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2017 KEYNOTE SPEECH: DC DEMOCRACY DURING THE TIME OF TRUMP: 51 AND 45!

Wade Henderson

Thank you, Dean Broderick, for that very generous introduction. And thank you all for joining in today's symposium. I can't say enough about UDC Law School and the role it plays in training generation after generation of new leaders in DC to serve the public. It has been a tremendous honor to be a part of it, as the Joseph L. Rauh Jr. professor of public interest law, and I am delighted to join you today.

Needless to say, those of us who work in the public interest are facing threats that just half a year ago were almost unimaginable. Just last week, after more than a year of holding the judicial confirmation process hostage for purely naked partisan reasons, the Senate confirmed Judge Neil Gorsuch to the Supreme Court to replace the late Justice Antonin Scalia. And while he may go about it with a friendlier style than Justice Scalia, on most of the civil and human rights issues that we care about, Justice Gorsuch is going to be just as committed as his predecessor to chipping away at the progress we have made.

What's even worse is that with the triggering of the "nuclear option" to end the sixty-vote standard that used to require a supermajority to confirm Supreme Court justices, I'm even more troubled about what happens if another justice decides to step down in the next several years.

Meanwhile, with Jeff Sessions at the helm of the Department of Justice, we have already seen new attacks on voting rights; renewed emphasis on mandatory minimums and the use of private prisons, more nasty rhetoric and new enforcement initiatives for immigrants, and efforts to revive a "war on drugs" that has already been proven to be a catastrophic failure.

And the vicious rhetoric of last year's campaign – and the fact that it paid off on election day in enough states – has emboldened the rise of a new nationalist populism and even a spike in hate crimes throughout the country.

At the same time, President Trump's transition from campaign demagoguery to governing has been anything but smooth. And we are already seeing numerous cracks developing in the agenda of the new administration that make me hopeful that all is not lost.

Like a lot of "outsider" candidates we've seen throughout history, candidate Trump promised a whole lot, and made his voters think it would be easy. But Washington has a way of getting in the way. You might say that gridlock in our system is a feature, not a bug, and it was coded into our system for times precisely such as this.

First of all, it's easy to talk about broad policy strokes on the campaign trail, but it's another thing entirely to actually work out all the complicated details of policy when you actually get put

in charge. President Trump perhaps said it best: “who knew health care reform could be so complicated?” That is especially true when there are parts of the Affordable Care Act that are saving people’s lives and that have a lot of support when the public suddenly realizes what could be taken away.

Candidate Trump also talked very tough on immigration, which does not work out so well in practice once you are also put in charge of the economy and you are forced to see the role that immigrants play in it. I am not entirely surprised that as president, Donald Trump has already backed off his promise to end the DREAMer policy, and that his “big, beautiful wall” is running into more and more practical walls of its own – and after being slapped down multiple times in the courts over his Muslim ban, he is moving more and more slowly on that and in other areas as well.

Second, this is still a very divided country, and suddenly being shut out of power inherently has a way of waking up large communities of people to the threats they face. We saw the effect of that in the Women’s March in January, the protests at airports, and at town hall meetings around the country – and angry voters even gave Trump’s party a huge scare in what was supposed to be a blowout of a special Congressional election in Kansas. Who knows what could happen in a tight race in Georgia next week, and who knows what a few surprise losses or close calls could mean for a Congress and a president that suddenly realizes that power is a fleeting thing.

And third, people who are new to governing rarely understand – until it is too late – that even parties themselves are rarely monolithic. Former Congressman Barney Frank once said “it’s easy to be in the minority,” because all you have to do is say “no.” But when you have to get to “yes,” and have to deal with 100 senators, 435 representatives, nine Justices, dozens of agency heads, and thousands of bureaucrats who have their own priorities and who are pulling in all sorts of different directions, you find that actually governing isn’t so easy.

The best example of this – and I can’t say I’m sorry to see it, because we actually warned Trump not to hire him – is the infighting between Steve Bannon and a number of his other colleagues in the White House over which direction to take this administration.

So, there are a lot of hard lessons to be learned about governing – and President Obama tried his best to warn President-Elect Trump about them. Whether Trump as president decides to learn them, and how much political capital he still has left when he finally does, remains to be seen.

What does this new environment mean for the cause of democracy in DC? Certainly, the case for it is just as strong as it has ever been. For me, it is deeply personal.

I have spent my entire career speaking out on Capitol Hill and to numerous presidents and to the courts on behalf of my fellow Americans. And throughout my career, I have seen changes that have made the nation a better, stronger place, one that is more aligned with its founding ideals. We continue to break down barriers to equality and opportunity for Americans from all walks of life, and I am grateful that I could be a part of it.

And I have seen great progress here in the District 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.

LeDroit Park and Bloomingdale, where I grew up and where I now live, was once an all-white neighborhood, and then an all-black neighborhood because of segregation in other parts of the city and the end of racially restrictive covenants. Today, however, people of all races and from all around the world live in the area as my neighbors and friends. The remnants of a school system that remained segregated and that sent me to an all-black elementary school – even though I started after the landmark ruling in *Brown v. Board of Education* – are now long gone. Things, indeed, have improved; but let's not kid ourselves: we still have a long way to go. And the ghosts of Jim Crow still walk among us.

Yet one thing still has yet to change for me as a Washingtonian: in spite of all the progress we have seen, and in spite of all of my efforts to speak out on Capitol Hill on behalf of other Americans, I have never had anyone on Capitol Hill with a meaningful ability to speak out for me. For more than 200 years, my neighbors in this city and I have been mere spectators to our democracy.

Now there is the argument that as the seat of the national government, and with the requirement to create a federal district, DC was bound to be unique, and that it cannot be treated in the same way as the states. But let's face it – in the past couple of centuries, if Congress had wanted to address the issues of home rule or representation, it could have done so – but given the demographics of the population and the way it tends to vote, there were other motives in play. And you can dive into the congressional record and other sources to find more than enough statements reflecting the racial animus that for far too long has been a deeply engrained element of American democracy.

For example:

Sen. John Tyler Morgan (D-AL)

Dec. 1890

“The negroes came into this District from Virginia and from other places; I know dozens of them here now who flocked in from Alabama. They came in here and they took possession of a certain part of this District... and there was but one way to get out...and that was to deny the right of suffrage entirely to every human being in the District and have every office here controlled by appointment instead of by election...in order to get rid of this load of negro suffrage that was flooded upon them.”

The bottom line is that 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 that affect the entire nation on matters like war and peace, taxes and spending, health care, education, immigration policy, or the air we breathe and the water we drink.

As if that was not offensive and undemocratic enough, I do not even have a single vote in decisions in Congress that affect DC residents and DC residents alone. Without as much as a single vote by someone representing DC residents, Congress decides which judges will hear purely local cases in our courts, how the city can spend money raised from its own taxpayers – at one point, Congress even decided which words could be printed on the license plates of our cars. Adding insult to injury, we have not even been able to cast a single vote when Congress has decided to block our elected city officials from using our tax dollars to advocate for a more meaningful voice.

I think everyone here can relate to that frustration – and as we keep working to improve the lives of other people, we have every right to continue demanding more for ourselves as well. Because without the right to vote – and by that, I mean the right to a vote that actually means something – many of our other rights as Americans are little more than illusions. Until those of us in DC have a vote in Congress, we will not be much better off than African Americans in the South were prior to 1965, when President Johnson signed the Voting Rights Act into law – and until then, the efforts of the civil rights movement will remain incomplete.

So, where do we go from here? One thing is for certain: this particular Congress is not going to help us. Regardless of what bipartisan support we had in the past – whether it was the 1978 constitutional amendment or more recently the DC House Voting Rights Act – the Republican party of today is not what it used to be when we had champions like Lowell Weiker, Bob Dole, Jack Kemp and Tom Davis willing to stand up and go the distance for us. With the leadership and the committee chairmen we currently have, we can get our allies to introduce legislation, but we need to be realistic about its chances of ever seeing the light of day.

But in the meantime, we can keep the issue alive and well. On our next panel, my friend Walter Smith and the other speakers are going to talk about how we can use the DC city council to keep up its good work of pushing the envelope to make our case, and to keep provoking Congress to react in ways that draw more attention to the injustices it has been committing. As I have said before, there is a lot of resistance throughout the country to what this president and this Congress is trying to do – and I believe we can tap into it if we increase our visibility and educate people about just what is at stake.

We also need to continue reaching out to individual members in both parties, because with very few exceptions, very little happens in Congress without at least some bipartisan support. This Congress is not going to act, but we need to continue laying the groundwork for when the political winds eventually shift back in our favor.

We should also continue drawing international scrutiny to the situation we face here in the District, because it is a situation that undermines our nation's moral high ground in promoting democracy and respect for human rights in other parts of the world. The international community has already taken notice over the years. In 2003, for example, a body of the Organization of American States (OAS) declared the U.S. in violation of provisions of the American Declaration

of the Rights and Duties of Man, a statement of human rights principles that the United States joined in 1948. In 2005, the Organization for Security and Cooperation in Europe, of which the U.S. is a member, also weighed in by calling upon the United States to "adopt such legislation as may be necessary" to provide DC residents with equal voting rights. If we want to be credible in spreading democracy abroad, we have to show that democracy begins at home.

And finally, we must organize and educate DC residents to really care about DC statehood. Without a more passionate constituency, we cannot win. And while new residents to the city understand the value of civic engagement, we must work with longtime residents and those sometimes viewed as the "least among us" to enhance our powers and the likelihood of success. Remember – in coalition there is strength; and only in coalition do we have the formula necessary to win.

I know we're facing a few tough years ahead, but the opportunities for progress are still there – and I want to thank you all for being here today to talk about how we can seize them. Thank you, and if we have time to take a few questions, I'm happy to do that.