

Opening Statement of
Senator Susan M. Collins
Committee on Homeland Security
and Governmental Affairs

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

May 15, 2007

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I appreciate the opportunity to hear testimony today on legislation to provide the District of Columbia with representation in the United States House of Representatives. This important issue has a fascinating history.

Recognition of the need for a national capital controlled solely by the national government predates our Constitution.

In January 1783, before there was a fixed location for the national capital, the Continental Congress was meeting in Philadelphia. Revolutionary War veterans gathered outside, aggressively demanding their back pay. Denied protection by Pennsylvania authorities, the members of Congress fled the city. This incident helped form the view that future Congresses should be able to meet on neutral ground under federal control, beholden to no state.

When the Constitutional Convention of 1787 convened, its members took the same view as the Continental Congress on the need for federal control over the seat of national government. In the Federalist Papers, James Madison said the point of "complete [federal] authority at the seat of

government" was to avoid depending for protection on the state in which it sat.

Some speakers at the Constitutional Convention, including Alexander Hamilton, argued that residents of the new federal District ought to have Congressional representation. No such provision was adopted.

The initial impact was not nearly as significant as it is today. When the District officially became the capital in 1800, it had only 14,000 residents, many of whom lived in the section later returned to Virginia.

More than two hundred years later, the District of Columbia is home to more than half a million American citizens. These citizens serve in the armed forces, pay federal taxes, participate in and benefit

from numerous federal programs, and support a local government. Yet they cannot choose a Representative with full voting rights for the House that sits in their midst.

A fundamental point in this issue is that the District is not a state. The Constitution describes the selection and residency of members of the House of Representatives in terms of states. In 1998, the D.C. Circuit concluded that “Constitutional text, history and judicial precedent bar us from accepting [the] contention that the District of Columbia may be considered a state for purposes of congressional representation.”

A proposed structural remedy – a 1978 constitutional amendment to treat the District as a state for purposes of representation in Congress –

failed because only 16 states ratified it before it expired.

Without such an amendment, the Constitution does not expressly supply the remedy sought by many District residents.

But that does not end the debate. The Constitution’s “District Clause” gives the Congress “exclusive” power to legislate with respect to the District. We can apply tax laws to the District. We can grant or withdraw powers of local government. We can send the District’s sons and daughters to war. No state can assert legislative jurisdiction here. That is the meaning of exclusivity.

Our legislative authority in the District, while exclusive, is not boundless. We are constrained by

the language of the same Constitution that made the grant of exclusive legislative authority.

If Congress can constitutionally pass legislation to grant the District a fully empowered member of the House of Representatives, I will gladly support that measure.

If, however, legislation granting the District a voting representative in Congress violates the Constitution, then it will fail as surely as if we attempted to suspend the right of free speech.

So that is the question: Can we constitutionally pass legislation creating a congressional seat for the residents of the District of Columbia? The Constitution, in my judgment, forecloses our legislating Senate representation for the District. It is, after all, not a state. The question of House

representation, however, is less clear-cut. It may pass constitutional muster to provide a population-based House seat even though representation in the Senate would clearly fail to pass constitutional scrutiny.

Our witnesses today will help us understand the constitutional ramifications of these questions. Let me close by making clear that I am sympathetic to the goal of providing representation in the House for the District of Columbia. That seems to me to be a matter of fundamental fairness. I look forward to listening to the experts today on how we can accomplish that goal within the confines of our Constitution.

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