

The Plight of DC: 600,000 People, 0 Votes

By:

Scott Caplan

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Yale University

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Currently, the residents of the District of Columbia have no say in what laws Congress passes, when they will have to fight and die for their country, or even how much they get taxed by their local government. This alienation of the fundamental rights of a population greater than that of six of the thirteen founding states¹ violates not only the modern ideals proclaimed by the Supreme Court in the “one person, one vote” cases, but it runs counter to every principle on which the Constitution is founded. This paper will introduce the history of the District, and its struggles for home rule and Congressional representation, and will then proceed to analyze quantitatively how closely the District’s situation meets the demands of “one person, one vote,” and qualitatively how closely it meets the ideals of the American Revolution and the Declaration of Independence. This paper will show that the District’s current form of representation is severely lacking in both departments.

In 1783, an angry mob of unpaid Pennsylvania veterans assembled in front of where the Continental Congress was convened in Philadelphia, demanding that they be paid, and ultimately moving the Congress temporarily to Princeton, New Jersey². With this in mind at the 1787 Constitutional Convention, the Framers decided to provide for the federal government’s “exclusive Legislation... over the Seat of the Government.”³ There seems to have been little discussion of this provision, except for at the New York ratifying convention, about which more will be said below. Maryland and Virginia, pursuant to that section of the Constitution, ceded parts of their territory to form the Seat of the Government. Up until 1801, the day that the District of Columbia replaced Philadelphia as the nation’s capital, residents of the District voted directly for their

representatives in the House and indirectly (through their state legislatures) for their representatives in the Senate. More importantly, however, they had the *same* representation in Congress as every other citizen of any of the thirteen original states.

Upon the change, Congressional representation wasn't as much a concern as was home rule. Some of the then-residents of the District of Columbia raised concerns that the federal government would not be adept at governing local matters. In response, Congress established a mayor and a sort of city council for the district. The mayor was directly appointed by the President of the United States, and the council members were elected by white male land-owning citizens of the District. Moreover, the mayor and the city council owed their legitimacy to congressional statute, could be removed at any time, and could be overruled by a simple Congressional statute. Eventually Alexandria and Georgetown, frustrated with the treatment they were getting from the federal government as parts of the district, threatened to secede. Alexandria actually did in 1846, ultimately with the formal blessing of both Congress and the Virginia state legislature. Georgetown remained a part of the District.

In the 20th century, there have been several attempts both to give home rule and to give Congressional representation to the District. According to Professor Gillette⁴, “While the United States Senate approved home rule bills five times between 1949 and 1960, the House District Committee prevented the bills from ever reaching a vote on the House floor.” In 1961, the 23rd Amendment gave the District the same number of electors in the Electoral College that it would have were it a state. This amendment remains today the only say in the federal government that the District has. As for home rule, Congress has passed various pieces of legislation giving and taking pieces of home rule powers,

with the noblest attempt to give the District some real home rule powers coming in 1973.

Even since then, however, Congress has still had the authority to veto the District's budget and any legislation a city council passed. Moreover, it can rescind home rule powers just as easily as it granted them.

In the late 1980s and early 1990s, residents of the District pushed for statehood, an effort that failed in the House in 1993 by a vote of 277 to 153, with only one Republican, representative Wayne Gilchrest of Maryland, voting for statehood, who when asked about his vote, said, "I agreed with [pro-statehood forces] on the principle of one-man, one-vote, and the principle of dignity... Those are values I hold very dear."⁵ The Senate version of the bill never made its way out of the Committee on Governmental Affairs.

Unable to get either home rule or Congressional representation through political avenues, District of Columbia residents turned to the courts. With the help of lawyer and activist George LaRoche, who has since died in June of 2003, 20 DC citizens filed suit in federal court, claiming that "the failure to apportion congressional representatives to the District, and to permit District residents to vote in House and Senate elections, violates their constitutional rights to equal protection of the laws and to a republican form of government."⁶

In September of the same year, fifty-six residents of the District, including "18 veterans of foreign wars,"⁷ along with the District of Columbia itself, brought a separate suit alleging that their disenfranchisement "violates their right to due process and abridges their privileges and immunities as citizens of the United States."⁸

Judge Louis Oberdorfer consolidated the two cases, and, pursuant to jurisdictional rules established by Congress, sent the cases on to a specially assembled three-judge court, which included himself, to hear oral argument on the merits as regarding apportionment. The court found by a 2 to 1 majority that the plaintiffs in both cases had standing but also that the phrase “People of the Several States” does not include the residents of the District of Columbia, and that there was no justiciable recourse for the plaintiff’s grievances. Justice Oberdorfer dissented, writing that, “I would declare these [apportionment] statutes, as applied, unconstitutional and declare that the Secretary of Commerce has a constitutional duty to include the population of the District of Columbia in the apportionment of seats to the House of Representatives.” Since the three-judge court only had jurisdiction over apportionment, it remanded the cases’ claims regarding representation in the Senate back to Justice Oberdorfer, who in turn ruled that the plaintiffs had no judicially enforceable recourse regarding Senate representation.

Besides raising issues like the privileges and immunities and the republican government clauses of the Constitution, which don’t have a lot of precedents that expound on their meanings, both cases mention the equal protection clause of the Fourteenth Amendment as requiring one person, one vote.

In the 1950s and 1960s the Supreme Court began to hand down several rulings enshrining the principle of “one person, one vote” as rooted in the 14th Amendment’s equal protection clause and protecting against special abuses of redistricting and apportionment, notably *Gray v. Sanders*⁹ in which the Court declared, “The conception of political equality from the Declaration of Independence, to Lincoln’s Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing -

one person, one vote.” This quote implies something much greater and much more profound than a simple textual commitment to one person, one vote on account of a narrow textual reading of the Equal Protection Clause of the Fourteenth Amendment. It provides a justification of the one person, one vote rule on the simple and sweeping structural evidence in the Constitution, and in the canon of works that define what America’s ideals are (note the presence of the Gettysburg address and the Declaration of Independence).

In response to this new standard, political scientists and mathematicians have developed various methods for ascertaining how closely a given system meets the standard of one person, one vote. The one whose work has been most widely referenced and used by the legal world is John Banzhaf III, whose articles have been referenced in court opinions, and who has testified before Congress regarding election laws and what has been named the Banzhaf value¹⁰, in his honor, a measurement of the amount of power a given voter has in a weighted voting system.

Simply put, power is based on the probability of a voter influencing the outcome of a decision or election. Here it is important to draw a sharp distinction between systemic and de facto forms of power. For example, even though Texas has more systemic power than Florida in the Electoral College (a normalized Banzhaf index of 6.2% to one of 4.3%), nobody is courting Texas’s vote in the Electoral College for the 2004 Presidential election, and similarly most voters in Texas do not believe that there is even a remote possibility that they will help decide where Texas’s electoral votes go. Therefore, a Texan voter’s powerlessness in this situation is a de facto measurement of his power, not a systemic one. The Banzhaf index only measures systemic power. This

makes sense though for the legal world, because for courts to try to calculate de facto measurements of power, it would require courts entering the business of political punditry and poll-reading, where they clearly don't belong.

Using the normalized Banzhaf index (normalized means that indices have been multiplied by a constant so that the sum of the various power scores is 1), figures calculating the District and the fifty states' power in determining the President and in passing legislation are provided in the Appendix for the current District's representation, its representation under statehood, and its representation under a plan for retrocession. Retrocession would involve re-ceding the residential parts of the District to Maryland, and leaving the "federal" parts of it to the Congress, and calling them the Seat of the Government. The relevant calculations are explained in detail in the Appendix.

According to the tables in the Appendix, in its current situation, the 571,822 residents of the District have a 0.09% say in what federal legislation gets enacted. This would be bad enough, were it not for the fact that this is in turn exactly the amount of power they have in deciding how the District itself is governed, since the District's local legislature is Congress. Perhaps even more disturbing is the fact that all of the District's influence in affecting federal and local legislation lies in its relationship with the President of the United States. Thus, if the President violates the rights of the Districts' residents, they have no recourse either in their local government (Congress) or in the legislative branch of the federal government (again, Congress). Even more disturbing, from a de facto measurement of power, the District has given its three electoral votes to the Democratic nominee every election since the first one it was given votes in, 1964 and is one of the only two voting blocs in the Electoral College to have voted for Walter

Mondale in 1984, the other one being his home state of Minnesota. Finally, while the District has *some* say in who becomes the President of the United States, as non-voting Representative of the District Eleanor Norton found out in 1998 when she tried to vote on the impeachment of President Clinton, the District has absolutely no say on whether or not to impeach the President.

Retrocession, while giving the District only one-fifth the influence on federal legislation that it would have with statehood, solves all of these structural problems with the current situation. The District would be capable of influencing Maryland Senate elections, and might even have its own exclusive representative in the House, two checks against the President. Equally important, the District would finally have its own municipal and state governments. Note that this diminishes the District's say in the Electoral College. Currently, the District and Maryland control 13 votes in the College, but after retrocession, Maryland would control at most 11 votes, assuming it gets another seat in the House of Representatives. Regardless, the District would still more than double its amount of influence on federal legislation, and finally fix the structural problems associated with its inadequate representation it currently has.

In *Iannucci v. Board of Supervisors*, the New York State Court of Appeals, citing an article by John Banzhaf III, found that a weighted voting system should be held unconstitutional when it prevents any one constituency from ever changing the outcome of a decision.¹¹ This seems a rather lenient standard, and yet the current representation that the District faces doesn't even come close to passing it. The District's current situation is worse than that even of Luxembourg in the original European Coal and Steel

Community.* The District of Columbia is represented in a weighted voting system, only to have a weight of zero associated with its representatives.

The numbers indicate that retrocession would more than double the District's influence on federal legislation, and statehood, would more than quintuple that. But in the end, the rights of the citizens of the District to be represented in the bodies that govern them cannot be quantified in comparison to the disparity they face in structural safeguards. Indeed, the structural differences between the District's current situation and the prospects for retrocession or statehood are far more important than the quantitative differences among the three options.

When the Supreme Court referenced the Gettysburg Address in its opinion in *Gray v. Sanders*, it was referring not only to the Address's renewal of the belief that "all men are created equal," but also its description of the American way of government as "government of the people, by the people, and for the people." How could Congress be a government of the people, when a population larger than that of Wyoming is prohibited from ever being a member of Congress without moving away from the place they call home? How could it be a government by the people, when that same population has no say in who any of its government's members are? How could it be a government for the people, if it's neither a government of, nor by them?

The District's taxation without representation also violates the Declaration of Independence, which cited twenty-seven different instances of the violation of the colonists' rights, one of which was "FOR imposing Taxes on us without our Consent."

* In the original European Coal and Steel Community, France, Germany, and Italy each had four votes, Belgium and the Netherlands two each, and Luxembourg one with twelve votes required for passing a bill, leaving Luxembourg incapable of ever influencing a decision. But even Luxembourg had the appearance of it, and should a future odd-voted member join, Luxembourg would have had power. No matter how many states join the Union, the District will never acquire any power as a result.

John Marshall affirms this basic principle of the American Revolution, that of “No Taxation without Representation” in *McCulloch*, writing “The *only* security against the abuse of this power [the power to tax], is found in the structure of the government itself. In imposing a tax the legislature acts upon its constituents.”¹² (emphasis added). This fundamental structural necessity for government’s legitimacy is not present in the current situation that in which the District of Columbia finds itself.

Jamin B. Raskin, a law professor, and one of the attorneys representing the *Alexander v. Daley* plaintiffs, provides the following insightful comment:

And if it is unconstitutional to have a gerrymandered majority African-American district where everyone can vote, everyone is represented and everyone can run for Congress (*Shaw v. Reno*, 1993), what about a bizarrely drawn majority African-American district where no one can vote, no one is represented and no one can run for Congress (the District of Columbia)?¹³

Note the emphasis on the fact that “no one can run for Congress.” The right to actually sit in the legislature if elected and not just vote for a representative is central to the American conception of representation. As Gordon Wood writes, “The constitutions of Delaware and Maryland declared, ‘the right of the people to participate in the legislature is the best security of liberty and the foundation of all free government.’”¹⁴ There should be no question that the sort of lack of representation that the District of Columbia faces, especially in light of Professor Raskin’s comments, doesn’t only violate the Fourteenth Amendment’s Equal Protection Clause, it violates the Declaration of Independence.

The question then naturally arises, “Why didn’t the Framers have a problem with this?” As the Per Curiam opinion by Justices Garland and Kollar-Kotelly in the consolidated *Alexander* and *Adams* cases points out,

“Indeed, had it been understood that the former citizens of Maryland and Virginia had a right to continue voting for Congress, one would have expected a flood of newspaper articles and lawsuits decrying their unlawful disenfranchisement. Such a reaction, however, is not visible in the historical record.”

The simple answer to the question is that very few people cared about the eight thousand people who lived in the District, 30% of whom were slaves.¹⁵ Even when somebody did care about them, it was more a concern that they would be privileged above other citizens, as reflected by the New York Constitutional Ratification Convention's declaration that the residents of "the Seat of the Government" have to pay the same taxes as everybody else, and that they must be as bound by the law and by contracts as everybody else.^{†16}

It is clear, however, that if any of the Framers had known that the District would grow to a population of more than six of the original thirteen states, they would surely have been more careful about specifying how District residents could vote, and been more careful about picking the land that the federal government asked the states to cede to it.

It is equally as plausible that discussion of admitting the District into some form of self-government would have been too much to handle for the Reconstruction Congress that proposed the Fourteenth Amendment, and already had to monitor the readmission of the Confederacy into the Union. Therefore, the Fourteenth Amendment and the Declaration of Independence cannot be dismissed as illegitimate sources for the District's rights to self-government and representation in Congress on account of the fact that the writers of those documents saw little or no conflict.

There is one last argument to be made about the evolution of the meaning of the "proposition that all men are created equal." Throughout American history, voting rights

[†] Interestingly enough, the exact wording implies a rather unusual (at least for modern readers) interpretation of the text of Article I, Section 8: "That the right of the Congress to exercise exclusive Legislation over such District... shall not be so exercised as to exempt the Inhabitants of such District from paying the like Taxes Imposts Duties and Excises, as shall be imposed on the other Inhabitants of *the State in which such District may be.*" (emphasis added) However, this reading that District residents are in fact inhabitants of states has certainly not taken hold, and lacks corroborating evidence, particularly due to the fact that most commentators on the Constitution ignored the Seat of the Government clause. Moreover, it still would only grant District residents representation in Congress, but not home rule.

have been very closely connected to military participation and service. White and in some instances Black men with and without property were allowed to vote in several states for the purpose of electing representatives to the Constitutional ratification conventions, because state legislatures didn't see how they could legitimately tell men who had fought and died for their country that they couldn't have a say in how that country would be governed. Similarly, the slaves being the margin of victory in the Civil War, the 15th Amendment was passed, giving former slaves the right to vote. Many argue that the 19th Amendment was proposed and ratified because of the roles that women played in keeping society going while men were fighting in World War I. Voting Rights for African-Americans became an issue in the South again after Black men fought and died in World War II in a war against a racist regime. 18 year-olds were given the vote with the 26th Amendment because they were being drafted to fight and die in Vietnam and it seemed only right that they have a say in when their country goes to war if they're the ones fighting.

The District of Columbia, in turn, has had an incredibly long tradition of military service in this country.¹⁷ Clifford Alexander, the first plaintiff listed in *Alexander v. Daley*, was Secretary of the Army under President Carter. Francis Scott Key was serving in the DC Militia (now the DC National Guard) when he wrote the Star-Spangled Banner. About half of District of Columbia National Guard members were called up for active duty on account of the war in Iraq and the war on terrorism within a week of the official announcement of the start of major combat operations in Iraq.¹⁸

Some might argue that this is the exact reason that the Framers wanted to exercise exclusive legislation over the Seat of the Government. After all, it was a march on the

Continental Congress by a group of veterans that instilled in the minds of the Framers the need for exclusive legislation.

There are several responses to this argument. First, it is no longer just a Seat of the Government. It is now a place where more than half a million Americans are born, grow up, work, get married, have children, and die, and it is simply not American to expect them to move away from home if they want the representation they were supposed to be guaranteed in the first place. Second, it is hard to imagine a scenario in which a mob could disrupt the proceedings of the federal government today, but more importantly, they could still disrupt the proceedings of the government with or without a local government administering local affairs, and they would have far more reason to march on the capital if their voice is not being heard in the first place. Lastly, the supremacy of the federal government is now well established and not under threat of usurpation by a state government.

The Declaration of Independence, the Gettysburg Address, and the self-evidence of the truth that all men are created equal, indicate that equality dictates for all constituents to have an equal say in what happens to them, from which the Supreme Court has derived the more narrow mathematical principle of one person, one vote. The treatment that the District of Columbia currently receives with respect to self-determination and representation make a mockery of this ideal, but it is not just the numerical inequality that violates the rights of the citizens of the District. More importantly, it is the fact that they cannot administer their own local laws, they have no say in the federal legislature which can exercise exclusive legislation over them, and they can help elect the President, but they can't have a say in whether or not that President can

be impeached. Moreover, they cannot serve in the federal legislature without moving away from home. Compared to these facts, the numerical measures of District residents' voice in the federal government under different circumstances are trivial as evidence. These are fundamental rights which are being violated and ignored; this is not the difference between 1 vote and 1.2 votes, this is the difference between 1 vote and 0 votes. Even if the district had a 5% say in choosing the President of the United States, instead of a 0.5% say, there would still be no doubt that the fundamental rights of the District's residents would be violated by such a structure of representation, because it violates the fundamental principles which define the legitimacy of American government: consent of the governed, the opportunity to participate in the legislative process, and "No Taxation without Representation."

Appendix

In the Appendix, three Tables are presented detailing the power breakdowns of the different states. 2000 population data is taken from the U.S. Census for 2000. These numbers are available both on-line at <http://www.census.gov>, and in Felsenthal and Machover, *The Measurement of Voting Power*¹⁹. The Quota is calculated as the number of seats, including fractions that each state/district should get under a given plan. Seats represent the number of seats a given state has according to the current apportionment of seats, or slight modifications based on a plan for retrocession or statehood. For example, in both of these plans, it was desirable to add a seat either to the District of Columbia or to Maryland. In order to have an odd number in the House of Representatives, in both cases, a seat was taken away from Illinois, the most overrepresented state in the House, based on subtracting the quota from the number of seats a state has. Banzhaf indices were calculated with the help of a web-based application which calculates the values of various power indices²⁰. “Votes per DC Vote” is calculated as the Banzhaf index divided by the population of the given district or state divided again by the same ratio that the District of Columbia has. This ultimately comes out as a rough estimate for how many votes a vote in that district or state counts as in determining the President as compared with a vote by a District voter. Note that *from a systemic perspective, the individual voter’s power is higher in smaller states, and in the District*. In general, it should be roughly inversely proportional to the square root of the population of that voter’s district or state.

Legislative Power is measured systemically for questions of state-wide representation. It is based on the estimates for the power breakdown in the executive and legislative branches given by Shapley and Shubik.²¹

Table A: Analysis of the status quo.

State/DC	2000 Population	Quota	Seats	Bz index in Elec. Col.	"Votes per DC Vote" in EC	Legislative Power
California	33,930,798.000	52.447	52	11.1428%	0.343992	7.67%
Texas	20,903,994.000	32.312	31	6.2010%	0.310728	4.84%
New York	19,004,973.000	29.376	30	6.0011%	0.330759	4.71%
Florida	16,028,890.000	24.776	23	4.6311%	0.302641	3.81%
Illinois	12,439,042.000	19.227	21	4.2484%	0.357755	3.55%
Pennsylvania	12,300,670.000	19.013	20	4.0583%	0.345592	3.43%
Ohio	11,374,540.000	17.582	19	3.8689%	0.356288	3.30%
Michigan	9,955,829.000	15.389	16	3.3049%	0.347719	2.92%
New Jersey	8,424,354.000	13.022	13	2.7463%	0.341475	2.54%
Georgia	8,206,975.000	12.686	12	2.5611%	0.326882	2.41%
N. Carolina	8,067,673.000	12.470	11	2.3763%	0.308532	2.28%
Virginia	7,100,702.000	10.976	11	2.3763%	0.350548	2.28%
Massachusetts	6,355,568.000	9.824	10	2.1920%	0.361272	2.16%
Indiana	6,090,782.000	9.415	10	2.1920%	0.376977	2.16%
Washington	5,908,684.000	9.133	9	2.0080%	0.355976	2.03%
Tennessee	5,700,037.000	8.811	9	2.0080%	0.369006	2.03%
Missouri	5,606,260.000	8.666	9	2.0080%	0.375179	2.03%
Wisconsin	5,371,210.000	8.302	9	2.0080%	0.391597	2.03%
Maryland	5,307,886.000	8.204	8	1.8244%	0.360036	1.90%
Arizona	5,140,683.000	7.946	8	1.8244%	0.371747	1.90%
Minnesota	4,925,670.000	7.614	7	1.6411%	0.348994	1.78%
Louisiana	4,480,271.000	6.925	7	1.6411%	0.383688	1.78%
Alabama	4,461,130.000	6.896	6	1.4581%	0.342366	1.65%
Colorado	4,311,882.000	6.665	6	1.4581%	0.354216	1.65%
Kentucky	4,049,431.000	6.259	6	1.4581%	0.377173	1.65%
S. Carolina	4,025,061.000	6.222	6	1.4581%	0.379457	1.65%
Oklahoma	3,458,819.000	5.346	6	1.4581%	0.441578	1.65%
Oregon	3,428,543.000	5.300	6	1.4581%	0.445477	1.65%
Connecticut	3,409,535.000	5.270	5	1.2753%	0.391800	1.52%
Iowa	2,931,923.000	4.532	5	1.2753%	0.455625	1.52%
Mississippi	2,852,927.000	4.410	5	1.2753%	0.468241	1.52%
Kansas	2,693,824.000	4.164	4	1.0927%	0.424893	1.40%
Arkansas	2,679,733.000	4.142	4	1.0927%	0.427127	1.40%
Utah	2,236,714.000	3.457	3	1.0927%	0.511727	1.30%
Nevada	2,002,032.000	3.095	3	1.0927%	0.571713	1.30%
New Mexico	1,823,821.000	2.819	3	1.0927%	0.627576	1.30%
W. Virginia	1,813,077.000	2.802	3	1.0927%	0.631295	1.30%
Nebraska	1,715,369.000	2.651	2	0.7281%	0.444612	1.15%
Idaho	1,297,274.000	2.005	2	0.7281%	0.587905	1.15%
Maine	1,277,731.000	1.975	2	0.7281%	0.615847	1.15%
New Hampshire	1,238,415.000	1.914	2	0.7281%	0.615847	1.15%
Hawaii	1,216,642.000	1.881	2	0.7281%	0.626868	1.15%
Rhode Island	1,049,662.000	1.622	2	0.7281%	0.726590	1.15%
Montana	905,316.000	1.399	1	0.5459%	0.631627	1.02%
Delaware	758,068.000	1.213	1	0.5459%	0.754315	1.02%
S. Dakota	756,874.000	1.170	1	0.5459%	0.755505	1.02%
N. Dakota	643,756.000	0.995	1	0.5459%	0.888259	1.02%
Alaska	628,933.000	0.972	1	0.5459%	0.909194	1.02%
Vermont	609,890.000	0.943	1	0.5459%	0.937582	1.02%
Washington DC	571,822.000	0.000	0	0.5459%	1.000000	0.09%
Wyoming	495,304.000	0.766	1	0.5459%	1.154487	1.02%
Total	281,968,999.000	435.001	435	100.7300%	N/A	100.12%

Table B: Analysis of a plan for retrocession (taking the seat away from Illinois)

State/DC	2000 Population	Quota	Seats	Bz index in Elec. Col.	Votes per MD Vote in EC	Legislative Power
California	33,930,798.000	52.346	52	11.2105%	0.962167	7.72%
Texas	20,903,994.000	32.249	31	6.2353%	0.868655	4.96%
New York	19,004,973.000	29.319	30	6.0342%	0.924638	4.65%
Florida	16,028,890.000	24.728	23	4.6566%	0.846028	3.98%
Illinois	12,439,042.000	19.190	20	4.0806%	0.955337	3.35%
Pennsylvania	12,300,670.000	18.977	20	4.0806%	0.966084	3.33%
Ohio	11,374,540.000	17.548	19	3.8902%	0.995996	3.16%
Michigan	9,955,829.000	15.359	16	3.3231%	0.972043	2.86%
New Jersey	8,424,354.000	12.996	13	2.7613%	0.954545	2.54%
Georgia	8,206,975.000	12.661	12	2.5751%	0.913756	2.48%
N. Carolina	8,067,673.000	12.446	11	2.3894%	0.862502	2.42%
Virginia	7,100,702.000	10.954	11	2.3894%	0.979957	2.28%
Massachusetts	6,355,568.000	9.805	10	2.2040%	1.009896	2.14%
Indiana	6,090,782.000	9.396	10	2.2040%	1.053799	2.10%
Washington	5,908,684.000	9.115	9	2.0190%	0.995096	2.04%
Tennessee	5,700,037.000	8.794	9	2.0190%	1.031521	2.01%
Missouri	5,606,260.000	8.649	9	2.0190%	1.048775	2.00%
Wisconsin	5,371,210.000	8.286	9	2.0190%	1.094671	1.96%
Maryland	5,879,708.000	9.071	9	2.0190%	1.000000	2.04%
Arizona	5,140,683.000	7.931	8	1.8344%	1.039184	1.90%
Minnesota	4,925,670.000	7.599	7	1.6501%	0.975583	1.84%
Louisiana	4,480,271.000	6.912	7	1.6501%	1.072569	1.77%
Alabama	4,461,130.000	6.882	6	1.4660%	0.956992	1.74%
Colorado	4,311,882.000	6.652	6	1.4660%	0.990117	1.71%
Kentucky	4,049,431.000	6.247	6	1.4660%	1.054288	1.68%
S. Carolina	4,025,061.000	6.210	6	1.4660%	1.060672	1.67%
Oklahoma	3,458,819.000	5.336	6	1.4660%	1.234314	1.59%
Oregon	3,428,543.000	5.289	6	1.4660%	1.245213	1.58%
Connecticut	3,409,535.000	5.260	5	1.2822%	1.095166	1.55%
Iowa	2,931,923.000	4.523	5	1.2822%	1.273570	1.48%
Mississippi	2,852,927.000	4.401	5	1.2822%	1.308834	1.47%
Kansas	2,693,824.000	4.156	4	1.0987%	1.187762	1.41%
Arkansas	2,679,733.000	4.134	4	1.0987%	1.194007	1.41%
Utah	2,236,714.000	3.451	3	0.9153%	1.191715	1.32%
Nevada	2,002,032.000	3.089	3	0.9153%	1.331410	1.28%
New Mexico	1,823,821.000	2.814	3	0.9153%	1.461506	1.26%
W. Virginia	1,813,077.000	2.797	3	0.9153%	1.470167	1.25%
Nebraska	1,715,369.000	2.646	2	0.7320%	1.242719	1.21%
Idaho	1,297,274.000	2.001	2	0.7320%	1.643232	1.15%
Maine	1,277,731.000	1.971	2	0.7320%	1.721331	1.14%
New Hampshire	1,238,415.000	1.911	2	0.7320%	1.721331	1.14%
Hawaii	1,216,642.000	1.877	2	0.7320%	1.752136	1.14%
Rhode Island	1,049,662.000	1.619	2	0.7320%	2.030865	1.11%
Montana	905,316.000	1.397	1	0.5489%	1.765682	1.06%
Delaware	758,068.000	1.169	1	0.5489%	2.108650	1.04%
S. Dakota	756,874.000	1.168	1	0.5489%	2.111977	1.04%
N. Dakota	643,756.000	0.993	1	0.5489%	2.483084	1.02%
Alaska	628,933.000	0.970	1	0.5489%	2.541606	1.02%
Vermont	609,890.000	0.941	1	0.5489%	2.620965	1.01%
Wyoming	495,304.000	0.764	1	0.5489%	3.227311	1.00%
Washington DC	counted in MD	N/A	N/A	N/A	N/A	0.20%
Total	281,968,999.000	435.000	435	99.9994%	N/A	100.20%

Table C: Analysis of a plan for statehood (taking the seat away from Illinois)

State/DC	2000 Population	Quota	Seats	Bz index in Elec. Col.	"Votes per DC Vote" in EC	Legislative Power
California	33,930,798.000	52.346	52	11.1716%	0.344250	7.68%
Texas	20,903,994.000	32.249	31	6.2127%	0.310745	4.84%
New York	19,004,973.000	29.319	30	6.0123%	0.330770	4.71%
Florida	16,028,890.000	24.728	23	4.6396%	0.302643	3.81%
Illinois	12,439,042.000	19.190	20	4.0657%	0.341744	3.43%
Pennsylvania	12,300,670.000	18.977	20	4.0657%	0.345589	3.43%
Ohio	11,374,540.000	17.548	19	3.8760%	0.356289	3.30%
Michigan	9,955,829.000	15.359	16	3.3109%	0.347714	2.92%
New Jersey	8,424,354.000	12.996	13	2.7513%	0.341471	2.54%
Georgia	8,206,975.000	12.661	12	2.5657%	0.326870	2.41%
N. Carolina	8,067,673.000	12.446	11	2.3806%	0.308526	2.28%
Virginia	7,100,702.000	10.954	11	2.3806%	0.350540	2.28%
Massachusetts	6,355,568.000	9.805	10	2.1959%	0.361253	2.16%
Indiana	6,090,782.000	9.396	10	2.1959%	0.376958	2.16%
Washington	5,908,684.000	9.115	9	2.0116%	0.355962	2.03%
Tennessee	5,700,037.000	8.794	9	2.0116%	0.368992	2.03%
Missouri	5,606,260.000	8.649	9	2.0116%	0.375164	2.03%
Wisconsin	5,371,210.000	8.286	9	2.0116%	0.391582	2.03%
Maryland	5,307,886.000	8.189	8	1.8277%	0.360028	1.90%
Arizona	5,140,683.000	7.931	8	1.8277%	0.371738	1.90%
Minnesota	4,925,670.000	7.599	7	1.6440%	0.348971	1.78%
Louisiana	4,480,271.000	6.912	7	1.6440%	0.383663	1.78%
Alabama	4,461,130.000	6.882	6	1.4607%	0.342349	1.65%
Colorado	4,311,882.000	6.652	6	1.4607%	0.354199	1.65%
Kentucky	4,049,431.000	6.247	6	1.4607%	0.377155	1.65%
S. Carolina	4,025,061.000	6.210	6	1.4607%	0.379439	1.65%
Oklahoma	3,458,819.000	5.336	6	1.4607%	0.441556	1.65%
Oregon	3,428,543.000	5.289	6	1.4607%	0.445456	1.65%
Connecticut	3,409,535.000	5.260	5	1.2776%	0.391789	1.53%
Iowa	2,931,923.000	4.523	5	1.2776%	0.455612	1.53%
Mississippi	2,852,927.000	4.401	5	1.2776%	0.468228	1.53%
Kansas	2,693,824.000	4.156	4	1.0947%	0.424892	1.40%
Arkansas	2,679,733.000	4.134	4	1.0947%	0.427127	1.40%
Utah	2,236,714.000	3.451	3	0.9119%	0.426275	1.27%
Nevada	2,002,032.000	3.089	3	0.9119%	0.476244	1.27%
New Mexico	1,823,821.000	2.814	3	0.9119%	0.522779	1.27%
W. Virginia	1,813,077.000	2.797	3	0.9119%	0.525877	1.27%
Nebraska	1,715,369.000	2.646	2	0.7294%	0.444591	1.15%
Idaho	1,297,274.000	2.001	2	0.7294%	0.587878	1.15%
Maine	1,277,731.000	1.971	2	0.7294%	0.615818	1.15%
New Hampshire	1,238,415.000	1.911	2	0.7294%	0.615818	1.15%
Hawaii	1,216,642.000	1.877	2	0.7294%	0.626839	1.15%
Rhode Island	1,049,662.000	1.619	2	0.7294%	0.726556	1.15%
Montana	905,316.000	1.397	1	0.5469%	0.631627	1.02%
Delaware	758,068.000	1.169	1	0.5469%	0.754315	1.02%
S. Dakota	756,874.000	1.168	1	0.5469%	0.755505	1.02%
N. Dakota	643,756.000	0.993	1	0.5469%	0.888259	1.02%
Alaska	628,933.000	0.970	1	0.5469%	0.909194	1.02%
Vermont	609,890.000	0.941	1	0.5469%	0.937582	1.02%
Washington DC	571,822.000	0.882	1	0.5469%	1.000000	1.02%
Wyoming	495,304.000	0.764	1	0.5469%	1.154487	1.02%
Total	281,968,999.000	435.000	435	99.9999%	N/A	100.83%

¹ Based on population information from the 1790 Census taken from Appendix B of Michel Balinski and H. Peyton Young, *Fair Representation: Meeting the Ideal of One Man, One Vote*, 2nd edition, Brookings Institution, 2001.

² Most of the historical narrative presented here, including the particular explanation given for the insertion of the exclusive legislation clause, is based on remarks made by Howard Gillette at a symposium hosted by the American University Law Review in February 1999, titled "Is There a Constitutional Right to Vote and Be Represented? The Case of the District of Columbia." 48 Am. U.L. Rev. 589

³ Article I, Section 8 of the Constitution.

⁴ See note 2.

⁵ Washington Times: GOP Lawmaker votes for Statehood by Janet Naylor, Tuesday, November 23, 1993

⁶ Adams v. Clinton, Alexander v. Daley 90 F. Supp. 2d 35; 2000 U.S. Dist. LEXIS 3215

⁷ Remarks by Jamin B. Raskin one of the attorneys representing the plaintiffs in Alexander v. Daley, at the symposium mentioned in note 2.

⁸ See note 6.

⁹ Gray v. Sanders, 372 U.S. 368 (1963)

¹⁰ See Banzhaf, John III, "Weighted Voting Doesn't Work: A Mathematical Analysis" Rutgers Law Review, Vol. 19, 1965, pp. 317-343 and Banzhaf, John III, "One Man, 3.312 Votes: a mathematical analysis of the Electoral College." Villanova Law Review Vol. 13, 1968, pp.304-332

¹¹ Iannucci v. Board of Supervisors of Washington County, NYS, 2nd District, 3rd Dept. (1967), pp. 458 ff, as cited and described in Felsenthal, Dan S. and Moshé Machover, *The Measurement of Voting Power: Theory and Practice, Problems and Paradoxes*, Edward Elgar Publishing Ltd: Cheltenham, UK, 1998

¹² McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316 (1819), paragraph 55

¹³ A Tale of Two Lawsuits, by Jamin B. Raskin (referring to Alexander v. Daley and Bush v. Gore), published on-line by TomPaine.com on April 3, 2001. Available on-line at

<http://www.tompaine.com/feature2.cfm/ID/4170>

¹⁴ Delaware Declaration of Rights (1776), VI, Maryland Declaration of Rights (1776), V, as cited and quoted in Gordon Wood, *Representation in the American Revolution*, 1969 University Press of Virginia: Charlottesville, p. 19.

¹⁵ Table 23 from Historical Census Statistics on Population Totals by Race, 1790 to 1990, and By Hispanic Origin, 1970 to 1990, For the United States, Regions, Divisions, and States by Campbell Gibson and Kay Jung. Census Bureau, September 2002. Available on-line at

<http://www.census.gov/population/www/documentation/twps0056.html>

¹⁶ See *Ratification of the Constitution by the State of New York; July 26, 1788*, available on-line through the Avalon Project at <http://www.yale.edu/lawweb/avalon/const/ratny.htm>

¹⁷ D.C. National Guard: D.C. National Guard celebrates 200th anniversary, by Lt. Col. Phyllis Phipps-Barnes, May 6, 2002, available on-line at

http://www.dcmilitary.com/airforce/andrews/2_19/local_news/16435-1.html

¹⁸ The Common Denominator: D.C. goes to war, by LaShell Stratton, March 24, 2003, available on-line at http://www.thecommondenominator.com/032403_news4.html

¹⁹ See note 11.

²⁰ Published on-line by Dennis Leech and Robert Leech, includes a reference list on computation of power indices, available on-line at <http://www.warwick.ac.uk/~ecaae/>, the "ipgen" program was used for the calculations done in Tables A, B, and C.

²¹ Shapley, Lloyd S. and Martin Shubik, "A Method of Evaluating the Distribution of Power in a Committee System." American Political Science Review 48(3) pp.787-792, p. 789.