Testimony of

Paul Strauss

United States Senator

District of Columbia (Shadow)

before the

United States Senate

Committee on Homeland Security & Governmental Affairs

Regarding

"**Equality for the District of Columbia: Discussing the Implications of S. 132, the New Columbia Admission Act of 2013"**

3:00pm - September 15, 2014

Dirksen Senate Office Building

Rm. 342

Chairman Carper, Ranking Member Coburn, and members of the Homeland Security and Governmental Affairs Committee, I am Paul Strauss, the third-term United States Senator elected by the voters of the District of Columbia, a position sometimes referred to as the Shadow Senator.

I want to thank the Committee for holding this hearing, and giving me a chance to speak on behalf of my constituents, many of whom are in this room with us today. Permitting me, and my colleague Senator Brown to address you today is indeed a historic occasion, but certainly not without precedent.

While Shadow Senators most recently have been associated with the District of Columbia's efforts for full equality and Statehood, they have been an integral part of U.S. Senate History. The term "shadow" originates from the common Parliamentary practice by an opposition party to form a cabinet in waiting, complete with shadow Ministers, etc. The first "Shadow" or "Senators in waiting" date back to the 4th Congress back in the late 18th Century. Following an unsuccessful attempt to secure admission to the union for the State of Franklin, the residents of the "Southwest Territory", decided to try a new strategy which ultimately resulted in the state of Tennessee.

In 1796, William Blount and William Cocke from Tennessee became the nation's first Shadow Senators, elected without any authority from the Senate by their Territorial legislature following a State Constitutional Convention. With lack of clear precedent on how to admit new states to the Union, Senator Blount and Senator Cocke were given seats on the Senate floor until Tennessee was accepted into the Union.[1]

In 1835, when Michigan's entry to the Union was stalled by opposition from Southern Senator's due to its being a non-slave state, the Territorial Legislature sent shadow or "Senators-elect" Lucius Lyon and John Norvell to Washington to advance the cause of Michigan's Statehood. Although unlike Tennessee's Shadow Senator's, they were not assigned seats on the floor. Michigan's admission into the Union was finally secured in 1837. The U.S. Senate did not require a re-election of those previously elected Senators-elect, and on the very day Michigan became a State in 1837, the two shadow Senators presented their Credentials and took the Oath of Office that same day, not withstanding the fact that their election by the Michigan legislature had taken place almost two years before Statehood.[2]

California's petition to enter the Union as a Free State also resulted in contentious debates amongst slave states Senators. However, Senators-elect William M. Gwin and John C. Fremont were permitted to take their seats upon California's admission to the union as a result of the Compromise of 1850. Despite strong opposition from then Senator Jefferson Davis of Mississippi, who alleged that because they were elected before California was a state, their credentials should be rejected, they were both

[1] See generally, "Shadow Senators," Memorandum Report October 9, 1990, Jo Anne McCormick Quatannes, U.S. Senate Historical Office.
[2] Id.

ultimately permitted to take their seats when Davis's motion to refer the matter to the Judiciary Committee failed by a 12 to 36 vote. [3]

In Minnesota's case, James Shields and Henry Rice were not seated and sworn by the Senate until May 12, 1858, despite being elected the prior year. Senators Joseph Lane and Delazon Smith were elected by the Oregon Legislature in July of 1858, but Statehood for Oregon was not achieved until the following legislative session, with Oregon being admitted February 14, 1859.[4]

In more recent examples, with heir election in 1956, the Territory of Alaska was represented in the Senate by Shadow Senator's Ernest Gruening and William A. Egan. Alaska's Shadow Senators were also the first Shadow Senator's elected directly by the people of their territory following the passage of the 17th Amendment. Alaska was also the first Territory to elect a shadow US Representative, in addition to a Territorial delegate to round out their Congressional delegation. Prior to its admission to the Union, the Alaska Shadow Congressional delegation served as advocates for Alaska's Statehood. Senator Gruening is, I believe the only Shadow Senator to be recognized with a Statue in Statuary Hall. For his personal efforts at ending racial segregation in Alaska back in the 1940's, and securing full equality for his constituents through Statehood, Senator Gruening is a personal hero of mine.

I had the privilege of succeeding Rev. Jesse Jackson, and Senator Brown follows Senator Florence Pendleton, the first 2 US Senator's elected by DC's voters. As the 15th and 16th shadow United States Senator's respectively, and with due appreciation to the historic nature of this hearing, we truly appreciate the opportunity to provide this statement on behalf of my constituents in the District of Columbia, in support of S. 132, the New Columbia Admissions Act of 2013.

It has long been recognized by many that the American citizens who reside in their nation's capital, suffer from two great injustices. First, we are denied equal suffrage in the national legislature, and second we lack self- determination over our own affairs. Admitting the District of Columbia as a State solves both of these problems. In addition to providing equal rights to Americans who deserve them, it is a remedy which is fully constitutional, legally appropriate, and perhaps most important, morally right.

The residents of the District of Columbia have long been striving to achieve full citizenship status, which includes both the need for full Federal Representation and Self-Determination, an injustice which this legislation would address. Residents are stripped of their basic democratic rights, namely, the fact that although DC residents pay federal taxes, they lack the same federal representation as other tax paying American citizens.

While the full payment of Federal income taxes is often and rightly highlighted as a special injustice imposed on the citizens of the District of Columbia, it must be remembered that all other obligations of citizenship are met by my constituents. From

[3] Id.
[4] Id.

Military service, to civil service, to Jury service, DC residents are full participants in American civic life.

It is unfortunate that equality for an estimated 646,449 US citizens generally receives too little attention from this body. To have this manifest injustice opposed by some on an overtly partisan basis without due regard to the fundamental rights of my constituents is an outrage. Although this issue has been reduced to a battle between differing parties, let us be clear. This is not a partisan issue. This is an issue of American democracy, and a representation of our federal government's respect for democratic values.

I am suspicious of those who claim to support equality for the District, but oppose this bill as a remedy, because of the argument that the District shouldn't be a state because historically, it was only meant to be the seat of the Federal government. If my fondness for history is not apparent from the lengthy first part of this statement, let me remind you. Among the historical aspects of our constitution were enshrined the institution of slavery, lack of rights for women, and a host of other injustices, now corrected by Constitutional amendments, and more commonly appropriate interpretation by independent judicial review.

Contrary to some critics of the bill, redrawing the boundaries of the national Seat of Government, does not conflict with the historical intent of the Constitution's District Clause but in fact brings the Seat of Government into conformity with a vision that in reality more closely resembles the original intent of the framers.

Anyone who spends a great deal of time in the District of Columbia is well aware that there is a distinct and separate "National Capital Service Area", where the Federal government maintains it's own lands, protects itself with it's own police forces and collects no DC sales taxes on transactions within its borers. While this bill addresses the need to resolve any ambiguity regarding the 23rd Amendment, few, if any, people reside within the borders of that federal enclave jurisdiction with the conspicuous exception of one prominent family who last time I checked actually voted in Illinois

The misguided view that DC exists primarily as an area to house federal representatives of the United States, is no longer sustainable. The District of Columbia has over 646,000 residents, and according to the 2013 US Census Bureau report the District of Columbia is the fifth fastest growing metropolitan area in the United States. From 2012 to 2013, the District grew by 87, 265 residents[5] and this trend shows no signs of abating.

At the same time DC's residential population continues to grow exponentially, the presence of the Federal government in Washington continues to decrease. We are no longer home to the Walter Reed Medical center, and Federal agencies have been making a steady exodus from the District of Columbia for the past thirty years. Even the FBI is soon re-locating out of the District of Columbia. If Congressional control is so important to the Federal government's ability to protect its interests, why do so many of our

[5] The 10 Metro Areas with Largest Numeric Increase: July 1, 2012 to July 1, 2013
http://www.census.gov/newsroom/releases/pdf/CB14-51_countymetropopest2013tables.pdf (Appendix A)

sensitive institutions exist comfortably and without interference in so many fully sovereign states? Whatever issues we may have with the functioning of the Pentagon, CIA, NSA, no one seems to suggest that their placement in the Commonwealth of Virginia adversely impacts the important federal functions that they serve. Although the smaller Federal District will still have the majority of Federal buildings, the mere fact that some will be housed in the new State should be of no more concern than the existence of Federal buildings in all 50 states. Similarly, while many Embassies will also now be in the new State, most nations maintain diplomatic property such as Consular offices in other States around the nation. New York in particular is home to U.N. Embassies and international Consulates, and no one has suggested that the democratic rights of that State's citizen's ever needed to be curtailed in the name of World diplomacy.

The idea that DC's economy is a product of the Federal presence is also a fallacy. Expanding investments in Information Technology and private sector investments continue to strengthen our ability to function as an independent economic entity regardless of the Federal public sector investment. If anything, the uncertainties of the cumbersome and poorly functioning Federal appropriation process often lead to greater harm to DC's budget. The almost total shut down of our local budget during the Federal shut down was an ominous hardship which only underscored the importance of an autonomous budget process, something accomplished by this bill.

DC Statehood is fully constitutional. One of America's foremost constitutional scholars, Professor Jamin B. Raskin, addresses the historical and Constitutional legal concerns of DC's status in his pre-eminent law review article *Is This America? The District of Columbia and the Right to Vote*[6]. This comprehensive survey of the relevant legal precedents and constitutional issues is one of the pre-eminent scholarly works on the subject of District of Columbia equality, and I ask the Committee's consent to make it an exhibit in the record of this hearing.

The District has a growing population comparable to several other states and more residents than Wyoming. DC residents pay more federal taxes per person a year than residents of every other state, has lost more residents in our nation's wars than twenty other states, and functions as the legal equivalent of a State for the majority of our nation's laws. Yet, since the passage of the Organic Act in 1801, when it comes to the basic rights of federal representation and legislative autonomy we are treated as separate and un-equal without the basic rights we deserve.

In my time as a Senator for the District of Columbia, I have advocated for various solutions to rectify these injustices. For example, in 2002 I offered my testimony before this very committee on the more limited issue of Voting Representation in Congress for

[6] Jamie Raskin, *Is this America? The District of Columbia and the Right to Vote*, Harvard Civil Rights-Civil Liberties Law Review, Vol. 34, No. 1, Winter (1999) (Appendix B)

Citizens of the District of Columbia[7] However, the bill that we have before us, the New Columbia Act of 2013, fully addresses the issues the District faces with its lack of autonomy, and preserves the District of Columbia as the federal seat of the United States government by reducing the seat only to those areas which should be considered Federal land. This addresses the concerns of the District in having autonomy, statehood, and representation, while at the same time addresses the concerns of those who recognize the appropriateness of Federal control of the Seat of Government, while realistically addressing the actual boundaries of where the borders of the Federal District really are.

The struggle for statehood, representation, and autonomy has been ongoing since the creation of the District of Columbia. Over the past 200 years, obstacle after obstacle has been presented in opposition to granting District residents the same basic rights as their fellow Americans for no defensible reason. As we are all Americans, there is no defensible justification as to the reasoning behind why Congress continuously prevents the District's full participation in the democracy which Americans all over the nation enjoy. Year after year our request for the same rights as our fellow countrymen is responded to with senseless arguments and justifications as to why the District should not have representation, or statehood, or equality. We are all Americans. We all deserve to participate in the democracy our nation's founders set before us. To deny basic rights to the citizens of the National Capital, makes a mockery of our attempts to act as a model of democracy for the rest of the world.

The New Columbia Admissions Act of 2013 is a remedy to the disenfranchisement of the of the District of Columbia, I request that you move this bill to the floor for a vote and give the District the opportunity for equality it has deserved for 200 years.

Thank you again for giving this issue of national importance, and a lifelong passion of mine, your consideration. It is my hope that our government represent the will of the people in granting my constituents that which has been long overdue, that which we have been entitled to for the past 200 years; the right to self-governance and representation for the tax paying residents of the District of Columbia.

I would like to thank Mr. Omeed Tabiei, a member of my staff, for his help in researching and preparing this statement.

[7] S. Hrg. 107-555, Voting Representation in Congress for Citizens of the District of Columbia: Hearing before the Homeland Security and Governmental Affairs Committee, 107th Cong. 179-184, (2002) (statement by Paul Strauss, U.S. Senator, District of Columbia, (Shadow)) (Appendix C)