

**TESTIMONY OF THE HONORABLE ORRIN G. HATCH
UNITED STATES SENATOR**

Before the

Committee on Homeland Security and Governmental Affairs
United States Senate

Concerning

Equal Representation in Congress:
Providing Voting Rights to the District of Columbia

May 15, 2007

Good morning, Mr. Chairman, Senator Collins, and other Members of the Committee. I appreciate the opportunity to advocate for legislation that would -- for the first time -- give voting representation in the House of Representatives to the residents of the District of Columbia and also add a fourth congressional seat for the State of Utah.

As you may be aware, I have partnered with Chairman Lieberman in drafting the District of Columbia House Voting Rights Act of 2007, S. 1257. This legislation not only rectifies the District's undemocratic political status, but it gives my home state of Utah a long overdue fourth voting member in the House of Representatives.

During the 2000 Census, Utah missed receiving a fourth seat by only 857 people. Valid questions were raised about the methodology of that count, leading most in our State to believe we were not treated fairly. Since then, our population has only grown. Today, the southern city of St. George, Utah, continues to be the nation's fastest growing metro area in the nation. I am confident that our subsequent population growth makes clear that Utah deserves an additional House seat.

During drafting of S. 1257, Senator Lieberman and I worked to resolve what we felt were deficiencies in the House measure. For example, I have constitutional concerns about the House-passed bill, H.R. 1905, because it imposes an at-large seat upon Utah. In states with more than one seat in the House, members are expected to represent insular constituencies. Under H.R. 1905, residents of one state would be represented by two House members, while citizens in other states would have one.

In our constitutional system, states are responsible for elections, and Utah has chosen the approach it wants to take by redistricting. I see no reason for Congress to undermine this and impose upon Utah a scheme it has not chosen for itself. Thus, in the proposed Senate legislation, I insisted that Utah be required to redistrict to provide for the new seat. I believe that Utah's legislators deserve the freedom to determine their representatives' districts without unjustified intrusion or mandate of the federal government.

Also, a key part of the balance in this legislation is a full House member for the District of Columbia. During my Senate service, I have heard from many District residents who believe strongly that their voice should be heard in Congress. They pay taxes, vote in presidential elections, and serve in the military. Yet, more than half a million Americans do not have a full voting representative in Congress. Their elected delegate, while subject to the same restrictions and regulations as other House members, cannot vote in all matters relating to House business and her participation can change as House rules and majorities change. This legislation would end such inconsistency.

America's founders wisely chose not to make the Nation's Capitol one of the nation's constituent states. They also provided for population to be represented in the House and for only states to be represented equally in the Senate. While the District's significant population justifies

representation in the House, it must actually be a state for such equal representation in the Senate. While I believe that the arguments against making the District a state remain compelling, giving the half a million Americans living in the District a full voice in the House is justified.

I understand the argument that congressional representation is dependent on statehood and, therefore, the Constitution would need to be amended before the District is given a voting representative in Congress. While the Constitution does not affirmatively grant District residents the right to vote in congressional elections, it does affirmatively grant Congress plenary power to govern the District's affairs. The Constitution says that Congress may "exercise exclusive legislation in all cases whatsoever, over such district ... as may ... become the seat of the government of the United States." The same provision says that the House of Representatives "shall be composed of members chosen ... by the people of the several states." The question is whether the fact that the District is not a state trumps Congress' legislative authority. Congressional action and judicial precedent throughout American history suggest that the answer is no.

Article I, Section 2, of the original Constitution, for example, said that "direct taxes shall be apportioned among the several states." In 1820, the Supreme Court unanimously held that Congress, exercising its legislative authority over the District, could impose direct federal taxes on District residents. Chief Justice John Marshall wrote that "certainly the Constitution does not consider [the District's] want of a representative in Congress as exempting it from equal taxation." If the word "states" did not prevent Congress from imposing taxes on District residents then, how can it prevent Congress from granting representation to District residents now?

Article III grants the federal courts jurisdiction over controversies "between citizens of different states." Noting that it would be "extraordinary" for courts to be open to citizens of states but not citizens of the District, the Supreme Court unanimously held that Congress may correct this anomaly, and later upheld Congress' decision to do so. If the word "states" did not prevent Congress from granting access to the judicial branch then, how can it prevent Congress from granting access to the legislative branch today?

And even more to the current point, the Supreme Court in 2000 affirmed a lower court decision that while the Constitution does not itself grant District residents the right to House representation, they may pursue that goal in "other venues" including the "political process."

Which brings us here today.

I recognize there are many who strongly oppose this legislation. There are many who wish the District voting rights issue would go away. I must noted that this Democratic-controlled Congress could have simply pushed forward with legislation giving the District of Columbia a seat without balancing a "Democrat" seat with a "Republican" seat. I am pleased that Chairman Lieberman was willing to work in a bipartisan manner.

Indeed, this is a historic time for the citizens of the District of Columbia and a unique opportunity for Utah to receive a long overdue fourth congressional seat. I intend to make the most of it and hope that my fellow Senate colleagues will support me in this endeavor.

Thank you for this opportunity to testify.