



**STATEMENT OF  
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**HEARING ON H.R. 51, THE “WASHINGTON, D.C. ADMISSION ACT”**

**UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON OVERSIGHT AND REFORM**

**MARCH 22, 2021**

Chairwoman Maloney, Ranking Member Comer, and members of the Committee: I am Wade Henderson, interim president and CEO of The Leadership Conference on Civil and Human Rights. I appreciate the opportunity to speak before you today regarding The Leadership Conference’s strong support for providing voting rights and self-governance to the District of Columbia, and for H.R. 51, the Washington, D.C. Admission Act, in particular.

The Leadership Conference on Civil and Human Rights is the nation’s oldest and most diverse coalition of civil rights organizations. Founded in 1950 by Arnold Aronson, A. Philip Randolph, and Roy Wilkins, The Leadership Conference seeks to further the goal of equality under law through legislative advocacy and public education. The Leadership Conference consists of more than 220 national organizations representing persons of color, women, children, organized labor, people with disabilities, older Americans, the LGBTQ community, immigrants, and major religious groups. I am privileged to represent the civil and human rights community in submitting testimony for the record to the Committee – and I want to express my strong gratitude to you for today’s hearing and also for your support over the years in the effort to give D.C. residents a meaningful voice in Congress.

In organizing legislative hearings such as this, I know that it is common to distinguish between expert witnesses, on one hand, and affected individual witnesses, or what congressional staffers sometimes refer to as “victims,” for lack of a better term, on the other. Interestingly enough, I feel as though I can speak before you today in both capacities. With my twin roles in mind, I would like to proceed by discussing what I see as the two basic, fundamental questions that have brought us here today: First, why this issue? And second, why this approach?

**Why This Issue?**

In answering the first question, I would like to begin on a personal level. As a lifelong civil rights advocate, I have always spoken out on Capitol Hill on behalf of the rights of all people. As many of you on this Committee who I’ve had the pleasure of working with know, I have strived to do so on a nonpartisan basis. Throughout the course of my career, I have been fortunate to see changes that have made the nation a better, stronger place – and one that is more aligned with its founding principles. We continue to break down barriers to equality and opportunity for Americans from all walks of life, and now



more than ever, our government at all levels continues to more closely reflect the make-up of our great nation.

I have seen great progress in the District of Columbia as well. When I was born in the old Freedman's Hospital on Howard University's campus, the city's hospitals were segregated along racial lines by law. That is no longer the case.

Bloomingdale, where I grew up and where I now own a home, was once an all-Black neighborhood by law and by custom. Today, however, people of all races and from all around the world live in the area as my neighbors and friends. Gone, too, are the remnants of the system of *de jure* separate schooling that sent me to an all-Black elementary school, despite the fact that I started grade school after the landmark ruling in *Brown v. Board of Education* had officially outlawed racial segregation.

Yet one thing still has yet to change for me as a lifelong resident of Washington: In spite of all the progress we have seen, and in spite of all my efforts to speak out on Capitol Hill on behalf of other Americans, I have never had anyone meaningfully represent me on Capitol Hill. For more than 200 years, my hundreds of thousands of neighbors in this city and I have been mere spectators to our democracy. Even though we pay federal taxes, fight courageously in wars, and fulfill all of the other obligations of citizenship, we still have no voice when Congress makes decisions for the entire nation on matters as important as war and peace, taxes and spending, health care, education, immigration policy, or the environment.

And while we D.C. residents have long understood the unique nature of our city in the American constitutional system, and we recognize Congress' expansive powers in operating the seat of our federal government, we are not even given a single vote in decisions that affect D.C. residents and D.C. residents alone. Without as much as a single vote cast on behalf of D.C. residents, Congress decides which judges will hear purely local disputes under our city's laws, can overrule how local tax revenues will be spent, and has even tried to micromanage the appropriate penalties for minor, nonviolent legal offenses.

In just the past year, D.C. residents have been subjected to several particularly humiliating reminders of our second-class status in our democracy. Last March, when Congress passed the CARES Act, it shorted the District by \$755 million in COVID-19 assistance because it treated the District as a territory rather than as a state – despite the fact that its residents pay federal taxes just like the residents of every other state. Last summer, the former administration called in federal law enforcement officers and National Guard troops from other states to disrupt largely peaceful protests against police brutality and racism, including violently clearing a D.C. street in order to allow for a presidential photo op. And on January 6, the same administration dragged its heels for hours before finally deploying the D.C. National Guard to quell the deadly attack on the U.S. Capitol.

It is enough to make people feel like dumping crates of tea into the Potomac River.

From a broader civil and human rights perspective, the continued disenfranchisement of D.C. residents before Congress continues to stand out as the most blatant violation of the most important civil right that Americans have: the right to vote. Without it, without the ability to hold our leaders accountable, all of our other rights are illusory.



Our nation has certainly made tremendous progress throughout history in expanding this right, including through the 15<sup>th</sup>, 19<sup>th</sup>, and 26<sup>th</sup> Amendments to the U.S. Constitution; and in the process, it has become more and more of a role model to the rest of the world. The Voting Rights Act of 1965 has long been the most effective law we have to enforce that right, and it has resulted in a Congress that increasingly looks like the nation it represents. Its overwhelmingly bipartisan renewal in 2006, including a unanimous vote in the Senate and only token resistance in the House, stands out as one of Congress' finest moments in many years.

In spite of this progress, however, one thing remains painfully clear: The right to vote is meaningless if you cannot put anyone into office. Washingtonians have been deprived of this right for more than two centuries – often on grounds that had nothing to do with constitutional design, and everything to do with race<sup>1</sup> – and remain so today. Until D.C. residents have a vote in Congress, they will not be much better off than African Americans in the South were prior to August 6, 1965, when President Johnson signed the Voting Rights Act into law – and until then, the efforts of the civil rights movement will remain incomplete.

The situation will also undermine our nation's moral high ground in promoting democracy and respect for human rights in other parts of the world. Indeed, the international community has taken notice. In December of 2003, for example, a body of the Organization of American States (OAS) declared the United States in violation of provisions of the American Declaration of the Rights and Duties of Man, a statement of human rights principles to which our nation subscribed in 1948.<sup>2</sup> In 2005, the Organization for Security and Cooperation in Europe, of which we are a member, also weighed in. It urged the United States to “adopt such legislation as may be necessary” to provide D.C. residents with equal voting rights.<sup>3</sup> A decade later, OSCE once again drew attention to the fact that D.C. residents still had no representation in Congress.<sup>4</sup>

Extending representation to D.C. residents is one of the highest legislative priorities for The Leadership Conference, and for me on a personal level as a D.C. resident myself. It will remain so until it is achieved.

### **Why this Approach?**

Before turning to a discussion of H.R. 51, I must say that I come before this Committee today with a great deal of frustration. For decades, D.C. residents like me have urged Congress to provide us with the same rights in these halls that all other Americans enjoy. Indeed, this is my fifth time testifying on the issue

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<sup>1</sup> For example, Sen. John Tyler Morgan (D. Ala.) explained in 1890 that Congress had replaced D.C.'s locally-elected government with a board of three presidentially-appointed commissioners “to burn down the barn to get rid of the rats... the rats being the negro population and the barn being the government of the District of Columbia,” 22 Cong. Rec. 165 (1890) (cited in Brief for the District of Columbia as Amicus Curiae in Support of the Plaintiffs, *Castañon v. United States*, Civ. No. 18-2545 (D. D.C. 2019), available at <https://oag.dc.gov/sites/default/files/2019-06/Castanon-v-US-Amicus.pdf>).

<sup>2</sup> Inter-American Commission on Human Rights, *Statehood Solidarity Committee/United States*, Report No. 98/03, Case 11.204 (Dec. 29, 2003).

<sup>3</sup> OSCE Parliamentary Authority, *Washington, D.C. Declaration and Resolutions Adopted at the Fourteenth Annual Session* (July 1-5, 2005).

<sup>4</sup> OSCE, *International Election Observation Mission: United States of America – General Elections*, 8 November 2016, Preliminary Conclusions, p. 5, at <https://www.osce.org/files/f/documents/a/2/280331.pdf>.



since 2004 – and in one of those hearings, in 2007, I was especially honored to sit alongside my friend the late Secretary Jack Kemp who, as always, spoke eloquently and thoughtfully about the need for Congress to correct “this unique historical injustice.”<sup>5</sup>

Yet despite our best efforts, nothing has changed. The last time Congress took up the issue of D.C. representation in a bipartisan way was in the 111<sup>th</sup> Congress, in the form of a bill championed by former Rep. Tom Davis (R. Va.) to provide D.C. with a voting House member and to give Utah an additional House seat. Those of us who supported it even went so far as to accept an amendment by then-Senator John Ensign (R. Nev.) that repealed most of D.C.’s firearm laws, even though the amendment undermined the very principles that lay at the heart of the bill. But rather than allow that compromise to pass into law, opponents snatched defeat from the jaws of victory by proposing drastic last-minute changes to the gun amendment that they knew the city could not possibly accept. A decade later, more than 700,000 District residents are still left without any meaningful voice.

That said, I am very grateful to you, Chairwoman Maloney, Congresswoman Norton, and your colleagues who have continued bringing the attention of Congress back to this issue. As our nation continues our efforts to promote our values abroad, we must always be mindful of the fact that democracy begins at home. I believe the enactment of H.R. 51, the Washington, D.C. Admission Act, would finally resolve this glaring inconsistency in our system of government, and it would bolster our moral authority around the world at a time when it is so profoundly important.

H.R. 51 would establish a process for the current District of Columbia to be admitted as our nation’s 51<sup>st</sup> state. It would call for the election of a representative and two senators to Congress. Pursuant to Article I, Section 8 of our Constitution, H.R. 51 would also define the seat for our federal government as an area including the White House, the Capitol, the Supreme Court, and many other federal buildings. The United States would retain title to federal buildings and properties that lie outside of the federal enclave. H.R. 51 also provides for the transfer of legal proceedings from the current District to the state of Washington, Douglass Commonwealth, where appropriate, and defines the legal relationships between the new District and the new state. Because some current D.C. residents would still reside within the new District, H.R. 51 would allow them to vote in and be represented by the state of their most recent domicile. Finally, it would set in motion a process to repeal the 23<sup>rd</sup> Amendment.

I know that several other witnesses will discuss some of the constitutional and financial issues, respectively, surrounding the creation of Washington, Douglass Commonwealth, and I am happy to defer to their expertise. But because the issue of repealing the 23<sup>rd</sup> Amendment has been such a significant part of discussions around D.C. statehood, I would like to briefly chime in on that point here. In short, opponents of D.C. statehood have argued that Washington, Douglass Commonwealth cannot properly be created through the legislative process alone.

While I believe that nothing in the Constitution precludes Congress from creating a state out of the existing District of Columbia, the existence of the 23<sup>rd</sup> Amendment – which now provides D.C. residents with three electoral votes in presidential elections – does indeed create an important practical consideration. Because a very small number of voters would still reside in the new federal enclave, leaving the 23<sup>rd</sup> Amendment intact would leave them with a disproportionately large influence in

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<sup>5</sup> Hon. Jack Kemp, Testimony before U.S. Senate Committee on Homeland Security and Governmental Affairs, May 15, 2007, at <https://www.hsgac.senate.gov/imo/media/doc/051507Kemp.pdf>.



presidential elections under its provisions. These three electoral votes, of course, would be in addition to those the State of Washington, Douglass Commonwealth would be entitled to following its creation.

I certainly agree that the 23<sup>rd</sup> Amendment should be repealed upon the creation of Washington, Douglass Commonwealth, and that this of course would have to be done through the regular process by which we amend our Constitution. But to opponents of statehood who have relied on this as an argument in the past,<sup>6</sup> I have to ask: So what? I do not see this repeal as a particularly difficult proposition for lawmakers. In fact, I find it nearly impossible to fathom that any lawmakers, either in Congress or in the states, would stand in the way of repealing the 23<sup>rd</sup> Amendment if the question were put before them, as the failure to repeal it would only dilute their own states' electoral votes in presidential elections, to the benefit of a tiny handful of voters who remained in the federal enclave.

Having touched on one objection raised by opponents of D.C. statehood, I would like to touch on several others. The most oft-repeated objection of late is that D.C. statehood is simply a “power grab” by the majority party to advance its legislative agenda.<sup>7</sup> Such critics never really explain why they feel their party cannot compete for the votes of D.C. residents. It is not really my place to advise them. I would suggest, however, that blithely dismissing the 700,000 residents of D.C. as little more than “members of the media and... bureaucrats and lobbyists,”<sup>8</sup> as one senator did last year, is not a particularly helpful way for any party to engage them.

We have also heard calls for retrocession, or returning most of the current District of Columbia to Maryland, as an alternative to statehood. Putting aside the fact that Maryland has expressed no interest in taking back any or all of the District of Columbia, retrocession would raise many of the same practical issues that opponents of H.R. 51 are attempting to raise against D.C. statehood, because the map of the federal enclave would effectively be the the same under either approach. Indeed, just before calling for retrocession as an “obvious compromise,” Senator Tom Cotton (R. Ark.) contradicted himself by arguing that “We don’t need a city under the control and wholly dependent on another state – whatever that state may be, a new state of Washington or the state of Maryland, which has a Republican governor – for its power, for its water, for its communications, for its national guard.”<sup>9</sup> The truth is that retrocession is a smoke screen. For all we hear about it from opponents of statehood, we have yet to see its proponents undertake any serious effort to accomplish it.

The same is true of those who have argued that D.C. statehood would require a constitutional amendment. It would not. And again, we have yet to see any meaningful bipartisan effort to advance such an approach.

I realize that there will be a number of constitutional and practical questions that will be discussed today about the creation of Washington, Douglass Commonwealth and a separate federal district. As we

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<sup>6</sup> See, e.g., Pate, R. Hewitt, *D.C. Statehood: Not Without a Constitutional Amendment*, Lecture #461 on Political Thought, Heritage Foundation (Aug. 27, 1993), available at <http://www.heritage.org/research/lecture/D.C.-statehood-not-without-a-constitutional-amendment>

<sup>7</sup> See, e.g., Sens. Lindsey Graham (R. S.C.), Tom Cotton (R. Ark.), Steve Daines (R. Mont.), Press Conference on D.C. Statehood, U.S. Capitol, July 1, 2020, at <https://youtu.be/ocPZf7nUOKY>.

<sup>8</sup> Sen. Tom Cotton (R. Ark.), (responding to a reporter question about the ability of Republicans to win over the votes of the people who live in Washington, D.C.: “Well I will admit that Republicans don’t do well with members of the media, and with bureaucrats and lobbyists”), *Id.*

<sup>9</sup> *Id.*



undertake that discussion, I would urge the Committee to consider this: Given the principles on which the bloody struggle for our nation’s independence was based, it is likely that our Founding Fathers, were they alive today, would have wanted Congress to have extensive leeway to prevent the evil of “taxation without representation” from ever being imposed on American citizens again. In fact, given the current size of the District of Columbia’s population, combined with the second-class political status of its residents today, I believe they most likely would be horrified that Congress did not address the situation a long time ago.

Ultimately, I believe that the creation of a new state, as proposed in H.R. 51, is the approach to this issue that moves us closest to the ideals for which our Founders fought. It extends to citizens not only full representation in Congress, but unlike some other proposals that have been considered in the past, it also extends the dignity of self-governance to which all human beings are entitled. I am grateful that you have brought it up for discussion today, and I look forward to working with you to make it a reality. Thank you for inviting me to speak before your Committee today.