

The Constitutional Case Against Congressional Districts: Restoring the State as the Unit of Representation

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0 Prologue

The congressional district system is unconstitutional.
This document explains why.

The Constitution is explicit: Representatives shall be chosen by the People of the several States. Not by the people of districts. Not by geographic fragments. By the People of the State - all of them. This is not a matter of interpretation or political preference. It is what the Constitution says. It is what the Framers meant.

The consequences of this constitutional failure are not abstract. The district system does not merely fail to represent the People - it is actively exploited to prevent it. Gerrymandering allows the party in power to draw boundaries that predetermine electoral outcomes, silencing millions of voters before a single ballot is cast. Safe districts reward extremism and punish compromise, producing representatives who have no incentive to govern for anyone beyond their base. Voter suppression tactics target communities whose votes threaten the predetermined outcome. The result is a Congress that does not reflect the will of the People - and was designed not to. This is not democratic failure. It is democratic sabotage enabled by an unconstitutional system.

This argument proposes a constitutionally sound replacement - a State-Wide Party-List Proportional Election System in which every voter casts exactly one vote, every vote counts equally, and the composition of each State's delegation reflects the genuine will of its people. No districts. No gerrymandering. No predetermined outcomes. Just the People choosing their Representatives - which is precisely what the Constitution requires.

The district system has persisted not because it was constitutionally validated. It has persisted because it was never directly challenged on these grounds - until now.

The full argument is built entirely on primary sources - the text of the Constitution itself, the Federalist Papers written by the Framers to explain what that text means, and the historical record of how the district system came to exist in the first place. The reader is invited to follow the argument and judge it on that basis.

The author used AI assistance (Claude by Anthropic) in the research, drafting, and editing of this paper. All constitutional arguments, conclusions, and judgments expressed herein are solely those of the author.

1 Opening Statement

This document presents a constitutional argument against the congressional district system as currently used to elect Members of the United States House of Representatives. It demonstrates that the district system is unconstitutional on its face - contradicting the plain text of Article I, Section 2 of the Constitution, the original intent of the Framers as expressed in the Federalist Papers, and the foundational principle that Representatives are chosen by the People of the several States as a whole.

It further proposes a replacement electoral system that satisfies the constitutional requirements the district system violates - one that is grounded in the same constitutional text, honors the principle of one person one vote, and provides complete and equal representation to every citizen.

The case that follows is built entirely from primary sources. The reader is invited to judge it on that basis.

2 The Constitutional Foundation

Three provisions of the United States Constitution are central to the arguments and counterarguments presented in this document. They are reproduced here in full for reference.

2.1 Article I, Section 2

"The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature. No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen."

2.2 Article I, Section 4

"The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

2.3 Article VI - The Supremacy Clause

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

3 The Federalist Papers

3.1 A Bird's Eye View

The Federalist Papers are a collection of 85 essays written by Alexander Hamilton, James Madison, and John Jay in 1787 and 1788 under the collective pseudonym Publius. They were written to explain and defend the newly drafted Constitution to the citizens of New York, whose ratification was considered critical to the Constitution's adoption. The Federalist Papers are widely regarded by courts and scholars as the most authoritative available guide to the Framers' original intent.

Of the 85 essays, ten - Nos. 52 through 61 - deal specifically and exclusively with the House of Representatives. They address the qualifications of its members, the frequency of elections, the size of the House, the character of its electors, and the power of Congress to regulate elections. Four of these ten papers are directly relevant to the argument presented in this document and are reproduced and analyzed in the pages that follow.

Section	Essays	Topics	Authors
1	1–5	General Introduction & Dangers from Foreign/Domestic	Hamilton, Jay
2	6–9	Dangers from Dissensions Between States	Hamilton
3	10	The Union as a Safeguard Against Faction	Madison
4	11–13	Utility of the Union for Commerce, Revenue, and Economy	Hamilton
5	14	Objections to Territory Size Answered	Madison
6	15–22	Defects of the Articles of Confederation	Hamilton, Madison
7	23–36	Necessity of an Energetic Government / Taxation/Military	Hamilton
8	37–40	Constitutional Convention Principles	Madison
9	41–44	General View of Powers Conferred	Madison
10	45–46	State Powers vs. Federal Powers	Madison
11	47–51	Separation of Powers / Checks and Balances	Madison
12	52-58	House of Representatives Structure	Madison Hamilton
13	59–61	Regulation of Elections	Hamilton
14	62–66	Senate Structure and Powers	Madison Hamilton
15	67–77	Executive Department (The Presidency)	Hamilton
16	78–83	Judicial Department	Hamilton
17	84	Miscellaneous Objections / Bill of Rights	Hamilton
18	85	Conclusion	Hamilton

3.2 A Note on Terminology

Two terms used in the Federalist Papers require clarification before proceeding, as their meaning in the eighteenth century differs in important ways from their common usage today.

3.2.1 Electors

In the Federalist Papers, the term "Electors" does not refer to the Electoral College. It means voters - the citizens who cast ballots. In the eighteenth century this was the standard formal word for a person exercising the right of suffrage. When Madison writes in Federalist No. 52 that the qualifications of the Electors of the federal House of Representatives shall be the same as those of the Electors of the most numerous branch of the State Legislature, he is speaking of ordinary voters, not of any special body of appointed delegates.

This distinction matters for the argument that follows. Article I, Section 2 identifies exactly two constitutional groups in the election of the House of Representatives - the Electors, meaning the People of the State, and the Elected, meaning the Representatives of that State. The Constitution recognizes no third category. There are no "Electors of the Third District." That entity simply does not exist in the constitutional vocabulary.

3.2.2 Districts

When the authors of the Federalist Papers use the word "district" they are not describing the single-member geographic congressional districts mandated by federal law since 1967. In the 1780s the word "district" was used as a flexible term for any administrative subdivision of a state - an existing county, a group of towns, or a region sharing common economic interests. Many states at the time elected their representatives at-large, without any district structure at all. The modern congressional district - a precisely drawn, legally mandated, single-member geographic unit redrawn every ten years - is a fundamentally different creature from anything the Framers were describing when they used the word "district." This distinction is addressed further in the analysis of Federalist No. 57 below.

3.3 Federalist No. 52

"The first view to be taken of this part of the government relates to the qualifications of the electors and the elected. Those of the former are to be the same with those of the electors of the most numerous branch of the State legislatures... A representative of the United States must be of the age of twenty-five years; must have been seven years a citizen of the United States; must, at the time of his election, be an inhabitant of the State he is to represent; and, during the time of his service, must be in no office under the United States."

- James Madison, Federalist No. 52, February 8, 1788

3.4 Federalist No. 56

"Divide the largest State into ten or twelve districts, and it will be found that there will be no peculiar local interest in either, that will not be within the knowledge of the representative of the district... and... the whole State might be competently represented by a single member taken from any part of it."

- James Madison, Federalist No. 56, February 19, 1788

3.5 Federalist No. 57

"Who are to be the electors of the Federal Representatives? Not the rich, more than the poor; not the learned, more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are to be the great body of the people of the United States. They are to be the same who exercise the right in every State of electing the correspondent branch of the Legislature of the State."

- James Madison, Federalist No. 57, February 19, 1788

3.6 Federalist No. 59

"The natural order of the subject leads us to consider, in this place, that provision of the Constitution which authorizes the national legislature to regulate, in the last resort, the election of its own members. It is in these words: 'The Times, Places, and Manner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof; but the Congress may, at any time, by law, make or alter such Regulations, except as to the Places of choosing senators.' I am greatly mistaken, notwithstanding, if there be any article in the whole plan more completely defensible than this."

- Alexander Hamilton, Federalist No. 59, February 22, 1788

4 Laws and Cases

4.1 The Apportionment Act of 1842

The Apportionment Act of 1842 was passed by the Twenty-Seventh Congress and signed into law on June 25, 1842. It was the first federal statute to mandate that Representatives be elected from single-member geographic districts. The relevant provision read as follows:

"That in every case where a State is entitled to more than one Representative, the number to which each State shall be entitled under this apportionment shall be elected by districts composed of contiguous territory equal in number to the number of Representatives to which said State may be entitled, no one district electing more than one Representative."

Prior to this Act, states had used a variety of methods to elect their Representatives, including at-large elections, general ticket systems, and multi-member districts. The Act ended that variety by imposing a uniform single-member district requirement on all states with more than one Representative.

4.2 Wesberry v. Sanders (1964)

Wesberry v. Sanders, 376 U.S. 1 (1964), is the Supreme Court case most frequently cited in connection with the constitutional basis of congressional districts. The case originated in Georgia, where congressional districts varied dramatically in population - the Fifth District of Atlanta contained nearly three times the population of the Ninth District.

The Supreme Court held, in a 6-3 decision authored by Justice Hugo Black, that Article I, Section 2's requirement that Representatives be chosen "by the People of the several States" mandates that congressional districts be as nearly equal in population as practicable. The Court's ruling established the principle of one person, one vote as applied to congressional elections.

Justice John Marshall Harlan dissented, arguing that the Court's reading of Article I, Section 2, was historically unsupported and that Article I, Section 4, vested authority over congressional districting in Congress and the states rather than the courts.

5 The Constitutional Argument

5.1 The Constitutional Case

The congressional district system, as currently used to elect Members of the United States House of Representatives, is unconstitutional. The Constitution is explicit: Representatives are chosen by *the People of the several States* and must be inhabitants of *the State* they represent. A district-based system fundamentally violates this principle by forcing voters to elect a representative who represents only a fragment of their State - not the State itself. While Article I, Section 4 grants authority to the states over the times, places, and manner of elections, this procedural power does not extend to redefining the fundamental unit of representation established by Article I, Section 2. The pages that follow demonstrate why this distinction is not merely semantic, but constitutional.

5.2 The Text of the Constitution

The foundation of this argument requires no interpretation, no historical context, and no legal expertise. It requires only reading the Constitution as written.

Article I, Section 2 states that the House of Representatives shall be composed of Members chosen every second Year by the People of the several States. Four words deserve particular attention: *the People of the several States*. The Constitution does not say the people of the several districts, regions, counties, or subdivisions. It says States - and that choice is not accidental. It is the Constitution's definitive statement of who elects the House of Representatives and on whose behalf those Representatives serve.

This is immediately reinforced by the qualifications the Constitution establishes for Representatives themselves. A Representative must be, at the time of election, an inhabitant of the State he is to represent. Not a district. Not a region. The State. The representational obligation runs in one direction: to the State and its people.

Article I, Section 2 identifies exactly two constitutional groups in the election of the House of Representatives - the Electors, meaning the People of the State, and the Elected, meaning the Representatives of that State. The Constitution recognizes no third category. There are no Electors of the Third District. That entity does not exist in the constitutional vocabulary. When the district system confines a voter to choosing only from candidates in their assigned district, it transforms them from a State Elector - which is what the Constitution recognizes - into a District Elector - which the Constitution does not recognize.

The absence of districts from this constitutional structure is not a silence that statute may fill. A statute may regulate what the Constitution leaves open. It may not contradict what the Constitution has already closed. Article I, Section 2 does not leave the question of the electoral unit open — it answers it. The People of the State are the Electors. The Representatives of the State are the Elected. That is the complete constitutional structure of House elections. Congress may regulate the mechanics of that election under Article I, Section 4. It may not insert a geographic subdivision that the Constitution's own definition excludes.

The district system severs this constitutional bond entirely. When a State is carved into geographic districts and each voter is confined to choosing a single Representative from their assigned district, two violations occur simultaneously. First, voters are stripped of their constitutional right to participate in choosing representatives for their State as a whole. Second, the Representative is released from any obligation to the State as a whole, answering instead to a fraction of its population. The Constitution, which is explicit about both who does the choosing and who is being represented, permits neither outcome.

5.3 The Framers' Intent

If the text of Article I, Section 2 leaves any doubt about the Framers' intentions, the Federalist Papers remove it. Two papers in particular speak directly to the question of representation in the House.

Federalist No. 52 addresses the qualifications of Representatives and states plainly that a Representative must be, at the time of his election, an inhabitant of the State he is to represent. The significance of that phrase extends beyond a simple residency requirement. Madison is defining the scope of the Representative's obligation - and that obligation is to the State, not to a district, a county, or any subdivision thereof. The State is the constituency. The State is what the Representative represents.

Federalist No. 56 goes further. Addressing concerns that too few Representatives could adequately serve too many constituents, Madison argues that within any given State, interests and laws are sufficiently uniform that the whole State might be competently represented by a single member taken from any part of it. Madison is not describing a district system in which each Representative serves a geographic slice of the State. He is describing a system in which any Representative, drawn from anywhere within the State, represents the State as a whole. The State is the unit. It is indivisible.

Federalist No. 57 reinforces this by defining the electorate itself. Madison asks directly who are to be the Electors of the Federal Representatives, and answers without qualification - the great body of the people of the United States, the same who exercise the right in every State of electing the correspondent branch of the Legislature of the State. The Electors are the whole people of the State. Not a segment of them. Not a district of them. The whole.

Taken together, these three papers paint a consistent picture. The Framers did not envision a House in which Representatives owe their allegiance to a district. They envisioned a House in which Representatives owe their allegiance to the State - and in which the voters of that State, as a whole, choose who speaks for them.

A note on Madison's use of the word "district" in Federalist No. 56 is warranted here. When Madison divides a State into ten or twelve districts for illustrative purposes, he is not describing or endorsing the modern single-member congressional district. As established in Section 2.2, the word "district" in the 1780s referred to any administrative subdivision of a state - a county, a region, a community of shared interests. The modern congressional district, with its precise population requirements and legally mandated single-member structure, is a fundamentally different construct that did not exist in any form the Framers were contemplating.

5.4 The Apportionment Act of 1842

As established in Section 4.1 of this document, the congressional district system originated not from the Constitution but from a statutory mandate imposed by Congress in 1842. A statutory mandate, however longstanding, cannot override constitutional text. In attempting to fix a broken system, Congress replaced it with an unconstitutional one.

6 Addressing the Counterarguments

No constitutional argument goes uncontested, and this one is no exception. The following counterarguments deserve direct responses.

6.1 Article I, Section 4

The most immediate challenge comes from Article I, Section 4, which states that the times, places, and manner of holding elections for Representatives shall be prescribed by the states. Proponents of the district system argue that this clause grants states the authority to organize elections however they see fit - including by dividing themselves into geographic districts.

This reading misunderstands the scope of Article I, Section 4. The words "times, places, and manner" are procedural in nature. They govern the mechanics of conducting an election - when it is held, where voters cast their ballots, and how the voting process is administered. They do not, and cannot, govern the fundamental question of who represents whom. That structural question is already answered - explicitly and unambiguously - by Article I, Section 2. A procedural provision cannot override a structural one. Article I, Section 4 tells us how elections are run. Article I, Section 2 tells us what those elections are for.

This reading is consistent with Hamilton's argument in Federalist No. 59, where his entire discussion of the Times, Places and Manner clause focuses on preventing state obstruction of federal elections - not on authorizing states to redesign the unit of representation. The clause was conceived as a defensive provision protecting the Union's ability to conduct its own elections. It was not conceived as a structural grant of power to redefine who represents whom.

Notably, Article I, Section 4 also grants Congress the explicit authority to override state election regulations entirely - meaning the very clause cited in defense of the district system is simultaneously the constitutional mechanism by which Congress may abolish it.

6.2 Wesberry v. Sanders (1964)

The second counterargument draws on a landmark Supreme Court ruling. As established in Section 4.2, the Court in *Wesberry v. Sanders* held that congressional districts must have approximately equal populations, grounding its decision in Article I, Section 2's requirement that Representatives be chosen by the People of the several States. Proponents of the district system will argue that since the Supreme Court itself interpreted Article I, Section 2 in the context of districts, the Court implicitly validated the district system as constitutional.

This argument does not hold. *Wesberry* addressed a specific and narrow question - whether districts of unequal population violated the principle of equal representation. It did not address, and was never asked to address, whether the district system itself is constitutionally legitimate. The Court assumed districts existed and ruled on how they must be drawn. That assumption traces directly back to the Apportionment Act of 1842 - which, as demonstrated in Section 5.4 of this document, was itself constitutionally illegitimate. A Supreme Court ruling built on a flawed statutory foundation does not cure that flaw. It inherits it.

6.3 The General Ticket System

A critic might argue that striking down the district system requires nothing more than returning to the General Ticket system used by some states prior to 1842, in which every voter cast votes for as many candidates as their state had seats, with the highest vote-getters winning all seats - effectively guaranteeing that the majority party swept every *seat*.

This argument fails on constitutional grounds that require no appeal to judicial doctrine.

Article I, Section 2 establishes that Representatives shall be chosen by the People of the several States. The word "People" is not a reference to a faction, a majority, or a winning coalition. It is a reference to the whole body of citizens of the State - all of them, collectively and equally. A system in which one voter's choice determines representation and another voter's choice is rendered entirely meaningless is not a system in which Representatives are chosen by the People. It is a system in which they are chosen by some of the People. The Constitution does not permit that distinction.

Equal weight for every vote is therefore not a borrowed judicial doctrine. It is a direct constitutional requirement, embedded in the same phrase - the People of the several States - that establishes the state-wide mandate this document has demonstrated the district system violates.

The General Ticket system satisfies the state-wide requirement of Article I, Section 2 but violates its equal-weight requirement. The district system violates the state-wide requirement entirely. The State-Wide Party-List Proportional Election System satisfies both simultaneously. This system is discussed in the section titled 'An Electoral System for the House of Representatives.'

6.4 The Virginia Election of 1789

A critic might argue that the use of single-member districts in Virginia's first Congressional election of 1789 — and specifically the fact that James Madison, a principal author of the Federalist Papers, was elected from such a district — constitutes evidence that the Framers considered districts constitutionally acceptable.

This argument fails for a reason that is both historical and ironic.

Madison did not choose to run in a single-member district. The Virginia General Assembly, controlled by Patrick Henry and the Anti-Federalists, deliberately drew the boundaries of Virginia's Fifth Congressional District to surround Madison's home county of Orange with heavily Anti-Federalist counties. The explicit purpose was to defeat Madison — one of the Constitution's principal architects and its most prominent advocate — by confining him to an unfavorable geographic subdivision.

In other words, the very first congressional district in American history was a gerrymander. Madison ran in it not because he endorsed it but because it was imposed on him by his political opponents specifically to prevent his election. He won anyway — but the episode demonstrates not that districts are constitutionally sound, but that they are constitutionally dangerous. The weapon Patrick Henry wielded against Madison in 1789 is the same weapon that has been wielded against voters ever since.

The fact that Madison won despite the gerrymander is a tribute to his standing among Virginia voters. It is not constitutional validation of the system used to try to defeat him.

7 Constitutional Supremacy and the Protection of Voters

The constitutional argument presented in this document does not exist in a vacuum. The history of American electoral law is in significant part a history of states using their authority over elections to suppress voters, dilute votes, and manipulate electoral outcomes. Any proposed electoral system must therefore address not only its constitutional foundation but also its constitutional protection against state interference.

Two constitutional principles provide that protection.

The first is the Supremacy Clause of Article VI, which establishes that the Constitution and federal laws made pursuant to it are the supreme law of the land. Any state action that undermines a constitutionally mandated electoral system is automatically invalid under this principle. A state may not, through legislation, administrative action, or any other means, substitute its own preferences for the constitutional requirements established by Article I, Section 2.

The second is Article I, Section 2 itself. The Constitution mandates that Representatives be chosen by the People of the several States - all of them. Any state action that suppresses voters or dilutes votes directly contradicts this mandate. Voter suppression is not merely a policy problem or a civil rights concern - it is a constitutional violation of the foundational principle upon which the House of Representatives was established. When any citizen is prevented from participating in choosing their State's Representatives, the constitutional requirement that those Representatives be chosen by the People of the State is violated.

This includes, most visibly, the practice of gerrymandering - the manipulation of electoral boundaries to predetermine outcomes and render the votes of targeted citizens effectively meaningless. While gerrymandering has been treated primarily as a political question by the courts, it is in its essence an assault on the constitutional mandate of Article I, Section 2. A system that predetermines who wins before a single vote is cast cannot honestly claim to be a system in which Representatives are chosen by the People.

The electoral system proposed in the pages that follow eliminates gerrymandering entirely - not as a side effect, but as a direct constitutional consequence of returning to the state-wide electoral mandate of Article I, Section 2.

8 An Electoral System for the House of Representatives

8.1 What We Are Looking For

Any electoral system proposed as a replacement for the unconstitutional district system must satisfy three specific requirements.

- It must conform to Article I, Section 2 of the Constitution, meaning Representatives must be chosen by the People of the several States on a state-wide basis.
- It must conform to the One Person One Vote principle, meaning every voter casts exactly one vote of equal weight regardless of which state they inhabit or how many members that state sends to the House of Representatives.
- It must provide complete and equal representation to all citizens of a state, meaning no voter's voice is silenced, diluted, or rendered meaningless by geographic boundaries or partisan manipulation.

The constitutional authority for Congress to mandate this system nationally is explicit - Article I, Section 4 grants Congress the power to make or alter state election regulations at any time by law.

8.2 The Proposed System - State-Wide Party-List Proportional Election System

The system that satisfies all three requirements is the State-Wide Party-List Proportional Election System.

Under this system every voter in a state casts exactly one vote.

That vote may be cast in one of two ways.

- A voter may choose to vote directly for an individual candidate of their choice.
- Alternatively, a voter may choose to vote for a party, trusting that party's listed candidates to represent them.

In either case exactly one vote is cast.

The choice of how to exercise that vote belongs entirely to the voter.

Seats are allocated proportionally based on the total votes received across the whole state. A party or candidate receiving twenty percent of the votes receives approximately twenty percent of that state's seats in the House of Representatives. The composition of the state's delegation reflects the genuine will of the whole people of that state.

Where a voter chooses to vote for an individual candidate who is a member of a party, that vote counts both for the individual candidate and toward the party's proportional total. If that individual candidate receives sufficient votes to warrant election, the party is required to honor that result and seat that candidate regardless of where they were ranked on the party's list. The voter's expressed preference for an individual candidate is sovereign and cannot be overridden by party preference.

In states allocated only one seat, the candidate receiving the most votes wins that seat. This is the proportional election system in its simplest form - one seat, one winner, chosen by the People of the State.

8.3 Why This System Fulfills All Requirements

The State-Wide Party-List Proportional Election System fulfills each of the three requirements as follows.

- It conforms to Article I, Section 2 because every voter participates in choosing their state's entire delegation to the House of Representatives on a state-wide basis. No voter is confined to a geographic fragment of their state. The People of the several States choose their Representatives - collectively and equally - exactly as the Constitution requires.
- It conforms to the One Person One Vote principle because every voter casts exactly one vote regardless of how many members their state sends to the House of Representatives. A voter in a one-seat state and a voter in a ten-seat state each cast one vote of identical weight. No voter has greater voice than another.
- It provides complete and equal representation to all citizens because every vote contributes proportionally to the composition of the state's delegation. No vote is wasted. No minority is silenced. No majority can sweep every seat by winning a bare plurality statewide. The delegation reflects the actual distribution of opinion among the whole people of the state.

9 Seat Allocation

Having established the State-Wide Party-List Proportional Election System as the constitutionally sound replacement for the district system, one practical question remains: how are seats allocated based on election results?

There are several mathematical methods for translating votes into seats.

Three are worth examining here:

- The D'Hondt Method
- The Sainte-Laguë Method
- The Hare-Niemeyer Method

Each produces different results and each embodies a different set of priorities.

9.1 The D'Hondt Method

The D'Hondt Method divides each party's total votes sequentially by 1, 2, 3 and awards seats to the highest resulting averages. It tends to favor larger parties, producing more stable delegations but at the cost of proportional accuracy.

9.2 The Sainte-Laguë Method

The Sainte-Laguë Method divides votes by odd numbers - 1, 3, 5 - and is considered more proportional than D'Hondt. However it can artificially advantage smaller parties in certain configurations.

9.3 The Hare-Niemeyer Method

The Hare-Niemeyer Method - also known as the Largest Remainder Method - calculates a quota by dividing total votes by total seats. Each party first receives seats equal to the whole number of times it meets that quota. Any remaining seats are awarded to the parties with the highest fractional remainders.

9.4 The Constitutional Case for Hare-Niemeyer

The following example – in a hypothetical election with Five seats at stake - illustrates how each method produces different outcomes with the same votes:

Party	Votes			Seats Allocated		
	Total	Pct Total	Votes/Seat	D'Hondt	Sainte-Laguë	Hare Niemeyer
A	10,000	55.55%	$2 \times 3600 + 2800$ (77.77%)	2	2	3
B	6,000	33.33%	$1 \times 3600 + 2400$ (66.66%)	2	2	2
C	2,000	11.11%	$0 \times 3600 + 2000$ (55.55%)	1	1	0
Total	18,000		3600	5	5	5

The difference is immediately visible. Under D'Hondt and Sainte-Laguë, Party C receives one seat even though its vote total of 2,000 does not meet the proportional threshold of 3,600 votes per seat. The seat is awarded not because the math supports it but even though it does not.

Hare-Niemeyer produces a different result.

Each party's vote total is divided by the quota of 3,600.

Party A receives 2 full seats from its whole number result and wins the remaining seat by virtue of having the highest fractional remainder.

Party B receives 1 full seat from its whole number result and wins the remaining seat by virtue of having the second highest fractional remainder.

Party C, whose vote total does not meet the quota and whose fractional remainder is insufficient to claim a remaining seat, receives no seat.

The allocation is determined entirely by the mathematics - nothing more and nothing less.

The choice of method is not merely a technical one. It is a constitutional one, based directly on Article I, Section 2.

The People choose Members - individual people. Parties are mechanisms for presenting candidates. Parties are not themselves elected. Any allocation method that artificially inflates a party's seat count beyond what the voters' actual choices warrant is mathematically dishonest. It substitutes manipulation for the genuine will of the People. This is not a charity event. This is an election.

The Hare-Niemeyer Method is the only allocation method that faithfully translates the People's actual votes into seats without putting its thumb on the scale for any party large or small. It is therefore the constitutionally appropriate method for seat allocation under the State-Wide Party-List Proportional Election System.

9.5 Incomplete Slates and Vote Exhaustion

The Hare-Niemeyer method allocates seats based on the votes received by each party or candidate. However, a practical situation may arise where a party receives sufficient votes to warrant more seats than the number of candidates it has presented. In the most extreme case, an independent candidate - a party of one - may receive sufficient votes to warrant multiple seats while having only one person available to fill them.

In all such cases the principle is the same. A party can only fill seats for which it has presented candidates. Any votes beyond that threshold are exhausted - they cannot be redistributed or reallocated to other parties. The remaining seats are then allocated proportionally among the remaining parties using the Hare-Niemeyer method based on their actual vote totals.

This principle places a clear and transparent responsibility on both parties and voters. A party that chooses to present fewer candidates than the number of seats available in their state does so knowingly and deliberately. A voter who chooses to support such a party does so with full knowledge of that party's slate. The rules of the system are published and transparent in advance. The consequences of choices made within those rules are the responsibility of those who made them.

A critic may argue that discarding exhausted votes and reallocating remaining seats among other parties produces a result that no longer purely reflects the will of the People - since the final allocation is based on a reduced vote pool rather than the total votes cast. This objection, while understandable, misplaces the responsibility. The system does not fail the voter. A party that presents an incomplete slate fails the voter by not providing sufficient candidates to translate their support into full representation. The system's rules are identical and transparent for every party and every voter. It is the party's choice - not the system's design - that produces the exhausted votes.

9.6 Candidate Unavailability

Electoral systems must account for the practical reality that candidates may become unavailable - through death, illness, disqualification, or other circumstances - either before or after an election.

Where a candidate becomes unavailable before the election, the party that presented that candidate is permitted to replace them from their registered slate of candidates, provided the replacement is made within a defined deadline established prior to election day. This ensures that voters who have chosen to vote for that party are not disenfranchised by circumstances beyond their control. The party's slate, as amended, remains its binding commitment to the voters.

Where a candidate becomes unavailable after the election but before being seated, or during their term of service, the vacancy is filled by the next eligible candidate on that party's registered slate in order of ranking. This preserves the proportional outcome of the election without requiring a new election and without disturbing the will of the People as expressed in the original vote.

Where an independent candidate - a party of one - becomes unavailable after winning a seat, no party slate exists from which to draw a replacement. In such cases a special election shall be held to fill the vacancy, conducted under the same State-Wide Party-List Proportional Election System rules as the original election.

In all cases the integrity of the voter's original choice is the governing principle. The system exists to translate the will of the People into representation - and that translation must be protected even when individual circumstances intervene.

10 Conclusion

This document has demonstrated five things.

First, that the plain text of Article I, Section 2 establishes the State - not a geographic subdivision of it - as the fundamental unit of representation in the House of Representatives.

Second, that the Framers themselves understood and confirmed this reading in the Federalist Papers, consistently describing the Representative's obligation as running to the State and its people as a whole.

Third, that the congressional district system, far from being a constitutional requirement, is the product of a statutory mandate - the Apportionment Act of 1842 - that was constitutionally illegitimate at its inception and has never received judicial validation as a constitutional structure. *Wesberry v. Sanders*, the case most frequently cited in defense of districts, addressed only the equality of districts - not their existence. In assuming districts were valid, the Court inherited the constitutional flaw of the 1842 Act rather than curing it.

The argument presented here identifies a genuine blind spot in two centuries of electoral law - a structural constitutional violation that has persisted not because it was validated, but because it was never directly challenged on these grounds.

The district system does not merely produce bad policy outcomes. It violates the Constitution. And a violation does not become legitimate through longevity.

Fourth, that the constitutional protection against state interference with this mandate is already embedded in the Constitution itself. The Supremacy Clause of Article VI renders any state action that undermines a constitutionally mandated electoral system automatically invalid. More fundamentally, Article I, Section 2's requirement that Representatives be chosen by the People of the several States - all of them - makes voter suppression and vote dilution not merely policy failures but constitutional violations.

Fifth, that a constitutionally sound replacement for the district system exists and has been demonstrated. The State-Wide Party-List Proportional Election System satisfies all constitutional requirements conforming to Article I, Section 2, honoring the principle of one person one vote, and providing complete and equal representation to every citizen. It eliminates gerrymandering entirely, not as a side effect, but as a direct constitutional consequence of returning electoral authority to the People of the several States as a whole.

The threshold question - whether the district system can survive constitutional scrutiny when directly challenged on the grounds established here - remains open. It is a question that deserves a definitive answer.