

Testimony of Maurice A. Barboza
Founder, National Mall Liberty Fund D.C.
Before the National Capital Memorial Advisory Commission
On S. 2495, the National Liberty Memorial Act
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Mr. Chairman and Commissioners, you have heard from a few of America's First Families – descendants of men and women who gave birth to America. They remained faithful to "a dream deeply rooted in the American dream" for generations. This memorial will awaken America to that dream's full potential.

Thank you for considering S. 2495 to authorize the National Liberty Memorial. Senator Christopher Dodd and his staff have our deep appreciation for months of hard work and careful analysis. Our sponsors believe that land set aside by this Commission on June 28, 1988, at Constitution Gardens should be entrusted to National Mall Liberty Fund D.C. and a new authorization approved to construct a memorial there to African Americans of the Revolutionary war era. Through no fault of the concept or the history, the previous authorization expired on October 27, 2005, after multiple extensions.

The staffs of Senators Dodd, Charles Grassley, Robert Byrd, Barack Obama, George Allen, Elizabeth Dole and Lincoln Chafee began to examine how the site could be preserved, and a memorial constructed, months before the deadline arrived. Everyone we consulted, including committee staff in the House and Senate, were opposed unanimously to reauthorizing the other group. They agreed that the defective Foundation was a separate issue from the lofty memorial.

The challenge was to draft legislation that would not jeopardize the revived project by any association with the previous sponsor. No person and none of its indicia, including the design, are associated with the National Liberty Memorial. The memorial's honorees, however, remain precisely the same. Only the descriptions have changed. The memorial still honors slaves and free persons who served as soldiers and sailors in the Revolutionary war. Honored, also, are men, women and children who petitioned for liberty, ran away from slavery, and performed patriotic acts. The selflessness of whites and Indians who aided their cause is specified instead of being relegated to the legislative history.

Since 1988, when Congress and this Commission approved the site, dozens of books and intensive research, according to scholars Gary B. Nash and Henry Louis Gates, Jr., confirm "the wisdom of those actions." You have their persuasive letter. You have our bibliography of a sampling. Most of those 40 books were written in just the past five years. In 2001, the names of 2,000 black soldiers were published by the National Society Daughters of the American Revolution. Their descendants are eligible to join the DAR. You have already met some of them.

In 2003 Congress passed the Commemorative Works Clarification and Revision Act (Clarification Act) to create the Reserve. No new commemorative work could be built there unless it had site approval prior to November 17, 2003. Even though the previous authorization expired and the sponsor disbanded, the exemption for the "commemorative work" remains in effect for the history. "Nothing" in the Clarification Act, according to Section 205, applies to "a commemorative work for which a site was approved." That includes this language added by the Clarification Act to the Commemorative Works Act, "Upon expiration of the legislative authority, any previous site and design approvals shall also expire." This clarification confirms that sites approved before 2003 under the previous law do not lapse when an authorization expires.

This is the only remaining commemorative work that will ever need to assert its exemption under the Clarification Act. Therefore, if you want to discourage future sponsors from coveting the Reserve, your strongest case is one that did not have site approval before 2003. The authorization of Liberty Fund D.C. with that site does no harm to the Act's intent to prevent further construction in the monumental core.

In addition, there is nothing that connects the previous group to the acquisition of the site except the fading ink of an expired law. The group had at least five presidents and dozens of board members over 14 years. Even the hangers-on after 1992 when I departed had no concept of what I, and a coalition of nearly 20 organizations, did to obtain the site. The original Commemorative Works Act did not bind the site to the previous foundation. It bound the "preeminent" history of African Americans to the landscape.

I testified before the Congress; this Commission; the U.S. Commission of Fine Arts (CFA); and the National Capital Planning Commission (NCPC) on nearly 20 occasions. This is my tenth appearance before this Commission. In November 1985, I testified before the Commission on H.J. Res. 142, a bill to create the memorial to black patriots. On February 12 and April 23, 1987, I testified on the designation of a site on the Mall. This Commission recommended a Mall site to Congress. I returned to testify on June 28, 1988, on the designation of the specific site at Constitution Gardens and again on November 14.

In 1990, I testified on February 22 and March 15 on the memorial design. On September 12 1991, I returned to testify on the design. At that time, the Commission approved the previous design in concept. CFA and NCPC also approved the conceptual design after additional hearings. Sadly, in September 2000, I appeared before this Commission to oppose the reauthorization of the previous sponsor. I asked the Commission to consider an alternative mechanism. I said the group did not appreciate accountability - nor did it have the support base, the design, the message, or the imagination to succeed.

Mr. Chairman, you presided at each of those meetings. The National Park Service supported the project, from 1986 through October 27, 2005, in spite of whatever misgivings you may have harbored about the previous group's viability. Therefore, the expectation is that the Secretary's support through four Administrations will continue and that our cooperation, from 1985 to 1992, bodes well for the memorial's construction. Additionally, the Interior Department was a leading player in the history the memorial would embed in the landscape.

On Easter Sunday 1939, world-famous opera singer Marian Anderson sang at the Lincoln Memorial at the invitation of Secretary of the Interior Harold L. Ickes. The Daughters of the American Revolution had refused a permit for her to perform at Constitution Hall because she was black. First Lady Eleanor Roosevelt, and other white women of conscience, resigned. My mother told me about the family gathering to hear the radio broadcast. My aunt, Lena Santos Ferguson, her younger sister, was present - 41 years before she would apply for DAR membership and find her color a stumbling block. A WPA mural memorializing the diverse gathering hangs at the south entrance to the Interior Department's cafeteria.

Over 70,000 Americans of every color stood side-by-side on the Mall that morning and never forgot why. On the same spot in 1963, Dr. Martin Luther King, Jr. electrified the nation with his proclamation, "I still have a dream. It is a dream deeply rooted in the American dream." He was referring to a dream older than the American Revolution. The Civil War that Lincoln had presided over was nearly five score years concluded. But the descendants of African Americans who fought in the Revolution, the Civil War, the Spanish

American War, World War I, World War II, and Korea could not ride on buses, eat at lunch counters, attend certain colleges, live in certain neighborhoods, or vote in many states. None were members of the DAR or they were not admitting it. Only a few could suspect that a black person might have Revolutionary war ancestors. While making a memorial contribution in the Oval Office in 1991, former President George H. W. Bush told us, "think about how much they must have loved this country, how they believed in its dreams. It's an astounding devotion. It's in a league by itself."

Between 1978 and 1980, I traced my ancestry to multiple patriots. A black genealogist suggested I join the Sons of the American Revolution. In 1980, after being welcomed by the SAR, I suggested to my aunt Lena that she join the DAR. She said, "Maurice, it won't be easy" and reminded me of Marian Anderson. "But this is 1980," I replied. Sure enough, Lena's application languished for months. A DAR chapter official told one of her sponsors that her membership would "break up the chapter." After three years, the National DAR was content to ignore Lena.

My calls to reporters to expose the story often were not comprehended. "Call back when the story matures," some replied. In September 1983, we visited Rep. Nancy L. Johnson. Our beloved hometown of Plainville, Connecticut is in her district. Rep. Johnson agreed to introduce a bill to honor black soldiers and liberty seekers as a way of prodding the DAR. President Ronald W. Reagan signed Pub. L. 99-245 in an Oval Office ceremony in mid-March 1984, just days after Lena became a reluctant celebrity.

On March 9, 1984, the front page of The Washington Post had announced, "Black Unable to Join Local DAR Chapter: Race is a Stumbling Block." The D.C. city council threatened to repeal the group's real estate tax exemption. Hogan and Hartson came to my aunt's defense and remained her pro bono counsel for over 17 years. That morning, and for weeks to come, my telephone rang continuously: Today Show, Good Morning America, JET, AP, UPI, New York Times, The Washington Afro-American, Good Morning America, 60 Minutes, Charlie Rose, Newsweek, the Wall Street Journal. Now, anxious to avoid further scrutiny, the DAR invited Lena to join.

Lena refused the overture, insisting that the group sign a settlement agreement to ensure no other black woman would suffer her fate. The DAR was required to keep track of, and help, minority descendants become members; advise women that they could be eligible regardless of their race or the race of their ancestor; offer scholarships to graduating seniors in D.C. schools; conduct a seminar on blacks in the Revolutionary war; and identify everyone of African descent who served. She sought no personal consideration except simple respect. Only after 17 years of prodding did the DAR finally publish the compendium of over 2,000 African American and 400 Indian patriots. Many more remain undiscovered.

In late 1984, I decided those patriots deserve a memorial. Rep. Johnson and Senator Al Gore introduced companion bills in early 1985. On October 27, 1986, President Reagan signed Pub. L. 99-558. On March 25, 1988, the history was declared to be "of preeminent historical and lasting significance to the nation." With that, the memorial was eligible to stand on the Mall. Since approving Pub. L. 100-265, Congress has never revoked that designation. The defunct status of the former group changes nothing. The site this Commission approved is between the Lincoln Memorial and the Washington Monument. Both Constitution Gardens and the specific site therein remain unchanged, unencumbered and capable of accepting this memorial in conformity with the Commemorative Works Act under which it was originally approved. The National Liberty Memorial would be located -- (1) in surroundings that are relevant to the subject of the work and (2) located so that it does not interfere with, or encroach on, an existing commemorative work.

When tourists standing on the island where the Signers Memorial sits look across at the National Liberty Memorial, they will understand the true meaning of the Declaration of Independence. Moreover, this land was hallowed by events held at the Lincoln Memorial during the contemporary struggle for freedom, including Marian Anderson's 1939 concert and the 1963 March on Washington. For some future tourists, Lincoln's stare may appear to acknowledge how 185,000 blacks fought in the Civil War and paved the path to liberty as the ink on the Emancipation Proclamation dried. The Washington Monument in the backdrop will tell Americans that thousands served under Washington, including Cato Mead who died in Iowa after the war and was mistakenly honored as a white man for generations along with 41 other compatriots. His color had been lost to history until recently when retired teacher Barbara MacLeish of Minnesota discovered he was black. The Montrose, Iowa community gathered around his impressive gravestone, recently, to honor his memory.

The sound of water splashing the shore of the lake at Constitution Gardens will remind visitors of the harrowing ocean passage of some of these men and women and their ancestors from Africa. The contemplative nature of Constitution Gardens and the walk around the lake to the site will give visitors time to think about the long struggle to secure liberty in America. Connecticut slave Jack Arabas served six years in the war. Afterward, his master tried to renege on his promise of freedom. Jack ran away, was recaptured and defended himself in court. His lawyer, future U.S. Senator Chauncey Goodrich, won his case and Jack was freed.

On the Mall's North/South axis, the interrelationship with DAR Constitution Hall will announce the determination of persons of African descent, like Dr. Marion Lane, Serena Ferguson Mann, Daysha Christian and recent graduate Yolanda Wade, to embrace their heritage. The relationship to the D.C. War Memorial will remind us that 85 years ago black soldiers participated in the liberation of Europe, which had been culpable in their ancestors' enslavement. Together with the future MLK Memorial, Americans will understand what Dr. King meant by "a dream deeply rooted in the American dream." Patriot Richard Allen founded the A.M.E. Church and Patriot Prince Hall the Prince Hall Masons. "Deeply rooted" institutions such as these form the rock upon which the modern civil rights movement sits.

With respect to the new World War II Memorial and the Vietnam Veterans Memorial, former Congressman Parren Mitchell, testifying in 1985, said the memorial would say "we were there fighting and dying for America, from the Revolution to Vietnam." The descendants of Isaac Brown and other Revolutionary war soldiers served in the Civil War and may well have served in subsequent ones. Our new board member, General Lucius Theus, is a Tuskegee Airman of World War II and deeply interested for years in a unified story of African American patriotism.

The Mall never will be complete until the National Liberty Memorial is constructed. When it is, memorials to other Revolutionary war heroes at Lafayette Park and elsewhere will assume new meaning. Blacks, finally, could envision their ancestors as contributors to those honored achievements, instead of "kneeling slaves" or invisible persons. We can imagine that Pulaski, Greene, Hale, Jefferson, Kosciuszko, Lafayette, Muhlenburg, Rochambeau, Von Steuben, Ward, and Washington would welcome this memorial. These men were witness to its preeminent history in the making.

From May 2, 1978, when I began this quest to discover my family's ancestry, until June 2, 2005, when Liberty Fund D.C. was announced publicly, I had spent 1,413 weekends, 9,894 days, 237,456 hours, and 14,247,373 minutes working on one or more minutiae of the project. I had more than 15,000 telephone calls (over 1 per day) and countless personal conversations with my aunt. In the repose of the deceased, in the life of the Mall, and in

the journey of principles, 28 years is barely a wink. Yet, sadly, time expired for my aunt Lena and for Charles F. Atherton, former Secretary of the U.S. Commission of Fine Arts. Like you, Mr. Chairman, he was a witness to the history, from 1985 until his death. He was a Liberty Fund D.C. board member and advisor. He was a participant in meetings on Capitol Hill and elsewhere. His help led to the introduction of S. 2495. He is deeply missed. He is warmly remembered.

The Revolutionary war teaches us to see the possibilities in the seemingly impossible. A ragtag force of farmers, artisans, slaves, Indians, immigrants, indentured servants and free persons defeated the most powerful force on the earth. If the National Liberty Memorial encourages future generations of African Americans to embrace the power of their birthright and the legitimacy of America's promise, the elusive "dream deeply rooted in the American dream" will come one morning closer to reality.

Think of Seymour Burr, a Connecticut slave, who induced other slaves to run away with him to the British side. Recaptured, his master agreed to free him in exchange for his bounty money when Seymour serves out the war in the Continental Army. Think of Paul Cuffee and James Forten, free black men who achieve wealth and respect in a slave society. Think of a free person, like John Redman, of Hardy County, Virginia who imagines himself a full citizen and his children as thriving Americans. Dr. Henry Louis Gates, Jr., of Harvard, one of the nation's preeminent scholars, is his fifth generation great grand son and a new Liberty Fund D.C. board member.

Think of the expedition imagined by Gen. Henry Knox that dragged 60 cannon 300 miles over unimaginable terrain, from Fort Ticonderoga to Dorchester Heights. Think of General Washington -- smarting from defeat in New York -- still determined to cross the Delaware and strike a blow at Trenton before his soldiers disbanded. Think of his body servant, John Carey, a D.C. resident denied a pension for decades. He persists in his quest to the age of 113 when congress finally grants one. Think of the audacity of General Francis Marion. His swift force of whites, Indians and blacks confounded and demoralized the enemy. They attacked with a vengeance then vanished into the South Carolina swamps without a trace. The Marion memorial legislation, H. R. 5057, acknowledges African Americans under the Swamp Fox and suggests unity can be derived from our diverse past.

One twist to this story, the Swamp Fox was not alone. There was a anti-Swamp Fox: a runaway slave from Monmouth County, New Jersey, known as Colonel Tye, who led a mixed band of around 800 white and black loyalists. They hid in swamps and preyed on the enemy - their former Whig slave masters. These men and women we honor were restless for liberty. They were not singing spirituals and waiting for a savior. They perceived that the long road to deliverance was paved by action.

Former Chief Justice of the U.S. Supreme Court Earl Warren concluded that Brown v. Board of Education should be decided unanimously to galvanize the nation. We urge this Commission to approve S. 2495 unanimously. That would quell any doubt about whether this Commission still assesses the story behind it to be of "preeminent historical" significance. Once Congress acts, your recommendation paves the way for cooperation on a design that does justice to the site and the history. When the Court rejected a "separate but equal" nation in 1954, it was acting on unfinished business of the Constitutional Convention. Black liberty fighters were among those who had made the convention possible. Finally, the National Liberty Memorial on the Mall will offer citizens a unified paradigm for American history, instead of a separate one.

Days after testifying in 1985, historian Benjamin Quarles cautioned me to beware, "justice is a slow fruit."