

TESTIMONY BEFORE THE U.S.
SENATE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS

BY

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I am honored to be testifying before this prestigious and critically important committee whose Chairman Joe Lieberman and Ranking Member Susan Collins are such outstanding leaders in this Senate, their states, and our nation. I would like to thank the many people who have contributed to getting this legislation to the cusp of reaching President Bush's desk, Tom Davis, Eleanor Holmes Norton, and DC Vote who alongside the Leadership Council on Civil Rights have brought together a diverse coalition of support from both political parties to advocate a creative solution to this unique historical injustice.

I am not here as a Constitutional scholar, nor did I serve in the Congress as an economist, but that never stopped me from standing up to speak on behalf of sound policy. I believe that the legislation quite accurately addresses two injustices, the first being that US citizens of the District of Columbia pay taxes, serve in the military, have access (as only citizens of the "different states" do) to federal courts through diversity jurisdiction, but do not have the full representation of one Member of the House of Representatives determined by population. The second injustice is that Utah, resulting from its significant growth quickly passed the threshold for another seat in the House of Representative soon after the 2000 census. Therefore, American citizens living in both Utah and the District of Columbia were not fairly represented in the House of Representatives.

The DC voting rights struggle is a great civil rights challenge facing our nation. The nearly 600,000 people living in America's capital have no vote on issues of war and peace, taxes and spending, and foreign policy. Washington DC, according to the 2000 U.S. Census, has an African-American majority of residents. Given our troubled history with race relations in this country, this fact alone should propel us to make sure that race has no part of why DC residents remain disenfranchised.

My passion on this issue stems from the great history of our nation and the Republican Party, which finds itself with a historic opportunity to showcase our progressive philosophy best exemplified in the leadership of President Abraham Lincoln.

Let me address my own party for a moment; do we want as Republicans to be recorded with Mr. Lincoln and Frederick Douglass or those who used the Constitution to deny freedom, property, education, and the vote to African Americans for almost 200 years?

Don't forget it was a Republican President, Abraham Lincoln who issued the Emancipation Proclamation in 1863. It was a Republican Congress that overrode a Presidential veto and helped finance the Freedmen's Bureau in 1866 out of which emanated the great historical black college, Howard University. Howard University was first chartered and funded by a Republican Congress.

It was a Republican President, Ulysses S. Grant who sent federal troops to the deep south in 1870 and 1871 to guarantee the voting rights of emancipated blacks and to break up the KKK.

It was a Republican President, Dwight D. Eisenhower who sent federal troops to Arkansas to integrate public schools in 1957.

It was a Republican Congress in 2006 which helped pass the historic extension of the Voting Rights Act of 1965 and was signed into law by President Bush.

So now to my Republican friends in the Senate, you've sent members of the Army, Navy, Marines and Air Force from this capital city to Baghdad and Kabul to expand democracy in the those capitals, now you need to ask yourselves the question, which side of history do you want to be on when it comes to democracy for this great nation's capital?

Some political leaders have used the Constitution to deny the vote to women, segregate the races in schools, housing, sports and public accommodations. Don't say it's unconstitutional, if there is any doubt, if you have a question let it be adjudicated by the Supreme Court on an expedited basis.

In my opinion, White House advisors are putting the President of the United States in the position of outspoken opposition to expanding the democratic ideal here in the nation's capital, while simultaneously the White House argues the President has the constitutional authority to defend freedom and extend democratic rights to the people of Baghdad and Kabul.

Throughout our nation's history, the District of Columbia's citizens have given the full measure of their allegiance to the United States. They have fought in, and some have died, in every war in which the United States was engaged; they have paid billions in taxes; and they have provided labor and resources to the US economy and government, yet for over 200 years, District residents have been bystanders in the governance of their own destiny.

With regard to the constitutional arguments, my friend and one of the leading conservative lights in the US House of Representatives, Mike Pence of Indiana wrote, "Opponents of D.C. Voting understandably cite the plain language of Article I that the House of Representatives be comprised of representatives elected by 'the people of the several states', If this were the only reference to the powers associated with the federal city, it would be most persuasive but it is not. Article I, Section 8, Cl. 17 provides, 'The Congress shall have power...to exercise exclusive legislation in all cases whatsoever' over the District of Columbia.

Justice Antonin Scalia observed in 1984, that the Seat of Government Clause of the Constitution, gives Congress "extraordinary and plenary" power over our nation's capital. Scalia added that this provision of the Constitution "enables Congress to do many things in the District of Columbia which it has no authority to do in the 50 states...There has never been any rule of law that Congress must treat people in the District of Columbia exactly the same as people are treated in various states". *United States v. Cohen*, 733 F.2d 128, 140(D.C. Cir. 1984)." Pence courageously and wisely, as well as 21 other

Republicans, voted yes against White House wishes and sadly those of the GOP leadership.

Chief Justice John Marshall acknowledged in the early 19th century that “it is extraordinary that the courts of the United States, which are open to aliens, and to the citizens of every state in the union, should be closed upon [District citizens]. But, he explained, “this is a subject for legislative, not for judicial consideration.” Chief Justice Marshall thereby laid out the blueprint by which Congress, rather than the courts, could treat the District as a state under the Constitution for the purposes of enfranchisement.

Neither I, nor Tom Davis nor Mike Pence are arguing for the District of Columbia to become a state. From the inception of our nation the founders believed the House of Representatives was the House of the people and I believe passionately that the architects of the American Constitution left us the tools to ensure that all American people should have a voice and vote in the “people's house.”

Republicans have historically supported civil, human, and voting rights, including passage of the 13th, 14th and 15th Amendments. There is a great history of bipartisan support for civil rights, but it was our Presidential candidate in 1964 that refused to take a stand for civil rights and social justice for African Americans. My question is, do Republican Senators want to continue the legacy of Lincoln, Grant and Eisenhower, or that of Barry Goldwater in 1964. Goldwater was not a racist, but in his campaign in 1964, he voted against the civil rights act on constitutional grounds and cost the GOP sadly, the friendship and support of millions of black voters who were sympathetic and friendly to the party of Lincoln and Frederick Douglas. The GOP has received single digits of black support ever since. What a pity for the country and the African American community.

I'm concluding with Professor Viet Dinh's testimony to the House Committee on Government Reform in November of 2004, “The right to vote is regarded as ‘a fundamental political right, because preservative of all rights. Such a right ‘is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.’ Given these considerations, depriving Congress of the right to grant the District Congressional representation pursuant to the District Clause thwarts the very purposes on which the Constitution is based. Allowing Congress to exercise such a power under the authority granted to it by the District Clause would remove a political disability with no constitutional rationale, give the District, which is akin to a state in virtually all important respects, its proportionate influence in national affairs, and correct the historical accident by which District residents have been denied the right to vote in national elections.”

To do anything less than passing this DC Voting Rights Bill is to confine the Party of Lincoln, Douglass, Eisenhower, Ronald Reagan and George H.W. Bush to a minority status in perpetuity among people of color. I was not in Selma, AL in 1965 on the Edmund Pettus Bridge, but I am here today with you addressing what I consider a similar

injustice with an opportunity to improve our great democratic experiment that is the United States of America.

Thank you.