

Yesterday we celebrated the 220th anniversary of the signing of our Constitution, and I talked about it yesterday. In its preamble, our Founders laid out the values to which our Nation has aspired: justice, domestic tranquility, common defense, general welfare, the blessings of liberty. The Government which has endured, our Government, and served us so well, recognized these goals could only be secured by equal representation. That means the right to vote, the right to elect individuals who will protect and promote our personal rights as well as the national interest.

The universal right to vote was established a long time ago with the 15th amendment, which barred discrimination based on race, with the 19th amendment, which guaranteed the right for women to vote, and with the Voting Rights Act, which ensured enforcement of these laws for people no matter their color.

In 1873, Susan B. Anthony faced trial for voting illegally, a woman who voted. In her defense she said:

In the first paragraph of the Declaration of Independence is an assertion of the natural right of all to the ballot; for how can "the consent of the governed" be given, if the right to vote be denied?

Today the right to equal representation is still denied to residents of the District of Columbia. These nearly 600,000 Americans pay Federal taxes, sit on juries, serve in our Armed Forces. Yet they are given only a delegate in the Congress, not a real voting Member. This is nothing more than shadow representation. This injustice has stood for far too long. We haven't voted on this matter for some 50 years. It is time we did that again. Shadow representation is shadow citizenship.

This afternoon we will move to vote on a bill that honors the residents of the District who responsibly meet every single expectation of American citizenship but are denied this basic civil right in return. I commend Senator LIEBERMAN, who has taken the leadership on this issue for no reason or agenda other than he thinks it is the right thing to do.

I urge all my colleagues to vote for cloture so we can guarantee the full rights of citizenship for District residents.

I also urge my colleagues to support reauthorization of the DC College Access Act, which we will vote on this morning. This provides to District students who would otherwise be unfairly disadvantaged by the lack of in-State universities. It provides scholarships to make up the difference between in-State and out-of-State public universities. It doesn't allow any student to get in who is not qualified. It does allow a differential in the method of paying. The DC College Access Act levels the playing field and unlocks the doors to education and all the opportunity it affords to thousands of American students right here in the District of Columbia.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

TODAY IN HISTORY

Mr. MCCONNELL. Mr. President, historians tell us that George Washington's decision to preside over the Constitutional Convention lent instant credibility and respect to the document it produced, and yesterday we recalled the signing of that document upon which this Nation's laws and institutions are firmly built.

Six years later, George Washington would lend his reputation to another enduring work, a white beacon of stone and mortar that inspires us and others around the world more than two centuries later. On this day in 1793, George Washington laid the cornerstone to the United States Capitol. The building would take nearly a century to complete, but the magnificence of the finished product would stand as a testament to the perseverance of generations of Americans, and to the enduring principles it was meant to embody and project. So we pause today to reflect on the many contributions of our first President, not only to this Nation but also to the city that bears his name, not the least of which is this gleaming symbol at its heart.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with Republicans controlling the first 30 minutes and the majority controlling the final 30 minutes.

The Senator from Kansas is recognized.

DISTRICT OF COLUMBIA HOUSE VOTING RIGHTS ACT

Mr. BROWNBACK. Mr. President, I rise to speak on the DC Voting Rights Act today. It is a tough issue. It is one with which I am familiar. I have chaired the DC Subcommittee both on the authorizing and the appropriating side. I have worked in the District of Columbia on a number of different issues. I reside here when I am not in my home State of Kansas. My home is in Kansas, but I have an apartment that is here, so I am living in the District. I have talked with many people about the Voting Rights Act issue. I am sympathetic with the people of the

District of Columbia not having an elected delegate to represent them, although I know very well the lady who is representing them in the House, ELIZABETH HOLMES NORTON, who is an outstanding Representative for the District of Columbia, although she does not have the right to vote on the floor. I have worked with her on many issues to rebuild the family structure in Washington, DC with things such as Marriage Development Accounts. I worked with her on revitalizing the District of Columbia with an economic revitalization bill that passed when I first came into the Senate in 1996. I worked with her and others on the schools in Washington, DC, and the deplorable state of the schools in Washington, DC.

I have worked on all these issues and I am familiar with this issue and the Voting Rights Act of 2007. Yet I cannot support this bill. I can and would support a constitutional amendment allowing the District of Columbia the right to vote in the House of Representatives, but I cannot support this Voting Rights Act. I want to speak here on the floor this morning and outline why I cannot vote for it.

Congress has long recognized we can only grant District residents the ability to participate in Federal elections through constitutional amendment. Congress has recognized that. Prior to 1961, for example, District residents were not permitted to vote in Presidential elections. Article II, section 1 of the Constitution expressly provides that the electoral college should be comprised of electors from each State, in a number equal to the State's combined congressional delegation. In the face of this express constitutional language, Congress recognized that a change in the law would require a change in the Constitution itself, looking at the plain meaning of the statute and the plain meaning of the Constitution. That is why, when we granted DC residents the right to participate in Presidential elections, we went about it the right way, by passing what would become the 23rd amendment to the Constitution, allowing DC residents the right to participate in a Presidential election.

We saw the plain meaning of the Constitution and we did the right thing; we amended the Constitution. Just as article II of the Constitution, which deals with the Presidency, limited the right to appoint Presidential electors to the States, article I, which deals with the Congress, clearly and repeatedly limits representation in the House and the Senate to the States. That is what it says. Article I says that the House: shall be composed of members chosen every second year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

It requires that each Representative: when elected, be an Inhabitant of that State in which he [was] chosen.

It mandated that:
each state . . . have at Least one Representative,
and provides that:

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

Rarely do we have an issue in the Senate that has so much plain language from the Constitution involved. This one has a lot of plain language from the Constitution. I believe in strict construction of the Constitution. I think it would be hard for me to call myself a strict constructionist and say that we can, as a Congress, bypass the clear words in the U.S. Constitution and say we are just going to grant these rights to the District of Columbia to have an elected representative voting in the House of Representatives, even though I support that. That is something we should do, but we should do it the right way by amending the Constitution and not the wrong way by passing a law here that is clearly unconstitutional—and I will go through the court cases that have declared it unconstitutional—and then say: We will let the courts sort it out. I am a Federal officer, sworn to uphold the Constitution. I need to do so in this body and not just say I will hand it off to the courts.

Congressional Democrats in 1978 recognized this fact. That year, Congress passed an amendment giving District residents a voting seat in the House. When the House Judiciary Committee, under the leadership of Democratic chairman Peter Rodino, reported out the amendment, the accompanying report properly recognized that “[i]f the citizens of the District are to have voting representation in the Congress, a constitutional amendment is essential; statutory action alone will not suffice.” Sadly, the 1978 amendment failed to garner the support needed from the States to secure ratification.

We all recognize that amending the Constitution is difficult, but it still remains the right way to deal with something of this nature. I am certainly not alone in concluding that this bill, although well intentioned, violates the plain language of the Constitution. The very court that will hear challenges to this bill under its expedited judicial review provision has previously ruled that District residents do not have a constitutional right to congressional representation.

In *Adams vs. Clinton* in 2000, a three-judge panel of the Federal District Court for the District of Columbia concluded that the Constitution plainly limited congressional representation to the States. The court explained that “the overlapping and interconnected use of the term ‘state’ in the relevant provisions of Article I, the historical evidence of contemporary understandings, and the opinions of our judicial forebears all reinforce how deeply congressional representation is tied to the structure of statehood. . . . There

is simply no evidence that the Framers intended that not only citizens of states, but unspecified others as well, would share in the congressional franchise.”

The District residents who brought suit in *Adams v. Clinton* appealed their case all the way to the Supreme Court, and the Supreme Court affirmed the trial court’s ruling. That is the same court which would hear this case.

When Congress granted the DC and territorial delegates a broader role in the House by allowing them to vote in committee, several House Members sued to challenge the delegates’ expanded power. In *Michael v. Anderson*, the Federal court for the District of Columbia Circuit took care to note that their expanded roles passed constitutional muster only because they did not give the essential qualities of House Representatives to the delegates.

In light of the Constitution’s clear limitation on House membership to representatives from the States, I cannot vote for cloture on the motion to proceed to this bill. I don’t believe we in Congress should act to pass legislation that we know violates the Constitution, essentially passing the buck to the Federal courts to strike down what we never should have enacted in the first place and to strike down what they have already spoken on as recently as 2000. When we neglect our duty to the Constitution, we fail to uphold our oath as Senators to defend this great document.

My friends in the Senate who support this bill rely primarily on two arguments, neither of which outweighs the clear mandate of article II.

First, they claim that another provision in the Constitution, the so-called District clause, allows Congress to essentially grant any sort of legislation related to the District of Columbia, including legislation to give DC residents a voting House Member. This clause permits Congress to pass laws to provide for the general welfare of District residents. This bill, however, does not propose to provide for the welfare of DC residents; it seeks to alter the fundamental composition of the House.

Second, they correctly point out that there are certain instances in the Constitution where references to “citizens of the states” have been interpreted to include District residents. Many of these cases, though, involve individual rights, and it is obvious that DC residents do not lose their rights as citizens of the United States by choosing to live in the District. For example, they retain the right to trial by jury. They may bring civil suits in Federal courts against citizens of other States. This bill, however, is not a bill about individual rights such as the right to free speech, freedom of religion, or due process of law. This is a bill about the makeup of the House of Representatives itself. It is about the delicate balance our constitutional Framers struck in affording representation to

the States in the House and the Senate. It is about the fundamental structure of our Government. We simply cannot override the clear language of the Constitution which limits congressional representation to the States simply by legislative fiat.

While I sympathize with the supporters of this bill, I also take seriously my duty to the law, to upholding the Constitution. I will support and do support a constitutional amendment allowing DC the right to gain the vote. I do not support this bill as I do not believe it to be constitutional under the clear reading of the Constitution and under recent interpretations by the court.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VITTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Louisiana is recognized for 6 minutes.

Mr. VITTER. Thank you very much, Mr. President.

WATER RESOURCES DEVELOPMENT ACT

Mr. VITTER. Mr. President, I rise today to again urge the entire Senate, and particularly the majority leader, to get the WRDA bill, the Water Resources Development Act, onto the floor of the Senate absolutely as soon as possible for passage.

Of course, I represent the State of Louisiana. A little while ago, on August 29, we commemorated—certainly did not celebrate but properly commemorated—the 2-year anniversary of Hurricane Katrina. A little while from now, on September 24, we will similarly commemorate the 2-year anniversary of Hurricane Rita, which devastated southwest Louisiana, South Acadiana, as well as southeast Texas.

Of course, the Nation and this Congress, this Senate, has done an enormous amount with regard to hurricane recovery. But we all know that challenge and that work continues. There is nothing more important with regard to that work, with regard to ensuring good, strong hurricane flood protection in the future—unlike we have had in the past, clearly, in light of Hurricane Katrina—than passing this water resources bill.

As you know, it has gone through every stage of the process except passage on the floor of the Senate. We had a Senate bill. We had a House bill. We had a conference committee. We had deliberations of the conference committee. I was honored to serve on that conference committee and helped finalize the final conference committee report.