

Thomas M. Susman
Director
Governmental Affairs Office

AMERICAN BAR ASSOCIATION
740 Fifteenth Street, NW
Washington, DC 20005-1022
(202) 662-1760
FAX: (202) 662-1762

January 26, 2009

The Honorable Jerrold Nadler
Chair, Subcommittee on the Constitution,
Civil Rights and Civil Liberties
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

The Honorable James Sensenbrenner
Ranking Member, Subcommittee on the
Constitution, Civil Rights and Civil Liberties
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman and Ranking Member Sensenbrenner:

Last week nearly two million Americans gathered in our nation's capital to witness the inaugural ceremony heralding the peaceful transition of our government's leadership--an affirmation and celebration of the strength of our representative democracy. Many of those attending the festivities are unaware that there is a large number of Americans, some of whom were standing among them, that do not enjoy the full benefits of our democracy. In a country that cherishes the principle of a government "of the people, by the people, and for the people," it seems inconceivable that American citizens residing in the capital do not have voting representation in the United States Congress. It is time to correct this injustice. The American Bar Association enthusiastically supports providing congressional voting representation to the residents of the District of Columbia and commends the Committee for moving expeditiously to approve legislation that takes an important step toward accomplishing this goal.

H.R. 157, the District of Columbia House Voting Rights Act of 2009, would establish the District of Columbia as a Congressional district for purposes of representation in the House of Representatives. Legislation similar to H.R. 157 was approved by the House by a bipartisan vote in 2007. It would provide one voting seat in the House for the District of Columbia and an additional House seat for the state that would have been next in line according to the last Census, the state of Utah. This bill is a product of years of cooperative effort and carefully considered compromise to ensure that the goal of giving D.C. residents their right to voting representation in the House is accomplished by a mechanism fully consistent with our Constitution and is implemented in a manner that does not disadvantage any citizen or state.

For over two hundred years, residents of our nation's capital have been disenfranchised. Residents of the District of Columbia pay taxes and are subject to the military draft and the laws of our nation. Yet they are not allowed to select voting members of Congress to represent their views in determining the formulation, implementation and enforcement of those laws. This violates a central premise of representative democracy and the ideal, voiced by Thomas Jefferson, that governments "derive their just powers from the consent of the governed."

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This not only is contrary to our own system of representative government, it also undermines our leadership in promoting the international rule of law and democratization. The United States is the world's only democratic nation that does not grant citizens of its capital voting representation in the national legislature. Our nation is devoting significant resources to promoting representative democracy abroad, and yet we have more than 500,000 American citizens residing in the District of Columbia who are not afforded that right at home. Depriving a sizeable segment of our own population of the fundamental right to voting representation undermines the U.S. message of equality under the law.

There has been an ongoing debate regarding the appropriate mechanism by which voting representation in Congress for the District of Columbia may be established. The American Bar Association concurs in the conclusion reached by numerous constitutional and legal experts that Congress has the authority to provide voting representation in the House of Representatives to residents of the District of Columbia under the "District Clause" of the Constitution (U.S. Const. art. I, § 8, cl.17). We would be pleased to provide the Committee with further analysis on this subject at your request.

Some have stated that this issue is a matter of politics; the ABA believes it is a matter of principle. Congress should use its constitutional authority to provide the citizens residing in our capital the fundamental right to voting representation in the House. It is within Congress' power to correct this longstanding inequity, and we urge you to work toward enactment of H.R. 157 or similar legislation as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas M. Susman", with a long horizontal flourish extending to the right.

Thomas M. Susman