

Statement of Rep. Tom Davis
Before the Senate Homeland Security and
Government Affairs Committee
S. 1257 the District of Columbia House Voting Rights Act of 2007
May 15, 2007

Thank you, Senator Lieberman and Senator Collins for inviting me to testify before your committee today. I have to say the road moving this bill forward has been a long one, but at each step I am once again reminded it is an honor to work as part of a team that seeks to create a more perfect union.

In talking about this legislation, the most important point I make is that no one can explain with a straight face why this country is willing to send soldiers around the world to extend liberty to every corner of the globe, yet Americans living in this Federal District don't have representation in the Federal legislature." The United States is quite right to sacrifice for liberty around the world, but we need to walk the walk at home as well. The D.C. House Voting Rights Act gives us a chance to do that.

People continuously ask me why I don't support a Constitutional Amendment or campaign for retrocession. I have two answers for them. First, I believe we should attempt what is achievable. At the present time, we have made a strong case that Congress has the authority – at least with respect to the House of Representatives – to remedy this problem and, by legislation, give the District a voting member in that body.

Second, I believe every single day that passes with Americans living in this District unrepresented is a travesty and an indictment of our government. The day has long passed for multi-year campaigns and pleas to unsympathetic partners. Congress can solve this problem – and it should.

I believe the Founders knew there would be unforeseen problems created in the ratification and everyday use of the Constitution. In the District Clause, they gave Congress the flexibility to use its power to solve those kinds of problems. All that's lacking is the will to solve them.

Another question I am continually asked is, "What about the Senate – doesn't this bill start us down a slippery slope to Senate representation?" My answer is "no." First of all, this action by this Congress does not obligate any future Congress to provide Senate representation. Moreover, since the basis of this legislation is the power of the Congress, no court can force us to exercise our prerogative against our will.

But more importantly, remember the House and the Senate are intrinsically different bodies created for different purposes, representing different entities. It's easy to see the House and the Senate as simply two hurdles on the same track, and perhaps in some ways they are. But

each hurdle is there for a different reason. This is old stuff to most of us, but when it comes to the District of Columbia and the House of Representatives, the difference is critical.

James Madison put it best in Federalist Paper 39 when he explained the reason for having a bi-cameral legislative body.

“The next relation is, to the sources from which the ordinary powers of government are to be derived. The House of Representatives will derive its powers from **the people of America**; and the people will be represented in the same proportion, and on the same principle, as they are in the legislature of a particular State. So far the government is NATIONAL, not FEDERAL.”

“The Senate, on the other hand, will derive its powers **from the States**, as political and coequal societies; and these will be represented on the principle of equality in the Senate, as they now are in the existing Congress.”

So the House of Representatives represents the people of America, and the Senate represents the States of America. One body is National in nature and the other is Federal in nature.

It is likely the only road to Senate representation for the District is actual statehood – not the other way around. At any rate, giving the District a voting member in the House of Representatives neither advances nor hinders the statehood effort. But it does give the District representation under the Constitution -- today.

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

Those opposing this bill ignore 200 years of case law and clear instruction from the court that this is a congressional matter and requires a congressional solution. Under their reading of the Constitution:

District residents would have no right to a jury trial – you have to be from a **state** to have that right.

D.C. residents would have no right to sue people from outside D.C. in the federal courts – only people from **states** have that right.

The Full Faith and Credit clause would not apply to D.C. – that applies only between **states**; and,

The federal government would not be allowed to impose federal taxes on District residents – the Constitution says direct taxes shall be apportioned among the **several states**.

The District would be able to pass laws which interfere with interstate commerce – the Commerce Clause only allows Congress to regulate commerce among **the several states**.

But in each of those cases the Supreme Court has held that Congress can consider the District a “state” for purposes of applying those fundamental provisions. If Congress has the authority to do so regarding those constitutionally granted rights and duties, there should be no question we have the same authority to protect the most sacred right of every American – to live and participate in a representative republic.

As the Senate considers what the House has done and decides how it will proceed, it is my hope you will look for ways to agree with the House on this matter – that instead of looking for potholes you will look for roads. Of course, there are potholes in the road, and some today will point them out to you. But at its core, the Constitution is a road to guaranteeing liberty and dignity under the consent of the governed. Now is not the time to fail to walk that road.

Thank you again for you time.