

Testimony of
Chris Cannon

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STATEMENT OF
REPRESENTATIVE CHRIS CANNON
Hearing on S.1257, the District of Columbia House
Voting Rights Act of 2007
United States Senate Judiciary Committee
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Members of the Committee: Thank you for inviting me to speak to you today about the District of Columbia House Voting Rights Act of 2007. I strongly support this legislation because it would correct two injustices: It would provide a long-overdue voting representative for residents of the District of Columbia, and it would restore adequate representation for the residents of the State of Utah. I appreciate that some have questioned whether providing District residents the fundamental right to vote is within Congress's power, but I do not share their doubts. There is no historical basis for concluding that the Framers intended to disenfranchise residents of the Nation's capital, and in my view the District Clause of the Constitution gives Congress the necessary authority to restore voting rights to those residents.

Although the crux of the debate regarding this legislation focuses on the DC portion of the bill, let me first speak about the Utah portion. Utah is in the unique position to remedy a wrong imposed on it after the 2000 census. Utah lost out on a 4th seat because of a Census Bureau decision to count and to enumerate to their respective home states government employees residing temporarily abroad, but not to count similarly situated missionaries. Had the Bureau either not counted any Americans residing temporarily abroad, or counted all such Americans and not just those employed by the federal government, Utah would have been awarded a fourth seat after the 2000 census.

This legislation puts Utah on a path to remedy a flawed decision. Although I have some questions about the language in the House legislation that mandated an "at large" seat for Utah, I want to be clear that those concerns were not regarding the constitutionality of an "at large" seat, but rather its effects on state's prerogatives and the historic role of the State in re-apportionment. I appreciate the deference the Senate bill has shown the state of Utah and look forward to working with you on this language as the legislation moves forward.

In order to understand the District portion of this legislation, it is important to take a historical perspective. At the time of our Nation's founding, the Framers provided for a federal district to house the seat of the federal government. This was done to ensure that the nation's capitol would be insulated from undue influence of the states and that its security would not be left in the hands of any one state. Denying District of Columbia residents the right to vote in elections for the House of Representatives was not necessary, or even relevant, to further these purposes. And

contrary to the claims of some, there is no indication in the ratification debates that the Framers intended such disenfranchisement.

In fact, there was no discussion at all during the Constitutional Convention, and almost none in the state ratification debates, as to the voting rights of the new District residents, likely because it was assumed that the states donating the land for the District would provide for the voting rights of the residents of the ceded land. Indeed, from 1790-1800, District residents continued to vote in congressional elections in Maryland and Virginia. It was not until 1800, when the District became subject to complete federal control, that residents of the District lost their voting rights.

The Framers' failure to focus closely on this issue may well have stemmed from the fact that there was no District of Columbia at the time the Constitution was ratified. At that time, the Framers had prescribed only the District's purpose and the limitations on its geographic size. Even its location had not been selected. Many municipalities, including Trenton, New Jersey, Yorktown, Virginia and Reading, Pennsylvania vied for the honor. It was not until Congress passed the Residence Act that the site that is now the District of Columbia was selected as the seat of the federal government. For all the Framers knew, the capital would be located in the middle of an existing state--thereby allowing the residents of the District to continue voting in that state, as residents of federal enclaves do today.

Although they did not perceive a need explicitly to protect District residents' voting rights, the Framers did authorize Congress "[t]o exercise exclusive Legislation in all Cases whatsoever, over such District." As several Constitutional scholars have observed, Congress has used its power under this clause, numerous times, to treat residents of the District as though they were residents of a state. And that has been true even in instances where the Constitution gives rights or imposes responsibilities only on citizens of states. Opponents of this legislation argue, however, that the Framers meant to exclude District residents from voting by providing in Article I, Section 2 that members of the House are chosen "by the people of the several States." But that language was not chosen because of an intention to deny democracy to residents of the Nation's capital. Rather, the ratification debates indicate that this language resulted from two decisions made in the course of those debates: the decision that the House would be elected by the "people of the several States," as opposed to by the state legislatures; and the decision to allow voting qualifications to be set at the state, rather than the federal, level. At no point during the debates over these issues did anyone mention the residents of the newly-conceived federal district--let alone suggest that they would be deprived of the fundamental, individual right to voting representation.

In short, there is no historical basis for reading into the District Clause a limitation that would prevent Congress from ensuring adequate representation for all of the Nation's citizens. This Act ensures adequate representation both in Utah and in the District of Columbia, and it does so constitutionally. I therefore urge you to join me in supporting it.