822 representatives. It just seems fair to allow Utah and the
1823 state legislature, which is roughly 80 percent Republican, to
1824 control and determine that destiny.

1825 With that, I yield back the balance of my time.

1826 Mr. Issa. Would the gentleman yield for a question?

1827 Mr. Chaffetz. Yes, please, I would like to yield the
1828 balance of my—

1829 Mr. Issa. I thank the gentleman for yielding. I
1830 actually remember discussion in this body on that when Tom
1831 DeLay was orchestrating the redistricting in Texas. And
1832 there was objection to the idea that a member of Congress
1833 would, in fact, lead that kind of redistricting.

1834 So I guess it—I guess that was then, and this is now,
1835 and perhaps what was wrong in one state now would be right

1836 for us to do. So, quite frankly, I see your point, which is
1837 a fair redistricting is in the eye of the beholder.

1838 I yield back to the gentleman.

1839 Mr. Nadler. The gentleman's time has expired.

1840 Mr. Chaffetz. Thank you, Mr. Chairman.

1841 Mr. Nadler. I hope the answer is no, but does anyone
1842 else want to be heard on this amendment?

1843 Mr. Maffei. Mr. Chairman, very briefly.

1844 Mr. Nadler. The gentleman is recognized.

1845 Mr. Maffei. Very briefly. I just think this is an
1846 instructive discussion because of the clearly—the defense of
1847 the self-determination in Utah to decide how it would be
1848 representative. And I—represented. And I have some sympathy
1849 for that.

1850 What I really object to about this amendment is it says
1851 that neither election shall occur until that state has
1852 enacted a redistricting plan, essentially giving the people
1853 of Utah the ability to veto the people of the District of
1854 Columbia's representation.

1855 So for all of the talk about Utah, I would hope the
1856 other side would consider, yes, Utah has the right to
1857 representation, but the people of the District of Columbia,
1858 who are also citizens of the United States, should have that
1859 same representation. And that is why I will oppose the
1860 amendment.

1861 Thank you.

1862 Mr. Nadler. Thank you.

1863 The question is on the amendment to the substitute. All
1864 those in favor will say "aye."

1865 [A chorus of ayes.]

1866 Mr. Nadler. Those opposed, "no."

1867 [A chorus of noes.]

1868 Mr. Nadler. In the opinion of the chair—

1869 Mr. Sensenbrenner. Mr. Chairman? Mr. Chairman? Roll
1870 call.

1871 Mr. Nadler. Just a second. In the opinion of the
1872 chair, the noes have it and the amendment is not agreed to.

1873 Mr. Sensenbrenner. Roll call, please.

1874 Mr. Nadler. The gentleman from Wisconsin?

1875 Mr. Sensenbrenner. I demand a roll call.

1876 Mr. Nadler. A roll call is requested.

1877 The clerk will call the roll.

1878 The Clerk. Mr. Conyers?

1879 [No response.]

1880 Mr. Berman?

1881 [No response.]

1882 Mr. Boucher?

1883 [No response.]

1884 Mr. Nadler?

1885 Mr. Nadler. No.

1886 The Clerk. Mr. Nadler votes no.
1887 Mr. Scott?
1888 [No response.]
1889 Mr. Watt?
1890 Mr. Watt. No.
1891 The Clerk. Mr. Watt votes no.
1892 Ms. Lofgren?
1893 [No response.]
1894 Ms. Jackson Lee?
1895 Ms. Jackson Lee. No.
1896 The Clerk. Ms. Jackson Lee votes no.
1897 Ms. Waters?
1898 [No response.]
1899 Mr. Delahunt?
1900 [No response.]
1901 Mr. Wexler?
1902 [No response.]
1903 Mr. Cohen?
1904 [No response.]
1905 Mr. Johnson?
1906 Mr. Johnson. No.
1907 The Clerk. Mr. Johnson votes no.
1908 Mr. Pierluisi?
1909 Mr. Pierluisi. No.
1910 The Clerk. Mr. Pierluisi votes no.

1911 Mr. Gutierrez?
1912 Mr. Gutierrez. No.
1913 The Clerk. Mr. Gutierrez votes no.
1914 Mr. Sherman?
1915 [No response.]
1916 Ms. Baldwin?
1917 Ms. Baldwin. No.
1918 The Clerk. Ms. Baldwin votes no.
1919 Mr. Gonzalez?
1920 Mr. Gonzalez. No.
1921 The Clerk. Mr. Gonzalez votes no.
1922 Mr. Weiner?
1923 Mr. Weiner. No.
1924 The Clerk. Mr. Weiner votes no.
1925 Mr. Schiff?
1926 Mr. Schiff. Pass.
1927 The Clerk. Mr. Schiff passes.
1928 Ms. Sanchez?
1929 Ms. Sanchez. No.
1930 The Clerk. Ms. Sanchez votes no.
1931 Ms. Wasserman Schultz?
1932 Ms. Wasserman Schultz. No.
1933 The Clerk. Ms. Wasserman Schultz votes no.
1934 Mr. Maffei?
1935 Mr. Maffei. No.

1936 The Clerk. Mr. Maffei votes no.
1937 Mr. Smith?
1938 Mr. Smith. Aye.
1939 The Clerk. Mr. Smith votes aye.
1940 Mr. Goodlatte?
1941 [No response.]
1942 Mr. Sensenbrenner?
1943 Mr. Sensenbrenner. Aye.
1944 The Clerk. Mr. Sensenbrenner votes aye.
1945 Mr. Coble?
1946 [No response.]
1947 Mr. Gallegly?
1948 [No response.]
1949 Mr. Lungren?
1950 Mr. Lungren. Aye.
1951 The Clerk. Mr. Lungren votes aye.
1952 Mr. Issa?
1953 Mr. Issa. Aye.
1954 The Clerk. Mr. Issa votes aye.
1955 Mr. Forbes?
1956 [No response.]
1957 Mr. King?
1958 [No response.]
1959 Mr. Franks?
1960 [No response.]

1961 Mr. Gohmert?

1962 Mr. Gohmert. Aye.

1963 The Clerk. Mr. Gohmert votes aye.

1964 Mr. Jordan?

1965 Mr. Jordan. Yes.

1966 The Clerk. Mr. Jordan votes yes.

1967 Mr. Poe?

1968 Mr. Poe. Aye.

1969 The Clerk. Mr. Poe votes aye.

1970 Mr. Chaffetz?

1971 Mr. Chaffetz. Aye.

1972 The Clerk. Mr. Chaffetz votes aye.

1973 Mr. Rooney?

1974 [No response.]

1975 Mr. Harper?

1976 Mr. Harper. Aye.

1977 The Clerk. Mr. Harper votes aye.

1978 Mr. Nadler. Are there any votes? Are there any other

1979 people that have not been recorded?

1980 Mr. Sherman?

1981 Mr. Sherman. No.

1982 The Clerk. Mr. Sherman votes no.

1983 Mr. Nadler. Mr. Berman?

1984 Mr. Berman. No.

1985 The Clerk. Mr. Berman votes no.

1986 Mr. Nadler. Ms. Lofgren?

1987 Ms. Lofgren. No.

1988 The Clerk. Ms. Lofgren votes no.

1989 Mr. Nadler. Mr. Scott?

1990 Mr. Scott. No.

1991 The Clerk. Mr. Scott votes no.

1992 Mr. Nadler. Ms. Waters?

1993 Ms. Waters. No.

1994 The Clerk. Ms. Waters votes no.

1995 Mr. Nadler. Mr. Schiff?

1996 Mr. Schiff. No.

1997 The Clerk. Mr. Schiff votes no.

1998 Mr. Nadler. Mr. Wexler?

1999 Mr. Wexler. No.

2000 The Clerk. Mr. Wexler votes no.

2001 Mr. Nadler. Are there any other members who haven't
2002 voted?

2003 The clerk will report.

2004 The Clerk. Mr. Chairman, 9 members voted aye, 19
2005 members voted nay.

2006 Mr. Nadler. The amendment is not agreed to.

2007 Are there any other amendments to the substitute?

2008 Gentleman from Texas is recognized.

2009 Mr. Gohmert. Thank you, Mr. Chairman.

2010 As I discussed earlier, I think it seems to be pretty

2011 clear there are some constitutional ways—

2012 Mr. Nadler. Excuse me. Does the gentleman have an
2013 amendment?

2014 Mr. Gohmert. Yes, this amendment number 2, Gohmert
2015 Amendment Number 2.

2016 Mr. Nadler. The clerk will report the amendment.

2017 The Clerk. Amendment number 2, offered by Mr. Gohmert,
2018 to the amendment in the nature of a substitute—

2019 [The amendment by Mr. Gohmert follows:]

2020 ***** INSERT *****

2021 Ms. Jackson Lee. Mr. Chairman?

2022 Mr. Nadler. Without objection, the amendment is
2023 considered as read and the gentleman is recognized.

2024 Ms. Jackson Lee. Mr. Chairman? I reserve a point of
2025 order.

2026 Mr. Nadler. A point of order is reserved.

2027 The gentleman is recognized.

2028 Mr. Issa. Mr. Chairman? Mr. Chairman, I want it read,
2029 if we could have that. I object to waiving the reading.

2030 Mr. Nadler. I think it is too late. I said, "Without
2031 objection, the amendment is considered read. The gentleman
2032 will explain his amendment."

2033 And after that happened, the point of order was
2034 reserved. And after that happened, I reserved—I recognized
2035 the gentleman from Texas.

2036 Mr. Gohmert. Thank you, Mr. Chairman.

2037 A little historical perspective. The Organic Act of
2038 1881 placed Washington, D.C., under the exclusive
2039 jurisdiction of the U.S. Congress. The people of the
2040 district were no longer considered residents of Virginia or
2041 Maryland.

2042 We have covered at length in our prior debate that fact
2043 that there have been efforts, like Alexander Hamilton's, to
2044 provide an amendment to the Constitution, the 1978 amendment
2045 to the Constitution that didn't end up passing, the give them

2046 the type of representation sought here by legislative means,
2047 since it was unsuccessful constitutionally.

2048 So having analyzed what the license plates say so
2049 clearly, "Taxation without representation," it truly is
2050 tyranny. That expression began in the 1760s, and it helped
2051 push the revolution forward.

2052 The colonists back in those days were hanging in as they
2053 were, even though there was quartering of troops, there were
2054 a number of issues that were so unfair, but at least they
2055 were not being taxed without being able to elect a
2056 representative to parliament. Once the taxes begin to flow,
2057 it became intolerable, and it was tyrannical.

2058 That is the situation we have now. And as we have heard
2059 from constitutional scholars, like Jonathan Turley, this is
2060 unconstitutional. And the only way that this withstands even
2061 the least level of scrutiny by the Supreme Court is if the
2062 justices take leave of their senses, a majority of them, and
2063 decide that they are simply qualified to re-write the
2064 Constitution to suit themselves, despite what the clear words
2065 and meanings is in the document as it is written.

2066 But in 1898, Puerto Rico was acquired by the United
2067 States and currently has a resident commissioner. That is
2068 why Section 933 of the Internal Revenue Code of 1986 exempts
2069 bona fide citizens who are residents of Puerto Rico from the
2070 entire taxable year for federal taxes on income earned in

2071 Puerto Rico.

2072 In 1917, the United States took possession of the Virgin
2073 Islands. In 1927, the territory's residents were granted
2074 citizenship. Then, under Section 932 of the Internal Revenue
2075 Code of 1986, it established that the citizens of Virgin
2076 Islands would not have to pay income tax to the federal
2077 government.

2078 Guam was established as a territory of the U.S. under
2079 the passage of the Guam Organic Act of 1950. Guam was
2080 therefore the recipient of a law that said they don't have to
2081 pay income tax.

2082 Then you had the commonwealth of Northern Mariana
2083 Islands established in 1975, same situation. They don't have
2084 a full voting representative, so they don't have to pay
2085 federal income tax on income earned there. Same with
2086 American Samoa. And the bill sets out these findings or the
2087 amendment sets out these findings within it.

2088 And, accordingly, if there is not going to be adequate
2089 representation, and the proponents of this—what is clearly
2090 unconstitutional, as Jonathan Turley said, are doing, they
2091 are sucking the life out of this movement to get a
2092 representative.

2093 So at least for the years that it will take to get this
2094 to the Supreme Court, and then be struck down, and then even
2095 though that may have just really neutered the life that is

2096 existing right now toward getting representation, at least—
2097 don't make them pay taxation without representation anymore.

2098 That is what this amendment does. It says no taxes, and
2099 it is in the nature of a substitute. And then as soon as
2100 representation is obtained constitutionally, then the
2101 citizens would become taxed like everyone else.

2102 Mr. Weiner. Would the gentleman yield?

2103 Mr. Gohmert. —this is in the nature of a substitute.
2104 This does it constitutionally.

2105 And, yes, I would yield to my friend from New York.

2106 Mr. Weiner. I just want to make sure that the gentleman
2107 understands that what the rallying cry and the effort is
2108 about. It is about getting representation. This isn't just
2109 people upset about their taxes, my friend. It is because
2110 they want representation. It is a metaphor for a larger
2111 discussion.

2112 Mr. Gohmert. And that is—reclaiming my time—

2113 Mr. Weiner. I fear you took it too literally.

2114 Mr. Gohmert. Reclaiming my time, that is why my first
2115 amendment did this constitutionally. It did the retrocession
2116 that was constitutionally done in 1847, because I get it. I
2117 get it. It is just that the proponents of this bill are
2118 trying to do an end run on the Constitution—

2119 Mr. Nadler. The gentleman—the gentleman—

2120 Mr. Gohmert. And this will at least mitigate the

2121 damage.

2122 Mr. Nadler. The gentleman's time is expired.

2123 Mr. Gohmert. Yes, thank you.

2124 Mr. Nadler. Does the gentleman from North Carolina
2125 insist on his point of order?

2126 Mr. Watt. I do, Mr. Chairman.

2127 Mr. Nadler. The gentleman will state his point of
2128 order, please.

2129 Mr. Watt. The amendment is completely unrelated to the
2130 subject matter that we are dealing with. The bill deals with
2131 voting rights in the House for the District of Columbia.

2132 The amendment proposes to eliminate federal taxation of
2133 residents, which I am sure the residents of the District of
2134 Columbia would love, but since it is totally unrelated to the
2135 subject matter of the bill, it is out of order, deals with a
2136 different subject matter and purpose, and would broaden the
2137 underlying bill, and substitute beyond the current scope, and
2138 introduce matters that are not within the jurisdiction of
2139 this committee, and require a subsequent referral.

2140 Mr. Nadler. Thank you.

2141 Does the gentleman from Texas—does the sponsor of the
2142 amendment wish to be heard on the point of order?

2143 Mr. Gohmert. Just very briefly. I know this has all
2144 been discussed, Mr. Chairman, but this is going to continue
2145 to have citizens, residents in D.C., if this is not allowed

2146 on the point of order, it is going to continue to have them
2147 paying taxes when they are not going to have representation.

2148 And then it will be years down the road where some
2149 effort will be made again. Years will have gone by of
2150 taxation without representation. The fair thing to do is
2151 allow this amendment and allow the citizens not to be taxed
2152 until they have representation constitutionally.

2153 Mr. Nadler. Well, the chair is prepared to rule on the
2154 point of order.

2155 I will observe first that the delegate from the District
2156 of Columbia, Ms. Norton, introduced a bill to abolish taxes
2157 in the District of Columbia a number of years ago when
2158 taxation was a big issue, and the then-Republican majority
2159 refused to consider the bill, but that is on the merits.

2160 The fact is that that whole subject is a different
2161 subject. The amendment deals with a different subject matter
2162 and purpose than does the bill. It would run the underlying
2163 bill and manager's amendment beyond their current scope,
2164 which has nothing to do with taxation, and would introduce
2165 matters within the jurisdiction of the Ways and Means
2166 Committee, to put it mildly.

2167 Therefore, pursuant to rule—to House Rule 16, Clause 7,
2168 and related precedent, the chair must rule the amendment to
2169 be not germane to the bill.

2170 Mr. Gohmert. Mr. Chairman?

2171 Mr. Nadler. Who seeks—for what purpose does the
2172 gentleman seek recognition?

2173 Mr. Gohmert. I have one final amendment.

2174 Mr. Nadler. Does anyone else have an amendment—another
2175 amendment to the bill?

2176 Mr. Chaffetz. Yes, Mr. Chairman.

2177 Mr. Nadler. The gentleman from Utah. We will come back
2178 to the gentleman from Texas.

2179 Gentleman from Utah?

2180 Mr. Chaffetz. May I first seek to strike the last word?

2181 Mr. Nadler. Only on the amendment. You can—

2182 Mr. Chaffetz. Yes, on your—on your amendment, on the
2183 amendment, the substitute—the underlying substitute
2184 amendment?

2185 Mr. Nadler. Does the gentleman have an amendment to the
2186 substitute amendment to offer?

2187 Mr. Chaffetz. Oh, I am—pardon me. No.

2188 Mr. Nadler. Then the gentleman from Texas is
2189 recognized.

2190 Mr. Gohmert. Thank you, Mr. Chairman.

2191 Mr. Issa. Mr. Chairman, point of inquiry.

2192 Mr. Nadler. Yes, sir?

2193 Mr. Issa. Isn't the motion to strike the last word on
2194 the underlying bill open to each member for 5 minutes?

2195 Mr. Nadler. But Mr. Gohmert had been recognized first

2196 for the amendment—for the purpose of introducing an
2197 amendment. It was only when I thought that Mr. Chaffetz had
2198 another amendment, and I thought it better that he offer his
2199 amendment—

2200 Mr. Issa. Right, but—

2201 Mr. Nadler. He will have the opportunity to be
2202 recognized on the underlying, but first, Mr. Gohmert—we are
2203 doing amendments. Mr. Gohmert has the opportunity to do the
2204 amendment first.

2205 Mr. Issa. Point of inquiry, though. As I understand
2206 it, the underlying—the initial substitute is open for a
2207 motion to strike the last word to each and every member,
2208 separate from that.

2209 Mr. Nadler. It is. But I had recognized Mr. Gohmert
2210 for the purpose of—I had asked if anyone else had an
2211 amendment. After Mr. Gohmert's amendment is disposed of, we
2212 can deal with anyone else who wants to strike the last word.

2213 Or during his amendment, for that matter, we can deal
2214 with anyone who wants to strike the last word. But I had
2215 recognized Mr. Gohmert for the purpose of introducing an
2216 amendment, which is what I had asked if anybody sought
2217 recognition for in the first place.

2218 Mr. Issa. Thank you for the clarification, Mr.
2219 Chairman.

2220 Mr. Nadler. You are quite welcome.

2221 The gentleman from Texas?

2222 Mr. Gohmert. Thank you. I won't be long.

2223 But if anybody—

2224 Mr. Nadler. Does the gentleman have an amendment?

2225 Mr. Gohmert. Yes, I do have an amendment, number 3 at
2226 the desk.

2227 Mr. Nadler. The clerk will report the amendment.

2228 The Clerk. Amendment number 3 offered by Mr. Gohmert—

2229 [The amendment by Mr. Gohmert follows:]

2230 ***** INSERT *****

2231 Mr. Nadler. Without objection—the gentleman from North
2232 Carolina is recognized.

2233 Mr. Watt. I reserve a point of order.

2234 Mr. Nadler. The gentleman reserves a point of order.

2235 Without objection, the amendment is considered—

2236 Mr. Issa. No, Mr. Chairman, I object. I would like the
2237 amendment read.

2238 Mr. Nadler. Objection is—the amendment will be read.

2239 We don't take a vote on that?

2240 The Clerk. Amendment number 3, offered by Mr. Gohmert,
2241 to the amendment in the nature of a substitute. Add at the
2242 end the following section: Exclusion from gross income for
2243 income from sources within the District of Columbia. (a) The
2244 Congress finds the following: (1) The phrase "no taxation
2245 without representation" was a rallying cry of many American
2246 colonists during the period of British rule in the 1760s and
2247 early 1770s. The slogan gained widespread notoriety after
2248 the passage of the Sugar Act on April 5, 1764.

2249 (2) American colonists increasingly resented being
2250 levied taxes without having actual legislators seated and
2251 voting in Parliament in London. The idea that there should
2252 be no taxation without representation—

2253 Mr. Watt. Mr. Chairman, parliamentary inquiry—
2254 appropriate to insist on my point of order before the reading
2255 is completed?

2256 Mr. Nadler. I am told, no, it would not be appropriate.

2257 The amendment must be read first.

2258 The Clerk. The idea that there should be no taxation
2259 without representation dated back even further. Benjamin
2260 Franklin stated, "It is supposed an undoubted right of
2261 Englishmen not to be taxed but by their own consent given
2262 through their representatives."

2263 (3) This issue became even more defined in 1765 with
2264 the passage of the Stamp Act, which was the first true
2265 attempt to levy a direct tax on the American colonies.
2266 Ultimately, the tax was repealed, but the idea of no taxation
2267 without representation persisted.

2268 (4) Article I, Section 2, Clause 1 of the United States
2269 Constitution states, "The House of Representatives shall be
2270 composed of members chosen every second year by the people of
2271 the several states, and the electors in each state shall have
2272 the qualifications requisite for Electors of the most
2273 numerous branch of the state legislature."

2274 (5) The Organic Act of 1801 placed Washington, D.C.,
2275 under the exclusive jurisdiction of the United States
2276 Congress, and people in the district were no longer
2277 considered residents of Virginia or Maryland.

2278 (6) Many in Washington, D.C., were immediately opposed
2279 to the idea of being taxed without congressional
2280 representation, and over the years several congressional

2281 leaders introduced constitutional amendments to give the
2282 District of Columbia voting representation, though none were
2283 successful.

2284 (7) In 1898, Puerto Rico was acquired by the United
2285 States and currently has a resident commissioner with limited
2286 voting rights. Section 933 of the Internal Revenue Code of
2287 1986 exempts bona fide—

2288 Mr. Sensenbrenner. Mr. Chairman, I ask unanimous
2289 consent that the balance of the amendment reading be waived.

2290 Mr. Issa. I reserve the right to object.

2291 Mr. Nadler. —without objection, the amendment is
2292 considered as read.

2293 Mr. Sensenbrenner. Well, the gentleman reserved the
2294 right to object, and I think—

2295 Mr. Nadler. Well—

2296 Mr. Sensenbrenner. I can facilitate this if you
2297 recognition the reservation, Mr. Chairman.

2298 Mr. Nadler. I will recognize the reservation.

2299 Mr. Sensenbrenner. I will be happy—will the gentleman
2300 from California—

2301 Mr. Issa. I will yield.

2302 Mr. Sensenbrenner. Will the gentleman from California
2303 yield?

2304 Mr. Issa. I yield under the reservation.

2305 Mr. Sensenbrenner. Yes, I think that the purpose for

2306 this is to make sure that the gentleman from Utah is able to
2307 strike the last word before the chair puts the question of
2308 adoption of the substitute amendment.

2309 I would ask you under your reservation to ask the chair
2310 to guarantee his—the gentleman from Utah's recognition after
2311 the Gohmert amendment is disposed of.

2312 Mr. Issa. Well, I—my concern was that all members have
2313 an opportunity to strike the last word, which would be
2314 regular order in this committee and it is tradition.

2315 Mr. Nadler. I know that.

2316 Does the gentleman yield?

2317 Mr. Issa. Of course, Mr. Chairman.

2318 Mr. Nadler. I had already said that, after Mr.
2319 Gohmert's amendment was completed—or, for that matter, during
2320 it—the gentleman would be recognized. And it is the practice
2321 to recognize all people for that purpose.

2322 Mr. Issa. But I ask that all members be able to.

2323 Mr. Nadler. Absolutely.

2324 Mr. Issa. Absolutely?

2325 Mr. Nadler. The only purpose of my ruling before was
2326 that Mr. Gohmert had gone first.

2327 Mr. Issa. Of course, Mr. Chairman. I understand. And
2328 I withdraw my—

2329 Mr. Nadler. I just want to clarify. Any member is
2330 entitled to strike the last word, if they haven't already

2331 done so.

2332 Mr. Sensenbrenner. The reservation has been withdrawn.

2333 Mr. Nadler. The reservation is withdrawn. Without
2334 objection, the amendment is considered as read.

2335 Mr. Watt. Mr. Chairman, I insist on my point of order.

2336 Mr. Nadler. The gentleman will state his point of
2337 order.

2338 No? No, Mr. Gohmert is recognized on his amendment
2339 first.

2340 Mr. Gohmert. Thank you. And I do have the say, the
2341 clerk does such a great job of reading it. It is always a
2342 pleasure to hear her.

2343 Mr. Nadler. But we don't want to hear her too often.

2344 Mr. Gohmert. This is very similar to the last
2345 amendment, except it is not in the nature of a substitute.
2346 This is how sincere I am about this issue. I believe it is
2347 unconstitutional to do what is being proposed with the
2348 manager's amendment, to do an end run on the Constitution.

2349 Understanding that, this simply adds on to the end of
2350 that bill, because it sure appears that you got the votes to
2351 do whatever you want until it gets to the Supreme Court.

2352 So in the meantime, why should the citizens of
2353 Washington, D.C., be required to pay income tax while these
2354 procedural games are being played until such time as this is
2355 approached constitutionally? So this simply adds on to the

2356 current bill being proposed and says, look, at least don't
2357 make them pay taxes.

2358 And so the last provision says it is effective—the
2359 amendments made by this section shall apply to taxable years
2360 ending after the date of the enactment of this act. That
2361 means whatever year this bill is passed in, there is no
2362 income tax for that year.

2363 So until we get a ruling from the Supreme Court, until
2364 the representation occurs properly, at least mitigate the
2365 damage of the taxation part without representation and stop
2366 the federal income taxation of Washington residents.

2367 And so that is as far as I can go. Normally, a bill
2368 that we deem unconstitutional, why even bother to add to an
2369 unconstitutional bill? But I think if we put this on, at
2370 least people won't pay tax until such time as it is handled
2371 constitutionally.

2372 With that, I yield back.

2373 Mr. Watt. Mr. Chairman?

2374 Chairman Conyers. [Presiding.] Mr. Watt, on your
2375 reservations?

2376 Mr. Watt. I insist on my point of order.

2377 Chairman Conyers. Absolutely.

2378 Mr. Watt. It is exactly the same point of order that I
2379 raised with respect to the last amendment. It goes well
2380 beyond the scope of this bill and would require a subsequent

2381 referral to the jurisdiction of the Committee on Ways and
2382 Means.

2383 Chairman Conyers. Judge Gohmert, would you care for a
2384 response?

2385 Mr. Gohmert. Thank you, Mr. Chairman. I will be very
2386 brief.

2387 I understand the point of order has been made. And the
2388 last two have been sustained by the chairman. But the right
2389 thing to do for the citizens of Washington, D.C., is to let
2390 this be part of the basic bill so at least, in the meantime,
2391 while this going forward, you don't pay tax until you have a
2392 representative.

2393 So I realize the gentleman can make his point of order,
2394 and that the Democratic majority has the chairmanship, and I
2395 have been ruled out of order each time, but this would be the
2396 right thing to do for the people of Washington, D.C. And
2397 that is why I would urge that it be allowed to go forward and
2398 be voted on.

2399 Chairman Conyers. Thank you very much.

2400 We have researched this point of order, and I am
2401 prepared to advise you that the amendment deals with a
2402 different subject matter and purpose, which would broaden the
2403 underlying bill in the manager's amendment beyond their
2404 current scope, would introduce matter within the jurisdiction
2405 of a new committee.

2406 And, therefore, pursuant to House Rule 16, Clause 7, and
2407 related precedent, the chair rules the amendment to be not
2408 germane to the bill.

2409 And now I recognize the gentleman from Utah to strike
2410 the last word.

2411 Mr. Chaffetz. Thank you, Mr. Chairman.

2412 Will the chairman yield to a question on the underlying
2413 substitute?

2414 Chairman Conyers. Absolutely.

2415 Mr. Chaffetz. On page 3, line—starting with line 19,
2416 which takes it up to the middle of that graph, as you get
2417 there, you will see that it says the president shall transmit
2418 to Congress a revised version of the most recent statement of
2419 apportionment submitted under—and then it continues on.

2420 My question is, what is a revised version? And what
2421 assumption is there, what guarantee, I guess, can the
2422 chairman give us that this is indeed for Utah? I don't see
2423 the word "Utah" in this amendment.

2424 What is a revised version? Does that mean it means
2425 that—is that going to be the chief of staff that is going to
2426 give us a revised version at the White House? Or where does
2427 that revised version come from?

2428 Mr. Sensenbrenner. Will the gentleman from Utah yield?

2429 Mr. Chaffetz. Yes, please.

2430 Mr. Sensenbrenner. I think the concern of the gentleman

2431 from Utah is that there would be a new reapportionment based
2432 on the 2000 census rather than simply drawing the line under
2433 seat 436 rather than under seat 435. Is it the intention of
2434 the chair, as the author of this bill, that they use the
2435 existing apportionment of seats, but simply cut it off with
2436 the one extra seat for Utah?

2437 Chairman Conyers. I can say to the gentleman from
2438 Wisconsin that that is not what is intended to happen. And
2439 the answer is no.

2440 And may I reassure my colleague from Utah that the
2441 revised statement is the language that has been worked out in
2442 the bill is not a chief of staff's job to revise a statement.
2443 This is a far more serious matter than that.

2444 But I will get you far more information than I am
2445 immediately possessed of, but I don't want you to think that
2446 this is some kind of a way to evade our responsibility or
2447 commitment to creating the—living up to our agreement to
2448 create a congressional—new congressional representation in
2449 the state.

2450 Mr. Chaffetz. In the State of Utah?

2451 Chairman Conyers. Yes. Absolutely.

2452 Mr. Chaffetz. Thank you, Mr. Chairman.

2453 Mr. Issa. Still striking the last word?

2454 Mr. Chaffetz. Yes, please. I yield to Mr. Issa.

2455 Mr. Issa. Thank you. I am still a little confused on

2456 the answer we got. Wouldn't the chair be best served by
2457 agreeing to revise the language, as this goes from out of
2458 here to the floor in a way in which we would have certainty
2459 as to which census?

2460 If there is a revised census that already exists, what
2461 was its date and what would it be—and in the State of Utah
2462 did draw lines, why wouldn't we ratify the lines of a
2463 particular drawing based on a census, since, in a sense, what
2464 we are doing is rolling back to 2000 for purposes of adding
2465 this extra seat?

2466 As you can imagine, with a new census coming up, we
2467 couldn't be more inaccurate in what is current. We would
2468 have to choose based on some arbitrary date. Would the
2469 chairman agree to a date now that we could plan on seeing on
2470 the floor?

2471 Chairman Conyers. Well, to respond to your question to
2472 me, something that we could all work on together, I don't
2473 have a date in mind.

2474 But what I want to do is proceed in good faith with
2475 everybody on the committee as we work forward. Lord knows
2476 there are enough constitutional issues that are serious
2477 enough without any language that is misleading or confusing
2478 in any way whatsoever.

2479 Mr. Chaffetz. Mr. Chairman, thank you. Reclaiming my
2480 time, I simply wish to clarify. I appreciate the assurances

2481 of the chair that that is the direction that we are headed in
2482 this and that would receive clarification before it moves to
2483 the floor for a vote, should the bill ultimately pass this
2484 committee.

2485 Chairman Conyers. Yes. We would agree with the
2486 concerns that the both of you have raised, but I want to
2487 assure that we don't want any—we don't want anyone else to be
2488 confused about what it is we have intended here.

2489 And so I think that it is important that, if you see
2490 some ambiguity or something that is unclear or that may be
2491 misconstrued, we have to clear it up as soon as we move
2492 forward, in whatever the process that we are in, that we can
2493 take care of that.

2494 Mr. Chaffetz. So, Mr. Chairman, just to clarify—and in
2495 summary for me, if you don't mind—what exactly are we going
2496 to do to help remedy what I have pointed out here?

2497 Chairman Conyers. What we are exactly going to do is
2498 revise the language to your and Mr. Issa's agreement. We can
2499 work on it together tomorrow. That is exactly what we are
2500 going to do.

2501 Mr. Chaffetz. Very good. Thank you, Mr. Chairman.

2502 Chairman Conyers. Are there other amendments?

2503 Mr. Chaffetz. Yes, Mr. Chairman.

2504 Chairman Conyers. Yes?

2505 Mr. Chaffetz. I have an amendment at the desk, number

2506 1.

2507 Chairman Conyers. The clerk will report the amendment.

2508 The Clerk. Amendment offered by Mr. Chaffetz to the

2509 amendment—

2510 Mr. Nadler. Mr. Chairman, I reserve a point of order.

2511 Chairman Conyers. Point of order is reserved by the

2512 gentleman from New York.

2513 The clerk will report the amendment.

2514 The Clerk. Amendment offered by Mr. Chaffetz to the

2515 amendment in the nature of a substitute.

2516 [The amendment by Mr. Chaffetz follows:]

2517 ***** INSERT *****

2518 Mr. Chaffetz. Mr. Chairman, I ask unanimous consent
2519 that the amendment be considered as read.

2520 Chairman Conyers. Without objection, so ordered.

2521 The gentleman is recognized in support of his amendment.

2522 Mr. Chaffetz. This is a simple substitute that I think
2523 is in the spirit and the direction of where I see what is
2524 happening here. I would hope you would find this to be non-
2525 controversial in its nature, but, again, as a point of
2526 clarification, while current law allows for a delegate to be
2527 a representative, as Ms. Norton is, Eleanor Holmes Norton is,
2528 it seems to me that we should add and clarify in the language
2529 of the bill—the underlying substitute that we are looking at,
2530 that it is not the intention to have both a representative
2531 and a delegate.

2532 So all this simply does it eliminate the language of
2533 saying that there is—there would be a delegate and
2534 substitute, if you will, a language to say that it will be a
2535 representative.

2536 And, again, it is merely a point of clarification, so
2537 that there is no confusion that Washington, D.C., would end
2538 up with both a representative and a delegate, even though
2539 that delegate may be a nonvoting member.

2540 Chairman Conyers. Does the gentleman from New York
2541 insist upon his reservation?

2542 Mr. Nadler. Yes, Mr. Chairman. I do insist upon my

2543 reservation.

2544 Chairman Conyers. The gentleman is recognized.

2545 Mr. Nadler. Thank you, Mr. Chairman.

2546 This bill provides a vote in the House for the District
2547 of Columbia. The amendment proposes to eliminate the office
2548 of the delegate from the District of Columbia. The amendment
2549 deals with a different subject matter and purpose and would
2550 broaden the underlying bill and substitute beyond the current
2551 scope.

2552 It also introduces a matter that is within the
2553 jurisdiction of the Committee on Oversight and Governmental
2554 Reform and would trigger a referral to that committee.

2555 Mr. Chaffetz. Will the gentleman yield?

2556 Mr. Nadler. And on all these grounds, the—it violates
2557 the rules of the—it is not germane under the rules of the
2558 House.

2559 Yes, I will yield.

2560 Mr. Chaffetz. Is it the intention to have both a
2561 representative and a delegate?

2562 Mr. Nadler. It is not relevant to the point of order.
2563 It is not our jurisdiction to do that. It may very well be—I
2564 can only say it may very well be that the Committee on
2565 Governmental Reform and Oversight, if this bill should pass,
2566 may wish to do that in a separate bill. We are unable to do
2567 it—under our rules.

2568 Chairman Conyers. I don't want a debate to grow out of
2569 a reservation of a point of order.

2570 Could I yield to the gentleman, Mr. Chaffetz, for any
2571 defense you would like to prepare—

2572 Mr. Chaffetz. Yes.

2573 Chairman Conyers. —or present about the point of order
2574 that has been made?

2575 Mr. Chaffetz. Yes. Look, I have serious constitutional
2576 questions and serious reservations. As has been stated here,
2577 I don't believe that the Constitution is merely used when it
2578 is politically convenient.

2579 And the spirit of which this bill is moving forward, we
2580 need to clarify the fact that this—should this ultimately
2581 pass this body, that we are simply making an adjustment from
2582 what is the current practice in this body to full voting
2583 rights as the representatives within the body.

2584 I am not an attorney, but I find it directly relevant to
2585 what we are doing and would hope that my colleagues on both
2586 sides of the aisle would see that this does not undermine the
2587 spirit or letter or anything that they are trying to do and
2588 trying to accomplish in gaining full voting rights.

2589 To the contrary, it is clarifying the fact that they are
2590 not going to actually have two offices.

2591 With that, I yield back the balance of my time.

2592 Chairman Conyers. Well, I am prepared again to rule on

2593 this point of order. And I use the same resolution that I
2594 just read before.

2595 We are dealing with a different subject matter and
2596 purpose. You would broaden the underlying bill beyond the
2597 current scope and would introduce matter within the
2598 jurisdiction of a new committee.

2599 And, therefore, the amendment under the previous stated
2600 rules and precedents makes the amendment to be not germane to
2601 the bill. And I am sorry.

2602 Mr. Issa. Mr. Chairman, I appeal the ruling of the
2603 chair.

2604 Chairman Conyers. Of course.

2605 Mr. Issa. Regrettably.

2606 Chairman Conyers. Sure.

2607 Mr. Issa. Perhaps because it is going to be referred to
2608 me under this defect we have discovered, I think it is
2609 important that we make that point at this time.

2610 Chairman Conyers. All right.

2611 There has been a—we have an appeal of the ruling of the
2612 chair.

2613 Mr. Nadler. Mr. Chairman?

2614 Chairman Conyers. The gentleman from New York?

2615 Mr. Nadler. I move to table the appeal of the ruling of
2616 the chair.

2617 Chairman Conyers. Motion is not debatable.

2618 All in favor of tabling the appeal of the ruling of the
2619 chair, say "aye."

2620 [A chorus of ayes.]

2621 Chairman Conyers. All opposed, say "no."

2622 [A chorus of noes.]

2623 Chairman Conyers. The chair is in doubt and will call
2624 the roll.

2625 The Clerk. Mr. Conyers?

2626 Chairman Conyers. Yes.

2627 The Clerk. Mr. Conyers votes yes.

2628 Mr. Berman?

2629 [No response.]

2630 Mr. Boucher?

2631 [No response.]

2632 Mr. Nadler?

2633 Mr. Nadler. Aye.

2634 The Clerk. Mr. Nadler votes aye.

2635 Mr. Scott?

2636 Mr. Scott. Aye.

2637 The Clerk. Mr. Scott votes aye.

2638 Mr. Watt?

2639 Mr. Watt. Aye.

2640 The Clerk. Mr. Watt votes aye.

2641 Ms. Lofgren?

2642 [No response.]

2643 Ms. Jackson Lee?
2644 [No response.]
2645 Ms. Waters?
2646 [No response.]
2647 Mr. Delahunt?
2648 [No response.]
2649 Mr. Wexler?
2650 [No response.]
2651 Mr. Cohen?
2652 Mr. Cohen. Yes.
2653 The Clerk. Mr. Cohen votes yes.
2654 Mr. Johnson?
2655 [No response.]
2656 Mr. Pierluisi?
2657 Mr. Pierluisi. Yes.
2658 The Clerk. Mr. Pierluisi votes yes.
2659 Mr. Gutierrez?
2660 [No response.]
2661 Mr. Sherman?
2662 [No response.]
2663 Ms. Baldwin?
2664 Ms. Baldwin. Yes.
2665 The Clerk. Ms. Baldwin votes yes.
2666 Mr. Gonzalez?
2667 [No response.]

2668 Mr. Weiner?
2669 [No response.]
2670 Mr. Schiff?
2671 Mr. Schiff. Aye.
2672 The Clerk. Mr. Schiff votes aye.
2673 Ms. Sanchez?
2674 Ms. Sanchez. Aye.
2675 The Clerk. Ms. Sanchez votes aye.
2676 Ms. Wasserman Schultz?
2677 Ms. Wasserman Schultz. Aye.
2678 The Clerk. Ms. Wasserman Schultz votes aye.
2679 Mr. Maffei?
2680 Mr. Maffei. Aye.
2681 The Clerk. Mr. Maffei votes aye.
2682 Mr. Smith?
2683 Mr. Smith. No.
2684 The Clerk. Mr. Smith votes no.
2685 Mr. Goodlatte?
2686 Mr. Goodlatte. No.
2687 The Clerk. Mr. Goodlatte votes no.
2688 Mr. Sensenbrenner?
2689 Mr. Sensenbrenner. No.
2690 The Clerk. Mr. Sensenbrenner votes no.
2691 Mr. Coble?
2692 [No response.]

2693 Mr. Gallegly?
2694 [No response.]
2695 Mr. Lungren?
2696 Mr. Lungren. No.
2697 The Clerk. Mr. Lungren votes no.
2698 Mr. Issa?
2699 Mr. Issa. No.
2700 The Clerk. Mr. Issa votes no.
2701 Mr. Forbes?
2702 Mr. Forbes. No.
2703 The Clerk. Mr. Forbes votes no.
2704 Mr. King?
2705 Mr. King. No.
2706 The Clerk. Mr. King votes no.
2707 Mr. Franks?
2708 [No response.]
2709 Mr. Gohmert?
2710 Mr. Gohmert. No.
2711 The Clerk. Mr. Gohmert votes no.
2712 Mr. Jordan?
2713 Mr. Jordan. No.
2714 The Clerk. Mr. Jordan votes no.
2715 Mr. Poe?
2716 Mr. Poe. No.
2717 The Clerk. Mr. Poe votes no.

2718 Mr. Chaffetz?

2719 Mr. Chaffetz. No.

2720 The Clerk. Mr. Chaffetz votes no.

2721 Mr. Rooney?

2722 [No response.]

2723 Mr. Harper?

2724 Chairman Conyers. Are there any members that have not
2725 cast a vote?

2726 Ms. Lofgren?

2727 Ms. Lofgren. Aye.

2728 The Clerk. Ms. Lofgren votes aye.

2729 Chairman Conyers. Ms. Jackson Lee?

2730 Ms. Jackson Lee. Aye.

2731 The Clerk. Ms. Jackson Lee votes aye.

2732 Chairman Conyers. Ms. Waters?

2733 Ms. Waters. Aye.

2734 The Clerk. Ms. Waters votes aye.

2735 Chairman Conyers. Mr. Weiner?

2736 Mr. Weiner. Aye.

2737 The Clerk. Mr. Weiner votes aye.

2738 Chairman Conyers. Mr. Sherman?

2739 Mr. Sherman. Aye.

2740 The Clerk. Mr. Sherman votes aye.

2741 Chairman Conyers. Mr. Wexler?

2742 Mr. Wexler. Aye.

2743 The Clerk. Mr. Wexler votes aye.

2744 Chairman Conyers. Are there any other members?

2745 Clerk will report.

2746 The Clerk. Mr. Chairman, 17 members voted aye, 11
2747 members voted nay.

2748 Chairman Conyers. The motion to table is carried.

2749 Are there other amendments—

2750 Mr. Issa. Mr. Chairman, I have an amendment at the—I
2751 have an amendment.

2752 Chairman Conyers. And Mr. Issa is recognized for his
2753 amendment.

2754 The clerk will report.

2755 Mr. Issa. I ask unanimous consent it be considered as
2756 read.

2757 The Clerk. Amendment to the amendment in the nature of
2758 a substitute—

2759 [The amendment by Mr. Issa follows:]

2760 ***** INSERT *****

2761 Mr. Nadler. Mr. Chairman, I reserve a point of order—
2762 The Clerk. —offered by Mr. Issa.

2763 Mr. Nadler. Mr. Chairman, I reserve a point of order.
2764 Chairman Conyers. Mr. Nadler's point of order is
2765 observed, and the amendment is considered as read.

2766 The gentleman is recognized in support of his amendment.

2767 Mr. Issa. I will pause for a moment for him to withdraw
2768 his reservation.

2769 Mr. Nadler. I will withdraw at the appropriate time.

2770 Mr. Issa. Mr. Chairman—

2771 Mr. Nadler. Now that I have had a chance to read it, I
2772 will withdraw it.

2773 Mr. Issa. Thank you.

2774 Mr. Chairman, the bill was not read, but it is only four
2775 lines long. In short, dealing with Mr. Chaffetz's
2776 recognition of this fundamental flaw, I offer an amendment
2777 that eliminates any question as to one part of the flaw
2778 earlier, which was the State of Utah.

2779 Mr. Chairman, Utah was denied in many people's minds a
2780 legitimate additional fourth representative in 2000. The
2781 fact is that, by the time this bill becomes law, it only
2782 would represent one period. And on balance, one 2-year
2783 period in which we make up for the wrong of 8 years, on
2784 balance, creates a separate wrong, which is an additional
2785 seat, which is temporary and which, in fact, would not be

2786 retained unless they were to earn it.

2787 So rather than produce 2 years in which we have 437
2788 members, each with a budget of approximately \$2 million, plus
2789 a delegate, apparently, and two more offices, which we don't
2790 have in the House, the staff, et cetera, at a cost of
2791 probably \$70 million for a 2-year period, when you get done
2792 with all the cost of membership, I propose that the bill
2793 strike Utah all together, we go from 437 to 436.

2794 Let's be honest here. This was a balancing act
2795 structured by people who are no longer members of Congress,
2796 in many cases. The fact is that Utah will do just fine on
2797 its own in 2002. This bill serves only one real purpose—
2798 2012, thank you—this bill serves only one real purpose. The
2799 purpose of this bill is, in fact, to give voting rights
2800 extra-constitutionally to the District of Columbia.

2801 For that reason, let's call it what it really is, give
2802 only the one seat, make the decision. I am sure that
2803 Delegate Holmes Norton would be just as happy to get just her
2804 part of it and not worry about what comes out of Utah. And
2805 it would reduce the strain by half on the House to produce
2806 all of the temporary accommodations for two members who would
2807 disappear in just 2 years.

2808 So for that reason of it being so sort a period of time
2809 and for the complications related to redistricting Utah, I
2810 strongly recommend that this be adopted on a bipartisan

2811 basis, that we vote up-or-down on the vote on D.C., and that
2812 we eliminate what was, in fact, a bargain whose members, in
2813 many cases, have disappeared from the Congress.

2814 And with that, I would urge support and yield back.

2815 Chairman Conyers. Well, I want to rise in some
2816 surprise, and very few things surprise me after these number
2817 of years in the Congress, but this a long-crafted, long-
2818 standing agreement that has been worked out over the years.
2819 And for the gentleman to introduce it at this hour of the
2820 evening, so let's just knock out Utah, do you know—I suppose
2821 you must imagine the shockwaves that would go, would emanate
2822 from 2141 Judiciary Rayburn Building if something like that
2823 were to carry.

2824 Mr. Issa. Mr. Chairman, if I could engage in a
2825 colloquy, when this long-standing balance was created, it was
2826 created with good intention many years ago, three Congresses
2827 ago. Three Congresses ago, we were in a boom market. Three
2828 Congresses ago, President Obama hadn't asked us to strike
2829 every cost and find ways to save money. We didn't have a
2830 trillion-dollar deficit.

2831 So, quite frankly, I think we—in a new Congress, we have
2832 to look at things. This is extremely expensive and would
2833 serve such a short period. So, although for purposes of
2834 logrolling it might be good to get votes, from a pure
2835 standard of merit, there is merit to us considering D.C.

2836 voting if they are being denied a vote. There is de minimis
2837 merit of giving an extra seat to Utah, which may or may still
2838 be within the cards based on their current population.

2839 Chairman Conyers. Well, apparently you have forgotten
2840 what has been approved and is going through the other body
2841 right this moment. And Utah is in. It has been in with us.
2842 It was in, in the last bill, in the last Congress. It was in
2843 up until 5 minutes ago.

2844 And I think the gentleman is astute enough to know that
2845 this would be a deal-breaker of enormous proportions. I
2846 mean, there wouldn't be—I mean, the Senate would wash their
2847 hands of this whole operation.

2848 Mr. Issa. Would the gentleman yield?

2849 Chairman Conyers. And I don't think you would really
2850 want that to happen, would you?

2851 Mr. Issa. Quite frankly, this is conferenceable. So if
2852 we pass a version without Utah, they pass a version with, it
2853 could well come out of conference with again. So I don't
2854 think they would throw their hands up in the hair. I suspect
2855 that the senior senator from Utah just might have something
2856 to say about it, but I am not sure that he would give up on
2857 the ability to go to conference.

2858 Chairman Conyers. Well, I am caught between naivete and
2859 extreme shrewdness, and I don't know where the needle falls
2860 here. Knowing you—

2861 Mr. Watt. Mr. Chairman—

2862 Chairman Conyers. Knowing you—look, Darrell, it is late
2863 in the evening, but we have known each other for 20 years or
2864 so. So this—

2865 Mr. Watt. Would the chairman yield?

2866 Chairman Conyers. Yes, sir.

2867 Mr. Watt. I just want to rise to the defense of Utah.

2868 [Laughter.]

2869 And the reason I do so is because it came—the last seat
2870 in Congress in the last round of redistricting came to a
2871 choice between Utah and North Carolina. So I have great
2872 sympathy for Utah.

2873 I mean, I—they were right on the verge of getting the
2874 seat that came to North Carolina. And I think they deserve
2875 the seat. So it costs a little bit of money to add a member
2876 of Congress. But for years, we were adding members of
2877 Congress based on population.

2878 And for us to undue this deal to the disadvantage of
2879 Utah would be, I think, unseemly. I yield back.

2880 Chairman Conyers. The charity of the gentleman from
2881 North Carolina is always appreciated.

2882 Mr. Issa. Although he stands short of giving back the
2883 seat as part of his charity.

2884 Mr. Gohmert. Mr. Chairman?

2885 Chairman Conyers. Yes, Judge Gohmert?

2886 Mr. Gohmert. I would like to be heard on the amendment.

2887 Chairman Conyers. Of course.

2888 Mr. Gohmert. You know, I appreciate the chairman's
2889 position, but hearing that, if this were to pass, it would be
2890 a deal-breaker of enormous proportions, I have been inquiring
2891 after I would heard that it was such an amazingly bipartisan
2892 bill who—which Republicans support this, because everybody I
2893 talk to says, "It is unconstitutional. Why should I support
2894 it?"

2895 And as I understand it, one of Utah's two senators,
2896 Senator Hatch, supports this; Senator Bennett, as I
2897 understand, does not. That is what I was advised.

2898 Congressman Tom Davis is no longer a member of Congress
2899 who had supported it. Chris Cannon had supported it, no
2900 longer here in Congress or not on this committee.

2901 So I am not sure that it is a deal-breaker of enormous
2902 proportions, since we are talking about one senator. I don't
2903 know—it may be a deal-breaker for one senator, but it doesn't
2904 seem to affect anybody else. So—

2905 Mr. Watt. Would the gentleman yield?

2906 Mr. Gohmert. —out of 535, it is only one vote that
2907 might be affected.

2908 Yes, I will yield.

2909 Mr. Watt. I am just wondering what the gentleman from
2910 Utah has to say about this.

2911 Mr. Chaffetz. Well, thank you.

2912 Mr. Gohmert. I would be glad to yield to my friend from
2913 Utah.

2914 Mr. Chaffetz. You know, I—as baldly as I can, this
2915 whole deal to me feels like political bribery. You know,
2916 that is a pretty strong word. What bothers me about the
2917 concern here that this group is looking at is that, by
2918 itself, it won't stand. It falls apart.

2919 Now, I would love for Utah to get a fourth seat. I
2920 think they got screwed out of it a number of years ago. We
2921 as a state appealed. We went to the Supreme Court, and we
2922 lost. From my point of view, you stand behind that. You
2923 wait until you do the—go through it again in 2010, and
2924 hopefully you end up on the top of the deck there in 2012.

2925 For me, it is all about the principle. It is all about
2926 the Constitution. I find this to be unconstitutional at its
2927 core. And at least this representative doesn't want to
2928 participate in this political backroom deal to try to go get
2929 a couple of Republican senators.

2930 If Washington, D.C., is due representation and there is
2931 an argument that can be made that it is constitutional, make
2932 that case. But don't go try to use a state and try to dangle
2933 this carrot out there, which is now, at best, 24 months in
2934 its life. I think we need to stand on the principles of the
2935 Constitution.

2936 Now, I also believe that it is not just the Supreme
2937 Court that should make the determinations as to whether or
2938 not something is constitutional. I have had other members,
2939 other people say, "Well, we will just punt it to the courts.
2940 It is going to go the courts, anyway."

2941 Well, I, too, took a constitutional oath that I would
2942 uphold the Constitution, that I—little, old me—would look at
2943 this and say, "Is this constitutional?" I just don't believe
2944 it is. I think there have been other amendments, and other
2945 remedies, and other things that can get the representation
2946 that they deserve.

2947 I fundamentally do not buy the argument that just a
2948 representative in the House is going to suffice. Certainly,
2949 when they are given an opportunity to vote on who would
2950 represent them in the Electoral College, that wasn't enough.
2951 I would like to see every member—I should say this another
2952 way—every citizen who is within the District of Columbia have
2953 a representative, two senators, a governor, state
2954 legislature. There is a way to do that and be
2955 constitutional.

2956 But, please, ask yourself, if this deal falls apart
2957 because you can't go get a couple of Republican senators
2958 after having dangled this little carrot out there, a carrot
2959 that is only 24 months in length, then maybe there is
2960 something fundamentally wrong with this bill to start with.

2961 And so it is going to surprise a lot of people, but I
2962 would just assume not participate in this kind of political
2963 bribery that I see.

2964 With that, I yield back the balance of my time.

2965 Mr. Gohmert. Reclaiming my time, I am so glad I yielded
2966 to the gentleman from Wyoming and what he said—

2967 Mr. Chaffetz. Utah.

2968 Mr. Gohmert. I am sorry.

2969 [Laughter.]

2970 Mr. Chaffetz. I may need to run in Wyoming next time,
2971 but, yes, thank you.

2972 Mr. Gohmert. Anyway, thank you. Yes, sir, thank you so
2973 much.

2974 With that, I yield back.

2975 Chairman Conyers. Thank you.

2976 The question occurs on the Issa amendment. All in
2977 favor, say "aye."

2978 All opposed, say "no."

2979 Noes have it. And the amendment fails.

2980 Mr. Issa. Mr. Chairman, I am going to have to ask for a
2981 recorded vote.

2982 Chairman Conyers. The clerk will call the roll.

2983 The Clerk. Mr. Conyers?

2984 Chairman Conyers. No.

2985 The Clerk. Mr. Conyers votes no.

2986 Mr. Berman?
2987 [No response.]
2988 Mr. Boucher?
2989 [No response.]
2990 Mr. Nadler?
2991 [No response.]
2992 Mr. Scott?
2993 Mr. Scott. No.
2994 The Clerk. Mr. Scott votes no.
2995 Mr. Watt?
2996 Mr. Watt. No.
2997 The Clerk. Mr. Watt votes no.
2998 Ms. Lofgren?
2999 Ms. Lofgren. No.
3000 The Clerk. Ms. Lofgren votes no.
3001 Ms. Jackson Lee?
3002 [No response.]
3003 Ms. Waters?
3004 Ms. Waters. No.
3005 The Clerk. Ms. Waters votes no.
3006 Mr. Delahunt?
3007 [No response.]
3008 Mr. Wexler?
3009 [No response.]
3010 Mr. Cohen?

3011 [No response.]
3012 Mr. Johnson?
3013 [No response.]
3014 Mr. Pierluisi?
3015 Mr. Pierluisi. No.
3016 The Clerk. Mr. Pierluisi votes no.
3017 Mr. Gutierrez?
3018 Mr. Gutierrez. No.
3019 The Clerk. Mr. Gutierrez votes no.
3020 Mr. Sherman?
3021 [No response.]
3022 Ms. Baldwin?
3023 Ms. Baldwin. No.
3024 The Clerk. Ms. Baldwin votes no.
3025 Mr. Gonzalez?
3026 Mr. Gonzalez. No.
3027 The Clerk. Mr. Gonzalez votes no.
3028 Mr. Weiner?
3029 [No response.]
3030 Mr. Schiff?
3031 Mr. Schiff. No.
3032 The Clerk. Mr. Schiff votes no.
3033 Ms. Sanchez?
3034 Ms. Sanchez. No.
3035 The Clerk. Ms. Sanchez votes no.

3036 Ms. Wasserman Schultz?
3037 Ms. Wasserman Schultz. No.
3038 The Clerk. Ms. Wasserman Schultz votes no.
3039 Mr. Maffei?
3040 Mr. Maffei. No.
3041 The Clerk. Mr. Maffei votes no.
3042 Mr. Smith?
3043 Mr. Smith. Aye.
3044 The Clerk. Mr. Smith votes aye.
3045 Mr. Sensenbrenner?
3046 [No response.]
3047 Mr. Goodlatte?
3048 Mr. Goodlatte. Aye.
3049 The Clerk. Mr. Goodlatte votes aye.
3050 Mr. Sensenbrenner?
3051 [No response.]
3052 Mr. Coble?
3053 [No response.]
3054 Mr. Gallegly?
3055 [No response.]
3056 Mr. Lungren?
3057 Mr. Lungren. Aye.
3058 The Clerk. Mr. Lungren votes aye.
3059 Mr. Issa?
3060 Mr. Issa. Aye.

3061 The Clerk. Mr. Issa votes aye.
3062 Mr. Forbes?
3063 Mr. Forbes. Aye.
3064 The Clerk. Mr. Forbes votes aye.
3065 Mr. King?
3066 Mr. King. Aye.
3067 The Clerk. Mr. King votes aye.
3068 Mr. Franks?
3069 [No response.]
3070 Mr. Gohmert?
3071 Mr. Gohmert. Aye.
3072 The Clerk. Mr. Gohmert votes aye.
3073 Mr. Jordan?
3074 Mr. Jordan. Yes.
3075 The Clerk. Mr. Jordan votes yes.
3076 Mr. Poe?
3077 Mr. Poe. Aye.
3078 The Clerk. Mr. Poe votes aye.
3079 Mr. Chaffetz?
3080 Mr. Chaffetz. Aye.
3081 The Clerk. Mr. Chaffetz votes aye.
3082 Mr. Rooney?
3083 Mr. Rooney. Aye.
3084 The Clerk. Mr. Rooney votes aye.
3085 Mr. Harper?

3086 Mr. Harper. Aye.

3087 The Clerk. Mr. Harper votes aye.

3088 Chairman Conyers. Are there members who have not cast
3089 their vote?

3090 Mr. Nadler?

3091 Mr. Nadler. How am I recorded?

3092 The Clerk. Mr. Nadler is not recorded.

3093 Mr. Nadler. I vote no.

3094 The Clerk. Mr. Nadler votes no.

3095 Chairman Conyers. Ms. Jackson Lee?

3096 Ms. Jackson Lee. How am I recorded?

3097 The Clerk. Ms. Jackson Lee is not recorded.

3098 Ms. Jackson Lee. No.

3099 The Clerk. Ms. Jackson Lee votes no.

3100 Chairman Conyers. Mr. Johnson?

3101 Mr. Johnson. No.

3102 The Clerk. Mr. Johnson votes no.

3103 Chairman Conyers. Mr. Cohen?

3104 Mr. Cohen. No.

3105 The Clerk. Mr. Cohen votes no.

3106 Chairman Conyers. Mr. Weiner?

3107 Mr. Weiner. No.

3108 The Clerk. Mr. Weiner votes no.

3109 Chairman Conyers. Oh, Mr. Wexler.

3110 Mr. Wexler. No.

3111 The Clerk. Mr. Wexler votes no.

3112 Chairman Conyers. Mr. Sherman?

3113 Mr. Sherman. No.

3114 The Clerk. Mr. Sherman votes no.

3115 Chairman Conyers. Are there any other members?

3116 Mr. Pierluisi has voted.

3117 Are there any other members?

3118 The clerk will report.

3119 The Clerk. Mr. Chairman, 12 members voted aye, 20

3120 members voted nay.

3121 Chairman Conyers. The amendment fails.

3122 Are there any amendments or—

3123 Mr. Chaffetz. Mr. Chairman? Mr. Chairman?

3124 Chairman Conyers. Yes? Who seeks recognition? The

3125 gentleman from Utah?

3126 Mr. Chaffetz. Thank you. I—just a warm feeling, all

3127 the friends here. I appreciate it. Great help for Utah.

3128 Maybe you can help me on this next amendment, Mr. Chair.

3129 I have an amendment at the desk.

3130 Chairman Conyers. The clerk will report the amendment.

3131 Mr. Chaffetz. Number 2.

3132 Mr. Nadler. Mr. Chairman, I reserve a point of order.

3133 Chairman Conyers. The gentleman from New York reserves

3134 a point of order.

3135 The Clerk. Amendment offered by Mr. Chaffetz to the

3136 amendment in the nature of a substitute.

3137 [The amendment by Mr. Chaffetz follows:]

3138 ***** INSERT *****

3139 Mr. Chaffetz. Mr. Chairman, I ask unanimous consent
3140 that the amendment be considered as read.

3141 Chairman Conyers. Without objection, so ordered.

3142 The gentleman is recognized in support of his amendment.

3143 Mr. Chaffetz. Thank you.

3144 I don't need to reiterate what I just said a few moments
3145 ago about my constitutional concerns about the direction of
3146 this—the underlying substitute that is moving forward.

3147 But it does strike me that I have been—while I have been
3148 given a number of assurances that it is only the intention of
3149 this body to allow a representative in the House of
3150 Representatives that we should also clarify and codify the
3151 idea that this is not the intent or the direction to—that
3152 they should have representation in the United States.

3153 I think the amendment is fairly straightforward. It
3154 seems to be consistent with all the testimony and all the
3155 other assurances that we have been given at every step of the
3156 way. As I have talked to various members within the Senate,
3157 I believe that is their direction and their goal and
3158 ambition, as well.

3159 It just strikes me that we should clarify this with this
3160 one simple sentence.

3161 Chairman Conyers. I am not clear. The gentleman's
3162 amendment reads, "Nothing in this act may be construed to
3163 express the sense of Congress that the District of Columbia

3164 should have representation in the United States Senate."

3165 I really don't understand what a vote like this--what the
3166 import of a vote like this would be to a measure that is
3167 intended to give a congressional seat to the District of
3168 Columbia and a congressional seat in the State of Utah.

3169 And so I--there is absolutely no reason for me to argue
3170 too strongly against it. I just don't see what the relevance
3171 is, sir. And I would yield to you if you wanted to clarify
3172 it a little bit more.

3173 Mr. Chaffetz. Yes, part of the premise and part of the
3174 argument--in fact, I think the heart of the argument is moving
3175 forward with this, is that there will be some that argue that
3176 the House of Representatives is made up of the people and
3177 that the Senate is construed of the many states. And there
3178 is a clear distinction.

3179 Part of the concern of those who have been opposed to
3180 this along the way, in addition to their constitutional
3181 concerns, have been the idea that this is--will continue to be
3182 a creep in the move in the direction for other territories,
3183 other--the district itself, to have representation above and
3184 beyond what is simply in the House of Representatives.

3185 And I would just like to have the assurance--and I think
3186 it would be appropriate for this body to include that, that
3187 sense, and express that sense in writing as we move forward,
3188 if that is truly the intention and the direction that we are

3189 going.

3190 Chairman Conyers. Well, can I ask the gentlemen, would
3191 that gain us his support for the measure if we were to
3192 include his amendment?

3193 Mr. Chaffetz. Would I vote for the amendment? Yes,
3194 absolutely. Would I vote for this amendment to come into it?
3195 Yes. But would I vote for the—no, I just believe the whole
3196 thing is unconstitutional.

3197 Chairman Conyers. Well, I would like the gentleman to
3198 know, in all fairness to him, that I thought this was not a
3199 germane amendment, but the parliamentarian cleared it, and so
3200 we brought it forward.

3201 But I strongly object to the purpose for which you would
3202 introduce it. And I am not sure if it would have carried
3203 anyway if I had agreed to support—

3204 Mr. Chaffetz. Mr. Chairman, if I can also—the Senate
3205 bill has this language in it, so it is not inconsistent with
3206 what the Senate has already addressed. It is the exact same
3207 language that is taken from the Senate bill, which passed
3208 that body.

3209 Chairman Conyers. Well, the gentleman is absolutely
3210 correct. But guess what? We are not the Senate. We are the
3211 House. And I think that this is a much wiser step not to
3212 include it in the bill. And that is why I am opposed to it.

3213 I yield my time back.

3214 And the question occurs on Mr. Chaffetz's amendment.

3215 All those in favor, say "aye."

3216 [A chorus of ayes.]

3217 Chairman Conyers. All those opposed, say "no."

3218 [A chorus of noes.]

3219 Chairman Conyers. The noes have it.

3220 Mr. Chaffetz. Mr. Chair, we would appreciate a recorded
3221 vote, please.

3222 Chairman Conyers. Absolutely.

3223 The Clerk. Mr. Conyers?

3224 Chairman Conyers. No.

3225 The Clerk. Mr. Conyers votes no.

3226 Mr. Berman?

3227 Mr. Boucher?

3228 Mr. Nadler?

3229 Mr. Nadler. No.

3230 The Clerk. Mr. Nadler votes no.

3231 Mr. Scott?

3232 Mr. Scott. No.

3233 The Clerk. Mr. Scott votes no.

3234 Mr. Watt?

3235 Mr. Watt. No.

3236 The Clerk. Mr. Watt votes no.

3237 Ms. Lofgren?

3238 Ms. Jackson Lee?

3239 Ms. Jackson Lee. No.

3240 The Clerk. Ms. Jackson Lee votes no.

3241 Ms. Waters?

3242 Ms. Waters. No.

3243 The Clerk. Ms. Waters votes no.

3244 Mr. Delahunt?

3245 Mr. Wexler?

3246 Mr. Cohen?

3247 Mr. Johnson?

3248 Mr. Pierluisi?

3249 Mr. Pierluisi. No.

3250 The Clerk. Mr. Pierluisi votes no.

3251 Mr. Gutierrez?

3252 Mr. Gutierrez. No.

3253 The Clerk. Mr. Gutierrez votes no.

3254 Mr. Sherman?

3255 Mr. Sherman. No.

3256 The Clerk. Mr. Sherman votes no.

3257 Ms. Baldwin?

3258 Ms. Baldwin. No.

3259 The Clerk. Ms. Baldwin votes no.

3260 Mr. Gonzalez?

3261 Mr. Gonzalez. No.

3262 The Clerk. Mr. Gonzalez votes no.

3263 Mr. Weiner?

3264 Mr. Weiner. No.

3265 The Clerk. Mr. Weiner votes no.

3266 Mr. Schiff?

3267 Mr. Schiff. No.

3268 The Clerk. Mr. Schiff votes no.

3269 Ms. Sanchez?

3270 Ms. Wasserman Schultz?

3271 Ms. Wasserman Schultz. No.

3272 The Clerk. Ms. Wasserman Schultz votes no.

3273 Mr. Maffei?

3274 Mr. Smith?

3275 Mr. Smith. Aye.

3276 The Clerk. Mr. Smith votes aye.

3277 Mr. Goodlatte?

3278 Mr. Goodlatte. Aye.

3279 The Clerk. Mr. Goodlatte votes aye.

3280 Mr. Sensenbrenner?

3281 Mr. Coble?

3282 Mr. Gallegly?

3283 Mr. Gallegly. Aye.

3284 The Clerk. Mr. Gallegly votes aye.

3285 Mr. Lungren?

3286 Mr. Lungren. Aye.

3287 The Clerk. Mr. Lungren votes aye.

3288 Mr. Issa?

3289 Mr. Issa. Aye.

3290 The Clerk. Mr. Issa votes aye.

3291 Mr. Forbes?

3292 Mr. Forbes. Aye.

3293 The Clerk. Mr. Forbes votes aye.

3294 Mr. King?

3295 Mr. King. Aye.

3296 The Clerk. Mr. King votes aye.

3297 Mr. Franks?

3298 Mr. Gohmert?

3299 Mr. Gohmert. Aye.

3300 The Clerk. Mr. Gohmert votes aye.

3301 Mr. Jordan?

3302 Mr. Jordan. Yes.

3303 The Clerk. Mr. Jordan votes yes.

3304 Mr. Poe?

3305 Mr. Poe. Aye.

3306 The Clerk. Mr. Poe votes aye.

3307 Mr. Chaffetz?

3308 Mr. Chaffetz. Aye.

3309 The Clerk. Mr. Chaffetz votes aye.

3310 Mr. Rooney?

3311 Mr. Harper?

3312 Mr. Harper. Aye.

3313 The Clerk. Mr. Harper votes aye.

3314 Chairman Conyers. Are there members—Mr. Wexler?
3315 Mr. Wexler. No.
3316 The Clerk. Mr. Wexler votes no.
3317 Chairman Conyers. Ms. Lofgren?
3318 Ms. Lofgren. No.
3319 The Clerk. Ms. Lofgren votes no.
3320 Chairman Conyers. Ms. Sanchez?
3321 Ms. Sanchez. No.
3322 The Clerk. Ms. Sanchez votes no.
3323 Chairman Conyers. Mr. Cohen?
3324 Mr. Cohen. No.
3325 The Clerk. Mr. Cohen votes no.
3326 Chairman Conyers. Are there any other members that wish
3327 to cast a vote?
3328 The clerk will report.
3329 The Clerk. Mr. Chairman, 12 members voted aye, 18
3330 members voted no.
3331 Chairman Conyers. The amendment fails.
3332 And the chair is prepared to call for a vote on the—
3333 Mr. King. Mr. Chairman?
3334 Chairman Conyers. Yes, Steve King?
3335 Mr. King. Thank you, Mr. Chairman.
3336 I have an amendment at the desk.
3337 Chairman Conyers. The clerk will report the King
3338 amendment.

3339 Mr. Nadler. Mr. Chairman, I reserve a point of order.

3340 Chairman Conyers. A point of order is reserved by the

3341 gentleman from New York.

3342 The Clerk. Amendment offered by Mr. King to the

3343 amendment in the nature of a substitute.

3344 [The amendment by Mr. King follows:]

3345 ***** INSERT *****

3346 Chairman Conyers. The gentleman is recognized in
3347 support of his amendment.

3348 Mr. King. Thank you, Mr. Chairman.

3349 My amendment is an amendment that addresses a situation
3350 that, as we discuss the Constitution here with regard to the
3351 residents of D.C., and it addresses the Heller case, which
3352 was the Second Amendment gun rights case.

3353 And what we have seen—the Supreme Court rule that there
3354 is an individual right to keep and bear arms, one of those
3355 constitutional rights that we are discussing here in this
3356 overall bill that—of the citizens of the District of
3357 Columbia.

3358 And even though we do respect the courts and we do
3359 respect the Constitution, the District of Columbia has
3360 disrespected the courts and disrespected the Constitution and
3361 re-written their laws to seek to circumvent the Heller case.

3362 And this amendment establishes the decision of the
3363 Supreme Court in the Heller case and grants back to the
3364 citizens of the District of Columbia their Second Amendment
3365 rights to keep and bear arms and the individual right to keep
3366 and bear arms.

3367 And what has happened in the District of Columbia is,
3368 the council has unfairly and unconstitutionally restricted
3369 the right for law-abiding citizens to defend themselves. And
3370 in January of 2009, the city government passed a firearms

3371 registration emergency amendment act.

3372 And the result of that was that they put the citizens of
3373 the District of Columbia through a significant amount of
3374 hoops they have to jump through. One would be to simply
3375 possess a permitted firearm, a law-abiding citizen would have
3376 to take 5 hours of safety training. They would have to re-
3377 register every 3 years. They would have to undergo a
3378 background check every 6 years. They would have to pass a
3379 20-question multiple-choice test.

3380 The list of these things goes on and on and on. And it
3381 is clear that it is contrived to deny the Second Amendment
3382 rights to the citizens of the District of Columbia.

3383 So if I am living in the District of Columbia, and I am
3384 actually hearing from some of the residents of the District
3385 of Columbia—some of them aren't all that enamored about
3386 having a couple of extra senators, by the way—but I am
3387 hearing from them today.

3388 And, you know, some of them are under duress. This has
3389 been a high murder rate in the District of Columbia. And I
3390 have made the statement in the past that is upheld today and
3391 was true the day I said it, that it was more dangerous for my
3392 wife to live in this city than it is for an average citizen
3393 in Iraq. And now it turns out to be true, also, for Baghdad.

3394 And so if one has the opportunity to vote to—for their
3395 representation that can vote in this Congress, or they have

3396 an opportunity to defend themselves, according to that
3397 constitutional right, I will submit that, if we are going to
3398 protect the constitutional rights that have been alleged here
3399 in this committee for the citizens of the District of
3400 Columbia, it is also our job to protect all of their
3401 constitutional rights, and that includes their right to keep
3402 and bear arms.

3403 And if we have the government of the District of
3404 Columbia, the city government, that so disrespects the
3405 Constitution and the Supreme Court that they would simply
3406 rewrite a law to circumvent the Heller decision, then I have
3407 a little less sympathy for the rest of their representation
3408 that they would ask for.

3409 But I would urge that we ensure that Second Amendment
3410 right to keep and bear arms to these citizens, if we are
3411 going to consider whatsoever their right to vote and be
3412 represented in the United States Congress.

3413 And with that, I would urge adoption, and I would yield
3414 back.

3415 Mr. Nadler. Mr. Chairman?

3416 Chairman Conyers. I thank the gentleman.

3417 Yes, the gentleman from New York, you had a reservation.

3418 Mr. Nadler. I insist on the reservation, Mr. Speaker—
3419 Mr. Speaker? Mr. Chairman, this bill provides a vote for the
3420 District of Columbia in the House of Representatives.

3421 The amendment, although mischievous and silly and
3422 perhaps illustrating why the district needs a vote in the
3423 House so as to be protected against this kind of interference
3424 in their affairs, has nothing to do with the provision of a
3425 vote in the House for the District of Columbia. It deals
3426 with a gun control amendment, which is obviously a different
3427 subject matter and purpose, obviously would broaden the
3428 underlying bill, obviously is beyond the scope of this bill,
3429 and obviously is out of order and is un-germane. Not
3430 germane, excuse me.

3431 Chairman Conyers. The chair is prepared to rule—
3432 Mr. King. Mr. Chairman? Can I be heard on the point of
3433 order?

3434 Chairman Conyers. Yes, sir. I would like to hear the
3435 gentleman defend his point of order.

3436 Mr. King. I would simply make this point in a response
3437 to the gentleman from New York, that it is not mischievous
3438 nor silly to those people who have lost a family member
3439 because they were not able to defend themselves in the
3440 District of Columbia.

3441 And I would otherwise concede the points made by the
3442 gentleman from New York. And I would yield back the balance
3443 of my time.

3444 Chairman Conyers. Does the gentleman withdraw his
3445 amendment?

3446 Mr. King. I would ask unanimous consent to withdraw my
3447 amendment.

3448 Chairman Conyers. Thank you.

3449 Without objection, so ordered. I thank the gentleman.

3450 Mr. Gohmert. Mr. Chairman?

3451 Chairman Conyers. Yes, sir. Judge Gohmert?

3452 Mr. Gohmert. I would move to strike the last word.

3453 Chairman Conyers. The gentleman is recognized.

3454 Mr. Gohmert. This is really perplexing, because, as I
3455 have understood the chair, for whom I have enormous respect—
3456 and you have always been most gracious to me, and I have
3457 always appreciated it—but you opposed an amendment to
3458 eliminate Utah from being part of this bill because that
3459 would have been a deal-breaker of enormous proportions and
3460 apparently something worked out with Senator Hatch, and we
3461 know—all of us here know, if a bill is different that we pass
3462 in the House from that passed in the Senate, then normally it
3463 would go to conference committee.

3464 But in the last Congress, we saw sometimes there would
3465 just be a group get together, agree without House Republicans
3466 on a bill, and then both the Senate and the House pass it
3467 more along partisan lines.

3468 But if the bill is exactly the same, there is no need
3469 for further negotiations. There is no need for a conference
3470 even to be considered. It just becomes law and goes to the

3471 president's desk.

3472 So I was baffled when the chair opposed the amendment by
3473 Mr. Chaffetz, my good friend from Utah, who played for
3474 Brigham Young and has the record for most extra points in a
3475 game, but he made the—offered the amendment that would add
3476 language to make this bill exactly like the Senate bill.

3477 And so I am really perplexed. If this bill is not
3478 exactly like the Senate bill and Mr. Chaffetz was proposing
3479 to make it like the Senate bill, then that would seem to
3480 indicate the possibility of not having to have a conference,
3481 not having to have further negotiations, so we would know
3482 that exactly what we passed out of the House would be what
3483 became the law.

3484 So, you know, the thing that would seem to point to is
3485 that perhaps there are people that want this to be different
3486 from the Senate so that there will be behind-the-scenes,
3487 closed-door negotiations to force the House to vote on a bill
3488 that we didn't actually consider here because of different
3489 language.

3490 So that is what has perplexed me. And the chair doesn't
3491 have to answer, but it sure makes me wonder about why the
3492 discrepancy.

3493 And I yield back.

3494 Chairman Conyers. The only consolation I can give my
3495 friend from Texas is that there is a great suspicion that

3496 there will be a conference. But—and so I accept your
3497 remarks.

3498 If there are no further amendments, without objection,
3499 we would like now to turn to the manager's substitute. And
3500 the question is now on the manager's substitute as amended.

3501 All those in favor, say "aye."

3502 [A chorus of ayes.]

3503 Chairman Conyers. Those opposed, say "no."

3504 [A chorus of noes.]

3505 Chairman Conyers. The ayes seem to have it, but if
3506 there is a recorded vote required, we will have—

3507 Mr. King. We request a recorded vote.

3508 Chairman Conyers. Oh, absolutely.

3509 The clerk will call the roll.

3510 The Clerk. Mr. Conyers?

3511 Chairman Conyers. Aye.

3512 The Clerk. Mr. Conyers votes aye.

3513 Mr. Berman?

3514 [No response.]

3515 Mr. Boucher?

3516 [No response.]

3517 Mr. Nadler?

3518 Mr. Nadler. Aye.

3519 The Clerk. Mr. Nadler votes aye.

3520 Mr. Scott?

3521 Mr. Scott. Aye.

3522 The Clerk. Mr. Scott votes aye.

3523 Mr. Watt?

3524 Mr. Watt. Aye.

3525 The Clerk. Mr. Watt votes aye.

3526 Ms. Lofgren?

3527 Ms. Lofgren. Aye.

3528 The Clerk. Ms. Lofgren votes aye.

3529 Ms. Jackson Lee?

3530 [No response.]

3531 Ms. Waters?

3532 [No response.]

3533 Mr. Delahunt?

3534 [No response.]

3535 Mr. Wexler?

3536 Mr. Wexler. Aye.

3537 The Clerk. Mr. Wexler votes aye.

3538 Mr. Cohen?

3539 Mr. Cohen. Aye.

3540 The Clerk. Mr. Cohen votes aye.

3541 Mr. Johnson?

3542 [No response.]

3543 Mr. Pierluisi?

3544 Mr. Pierluisi. Aye.

3545 The Clerk. Mr. Pierluisi votes aye.

3546 Mr. Gutierrez?

3547 Mr. Gutierrez. Aye.

3548 The Clerk. Mr. Gutierrez votes aye.

3549 Mr. Sherman?

3550 [No response.]

3551 Ms. Baldwin?

3552 Ms. Baldwin. Aye.

3553 The Clerk. Ms. Baldwin votes aye.

3554 Mr. Gonzalez?

3555 Mr. Gonzalez. Aye.

3556 The Clerk. Mr. Gonzalez votes aye.

3557 Mr. Weiner?

3558 Mr. Weiner. Aye.

3559 The Clerk. Mr. Weiner votes aye.

3560 Mr. Schiff?

3561 Mr. Schiff. Aye.

3562 The Clerk. Mr. Schiff votes aye.

3563 Ms. Sanchez?

3564 Ms. Sanchez. Aye.

3565 The Clerk. Ms. Sanchez votes aye.

3566 Ms. Wasserman Schultz?

3567 Ms. Wasserman Schultz. Aye.

3568 The Clerk. Ms. Wasserman Schultz votes aye.

3569 Mr. Maffei?

3570 [No response.]

3571 Mr. Smith?

3572 Mr. Smith. Aye.

3573 The Clerk. Mr. Smith votes aye.

3574 Mr. Goodlatte?

3575 Mr. Goodlatte. Aye.

3576 The Clerk. Mr. Goodlatte votes aye.

3577 Mr. Sensenbrenner?

3578 [No response.]

3579 Mr. Coble?

3580 [No response.]

3581 Mr. Gallegly?

3582 Mr. Gallegly. Aye.

3583 The Clerk. Mr. Gallegly votes aye.

3584 Mr. Lungren?

3585 Mr. Lungren. Aye.

3586 The Clerk. Mr. Lungren votes aye.

3587 Mr. Issa?

3588 Mr. Issa. Aye.

3589 The Clerk. Mr. Issa votes aye.

3590 Mr. Forbes?

3591 Mr. Forbes. Aye.

3592 The Clerk. Mr. Forbes votes aye.

3593 Mr. King?

3594 Mr. King. Aye.

3595 The Clerk. Mr. King votes aye.

3596 Mr. Franks?
3597 [No response.]
3598 Mr. Gohmert?
3599 Mr. Gohmert. No.
3600 The Clerk. Mr. Gohmert votes no.
3601 Mr. Jordan?
3602 Mr. Jordan. No.
3603 The Clerk. Mr. Jordan votes no.
3604 Mr. Poe?
3605 Mr. Poe. No.
3606 The Clerk. Mr. Poe votes no.
3607 Mr. Chaffetz?
3608 Mr. Chaffetz. No.
3609 The Clerk. Mr. Chaffetz votes no.
3610 Mr. Rooney?
3611 [No response.]
3612 Mr. Harper?
3613 Mr. Harper. No.
3614 The Clerk. Mr. Harper votes no.
3615 Chairman Conyers. Are there any members that haven't
3616 voted?
3617 Ms. Waters?
3618 Ms. Waters. Aye.
3619 The Clerk. Ms. Waters votes aye.
3620 Chairman Conyers. Mr. Johnson?

3621 Mr. Johnson. Aye.

3622 The Clerk. Mr. Johnson votes aye.

3623 Chairman Conyers. Are there any other members who care
3624 to vote?

3625 Clerk will report.

3626 The Clerk. Mr. Chairman, 24 members voted aye, 5
3627 members voted nay.

3628 Chairman Conyers. The substitute is—with amendments, is
3629 agreed to.

3630 Mr. Lungren. Mr. Chairman?

3631 Chairman Conyers. And now we have a—I am going to
3632 recognize you as soon as we finish this.

3633 A reporting quorum being present, the question is on
3634 reporting the bill as amended favorably to the House.

3635 Mr. Lungren. I want to strike the requisite number of
3636 words.

3637 Chairman Conyers. Oh. I am sorry. I recognize the
3638 gentleman from California.

3639 Mr. Lungren. Mr. Chairman, I strike the requisite
3640 number of words, Mr. Chairman?

3641 Chairman Conyers. Absolutely.

3642 Mr. Lungren. Mr. Chairman, there has been a lot of
3643 debate that is taken place about the Utah exception and other
3644 things here. And I would just, before we have a final vote,
3645 to reiterate a major concern about the constitutionality of

3646 the bill about which we—upon which we are about to vote.

3647 I would have to ask this question. If the Congress
3648 could simply bestow voting rights on the district as if it
3649 were a state, why then the 23rd Amendment to the
3650 Constitution? When the Constitution was amended by the 23rd
3651 Amendment in 1961 for the purpose of choosing presidential
3652 electors, the amendment specifically distinguished the
3653 District of Columbia from the states.

3654 You want to get out your Constitution and look at the
3655 23rd Amendment, you will see that it provides that "a number
3656 of electors of president and vice president equal to the
3657 whole number of senators and representatives in Congress to
3658 which the district would be entitled if it were a state."

3659 If the Congress were able to act in the way we are about
3660 to act, that is by granting this representation by statute
3661 rather than constitutional amendment, why then the 23rd
3662 Amendment to the Constitution? It makes what we are doing
3663 today either specifically an act ignoring the Constitution or
3664 somehow says that what we did back in 1961 was absolutely
3665 unnecessary.

3666 That argument has not been accepted in the federal
3667 courts. As recently as 6 years ago, a three-judge panel in
3668 the Adams v. Clinton case concluded, "The Constitution does
3669 not contemplate that the district may serve as a state for
3670 purposes of the apportionment of congressional

3671 representatives."

3672 And so we should understand, as we prepare to vote on
3673 this, that the vote for this particular proposal flies in the
3674 face of the 23rd Amendment to the Constitution, flies in the
3675 face of the most recent court decisions contemplating this
3676 question, and flies in the face of the specific language
3677 contained in the Constitution, as given to us by our founding
3678 fathers in Article I, Section 2, Clause 1 and Article I,
3679 Section 2, Clause 2.

3680 It should be stressed here that having a concern for the
3681 Constitution does not go to the underlying question of
3682 whether or not you believe the people of the District of
3683 Columbia deserve representation. It goes to the question of
3684 whether the Constitution ought to be preserved.

3685 And one of the ways you preserve it is you respect it
3686 and you don't violate it.

3687 And with that, I would yield back the balance of my
3688 time.

3689 Chairman Conyers. A reporting quorum being present, the
3690 question is on reporting the bill as amended favorably to the
3691 House.

3692 Those in favor, say "aye."

3693 [A chorus of ayes.]

3694 Chairman Conyers. Those opposed, say "no."

3695 [A chorus of noes.]

3696 Chairman Conyers. The ayes have it as amended. And the
3697 bill is reported favorably.

3698 Without objection, the bill will be reported as a single
3699 amendment—

3700 Mr. King. Mr. Chairman?

3701 Chairman Conyers. Yes?

3702 Mr. King. I ask a recorded vote.

3703 Chairman Conyers. The clerk will call the roll.

3704 Mr. King. Thank you.

3705 The Clerk. Mr. Conyers?

3706 Chairman Conyers. Aye.

3707 The Clerk. Mr. Conyers votes aye.

3708 Mr. Berman?

3709 [No response.]

3710 Mr. Boucher?

3711 [No response.]

3712 Mr. Nadler?

3713 Mr. Nadler. Aye.

3714 The Clerk. Mr. Nadler votes aye.

3715 Mr. Scott?

3716 Mr. Scott. Aye.

3717 The Clerk. Mr. Scott votes aye.

3718 Mr. Watt?

3719 Mr. Watt. Aye.

3720 The Clerk. Mr. Watt votes aye.

3721 Ms. Lofgren?

3722 Ms. Lofgren. Aye.

3723 The Clerk. Ms. Lofgren votes aye.

3724 Ms. Jackson Lee?

3725 [No response.]

3726 Ms. Waters?

3727 Ms. Waters. Aye.

3728 The Clerk. Ms. Waters votes aye.

3729 Mr. Delahunt?

3730 [No response.]

3731 Mr. Wexler?

3732 Mr. Wexler. Aye.

3733 The Clerk. Mr. Wexler votes aye.

3734 Mr. Cohen?

3735 [No response.]

3736 Mr. Johnson?

3737 Mr. Johnson. Aye.

3738 The Clerk. Mr. Johnson votes aye.

3739 Mr. Pierluisi?

3740 Mr. Pierluisi. Yes.

3741 The Clerk. Mr. Pierluisi votes yes.

3742 Mr. Gutierrez?

3743 Mr. Gutierrez. Yes.

3744 The Clerk. Mr. Gutierrez votes yes.

3745 Mr. Sherman?

3746 Mr. Sherman. Yes.

3747 The Clerk. Mr. Sherman votes yes.

3748 Ms. Baldwin?

3749 Ms. Baldwin. Aye.

3750 The Clerk. Ms. Baldwin votes aye.

3751 Mr. Gonzalez?

3752 Mr. Gonzalez. Aye.

3753 The Clerk. Mr. Gonzalez votes aye.

3754 Mr. Weiner?

3755 Mr. Weiner. Aye.

3756 The Clerk. Mr. Weiner votes aye.

3757 Mr. Schiff?

3758 Mr. Schiff. Aye.

3759 The Clerk. Mr. Schiff votes aye.

3760 Ms. Sanchez?

3761 Ms. Wasserman Schultz?

3762 Ms. Wasserman Schultz. Aye.

3763 The Clerk. Ms. Wasserman Schultz votes aye.

3764 Mr. Maffei?

3765 Mr. Maffei. Aye.

3766 The Clerk. Mr. Maffei votes aye.

3767 Mr. Smith?

3768 Mr. Smith. No.

3769 The Clerk. Mr. Smith votes no.

3770 Mr. Goodlatte?

3771 Mr. Goodlatte. No.

3772 The Clerk. Mr. Goodlatte votes no.

3773 Mr. Sensenbrenner?

3774 [No response.]

3775 Mr. Coble?

3776 [No response.]

3777 Mr. Gallegly?

3778 Mr. Gallegly. No.

3779 The Clerk. Mr. Gallegly votes no.

3780 Mr. Lungren?

3781 Mr. Lungren. No.

3782 The Clerk. Mr. Lungren votes no.

3783 Mr. Issa?

3784 Mr. Issa. No.

3785 The Clerk. Mr. Issa votes no.

3786 Mr. Forbes?

3787 Mr. Forbes. No.

3788 The Clerk. Mr. Forbes votes no.

3789 Mr. King?

3790 Mr. King. No.

3791 The Clerk. Mr. King votes no.

3792 Mr. Franks?

3793 [No response.]

3794 Mr. Gohmert?

3795 Mr. Gohmert. No.

3796 The Clerk. Mr. Gohmert votes no.
3797 Mr. Jordan?
3798 Mr. Jordan. No.
3799 The Clerk. Mr. Jordan votes no.
3800 Mr. Poe?
3801 Mr. Poe. No.
3802 The Clerk. Mr. Poe votes no.
3803 Mr. Chaffetz?
3804 Mr. Chaffetz. No.
3805 The Clerk. Mr. Chaffetz votes no.
3806 Mr. Rooney?
3807 [No response.]
3808 Mr. Harper?
3809 Mr. Harper. No.
3810 The Clerk. Mr. Harper votes no.
3811 Chairman Conyers. Any members—Mr. Cohen?
3812 Mr. Cohen. Aye.
3813 The Clerk. Mr. Cohen votes aye.
3814 Chairman Conyers. Ms. Jackson Lee?
3815 Ms. Jackson Lee. Chairman, how am I recorded?
3816 The Clerk. Ms. Jackson Lee is not recorded.
3817 Ms. Jackson Lee. Aye.
3818 The Clerk. Ms. Jackson Lee votes aye.
3819 Chairman Conyers. Any other members? The clerk will
3820 report.

3821 Oh, Ms. Lofgren?

3822 The Clerk. Ms. Lofgren is not—is recorded as aye.

3823 Chairman Conyers. Oh.

3824 Ms. Sanchez?

3825 Ms. Sanchez. Aye.

3826 The Clerk. Ms. Sanchez votes aye.

3827 Chairman Conyers. Clerk will report.

3828 The Clerk. Mr. Chairman, 20 members voted aye, 12

3829 members voted nay.

3830 Chairman Conyers. And the ayes have it. The bill as

3831 amended is ordered reported favorably.

3832 Without objection, the bill will be reported as a single

3833 amendment in the nature of a substitute incorporating

3834 amendments adopted. Staff is authorized to make technical

3835 and conforming changes. Members will have 2 days to submit

3836 views.

3837 And I thank you immensely for your time and declare the

3838 committee adjourned.

3839 [Whereupon, at 6:49 p.m., the committee was adjourned.]